

Expert Report 7: *Claim for Asylum in the UK. A question of nationality and of religious affiliation*

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General Considerations

My name is Dr. Mirjam van Reisen and I am Professor in International Relations, Innovation and Care. I am a member of the Dutch Government Council on International Relations.

I am considered an international expert on Eritrea and I am the author of more than five books, as well as many articles, on Eritrea in the context of migration and human trafficking. I have extensive knowledge and understanding of the situation in Eritrea and in neighbouring countries. I authored many expert reports, amongst others, commissioned by the Dutch Government and Parliament, the Dutch police and UK attorneys.

This Expert report considers the circumstances of a claimant for asylum made to the UK Home Office, hereafter referred to as the claimant.

This report considers particularly three elements:

- The credibility of the story of the claimant
- The claimant's nationality
- The claimant's religion
- The implications for consideration of her application

In order to verify the claims of the applicant, I have proceeded as follows:

Interview

I have interviewed the claimant through one of my students, who is an expert on the relationship between Ethiopian and Eritrea and on the deportation policy, and an expert on religion in Eritrea including the Pentecostal church. The interviewer is Eritrean, who grew up in Ethiopia, and speaks both Amharic and Tigrinya. The interview (hereinafter referred to as interview SK1) was carried out in Amharic within a comfortable atmosphere to try to ensure a natural conversation. The interview format follows a format of story-telling and avoids lead questions. The student used a biographical interview approach with particular emphasis given to the networks of the claimant and on her connections, in order to give a fuller picture of her life and to shed light on some of the concerns highlighted regarding her identity, religious beliefs and language. It follows the narrative of the interviewee's life as a means of ascertaining claims made in the asylum process.

In terms of the interview carried out with the claimant the following is stated. The student performed the interview under my instruction and supervision and reported to me. The phone-interview was held on the 16th of November 2018, from 10:30 – 11:31. I received a translation in English and I also received the opinion of the student on the facts found in the interview.

Resource persons

In order to consider some particular aspects of the interview, I verified some of the facts mentioned in the interviews of claimant with well-placed resource persons from the diplomatic corps and (former) appointees in international organisations related to relevant elements of the claimants' narrative, particularly relating to Ethiopia, Eritrea and Sudan relevant to the claimants' narrative as well as to the particular time and space of its context.

Material available for consideration

I have considered the Statements previously made by the Claimant and the decision of the FC. I have considered the observations made in the statements of the claimant, including the Substantial Interview (hereinafter referred to as SI), the facts revealed in the SK1 interview and I have compared these with the knowledge available through literature and research, as well as my own experience.

I have paid special attention to the consideration of nationality in the context of the Eritrean-Ethiopian war of 1998-2000.

I have checked details with other experts. Below I state my findings and conclusions.

1.1. General Impression of the interviews and statements

Having considered many statements in the course of my work as an expert, I conclude that the statements of the claimant are detailed, credible and that she appears as having cooperated very willingly in all the interviews. The questions that were put to her ask for detailed information and her answers are equally detailed, allowing for scrutiny of her claims.

1.2. Verification and the credibility of the narrative

In order to give an opinion on this case, it is crucial to understand the credibility of the claimant's statement.

Specifically, to verify the claims of her narrative, I refer to the following subsequent situations in which the claimant spent time: (i) Campo Sudan in Assab (ii) Ethiopia (iii) Khartoum (iv) Flight from Khartoum to the UK (iv) other details available.

1.3. Campo Sudan, Assab

- **Campo Sudan, Assab:** This is a neighbourhood in the city of Assab, consistently indicated as the birthplace (in 1989) of the claimant. The website Eritrea.be states: "The town is divided into three parts. Assab Seghir (small Assab) on the shoreline, Assab Kebir (big Assab) in the center of town, containing the port and the city centre and nestling behind it is the rather ramshackle Campo Sudan, the former domain of Ethiopian residents." This is identified correctly in the statement of the claimant (SI, Q37) where the places are mentioned by her and recorded as Assab Kebir, Assab Sebir and Campo Sudan. It is surprising that the Substantive Interview, which is very detailed, does not ask about the place of birth of the claimant – given all the other very detailed question, which is the one single critical question that would determine nationality. It is further surprising that no question is asked on the position of the parents in relation to Eritrean independence in 1991, which is a second relevant determinant of nationality.
- **Situation in 1989 Assab:** In 1989 all Eritrean territory was under Ethiopian rule, and so also Assab. Assab, a port-city, which is well-known for its large Amharic-speaking and Ethiopian community before the Eritrea-Ethiopia war started in 1998 when the access of Ethiopia to the port was stopped. Researcher Jennifer Riggan has described the situation in Assab at the time before the 1998 war – when Assab was already legally part of Eritrea and writes: "Although Assab, with its close links to Ethiopia, was culturally peripheral to Eritrea, it was symbolically and politically important. There is no doubt that Eritreans viewed Assab as an integral part of Eritrea, but it was a hybridized place formed at the intersection of nations and cultures by people who came there from different places, different countries, largely for economic reasons." (Riggan, 2016: 29). It is entirely consistent with the

statement of the claimant, who states she was born in Assab (Campo Sudan, Assab), that there was a large Amharic-speaking community and that while Tigrinya was spoken, Amharic language was used as a dominant language (See also claimants' response SI Q13).

1.4. Ethiopia

- The family left to live in Ethiopia in 1991 when the claimant was 2 years old. This was after Eritrea gained independence. In two places the claimant makes important comments in relation to her father's position following Eritrean independence. The claimant states: "In the year 2000 my father voted and supported Eritrea cause, and we were deported to Eritrea." (SI, Q10). In the SK1 interview claimant states spontaneously and without prompting:

"Q: What do you remember about May 24?"

"A: Eritrea separated from Ethiopia and Eritreans were deported from Ethiopia. I don't remember much we were just like any other family. My father was working but he also used to say that we would go back home soon. And he also signed in support of the referendum and that I think is what led to the deportation."

It is significant that the claimant indicates here "And he also signed in support of the referendum and that I think is what led to the deportation." While the referendum was held in 1993 (when the claimant was 4 years old), it can be well understood that the claimant heard for the first time of this in 2000, when the family was deported. Indeed, the vote for independence was the main reason for the Ethiopian authorities to determine whether or not families related to Eritrea (such as those who lived in Assab) would be deported to Eritrea. It appears entirely genuine that the claimant mentions this in relation to the events in 2000 and the fact that she brings it up spontaneously in the SK1 interview adds to the credibility of the statement.

- I find the narration of how the claimant and family were deported credible with the accounts I have heard first hand in interviews of such deportations (SI R19). Names of places mentioned by the claimant are also recorded in UN documents of the deportation, such as "Eritrean detainees are also said to be held in Gulele and Janmeda military camps in Addis Ababa (ibid.)." (Immigration and Refugee Board of Canada, 2000, published at UNHCR RefWorld), recorded as a reference by the claimant as "Jan Meda" (SI, Q19). In this regard a resource person identifies: "Jan Meda: this is a sportsfield near Addis Ababa University. It is Jan Meda Race Ground - it could have been used as a place to gather people." (personal communication with author, RM1, 2 February 2019) The claimant refers to it as an open field. Jan Meda is described by Lonely Planet today as a sportsfield in the centre of Addis Abeba (<https://www.lonelyplanet.com/ethiopia/addis-ababa/attractions/jan-meda-sports-ground/a/poi-sig/1558243/355289>)
- The account is consistent with a detailed description of Human Rights Watch (2003):

Prior to their expulsion, the Ethiopian authorities moved urban deportees through a series of increasingly centralized internment sites holding increasingly larger groups of detainees.

- It is correct, as the claimant states (SI, Q19, SI, Q22), that the Red Cross was involved during the deportations and the Red Cross still has the names of families that were deported, and this could be consulted by the court to verify that the claimant and her family were indeed deported as per her statement (See: Immigration and Refugee Board Canada, 2000).
- The deportations were intended to strip deportees from any future claim to Ethiopian nationality. Human Rights Watch (2003) reported the following at the time:

“While the detainees were in custody at police stations, officials searched for and confiscated their Ethiopian identification documents, including identity cards, passports, work papers, and driving licenses. Some detainees managed to hold on to some of their identification documents by hiding them-or because they had not had a chance to bring the documents with them when they were detained. The systematic removal or destruction of such documentation was a peremptory measure to deny the individuals concerned basic evidence to substantiate claims to Ethiopian nationality at any future time. This confiscation of documents prior to deportation appears on its face to be recognition of the potential for such documents to counter Ethiopian government claims that it expelled only non-nationals. By stripping deportees of their Ethiopian papers the government was in a sense validating their claims to Ethiopian nationality by foreclosing the option of their close and independent examination.” (Human Rights Watch, 2003)

Conclusion 1.3.-1.4.: A detailed consideration of reported events, locations and time show a consistency with the facts at the time and it appears as a credible and genuine account, specifically the detail of it in connection to events that occurred at particular times. Moreover, the narration of the lifestory does not seem to provide the claimant with any benefit so there does not seem a motivation. I find that considering the age of the claimant at the time when the reported events took place is credible. It should be considered how she may have known of such details, as for instance that her father voted in the referendum for Eritrean independence in 1993, leading to their deportation to Eritrea in 2000, stripping her from any future entitlement to Ethiopian nationality. It is credible that she learned of this at the time of deportation in 2000 as per her statement and not before, when the information would not have had any relevance to her.

1.5. Eritrea

- **Situation in Eritrea.** The description of events in Eritrea are credible and consistent with other reports and first-hand accounts heard of life in Eritrea of members of the Pentecostal Church at that time as reported by the author. I have considered it and find that there is no reason to doubt her narrative. The fact that the church is referred to as an “Ethiopian” church online is entirely consistent with the reality in Assab which is home to a population that identifies strongly with Ethiopia, while Assab, its territory and its churches are fully part of Eritrea and recognised as such. The claimant makes a correct statement that in 2002 the Pentecostal Church were

targeted within the overall severe repression that started in Eritrea in 2001. The description of the route of the flight through Tessenay (being first in hiding, then moving by foot and car towards the border), as well as the particular places mentioned, and the harassment are consistent with many other reports heard first hand by me (SI, Q63, Q80). The claimant also correctly refers to the Eritrean currency nakfa (SI, Q19).

1.6. Khartoum

- **Situation in Khartoum.** According to the claimant, who fled to Khartoum in 2003, the church played an important role, as it was the one place available for her and her sibling sister to relate to a community. Indeed, the Pentecostal Bethel Church in Khartoum is, as the claimant describes, a large community of hundreds of churchgoers, of Habeshia origin (mixed Eritrean and Ethiopian) and pictures available online confirm this as can be seen from the dress in pictures and language in descriptions identified in social media. It is certainly true that among less fortunate communities of Eritrean and Ethiopian origin the church visits and community play a key role in their life. According to the claimant she met her Ethiopian husband in the church.
- A Western diplomat in Khartoum responds to the question of the veracity of the Bethel Church: “I have asked about the church you mentioned. Indeed there is a church of the Pentecostal community which is visited by many Ethiopians and Eritreans. My contacts do not visit it (because of location and denomination) but they indicate that is very plausible that in the church Amharic, Tigrinya and Arabic is spoken.” ‘personal communication, 8 January 2019, translation MvR). A second high-level Western diplomat wrote: “I have been able to verify. There is indeed a church of the Pentecostal community in Khartoum named Bethel. The pastor is an Ethiopian and most of the members are Ethiopian but there are also quite a lot of Eritrean members. That explains why they preach predominantly in Amharic, but also in Tigrinya. By the way, most Eritreans understand Amharic. It is very possible that Arabic is spoken to the children. The children growing up in Khartoum speak Arabic with their Sudanese friends. So the story is correct.” (personal communication, 4 January 2019, transl. MvR).

1.7. Flight to Europe

The report on claimants’ flight to Europe is not inconsistent with what is known of the locations; especially the situation in Greece (with many new arrivals through the Eastern route) and the timing of it are consistent with reports received first hand of the situation there in 2015 with very open harassment against refugees and migrants, with very little if any facilitation of asylum claims and little information available and provided to refugees and migrants resulting an effective push-on policy of the Greek authorities, which is described in communications at the time from UNHCR and Amnesty International (2015).

Conclusion 1.5-I.7: A consideration of events, locations and times show a consistency with the facts at the time and appears as a credible account.

1.8. Language and names

Language: An important element of the doubt about the story of the claimant is related to her limited knowledge of Tigrinya. However, the limited knowledge of Tigrinya can be very well explained by the facts that (i) she was born in Assab where a large community speaks Amharic and in part is Ethiopian and Tigrinya is not so widely

spoken; (ii) The claimant left Eritrea at the age of two and resided in Ethiopia, to only return to Eritrea in 2000, where she lived briefly and fled to Sudan three years later.

With regards to language it is common for Eritrean families in Assab to favour Amharic and in the context of families, who are (subsequently) based in Sudan, Arabic is their first working language with the communities. A high-ranking diplomat in Khartoum verified the languages used in the church in Khartoum as reported by claimant and this tallies more generally with the situation among Eritreans or mixed families in Khartoum (see 2.4.).

1.9. School in Eritrea

While education is compulsory in Eritrea, this does not mean that all children of school-going age go to school. The UN agency UNICEF, specialised in children and youth reported in 2003 (the years that claimant should have been enrolled in school were 2002-2003) that

The government has also initiated programs to construct new schools in remote villages, increase the number of teachers, and increase the enrollment and retention of girls. (United States Department of Labour, 2003)

UNICEF appeared particularly concerned about the enrolment and retention of girls, only being at 48.1% despite the education being free and compulsory:

Education is free and compulsory through grade seven. In 1998, the gross primary enrollment rate was 53.2 percent; 58.3 percent of boys and 48.1 percent of girls. The net primary enrollment rate was 33.9 percent. The Ministry of Education estimates that only 37 to 38 percent of children attend school. (United States Department of Labour, 2003)

UNICEF also identified that the war in the country from 1998 – 2000 had made the situation worse.

Conclusion 1.8-I.9: The use of language as reported by claimant is consistent with her trilingual circumstance during her growing up which included Amharic as a dominant language in Assab (Eritrea) and Addis Abeba (Ethiopia), Tigrinya (Eritrea) and Arabic (Sudan). The enrolment and retention rate of girls during the time she spent in Eritrea at school-going age, 2001-2003, just after the war from 1998-2000 was less than 50%. Given that her father had died and she would have been behind in school and left without much support, there is no reason to doubt the veracity of her story.

2.1. The claimant's nationality

The claimant states consistently that she is of Eritrean nationality. It is noted that the court does not dispute her stated place of birth or her familial lineage.

In the considerations of the court, weight is given to several aspects as a basis for determining the nationality of claimant. The court has based its decision on considerations regarding language. These considerations may not have been interpreted correctly. More importantly, these criteria ignore the basis for determining nationality in the law, which in Eritrea is provided by Proclamation 21/1992, as will be explained below.

2.2. Language

The claim of Eritrean nationality was rejected by the decision of her asylum claim in first instance, due to the limited Tigrinya of the claimant, in the sense that she has a more passive rather than active understanding. The question, therefore arises whether language is a reliable measure of nationality (in this case or any case).

The claimant speaks three languages - living as a refugee in Khartoum and being raised in an Amharic-speaking care-family. It is not uncommon for children with bilingual or trilingual background to have more active user knowledge of the languages used in the direct context of their lives. Research in language acquisition, establishes the different factors in determining which languages are acquired at active and passive levels, factors which include the (i) context and separation of languages; (ii) amount of input of a language and (iii) the status of the language (Chevalier, 2011).

2.3. Context and separation of the language.

Assab has a large Ethiopian community, and the claimant, born in Assab and living there for only two years, was raised within an Amharic-speaking community. Until 1998, Assab was a major port in Eritrea for Ethiopia with many Ethiopian Nationals living and working there and the language of communication would have remained Amharic. There were schools that continued to teach in Amharic.

Therefore, it is not convincing that the claimant should have spoken more fluent Tigrinya, given the widely used Amharic in Assab, where she only stayed for a limited time and at a very young age. A former staff member of the UN in Eritrea at the time recalls in an interview to me:

In Assab, she would have spoken Amharic. From my experience in 2000 during the 3rd round of fighting when we received wounded, in Asmara, from Assab we had difficulty communicating with them because the wounded soldiers did not speak Tigrigna. We had to communicate using a combination of Arabic, Amharic, Tigre and when we had access to a speaker Afar. This to say Tigrigna is not a good indicator of belonging. (interview MvR, 29 December 2018)

Language, in this case, is not a reliable determinant of nationality but more importantly, the details of her narrative do not contradict her claim to Eritrean nationality, but in fact strengthen that claim as they increase the appearance of truthfulness of her story.

2.4. Nationality

The decision in relation to the claimant's request for asylum has not considered appropriately that the claimant considers herself to be Eritrean and the grounds for this claim. Neither language nor education are determinants of nationality under the law.

It is further important to consider that nationality in Eritrea is determined by either the father or the mother's line or both. Proclamation 21/1992 states that "Any person born to a father or a mother of Eritrean origin in Eritrea or abroad is an Eritrean national by birth." (Proclamation 21/1992, art. 1) The Proclamation further states that "A person born in Eritrea of unknown parents shall be considered an Eritrean national by birth until proven otherwise." (art 2.)

The claimant should be considered an Eritrean national based on both article 1 and 2.

It has not been disputed that claimant was born in Assab, and all the facts presented support that she was born in Assab – including the mix of her languages, being entirely

consistent with this. The determination of her place of birth in Assab, as the court has accepted, can only lead to the conclusion of her nationality as Eritrean in the law, based on art 2 of Proclamation 21/1992.

In addition it is clear that her parents are Eritrean, which grants her nationality based on art. 1, Proclamation 21/1992, she can only be considered to be an Eritrean national, established on the ground of her father's (undisputed) participation in the vote of the referendum on Eritrea's independence which is in law the principle ground for nationality after Eritrea obtained independence (SI,Q10) and repeated without prompting. The vote in the referendum of the father demonstrates undisputably that he was of Eritrean nationality, and - which (applicant would not know), is the single best proof of establishing the nationality of the father as voting in the referendum would have inevitably required him to have an Eritrean I.D., from which the nationality of the daughter has to be established as Eritrean by law based both on Eritrean and Ethiopian law.

Today, Ethiopia has not accepted any Eritrean deportees back into Ethiopia as Ethiopian nationals. Eritrea accepted the deportees and provided those over 18 years of age with documentation (see below), indicating without dispute that Eritrea accepted the deportees as Eritrean nationals. It is therefore unreasonable to assume that the claimant could access Ethiopian nationality, which was shown by the fact that the claimant received no assistance when she visited the Ethiopian embassy to clarify her situation. With regards to determination of nationality, which is the principle matter in this case, the claimant must be regarded as an Eritrean national, based on the fact that her father was Eritrean. In this case, the expectation that the claimant should pursue her nationality as Ethiopian is unreasonable, as the Ethiopian state does not recognize Eritrean nationals – based on the above, as Ethiopian nationals. Such an effort would therefore be fruitless in the case of the claimant, given that her father is established to be Eritrean.

As Ethiopia has relevant reasons to dispute her nationality as Ethiopian, this would potentially leave the claimant stateless – which is unreasonable given the logic in the facts that the claimant should be considered as of Eritrean nationality based on Proclamation 21/1992 art 1 and 2.

3. Determination of claimant's membership of the Pentecostal church

The court accepted the claim for the claimant to be a member of the Pentecostal Church. This is not disputed through the expert opinion and it is supported by the details provided by claimant. The claimant's description of the church were verified and the following position was provided:

Her descriptions of church services in Addis are also very accurate and age appropriate, and consistently so throughout. There is a bit of confusion about Pentecostalism and Seventh Day Adventist in her church here in the UK, however this is most likely due to the fact that the Pentecostal church she attends uses the premises of the Adventist church. (SK1 commentary on the interview)

Her name, which reflects the lineage and her fathers' and grandfathers' name are consistent with Christian names.

4. The implications for consideration of her application

From the analysis it follows:

1. Verification of the facts

- I.1. The details, location and timeline of the claimant relating to the situation of her and her family in Assab are credible. It can also be concluded that the details are precise in relation to the situation in Assab and that the claimant would not have had access to the kind of information that would help fabricate such complicated detail, especially also taking into account that the account is not in favour for a positive decision. I consider the account as credible and verifiable with externally available reliable studies and witness report. There is no reason to doubt the information provided by the claimant on her birth and time as a toddler in Assab.
- I.2. The details, location and timeline of the claimant relating to the situation of her and her family in Ethiopia, Eritrea and Khartoum were verified with local diplomats and found credible in the facts. There is no reason in the facts as they are known, to doubt the account of the circumstances of the period the claimant spent in Ethiopia, Eritrea and Khartoum.
- I.4. The languages used by claimant are consistent with the reports of resource persons in Ethiopia and Khartoum about the church communities of the claimant (dominant Amharic, Tigrinya and some Arabic) and a reliable source of UNICEF at the time (2003) reports that, despite the Eritrean policy, less than 50% of girls were enrolled and retained in school.

2. Language and Names

- 2.1. The language levels of claimant, who was raised trilingually (Amharic, Tigriniya and some Arabic from age 14), is consistent with outcomes of research into trilingually raised children where active and passive acquisition is determined by context, level of input and status of the language (Chevalier, 2011) and consistent with the claimant's description (statement, point 9). The indicator of language is therefore (in this case specifically) not a good determinant of nationality and is not a determinant of nationality in the law.
- 2.2. The names of the claimant and of family members are signifiers of their membership of the Christian community as she claims.

3. Membership of the Pentecostal Church

The claimant's membership of the Pentecostal Church is uncontested and supported in the facts she provided. Further evidence gathered for this report in Khartoum have confirmed the veracity of reported location of the church, the nature of the community, and the languages spoken in the church community as per claimants' report. She has given detailed evidence, which is credible. The persecution of the members of the Pentecostal Church in Eritrea is a well-established fact and ground for granting of asylum.

4. Final conclusion

- Based on all of the above, based on the check of the veracity of the report of the claimant and considering the law, the conclusion is that claimant's nationality is Eritrean.
- The Ethiopian government has stripped the possibility for nationality for all deportees 1998-2000 as set out in Human Rights Watch 2003 and per the refusal of Ethiopian authorities to consider a request for nationality by claimant (Statement, point 12).
- The information is undisputed that the claimant was born in Assab and that her father signed for the referendum.

- Place of birth is the first ground for Eritrean nationality based on Government of Eritrea Proclamation 21/1992.
- Nationality is further determined in Eritrea on either paternal or maternal lineage and based on the vote for independence in the 1993 referendum as per the law, for which an Eritrean I.D. was necessary, and further set out in Government of Eritrea Proclamation 21/1992.
- The statement of such facts, leaves no alternative opinion than to regard the nationality of the claimant as Eritrean, based on Government of Eritrea Proclamation 21/1992.

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