

## 4 | Mass denationalization and expulsion

The African Charter on Human and Peoples' Rights, uniquely among similar international human rights treaties, includes a specific prohibition on 'mass expulsion of non-nationals', defined as 'that which is aimed at national, racial, ethnic or religious groups'. The drafters of the charter, which was adopted in 1981 and entered into force in 1986, had in mind the experience of several African countries during the 1960s and 1970s, in which governments had denationalized and expelled the descendants of immigrant groups. The best-known of these expulsions was perhaps that of the Ugandan Asians driven out of the country by the government of Idi Amin (see above, p. 50, on the situation of East African Asians).

Yet many other African countries have also expelled citizens or non-citizens en masse, often in appalling conditions, and without any right to a hearing to determine their right to remain. Uganda itself, in a much less well-known episode that took place under President Milton Obote, displaced a large number of Banyarwanda in the early 1980s, including some 40,000 people who claimed Ugandan citizenship and 31,000 people registered with the Office of the UN High Commissioner for Refugees (UNHCR), forcing most of them to seek refuge in Rwanda.<sup>1</sup> Nigeria expelled Ghanaians immediately after independence, and again in 1983 around 1.5 to 2 million foreigners, of which an estimated one million were Ghanaians. In 1965 and 1970 Ghana also expelled several hundred thousand foreigners, many of them Nigerian, including children born in the country.<sup>2</sup>

In the mid-1990s, an estimated half a million Chadian and other nationality workers were expelled from Nigeria, including among them many who had been legally established in the country for many years.<sup>3</sup> Gabon, which hosts many migrant workers

in its oil industry, expelled foreigners on several occasions in the 1990s, and in September 1994 enacted laws that required foreigners to pay residence fees of up to \$1,200 or leave the country by 15 February 1995: 55,000 foreign nationals left the country, and 15,000 legalized their residency; around a thousand were detained and held in a camp before being repatriated.<sup>4</sup> The African Commission on Human and Peoples' Rights ruled against Zambia for expelling several hundred West Africans in 1992; Angola for the expulsion of West Africans in 1996; and Guinea for massive violations against Sierra Leonean refugees, including expulsions, in 2000.<sup>5</sup> In 2004 and 2005, Angola's *Operación Brillhante* led to the deportation of more than a quarter of a million foreign citizens involved in artisanal diamond mining, mainly from the two Congos and West Africa.<sup>6</sup> In 2006, Niger began deportations of thousands of Mahamid Arabs who had fled insecurity in Chad during the 1980s.<sup>7</sup>

Libya, while repeatedly stating a policy of welcoming Arab and African immigrants, has expelled sub-Saharan and other North Africans in successive campaigns, with a particularly serious round of violence against foreigners in 2000.<sup>8</sup> It was thus not an accident that a meeting of African Union (AU) ministers on immigration gathered in Tripoli in June 2005 specifically called for a protocol to the African Charter on deportations and expulsions, to address the concerns of due process and respect for human rights.<sup>9</sup>

Yet the mass expulsions that are of most concern are not those that affect recent immigrants, but rather those targeted at populations that until the date that political events turned against them had always been regarded as citizens, with a complete right to stay in their country of origin and protection against any such action. Two especially egregious cases are described below: the reciprocal expulsion of people of Ethiopian or Eritrean origin from each other's territory in the late 1990s, and the expulsion of black Mauritians from their country, starting in 1989 and lasting into the early 1990s.

*Eritrea/Ethiopia: the fallout from an old-fashioned war*

In 1998, former comrades-in-arms against dictatorship in Ethiopia's central government, who had together successfully overthrown that regime and then, to the world's admiration, peacefully managed the process of creating a new state of Eritrea along Ethiopia's northern border, decided to turn their guns on each other instead. The brutal war that followed between the Ethiopian and Eritrean armies, fought out in an arid mountainous version of First World War trenches, devastated the lives of tens of thousands: not only the soldiers who were killed and injured and their families; but of all those who became instant suspected traitors in the land of their birth. The conflict rendered people born of parents from the 'wrong' side of the border of what had been one country effectively stateless, unwelcome and persecuted.<sup>10</sup>

Though Ethiopia was never formally colonized, Eritrea was an Italian colony from the late nineteenth century until 1941, when British troops advancing from Sudan defeated the Italians during the Second World War. Following a period of British military administration, the United Nations adopted a resolution in 1950 designating Eritrea an autonomous unit federated to Ethiopia. In 1962, Ethiopian emperor Haile Selassie unilaterally annexed Eritrea and declared it a province of Ethiopia; residents of Eritrea without another nationality were declared to be Ethiopian nationals. The Eritrean People's Liberation Front (EPLF) began an armed struggle against Ethiopian rule; following the 1974 overthrow of the emperor by the brutal military government known as the Derg, they joined with the Tigrayan People's Liberation Front (TPLF) of northern Ethiopia and other ethnically based armed groups in the alliance known as the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF).

In 1991, the EPRDF finally defeated the Derg, and the new Ethiopian transitional government immediately approved – as promised within the alliance – a referendum on the status of Eritrea. All individuals identifying themselves as Eritrean, including those living within the borders of what would become Ethiopia,

were allowed to register and vote, provided they obtained an 'identification card' issued by the Eritrean provisional government. More than 1.1 million people registered; including more than 300,000 outside the country, 60,000 of whom were in Ethiopia. The referendum was held in 1993 under UN supervision; the vote was 99 per cent in favour of independence, and a new state was formed. The two governments agreed that 'until such time that the citizens of one of the sides residing in the other's territory are fully identified and until the issue of citizenship is settled in both countries, the traditional right of citizens of one side to live in the other's territory shall be respected'.<sup>11</sup>

In Eritrea, the Nationality Proclamation of 1992 provided that Eritrean nationals are those born of a father or mother 'of Eritrean origin' and defined 'Eritrean origin' to mean a person who was resident in Eritrea in 1933. Those who entered and resided in Eritrea between 1934 and 1951 are also entitled to a certificate of nationality on application. Any person who arrived in Eritrea in 1952 or later – including Ethiopians – must apply for naturalization like any other foreigner, showing a ten-year residence in Eritrea before 1974, or a twenty-year residence thereafter, and must renounce any other nationality. They must also not have 'committed anti-people acts during the liberation of the Eritrean people'.<sup>12</sup>

Ethiopia, meanwhile, adopted no new nationality law, though the 1995 constitution provided for Ethiopian citizenship for 'any woman or man either of whose parents is an Ethiopian citizen', and, while silent on dual citizenship, further stated that 'no Ethiopian citizen shall be deprived of his or her Ethiopian citizenship against his or her will'. The statute law in force, however, remained the Ethiopian Nationality Law of 1930, which stated that any Ethiopian citizen who acquired another nationality would lose his or her Ethiopian citizenship (as well as discriminating on the basis of gender in granting citizenship in general).<sup>13</sup> Nevertheless, as late as 1996, Ethiopia still affirmed that additional procedures were required for those who wished to substitute their Ethiopian with Eritrean nationality, in an agreement with Eritrea

that Eritrean-Ethiopians should be made to choose between their two possible nationalities.<sup>14</sup>

Despite initial harmony between the governments of the two territories, there was popular resentment within Ethiopia at the perceived privileged status and economic dominance of Eritreans living in the country (as well as at the dominance of Tigrayans in the Ethiopian government). Tensions between the two governments began to develop also, especially on trade (newly landlocked Ethiopia relied heavily on access to the sea through Eritrea's Red Sea ports of Massawa and Assab) and on agreement of the border. In 1998, war erupted between them over the formal demarcation of the route of that border. Fighting continued over the following two years at varying levels of intensity, until repeated attempts to negotiate a truce eventually culminated in a comprehensive peace agreement in December 2000.

At the outbreak of the war, there were still around half a million people of Eritrean origin living in Ethiopia, including approximately 200,000 living in the Tigray border region. An estimated 100,000 Ethiopians were living in Eritrea.

In June 1998, approximately one month after the war began, Ethiopia issued a policy statement to the effect that the '550,000 Eritreans residing in Ethiopia' could continue to live and work in the country, although politically active individuals were ordered to leave the country and those in 'sensitive' jobs were told to take a mandatory leave of one month.<sup>15</sup> Despite this reassurance, the very next day saw the first wave of arrests and expulsions of prominent individuals of Eritrean origin, including those working for intergovernmental organizations based in Addis Ababa, and dismissals of those in government jobs. As the arrests and expulsions continued into 1999 and 2000, those affected were increasingly ordinary people with no particular status to attract the authorities' attention. Almost all those expelled from urban areas were detained in harsh conditions, often for weeks, before being transported in bus convoys on a journey of several days to the border. Rural people affected by the campaign were ordered to leave, and usually had to travel on foot, without their per-

sonal possessions. Ultimately, the Ethiopian authorities arrested, detained and deported some 75,000 people of Eritrean origin without any attempt at due process of law.

In July 1999, the Ethiopian authorities issued a press release stating that the Ethiopians of Eritrean origin who had registered to vote in the 1993 referendum on Eritrea's independence had thus assumed Eritrean citizenship; though that was clearly not the interpretation that any party put on the process at the time.<sup>16</sup> A month later all those who had registered for the referendum were required to register for alien residence permits with the Security, Immigration and Refugee Affairs Authority, to be renewed every six months. Business licences for these individuals were revoked, and assets frozen; despite procedures that were supposed to be in place to allow the appointment of others to oversee their property, many suffered huge losses.

The Eritrean government organized quickly to assist the expellees, registering them as refugees in the same way as other Eritrean exiles returning from abroad. Nevertheless, although the more economically and educationally advantaged integrated relatively quickly, many still reside in a UNHCR-administered camp in Eritrea and some still have no permanent identity papers.

During the first phase of the conflict, there was no official Eritrean policy of expulsion of Ethiopians, though Ethiopians were subject to popular abuse and official harassment, and many were in fact prevented from leaving by denial of the required exit visas. As the war continued, Eritrea's policy became more hostile. From August 1998 to January 1999, during a period of relative calm in the war, around 21,000 Ethiopians left Eritrea with the assistance of the International Committee of the Red Cross (ICRC). The Eritrean authorities claimed the departures were voluntary, though some intimidation was none the less reported by those concerned. In July 1999, Ethiopia asserted that some 41,000 of its citizens had been deported from Eritrea. A major Ethiopian offensive in May 2000 caused perhaps one-third of Eritrea's 3 million people to flee their homes. In early June 2000, Ethiopian citizens living in Asmara were told to

*Expelled – never to return*<sup>17</sup>

Ethiopian nurse B.H. was working for a humanitarian agency in Addis Ababa when war broke out between Ethiopia and Eritrea in May 1998. Then in her mid-fifties, she had lived in Ethiopia's capital all of her adult life. She traced her ancestry to Ethiopia's former province of Eritrea, which won its independence in 1993. She was widowed in 1989 from her Ethiopian husband – who had no Eritrean heritage – after more than twenty years of marriage. She had lived and raised her two children in Ethiopia.

In June 1998, Ethiopia authorities set in motion a campaign to round up, strip of all proof of Ethiopian citizenship, and deport Ethiopians of Eritrean origin from the country. Along with as many as 75,000 others, B.H. was taken into custody, denied her Ethiopian nationality, separated from her children, and deported to a purported homeland with which she had only distant ties. In Eritrea, parallel roundups of Ethiopian nationals ensued later in the course of the war. [...]

In September 1998 police sought out B.H. at her work in Addis Ababa and took her to the local police station for questioning by a 'processing committee'. As they asked her questions, the members of the committee took down information. B.H. noticed that an agent had marked down her nationality as 'Eritrean' – although he had never asked her to state her nationality:

'I asked him "what was that?"

'He said "nationality."

"Why don't you ask me?" I told him.

'He just laughed.'

B.H. said that during her entire ordeal she never doubted that the whole thing was a 'terrible mistake' on the part of the Ethiopian authorities. She believed that the expulsion bureaucracy would 'soon' discover its mistake and allow her

to return to her family; indeed, she said that she patiently waited for that moment to arrive even as she was being transported to the border in a convoy of trucks and buses with 1,500 other deportees.

Five months after her expulsion, B.H. said it was still difficult for her to accept her rejection as an Ethiopian. What was most painful at the time of the interview, however, was her forced separation from her Ethiopian children.

Ethiopian nurse B.H. and tens of thousands of others were expelled en masse as enemy aliens, in groups of up to thousands at a time. Most were trucked or bussed to the border with Eritrea. Documents proving Ethiopian nationality were confiscated, property rights were cancelled, and travel papers in many instances were marked 'Expelled – Never to Return'. There was no opportunity for judicial review – or even for appeal of rulings through administrative processes. Thousands were detained for periods from a few days to a few months in difficult conditions; many were ill-treated at the time of their arrest or while in detention awaiting transit to Eritrea. Many endured great suffering while in detention and during gruelling journeys to the border.

register with the authorities 'in preparation for repatriation'. Soon after, the Eritrean government admitted holding 7,500 Ethiopian nationals in detention pending deportation, and started expelling batches of several hundred across the border. Property was also confiscated, affecting especially the large Ethiopian community in the port city of Assab. Figures collated by the ICRC and UN ultimately indicated that around seventy thousand people were expelled or repatriated from Eritrea to Ethiopia, just less than the mirroring figure, despite the Eritrean government continuing to deny it had any policy of expulsion. Individuals of Ethiopian descent still living in Eritrea who had not sought nationality by the time the war broke out in 1998 are considered aliens, dealt



with according to the normal rules applicable to citizens of other countries living in Eritrea.

Those of Eritrean descent who were not expelled and remain in Ethiopia (an estimated 150,000) are not considered Ethiopians, but have not acquired another nationality. They are excluded from exercising citizenship rights, such as voting. They face lack of access to employment and education, and remain potentially subject to deportation. A 2002 law that bestowed special rights and privileges on 'foreign nationals of Ethiopian origin' singled out Eritreans who forfeited Ethiopian nationality and expressly excluded them from enjoying the new rights and privileges.<sup>18</sup> In late 2003 and early 2004 the situation improved as relations between Ethiopia and Eritrea also eased somewhat, with the publication of a new Proclamation on Ethiopian Nationality that made naturalization easier, and the adoption by the immigration authorities of an internal directive on the residence status of Eritrean nationals living in Ethiopia. But although many people of Eritrean origin living in Ethiopia were able to reacquire citizenship under this proclamation, problems are still reported in obtaining national identification cards, including delays of several years and interrogation by immigration officials. Moreover, the directive states that a residence permit may be cancelled 'where the bearer ... is found to be an undesirable foreigner'. An Ethiopian of Eritrean descent interviewed in early 2008 observed that 'the gap between law and implementation is like the space between the sun and the moon, and no one knows how to close it'.<sup>19</sup>

In 2004, the independent Claims Commission established under the December 2000 peace agreement adjudicated on the nationality of the citizens of Ethiopia and Eritrea after the splitting of the two countries in 1993. Ethiopia had tried to justify the denationalizations and forced population transfers during the war by arguing that those Ethiopians who registered as Eritreans for the referendum in 1993 had thereby lost their nationality. Eritrea argued that they could not have done so because there was no Eritrea in existence at that point. The Claims Commission found that, under the 'unusual transitional circumstances'

pertaining to the creation of Eritrea, those who qualified to participate in the referendum in fact acquired dual nationality.<sup>20</sup> The outbreak of the war did not of itself suspend this dual nationality, and Ethiopia's action in denying the nationality of the dual nationals had been arbitrary and unlawful.

### *Mauritania: non-Arabs unwelcome*

In one of Africa's most dramatic examples of discriminatory denationalization, from April 1989 and over the next year, around 75,000 black Mauritians with recognized citizenship were expelled from their country by their own government. The campaign took place in the context of a programme of compulsory Arabization conducted by the country's Arabic-speaking elite: its targets were non-Arabic speakers – who also happened to farm Mauritania's most fertile land.

The territory that is now Mauritania has for hundreds of years been inhabited by three principal groups: people of mixed Berber-Arab ancestry (collectively often known as Beydanes, literally 'white men', or Moors); those of dark skin colour who speak Arabic (a group known as Haratines, descended from slaves to the Berber-Arabs); and dark-skinned people who belong to sub-Saharan African ethnic groups (mainly the Fula/Peul,<sup>21</sup> Wolof, Soninké and Bambara, herders and cultivators who mostly lived in the south of the country, along the Senegal river valley). During the colonial era, blacks who led a more settled life were able to take greater advantage of educational opportunities and thus dominated the administrative structure. This turned around at independence, and since then political power has been in the hands of the Beydanes. In the mid-1980s, the government led by Maaouya Ould Sid'Ahmed Taya (president from 1984 to 2005) inaugurated a policy of Arabization: Arabic replaced French as the official language and other measures were taken to identify the state as Arab. The government also favoured the purchase of land by Beydanes in the Senegal river valley. Mauritians whose mother tongue was not Arabic protested against these measures and political tensions rose.

The expulsions of 1989/90 took place in the context of a dispute between Mauritanian herders and Senegalese cultivators over grazing rights in the Senegal river valley, which erupted into communal violence in the capitals of Dakar and Nouakchott and brought the countries close to war. Each country then agreed to repatriate the other's citizens as a precaution against further bloodshed. The Mauritanian government seized on the repatriation process as an opportunity to begin systematic expulsion of black Mauritanian citizens: ultimately 60,000–65,000 were expelled to Senegal and 10,000–15,000 to Mali, while a few others fled to Chad.<sup>22</sup>

While most of the expelled refugees were stock breeders and peasant farmers, the policy also targeted soldiers, civil servants and senior executives. Many expellees were black Mauritanian government employees suspected of opposing the Arabization policy. These events began a 'campaign of terror' in which the Mauritanian army occupied its side of the Senegal river valley: several hundred villages were entirely emptied of their largely Fula inhabitants before being renamed and taken over by Moors and Haratines. Those dispossessed were forced to relinquish their identity cards and then transported in trucks, with or without their families, with few or no possessions. Others who were not themselves physically expelled fled the country to escape massacres and political persecution which continued throughout 1989 and 1990. The Mauritanian government claimed at the time that those expelled were of Senegalese nationality.<sup>23</sup>

In 2000, the African Commission on Human and Peoples' Rights found that the expellees had been arbitrarily deprived of their nationality, were entitled to return to Mauritania, and should have their identity documents and property restored, as well as receiving compensation for other harm.<sup>24</sup> This decision, however, was never implemented by President Taya's government.

From 1994, after a *détente* with Senegal, the Mauritanian government invited the deportees to return, and approximately thirty thousand refugees did go back between 1994 and 1997.

Many returnees, however, later left again for exile because they could not get back their lost properties, regain their jobs, or obtain national identity cards to replace those destroyed during the deportation in 1989. By the mid-1990s, UNHCR claimed there were 25,000 de facto stateless persons who had not repatriated from Senegal and Mali, while other estimates were 45,000 to 60,000.<sup>25</sup> As of early 2007, some 24,000 Mauritians remained in 'sites' in northern Senegal<sup>26</sup> and several thousand more in Mali in conditions of poverty and marginalization.<sup>27</sup>

In a rare good news story, there are prospects for the repatriation and restoration of citizenship to the deportees. After the Ould Taya government was overthrown in a *coup d'état* in 2005, a period of democratic transition began that resulted in the election of a new government in April 2007. Freshly elected President Sidi Mohamed Ould Cheikh Abdallahi announced that the government intended to repatriate, restore to citizenship and compensate the refugees.<sup>28</sup>

Concrete steps to bring about the planned return have been undertaken. The government sent a delegation to visit the refugee camps in Senegal; UNCHR carried out a census of refugee households in Senegal and issued a call for support for donor funds to finance the repatriations. A tripartite agreement between Senegal, Mauritania and UNHCR was signed in October 2007. Mauritania undertook to restore the citizenship rights of the refugees, return their properties and reinstate former civil servants. Senegal undertook to provide all documents needed for the resettlement of returnees, as well as to facilitate the integration of Mauritians who opted to remain in Senegal. The first refugees returned, with UNHCR assistance, in January 2008. A majority were resettled on their original property, and after some weeks' delay those in the first wave received Mauritanian identity cards. The entire process of repatriation was expected to take eighteen months.<sup>29</sup> Mauritanian refugees in Mali were also expected to return to Mauritania, under the same UNHCR repatriation operations.

By the end of July 2008, more than 4,500 deportees had

**Four** returned voluntarily to Mauritania. But on 6 August the government was overthrown in a fresh military coup. Though the new government stated that it would continue the repatriation process, its future was thrown into doubt. Even in the best-case scenario, much work would be needed to address entrenched discrimination against non-Arabic speakers and resolve the potential conflicts between returnees and those who, after the deportations, took control of the deportees' land and assets.<sup>30</sup>