

# Eritrea's 2% Diaspora Tax and its impact in the UK

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## FOREWORD

Over past years, many of us in Parliament have seen first-hand the harassment meted out to those who oppose a government's will from abroad. Some of us have stood alongside members of the Uyghur community in the UK, who found themselves subject to heavy-handed tactics and threats from Chinese officials for speaking out against abuses in the Xinjiang region. Others of us have been directly and personally sanctioned by foreign states for speaking out about human rights abuses and atrocity crimes. And of course it escaped no one's attention when Russian agents attempted to poison the dissident Skripals in 2018 with Novichok poison in Salisbury. Hindsight is 20/20 when we reflect on our inability to form the consensus needed to adequately sanction Russia then, which may have paved the way for the barbarity it displays in Ukraine today.

Such behaviour is not limited to the big global powers like Russia and China. We also hear of much more discreet forms of coercion and intimidation to which diaspora groups can be subject, and of ways in which their rights to political freedom in this country are impinged upon. Eritrea's Diaspora Tax is a clear example of such bureaucratic violence, and it is the view of this report's signatories that its collection must be investigated and, if found to have involved coercion, threat, and intimidation, ultimately stopped.

Embassies and consular services are not, and were not designed to be, ways to keep political tabs on citizens abroad. They are not the 'long arms' of regimes which control the daily life of citizens in their countries, and wish to do the same on UK soil. Consular services are not meant to be 'up for sale', and should not be denied to those unable to bear the high personal costs demanded of them. Diaspora groups are not cash cows for foreign governments, especially where the use to which the money gathered is marshalled, is not, and never has been, clear. Diplomatic missions cannot continue to be allowed to violate norms which protect the rights of their host country's citizens.

In publishing this report we are highlighting the collection of the Diaspora Tax in the UK by the Eritrean government so that appropriate action can be taken. We are bringing this practice into the light so that it can be scrutinised, and halted where it is found inconsistent with British democratic principles, as well as the protection of political rights. We need to ensure that British taxpayer money does not contribute to conflicts and atrocities abroad. There is already ample precedent for this from other country contexts, so we have no excuse for failing to act. In preventing the collection of the Diaspora Tax, and enforcing a system of diplomatic norms and conventions, the UK will more adequately fulfil its duty to protect those still subject to the

predations of a rogue state described as the ‘North Korea of Africa’. We will also stop lining the coffers of those who are currently provoking war in the Horn of Africa region, in a brutal conflict in the Tigray region of Ethiopia which has already killed thousands, displaced millions, and left many more on the brink of starvation, and which shows no sign of ending.

As individuals who provided evidence to this report said: “I wish that our government, meaning the British government, had more say into protecting the British-Eritreans here [...] because if we could stop this, there would be a lot of relief in the minds and the hearts of the Eritreans living here”.<sup>i</sup> And, “Please help us, a lot of us are suffering because of this bully Eritrean government.”<sup>ii</sup>

Signed by:  
Lord Alton of Liverpool

## METHODOLOGY & ACKNOWLEDGMENTS

The report was initiated by a call for evidence provided by the All-Party Parliamentary Group (APPG) on Eritrea in August 2021, though the work has since separated itself from the APPG and has been carried forward independently by the signatories. It is not to be considered the work of the APPG on Eritrea.

This report is informed by an oral evidence session held online on 22 February 2022, which lasted 90 minutes and included speakers drawn from the research, human rights, policy, and activist community, and who are quoted where they gave their express consent. The inquiry panel also received submissions from individuals or organisations who wish to remain anonymous, and conducted dozens of semi-structured interviews, mostly off-the-record. These conversations were with a representative sample of those with first-hand testimony of the Tax’s collection, assorted members of the Eritrean diaspora, online engagements with domestic and international diaspora members, civil society organisations, and members of the diplomatic corps. In addition, the report gathered information from a range of sources to inform its findings. All other information contained within is as held on public record, and sourced and fully referenced within.

We are grateful to all those who gave their time to provide evidence for this report, especially considering the sensitivity of the topic in question, and the heightened levels of caution needed when providing information on human rights in Eritrea.

We would also like to thank everyone who generously provided comments on a draft of this document.

The authors of this report acknowledge the need for further, more detailed, research on this topic.

For questions or comments on this report, please email [appgoneritrea@outlook.com](mailto:appgoneritrea@outlook.com).

## ACRONYMS

APPG – All-Party Parliamentary Group  
COIE – UN Commission of Inquiry on Human Rights in Eritrea  
DIS – Danish Immigration Service  
EDF – Eritrean Defence Force  
EHRC – Equality and Human Rights Commission  
EPLF – Eritrean People’s Liberation Front  
EPRDF – Ethiopian People’s Revolutionary Democratic Front  
FCDO – Foreign, Commonwealth and Development Office  
GERD – Grand Ethiopian Renaissance Dam  
ICHREE – International Commission of Human Rights Experts on Ethiopia  
NMSP – National Military Service Programme  
NRM – National Referral Mechanism

OHCHR – UN Office for the High Commissioner for Human Rights  
PFDJ – People’s Front for Democracy and Justice  
SAF – Sudanese Armed Forces  
TPLF – Tigray People’s Liberation Front  
TRPO – Transnational Rights Protection Office  
UASC – Unaccompanied Asylum-Seeking Child  
YPFDJ – Young People’s Front for Democracy and Justice

## EXECUTIVE SUMMARY

There is evidence that the 2% Tax has historically been collected, and that it continues to be collected, albeit through indirect and likely illicit means, from the Eritrean diaspora in the United Kingdom, by the Eritrean governments, its consular services, or proxies. In situations of non-payment, the results vary from denial of consular services to harassment, including of family members still in country, that may constitute coercion.

This can severely affect the wellbeing and livelihoods of the diaspora and may disproportionately impact vulnerable and marginalised groups, whether young and vulnerable individuals seeking asylum, those on other forms of state benefits, or those who are survivors of human trafficking, whom the UK has a responsibility to protect. However, and in addition, where consular services are denied, this can leave people unable to enact their basic rights in Eritrea, and individuals can feel like they have been entirely stripped of their Eritrean identity. The wider impacts of the Tax include the curtailment of the political rights of the Eritrean diaspora in the UK. The Tax operates within a wider system of control and surveillance.

The potential use of monies extracted via means of the Tax towards the repression of rights within Eritrea, and on the war effort in Tigray, Ethiopia, mean it is a topic in need of serious inquiry, and the need for a fuller investigation is the primary recommendation of this report. This report is intended as a starting point in such investigations, and additionally points to diplomatic, legislative, and judicial steps taken in other country contexts from which the United Kingdom could draw.

## RECOMMENDATIONS

The recommendations below flow from the recognition that the Diaspora Tax is likely coercive and abusive by its nature, and therefore there may be a strong argument to try and stop its collection by Eritrean consular staff.

However, some recommendations below regard harm reduction. These include ways that the allegedly most damaging effects of the Diaspora Tax, and of its disproportionate impacts on vulnerable and protected groups, can be mitigated. The foundational importance of stopping the collection of the Tax altogether where it has found to be coercive and abusive, however, must not be forgotten. Even reducing the harm done by this Tax will still leave a great many subject to it.

### **To the UK government:**

1. Launch a full, formal, and fully funded public inquiry into the collection of the Diaspora Tax in the UK. Where government proves unwilling or unable, Parliament can commission such research, including via appropriate Select Committees. This should emulate the proactive approach taken in other countries, and call for evidence directly from the UK’s Eritrean diaspora.
2. The Metropolitan Police and its Parliamentary and Diplomatic Protection Department should launch a full, formal investigation into both recent and past evidence it has before received relevant to the Diaspora Tax, and publish its findings publicly in due course, as well as pursue those accused of crimes, including past consular staff.
3. The above inquiries and investigations should include network analysis of systems and capabilities to identify points of leverage and inform policy, including the application of Magnitsky-style sanctions, particularly in consideration of the fact that London is an important source of finance for investments in

Eritrea. Key individuals raising money that bolsters the Eritrean government can be held to account, including via the UK's robust Magnitsky Sanctions architecture. Policy that effectively confronts propellants of mass atrocity crimes requires addressing underlying grievances, marginalisation, corruption, and other driving systems of inequality and inequity. Network analysis looks beyond the indicators of risk by 'mapping and tracking' malign actors to understand the complexities of the political, economic, and social relationships as drivers of the larger situation. Learnings can be drawn from network analysis tools already being employed in confronting international and organised crime.

4. These inquiries and investigations should also be self-reflective, and consider whether the disproportionate impact of the Diaspora Tax on certain vulnerable groups, or those with protected characteristics, violates UK commitments to protect such groups, notably victims and survivors of human trafficking, including those referred into the National Referral Mechanism (NRM), and unaccompanied asylum-seeking children (UASC) under child protection laws. It could also consider the potential misappropriation of taxpayer money where the Tax was claimed against individuals on state benefits.
5. Establish a Transnational Rights Protection Office within the Equality and Human Rights Commission, also able to enable Magnitsky-style penalties for proven instances of transnational coercion.
6. Where the Diaspora Tax, or its manner of collection, is found to be illegal, or where its collection is found to curtail the political rights of the Eritrean diaspora, the UK government should make clear that the collection of the Diaspora Tax will not be tolerated any longer, and engage with the Eritrean embassy to halt to this practice.
7. Consider diplomatic consequences if the Diaspora Tax is still being collected following a ban on this practice, as has been undertaken by other countries. This could include immediate measures like the expulsion of the current ambassador, but any steps taken must move beyond short-term solutions, and an adequate deterrent should be provided. Constant vigilance will also be required to ensure the practice does not simply continue by more discreet means.
8. Relax evidential requirements and consider other standards for Eritrean nationals where individuals, and particularly refugees, state that they are unable to provide official documentary evidence that might, for instance, go towards a family reunification application. Relax family reunification guidelines and allow siblings and other extended family to be considered in lieu of parents where an individual has arrived in the UK as an UASC.
9. Launch investigations into which financial instruments have been, and may be used in future, for payment of the Diaspora Tax, and shut down such routes, backed by the threat of fines or other financial or even criminal sanction, without affecting the payment of remittances and personal banking of Eritreans living abroad. Guidance should be issued to banks and wire transfer services about the risk to their business of such transactions, including a checklist for frontline staff to identify those who may be paying the Tax.
10. The FCDO Sanctions Unit and OFSI should match US sanctions designations for Eritrean individuals and entities, including the individuals and entities mentioned within this report, for atrocity crimes committed in Tigray, or who appear to have benefitted from monies acquired through the levying of the Diaspora Tax. The FCDO Sanctions Unit and OFSI should engage with Eritrean civil society and diaspora to gather and supplement the evidence needed for such designations.
11. Re-consider their tacit endorsement of Eritrea's continued seat at the Human Rights Council, to which it was re-elected in October 2021 for the period 2022-2024.
12. Revise Home Office Country of Origin Information reporting and make clear that payment of the Diaspora Tax and the signing of the 'regret form' is not a sufficient condition to regularise one's status with the Eritrean authorities, and should not be used as a pretext for return of those seeking asylum, whether forced or voluntary. Keep this matter under constant and clear-eyed review.

#### **To Eritrea:**

1. Cease the collection of the Diaspora Tax immediately and in full, and most importantly all activities relating to the collection of the Tax involving extortion or coercion.
2. If there is a period in which the Diaspora Tax must still be levied prior to being phased out, then it is the responsibility of the Eritrean government to demonstrate the purpose for which the Diaspora Tax is levied,

how sums are calculated, and who is an administering authority or official. This should be transparently stated in public communications, and at the point when the Tax is sought by a designated embassy official. Personal intimidation, threats, coercion, and extortion cannot be used to force payment of the Tax. These practices must be consistent in embassies globally.

3. If there is a period in which the Tax is still levied prior to being phased out, the Eritrean government should introduce transparency in public finances so that the uses to which the proceeds of the Diaspora Tax are put are known and can be scrutinised. This should include publication of a national annual budget. It must be confirmed that monies are not being spent on violent conflict, notably in the Tigray region of Ethiopia.
4. The Eritrean government should be prepared to offer reparations to those who have been forced to pay the Diaspora Tax, totalling the sum originally paid by the concerned individual, with interest, and an amount of compensation as determined through negotiation, or else resulting from civil claims brought in third countries. There may be other forms of reconciliation required, in line with a wider package of reform in Eritrea which prioritises transitional justice as part of a move towards democratisation and equal citizenship.
5. Eritrea should take further steps to ensure a safe civic space that allows for all Eritrean people, including those in the diaspora, to participate freely in the conduct of public affairs in their country, and ensure their political rights and freedoms are specifically protected in the diaspora.

## PART ONE – CONTEXT ANALYSIS

### Country context

Britain administered Eritrea briefly (1941–1950) after taking it from the Italians during the Second World War. Britain turned the question of what to do with the former Italian colony to the UN, which allowed Eritrea to be federated with Ethiopia.

Eritrea achieved its independence from Ethiopia on 24 May 1991 when fighters of the Eritrean People's Liberation Front (EPLF) marched into the capital, Asmara, following a 30-year battle for this outcome. This *de facto* independence was recognised by the United Nations and the African Union in May 1993. The Eritrean population hoped this would bring freedoms and rights long promised by the EPLF, but instead Eritrea has become among the most repressive states in Africa. Eritrea's President is Isaias Afwerki, and his party now rules as the People's Front for Democracy and Justice – PFDJ.

- Eritrea does not have a constitution. One was drawn up by the National Assembly in 1997, but never entered into force. In 2014 it was officially declared a “dead document” by President Isaias.<sup>iii</sup> This is not simply a constitutional question, it has implications for wider Eritrean society. All power effectively sits in the hands of President Isaias and a small group of his closest advisers and military and party officials, accountable to no one but the President himself. The National Assembly has not met since 1998. There is therefore no functioning Parliament. Eritrea has had no election of any kind since independence. This has resulted in an arbitrary system of government, which is not open to scrutiny or challenge.
- There is no freedom of assembly or speech. All media are government controlled. Many journalists arrested on or after September 2001 in a prominent crackdown remain detained *incommunicado* for now over 21 years, alongside the 11 former government figures arrested at a similar time nicknamed the G-15, some of whom are believed to have died in custody.<sup>iv</sup> Foreign media are regularly denied access to the country.
- There is no recourse to an independent judiciary, and the courts are subservient to the state. Prisoners are held indefinitely, at the whim of the President and his associates. In comments delivered during an online APPG on Eritrea event on 15 June 2021, United Nations Special Rapporteur on the situation of human rights in Eritrea, Dr Mohamed Abdelsalam Babiker, mentioned, “Due process of law is completely absent in Eritrea.”
- All young people are required to serve in the military for an indefinite period of time in what is called the ‘National Military Service Programme’ (NMSP). This was labelled a form of slavery by the UN, and a crime

against humanity by the UN Commission of Inquiry on Human Rights in Eritrea (COIE), building on earlier findings of the UN Special Rapporteur on the situation of human rights in Eritrea.<sup>v</sup> Deserting or evading the NMSF are criminal offences.

- Eritrea operates a vast and mostly secret system of formal and informal prisons and other places of confinement in which torture is routinely employed against the prisoners, and inhuman or degrading conditions and treatment are widespread.<sup>vi</sup> The APPG on Eritrea has formerly heard testimony by someone held in such prisons for a period of 32 months, including a period spent in a shipping container.<sup>vii</sup>
- In the 2020 annual report of the World Bank's *Doing Business Index*, Eritrea was ranked 189 out of 190 countries.<sup>viii</sup>
- Eritrea was one of the few countries to actively oppose, rather than just abstain from, condemning Russia's invasion of Ukraine in the United Nations on 2 March 2022.

### Regional impact and the war in Tigray, Ethiopia

Since 1991 President Isaias has led his nation to war with his neighbours – including Ethiopia (May 1998–June 2000), Djibouti, and Yemen. He has interfered in the neighbourhood by backing rebel groups in Somalia, Sudan, and Ethiopia.

In November 2020, Eritrean troops, and Somali forces operating from Eritrea, joined the Ethiopian military and Ethiopian militia in an attack on the neighbouring Ethiopian region of Tigray. Eritrea siding with Ethiopia might puzzle those who remember the brutality of the 1998-2000 cross-border war. It is worth remembering that relations between the Tigray People's Liberation Front (TPLF) and the EPLF were strong as of 1991: the fall of Addis Ababa and Asmara that year took place simultaneously and with a measure of mutual support.

The relationship ruptured while the TPLF controlled the governing Ethiopian People's Revolutionary Democratic Front (EPRDF) which ruled Ethiopia until 2018. This led to the 1998-2000 Ethiopia-Eritrea border war which left some 100,000 dead. A peace agreement was signed in Algiers, but – much to the fury of the Eritreans – Ethiopia refused to accept the border drawn by the Boundary Commission established by the treaty. Eritrea's President Isaias worked with Somali Islamists of al-Shabaab and Ethiopian guerrilla movements to oust the Tigrayan rulers. He also backed several Ethiopian rebel groups attempting to overthrow the Ethiopian government. The UN monitoring group on Somalia and Eritrea reported that: "in January 2011, the Government of Eritrea conceived, planned, organized and directed a failed plot to disrupt the African Union summit in Addis Ababa by bombing a variety of civilian and governmental targets."<sup>ix</sup> President Isaias's efforts did not pay off, but in 2018, internal factors finally saw the Tigrayans lose their grip on power in Addis Ababa, and be replaced by current Prime Minister Abiy Ahmed.

A series of initiatives – in which the US played a part – led to peace being established. Prime Minister Abiy visited Asmara in July 2018 and President Isaias made a return visit to Addis Ababa shortly thereafter. This resolution was greeted by the collection by Abiy of the Nobel Peace Prize in 2019. Nevertheless, early gains, such as the reopening of the Ethiopia-Eritrea border, were lost as early as December 2018.

On the night of 3/4 November 2020, fighting broke out in the Tigray town of Mekelle. From the earliest days of this conflict, it was alleged that Eritrean troops were involved, swelling the ranks against the Tigrayans. Eritrea shares its longest border of over 1,000 miles with Tigray. The weight of evidence regarding the presence of Eritrean troops, as well as sustained international pressure, notably from the US, eventually prompted a reversal of the Ethiopian denial of Eritrea's role in Tigray. Ethiopian Prime Minister Abiy subsequently called for their withdrawal. In the UK Parliament, His Majesty's Government, and particularly the Foreign, Commonwealth and Development Office (FCDO), have consistently said that, "The continued presence of Eritrean forces fuels insecurity," furthermore calling for such forces to leave Ethiopia immediately.<sup>x</sup> Either way, supported by Eritrea, by just 29 November 2020 Prime Minister Abiy was suggesting he was in command of the Tigray region, and that the conflict was entering its final phase.

With the conflict nearly entering its third year as of the publication of this report, Abiy's earlier remarks seem premature, and in the many months since there had been a ground war, often supplemented by the use of aerial warfare such as Ethiopia's use of drones. At one stage, Tigrayan troops appeared to threaten Addis Ababa, the capital, but then made a hasty retreat as federal forces again took the upper hand. An uneasy and unilaterally declared 'humanitarian truce' declared on 24 March 2022 eventually crumbled in late August 2022, and renewed fighting in recent weeks has been bloodier than ever. It also reportedly involves ever more Eritrean troop presence, especially given forced military mobilisation in Eritrea itself. In his latest report to the Human Rights Council, the UN Special Rapporteur on the situation of human rights in Eritrea wrote: "The round-up of individuals for the purpose of military conscription ("giffa" in Tigrinya) has dramatically intensified,"<sup>xi</sup> including of those who were underage, aged primarily 16-17. *Giffas* are reportedly today rounding up reservists up to the age of 55 or even beyond.

On 19 September 2022, the International Commission of Human Rights Experts on Ethiopia (ICHREE) submitted a report on atrocities committed since November 2020 in Ethiopia. It highlighted war crimes, including rape and sexual violence, and the weaponisation of starvation, committed by Eritrean, Ethiopian, and Tigrayan forces.<sup>xii</sup> Eritrean forces also continue to be accused of violating the rights of Eritrean refugees in Ethiopia, including through harassment, disappearances, violations of the principle of *refoulement* back to Eritrea, and documented direct killings in the camps.<sup>xiii</sup>

There is also widespread evidence of the use of sexual violence and mass rape in the region including by Eritrean forces,<sup>xiv</sup> as well as the deliberate obstruction of humanitarian assistance, and destruction of objects and activities indispensable to survival. This makes starvation in the region a man-made disaster, and a potential violation of international humanitarian law.<sup>xv</sup>

Eritrea has sought to avoid scrutiny and accountability for these abuses. For instance, in July 2021 Eritrea opposed a Human Rights Council resolution calling for the withdrawal of Eritrean troops, and in December 2021 voted against the establishment of an international commission of experts to further investigate human rights abuses and humanitarian law violations. In his report to the 50<sup>th</sup> session of the Human Rights Council, United Nations Special Rapporteur on the situation of human rights in Eritrea called this practice "systematic".<sup>xvi</sup>

There is also a risk that the conflict could spread, becoming a wider Horn of Africa conflict. Tensions have risen between Ethiopia and Sudan over the disputed Al-Fashaga region, and between Ethiopia, Sudan, and Egypt over failed negotiations surrounding the Grand Ethiopian Renaissance Dam (GERD). Sudan itself witnessed a military coup in October 2021, calling into question its stability, including as a safe reception site for Eritrean and Ethiopian refugees. Some additionally suggest that the ascendancy of the Sudanese Armed Forces (SAF) as a political player no longer constrained by civilian elements in a transition government in Sudan, and the border conflict in Al-Fashaga, has caused the SAF to reinvigorate dormant security ties with the TPLF. Ethiopian federal forces and the Eritreans seek to avoid the TPLF being able to establish a supply corridor via Sudan. Eritrean diplomats have recently been reported to be engaging in shuttle diplomacy visits to Khartoum to build relationships.

## The Diaspora Tax

### What is the 2% Diaspora Tax?

The Eritrean government uses the term diaspora (Tigrinya ብሔራውያን), which is an adoption of the English term, or 'Eritreans abroad'.<sup>xvii</sup> The '2% Tax', hereafter called the 'Diaspora Tax' (separate from, but related to the 'Recovery and Rehabilitation Tax') is a Tax that the Eritrean government collects from its citizens abroad. It could be said to be a mandatory and not voluntary payment, considering the consequences of non-payment. In fact, in his explanation to the authors of this report, United Nations Special Rapporteur on the situation of human rights in Eritrea, Dr Mohamed Abdelsalam Babiker, said, "From a human rights perspective, the issue of taxation is actually amount to coercion and extortion in terms of the fact that it is not voluntary."<sup>xviii</sup> It is

often applied in tandem with the forced signature of a 'regret form', discussed further below, and has also at times been accompanied by a payment intended specifically to fund the Eritrean military. It is important to understand that given the nature of Eritrean rule, these regulations are subject to arbitrary interpretation.

### What are the origins of the Diaspora Tax?

Many we spoke to date the origins of the Diaspora Tax to the days of the armed struggle for independence. In his testimony to the report authors, academic John R Campbell, who has provided evidence in well over 500 asylum claims, including 5 country guidance cases in the UK, said: "Historically most Eritreans living overseas have supported, either personally by fighting with the liberation front, or by providing material assistance and finance to different liberation fronts, one or other of the 2 liberation fronts that fought to liberate the country from Ethiopia, between 1961 and 1991." Most individuals to whom the authors of this report spoke backed up these historical and deeply-ingrained roots of the payment, quite aside from its legal basis, emphasising that there is a felt sense of needing to support the 'struggle' back home. It has also been called 'a culture of contributing'.<sup>xix</sup> To some, this is sufficient as a moral and ethical basis to continue supporting the Eritrean government. In this context, the Tax could be understood as "an effort to make this practice systematic and sustainable."<sup>xx</sup>

To others, paying the Tax is so intimately connected with supporting the current Eritrean government that non-payment is a point of pride. Another panellist at our oral evidence session, activist Feruz Werede, said: "I wouldn't pay that 2% tax at all."<sup>xxi</sup> In an anonymous submission, another individual also told us: "I do not pay the 2% tax ... out of principle."<sup>xxii</sup> This highlights that the Tax is a fault line in an often highly polarised diaspora context characterised by a lack of trust between parties.

The Tax in its current form was first imposed in the early 2000s.<sup>xxiii</sup>

### Who is subject to the Diaspora Tax?

All Eritreans living abroad, over the age of 18. In theory, or by Proclamation (discussed further below), it is supposed to apply only to those earning income. However, because of the make-up of the Eritrean diaspora globally, a proportion of those paying the Tax are unemployed or on benefits. These include individuals seeking asylum, or recognised refugees, who have fled Eritrea's NMSP or other human rights abuses, and so are not earning formal income. Because of the discretion of consular officials, there are some exemptions and loopholes, alleged to be based on nepotism or cronyism. As discussed above, all the regulations relating to the 2% Tax are discretionary: they apply to everyone, unless the individual concerned can appeal to the informal powers of the President and his associates. According to a 2017 report commissioned by the Dutch government titled 'The 2% Tax for Eritreans in the Diaspora', (hereafter called the DSP-groep report) authors estimate that over 50% of the diaspora pays this Tax, though they say the figure could also likely be higher.<sup>xxiv</sup>

The potentially disproportionate impact of the Tax on these more vulnerable groups, or those with protected characteristics, is discussed below.

### Who collects the Diaspora Tax?

The collection of the Diaspora Tax is managed by the Eritrean Ministry of Foreign Affairs and its diplomatic and consular offices. The Tax is not administered by Eritrea's tax authority, nor by the Treasury Department with the appropriate staff and systems, nor by the Ministry of Finance and Development.<sup>xxv</sup> According to the Eritrean constitution, drawn up and endorsed by the National Assembly in 1997 but never implemented, only the National Assembly has the authority to impose taxes. The National Assembly has not met since 1998. The Tax's otherwise nebulous legal underpinnings are discussed further below.

There is no clear distinction that can be drawn between embassy staff and the ruling PFDJ party, as Eritrea is a one-party state that operates without effective opposition. In fact, the PFDJ's head of economic affairs is alleged to oversee the levying of the Tax.

The authors of this report have also been told that it is not always clear to individuals paying the Tax exactly who is accredited at the embassy, and what (if any) are the official statuses of the persons working at the embassy.

#### When does the Diaspora Tax come into force?

Before considering the circumstances in which the Tax is levied, a distinction must be drawn between individuals who leave Eritrea 'legally' and those who do so 'illegally'.

In terms of 'legal' exit, such individuals are required to obtain an 'exit visa' in order to leave the country, a document which would indicate the holder's destination.<sup>xxvi</sup> However, exit visas are only issued to those who hold "official documentation to show an individual is either exempted from, or has been released from, national service".<sup>xxvii</sup> These visas are also necessarily limited to those allowed to undertake such travel by the Eritrean government, and therefore to individuals who are in possession of a passport and the financial means to travel. In Eritrea, a passport has been described as a 'rare object', and something to which those within the age range of the NMSP may be barred from owning, with very limited exemptions. It is also worth considering that recently the issuance of exit visas has been further curtailed given ongoing violence in Ethiopia, and other forms of insecurity at Eritrea's borders, including with Sudan.

Therefore, those legally permitted to leave Eritrea form a small and rarefied section of the overall population. The movements of individuals who leave Eritrea legally will be more easily tracked by local consular staff in their new host country. It is likely that there is then a lot of discretion given to consular officials in the levying of the Tax against these new, 'legal' arrivals. Many will by default have to pay the Tax, especially when performing actions like having a passport renewed or seeking other official documents, for example to facilitate family reunification or travel, apply for business permits or land entitlements, or send remittances.

'Illegal' exit is undertaken when someone fails to obtain the appropriate exit visa, and crosses into a neighbouring country without official permission. They are likely to be people who are fleeing the country as asylum-seekers and migrants, especially where they have failed to complete the NMSP. For those who leave the country 'illegally' the Tax generally becomes relevant when they seek some form of support from diplomatic missions. One such example might be when Eritrean refugees appear in-person before diplomatic missions in order to comply with evidential requirements while undertaking a family reunification process. In a report titled 'Access to Documents by Eritrean Refugees in the Context of Family Reunification' (2021), researchers Daniel Mekonnen and Sara Palacios Arapiles write that many individuals need to interact with a diplomatic mission in order to comply with evidential requirements needed for a variety of purposes, including family reunification. This is what causes them to come up against the precondition of paying the Diaspora Tax, and signing the 'regret form'.

This is confirmed in Dr Mohamed Abdelsalam Babiker's report to the 50<sup>th</sup> session of the Human Rights Council. He reported this pinch point for "instances in which some host country authorities requested Eritrean refugees and asylum seekers to provide documentary evidence in the context of asylum or family reunification requests. In such cases, asylum seekers were left with the difficult choice of approaching the Embassy and paying the tax or jeopardizing important decisions about their migratory status."<sup>xxviii</sup>

The Tax might also become relevant when someone seeks to prove their identity by seeking a national ID card (also known as *tesserae* or *menenet*), ration coupon, or passport, or in trying to prove other vital life events by acquiring birth, marriage, divorce, or death certificates. These are almost always required by diaspora groups as opposed to Eritreans in-country, as in Eritrea there are few circumstances when such documents are required by public or private entities.

Other circumstances were described to the authors of this report as, “land ownership transfers, university transcripts, fees for religious and non-religious certificates such as baptism and marriage certificates and for sending goods that require clearance at the port of entry in Eritrea, exit visa requests by family members in Eritrea.”<sup>xxxix</sup>

A few examples of where the payment of the Tax would be required were listed as below:

“Fees for obtaining Eritrean passport amounting to four hundred dollars (\$400)

A hefty fee to get a copy Eritrean identity card

Paying 2% tax as a condition to obtain travel and return permits to and from Eritrea”<sup>xxx</sup>

John R Campbell elaborated, “When an individual in Eritrea seeks permission to improve a house, obtain a loan, open a shop, they must satisfy officials that family members living overseas have paid their taxes.”<sup>xxxi</sup>

Speaking specifically to issues that might be presented when one owns property in Eritrea, one anonymous testimony read: “I had a small house that I had inherited in [redacted] from my mother upon her death in [redacted]. // Gradually, the government started tightening the screws on those who have property but refused to pay the 2% tax. // A few years ago the government informed the tenants that they should see a certificate from the landlords that they have paid the 2% tax. // The tenant in my property demanded to see the certificate threatening me by not paying rent unless I produced the certificate. // I could not provide the tenant with a copy of my 2% tax certificate. So he has stopped paying rent to me. He is instructed to transfer rent to a government coffers. // A few months ago he sent me a verbal message through a rep if I do not produce a copy he will apply to the government (Housing) that he should be allowed to own the property because the owner is simply ignoring government regulation and he (the tenant) is paying for maintenance costs himself. // I haven't heard from him for over a year.”<sup>xxxii</sup>

Disturbingly, another circumstance mentioned to the report’s authors which would require the payment of the Tax is when a member of the diaspora needs to repatriate a body back to Eritrean, or to benefit from an inheritance, or to follow the dying wishes of an individual as expressed unofficially or in their last will and testament. This was described as impossible where an individual had not paid the 2% Tax.

Dr Mohamed Babiker explained, “if you pass away, if you die, and if [...] part of your aspirations is to be buried in your country, you need the person taking the corpse, they need to prove that you have actually paid your tax. I heard a lot of the stories about that, people send the corpse to, for example, to neighbouring country, the neighbouring country will be actually taking the body inside Eritrea through road, so I heard a lot of stories and a lot of testimonies about that.”<sup>xxxiii</sup>

Another individual who provided testimony, activist Feruz Werede, additionally mentioned the case of someone she knew who had a sum requested of her in trying to repatriate the dead body of her late husband. Feruz explained, “I know a woman whose husband died in this country and she wanted to take his body back home and she couldn’t do it because they gave her like £3,000 worth of back payment and she’s a homemaker, she doesn’t have a job to go to, he was the breadwinner.”<sup>xxxiv</sup> She later added, “So with regards to the woman I was telling you about, she had to end up burying her husband, and his wish was to be buried back home, in here.”<sup>xxxv</sup>

This also impacts inheritance. Dr Mohamed Abdelsalam Babiker said, “Normally people [...] pass away, then is your family at home, they want to distribute the inheritance, then they ask, for example, [for] authorisation papers, and you cannot do that, because you need to prove that in your embassy [...] you paid your taxation.”<sup>xxxvi</sup>

### What is the 'regret form'?

This is the colloquial term for 'form 4/4.2', and is a self-incriminating statement individuals are forced to sign in which the concerned individual states that they committed a crime by leaving the country without having completed the NMSP, and that they will accept punishment as a result, including prosecution once they return to Eritrea. It also stipulates that those wishing to return to Eritrea should be loyal to the government and not engage in opposition activities while abroad. It has no legal basis.

John R Campbell said of the regret form, "Eritreans who have left the country unlawfully have to sign an Immigration and Citizenship Services Request Form to regularise their situation before they can request consular services from the embassy. By signing the form, the individuals admit that they [did not complete] the national services, and are ready to accept appropriate punishment in due course".<sup>xxxvii</sup>

In the DSP-groep report this statement reads as follows:

*I, whose name is the above-stated citizen, hereby confirm with my signature that all the foregoing information which I have provided is true and that I regret having committed an offence by failing to fulfil my national obligation and that I am willing to accept the appropriate measures when decided.*<sup>xxxviii</sup>

This form was introduced in the aftermath of the 1998-2000 border conflict with Ethiopia to address the mass exodus of people from the country during this conflict, or else shortly after the end of the conflict marked by the signing of the Algiers Peace Agreement. It is therefore more likely to be applied to those who fled Eritrea after 1998, and who are within, or approaching, the age limit of the NMSP.

The narrative employed by diplomatic missions is that those within or approaching the age limits of the NMSP who left Eritrea during such time are 'traitors' who left the country at its hour of need.

Some have told the authors of this report that because the Diaspora Tax is so combined with the signing of the 'regret form', which itself has no legal basis, its collection is illicit and constitutes extortion and coercion.

The COVID-19 pandemic has provided the Eritrean government with another opportunity to extract funds from its diaspora. Entry and movement in country were severely restricted during the pandemic, and individuals who approached its embassies and consulates to obtain the necessary documentation were alleged to have been required to pay special levies by the Eritrean government. In at least one case, in the Netherlands, it was found that the Eritrean diaspora there were required to pay mandatory contributions for COVID-19-related reasons, leading the Dutch Minister of Foreign Affairs to prohibit an embassy staff member from working in the embassy's Hague office.<sup>xxxix</sup> In his report to the 50<sup>th</sup> session of the Human Rights Council, Dr Mohamed Abdelsalam Babiker confirmed this situation: "Eritrean diplomatic missions also carried out collections for the country's COVID-19 response. Eritreans were reportedly told that donating was mandatory, and were pressured and intimidated. There is a complete lack of transparency regarding the use of these funds."<sup>xl</sup> It is possible that the management of the COVID-19 virus further entrenched embassies' contact with and control over diaspora groups, though further research is needed to explore this relationship. It has been reported that the COVID-19 crisis led to strict movement restrictions in-country.

### How is the Diaspora Tax calculated?

Eritrea's embassies around the world seem to have discretionary power in relation to the assessment of the amount of Tax payable. Because calculations are made at officials' discretion, these assessments also seem inconsistent and arbitrary. However, we can say that the 2% figure generally represents a percentage of all earnings, including past earnings. Fees can even be charged for time that individuals spent not working, for instance a 2% share of social welfare benefits, as well as on earnings made through non-formal channels, as will often be the case for asylum-seekers and refugees. The fee can also be calculated in a fixed fashion for

those not in receipt of income, for instance a calculation based on the number of years the individual concerned has been outside Eritrea.

Because individuals do not always immediately need to engage with embassies, sometimes the Tax is applied retroactively, for instance a lump sum is calculated which covers all the years an individual has been living abroad and over the age of 18, including years spent on social welfare or benefits. In a briefing prepared by Human Rights Concern - Eritrea (HRC – E), it was said: “If an Eritrean arrives in another country but does not contact the embassy for some years, the moment they decide to do so in order to sort out documents and other affairs they must pay the sum of backdated tax since they turned 18 or, if the person has lived abroad since Eritrea’s independence, it can be backdated as far back as 1992.”<sup>xli</sup> This figure may be large, and impossible to meet for those without any financial savings, or assistance from relatives or friends.

This high figure can also be used as the starting point for negotiations between the embassy official and the individual concerned, with downward revisions made at the official’s discretion. For instance, an official could ask for a smaller sum, or one totalling only x or y years under consideration, as the concerned individual may be more likely and/or able to pay this amount. This negotiation tactic was highlighted in a conversation recorded with the use of a hidden camera by an Eritrean refugee in Stockholm, discussed further below in the section on Sweden.

#### How is the Diaspora Tax collected?

Payment of the 2% Tax is always levied and collected in foreign currency, whether it is paid abroad or in Eritrea. This is a crucial element of the Tax. In her testimony, Feruz Werede confirmed, using the example of a fictitious brother: “Now, if, let’s say, if my brother is back in Eritrea, he cannot make that payment for me in *nakfa*, *nakfa* is the currency, Eritrean currency, he cannot make that using the local currency, he has to do either with the dollar or with the pound, it has to be a foreign currency. I think that is their way of bringing in hard currency into the country, and using it however they like. So I have to send that via people. Do you get it? I can’t send it, I can’t wire it, because what they get is *nakfa* so he can’t use that, it has to go physically via people so a lot of people find that very difficult to do.”<sup>xlii</sup>

The above testimony also highlights that although the Diaspora Tax is consistently levied and calculated by the embassies, the role of the embassies in collecting the Tax has sometimes changed, especially in countries where questions have been raised as to the legality of the Tax, as described below. One individual said that “The person who wants to pay the tax in a country such as the UK should set up legal power of attorney for someone inside Eritrea to pay the tax there for him or her.”<sup>xliii</sup>

Feruz Werede said the method of collection, even in the UK, changed once Eritrea was criticised or questioned about this practice, and after she, and a group of other activists, raised the collection of the Tax with the Metropolitan Police and the then Foreign and Commonwealth Office, a process described at more length below: “I heard that the ambassador at the time [...] was called by the British government, questioning him about the 2% tax and how it’s been done and what he said then, they changed their tactics, they stopped collecting money in London and they said to him ‘well, we’re not doing it’, but what was actually happening was people wanting those services, which is hard currency, back home and get the receipt form back from to show the embassy that they have actually paid the 2% tax. So our hands were tied, they were beating us on technicalities really.”<sup>xliv</sup>

Generally, while the Tax is still levied by the embassy in question, payments may be made in different ways in hard currency, such as:

- Cash payment to the embassy;
- Cash payment to an agent in the local Mahbere Com who transfers it to the embassy (Mahbere Com or ማሕበረ-ኮዎ refers to diaspora communities and leaders organised on political lines by the PFDJ);

- Cash payment in the capital city, Asmara (in person or through a courier/individual appointed Power of Attorney);<sup>xlv</sup>
- Payment in hard currency on arrival in Asmara;
- Sending cash with a trusted person who travels to Asmara to deposit the payment;
- Transferring to a bank account in the country of residence;
- Transferring to a bank account in Dubai;
- Sending cash with a trusted person who travels to Dubai to deposit the payment in a bank;
- Payment in Sudan, by refugees, who travel to the Eritrean Embassy in Khartoum, where various papers can be obtained.<sup>xlvi</sup>

This authors of this report have also been informed by individuals that they were even approached at home for payment by party agents.

In a briefing prepared by HRC – E, it was also explained: “The immigration office in Eritrea has a dedicated office for the payment of this tax, as evidenced by a photo leaked from the country [there was a translated document attached]. The office is to cater for payments by/for Eritreans living in Germany, Canada and the UK.”<sup>xlvii</sup>

Other anonymous individuals who supplied testimony for this report also supported this argument about how tactics can change with regards to collection the Tax, and urged the authors to also ensure the Tax’s application in Eritrea was halted: “You have to make sure it’s not practised in Eritrea. Even if you ban this in UK, they will still haunt us when we want to do something in Eritrea, as nothing can be processed without paying the 2%. So your approach should be inclusive of banning the 2% even when we go to Eritrea. Because you have banned it here in UK before. But the trick up the sleeve of the Eritrean government is they clandestinely force us to pay when we get to Eritrea, as we can’t process anything such as buying a house without paying the 2%. So your approach to ban it should include banning the tax request by Eritrean authorities as a prerequisite to process anything legal with the government.”<sup>xlviii</sup>

The end result, once you have paid the Tax in hard currency, is that, as confirmed by Feruz Werede, “the authorities in Eritrea will send a confirmation to the embassy here saying yes that money has been made and then the embassy here will print out the receipt and give it to that person and then the full service can be done for the person.”<sup>xlix</sup> She also said, “So the money is going there in hard currency, the receipts are being faxed to the Eritrean embassy in London. That’s how it’s being done.”<sup>1</sup>

#### What happens if the Diaspora Tax is not paid?

The consequences for non-payment of the Tax do not appear to be outlined in any official forum. However, as described to the authors of this report, the methods of the collection of the Tax seem coercive by nature, and some could amount to extortion. If an individual fails to pay the Tax, they also frequently refuse to sign the ‘regret form’. The authors were told that they were then refused ‘clearance’ by the Eritrean embassy. Clearance is needed by all those who wish to benefit from consular services.

One interviewee put it simply: “If you don’t pay 2% you don’t have any right in Eritrea.”<sup>ii</sup> Other comments include: “To do anything in Eritrea, to even go to Eritrea we are bullied to pay this, otherwise they won’t let us enter or can not do anything in the country or process anything in Eritrea. We have been bullied into this by the cruel government of Eritrea. Its taking a toll on our finances, as well as infringing our human rights.”<sup>iii</sup> It was continually stressed to this authors of this report that non-payment of the Tax resulted in the total denial of the rights of Eritrean citizens.

Feruz Werede told report authors: “you have absolutely no rights, let alone being able to go into your country, or build a house, or start a family there, even getting married or things like that, you have to have that 2% tax. You can’t do anything without that. And that’s how they keep people tightly gripped, they can’t move, they

can't do anything in their own countries. And a lot of Eritreans have a lot of links back home, they have families, they have siblings, so that's the reason they still pay."<sup>liii</sup>

The denial of services on the occasion of non-payment of the Tax could be considered a way of extorting money from those with no other options but to seek such support. The denial of consular services also has no basis in UK law as a punitive measure, as described further below. It may also have an unequal and disproportionate impact on lower income and vulnerable groups, as described below.

More direct and even physical forms of coercion have been reportedly used to enforce the payment of the Tax, including threats of violence to the individual subject to the Tax. In his report to the 50<sup>th</sup> session of the Human Rights Council, Dr Mohamed Abdelsalam Babiker wrote: "In several European cities, those who refused to pay were also subjected to harassment, intimidation and marginalization within the community."<sup>liv</sup>

Non-payment of the Tax also has impacts on an individual's family living in Eritrea under what has been described to report authors as "punishment by association".<sup>lv</sup> John R Campbell said, "If relatives in the diaspora have not paid, family in Eritrea pay the consequent price."<sup>lvi</sup> In this context, he described the paying of the Tax as a kind of "surety for the wellbeing and continued safety of relatives still living in Eritrea."<sup>lvii</sup> He also described it as "an indirect form of coercion. You know what will happen to your family members if you don't pay the tax."<sup>lviii</sup>

Relatives living in Eritrea of people determined to be 'disloyal', including relatives of perceived evaders/deserters of the NMSP or by virtue of non-payment of the Diaspora Tax or failure to sign a 'regret form', often suffer severe consequences to their lives and livelihoods that are tantamount to human rights violations. Some examples of such treatment were cited to the authors of this report by those giving evidence during our oral evidence session, and it was even mentioned that in the past there was evidence that "people's families were being detained back home, the families of those that live abroad and who haven't paid the 2% tax,"<sup>lix</sup> though these reports now surface less regularly so it is unclear whether this is a current practice. The authors of this report did, however, speak to one anonymous individual who described how their entire extended family had been detained in Eritrea after they were forced to flee the country to Ethiopia.<sup>lx</sup>

Such human rights violations against relatives could also extend to denial of access to services or rights in Eritrea and to food vouchers, and the threat of imprisonment, property rights, including home repairs, up to forced eviction from families' lands and house, or disposal at the state's convenience of fruits and other goods produced upon their land. This impact can be particularly severe when the relative in question fled, or was perceived to have fled, Eritrea in a manner the Eritrean state would determine to be illegal, for instance to avoid NMSP, and where that individual's relatives subsequently did not pay a resulting fine totalling around 50,000 *nakfa* (around £2,900 as of 14 October 2022).<sup>lxi</sup> It can also be severe where an individual fails to sign the 'regret form'. This in particular can result in social exclusion and vilification.

There is another, perhaps less anticipated, result of paying the Diaspora Tax and signing the 'regret form'. It can be used by some European home ministries to then argue that the concerned individual has regularised their position with their country of origin, and that it is therefore possible for them to be voluntarily or forcibly returned to Eritrea. Different home ministries adopt different positions, but it is at least evident that the possibility of 'clearance' by the relevant diplomatic mission is used as a tool by some refugee status determining bodies to reject applications in order to limit acceptance rates, especially given application numbers are rising, as discussed further below.

While the above measures are almost guaranteed where an individual has not paid the Diaspora Tax, it is important to mention that payment of the Tax is not, in and of itself, a guarantee that the person concerned will receive positive outcomes, for instance in applications for essential documentation. Such decisions are discretionary, meaning they can be rejected 'just because they [officials] want to', as mentioned by an

interviewee in Cairo in the Mekonnen and Arapiles report (2021).<sup>lxii</sup> Denial of services is possible even despite an individual's 'willingness' to sign the 'regret form' and pay the Diaspora Tax.

A report commissioned by the Home Office said that the Diaspora Tax "is a disproportionate cost for obtaining a travel document."<sup>lxiii</sup> But this ignores the fact that refusing to pay the Tax has left many in the diaspora with only one option: to cut their ties with the country of their birth, and which they may still consider home. John R Campbell told us, "many who are in the diaspora, do not take the risk by seeking to travel to Eritrea."<sup>lxiv</sup> Dr Mohamed Abdelsalam Babiker, UN Special Rapporteur, said, "I met many Eritreans who [...] actually cannot travel to Eritrea unless they pay the tax".<sup>lxv</sup> Feruz Werede said, "I don't have any business going back home, I know I can't go back home, I've completely given up on my country until the dictatorship step down, but being that, not a lot of people are in my position. A lot of people have families back there and businesses back there, they have interests back there, and those people are hand tied unless they pay that 2% tax."<sup>lxvi</sup>

This cutting of ties can have a profound effect on individuals. Feruz Werede expanded, "if you're going to go to Eritrea using your ID without a visa, you need to have paid that 2% tax. If you don't pay that 2% tax you have to go to your own country as a foreigner. So if I want to go back to Eritrea, if I don't pay the 2% tax, I have to use my British passport to get into the country, and I have to ask for a visa here as a foreigner, they wouldn't recognise me as an Eritrean there. If anything is to happen to me it is the British government that has to come to my aid rather than my birth country, if you know what I mean. They take away the identity that you have, that right that you have as an Eritrean, if you do not pay that 2% tax, basically."

Feruz Werede also expanded on the policy's impact on future generations: "I, as a person, as an Eritrean, I can't call myself Eritrean because I haven't done the things that they ask me to do. I can't go back home, I can't even give my kids identity of an Eritrean, that ID that a child gets back home I can't do that, they know they're Eritreans, but I can't give them that because I haven't paid the 2% tax."<sup>lxvii</sup>

#### What is the legal basis of the Diaspora Tax?

The Diaspora Tax has an uncertain legal basis, made more complicated by the failure of Eritrea to ever adopt a formal constitution. A constitution was drawn up and endorsed by the National Assembly in 1997, but was never implemented. As described above, it was this constitution that gave the National Assembly the sole power to levy taxes, rather than the other bodies today responsible for collection of the Tax.

The Tax has its basis in a 1995 proclamation (No. 67/1995) titled 'Proclamation to Provide for the Collection of Tax from Eritreans Who Earn Income While Living Abroad' (promulgated on 10 February 1995). Separately, but relatedly, there is a 'Recovery and Rehabilitation Tax' with its basis in Proclamation No. 17/1991 (promulgated on 10 December 1991), which focuses on Eritreans living within Eritrea.<sup>lxviii</sup> The 1995 proclamation does not stipulate the chosen punitive measure of denial of consular services on the occasion of non-payment, instead mentioning imprisonment or a fine, except where such non-payment is accompanied by threats, violence, assault, the display or use of arms, or by disorder or revolt.

It is of course to be remembered that these are proclamations rather than laws enacted by an act of parliament, as no such parliament currently exists in Eritrea. These proclamations can furthermore be inconsistently supplemented by presidential or ministerial directives known locally as 'circulars'.<sup>lxix</sup>

The exercise of the Diaspora Tax operates on the basis of 'connecting factors', themselves based on personal and factual circumstances relating to where a person resides or has nationality. But nationality itself broadly and unclearly defined by the relevant embassy, and policies can be amended depending on the outcome desired by an embassy official. For instance, the relevant proclamation (No. 21/1992) dealing with nationality law specifies that a person has to be born to an Eritrean father or mother to obtain Eritrean nationality. This in theory would subject individuals who have never set foot in Eritrea to the Diaspora Tax. But nationality can also be more strictly determined where the aim is obstruction of bureaucratic processes. In an interview

conducted by researchers Daniel Mekonnen and Sara Palacios Arapiles, an applicant at the Eritrean embassy in Germany was told to prove that 4 generations of his or her ancestors were Eritrean.<sup>lxx</sup>

#### Violations of 'double taxation'

Eritrean authorities often defend the collection of the Diaspora Tax on the basis that it bears resemblance to taxes levied by the United States, including that it is based on citizenship rather than place of residence. However, the Diaspora Tax differs, as the United States negotiates 'double taxation' treaties with the countries hosting its embassies, allowing for the collection of any taxes, and protecting against the risks of double taxation where the same income may be taxable in two localities. For example, the US and the UK governments negotiated a USA-UK Double Taxation Convention, which entered into force on 31 March 2003 and was amended by signed protocol on 19 July 2002, as well as having the competent authority further outlined following the UK's withdrawal from the European Union.<sup>lxxi</sup> Similarly, Italy and the UK have a Double Taxation Treaty for the avoidance of double taxation between their two countries which was signed in 1988 and came into effect at the start of 1990.<sup>lxxii</sup> This makes the process transparent and accountable. Eritrea currently does not have in place any Double Taxation Treaty with any other country in the world.

The Washington Examiner in 2020 featured an opinion piece written by Michael Rubin, a resident scholar at the American Enterprise Institute and a former Pentagon official, stating that, "the American analogy is simply inaccurate. The U.S. negotiates double taxation treaties with various governments. That the Eritrean regime will threaten the family members of its nationals abroad to compel diaspora tax payments likewise places it firmly in the camp not of the U.S. but rather of North Korea, Turkmenistan, or, in the past, Moammar Gadhafi's Libya or Saddam Hussein's Iraq."<sup>lxxiii</sup>

It is true that a policy of taxing the diaspora is not illegal *per se*, but there is no other tax regime in the world that operates in the same way as the Diaspora Tax, including through illicit, coercive, and fraudulent means. Similarly, the Tax's application to those not involved in gainful economic activity, for instance on social welfare benefits, is uncommon, as most such taxes on diaspora groups are on net income.

#### How much is collected by the Diaspora Tax?

The answer to this question is unclear, given Eritrea does not publish its financial records. It publishes no government budget, and no statistics on the sources of taxation or the sums collected. According to the relevant Proclamation (No. 67/1995) monies collected via the Diaspora Tax are supposed to be directly deposited in the treasury account of the Ministry of Finance and Development. However, it is unclear where the money, in fact, goes.

According to the DSP-groep report, it is estimated by the former Eritrean Deputy Minister of Finance, Kubrom Dafla Hosabay, that the Diaspora Tax generates anywhere between \$25-75 million per year. The fact that the former Deputy Minister of Finance was not able to give the researchers a more detailed estimate, and relies instead on a rather broad range, is felt to be significant. These researchers found that no formal information or public statistics are available on which one could base a more precise estimate of the revenue generated by the 2% Tax.<sup>lxxiv</sup> However, the authors of this report were told by John R Campbell that "In 2007, the total value of that tax was estimated at US 400 million dollars per year."<sup>lxxv</sup> Elsewhere, authors read more conservative figures, such as that "In 2005, it was estimated that the 'diaspora tax' levied on the Eritrean diaspora averaged an annual US \$5.9 million and other contributions US\$24 million/year since 1997, according to unpublished government figures."<sup>lxxvi</sup> In their reporting, the United Nations' they said: "According to estimates by various national law enforcement officers, Eritrean eyewitnesses and former Eritrean Government agents in the diaspora, the Government of Eritrea is estimated to raise tens — and possibly hundreds — of millions of dollars on an annual basis."<sup>lxxvii</sup> One anonymous interviewee for this report was unequivocal, "That [the Tax] is how the government milks its citizens dry."<sup>lxxviii</sup>

The economic fact sheets on Eritrea compiled by the FCDO have never historically represented what sums are generated by the Diaspora Tax, and it is not a budget line.<sup>lxxix</sup>

In discussions with authors of this report, Dr Mohamed Abdelsalam Babiker speculated that the money collected in some European countries was high: “I was told that there is huge money according to evidence and investigation collected from the diaspora. The UK government could actually reach out to European countries in order to establish the magnitude of the money collected. I believe in the UK the amount of money could be higher due to the number of Eritrean diaspora and refugees here comparable to other European countries.”<sup>lxxx</sup>

In his 2022 paper, ‘Sanction my country – an Eritrean plea to the world’, researcher Habte Hagos wrote that alongside agriculture and mining, remittances including the Diaspora Tax constitute a third major pillar of the Eritrean economy. He wrote that outside of these three sectors, Eritrea largely lacks another viable economic option, with the withering of its fishing and manufacturing industries and a small ‘private sector’ comprising self-employed village farmers, market stall or bar, restaurant or corner shop operations working almost exclusively in the domestic currency *nakfa*. Similarly, John R Campbell told report authors that in Eritrea there “are virtually no other existing funds of foreign exchange. The largest other source is mining interests.”<sup>lxxxi</sup> Feruz Werede told us that if the collection of the Tax was stopped then “I think we’ll be making a lot of difference in the income of the government of Eritrea as well, because that’s basically how they live”.<sup>lxxxii</sup>

It is important to recognise the differences between remittances, which are often direct transfers of wealth between familial relatives or based on other social and cultural networks, and the Diaspora Tax. In some submissions made to this report, primarily comments made online via Twitter, the argument was made that authors of this report wished to halt remittances to Eritrea. But there is a difference between the personal choice involved in making a remittance payment, and the transparency of its final destination, and a Tax levied via coercive means, and without legal basis, with no clarity on the uses to which it is put.

It is also important to note that the Diaspora Tax might not be the only sum levied on members of the diaspora, and when the government finds itself in need of funds, other creative solutions have been found to request this. For instance, in the German city of Frankfurt, it was reported that each Eritrean household was having €200 requested of them, aimed at ‘saving Eritrea’.<sup>lxxxiii</sup> In her testimony to report authors, Feruz Werede said “that particular letter is being sent in Germany and it’s been sent to all the Eritrean-German community there, and that letter is asking for 200 euros to support the Eritrean government in the Ethiopian conflict that’s going on at the moment. It’s not even our conflict, it’s not even Eritrea’s conflict, I know they are involved but it’s not even our conflict, but I know that they’re demanding 200 euros from each household in Germany.”<sup>lxxxiv</sup> She speculated as to whether a similar request was being made in the UK.

### Why is the Diaspora Tax levied?

The Eritrean government has proffered several reasons for the collection of the tax. Its origins in Proclamation No. 67/1995 and contemporary tax laws promulgated at the same time indicate that it is for the rehabilitation of Eritrea’s national economy following wars of liberation, and for the provision of a tax regime conducive to investment.<sup>lxxxv</sup> But Proclamation No. 17/1991 also established another tax collection entity named the Rehabilitation and Recovery Tax, which aims to generate revenue for disabled freedom fighters, their relatives, fallen heroes or martyrs, and injured survivors of natural disasters. The proclamation does not specifically mention the diaspora, but it is likely this tax is similarly applied.

In 2013, the Permanent Mission in New York said that the tax is levied “for developmental programmes”, whereas in 2016 it claimed the tax is “properly and effectively utilized for supporting Martyr’s families and war disabled veterans”.<sup>lxxxvi</sup>

The embassy in Brussels has been quoted as referring to the Tax as “a burden sharing responsibility in national development. The focus is also on social security challenges which mainly focus in supporting families of martyrs, war disabled fighters, vulnerable groups and victims of natural disasters.”<sup>lxxxvii</sup>

The logic of maintaining the Tax for martyrs and disabled freedom fighters begins to look shakier as time passes. It is now more than 30 years since the war of liberation ended in 1991. Even the border war with Ethiopia of 1998-2000 is many years in the past, especially considering the 2018 *rapprochement* between Ethiopia’s Prime Minister Abiy and Eritrea’s Isaias which should have in theory allowed for reduced levels of militarisation. However, it is in part explained by the lack of changes to Eritrea’s NMSP. In a recent fact-finding mission to Eritrea conducted from 26 September to 3 October 2019 by the Danish Immigration Service (DIS), it was found that there had been no changes to the duration of the NMSP, or with regard to exemption.<sup>lxxxviii</sup> The war in Tigray means mass mobilisation to the Eritrean army is taking on renewed importance to the Eritrean state.

More generally, however, it has been suspected that in addition to raising funds for the Eritrean state, the Tax operates as part of a system of control and surveillance which the state exercises over its citizens. The inability to distinguish between embassies and the ruling party means the collection of the Tax is widely considered a tool of control by the PFDJ. According to the DSP-groep report, quoting their interviewee the former deputy minister of finance, “the 2% Tax serves three principal purposes for the Eritrean government: it is a source of intelligence, as it provides a ‘checklist’ on what people are doing and whether they are behaving in a loyal manner; it is a source of intimidation and coercion, which allows the government to control Eritreans in the diaspora, and it is a source of finance, as it provides a slush fund through which the Eritrean government can finance covert activities.”<sup>lxxxix</sup>

In the Mekonnen and Arapiles report, it is said, “it can well be argued that the ultimate objective of the diaspora income tax and the regret form are that of effectively controlling Eritrean diaspora communities, and ensuring the continuance of the quintessential ideological objective of regime preservation back in Eritrea.”<sup>xc</sup>

In one paper submitted to report authors, organisations representing the Eritrean diaspora go one step further, stating that the Tax is “intended to demonstrate how the government has long tentacles beyond its territory. After all, one of its mantras is ‘ሓለገሊ ስርዓት ነዊሕ እዩ!’ which translates to: ‘The arm of the regime is long!’ implying that one cannot run away from the government of Eritrea no matter where they live.”<sup>xci</sup>

Many of those engaged to contribute to this report mentioned that they were scared to engage in discussions about this topic, even when the offer was made to anonymise, pseudonymise, or even keep entirely off-the-record their discussion with authors of this report. One person wrote to us about offering testimony: “I would love to but I am too scared of the government agents. they are everywhere.”<sup>xcii</sup> Another anonymous individual told us: “We are scared to talk because the government has many spies in the UK. We have no voice, please help us fully and make the Eritrean government allow us our human right to do anything in the government offices without paying the 2%tax.”<sup>xciii</sup> Still another said, “People are wary of speaking because they are supporters of the regime, or they are afraid that bad things will happen to their relatives in Eritrea if they speak about this issue.”<sup>xciv</sup>

John R Campbell sympathised when he said, “the diaspora fears Eritrean officials. Their fear is quite rational.”<sup>xcv</sup> Dr Mohamed Abdelsalam Babiker told us, “Eritreans are very reluctant to come forward.”<sup>xcvi</sup> Feruz Werede explained that even documenting collection of the Tax is made difficult by the culture of fear surrounding it: “the fact that people here are scared of the government doesn’t help, so you only get a handful of people giving you their receipts [for payment of the Tax], and that is even with dates, sometimes they ask us to erase the date so that they don’t correspond it with their records and know who actually gave us the documents, things like that, so it became a bit difficult.”<sup>xcvii</sup>

In his report to the 50<sup>th</sup> session of the Human Rights Council, Dr Mohamed Abdelsalam Babiker also quoted someone he had interviewed for his report, an Eritrean living in a European country, as saying: “If I say something, my family in Eritrea could suffer. Then I can never go back to Eritrea.”<sup>xcviii</sup> He also wrote: “The Government of Eritrea made significant efforts to control the activities and community organization of Eritreans in the diaspora, and to hinder their political participation. The authorities of Eritrea also attempted to silence Eritreans abroad, and enforced punishments by proxy whereby the relatives or loved ones of Eritreans in the diaspora were punished for their activities.”<sup>xcix</sup>

It is important to note that while the Tax is one method of control and surveillance used by the embassy, there is also evidence that President Isaias maintains a well-established network of supporters who spy on and abuse members of the Eritrean diaspora who speak out against the regime. The Diaspora Tax must therefore be considered alongside this wider web of control and surveillance. For instance, the PFDJ’s diaspora-based youth movement, titled the Young People’s Front for Democracy and Justice (YFPDJ) is widely understood to be an intelligence-gathering organ of the Eritrean state. In a judgment by the Court of Amsterdam (The Netherlands) of 2016, the Court found that through the so-called long arm or “extended arm of the State,” the Eritrean government is engaged in extraterritorial human rights violations against citizens, specifically fingering the YFPDJ.<sup>c</sup> The 2015 COIE also found that, “Through its extensive spying and surveillance system targeting individuals within the country and in the diaspora, the Government engages in the systematic violation of the right to privacy.”<sup>ci</sup> This includes allegations that those engaged as interpreters and translators in relevant asylum screening and substantive interviews, including in the UK, refuse to translate key words or terms, and harass applicants during break times, which then causes individuals to self-censor.<sup>cii</sup>

The YFPDJ or PFDJ have also been accused of using other institutions to conduct surveillance, fundraising, and recruitment of supporters. One such context has been government-affiliated churches, which are allegedly obligated to send 10% of their income to Eritrean authorities, and where expulsions can occur when government positions are not maintained.<sup>ciii</sup> In an incident documented in Liverpool city on Christmas Day 2021, 3 men kidnapped a priest in the Eritrean Orthodox Church, allegedly for failing to recognise the new Patriarch of the Church.<sup>civ</sup> The new Patriarch had been summarily appointed after the former Patriarch, Abune Antonios, was deposed in 2005. Patriarch Abune Antonios was kept under house arrest for 16 years until his death on 9 February 2022.<sup>cv</sup>

Diaspora surveillance and even direct fundraising is also maintained through events hosted by government-affiliated bodies which are sometimes marketed as being for social and cultural purposes, or as concerts for prominent pro-regime Eritrean singers like Awel Seid. For instance, in testimony to report authors, Feruz Werede mentioned that in the UK there has before been “a concert of some sort with benefits going to the Eritrean government. So things like that are happening”.<sup>cvi</sup>

One such example was noted to have taken place in a leisure centre in Harrow in London the weekend of 23-24 July 2022, titled ‘Festival Eritrea UK’. Some opposition groups claimed this, far from being a cultural festival, was a platform for the Eritrean regime, where “Eritreans who do not support the regime will be labelled as stooges of Weyane (sympathetic of the Tigrayan movement) [... which] creates disharmony within the Eritrean diaspora community.”<sup>cvi</sup> Images seen from the event show the presence of a large number of people in military uniform.

A second such event was due to take place on 4 September 2022 in Lambeth Council, but it was cancelled following opposition. However, a replacement protest event took place the same day outside the Eritrean embassy, during which ‘clashes’ led to arrests, though human rights groups point out that provoking violence can be a deliberate smear tactic by PFDJ supporters.<sup>cvi</sup> A Parliamentary Question responded to in October 2022 indicates that the FCDO has encouraged the Eritrean embassy to “ensure that any future events pass off peacefully.”<sup>cix</sup>

In other countries, such recent events have been successfully challenged and even cancelled following diaspora opposition. The strength of resistance against such events Europe-wide has caused activists to label 2022 ‘the summer PFDJ died’ in an essay.<sup>cx</sup>

In this context, not being openly supportive of the Eritrean government and its aims, can be enough to arouse suspicion. The testimony of ‘Awet’ (name changed) is illustrative. They write: “Over the past year and so I have been through a lot of psychological harassment by the Eritrean government. I am not sure what I did them wrong in particular except my mild political activism but a lot of people had been calling me and recording my phone calls and then sending it through WhatsApp to the government. // It has been a very difficult time, in fact I ended up needing mental health services to support me. // Now, I have had enough and I can’t keep silent anymore and let it be the norm. I am trying to imagine how they treat people who actively oppose them given that I had never campaigned or spoken against them. // As a youth I use to be active in community organisation until a few years ago but then I stopped and I had to concentrate on myself education more. // But I never expected to experience what I went through over the last year and so.”<sup>cxii</sup> This testimony also highlights that the Tax, and wider system of control and surveillance, can exert a powerful social and emotional toll on individuals.

The ability of the Tax to infringe on the enjoyment by the Eritrean diaspora of their political rights and freedoms, makes Eritrea’s use of the Tax a case of transnational coercion, akin to those experienced by other communities, such as the Uyghurs, or those harassed in UK higher education institutions by representatives of the People’s Republic of China. In a paper titled ‘Rights Protection – How the UK should respond to the PRC’s overseas influence’ by Andrew Chubb, he outlines how such influence is better understood as having “a demonstrable and direct impact on human rights and civil liberties of diaspora communities in the UK” as opposed to being understood to have “influence on UK national security and foreign policy”.<sup>cxiii</sup> Later in the paper he outlines that despite the Equality and Human Rights Commission (EHRC) having a purpose of equipping and supporting individuals to gain access to justice when they experience a breach of their human rights, “the EHRC has not so far identified protection of targeted migrant and diaspora communities from coercion and harassment as a priority.” Chubb recommends the creation within the EHRC of a Transnational Rights Protection Office (TRPO), a call the authors of this report endorse. The TRPO could offer advice, and a single point of contact, for those experiencing such breaches, beyond police services’ sometimes reluctance to act in fear of violating state sovereignty, and inability to act unless there is a clear Criminal Act against an individual willing to act as a victim. The TRPO could also collect data on infringements, support the diaspora to access legal assistance, and even consider redress via pathways to Magnitsky-style sanctions, though ones targeting lower-level perpetrators.<sup>cxiii</sup>

#### How are monies levied by the Diaspora Tax used by Eritrea?

In the absence of proper financial management and transparency, the Tax revenue may be spent on the activities of the Eritrean government abroad, thus potentially violating the conditions imposed by the UN Security Council Resolutions (including 2023) discussed further below.<sup>cxiv</sup>

As with the funds generated by the Tax, figures on how it is spent are also hard to come by. The UK FCDO’s economic fact sheets shed no light.<sup>cxv</sup>

It is at least clear that the proceeds of the Tax are not necessarily spent on its stated purposes. John R Campbell told report authors, “The proceeds of the tax are not used for development, nor are they used to build schools, or health facilities. Rather it is used by the very officials who suspended the constitution, who have refused to hold elections, and who imprison anyone who speaks out about the government. The tax subsidises the lives of the elite and it purchases arms. Possibly it also pays the salary of Eritrean diplomats.”<sup>cxvi</sup>

In compiling this report we have also considered whether the Tax is being, or has recently been, used to fund Eritrea’s war effort in Tigray, Ethiopia. The World Bank, which classifies Eritrea as ‘conflict-affected’, estimates

that the country's GDP contracted by 0.6% in 2020, potentially driven by the COVID-19 crisis, and regional locust swarms, and of course before the full impact of participating in the Tigray war from November 2020 would have been registered.<sup>cxvii</sup> Eritrea's already soaring debt has likely increased, and without reserves it is clear Eritrea will be borrowing from creditors to finance the Tigray war effort. A reporter from *The Economist* was able to travel incognito to Eritrea, and their reporting in May 2022 laid bare a grim situation: "Our reporter found a country that has taken an even grimmer turn after 19 months of war. Shops are almost bare. In Asmara, the capital, cafés that once buzzed are now empty. Young people are afraid to leave home, in case they are press-ganged into the army—a horrific prospect."<sup>cxviii</sup>

Without evidence that profits of the Tax are ringfenced for any particular humanitarian purpose, it is likely that funds gathered using the Tax are spent on war efforts, in ways which mirror the circumstances that gave rise to the UN Security Council's criticism of the Tax's collection in 2011, discussed further below.

Those consulted for this report agree with this assessment. Dr Mohamed Abdelsalam Babiker, UN Special Rapporteur, told us "the money could also be used in the region as there is a lot of instability in the region and the money could effectively be used."<sup>cxix</sup>

### Multilateral challenges to the collection of the Diaspora Tax

The Diaspora Tax was condemned by the United Nations in 2011 in Security Council Resolution 2023. This Resolution linked monies acquired through this Tax to efforts to "destabilize the Horn of Africa region" and to the procuring of "arms and related materiel for transfer to armed opposition groups or providing any services or financial transfers provided directly or indirectly to such groups."<sup>cxx</sup> The resolution drew particularly on Eritrea's support to al-Shabaab, and in the context of the border dispute between Eritrea and Djibouti. The Resolution called for Eritrea to cease the collection of the tax, including by using "extortion, threats of violence, fraud and other illicit means" to do so. It furthermore encouraged States to "hold accountable, consistent with international law, those individuals on their territory who are acting, officially or unofficially, on behalf of the Eritrean government or the PDJF contrary to" the Resolution's statements with regards to collection of the Tax. States were advised to use relevant international instruments including the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations.

Resolution 2023 also called for transparency in Eritrea's public finances, to demonstrate that proceeds are not misused. It also encouraged "States to introduce due diligence guidelines to prevent the provision of financial services" insofar as they would "contribute to Eritrea's violation of relevant resolutions," including Resolution 2023.

Sanctions made collection of the Tax more difficult, as transfers were effectively barred via registered bank accounts, but as described above, there are other methods of indirect and discreet collection of the Tax that were instead employed during this period, and to this day.

In 2015, a UN commission of inquiry on human rights in Eritrea offered the shocking judgment that the state was guilty of crimes against humanity, particularly relating to its NMSP.<sup>cxxi</sup>

UN Security Council Resolution 2444, sponsored by the UK, and adopted on 14 November 2018, lifted sanctions on Eritrea, noting that a relevant Monitoring Group had not found conclusive evidence that Eritrea was any longer supporting the al-Shabaab group.<sup>cxxii</sup> The Resolution was adopted in the context of the rapprochement between Ethiopia and Eritrea in September 2018. The Diaspora Tax in Eritrea was not explicitly mentioned, or only insofar as the Resolution was focused on the extent to which funds obtained by Eritrea were no longer contributing to destabilising the Horn of Africa region, instead prioritising instability in Somalia and its actions. The *modus operandi* of tax collection by diplomatic missions was not mentioned. The impact of the Tax and its continued collection on the diaspora more widely construed was not the topic of this Resolution.

### What are the Vienna Conventions on Diplomatic and Consular Relations?

These Conventions were cited by many of the interviewees approached by the authors of this report. For instance, John R Campbell said, “look at the Vienna convention, which in my estimate forbids governments to tax their citizens overseas. So I believe the Eritrean government is in violation of the Vienna convention.”<sup>cxxiii</sup>

The Conventions themselves are 2 separate, but interlinked, international treaties which define, respectively, a framework for diplomatic relations, and a framework for consular relations, between independent countries. The Vienna Convention on Diplomatic Relations was adopted on 18 April 1961,<sup>cxxiv</sup> and the Vienna Convention on Consular Relations was adopted on 24 April 1963.<sup>cxxv</sup> These contain measures to allow the independence of diplomatic actors from interference by host nations, but also considers the limits of diplomatic and consular immunity and behaviours, including respect for the laws of host states. It does not seem that the collection of taxes by a diplomatic mission is a provision of these Conventions as a stipulated task of an embassy.

The Diplomatic Privileges Act 1964 and the Consular Relations Act 1968 give effect in domestic UK law to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations respectively.

Eritrea acceded to both Vienna Conventions on 14 January 1997. And the UK maintains both diplomatic and consular relations with Eritrea.<sup>cxxvi</sup>

In the UK, compliance with these Conventions is the responsibility of both the FCDO, which has a team focused on embassy liaison, and, in some cases, the police. The Crown Prosecution Service offers this clarification: “Criminal immunity is only afforded to the Service Staff at foreign diplomatic or foreign London-based consular missions in respect of the acts performed in the course of their duties. However, such staff are not inviolable.”<sup>cxxvii</sup> Whether such ‘duties’ include the imposition of the 2% is in question, and where Eritrea violates the law of the receiving state to collect the 2% Tax, it could be found to be acting contrary to its international obligations.

These issues were last discussed during negotiations on UNSCR 2498 on 15 November 2019, including the requirement for the UN Secretary General to report to the Security Council once a year.<sup>cxxviii</sup>

Following the lifting of sanctions on Eritrea, embassies around the world renewed efforts to collect the Diaspora Tax, through a combination of direct and indirect means, as we have already outlined.

## PART TWO – IN THE UK

### Is the Tax being collected in the UK, and how do people know it is?

There is a long history of reporting on the fact of the collection of the Tax in the United Kingdom. Reporting confirming the collection of the Tax in the UK was released by IBTimes UK in July 2013, showing a transfer order slip on headed paper reading ‘Transfer Order and Authorization Slip: National Obligations’ and dated to 2012.<sup>cxxix</sup> The individual who had paid the sum requested of them said that they were otherwise threatened with having to sign a letter stating they were no longer their parents’ child, effectively disinheriting them.

Then, on 18 December 2013, a man nicknamed Simon T and wearing a hidden video camera attended Eritrea’s London embassy and filmed his exchange with officials there. He was explicitly asked why he had failed to pay the Tax since turning 18, and had to explain he had been a student until a certain time. He was asked to confirm this by bringing ‘proof’ including a P60, and even told that there was an annual payment of £50 due anyway. His total bill was estimated at £5,000-£10,000. This video evidence was again made public by IBTimes UK in

October 2014.<sup>cxxx</sup> For further details on the diplomatic and police-led reception to this information, please read Part Three of this report.

The authors of this report were especially keen for this report to engage with the issue of whether the Tax is being collected recently and at the time of writing. The testimony received in this respect was unequivocal. We heard powerful testimony that the Tax is being levied on members of the UK diaspora at this very moment.

Feruz Werede told us “I have friends that are going back and forth to Eritrea paying this 2% tax still, so I’m very aware. I helped a friend of mine about 3 months ago send about 220 pounds to pay in order to do some shipping back home, so I know it’s happening, and I have to do a lot of negotiation with my friends, but I can provide receipts as early as last week that these payments are happening.”<sup>cxxxix</sup>

In another case, someone who provided evidence anonymously stated, “One person said that she has [paid], that [...] she had paid, but was unwilling to testify, openly or otherwise; she still travels to Eritrea.”<sup>cxxxix</sup>

John R Campbell said: “if it’s [the Tax] being collected in the United States, it will still be collected here”.<sup>cxxxix</sup>

Some variation of this sentiment was repeated by those consulted for this report, including in off-the-record conversation. None offered any clear assurances that the Tax was no longer being collected, and speculated that it in fact was being gathered, offering anecdotal examples of those having it requested of them, or statements to the effect that they had seen no evidence that it was no longer being levied. For instance, one individual consulted for this report said: “I think as there is no action to stop them, they continue collecting that tax.”<sup>cxxxix</sup> Another testimony received by the authors of this report stated, “I think as there is no action to stop them, they continue collecting that tax.”<sup>cxxxix</sup>

In addition, it is to be noted that the UK has continued to collect the Tax even where this has been expressly forbidden before, as the below reporting in Part Three shows. Therefore, it is questionable the extent to which assurances offered by the embassy can be trusted, especially when allegations to the contrary keep surfacing. As stated in our recommendations, the collection of the Tax in the UK needs to be subject to a full, formal, and fully funded inquiry.

#### Impact on Eritrean citizens in the UK diaspora

It is important to consider who precisely in the UK is affected by the Diaspora Tax, and to do so, to consider the make-up of the UK diaspora. According to preliminary data from the 2011 census, there were 17,282 persons in England and Wales who were born in Eritrea.<sup>cxxxix</sup> Even this is likely to be an under-estimate, however, and is, of course, now an outdated figure. As early as 2008 the Daily Telegraph reported that the Eritrean population of Britain stood at “around 20,000”.<sup>cxxxix</sup> Elsewhere it has been estimated that the Eritrean diaspora in the UK numbers 40,000, though one source says this figure dates from 2008, so even this is likely an underrepresentation.<sup>cxxxix</sup> The DSP-groep report put the figure at 40,000-45,000.<sup>cxxxix</sup>

A great many of these individuals fled following waves of repression in Eritrea itself, and more recently the diaspora comprises younger individuals who fled Eritrea’s NMSP and then sought asylum in the UK. This is a continuously growing cohort. The UK made 7,540 ‘first instance’ asylum decisions relating to Eritrean cases in 2020.<sup>cxl</sup> The UN Refugee Agency reports that Eritrea was the second highest country of origin for asylum claimants in the UK, with 4,412 Eritrean applications in the year to September 2021 alone.<sup>cxli</sup> This constituted a rise of 97%.<sup>cxlii</sup> Furthermore, in the year to March 2022, Eritreans formed the third highest country of origin for asylum-seekers in the UK.<sup>cxliii</sup> This figure could rise further considering the upheaval of the Tigray conflict, and particularly the continued persecution of Eritrean refugees living in Ethiopia, though the authors of this report want to stress that the vast majority of those who flee Eritrea are accommodated as refugees regionally, i.e. in Sudan, which as of April 2022 hosted 129,000 Eritrean refugees and asylum-seekers.<sup>cxliv</sup>

In the UK, the acceptance rate for Eritrean asylum claims is high, in continued recognition that those fleeing Eritrea have valid 'Refugee Convention' reasons for seeking safety abroad. According to the immigration statistics in the year to March 2022, the grant rate was 97%.<sup>cxlv</sup> We discuss potential challenges to this high grant rate further below.

This is also an overwhelmingly young group. According to refugee support organisations consulted for this report, many are teenagers who arrive in the UK as UASC. There is evidence that UASC are particularly affected by the requirements imposed on them during contact with consular services. This is actually 'built in' to the Tax, considering both this Tax, and the associated 'regret form', are, in effect, less applicable to those who left the country before 1998 and the cross-border war with Ethiopia. There is also a prevailing narrative among diplomatic missions that following peace struck with Ethiopia in 2018, there should be no need for people to leave the country, and in the Mekonnen and Arapiles report (2021) they mention that many regional embassies had policies of refusing consular support as standard to individuals who left Eritrea post-2018. UASC are more likely to require documentation, given the higher likelihood that they would need to avail themselves of consular services to, for instance, apply for family reunification, the first step of which will involve the appointment of a Power of Attorney, itself making the concerned UASC subject to the Diaspora Tax and 'regret form'. This then compounds the individual's vulnerability given separation from parents and other supportive networks.

This may be one of the reasons that UASC are said to be suffering a mental health crisis. A letter dated 16 July 2021, and signed by 46 organisations, including Children's Society, Mind, and the Refugee Council, identified 11 teenagers who arrived in the UK as UASC and died by suicide in the last 5 years, of whom 8 were Eritrean.<sup>cxlvi</sup>

In his report to the 50<sup>th</sup> session of the Human Rights Council, Dr Mohamed Abdelsalam Babiker also noted this sad development: "The Special Rapporteur notes that, as a result of the human rights violations experienced in their home country and the traumatic experiences endured during their journey, a large proportion of Eritreans arriving in Europe and the United Kingdom of Great Britain and Northern Ireland have physical or mental health needs requiring special attention. [...] The Special Rapporteur is particularly alarmed by the high rates of suicide among young refugees, who face enormous pressures to adapt to a new and radically different setting and to support their families back in Eritrea from an early age. He urges host countries to enhance protection and support for Eritrean asylum seekers and refugees, paying special attention to the situation of unaccompanied minors."<sup>cxlvii</sup>

The Tax has a disproportionate impact on those who are poorest, given that it is those without money and connections to work around the Tax and the denial of services occasioned by non-payment, or without the personal connections needed to avoid payment on the basis of nepotism or cronyism, who are forced to pay. The authors of this report received evidence, included below, which suggested that a degree of corruption was involved – the Tax was not often applied to those who were afforded some level of PFDJ protection, for instance. The DSP-groep report includes a situation where a person who knew someone at the Eritrean embassy was exempted from the Tax.<sup>cxlviii</sup>

Given that the sums requested include periods spent on state benefits, it could be said that the levying of the Diaspora Tax is tantamount to extortion of the most vulnerable, dispossessed, and powerless in the Eritrean community. John R Campbell was clear when he said the Eritrean embassy is "actually taking a significant slice of the income of relatively poor migrants around the world and they're putting it into a slush fund."<sup>cxlix</sup> Similarly, in his report to the 50<sup>th</sup> session of the Human Rights Council, Dr Mohamed Abdelsalam Babiker confirmed that: "The tax is also levied on social welfare benefits provided by Western Governments."<sup>cl</sup> And in her testimony to us, Feruz Werede said: "Mothers who are still on benefits, they don't work, single mothers, they still have to make that 2% tax payment out of that benefit that they get, which is ridiculous."<sup>cli</sup> It is also the case that where individuals do not work, the contributions of those related to them are expected to be

higher, for instance spouses might need to double their contributions in order to make up the shortfall when their partner is not working.<sup>clii</sup>

The Tax may also be said to have a disproportionate impact on protected or vulnerable groups, such as victims of human trafficking or modern slavery. A great many Eritreans who flee the state and compulsory national military service end up relying on trafficking networks, in particular to move through Sudan, Libya, to undertake the Mediterranean boat crossing, and then make their way across Europe, including across the Channel via so-called 'small boats'. The National Referral Mechanism (NRM) is a government-run scheme to which trafficking survivors are referred. If a 'conclusive grounds' decision is made proving that someone is a survivor of modern slavery, then they will receive extra support from associated charity caseworkers, separate to any outstanding asylum claim. In statistics covering the most recent reporting period January to March 2022, the NRM statistics ranked Eritrea the third common nationality of potential victims and said, "The number of Eritrean nationals has broadly risen over the years, surpassing the number of Vietnamese nationals for the second quarter running."<sup>cliii</sup> A great many of these survivors could, in due course, be asked to comply with the Diaspora Tax. By failing to investigate the impact of the Tax on those referred into the NRM at a minimum, the UK could be failing to discharge its duties to protect trafficking victims and survivors.

## PART THREE – WHAT CAN WE DO?

What has previously been tried in the United Kingdom

### *Diplomacy*

Below is a chronological timeline of the UK's police-based and diplomatic engagement on this issue.

- The UK supported UN Security Council Resolution 2023. In the months prior to the adoption of Resolution 2023, in May 2011, the UK notified Eritrean authorities to the fact that "aspects of the collection of a tax levied by the Eritrean government on Eritreans living in the UK may be unlawful and in breach of the Vienna Convention on Diplomatic Relations. The ambassador was told that, until it was demonstrated otherwise, the embassy should suspend, immediately and in full, all activities relating to the collection of the tax."<sup>cliv</sup>
- This demand was reiterated on 20 December 2012, when the then Foreign and Commonwealth Office raised concerns with the Eritrean ambassador and reminded him of Resolution 2023, as confirmed by Lady Warsi, who was then a senior minister in the Foreign and Commonwealth Office.<sup>clv</sup> Lady Warsi said the Foreign and Commonwealth Office was "aware of allegations over the use of harassment to collect revenue from members of the Eritrean diaspora in the UK."
- On 25 October 2013, it was revealed that the Foreign and Commonwealth Office raised the Diaspora Tax in a meeting with the Eritrean Ambassador. Furthermore, this same year on 8 November 2013, "officials from the FCO, the National Crime Agency and West Yorkshire Police met members of the Eritrean Diaspora to discuss the Diaspora tax. At this meeting, Eritreans were urged to report any use of coercion or other illicit means to collect the tax to the police. We will continue to engage with the Diaspora on this issue." This from a comment offered again by Lady Warsi.<sup>clvi</sup>
- In comments offered by a Foreign Office spokesperson in 2015, it was said that while the Foreign and Commonwealth Office did not believe the collection of taxes was illegal, "use of harassment and blackmail could be and we encouraged diaspora members with allegations of this kind to raise their concerns with the police."<sup>clvii</sup> This mirrors the fact that on several occasions Members of Parliament have raised the issue with Foreign Office Ministers in Parliament, who repeatedly claimed that as the Tax itself is legal that any issue of coercion is an issue for the police.
- On 3 March 2015, a group of individuals, including an interviewee for this report, Feruz Werede, provided a dossier of evidence to the Metropolitan Police at the West End Central Station, in a case later assigned to the Parliamentary and Diplomatic Protection Service. This included reports of threats and intimidation, including recordings of interactions between embassy staff and members of the diaspora, alongside a report titled 'Fresh evidence that British Eritreans face illegal tax extortion', dated 11 February 2014. It

likewise included a video involving interactions between someone being asked to pay the tax and embassy staff, as well as a transcript of that conversation, as mentioned above. This also included documentation dated 26 May 2015, obtained by a member of diaspora, which clearly stated, “Anyone not in possession of this document [‘clearance’] cannot get any services in Eritrea.” It also stipulated that some monies were to be spent on the Eritrean military.

- In correspondence received by Baroness Hayter dated 6 May 2015, and following the receipt by the Metropolitan Police of this evidence, the Foreign and Commonwealth Office confirmed that, “If the Metropolitan Police were to uncover evidence that the Eritrean Embassy is not honouring UNSCR resolution 2023 then I can assure you that we would take urgent action to raise this with the Eritrean Ambassador to London, as well as through our Embassy in Asmara.”<sup>clviii</sup>
- However, on investigation the police found that there was insufficient evidence. According to the DSP-groep report, “a formal investigation was not launched because there was not enough evidence of coercion and extortion to file a case.”<sup>clix</sup> In an email sent by the Metropolitan Police’s Parliamentary and Diplomatic Protection Service, and seen by authors of this report, dated 28 August 2015, the relevant inspector said that they were “satisfied that no Criminal offences have taken place under English Law and as such we will be taking no further action in this matter unless further evidence comes to light.” They specifically advised those who wanted to take this matter further to do so if they felt they were a victim of a Criminal Act, and where the collection of the Tax was via “coercive or threatening methods”.<sup>clx</sup>
- Feruz Werede described the situation as follows: “Well, Metropolitan Police said to us that there’s not much that we could do’. I need to find a paper that they gave us an answer to, but I think it goes along the line of ‘we can’t intervene in a nation’s business’, basically, ‘it’s a sovereign nation, we can’t do much about it’. And then, like I said to you before, we hit a hard stop when their techniques of collecting their money changed drastically from here to Asmara. That was it. There was so many evidences, so many publications, I tried to bring a lot of awareness into it.”<sup>clxi</sup>
- A Freedom of Information Act request issued on 28 January 2022, and responded to on 25 February 2022, stated that the FCDO does not hold information about the above named incident in its paper and electronic records.<sup>clxii</sup>
- The embassy in London denied, and continues to deny, that the Diaspora Tax was and is being levied. However, as highlighted above, there are continued reports of its collection through indirect means, for instance remote payment via an intermediary in Asmara. Testimony gathered in this report indicates that the Tax is still being levied.
- In another development, when the UK was found to be contributing to a European Union Trust Fund project that was using forced labour relying on the NMSP, UK human rights groups helped to force a policy reversal.<sup>clxiii</sup>

### *Asylum-seeker and refugee reception*

At a departmental level, the Home Office has also engaged with this issue:

- As stated above, the grant or acceptance rate for Eritrean asylum-seeking claimants is high, in recognition of the fact that, in the words of John R Campbell, “if you are Eritrean you have a legitimate right to make a claim for asylum in this country because of real persecution in Eritrea you’ll be arrested on arrival, indefinitely detained, there’s evidence of torture in detention, and many of those people who are deported back are recruited into compulsory national service which is indefinite in nature. So it’s a violation of articles 3 and 4 of the Convention on Human Rights and that’s been established by the 2016 Country Guidance case.”<sup>clxiv</sup>
- Nonetheless, the Home Office continues to contemplate whether the ‘clearance’ obtained by someone having paid the Diaspora Tax and signed the ‘regret form’ is sufficient to say that the concerned individual has regularised their status with the Eritrean authorities, and who may therefore be liable to be removed from the UK. From its own side, the Eritrean embassy in the UK has before maintained that it does not want to forcibly repatriate anyone to Eritrea who does not want to return, though some have speculated that this may be code for ensuring all who are redocumented have passed through the ‘clearance process’. John R Campbell said that discussions about ‘clearance’ constitute just one of the ways in which “the Home

Office attempt different ways to refuse asylum-seekers,” also saying that the Home Office might also rely on an argument which disputes the nationality of Eritreans: “if there’s some evidence that an Eritrean has lived part of their life outside the country, they then say that it’s possible for that person to be returned to country x, wherever it is, Sudan, Qatar, wherever it is. Or alternatively if the person was born before Eritrean independence in 1993 then they claim that in fact they are nationals of Ethiopia and they can be sent to Ethiopia. But of course one of my tasks is to have a reasonable knowledge of nationality law in the Horn of Africa and it’s relatively easy to dispense of these kinds of arguments. But this involves extensive litigation, fees for lawyers, fees for me, and delays in the recognition of these refugees who really need assistance.”<sup>clxv</sup>

- Commenting on arguments relating to obtaining ‘clearance’, John R Campbell even indicated that the Home Office has engaged in “secret talks with the Eritrean officials in Asmara” following which they “ingeniously tried to use the existence of the tax as a means of justifying their attempt to return Eritrean asylum-seekers there, regardless of the consequences for those individuals. The Home Office attempt to justify this policy can be found in their country policy on Eritrea which was published in 2015.” He also claimed that there had been a purposeful backlog in the processing of Eritrean asylum claims until this date, so as to maximise the number of rejections: “Clearly the Home Office caseworkers were notified in advance of the change in policy in 2015, they had delayed in deciding many Eritrean claims, so when the policy was announced, then there was a mass level of refusals which many immigration lawyers noticed at the time as well, and I get a lot of these refusals to deal with in terms of my expert evidence.”<sup>clxvi</sup>
- John R Campbell described being contracted by the Independent Inspector of Borders and Immigration to review Home Office reporting. His reporting “found that the Home Office had deliberately failed to cite any objective evidence that might indicate that refused Eritrean asylum applicants might be persecuted for a Convention reason if they were returned to Eritrea.”<sup>clxvii</sup> The Home Office rejected my report, and two months later sent a team to Eritrea to work with the Eritrean Ministry of Foreign Affairs to produce a report which supported their position. However, in the Immigration and Asylum Tribunal, a country guidance case – MST and Others (national service – risk categories) Eritrea CG [2016] UKUT 00443 (IAC) – was heard in June 2016 which set aside their report and decided that it was not safe to rely on Home Office assurances, and the Home Office policy was reset back to the original 2014 position.”<sup>clxviii</sup>
- As a result, to date, the potential mis-use of ‘clearance’ as a means of rejecting asylum claimants is likely to be halted by the Upper Tribunal and its Country Guidance cases, notably the 2016 judgement, ‘MST and Others’, which says, “A person who is likely to be perceived as a deserter/evader will not be able to avoid exposure to such real risk merely by showing they have paid (or are willing to pay) the diaspora tax and/have signed (or are willing to sign) the letter of regret.”<sup>clxix</sup>
- However, John R Campbell went on to tell authors of this report: “Subsequently [to the above mentioned developments] I was asked to assist a British barrister who was seeking information being withheld by the Home Office and the Foreign Office regarding secret meetings with Eritrean officials. In litigation in the General Regulatory Chamber Information Rights Tribunal, my expert evidence together with legal argument was successful in getting the Government to concede the existence and substance of secret meetings held in Eritrea in 2014 at which British officials discussed Eritrean policies to stop Eritreans from leaving the country and they accepted assurances from Eritrean officials that: (1) no harm would come to deported asylum seekers, and (2) that the Eritrean government would very soon end indefinite military service. The *quid pro quo* was that the UK should provide development assistance. To date, none of the assurances provided by Eritrea have been met. However, information from this secret meeting was passed to the Home Office and was incorporated into their 2015 policy statements that Eritrean asylum-seekers could safely be returned to Eritrea.”<sup>clxx</sup>
- A recent Home Office Country Policy and Information Note, published September 2021, which took as its focus ‘national service and illegal exit’ nonetheless offers some remarks on the Tax, largely quoting sections of a report by the Danish Immigration Service titled ‘Eritrea: National service, exit and entry’, January 2020 (covering the period July 2018 to January 2020),<sup>clxxi</sup> including “anecdotal evidence that a returnee having signed the regret letter and paid the diaspora tax might be allowed to live in the country without further harassment.”

- Some have speculated that this Note represents that the Home Office may again in future harden their attitude to Eritrean claims and move toward arguments that ‘clearance’, once obtained through payment of the Diaspora Tax and signing of the ‘regret form’, can regularise a concerned individual’s status with the Eritrean authorities, and allow for voluntary or forced return without violating the principle of non-refoulement. Ultimately though, this Note says, “Given the absence of very strong grounds supported by cogent evidence to depart from existing country guidance, the findings of MST and Others continue to apply.”<sup>clxxii</sup>

### Current context on Tigray

The US has been quick to act and punish Eritrean individuals responsible for crimes in Tigray. It started with EDF Chief of Staff Filipos Woldeyohannes on 23 August 2021, specifically citing his command of forces committing abuses in Ethiopia throughout the crisis there.<sup>clxxiii</sup> When questioned about matching this designation within the UK, the FCDO failed to provide detail as to whether such a move was being considered.<sup>clxxiv</sup>

Following an escalation of violence on the ground, and of political pressure in the Senate and Congress, on 17 September 2021 the US put belligerents on notice that President Biden had signed into effect an Executive Order establishing a new sanctions regime allowing the Treasury to impose targeted sanctions against those responsible for the ongoing crisis, including within the Eritrean government. This was extended before its original expiry date of 17 September 2022.<sup>clxxv</sup>

On 12 November 2021, the Treasury followed through on this promise, sanctioning 4 entities and 2 individuals in connection with the crisis in Ethiopia, being the EDF itself, the People’s Front for Democracy and Justice, Abraha Kassa Nemariam, Hidri Trust, Hagos Ghebrehiwet W Kidan, and Red Sea Trading Corporation.<sup>clxxvi</sup>

Elements of the Eritrean diaspora, including that which is based in the UK, welcomed the sanctions, recognising that they were not directed at the Eritrean people, but instead at those that would seek to abuse the state and regular citizens.<sup>clxxvii</sup>

### What has been tried elsewhere

There is ample evidence of investigation, public condemnation, and threat or actual use of sanctions, up to and including the expulsion of key diplomats, because of the practice of collecting the 2% Tax in other country contexts. These provide helpful examples from which the UK can draw, and contexts from which further expertise and information-sharing can be requested.

### United States

The website of the Embassy of the State of Eritrea, situated in Washington D.C. in the United States, reads, “In accordance with the provisions of the Proclamation [No. 67/1995], eligible Eritreans who live abroad contribute 2% of their net income to rebuilding Eritrea. Payment of the tax gives them political and economic rights on par with those who reside in the country and have fulfilled their obligations. These include the right to obtain land for business or residential purposes.”<sup>clxxviii</sup> This webpage also contains a downloadable form asking for “necessary documents to support annual income records.”<sup>clxxix</sup>

In 2007 the United States ordered the closure of Eritrea’s consulate in California, and one of the reasons mooted was the remote collection of the Diaspora Tax.<sup>clxxx</sup>

Given the continued open presence of information about the Tax on US webpages, there is no indication that the practice has stopped, nor that the US plans to take any more action as a result. In fact, authors of this report were told by a human rights activist in the US: “they have agents across 40 plus cities where whoever needs service from the Eritrean gov(such as visiting home, getting some legal papers like power of attorney,

requesting school transcripts, etc) goes through a process of contacting the local agent who then will instruct them what to do and how etc.”<sup>clxxxii</sup>

The Diaspora Tax is often compared to the US practice of taxing its citizens overseas, but as the authors of this report highlight above, this is a false equivalence given the US’s negotiation of double taxation treaties as standard.

### Canada

On 29 May 2013, Canada ordered Semere Ghebremariam Micael, head of the Eritrean Consulate General in Toronto, to leave the country, and he was also declared *persona non grata*.<sup>clxxxiii</sup> The move followed claims he demanded contributions from expatriates to fund Eritrea's military, and that he collected the Diaspora Tax. He was warned against this practice, and even placed under police investigation, with community members being engaged directly by Canada’s spy agency, the Canadian Security Intelligence Service,<sup>clxxxiii</sup> as the Canadian government said such actions breached “both UN sanctions against Eritrea and Canadian law”. The consul had said it would comply in September 2012, but allegations had resurfaced that he was again collecting these monies.<sup>clxxxiv</sup>

In response to this move, Eritrea's Ministry of Foreign Affairs condemned the expulsion and insisted that the consulate general's activities were "fully consistent with the Vienna conventions on consular relations and do not violate international or Canadian laws." They further said, "It is the act of a bully against a small and proud nation and its people and is aimed at denying the Eritrean community the services that they need from their government".<sup>clxxxv</sup>

As a condition for maintaining a diplomatic post in Toronto, Eritrea agreed the consulate would not solicit or collect the Tax in May 2014. However, tape-recorded conversations released via reporting in 2014 revealed that the consulate was still collecting monies. In a statement, a spokesman for the then Canadian Foreign Affairs Minister said, “We have made our position on this matter very clear to the Eritreans, and we expect them to abide by it. [...] If the Eritrean consulate is indeed continuing to flout these obligations, there will be repercussions.”<sup>clxxxvi</sup> It is unclear what repercussions took place.

In a report received by authors of this report, it was suggested that the Tax is still collected in Canada: “For the most part Eritrean-Canadians are mainly advised to make the payments at the Ministry of Foreign Affairs office inside Eritrea. However, for those who cannot make arrangements to pay inside Eritrea, they rely on local agents, who reside in different cities of Canada. For instance, in Vancouver, British Columbia there are two loyal agents of the regime, who are tasked to administer the collection of the 2% Tax and other governmental fees (Mr. Zerue and Mr. Sahlezghi). These individuals are also in charge of the pro-government Eritrean Community Cultural Center in Vancouver.”<sup>clxxxvii</sup>

Nonetheless, others who provided information to authors of this report, were keen to highlight Canada as a country where action has, at least, been taken, to halt the practice of the Tax’s collection. Canada was described as “the only [country] who has” taken such a robust step by John R Campbell, though he bemoaned their continued role in Eritrea’s mining sector.<sup>clxxxviii</sup> In February 2020, the Canadian Supreme Court ruled that Canadian mining company Nevsun Resources Ltd., which co-owned Bisha mineral mine in Eritrea alongside the government, could be sued for alleged abuses abroad, including the use of forced labour of those in the NMSP for mining practices. This is despite the fact that Nevsun was bought out by a Chinese mining company in 2018.<sup>clxxxix</sup>

Some have speculated that Canada’s mining interests have muted its voice in terms of criticising actions taken in Tigray, Ethiopia.<sup>cx</sup>

## European Union

The European Parliament has condemned the Diaspora Tax, and identified it as a tool by which the Eritrean government “extends its totalitarian grip to the Eritrean diaspora, extorting funds from its members via a 2% tax on expatriate incomes, spying on them and targeting family members who have remained in Eritrea on the grounds of perceived wrongdoing.”<sup>cxcxi</sup>

This 10 March 2016 resolution explicitly tied the collection of the Tax to the PFDJ’s “control and surveillance over the refugee and diaspora communities through the embassies, which are involved in extortion over diaspora taxes and ‘voluntary’ contributions in exchange for services, such as ID papers, passports, birth certificates and essential documents on which refugees may depend; whereas these practices are in breach of the Vienna Convention on Diplomatic Relations”. It said this practice is in addition “in violation of UN resolutions to fund armed groups in neighbouring countries and thus destabilise the region; urges the government to end the ‘guilt-by-association’ policies that target family members of those who evade national service, seek to flee Eritrea or fail to pay the 2% income tax imposed by the government on Eritrean expatriates.”<sup>cxcii</sup>

The resolution also urged Member States to: “investigate the role of the PFDJ and its various wings, including the youth wing, and to prohibit all forms of association and activity that directly support control and surveillance exercises in Europe, undermine democratic principles and the rule of law, and create patterns of intimidation and extortion; urges the Member States to act to end the diaspora tax and to investigate the financial transactions related to any other ‘contributions’ raised by Regime-linked associations abroad, and to fully protect the asylum rights of all Eritrean refugees in Europe.”<sup>cxciii</sup>

It is to be recalled that this resolution was passed while the UK was a Member State of the European Union.

On 22 March 2021 the EU placed sanctions on Eritrea and blacklisted the country’s National Security Office which is tasked with information-gathering, arrests, and interrogations.<sup>cxciv</sup>

## The Netherlands

On 30 June 2016, a majority in the Dutch parliament adopted a resolution in which the Minister of Foreign Affairs was asked to research the Diaspora Tax. In response, the Ministry of Foreign Affairs commissioned the Amsterdam-based research bureau DSP-groep to conduct a study, which was eventually commissioned to look at the levying and collection of the tax in 7 European countries: Belgium, Italy, Germany, the Netherlands, Norway, Sweden, and the United Kingdom.

The headline findings of this research, referred to frequently throughout this report, are summarised as follows: “This research found that the 2% Tax is perceived as mandatory by Eritreans in the diaspora and that non-compliance may result in a range of consequences, such as denial of consular services and punishment by association of relatives in Eritrea, including human rights violations. The research also found that the tax is potentially illegal in its application in practice, and concluded, inter alia, that it is collected using coercion and intimidation.”<sup>cxcv</sup>

On 16 October 2016, a Ministerial Decree made the collection of the Tax prohibited where this was accompanied by fraud, coercion, extortion, and other criminal offenses. This provided the Public Prosecutor with the legal framework necessary to prosecute those involved in such collection.<sup>cxcvi</sup>

In January 2018, then Dutch Minister of Foreign Affairs Halbe Zijlstra declared the highest representative of Eritrea in the Netherlands, Tekeste Ghebremedhin Zemuy, *persona non grata* and asked him to leave the country because of intimidation relating to the 2% Tax’s collection. Zijlstra said the move was intended to show “that we don’t tolerate these unwanted practices.” However, he stopped short of closing the entire diplomatic mission, but urged those affected to report criminal offences.<sup>cxcvii</sup>

More recently, and during the COVID-19 pandemic, it was found that the Eritrean diaspora in the Netherlands was requested to pay mandatory contributions of €100 for COVID-19-related reasons.<sup>ccviii</sup> The amount generated could be more than €155,000.<sup>ccix</sup> This led the Dutch Minister of Foreign Affairs to prohibit a diplomatic mission staff member from working in the Hague office.<sup>cc</sup>

The relative size of the Dutch diaspora compared with the UK's was something interviewees commented on to authors of this report. In 2018, this was estimated at 20,000 persons,<sup>cci</sup> which is about half the estimate for the UK diaspora. It is a key country context from which lessons can be drawn for UK actors, not least because of the variety of steps they have taken to halt the collection of the Tax, and the willingness of state actors within Parliament and government to both commission and act on full, formal, and fully funded research.

### *Germany*

In response to questions posed by the Bundestag, in 2015 the German government explained that the Tax was not illegal on its own, but that UN Security Resolution 2023 would be violated if the Tax was used to destabilise the Horn of Africa region, or if it was collected by use of extortion, harassment, or other illegal means.<sup>ccii</sup> In addition, the German government communicated several times with the Eritrean diplomatic mission to ensure that the mission ceased to be involved in the collection of the Diaspora Tax. In this regard, the government explained: "the Federal Government considers the use of privileged embassy accounts for this purpose [collecting the tax] as not permitted under public international law, because it interferes with the fiscal sovereign right of the receiving State."

In the Mekonnen and Arapiles report (2021), the researchers mentioned that had interviewed knowledgeable Eritreans in Germany, who confirmed that the Tax is still being collected, albeit through more discreet means.

As above mentioned, collection of the Tax is not the only revenue-generating activity in Germany, and there were calls on each Eritrean household to contribute sums relating to the COVID-19 crisis.

Recently, Germany's Federal Administrative Court found that the requirement of individuals to admit to a criminal offence by signing the 'regret form' and paying the Diaspora Tax in order to obtain an Eritrean passport, was 'unreasonable' and the Court additionally obliged the German immigration authorities to instead issue a passport.<sup>cciii</sup>

### *Sweden*

In 2011, a young man was equipped with a video camera and asked to film himself in a Swedish embassy trying to arrange a new passport for himself.<sup>cciv</sup> In November of that year, reports of the application of the 2% Tax practice were filed with police and the case was referred to the International Public Prosecution Office in Stockholm.<sup>ccv</sup>

In 2012, Sweden's justice committee was asked to consider motions proposing a ban on the 2% Tax. Ultimately, however, the proposal to introduce new legislation to address criminal activity in the specific context of Eritrean Tax collection was deemed unnecessary, given that current Swedish law was sufficient to stop any practices of collecting the Tax by means of extortion, threat, or blackmail. The consensus within the Parliament was that any Swedish-Eritrean national who was subjected to coercion and/or threats in paying the Tax, should report the issue to local law enforcement authorities.<sup>ccvi</sup>

In September 2014, a diplomat from the Eritrean embassy in Sweden was expelled after accusations of spying, and of collection of the 2% Tax.<sup>ccvii</sup>

In 2018, the migration court in Sweden handed down a landmark judgment in which the Court ruled that it was disproportionate to require Eritrean applicants to engage with the embassy, given the stipulations relating to the 2% Tax, and the risks this could pose both to them and their relatives in Eritrea.<sup>ccviii</sup>

In research submitted to report authors it was stated:

“Mr. Arha Hamdnak, a former Member of Parliament in Sweden made the following speech to his fellow MPs in protest of the 2% tax “I am proud and happy to stand here in the Swedish Parliament to take up important issues against one of the most oppressive dictatorships, and to stand up for human rights. We must all oppose dictatorships and the actions of dictators, regardless of where they are located”. He added the issue of “the tax collection from Eritrean immigrants to Sweden at 2% of their annual general income contributes primarily to strengthening the dictatorship in the country, and then secondly to financing armed groups, among them are terrorist organizations in the Horn of Africa, in clear contradiction with the United Nations conventions. This is not what I said, but was endorsed in the United Nations report issued in July 2011.” This was then.”<sup>ccix</sup>

### Norway

Norway closed its embassy in Eritrea on 30 June 2013, notably also in response to the fact that Eritrea requested that Norway halt its development activities in the country since 2011.<sup>ccx</sup> Likewise, in October 2013 they closed the Eritrean embassy in Norway, following a strong warning from the Norwegian Parliament to halt collection of the Diaspora Tax. But activists said that the pressure on the Eritrean diaspora to send money to the Eritrean regime continued via an Eritrean ‘Information Office’ and a group named ‘Mothers for Peace’ prepared a dossier of evidence on this basis.<sup>ccxi</sup>

After reports that this Office was indeed acting as a consulate and embassy, the then Minister of Foreign Affairs called Eritrea’s ambassador to Sweden, also responsible for Norway, and instructed them that the Office cannot “perform government tasks on behalf of the Eritrean state in Norway”.<sup>ccxii</sup>

### Annexes

Annex I, testimony of anonymous individual, received by email 20 August 2021

Yes, at last someone is doing something about it. I want to say this anonymously. The government of Eritrea is bullying us to pay the 2% tax from UK. If we don't pay, we don't get any rights to do anything in Eritrea. Its intimidation. To do anything in Eritrea, to even go to Eritrea we are bullied to pay this, otherwise they won't let us enter or can not do anything in the country or process anything in Eritrea. We have been bullied into this by the cruel government of Eritrea. Its taking a toll on our finances, as well as infringing our human rights. We are scared to talk because the government has many spies in the UK. We have no voice, please help us fully and make the Eritrean government allow us our human right to do anything in the government offices without paying the 2%tax. You have to make sure its not practised in Eritrea. Even if you ban this in UK, they will still haunt us when we want to do something in Eritrea, as nothing can be processed without paying the 2%. So your approach should be inclusive of banning the 2% even when we go to Eritrea. Because you have banned it here in UK before. But the trick up the sleeve of the Eritrean government is they clandestinely force us to pay when we get to Eritrea, as we cant process anything such as buying a house without paying the 2%. So your approach to ban it should include banning the tax request by Eritrean authorities as a prerequisite to process anything legal with the government. Please help us, a lot of us are suffering because of this bully Eritrean government.

Annex II, testimony of ‘Awet’ (name changed), received by email 17 February 2022

Dear Sir/Madam

I hope this finds you well.

[REDACTED]

Over the past year and so I have been through a lot of psychological harassment by the Eritrean government. I am not sure what I did them wrong in particular except my mild political activism but a lot of people had been calling me and recording my phone calls and then sending it through WhatsApp to the government.

It has been a very difficult time, in fact I ended up needing mental health services to support me.

Now, I have had enough and I can't keep silent anymore and let it be the norm. I am trying to imagine how they treat people who actively oppose them given that I had never campaigned or spoken against them.

As a youth I use to be active in community organisation until a few years ago but then I stopped and I had to concentrate on myself education more.

But I never expected to experience what I went through over the last year and so.

I would like help to open up an investigation and let the rule of the law prevail over the rule of the jungle.

Annex III, testimony of anonymous individual, received by email 17 February 2022

The 2% issue is quite infuriating.

Let me tell you a personal story.

I do not pay the 2% tax ... out of principle. I knew the government was going to retaliate in one way or another. And it did.

I had a small house that I had inherited in [redacted] from my mother upon her death in [redacted].

Gradually, the government started tightening the screws on those who have property but refused to pay the 2% tax.

A few years ago the government informed the tenants that they should see a certificate from the landlords that they have paid the 2% tax.

The tenant in my property demanded to see the certificate threatening me by not paying rent unless I produced the certificate.

I could not provide the tenant with a copy of my 2% tax certificate. So he has stopped paying rent to me. He is instructed to transfer rent to a government coffers.

A few months ago he sent me a verbal message through a rep if I do not produce a copy he will apply to the government (Housing) that he should be allowed to own the property because the owner is simply ignoring government regulation and he (the tenant) is paying for maintenance costs himself.

I haven't heard from him for over a year.

That is how the government milks its citizens dry.

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<sup>i</sup> Testimony of Feruz Werede, 22 February 2022 oral evidence session.

<sup>ii</sup> Annex I

<sup>iii</sup> Eritrean Television, 'Interview of President Isaias Afwerki', 30 December 2014, <https://www.youtube.com/watch?v=3MxguMZwZA8>

<sup>iv</sup> See work undertaken by media freedom organisation PEN Eritrea <https://peneritrea.com>

<sup>v</sup> United Nations, 'Report of the commission of inquiry on human rights in Eritrea', 9 May 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/093/42/PDF/G1609342.pdf?OpenElement>

<sup>vi</sup> Frontline PBS, 'Escaping Eritrea', 4 May 2021 <https://www.pbs.org/wgbh/frontline/film/escaping-eritrea/>

<sup>vii</sup> Testimony by Helen Berhane, at event on religious persecution in Eritrea, Parliament, London, 4 July 2022.

<sup>viii</sup> World Bank, *Ease of Doing Business Rankings*, 2020, <https://www.doingbusiness.org/en/rankings>

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- x <https://questions-statements.parliament.uk/written-questions/detail/2021-07-22/38277>
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