

2 November 2009

Public

amnesty international

Ethiopia

**Submission to the 46th Ordinary
Session of the African Commission
on Human and Peoples' Rights**



Amnesty International submission to the African Commission On Human and Peoples' Rights

Introduction

At the 46th Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR), the Periodic Report of the Federal Democratic Republic of Ethiopia (FDRE) will be considered. The FDRE has submitted a report in accordance with Article 62 of the African Charter on Human and Peoples' Rights for consideration by the ACHPR. This submission from Amnesty International has been produced in response to the FDRE report and it presents a different picture from the one presented by the government. Amnesty International offers this submission as an alternative view of the human rights situation in Ethiopia, with specific focus on freedom of expression, and urges the ACHPR to make concrete recommendations to address the concerns outlined below.

The Charities and Societies Proclamation

In January 2009, the Ethiopian Parliament passed into law the Charities and Societies Proclamation (known as the CSO Law), which imposes strict control measures and restrictions on civil society organisations. International organisations working in Ethiopia are now restricted from working on a range of human rights and democracy issues without special permission, and local non-governmental organizations (NGOs) are barred from undertaking similar activities if they receive more than 10% of their income from foreign sources. The law allows for criminal penalties to be imposed, including fines and imprisonment for even minor breaches of its provisions. In addition, the law establishes a Charities and Societies Agency with broad discretionary power over NGOs, including government surveillance and direct interference in the management and operations of such organizations. The new law puts at serious risk the ability of local and international organisations to monitor, report, advocate on and campaign against human rights violations in Ethiopia.

Funding restrictions contained in the new law have several grave implications for NGOs, human rights defenders and victims of human rights violations. The level of funding which NGOs need in order to operate and function effectively is widely unavailable in Ethiopia. Most NGOs in Ethiopia are therefore heavily dependent on donations and support from outside Ethiopia. Restricting the donation limit to 10% of an NGO's annual income makes the operation of most NGOs unviable. Such restrictions are in contradiction to the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders), adopted by the General Assembly in 1999. Articles 13 and 14 guarantee to everyone the right to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights through peaceful means. If enforced, the new law will force many NGOs to close their offices entirely.

In addition, an enforced prohibition on human rights work performed in Ethiopia by international organisations would have a detrimental effect on the human rights situation in the country. International organisations would be unable to undertake independent monitoring of human rights violations and would be unable to provide assistance to national NGOs.

The establishment of an oversight Charities and Societies Agency and the enforcement of its powers would amount to unwarranted government interference in the running of independent, non-governmental organisations. It would seriously affect the ability of human rights defenders and NGOs to freely develop and discuss ideas and principles, and it would violate the confidentiality of testimony regarding human rights

violations. Amnesty International is concerned that such an organ would offer no guarantee of independence or impartiality from the government, and could too easily be used to interfere with an organisation perceived to be critical of the government.

Political prisoners

During the period under review, Ethiopia detained thousands of people. Following the disputed elections in May 2005, there were mass arrests of opposition party activists and supporters, leaders of the opposition party *Coalition for Unity and Democracy* (CUD), journalists and civil society activists. Thousands were detained, including some who were beaten, tortured or otherwise ill-treated, and detained without charge or trial for significant periods of time.

In December 2005, 131 prominent opposition leaders, journalists and civil society activists were charged with a range of capital offences, including treason, incitement to armed uprising and genocide against an ethnic group. They included Berhanu Negga, the newly elected Mayor of Addis Ababa; Birtukan Mideksa, a former judge; Professor Mesfin Woldemariam, founder and former president of the Ethiopian Human Rights Council; journalists Serkalem Fasil and Eskinder Nega; and civil society activists Daniel Bekele and Netsanet Demissie. All were denied bail, but allowed access to lawyers and their families. The main trial began in May 2006, but was boycotted by the CUD and journalist defendants, leaving only Daniel Bekele, Netsanet Demissie and Kassahun Kebede, an official of the Ethiopian Teachers Association (ETA) to defend themselves during the trial proceedings. The ETA had been Ethiopia's longest-established trade union. In February 2008, after years of court actions, the Supreme Court upheld a decision to dissolve the union and hand over its assets to a rival union formed by the government and also known as the Ethiopian Teachers Association.

A number of defendants in the main trial and related cases were acquitted in early 2007 and released. Others were freed in July and August 2007 under a presidential pardon after a mediation process by an independent group of elders. They were required to sign an apology letter to the Prime Minister; however, the exact terms of their pardon remain unclear.

Daniel Bekele and Netsanet Demissie were found guilty in December 2007 and each sentenced to 30 months. When denied the usual opportunity of remission of one-third of their sentence for good behaviour, they signed a similar letter of apology as the CUD detainees. They were subsequently pardoned and released in March 2008, two and a half years after their initial arrest. Kassahun Kebede was acquitted and released with CUD defendants in 2007.

The nature of the pardon granted to all of the above-mentioned defendants was further thrown into doubt by the re-arrest of Birtukan Mideksa in December 2008 on the grounds that she had broken the conditions of her pardon when making a statement in Sweden describing the pardon process. Upon her return to Addis Ababa, Birtukan Mideksa was informed by law enforcement officials that she had several days to retract what government officials considered to be a public denial of her pardon request. When she refused to do so, she was arrested and placed in solitary confinement. Justice ministry officials confirmed that her pardon had been revoked and her original life sentence reinstated. Amnesty International is concerned by the lack of transparency surrounding the pardon process that led to the release of political detainees in 2007, and the government's revocation of the pardon, which is an unprecedented step in Ethiopian jurisprudence. Amnesty International considers Birtukan Mideksa a prisoner of conscience, imprisoned solely for the peaceful expression of her beliefs.

Dozens of other individuals were arrested in Addis Ababa in late 2006 for possession of a book secretly written in prison by Berhanu Negga or a calendar containing images of the CUD prisoners and encouraging civil disobedience. Yalemzewd Bekele, a lawyer then working for the European Commission in Addis Ababa,

was arrested in October 2006. She was released on bail after eight days of incommunicado detention. Her case was dismissed, without prejudice, in early 2008.

Arbitrary arrests and illegal detentions in the Oromia region

Throughout the period of review, the government continued to suppress dissent in the Oromia region of Ethiopia, and arbitrarily detained thousands of individuals suspected of supporting the Oromo Liberation Front (OLF). Many have been held in incommunicado detention or detained without trial, and court proceedings have often been delayed. Detainees are often held in poor conditions and some have been tortured or otherwise ill-treated.

In November and December 2005, thousands of students were detained, many ill-treated and some killed, following demonstrations throughout the Oromia region in support of the release of Oromo detainees and other political demands. They were released in late 2006 and early 2007. Hundreds more Oromo people were detained in November 2005 during post-election demonstrations. In November 2007, Mulata Aberra, a trader in Harar city, was arrested for the third time on suspicion of supporting the OLF. During his detention he was reportedly tortured and denied medical treatment for his resulting injuries. He was released on bail in July 2008.

From late October 2008 onwards, mass arrests of suspected OLF supporters were carried out. Among the individuals arrested were Bekele Jirata, General Secretary of the Oromo Federalist Democratic Movement (OFDM) party; Asefa Tefera Didaba, university lecturer at Addis Ababa University; brothers Dejene Borena and Kebede Borena; and Eshetu Kitili and Desta Kitili. The OFDM party strongly denied that Bekele Jirata or the party had any links to the OLF. A number of them have since been released without charge. Bekele Jirata was released on bail in February 2009 after a number of court appearances. Several more detainees have appeared in court and had their detention extended reportedly to allow police and security forces time to investigate the accusations against them. None of the detainees arrested during the round-up have so far faced trial.

Human rights violations in the Somali region

Amnesty International is concerned about reports of mass arrests, torture, rape and extrajudicial executions by government forces of suspected supporters of the Ogaden National Liberation Front (ONLF) in the Somali region of Ethiopia (known as the Ogaden). While a government commissioned investigation was undertaken in late 2008, these reports have not been investigated by the United Nations or other independent international investigators.

In April 2007, the ONLF attacked an oil installation in Obole village, killing Ethiopian soldiers as well as 65 Ethiopian and six Chinese civilian workers. In retaliation, the Ethiopian government mounted a blockade on conflict-affected districts in the region, causing severe food shortages and exacerbating the humanitarian situation in those districts. Although a UN fact-finding mission led to a partial alleviation of the humanitarian crisis in August/September 2007, the Ethiopian authorities continue to place restrictions on humanitarian aid in the Somali region.

In August 2007, Sultan Fowski Mohamed Ali, an independent mediator, was arrested in Jijiga, reportedly to prevent him from giving evidence to the UN fact-finding mission. He was accused of alleged involvement in two hand grenade attacks in 2007 and sentenced to 22 years' imprisonment in May 2008. Amnesty International considers Sultan Fowski Mohamed Ali a prisoner of conscience.

In July 2008, Ugaas Abdirahman Qani, chief of the Tolomoge group of the Ogaden clan and President of the Somali region from April to November 1994, was arrested along with twelve other individuals, including nine

relatives. He was arrested shortly after returning to his home city of Godey after living abroad for two years. In the days following his arrest, a further 70 individuals were also arrested. No charges are believed to have been brought against them and no reason given for their detention. Ugaas Qani was released in October 2008 and his relatives a few days later. In 2005, Ugaas Qani had been among a dozen elders seeking to arrange peace talks between the ONFL and the Ethiopian government.

Recommendations for action by Ethiopia

Amnesty International urges the African Commission on Human and Peoples' Rights, during the 46th Ordinary Session, to condemn violations of international human rights in Ethiopia. In particular, the organization calls on Commissioners to urge the Ethiopian government to make swift improvements to protect and promote human rights in the country, including the following:

Charities and Societies Proclamation

- To immediately amend the Charities and Societies Proclamation to omit provisions which violate the rights of freedom of expression, association and assembly, as specified under Articles 9, 10 and 11 of the African Charter on Human and Peoples' Rights;
- To provide guarantees that all international and national non-governmental organizations in Ethiopia can operate freely and without fear of harassment, intimidation or arbitrary arrest in accordance with the UN Declaration on Human Rights Defenders;
- To invite the African Commission on Human and Peoples' Rights Special Rapporteur on Human Rights Defenders to Ethiopia.

Political prisoners and prisoners of conscience:

- To immediately end torture and other ill-treatment of prisoners, as specified under Article 5 of the African Charter on Human and Peoples' Rights, to initiate independent and impartial investigations into all such allegations, and to bring perpetrators to justice in accordance with international fair trial standards, such as outlined in the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa;
- To immediately and unconditionally release all prisoners detained solely because of the expression of their political, religious or other conscientiously held beliefs without advocating violence, including Birtukan Mideksa;
- To charge all other prisoners with a recognisable criminal offence or release them;
- To provide all detainees immediate access to a lawyer of their choice, and guarantee them a fair trial in a timely manner in accordance with international standards, and without application of the death penalty;
- To grant all detainees access to their families and provide any medical treatment they may require;
- To clarify the terms of the pardon under which the defendants in the CUD and related trials were released in 2007 and 2008;
- To invite the African Commission on Human and Peoples' Rights Special Rapporteur on Prisons and Conditions of Detention to Ethiopia.

Human rights violations in the Somali and Oromia regions

- To immediately allow an independent international investigation into reports of mass arrests, torture, rape and extrajudicial executions of civilians in the Somali region by government forces and bring those responsible to justice in accordance with international fair trial standards;
- To release all detainees suspected of support for the OLF or ONLF or charge them with a recognisable criminal offence;
- To invite the African Commission on Human and Peoples' Rights Special Rapporteur on Summary, Arbitrary and Extra-judicial Executions to Ethiopia.

Appendix: Amnesty International documents for further reference

Ethiopia: Canadian citizen could be sentenced to death, 30 July 2009, AI Index: AFR 25/005/2009.

Ethiopia: New Anti-Terrorism Proclamation jeopardizes freedom of expression, 7 July 2009.

Ethiopia: Government must reveal fate of political prisoners, 5 May 2009.

Ethiopia: Submission to the UN Universal Periodic Review: Sixth session of the UPR Working Group of the Human Rights Council, November-December 2009, 13 April 2009.

Ethiopia: Arbitrary Detention/Torture or other ill-treatment: Birtukan Mideksa, 7 January 2009, AI Index: AFR 25/003/2009

Ethiopia: Government passes repressive new legislation, 6 January 2009

Ethiopia: Arbitrary detention/torture or other ill-treatment, 14 November 2008, AI Index: AFR 25/012/2008

Ethiopia: Further information on arbitrary detention/torture, 23 October 2008, AI Index: AFR 25/010/2008

Ethiopia: Comments of the Draft Charities and Societies Proclamation, 1 October 2008, AI Index: 25/008/2008

Ethiopia: Further information on UA 299/07: Prisoner of conscience, 9 January 2008, AI Index: AFR 25/001/2008

Ethiopia: Torture/incommunicado detention, 11 December 2007, AI Index: AFR 25/030/2007

Ethiopia: Further information on fear of torture/ill-treatment/harsh prison conditions/prisoner of conscience: Eskinder Negga, 3 December 2007, AI Index: AFR 25/029/2007

Ethiopia: Prisoners of conscience, 9 November 2007, AI Index: AFR 25/027/2007

Ethiopia: Prisoners of conscience/fear of torture, 14 September 2007, AI Index: AFR 25/023/2007

Ethiopia: Political repression must stop, 11 September 2007, AI Index: AFR 25/013/2007

Ethiopia: Further information on arbitrary detention/possible prisoners of conscience/risk of torture or ill-treatment, 10 September 2007, AI Index: AFR 25/021/2007

Ethiopia: Arbitrary detention/possible prisoners of conscience/risk of torture or ill-treatment, 6 September 2007, AI Index: AFR 25/020/2007

Ethiopia: Opposition leaders and journalists freed, 20 July 2007, AI Index: AFR 25/018/2007

Ethiopia: Concern for Chinese “hostages” and killings in rebel attack, 27 April 2007, AI Index: AFR 25/007/2007

Ethiopia: Fear of torture of ill-treatment/ “disappearance”/prisoners of conscience, 4 January 2007, AI Index: AFR 25/001/2007

Ethiopia: Further information on: Fear of torture or ill-treatment: Yalemzewd Bekele, 26 October 2006, AI Index: AFR 25/034/2006

Ethiopia: Further information on detention without charge/fear of torture or ill-treatment, 2 November 2006, AI Index AFR 25/035/2006

Ethiopia: Detention without charge/ incommunicado detention/ fear for safety, 25 September 2006, AI Index: AFR 25/028/2006

Ethiopia: Amnesty International's presentation to the European Parliament on Human Rights in Ethiopia, 14 May 2006, AI Index: AFR 25/018/2006

Ethiopia: Prisoners of conscience on trial for treason: opposition party leaders, human rights defenders and journalists, 1 May 2006, AI Index: 25/013/2006

Ethiopia: Recent arrests of opposition leaders and police killings of 46 demonstrators, 11 November 2005, AI Index: 25/019/2005

Ethiopia: Over 30 reported dead and several hundred detained in fierce crackdown, 2 November 2005, AI Index: AFR 25/016/2005