

Ethiopia

NGO Report on the implementation of ICCPR (Replies to the list of issues)

The contribution to this report is given by:

African Rights Monitor

Human Rights League of the Horn of Africa

Oromia Support Group

Unrepresented Nations and Peoples Organisation

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Replies from NGO coalition¹ to the list of issues (CCPR/C/ETH/Q/1)

Right to life (art. 6)

11. Please explain the State party's rejection of recommendations addressed to it during the universal periodic review of Ethiopia to undertake credible and independent investigations of alleged human rights violations in the Somali Region (see A/HRC/13/17, p. 24). What steps has the Ethiopian Human Rights Commission taken to establish a mechanism for monitoring human rights violations in the Somali Region, as agreed following the 2007 United Nations Humanitarian Assessment Mission to the Somali Region, which observed that the human rights and protection situation of the civilian population in the areas of military operation is alarming and requires urgent attention?

The state party has rejected the recommendations made during the Universal Periodic Review of Ethiopia at the United Nations Human Rights Council to undertake credible and independent investigations of alleged human rights violations in the Somali Region. The Ethiopian government has severely restricted the access of international observers and humanitarian organizations into "conflict" regions. While the Government has claimed to have performed an internal investigation into rights violations in the Somali Region, the resulting report has not been seen by any international observatory or UN body, and no prosecutions of perpetrators of torture have yet been made.² Meanwhile, the high volume of cases of torture, arbitrary detention and extrajudicial killings in the Somali Region and other areas of Ethiopia have been of such concern to the outside world that a special hearing of the European Parliament was held on the issue in March 2010,³ and a special Foreign Relations bill was drafted by the United States Senate calling on Ethiopia to encourage the release of all detainees and work to ensure humanitarian aid arrives to residents of the region.⁴

As violations of human rights continue in the Somali Region of Ethiopia, the creation of an effective, independent mechanism for monitoring human rights violations in the Somali Region should be a priority; however, such a mechanism should not be undertaken solely by the Ethiopian Human Rights Council (EHRC), but rather in partnership with independent international bodies such as the International Committee of the Red Cross (ICRC), which was obliged by the Ethiopian government to suspend its activities in the Somali Region in 2007 and has not yet been permitted to return.⁵ Most recently, on April 29, 2011 the ICRC reported that, following talks with Ethiopian Prime Minister Meles Zanawi, the organization had once again been denied access to the Region. The international community has repeatedly called for Ethiopia to allow the ICRC into the Region, a request which has been repeatedly denied.

¹ African Rights Monitor, Human Rights League of the Horn of Africa, Oromia Support Group, Unrepresented Nations and Peoples Organisation

² Amnesty International (2009) "Ethiopia: Amnesty International Submission to the UN Universal Periodic Review" AFR 25/004/2009, 13 April 2009, p. 4

³ UNPO (2010). *Hearing on Human Rights in Ogaden – European Parliament*. Unrepresented Nations and Peoples Organization, 18 March 2010, <<http://www.unpo.org/content/view/10849/81/>>

⁴ U.S. Senate, Committee on Foreign Relations (2007). *H.R. 2003*. 110th Congress, 1st Session, October 3, 2007

⁵ International Committee of the Red Cross (2011) "2011 Operational Update: Ethiopia" 31 March 2011

12. Please also indicate the measures taken to prevent the targeting of civilians by the military and to ensure its impartiality in the context of ethnic conflicts.

On the measures taken to prevent targeting of civilians:

Whatever measures taken by the State party to prevent the targeting of civilians by the military and to ensure its impartiality in the context of ethnic conflicts, the fact remains that there is no independent, effective mechanism in place to monitor their implementation within the Somali Region. The International Committee of the Red Cross (ICRC), tasked by the State parties under the Geneva Conventions with the protection of victims, including civilians, of international and internal armed conflicts, is currently barred from the region.

Therefore the state party should

- Make public the findings of the United Nations Humanitarian Coordinator and OHCHR Human Rights Officer who the State party reports visited the Somali Region.
- Allow for a credible, transparent and independent investigation into allegations of human rights violations in the Somali Region.
- Allow the International Committee of the Red Cross (ICRC) and other international humanitarian actors access to the Somali Region.

Prohibition of torture and cruel, inhuman or degrading treatment; liberty and security of the person; treatment of prisoners (arts. 7, 9 and 10)

16. Please provide further information on the measures, including mandatory human rights training for the police and law enforcement officers, taken to prevent and punish arbitrary arrests, detention and torture or ill-treatment of opposition activists and suspected members of illegal armed groups, as well as the use of force against suspects during arrest and interrogation (initial report, paras. 55-57, 62-66 and 81; common core document, paras. 240-243), which reportedly occur frequently in the State party? (common core document, table 80) Please provide case examples where perpetrators of such acts were brought to justice.

From the victim testimonies detailed below, there appears to be a wide-spread lack of police and law enforcement personnel's compliance with basic human rights standards. Interviews with 58 Oromo refugees conducted in September 2010 in Kenya revealed that 32 had acquaintances or relatives killed, 14 had close relatives killed. Several individuals reported incidences of torture and rape of detainees.⁶ These incidents of torture occurred with more than 2/3 of the detainees while 16 out of the 31 women interviewed were raped.⁷

⁶ See Annex for the full interviews.

⁷ Similar information also reported in : Jaranson et al. (2004) *Somali and Oromo Refugees : Correlates of Torture and Trauma History*, American Journal of Public Health, 94 :4, pp. 591-598, April 2004.

18. *Please provide additional information on measures taken to improve the reportedly alarming conditions in prisons and places of detention in the State party. In particular, indicate the measures taken to address: overcrowding; lack of sleeping space, food and water; the absence of adequate medical services and medicines, including for pregnant women, women with dependent infants and inmates with HIV/AIDS; the absence of specialized facilities for inmates with disabilities; poor hygienic and sanitary conditions; co-detention of juvenile and adult offenders and of convicted persons and persons awaiting trial; inadequate protection of juvenile prisoners and children detained with their mothers from violence; inadequate access to education, vocational training and recreational activities, including for juvenile prisoners and children detained with their mothers; restricted contact with family members; and the remote location of prisons? (initial report, paras. 59-61, 87-90, 94, 99-101 and 104).*

There is significant and credible evidence that, at present, conditions in Ethiopia's prisons and places of detention continue to be unsatisfactory. Prisoners arrested on charges of Ogaden National Liberation Front (ONLF) or Oromo Liberation Front (OLF) activity are frequently held in military bases, federal police prisons, and local, administrative detention centers as well as unofficial detention centers where official procedures governing the treatment of detainees and allowing visits from family members, lawyers and religious leaders are often ignored.

The Council Of Ministers Regulations No.13812007 of the Federal Democratic Republic of Ethiopia, which entered into force on the 23rd of July 2007, lists many of the standards which are to be upheld by prisons, such as a balanced and sufficient diet, access to clean drinking water and the provision of free medical treatment. However, the measures taken to further the implementation of these standards remain unclear, and reliable information regarding the existence of any such measures is not available given the lack of comprehensive independent monitoring. The response of the State party does not provide clarity as to what measures are being taken to address situations where these standards are not being met. The State response does list standards to be upheld within the prison system, such as the allowance for regular consultations between the inmates and officials of the prison (para. 42) and the use of suggestion boxes for comments from prisoners (para. 43). However, while the items listed in paragraphs 38 – 43 of the State response are positive standards, the report does not provide information about specific measures taken to make these standards a reality.

25. *Please explain the inconsistency of the provisions of CSO Proclamation No. 621/2009 (initial report, para. 210) that bar foreign CSOs and those which receive more than 10 per cent of their funds from foreign sources from working on human rights, gender equality and the administration of justice (art. 14), and deny foreign and foreign-funded CSOs a judicial remedy against decisions of the Charities and Societies Agency (CSA) on their registration, suspension or dissolution, with the obligations of the State party under articles 2, paragraph (3), 22 and 26 of the Covenant. Please clarify whether the Board responsible for hearing appeals against decisions of the CSA has been established.*

The CSO law⁸ is implemented in Ethiopia since January 6 2010 and although its preamble states that “it is found necessary to enact a law in order to ensure the realization of citizens’ right to association enshrined in the Constitution of the

⁸ Full text of the Law available.

Federal Democratic Republic of Ethiopia” and “it is found essential to promulgate a law to aid and facilitate the role of Charities and Societies in the overall development of Ethiopian peoples”⁹, its key provisions weaken the work of independent civil society organizations, especially the work of human rights defenders and of organizations furthering democratic governance. The Ethiopian governments appears to view NGOs as adversaries and foreign NGOs as part of intelligence work as it describes the aims of NGOs when coming to Ethiopia as: (One) “the promotion of the agenda of their country, which is the fundraiser for their activities in Ethiopia, [while] They provide every kind of information ranging from political to economic and others, which are required by their countries,” and (Two) “The other agenda is the provision of whatever aid assistance to Ethiopia. NGOs would sometimes try to use aid and assistance for political influence”.¹⁰

The board of the Charities and Societies Agency has seven members, including Asmelash Woldegiorgis, MP and chair person; Kebede Worku (MD), state minister for Health (MoH); Woldai Amha (PhD), former president of the Ethiopian Economics Association (EEA); and Fuad Ibrahim, state minister for Foreign Affairs (MoFA).¹¹

The CSA makes final decisions to approve, deny or revoke registration of associations. Under article 104(3), only “Ethiopian” Charities/Societies can appeal decisions of the CSA. This provision arbitrarily deprives “Ethiopian Resident” and foreign NGOs of recourse to judicial remedies.¹² The CSA has several authoritative powers, such as to set up inquiries about a charity or society without limitation or notice, and for purposes of an inquiry, require a charity or society, or its officers or employees, to produce accounts and statements in writing on any matter at issue in the inquiry, produce documents, and to attend at a specified time or place to give evidence or produce documents (Article 84); or to call for a charity or society or its officers or employees to provide orally or in writing “any information” relating to any charity or society, or to produce documents (Article 85); or to suspend officers, restrict the organization’s transactions or the nature or amounts of payments made, or order the retention of property when being satisfied that misconduct or mismanagement has occurred and that it is necessary to protect the property of the charity or society (Article 90).

a)

The Ethiopian Government asserts that a Board for Charities and Societies (CSOs) to appeal restrictions made on them under the CSO Proclamation has been established, advertised, and is currently reviewing eight cases.¹³ While the language of the CSO Proclamation directly asserts that there can be an appeal to any decision made by the CSO Agency, the entire process is insufficient for the following three reasons: Firstly, only one round of appeals is allowed. As the Law asserts, the “decision of the Board shall be final.”¹⁴ no counter-appeal process is permitted, thus restricting an organization’s capacity to correct any erroneous information leveled at them within the Board’s investigations, while also tipping the balance of power to the Charities and Societies Agency.

In addition, appeals are limited only to issues of law, whereas several of the agency’s decisions are problematic due to issues of false accusations and

⁹ Charities and Societies Proclamation No 621/2009 Preamble.

¹⁰ http://www.mfa.gov.et/Foreign_Policy_And_Relation/Multilateral.php?Page=Multilateral_11.htm

¹¹ <http://allafrica.com/stories/201102081019.html>

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¹³ Human Rights Committee, *Replies from the Government of Ethiopia to the list of issues (CCPR/C/ETH/Q/1) to be taken up in connection with the consideration of the second periodic report of Ethiopia (CCPR/C/ETH/1)*, 26 April 2011, p. 17.

¹⁴ Ethiopia CSO Law, *supra* note 1, at art. 104(2).

incomplete/biased investigation of organizations.¹⁵ If an organization wants to debate the Agency's assertions on its budget, composition of its board/members, or its activities and projects, there is no possibility to appeal such findings in investigations that could lead to drastic measures including freezing assets or refusing the organization's application to register. (e.g.: Samaritan's Purse was expelled from Ethiopia on counts that it had hired and paid 3 foreign nationals without proper visas, yet the individuals in question were in fact identified as student volunteers and were never remunerated for their activities. The organization was unable to appeal to the Board despite such simple factual errors in the Agency's investigation that resulted in the Samaritan's Purse's indefinite expulsion order.)¹⁶

Lastly, so far the Appeals Board has only upheld Agency decisions, including the revocation of two international NGOs' licenses (Samaritan's Purse and Mobility without Barrier Foundation-Ethiopia), and freezing the accounts of two local NGOs (Ethiopian Human Rights Council and Ethiopian Women Lawyers Association), demonstrating a potential bias in its matters of investigation.¹⁷

b)

The CSO law discriminates between local and foreign civil society organizations based on their financial resources and the amounts of finances they could receive. According to this new Charities and Societies Proclamation, any organization receiving more than 10% of its funds from foreign sources is deemed a "Foreign NGO". Given that local NGOs cannot raise adequate funds from local donors for their functioning in a country with as little financial resources as Ethiopia, this proclamation is a deliberate campaign launched to systematically eliminate civil society organizations. In order to strengthen this discriminatory provision and assure its effectiveness, foreign NGOs have been banned from engaging in any activities relating to the advocacy of human and democratic rights as well as women and children's' rights, disabled persons, ethnic issues, and conflict settlement and resolutions.

26. Please explain why the bank accounts of the Ethiopian Human Rights Council and the Ethiopian Women Lawyers Association have been frozen by the Charities and Societies Agency and why the Ethiopian Bar Association was unable to re-register under the same name. In light of the difficulties faced by those CSOs and given the fact that many CSO leaders left Ethiopia in 2009, please explain how the State party intends to ensure an enabling environment for local human rights CSOs.

While the Government of Ethiopia justifies the freezing of the Ethiopian Human Rights Council (EHRC) and Ethiopian Women Lawyers Association's bank accounts (EWLA) by asserting that both organizations' were found in violation of multiple provisions of the CSO Proclamation, these restrictive actions imposed on both organizations simply follow a string of similar measures performed by the State against civil society dating back to the 1990s, long before the Proclamation was put into force in 2009. Throughout the 1990s, Ethiopia's ruling political party, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), repeatedly refused the EHRC's application to register, froze its bank accounts, and has publicly

¹⁵ Dagne, Kumlachew, *Observations on the Draft CSO Law*, Ethiopian Bar Association 2009.

¹⁶ Mesfin, Mahlet, "Board Upholds Revocation of NGOs, Licenses, Accounts Freeze," *Addis Ababa Fortune*, 7 February 2011.

¹⁷ Mesfin, Mahlet, "Board Upholds Revocation of NGOs, Licenses, Accounts Freeze," *Addis Ababa Fortune*, 7 February 2011.

denounced the organization. Furthermore, the EWLA was previously suspended by the State in 2001.¹⁸ The CSO Proclamation has given the Ethiopian Government a legal “legitimacy” to impose restrictive measures against non-governmental organizations that have been occurring for decades: both organizations appealed to the Agency stating that any foreign funds they had received were given before the inaction of the Proclamation, to which the State claims that the Proclamation also applies retroactively, a practice that breaches common principles of the rule of law.

In regards to the Ethiopian Bar Association, this organization along with the EHRC and EWLA has been repeatedly a target of restrictive measures by the government long before the 2009 CSO Proclamation, placing its most recent challenges to re-register in a more complex context. Not only has the CSO experienced recurring challenges in the last two decades in officially registering with the Government, within the last few years, the State has largely replaced the Bar Association with its own network, sincerely limiting the Association’s capacities.¹⁹ Furthermore, the Government’s only defense against not accepting the Association’s re-registration application is that the CSO produced a photocopy versus original document of original name registration, and that there was an inaccurate translation between English and Amharic on the organization’s title.²⁰ In the wake of previous restrictive measures, these excuses are simply unacceptable.

Right to take part in the conduct of public affairs (art. 25)

29. In light of reports of a discriminatory pre-election environment ahead of the 2010 legislative elections, please explain how the State party intends to prevent a further narrowing of the political space of citizens; strengthen public trust in the impartiality of the National Elections Board; effectively investigate complaints of campaign violations, harassment and intimidation of opposition candidates; and ensure adequate public financing of political parties, neutral media coverage as well as an enabling environment for civil society participation in future election campaigns.

The right to take part in the conduct of public affairs in Ethiopia is still not guaranteed, as the events surrounding and following the May 2010 National Elections demonstrate. The recruitment of non-partisan election officers, an initiative by the Government to help ensure a non-discriminatory environment at polling stations, was observed to be a non-transparent process, and the training given to the officials was deemed “to be deficient in terms of length and methodology”.²¹

The public trust in the National Electoral Board of Ethiopia (NEBE) is undermined by the composition of the Board. The nine-member Board does include a lawyer, as specified by law. However, the current lawyer on the NEBE happens to also be the President of the Federal Supreme Court. This dual appointment is a clear conflict of

¹⁸ Human Rights Watch, *One Hundred Ways of Putting Pressure*, HRW, New York, March 2010, pp. 39-40.

¹⁹ Human Rights Watch, *One Hundred Ways of Putting Pressure*, HRW, New York, March 2010, p. 40.

²⁰ Human Rights Committee, *Replies from the Government of Ethiopia to the list of issues (CCPR/C/ETH/Q/1) to be taken up in connection with the consideration of the second periodic report of Ethiopia (CCPR/C/ETH/1)*, 26 April 2011, pp. 17-18.

²¹ European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.11

interest, especially considering that the avenue for citizens and candidates to appeal NEBE decisions ends at the Supreme Court.²²

Voter education was handled exclusively by the NEBE, with no option for Civil Society Organizations to engage the electorate. Both the US Department of State and the European Union Election Observation Mission (EU EOM) maintain that voter education was severely lacking (for example, education was limited to directing citizens to polling stations).^{23,24}

The government claims that a functioning election complaints resolution process is in place. However, the EU EOM report voiced concerns about the impartiality of the election complaints resolution process, stating that in some observed instances, “[election officials] denied having received specific complaints, which the Mission was aware they had received and officially filed”.²⁵ The EU EOM agrees: “Overall, the number of cases before the courts was insignificant compared to the volume of verbal denunciations.”²⁶

The funding of political parties is governed by the Political Parties Registration Proclamation as well as the NEBE Regulation Concerning the Procedure for Determining the Apportionment of Government Financial Support to Political Parties. Although this formula includes all parties, it ignores independent candidates, and it heavily favors the incumbent party, with the result that “the Ethiopian People’s Revolutionary Democratic Front (EPRDF) entered the election season with millions of dollars, whereas major opposition parties were virtually bankrupt.”²⁷ Additionally, there is evidence that abuse of power took place in the form of the ruling party’s use of public resources for campaigning purposes, which confers an unfair advantage on the ruling party, and is a violation of the Electoral Code of Conduct for Political Parties (ECCPP). Examples include: “the loading of EPRDF campaign posters in local administration vehicles, the use of local administration offices to coordinate campaign activities, housing of ruling party offices in local administration compounds (which often housed NEBE offices) and the stockpiling of EPRDF posters within local administration installations.”²⁸

Rights of persons belonging to minorities (art. 27)

30. What mechanisms are in place to ensure the right of linguistic minorities in the Federal Regions in administrative, judicial and other official dealings to use their own language or the lingua franca Amharic rather than only the official language of the region (initial report, paras. 5 and 275)? Please indicate the opportunities for minority children to receive school instruction in their native language or to learn such language.

²² European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.10

²³ European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.12

²⁴ US Department of State, *2010 Human Rights Report: Ethiopia*, Bureau of Democracy, Human Rights and Labor, p.34

²⁵ European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.25

²⁶ European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.28

²⁷ US Department of State, *2010 Human Rights Report: Ethiopia*, Bureau of Democracy, Human Rights and Labor, p.34

²⁸ European Union Election Observation Mission, *Ethiopia, Final Report, House of People’s Representatives and State Council Elections, May 2010*, European Union Election Observation Mission, 8 November 2010, p.17

While the development of the Education and Training Policy adopted in 1994 has aided some minorities in obtaining primary education in their native language (approximately 25 languages are taught throughout the country, while over 80 ethnic groups exist)²⁹, the implementation has been far from perfect. As an example, in the South Nations, Nationalities and Peoples Regional State (SNNPRS), although language rights are protected by the constitution of the state, the result of poor planning to implement the language policy was that “some minority societies were forced to educate their children in a language that is neither their mother tongue nor the default alternative (Amharic).”³⁰ In another unfortunate situation in the same region, the government took the liberty to dictate a new working language for the region that was a hybrid of four regional dialects, and introduce it into the primary education system in the 1990's. Critics claim that “the decision makers not only underestimated the local realities and value systems of the community, but they also displaced the very goal of language of instruction—that is, the rights of people—for economic reasons.”³¹ The result was mass protests for over two years which eventually led to 7 deaths and destruction of property worth millions of birr.³² It is clear from these examples that language practices on the ground are not reflective of the legislation, and that there is still much work to do to ensure the language rights of minorities.

In the context of access to administrative and judicial services in native languages, it remains unclear if there are mechanisms in place to guarantee this right. It is noted that some regions (for example the SNNPRS) will provide translators for people seeking services who cannot speak the regional working language.³³ This service should ideally be accessible in all regions, though there is no evidence that this is the case.

Answers provided by:

African Rights Monitor to: Q 25 a), 26, 29 and 30.

Human Rights League of the Horn of Africa to: Q 25 b).

Oromia Support Group, Malvern UK to: Q 16 a) (also: see Annex for interviews and cases)

Unrepresented Nations and Peoples Organisation to: Q 11, 12, and 18.

²⁹ Alemu, D. S., Tekleselassie, A. A. *Instructional Language Policy in Ethiopia: Motivated by Politics or the Educational Needs of Children?* Planning and Changing, Vol. 37, No. 3 & 4, 2006, pp. 151-168

³⁰ Getachew A. And Derib Ado. *Language Policy in Ethiopia: History and Current Trends*. Ethiop. J. Educ. & Sc., Vol. 2 No. 1, September 2006, p.56

³¹ Alemu, D. S., Tekleselassie, A. A. *Instructional Language Policy in Ethiopia: Motivated by Politics or the Educational Needs of Children?* Planning and Changing, Vol. 37, No. 3 & 4, 2006, pp. 151-168

³² Getachew A. And Derib Ado. *Language Policy in Ethiopia: History and Current Trends*. Ethiop. J. Educ. & Sc., Vol. 2 No. 1, September 2006, p.57

³³ Getachew A. And Derib Ado. *Language Policy in Ethiopia: History and Current Trends*. Ethiop. J. Educ. & Sc., Vol. 2 No. 1, September 2006, p.55