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THE SUPREME COURT OF ERITREA
ASMARA, ERITREA

_____	)	Case No.: <u>SC130726THO00001</u>
In the Matter of:	)	
	)	<i>The passport and exit visa case.</i>
	)	
Thomas Samuel Aron,	)	
plaintiff	)	
Vs	)	
Government of Eritrea,	)	
defendant	)	
	)	
_____	)	

COMPLAINT

PROOF OF SERVICE was executed via CAAM on all parties.

COMPLAINT FOR DECLARATORY, CONSTITUTIONAL, INJUNCTIVE, AND MONETARY RELIEF

1. INTRODUCTION

1. This action is brought under Articles 2, 19, 24, 26, 28, and 49 of the Constitution of Eritrea seeking constitutional review of administrative action by the Government of Eritrea that repeatedly denied the Applicant an Eritrean passport and the travel documents necessary to leave Eritrea. The Applicant respectfully submits that the Government's conduct violated rights expressly guaranteed by the Constitution of Eritrea and by the International Covenant on Civil and Political Rights, to which Eritrea is a State Party.
2. This proceeding presents a question of exceptional constitutional importance. It concerns whether the Government may indefinitely prevent an Eritrean citizen from leaving his own country, notwithstanding full compliance with every administrative requirement communicated to him, while refusing to identify any statutory authority, constitutional justification, administrative standard, or factual reason supporting that decision. The Applicant submits that such governmental conduct is fundamentally inconsistent with constitutional government and the rule of law.
3. This case does not concern disputed facts. The parties have jointly executed and filed a Statement of Agreed Facts, and they agree that the material facts giving rise to this proceeding are not in dispute. Accordingly, this Court is asked only to determine questions of constitutional and legal interpretation. No witness testimony, evidentiary hearing, credibility determination, or fact-finding is required.
4. The Applicant respectfully submits that this case provides the Court with its first opportunity to define the constitutional relationship between the individual citizen and the executive branch in matters concerning passports, travel documents, freedom of movement, administrative legality, and governmental accountability. The judgment in this proceeding will therefore extend beyond the individual interests of the parties and contribute to the development of Eritrean constitutional jurisprudence.

2. JURISDICTION

5. This Court possesses exclusive jurisdiction to hear and determine this proceeding pursuant to Article 49(2)(a) of the Constitution, which vests in the Supreme Court the sole authority to interpret the Constitution and determine the constitutionality of any law enacted or governmental action taken. The Government's refusal to issue the Applicant a passport constitutes governmental action affecting constitutional rights and is therefore properly subject to constitutional review by this Court.
6. Jurisdiction is further founded upon Article 28(2) of the Constitution, which expressly entitles any person alleging that a fundamental constitutional right has been denied or violated to petition a competent court for redress. Where such violation is established, the Constitution empowers the Court to issue all orders necessary to secure enjoyment of the

constitutional right and, where appropriate, to award monetary compensation for damage suffered.

7. The Applicant also invokes the Court's constitutional responsibility under Article 2 to preserve the supremacy of the Constitution. The Constitution declares itself to be the supreme law of Eritrea and provides that all governmental acts inconsistent with its provisions are null and void. Every organ of the State is therefore subject to constitutional review whenever its actions interfere with protected constitutional rights.

3. THE PARTIES

8. The Applicant, Samuel Aron, is an Eritrean citizen born in Asmara in 1980. At all times relevant to this proceeding he was lawfully resident in Eritrea and sought only to exercise his constitutional right to obtain an Eritrean passport and depart Eritrea temporarily in order to pursue higher education abroad.
9. The Government is the Government of Eritrea, acting through the Department of Immigration and Nationality and other public authorities responsible for issuing Eritrean passports and travel documents. The Government is responsible for administering the laws governing passports and international travel and for ensuring that those laws are implemented consistently with the Constitution.
10. The Government appears in this proceeding through the Office of the Attorney General, which represents The Government in accordance with law.

4. FACTUAL BACKGROUND

11. The Applicant incorporates the Statement of Agreed Facts filed jointly by the parties. For convenience, the principal facts relevant to the constitutional issues presented are summarized below.
12. The Applicant began serving his local administration while still a secondary-school student. His contribution became sufficiently important that the local administration successfully requested that he remain in public service rather than immediately report to Sawa Military Training Camp. Following the announcement of the matriculation examination results, his assignment to the local administration became his formal national service placement.
13. In the summer of 2004, the Applicant nevertheless complied with a subsequent order requiring him to report to Sawa Military Training Camp. Prior to his departure he suffered from chronic anemia and diabetes. While undergoing military training his health deteriorated substantially, resulting in referral to the competent Medical Board. Following examination, the Medical Board declared the Applicant medically unfit for national service.
14. Upon returning to Asmara, the Applicant sought ordinary civilian employment with the same local administration in which he had previously served. He was employed there as a regular employee and remained in public service for approximately fifteen years. Nothing contained in the Statement of Agreed Facts suggests that during this period the Applicant violated any law, failed to comply with governmental requirements, or became subject to any legal disqualification affecting his civil status.

15. Through his own diligence and initiative, the Applicant substantially improved his English-language proficiency and pursued opportunities for higher education abroad. In 2019 he was awarded a full scholarship to study computer programming in Germany. That scholarship represented the culmination of years of personal effort and promised significant educational and professional advancement.
16. In order to accept the scholarship, the Applicant approached the Department of Immigration and Nationality seeking his first Eritrean passport. Government officials informed him that he was required to obtain two no-objection letters, one from his local administration and another from his government employer, together with documentary proof establishing his exemption from national service. The Applicant complied fully with those requirements. He obtained both no-objection letters, produced the Medical Board certificate declaring him medically exempt, assembled the required identity documents, and formally submitted his passport application.
17. Despite complete compliance with every requirement communicated to him, the Government denied the Applicant's application. No explanation accompanied the decision. No legal basis was identified. No deficiency in the application was stated. The Applicant thereafter submitted additional passport applications on several occasions, each of which was likewise denied without explanation. At no stage did the Government identify any statutory provision, constitutional limitation, administrative regulation, or factual circumstance justifying its refusal.
18. In an effort to resolve the matter lawfully, the Applicant sought assistance from various public officials after being informally advised that intervention from the Office of the President might be necessary. Although several individuals indicated that they had attempted to assist him, the Government nevertheless continued refusing to issue the requested passport. The Applicant therefore remained unable to depart Eritrea lawfully despite possessing a fully funded university scholarship and satisfying every known administrative requirement.
19. Faced with the imminent loss of the educational opportunity for which he had worked over many years, the Applicant attempted to leave Eritrea without official authorization. Those subsequent events—including his arrest, detention, treatment in custody, and the legality of those actions—are expressly excluded from this proceeding by the parties' Statement of Agreed Facts and are the subject of separate litigation. The present action concerns only the legality and constitutionality of the Government's refusal to issue the Applicant a passport and permit lawful departure from Eritrea.

5. CONSTITUTIONAL AND INTERNATIONAL LEGAL FRAMEWORK

20. The Constitution of Eritrea establishes a constitutional democracy founded upon the rule of law, respect for human dignity, accountable government, and the protection of fundamental rights and freedoms. It is not merely an instrument organizing governmental institutions; it is the supreme legal covenant between the people and the Government and the principal safeguard against arbitrary exercise of public power. Every organ of the State derives its legitimacy from the Constitution and remains bound by its provisions.

21. Article 2 declares the Constitution to be the supreme law of Eritrea and provides that all laws, governmental orders, and official acts inconsistent with its letter or spirit are null and void. The same Article further provides that the Constitution constitutes the basis for the protection of the rights, freedoms, and dignity of citizens and expressly states that it shall serve as the foundation for cultivating constitutional culture throughout Eritrea. These provisions require every governmental authority to exercise public power within constitutional limits and in a manner consistent with the purposes of the Constitution.
22. Article 14 guarantees equality before the law and prohibits arbitrary discrimination. Equality before the law requires more than equal treatment in form. It requires that governmental decisions affecting constitutional rights be governed by objective legal standards capable of consistent application. Administrative decisions resting solely upon unexplained discretion or unofficial influence are fundamentally incompatible with constitutional equality because similarly situated citizens cannot know the standards governing their rights or reasonably expect equal treatment under the law.
23. Article 15 guarantees that no person shall be deprived of liberty except pursuant to due process of law. Liberty within a constitutional democracy includes freedom from arbitrary governmental restraint. Although the present case does not concern criminal detention, the Government's refusal to issue a passport effectively prevented the Applicant from exercising one of the most fundamental incidents of personal liberty: the freedom to leave his own country. Such interference must therefore satisfy the constitutional requirements governing every deprivation of liberty.
24. Article 16 recognizes the inherent dignity of every person. Human dignity requires that citizens be treated as persons possessing legal rights rather than as subjects dependent upon administrative favour. A constitutional government demonstrates respect for human dignity by providing reasons for its decisions, acting according to publicly known legal standards, and permitting individuals to challenge governmental action through lawful procedures. Administrative silence and unexplained refusal are inconsistent with those constitutional values.
25. The principal constitutional guarantee engaged in this proceeding is Article 19(9), which provides that every citizen shall have the right to leave and return to Eritrea and to be provided with a passport or any other travel documents. Few constitutions express this guarantee so directly. The Constitution therefore recognizes not only freedom of international movement but also the affirmative obligation of the State to provide the documents necessary for citizens to exercise that freedom. The constitutional language is mandatory and leaves little room for unrestricted executive discretion.
26. Article 21 reflects the Constitution's broader commitment to education, personal development, and equal access to opportunities that enable citizens to improve their lives. Although the Applicant's scholarship was awarded by a foreign university rather than by the Government of Eritrea, the Constitution nevertheless recognizes education as a matter of public importance. Governmental action that arbitrarily prevents a citizen from pursuing a legitimate educational opportunity therefore implicates not only freedom of movement but also the Constitution's commitment to educational advancement and human development.

27. Article 24 establishes one of the Constitution's most important principles of good administration. Every person having an administrative question is entitled to be heard respectfully and to receive prompt and equitable responses from public authorities. Furthermore, every person whose rights or interests are affected by administrative action has the constitutional right to seek administrative redress. These guarantees recognize that constitutional government depends not merely upon correct outcomes but also upon fair administrative procedures that are transparent, responsive, and accountable.
28. Article 26 governs every limitation imposed upon constitutional rights. It authorizes restrictions only where they are established by law, pursue constitutionally legitimate objectives, apply generally rather than arbitrarily, and preserve the essential content of the protected right. The Constitution therefore rejects unlimited administrative discretion. Public officials may not interfere with constitutional rights simply because they possess administrative authority. Every restriction must satisfy objective constitutional standards and remain subject to judicial review.
29. Article 28 transforms constitutional rights from abstract principles into enforceable legal guarantees. It authorizes every person whose constitutional rights have been denied or violated to petition a competent court for relief and empowers the courts to issue all orders necessary to secure enjoyment of those rights, including monetary compensation where appropriate. The Constitution therefore contemplates that courts will not merely declare rights but will provide practical and effective remedies against unconstitutional governmental action.
30. Finally, Article 49 vests in this Court exclusive authority to interpret the Constitution and determine the constitutionality of governmental action. That responsibility carries with it the duty to preserve constitutional government by ensuring that executive power remains subject to constitutional limitations. Where governmental action interferes with an expressly guaranteed constitutional right, this Court is not merely authorized but constitutionally obligated to determine whether that interference complies with the Constitution.
31. Eritrea is also a State Party to the International Covenant on Civil and Political Rights. Article 12(2) of the Covenant guarantees that everyone shall be free to leave any country, including his own. Article 12(3) permits restrictions only where they are provided by law, necessary to protect national security, public order, public health, public morals, or the rights and freedoms of others, and consistent with all other rights recognized by the Covenant. These requirements closely parallel the constitutional limitations contained in Article 26 of the Eritrean Constitution and reinforce the principle that freedom of movement cannot be restricted through arbitrary or unexplained executive action.
32. The Human Rights Committee, the treaty body responsible for interpreting the Covenant, has consistently emphasized that restrictions upon the right to leave one's country must rest upon clear legal authority, pursue legitimate objectives, and satisfy principles of necessity and proportionality. A State may not rely upon unpublished administrative practices, undefined discretion, or unexplained refusals to prevent a citizen from leaving his or her own country. Such restrictions undermine both the rule of law and the effective enjoyment of the right guaranteed by Article 12.

33. The Constitution of Eritrea and the International Covenant on Civil and Political Rights therefore speak with one voice. Both recognize that governmental power is subordinate to law, that constitutional rights belong to citizens rather than being granted by administrative favour, that restrictions upon those rights require lawful justification, and that independent courts exist to provide effective remedies when governmental authorities exceed constitutional limits. The Applicant respectfully submits that The Government's repeated refusal to issue him a passport, despite full compliance with every known legal requirement and without identifying any lawful basis for refusal, cannot be reconciled with either the Constitution of Eritrea or Eritrea's international legal obligations.

6. CLAIMS FOR RELIEF

6.1. COUNT ONE: Violation of the Constitutional Right to Leave Eritrea and to Be Issued a Passport

34. The Applicant repeats and incorporates paragraphs 1 through 33 of this Complaint as though fully set forth herein.
35. Article 19(9) of the Constitution expressly guarantees every Eritrean citizen two closely related constitutional rights: first, the right to leave and return to Eritrea; and second, the right to be provided with a passport or other travel documents necessary to exercise that freedom. These guarantees are expressed in mandatory language and constitute fundamental rights enforceable under Article 28 of the Constitution.
36. The Statement of Agreed Facts establishes that the Applicant complied with every administrative requirement communicated to him by the competent governmental authorities. He obtained the required no-objection letters from both his local administration and his government employer, produced the Medical Board certificate establishing his exemption from national service, submitted the required identity documents, and repeatedly applied for an Eritrean passport. The Government nevertheless denied every application without explanation.
37. The Government has never identified any constitutional provision, statute, regulation, administrative directive, or factual circumstance authorizing its refusal to issue the requested passport. Consequently, the Government has effectively nullified the Applicant's constitutional right through unexplained executive action rather than lawful constitutional limitation.
38. The Applicant respectfully submits that Article 19(9) imposes both a negative and a positive constitutional obligation. The Government must refrain from arbitrarily preventing citizens from leaving Eritrea, and it must also provide the passport or travel documents necessary to make that constitutional freedom meaningful. A constitutional right cannot exist merely in theory while the executive branch indefinitely withholds the very document required to exercise it.
39. The Government has therefore violated Article 19(9) of the Constitution.

6.2. COUNT TWO: Violation of Due Process, Administrative Justice, and the Rule of Law

40. The Applicant repeats and incorporates paragraphs 1 through 39 of this Complaint.
41. Articles 2, 15, 24, and 28 establish that all governmental authority must be exercised according to law, through fair administrative procedures, and subject to effective judicial review. Administrative decisions affecting constitutional rights must therefore be reasoned, transparent, and capable of meaningful challenge.
42. Throughout the entire passport application process, the Government failed to inform the Applicant why his applications were denied. No deficiency in the application was identified. No legal authority supporting the refusal was cited. No administrative appeal procedure was offered. Instead, the Applicant was informally encouraged to seek intervention from influential persons rather than through lawful administrative procedures.
43. Governmental power exercised without identifiable legal standards, written reasons, or meaningful review is inconsistent with constitutional government. Administrative discretion cannot replace the rule of law. Where constitutional rights are affected, citizens are entitled to know why the Government has acted and to challenge that action through lawful procedures.
44. The Government therefore denied the Applicant due process of law, violated his constitutional right to administrative redress, and acted contrary to the constitutional principle that governmental authority derives its legitimacy from law rather than unrestricted executive discretion.

6.3. COUNT THREE: Unconstitutional Limitation of Fundamental Rights

45. The Applicant repeats and incorporates paragraphs 1 through 44 of this Complaint.
46. Article 26 authorizes limitations upon constitutional rights only where such limitations are established by law, pursue constitutionally legitimate objectives, apply generally rather than arbitrarily, and preserve the essential content of the protected right. The burden therefore rests upon the Government to demonstrate that any restriction upon a constitutional right satisfies each of those constitutional requirements.
47. The Government has not identified any law authorizing the refusal to issue the Applicant a passport. Nor has it asserted that the Applicant presents any threat to national security, public safety, public order, public health, public morals, or the rights and freedoms of others. Indeed, the Statement of Agreed Facts establishes that the Applicant voluntarily complied with every governmental requirement communicated to him and lawfully pursued an educational opportunity abroad.
48. Even if The Government possessed authority to regulate the issuance of passports, Article 26 requires that any limitation be proportionate, objectively justified, and narrowly applied. An indefinite refusal unsupported by law, reasons, or review cannot satisfy those constitutional standards.
49. The Government therefore imposed an unconstitutional limitation upon the Applicant's fundamental rights in violation of Article 26 of the Constitution.

6.4. COUNT FOUR: Violation of Eritrea's Obligations Under the International Covenant on Civil and Political Rights

50. The Applicant repeats and incorporates paragraphs 1 through 49 of this Complaint.
51. Eritrea is a State Party to the International Covenant on Civil and Political Rights and has undertaken to respect and ensure the rights recognized therein. Article 12 guarantees every person the right to leave any country, including his own, while Article 2 requires the availability of an effective remedy where Covenant rights are violated.
52. The Government's repeated refusal to issue the Applicant a passport prevented him from exercising the freedom guaranteed by Article 12. The Government has identified no law authorizing the restriction, no legitimate objective recognized by Article 12(3), and no factual basis demonstrating that the restriction was necessary or proportionate.
53. The Applicant further submits that the absence of written reasons, administrative review, or any effective domestic procedure by which the refusal could be challenged is inconsistent with the obligation to provide an effective remedy for violations of Covenant rights.
54. The Government's conduct is therefore inconsistent with Eritrea's obligations under the International Covenant on Civil and Political Rights and reinforces the conclusion that the Applicant's constitutional rights have been violated.

7. PRAYER FOR RELIEF

55. WHEREFORE, the Applicant respectfully requests that this Honourable Court enter judgment in his favour and grant the following relief:
56. Declare that the Government of Eritrea's repeated refusal to issue the Applicant an Eritrean passport and the travel documents necessary to permit him to leave Eritrea violated Articles 2, 15, 19(9), 24, 26, and 28 of the Constitution of Eritrea.
57. Declare that Article 19(9) of the Constitution guarantees every Eritrean citizen the right to leave and return to Eritrea and the corresponding right to be issued a passport or other travel documents, subject only to lawful limitations satisfying the requirements of Article 26 of the Constitution.
58. Declare that no governmental authority may refuse to issue a passport or restrict a citizen's constitutional right to leave Eritrea unless the restriction is expressly authorized by law, supported by objective and ascertainable legal standards, accompanied by written reasons, and subject to meaningful administrative and judicial review.
59. Declare that The Government's actions were inconsistent with Eritrea's obligations under Article 12 of the International Covenant on Civil and Political Rights, which guarantees every person the right to leave any country, including his or her own, except in circumstances permitted by law and consistent with the Covenant.
60. Set aside and declare invalid the Government's decisions denying the Applicant's passport applications.
61. Order The Government to issue the Applicant an Eritrean passport and any passport, exit visa, or other travel authorization necessary to enable him to leave Eritrea within thirty (30) days of the Court's judgment.
62. Alternatively, should the Court determine that immediate issuance is not appropriate, order The Government to reconsider the Applicant's application within thirty (30) days in

accordance with constitutional standards, to provide a written decision identifying the legal and factual grounds supporting its determination, and to afford the Applicant an effective opportunity for administrative and judicial review.

63. Direct The Government to establish, publish, and implement constitutionally compliant administrative procedures governing passport and travel document applications, including objective eligibility criteria, reasonable processing periods, written decisions, and procedures for administrative review, so as to ensure compliance with Articles 19, 24, 26, and 28 of the Constitution.
64. Award the Applicant monetary compensation pursuant to Article 28(2) of the Constitution for the losses directly resulting from the unconstitutional denial of his passport and travel documents, including compensation for the loss of the educational opportunity secured through his scholarship, financial losses reasonably attributable to the Government's unconstitutional conduct, and compensation for the distress, frustration, and inconvenience resulting from the prolonged denial of his constitutional rights.
65. Reserve jurisdiction, if necessary, to conduct further proceedings solely for the determination of the amount of monetary compensation should the parties be unable to agree upon the quantum following judgment.
66. Award the Applicant the costs of these proceedings and such other litigation expenses as the Court considers just and equitable.
67. Grant such further declaratory, injunctive, equitable, compensatory, or other relief as this Honourable Court considers necessary to secure the Applicant's constitutional rights, preserve the supremacy of the Constitution, and prevent similar constitutional violations in future cases.

Respectfully submitted,

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8. VERIFICATION

68. Counsel for the Applicant certifies that this Complaint is founded upon the Statement of Agreed Facts executed by the parties and presents only questions of constitutional and legal interpretation for determination by this Honourable Court. The Applicant further certifies that the matters concerning his arrest, detention, and treatment in custody are expressly excluded from this proceeding and are the subject of separate litigation, as acknowledged in the Statement of Agreed Facts.