

AFRICAN UNION		UNION AFRICAINE
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Concluding Observations and Recommendations on the 5th and 6th Periodic Report of the Federal Democratic Republic of Ethiopia

I. Introduction

1. The Federal Democratic Republic of Ethiopia (Ethiopia) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified it **on 16 June 1998**.
2. Pursuant to Article 62 of the African Charter, Ethiopia submitted its 1st to 4th Periodic Report to the African Commission on Human and Peoples' Rights (the Commission) at its 46th Ordinary Session, held in Banjul, The Gambia, from 11 to 25 November 2009.
3. The present Report, which covers the period from 2010 to 2014, combines the 5th and 6th Periodic Reports (the Report). The Report was considered by the Commission during its 56th Ordinary Session, held from 21 April to 7 May 2015, in Banjul, The Gambia.
4. The Report was presented to the Commission by the delegation from Ethiopia (the delegation), led by H.E Ato Zadig Abreha Berhe, General Director of the Office of National Council for Grand Ethiopian Renaissance Dam, and accompanied by the following officials:

- Ato Dereje Tegyyebel, Director for Legal Services , Ministry of Women, Children and Youth Affairs; and
 - Ato Eyob Getachew, Public Prosecutor/International Cooperation, Ministry of Justice.
5. The Report highlights developments which took place in Ethiopia in the promotion and protection of human rights, and the legislative, administrative and judicial measures put in place to comply with its obligations under the African Charter.
 6. The present Concluding Observations and Recommendations give an account of the positive aspects, the factors restricting the enjoyment of human rights and the areas of concern regarding exercise of human rights in Ethiopia. The Commission makes recommendations to the Government of Ethiopia on measures for strengthening the enjoyment of human rights as guaranteed by the African Charter, as well as other relevant regional and international human rights instruments.

II. Positive Aspects

7. The Commission notes a number of positive aspects in Ethiopia's fulfilment of its obligations under the African Charter:

Reporting Obligation and Cooperation with the Commission

8. The Commission:
 - i. welcomes the efforts made by Ethiopia in preparing and presenting its Report and commends the latter for being up to date with its obligations under Article 62 of the African Charter;
 - ii. commends the efforts made by Ethiopia to ensure that the preparatory process of the Periodic Report was participatory and involved different stakeholders from public and private sectors including representatives from Civil Society Organisations (CSO) and media groups;
 - iii. commends Ethiopia for implementing some of the recommendations of the Commission in its Concluding Observations on its 1st to 4th Periodic Report.

Ratification of Regional/International Human Rights Instruments

9. The Commission commends Ethiopia for ratifying the following regional and international human rights instruments during the reporting period:

- i. African Charter on Statistics;
- ii. African Youth Charter;
- iii. African Union Non-Aggression and Common Defence Pact;
- iv. Convention on the Rights of Persons with Disabilities;
- v. Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition;
- vi. Protocol Against the Smuggling of Migrants by Land, Sea and Air;
- vii. Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children;
- viii. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;
- ix. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- x. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

10. The Commission commends Ethiopia for the enactment of the following laws to guarantee human rights:

- i. Citizens Charter of 2012;
- ii. Proclamation No. 684/2010; Federal Justice Administration Council Establishment (as Amended);
- iii. Proclamation No. 690/2010; Social Health Insurance;
- iv. Proclamation No. 699/2010; Protection of Witnesses and Whistle-blowers of Criminal Offences;
- v. Proclamation No. 720/2011 and 737/2012; Ethiopian Federal Police Commission Establishment;

- vi. Proclamation No. 780/2013; Prevention and Suppression of Money Laundering and Financing of Terrorism;
- vii. National Refugees Law of 2011/12.

Institutional and Policy Measures Promoting Human Rights

11. The Commission commends the following institutional measures in the promotion and protection of human rights:

- i. The National Electoral Board;
- ii. The Ethiopian Human Rights Commission;
- iii. The Ethiopian Ombudsman Institute;
- iv. The Ethics and Anti-Corruption Commission;
- v. The Cooperative Societies Commission.

12. The Commission commends the adoption of the following policies to guarantee human rights and promote peace and development:

- i. The Democratic System Building Policy (2002);
- ii. The Rural and Agricultural Development Policy and Strategy(2001);
- iii. The Foreign Affairs and National Security Policy and Strategy (2002);
- iv. The National Women’s Policy (1993);
- v. The National Youth Policy (2004);
- vi. The National Health Policy(1993);
- vii. The Education Policy(1993);
- viii. The Fiscal and Monetary Policy;
- ix. The Urban Development Policy (2005);
- x. The Social Development and Welfare Policy (1998);
- xi. The National Population Policy;
- xii. The HIV/AIDS Policy (1998);
- xiii. The Water Sector Policy;
- xiv. The Criminal Justice Policy (2011);
- xv. The Industrial Development Strategy;
- xvi. The Demography Policy (2000);
- xvii. The Capacity Building Strategy and Program (2002).

Economic and Social Developments

13. The Commission welcomes the:

- i. progress made towards the economic growth and social development of the country, as illustrated in the information and data regarding macroeconomic performances provided in the Report;
- ii. adoption of the Growth and Transformation Plan, setting the path for the Ethiopian renaissance and creating opportunities for the promotion and protection of human rights.

Economic, Social and Cultural Rights

14. The Commission commends Ethiopia on the:

- i. improvement in income and living standards of citizens and measures taken to reduce unemployment through the expansion of micro and small enterprises, the increase in per capita income and the decline in the poverty level;
- ii. the launching of the Health Extension Program to provide basic health services to the rural communities;
- iii. establishment of Health Service Clinics in 76 detention centres for detainees to receive free medical services;
- iv. introduction of Alternative Basic Education, Early Childhood Care Education, Functional Adult Literacy and mobile schools to respond to the diversified educational needs of the people;
- v. the building of new schools both in urban and rural areas, the increase in the number of primary schools, the provision of primary education in 25 local languages; and the implementation of programs to improve the literacy rate for girls and women;
- vi. the establishment of Offices of Housing Development and Government Houses Agency to provide adequate housing needs; and the issuance of

Condominium Proclamation and Urban Lease Holding Proclamation No. 721/2011; to construct houses that are affordable for urban dwellers, replace old houses and renovate surrounding areas.

Civil and Political Rights

15. The Commission commends Ethiopia on the:

- i. creation of Civic Education and Citizen's Manual in different languages to guarantee civic education and education of citizens on their democratic rights;
- ii. adoption of the National Human Rights Action Plan 2013, to improve the promotion and the protection of fundamental human and democratic rights;
- iii. provision of free legal aid service for the benefit of persons in detention;
- iv. provision of financial support to parties for election campaign and the establishment of Joint Consultation Councils both in Federal and Regional election areas, to resolve complaints and irregularities.

Women and Children's Rights

16. The Commission commends Ethiopia on the:

- i. efforts made in combatting maternal and child mortality rates resulting in the increased provision of anti-natal care from 31% in 2009/10 to 97.4% in 2012/13;
- ii. adoption of a National Action Plan and National Coordination body drawn from various offices to combat any form of violence against women, as well as, the enactment of protective legislation on the minimum age for marriage age, forced and arranged marriages, and gender based violence;
- iii. provision of mandatory training for 150 prosecutors on the strict application of the relevant provisions of the Criminal Code for the prevention and protection of sexual, physical and domestic violence against women and children;

- iv. criminalization of harmful traditional practices such as female genital mutilation and child marriage;
- v. efforts made in the protection of children's rights, notably:
 - a) the establishment of a Children's Mock Parliament at *woreda* levels;
 - b) the adoption of an Action Plan on Illegal Human Trafficking and the establishment of the National Child trafficking taskforce;
 - c) the National Plan of Action to fulfil the rights of children and combat discrimination against children; and
 - d) the establishment of Child Rights Committees at Federal, Regional and Zonal levels and the National Steering Committee to combat child sexual violence, child labour exploitation and sexual violence.

Rights to Freedom of Expression,

17. The Commission commends Ethiopia on the:

- i. adoption of the Freedom of Mass Media and Access to Information Proclamation, which provides for freedom of the mass media and access to information;
- ii. significant allocation of funds to launch 12 additional TV Channels, the publication of 16 public and private newspapers and 26 magazines and the establishment of community based radio stations that broadcast programs in local languages, to diversify its broadcasting infrastructure.

Right to Freedom of Assembly and Association

18. The Commission commends Ethiopia for:

- i. establishment of the Federal Charities and Societies Agency and Federal and City Administration Cooperative Societies and Agencies to ensure citizens right to freedom of Association;

- ii. establishment of an Inter-Religious Council to maintain religious tolerance, promoting a culture of peace through religious participation and enabling religious institutions to advance their faith freely.

Due Process and Conditions of Detention

19. The Commission commends Ethiopia for:

- i. incorporating the right to human dignity and prohibition against torture and inhuman treatment in the curricula of the Federal and Regional Police Commissions and Prison Administrations;
- ii. the efforts made in introducing capacity building programs for the Police stations, Prison Administration, Courts of Law, and the Ministries and Bureaus of Justice at the Federal, Regional and City Administration levels;
- iii. allowing regular prison visits from family members; CSOs and international institutions;
- iv. the establishment of the Ethics/Discipline Committees in all Police Commissions to investigate cases of violations of human rights and take necessary administrative measures against perpetrators;
- v. the establishment of the Federal Courts Reform Program (2008-2015), ensuring fair, effective, efficient and equitable adjudication of cases.

Rights of Older Persons and Persons with Disabilities

20. The Commission commends Ethiopia for the establishment of the:

- i. National Federation Association of Persons with Disabilities and the Rehabilitation Action Plan providing special needs education and employment opportunities for the disabled;
- ii. National Elders Association and Pensioners Associations instituted to ensure respect for the rights of older persons and coordinate the work of associations established to aid and care for older persons.

Death Penalty

21. The Commission commends Ethiopia for not imposing the death sentence since 2008.

Refugees

22. The Commission commends Ethiopia for housing many refugees and the adoption of the National Refugees Law of 2011/2012 to protect the rights of refugees and asylum seekers, and promote rehabilitation for refugees.

Extractive Industries and the Environment

23. The Commission commends the establishment of a legal framework for the production of artisanal mining enabling communities to benefit from mining activities.

Right to Development

24. The Commission commends Ethiopia for its continuous efforts towards the development of the living conditions and environment of its populations through the implementation of diverse development projects and programmes.

III. Factors restricting the enjoyment of human rights guaranteed by the African Charter

25. The Anti-Terrorism Proclamation (Proclamation No. 652/2009) which aims at combatting terrorism and ensuring national security in a region plagued by instability due to mounting active extremism and radicalism is impeding the enjoyment of many human rights guaranteed in the African Charter.
26. The Charities and Societies Proclamation No. 621/2009 limits the ability of CSOs to play their roles in promoting and protecting human rights.

27. Harmful cultural, religious and traditional practices continue to restrict Ethiopian women and children from fully enjoying their rights, and are often the cause of human rights violations against women and children.
28. Resource constraints, illiteracy and lack of knowledge by the majority of the population about regional and international human rights instruments ratified by Ethiopia restrict the effective enjoyment of human rights in Ethiopia.

IV. Areas of Concern

29. While acknowledging the significant efforts made by the Government of Ethiopia to promote and protect human rights, the Commission is however concerned about the following matters:

Reporting Obligations and Cooperation with the Commission

30. The Report does not provide specific and comprehensive answers to questions and issues raised by the Commission in its 2010 Concluding Observations and Recommendations on Ethiopia's 1st to 4th Periodic Report; and Ethiopia continues to apply legislation on which the Commission raised concerns in those Concluding Observations. These include:
 - i. The Anti-Terrorism Proclamation No. 652/2009;
 - ii. The Charities and Societies Proclamation No. 621/2009;
 - iii. Freedom of Mass Media and Access to Information Proclamation No. 590/2008.
31. The Report does not provide comprehensive disaggregated data, including gender disaggregated data on its implementation of the rights guaranteed in the African Charter in order to allow the Commission to objectively assess Ethiopia's level of compliance *vis-à-vis* the obligations contained in the African Charter.
32. The Report lacks information on Articles 10 and 11 of the African Charter regarding the rights of human rights defenders and freedom of association.

Ratification of Regional/International Human Rights Instruments

33. Ethiopia has not ratified the following human rights instruments:

- i. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights;
- ii. African Union Convention for the Protection of Internally Displaced Persons in Africa;
- iii. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- iv. International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families;
- v. Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Economic, Social and Cultural Rights

34. The Commission is concerned about the:

- i. negative impact of agri-business activities on customs, traditional modes of living and about the fact that local populations are displaced for the purposes of such industrial activities;
- ii. existence of a cross-section of the population who live in poor social-economic conditions and lack access to basic amenities such as food, health care, education, housing and employment;
- iii. high rate of unemployment which in urban areas is officially 17.5 percent for 2011/2012;
- iv. low level of HIV/AIDS sensitization programmes, in particular programmes targeting the youth in underprivileged communities as well as the insufficiency of services for children orphaned by HIV, services to prevent Mother-to-Child Transmission (MTCT) and Anti-Retroviral Treatment (ART).

Civil and Political Rights

35. The Commission is concerned about the:

- i. lack of adequate awareness of the population about their rights, legal procedures and available remedies;
- ii. acts of discrimination against certain ethnic groups on the basis of their purported affiliation to opposition political parties which continues to take place;
- iii. restrictions of activities by opposition political parties whose result is that Ethiopia's parliament is dominated by one party.

Women and Children's Rights

36. The Commission is concerned about the:

- i. low representation of women at decision making levels;
- ii. prevalence of trafficking in persons particularly of vulnerable groups such as women, girls and children;
- iii. high rate of maternal and child mortality despite the efforts made by the government to improve child health services;
- iv. prevalence of gender based violence and violence against children despite the government's efforts in combatting them;
- v. The persistent traditional harmful practices such as Female Genital Mutilation and Child marriages, in spite of the criminalization of the said practices, and poverty of women etc.

Rights to Freedom of Expression,

37. The Commission is concerned about the:

- i. cases of intimidation, arbitrary arrest and detention of journalists, activists and human rights defenders, including the case of nine bloggers charged under the Anti-Terrorist Proclamation;
- ii. persistent control on the media including electronic media monitored by sophisticated technological means;
- iii. cases of repression of people protesting in line with their right to freedom of religion, belief and expression.

Right to Freedom of Assembly and Association

38. The Commission is concerned about the:

- i. lack of investigations and reprisals for law enforcement agents who allegedly repressed protesters resulting in deaths during the 2005, 2012 and 2013 protests;
- ii. non-revision of the Charities and Societies Proclamation and the Anti-Terrorism Proclamation hindering the work of charities and societies as well as the activities of CSOs to conduct their work freely without interference by state actors or any private person.

Due Process and Conditions of Detention

39. The Commission is concerned about the:

- i. poor conditions and ill-treatment prisoners are subjected to;
- ii. failure to respect the constitutional 48 hours duration of police custody;

- iii. lack of vocational training activities in prisons to facilitate the social reintegration of prisoners after they leave prison;
- iv. lack of speedy processes in the judicial system which continues to hinder the right to fair trial.

Death Penalty

40. The Commission is concerned that the death penalty remains on the Criminal Code despite the self-imposed moratorium on the death penalty.

Indigenous Populations

41. The Commission is concerned that Ethiopia does not recognise the criteria set by the Commission which serve to identify indigenous populations. This non-recognition leads to Ethiopia's denial of the status of indigenous populations to certain ethnic groups thereby negatively impacting on their human rights.

Refugees

42. The Commission is gravely concerned by the nature of the law on refugees which restricts their conditions of settlement, employment and access to nationality.

Internally Displaced Persons

43. The Commission is concerned by the low pace at which Ethiopia works on policies regarding internally displaced persons, particularly taking into account the seriousness of the phenomenon in Ethiopia due mainly to development projects and climatic challenges.

Prohibition of Torture and Ill-treatment

44. The Commission is concerned about the lack of criminal legislation that incorporates the full definition of torture as provided for under Article 1 of the Convention against Torture; and the lack of a functional independent mechanism to monitor and conduct impartial investigations into allegations of torture.

V. Recommendations

45. In view of the foregoing, the Commission makes the following recommendations to the Government of Ethiopia:

Reporting Obligations

46. Ethiopia should:

- i. ensure it complies with its obligations under Article 62 of the African Charter by implementing these recommendations;
- ii. respond to all the concerns raised by the Commission on the Initial and Combined 1st to 4th Periodic Report of the Federal Democratic Republic of Ethiopia, specifically in relation to the following issues:
 - a) the fleeing of judges Wolde-Micheal-Meshesha and Firehiwot Samuel;
 - b) Information on whether there are political prisoners in Ethiopia;
 - c) the failure of Ethiopia to take steps to bring to justice those responsible for the death of protesters in the 2005 post-election violence.

Ratification of Regional/International Human Rights Instruments

47. Ethiopia should ratify the following human rights instruments:

- i. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and make a declaration under Article 34(6) of the Protocol;

- ii. Convention for the Protection and Assistance of Internally Displaced Persons in Africa ("Kampala Convention");
- iii. Protocol to the African Charter on the Protection of the Rights of Women in Africa (Maputo Protocol);
- iv. Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Economic, Social and Cultural Rights

48. Ethiopia should:

- i. take appropriate measures to include human rights in the curricula of schools and universities;
- ii. raise the awareness of the entire population about their rights, legal procedures and available remedies;
- iii. strengthen ongoing HIV/AIDS sensitization programmes, in particular programmes targeting the youth from underprivileged communities.

Women and Children's Rights

49. Ethiopia should:

- i. enact a law to increase women's representation in decision-making institutions;
- ii. build operational and institutional mechanisms to combat violence against women and children and provide support to victims of violence;
- iii. provide free health care to pregnant women and children below five years to reduce the high rate of maternal and child mortality.

Right to Freedom of Expression,

50. Ethiopia should:

- i. take appropriate measures to effectively guarantee the right to freedom of expression, in particular for the private media, human rights defenders as well as for any other group;
- ii. ensure the Charities and Societies Proclamation and the Anti-Terrorism Proclamation comply with international human rights standards;

Rights to Freedom of Association and Assembly

51. Ethiopia should:

- i. adopt legislative measures to protect human rights defenders and create a forum for dialogue with civil society;
- ii. conduct without delay appropriate investigations and punish all law enforcement agents who repressed protesters during the 2005, 2012 and 2013 protests.

Protection of Vulnerable Groups

52. Ethiopia should continue efforts aimed at protecting vulnerable groups of the population such as the elderly, street children, persons with disabilities, refugees and internally displaced persons by:

- i. taking further measures and designing further special policies to ensure that the issue of street children is mitigated and their rights guaranteed with particular reference to their vulnerability;
- ii. Providing reasonable accommodations for persons with disabilities;
- iii. reviewing its refugee laws to enable access to employment and to Ethiopian nationality as per applicable international standards;

- iv. ensuring that laws and policies are expeditiously adopted to deal with the challenges faced by internally displaced persons.

Due Process and Conditions of Detention

53. Ethiopia should:

- i. take appropriate measures to ensure strict respect of the 48 hours duration of police custody and review the regime of pre-trial detention to comply with international standards such as the Commission's Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention;
- ii. continue to ensure human rights training for the police and other law enforcement officers;
- iii. organize vocational training activities/programmes in prisons to facilitate the social reintegration of prisoners after they leave prison.
- iv. ensure that law enforcement Agencies draw inspiration from the provisions of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial detention in Africa while making or reviewing laws and policies and in the curricula for training Police officers and prisons Agents

Death Penalty

- 54.** Ethiopia should adopt a moratorium against the death penalty and eventually move towards de jure abolition of the death penalty.

Indigenous Populations

- 55.** Ethiopia refers to the Commission's criteria on the recognition of the status of indigenous populations to a specific section of the population, and recognises that some ethnic groups in Ethiopia like the Oromo ethnic group are indigenous populations who have specific human rights that need to be protected. They should be represented at decision-making levels.

Internally Displaced Persons

56. Ethiopia takes measures to ensure that its development projects and programmes are implemented without prejudicing the rights of some sections of the populations; namely those who become internally displaced as a result of these development activities.

Prohibition of Torture and Ill-treatment

57. Ethiopia should ensure that investigations of allegations of torture and ill-treatment on detainees are conducted and perpetrators brought to justice.

Cooperation with the Commission

58. The Ethiopian Government should:

- i. invite the Commission and its Special Mechanisms to undertake a promotional mission to the country;
- ii. provide, in its next periodic report, up-to-date statistics and data on all relevant sectors as well as on activities of institutions with a human rights mandate;
- iii. inform the Commission, in its next periodic report, of the measures taken to address the above issues of concern and to ensure the effective implementation of the recommendations contained in the present Concluding Observations.

Adopted by the African Commission on Human and Peoples' Rights at its 18th Extra-Ordinary Session held from 29 July to 7 August 2015 in Nairobi, Kenya.