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Eritrea: Legislation and legal protection available to homosexuals; their treatment by society and government authorities

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Information on the legal protection available to homosexuals and their treatment by society and government authorities was scarce among the sources consulted by the Research Directorate and contained contradictory assertions.

Information published by the South Africa-based *Behind the Mask* online lesbian and gay affairs magazine, the International Gay and Lesbian Association (ILGA), and the *Toronto Star* indicate that homosexuality is legal in Eritrea (*Behind the Mask* 8 Oct. 2004; ILGA 31 July 2000; *Toronto Star* 29 Aug. 2004). However, a more recent ILGA report published in November 2006, states that homosexuality is illegal in Eritrea (ILGA Nov. 2006, 13).

The 1957 Ethiopian penal code, as explained by ILGA and Amnesty International (AI), was adopted by Eritrea at independence (ibid.; AI May 2004, 23). In trying to determine the status of homosexuals at the time of its December 2006 report, the UK Home Office reported that the British embassy in Asmara stated that the Ethiopian Penal Code was in force in July 2003 (UK 1 Dec. 2006, para. 23.03). According to the British embassy, the 1957 penal code "strictly prohibits 'sexual deviations,' among which is performing sexual acts with someone of the same sex" (UK 1 Dec. 2006, para. 23.03). ILGA identifies article 600(1) of the Penal Code as saying "[w]hosoever performs with another person of the same sex an act corresponding to the sexual act, or any other indecent act, is punishable with simple imprisonment" (ILGA Nov. 2006, 13). The British embassy also states that those people who participate in "such an act are prosecuted and punished whenever found guilty" (UK 1 Dec. 2006, para. 23.03).

With respect to the treatment of homosexuals, the United States (US) Department of State notes that homosexual persons in Eritrea experience "severe" discrimination by society (8 Mar. 2006, Sec. 5), and that in 2004, the government reportedly expelled a number of foreigners from Eritrea on the basis of their sexual orientation (ibid.). In a September 2005 correspondence with the UK Home Office, the Foreign and Commonwealth Office (FCO) also reports that homosexual persons are "dealt with severely" in Eritrea and expresses the opinion that anyone whose sexuality had previously come to the attention of the Eritrean authorities could face problems in trying to re-enter the country and would be "ear-marked" (UK 1 Dec. 2006, para. 23.04).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

Amnesty International (AI). May 2004. *'You Have No Right to Ask': Government Resists Scrutiny on Human Rights*. (AFR 64/003/2004) <[http://web.amnesty.org/library/pdf/AFR640032004ENGLISH/\\$File/AFR6400304.pdf](http://web.amnesty.org/library/pdf/AFR640032004ENGLISH/$File/AFR6400304.pdf)> [Accessed 23 Jan. 2007]

Behind the Mask [Braamfontein, South Africa]. 8 October 2004. "Hotel Employees Expelled for 'Immorality'." <<http://www.mask.org.za/printpage.php?id=214>> [Accessed 19 Jan. 2007]

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Toronto Star. 29 August 2004. Andrea Huncar. "A Subtle Struggle in Africa; Gays Gaining Some Ground, but Many Still Persecuted. Young Pastors Use Ugandan Church to Teach Tolerance." (Dialog)

United Kingdom (UK). 1 December 2006. Home Office. Immigration and Nationality Directorate. Country of Origin Information Service. *Country of Origin Information Report: Eritrea*. <http://www.homeoffice.gov.uk/rds/pdf06/eritrea_051206.doc> [Accessed 24 Feb. 2007]

United States (US). 8 March 2006. Department of State. "Eritrea." *Country Reports on Human Rights Practices for 2005*. <<http://www.state.gov/g/drl/rls/hrrpt/2005/61568.htm>> [Accessed 1 Nov. 2006]

Additional Sources Consulted

Oral sources: The Embassy of Eritrea in Ottawa and the Embassy of Eritrea in Washington did not provide information to the Research Directorate within the time constraints of this Response.

Internet sites, including: British Broadcasting Corporation (BBC); Eritrea Ministry of Information; European Country of Origin Information Network (ecoi.net); European Court of Human Rights; Gay and Lesbian News Network (GLINN); Global Gayz; Human Rights Watch (HRW); International Gay and Lesbian Human Rights Commission (IGLHRC); Office of the United Nations (UN) High Commissioner for Human Rights; Office of the UN High Commissioner for Refugees; Queer Resources Directory; ReliefWeb; UN Integrated Regional Information Networks (IRIN); U.S. Committee for Refugees and Immigrants (USCRI).

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