


AFRICAN UNION		UNION AFRICAINE
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**Forty-Seventh Ordinary Session
12 – 26 May 2010, Banjul, The Gambia**

**Consideration of Reports Submitted by States Parties under Article 62 of the
African Charter on Human and Peoples' Rights**

**Concluding Observations and Recommendations on the Initial, 1st, 2nd, 3rd and 4th
Periodic Report of the Federal Democratic Republic of Ethiopia**

I - Introduction

1. The Federal Democratic Republic of Ethiopia (FDRE) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified the same on 15 June 1998.
2. The present Report which combines the Initial, 1st, 2nd, 3rd and 4th Periodic Reports, covers the period from 1998 to 2007, and was submitted to the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) on 15 November 2008.
3. The African Commission on Human and Peoples' Rights (the African Commission) examined the Report during its 46th Ordinary Session held from 11 to 25 November 2009 in Banjul, The Gambia.
4. His Excellency, Mr. Hassen Abdulkadir, Ambassador of the FDRE to the Republic of Senegal, and Head of Delegation of the FDRE to the 46th Ordinary Session of the African Commission introduced the Report and it was presented by H.E. Ambassador Fisseha Yimer, Special Advisor to the Minister, Ministry of Foreign Affairs.
5. Other members of the delegation included:

- Mr Girma Kassye, Director of International Law and Consular Affairs Directorate General of the Ministry of Foreign Affairs; and
 - Ms Meklit Timothewos, Legal Expert, International Law and Consular Affairs Directorate General of the Ministry of Foreign Affairs.
6. The Report highlights human rights developments that have taken place in the country and the implementation of the country's obligations under the African Charter since the ratification of the later in 1998.
 7. The present Concluding Observations highlights the positive aspects identified in the Report and also outlines areas of concerns based on the content of the Report and information given during the presentation of the Report and from additional answers forwarded. Recommendations are made based on the report, the dialogue that ensued from examination and additional answers provided.

II - Positive Aspects

The African Commission:

8. Welcomes the presentation of the Combined Initial Periodic Reports of the FDRE in accordance with Article 62 of the African Charter and further welcomes the fact that, the format and presentation of the Report are in conformity with the African Commission's Guidelines on State Reporting.
9. Appreciates and welcomes answers to those questions posed during examination and additional information provided that were not immediately available during the presentation of the Report. The African Commission also appreciates the effort put in the preparation of the additional answers taking cognisance of the difficulty, bureaucracy and challenges involved in collecting and compiling such answers.
10. Welcomes the National Conferences convened by the FDRE for input by relevant sectors on the compilation and preparation of the Report, which included seventeen (17) relevant stakeholders, including government agencies, human rights Non- Governmental Organisations (NGOs), legislators, academic institutions and the public at large.
11. Welcomes the adoption of the 1994 Constitution, which includes provisions on fundamental human rights and freedoms, enshrining principles of equality and non discrimination on grounds of race, nationality, social origin, colour, sex, language, religion, political or other opinion, birth or other status.

12. Welcomes the introduction of civic education with human rights component for all schools as well as human rights training for the police and other law enforcement officials and for providing human rights courses in the curriculum of the law schools of the FDRE.
13. Notes the efforts made by the FDRE towards the development of a democratic system in furtherance of which it held its third Parliamentary Elections in 2005.
14. Welcomes the effort made by the FDRE to bring together Opposition and the Ruling Parties for discussions on the forth-coming general elections and the formation of an election code of conduct to avoid the incidence that resulted following the 2005 general elections. The African Commission further appreciates the adoption of an election code of conduct that will guide future elections of the State Party.
15. Further welcomes the establishment of a Justice and Legal Research Institute responsible for reviewing existing national legislation in line with standards set by the African Charter and other international human rights instruments.
16. Also welcomes the establishment of independent Human Rights Commission and Office of Ombudsman.
17. Notes that the FDRE has observed a moratorium on Death Penalty considering that for the last 15 years there were only two executions.
18. Welcomes the ratification of the African Charter on the Rights and Welfare of the Child and steps taken to ensure its implementation by for instance setting a minimum age for marriage of 18 years for both male and female, and for imposing an obligation on the Government of the FDRE to uphold the right of every child to basic education.
19. Further welcomes the enactment of the proclamation prohibiting the imposition of death penalty against a child.
20. Notes the setting up of Juvenile Justice Project Office (JIPO) by the FDRE in 1999 and further welcomes the activities undertaken by JIPO since its establishment including reviewing of existing laws pertaining to child rights

and assessing the structural framework of the Judiciary and the police with regard to the protection of children.

21. Notes the ratification and domestication of all core labour standards of the International Labour Organisation (ILO) and the establishment of Labour Offices in various regions of the FDRE for effective implementation of these standards. The African Commission further notes the development of the National Work Place Policy on HIV/AIDS, which protects the right and dignity of workers, infected by HIV/AIDS and the provision of free anti-retroviral programme that started in 2005.
22. Welcomes Proclamation 515/1999 that established the Federal Civil Service Agency, through which an aggrieved employee can file his or her case to the Grievance Hearing Committee, which is also established in each civil service institution, to hear complaints from aggrieved civil servants.
23. Notes with appreciation the revised criminal code enacted in 2005, which criminalises torture, cruel, inhuman and degrading treatment or punishment by public servants of persons under their custody.
24. Further welcomes the setting up of Justice Bureau of the State or Regional Governments that have been providing considerable assistance to victims of torture by representing the complainants and bringing the perpetrators to justice.
25. Welcomes the regulation that separates male from female prisoners and for making provisions for infants, below 18 months, who need close maternal care, to stay with their mothers serving a prison term and for providing additional food to such mothers and their infant children.
26. Appreciates the FDRE's effort to criminalise child labour.
27. Welcomes the effort of the FDRE for protecting the security of tenure of Judges in its Constitution by making their appointment the responsibility of the three branches of Government with the Judicial Administrative Council providing the list of nominees that is sent to the Prime Minister before being sent to parliament for final appointment.

28. Welcomes the ICT tools used in the Courts of FDRE to facilitate access to justice in the form of e-filing, video links, interactive voice response, thereby making access to justice easier and affordable to those litigants who cannot come to administrative centres for economic or other reasons.
29. Further welcomes the Interactive Voice Response System (IVR) in the Courts of FDRE which provides information through an automated system thereby enabling litigants to get access to basic information regarding their cases seven days a week and 24 hours a day.
30. Takes note of Article 29 of the Constitution of FDRE and Article 42(1) of Proclamation No. 590/2008 that provide the right to freedom of expression for every individual and also guarantees that no periodical or book shall be impounded unless they endanger the national security of the Country.
31. Welcomes the women's development project, which provides credit and technical assistance to women.
32. Welcomes the ratification of the Protocol on the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the Protocol Establishing the African Court).
33. Welcomes the efforts made by the FDRE to demystify harmful traditional practices by organising advocacy workshops conducted at regional and national levels for policy makers and other influential target groups, such as religious and community leaders, youth and women groups.
34. Welcomes the new Family Code of the FDRE that guarantees equality of spouses during the conclusion, duration and dissolution of marriage and for setting a minimum age of 18 years for marriage for both male and female.
35. Welcomes the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
36. Welcomes the enactment of the National Refugee Legislation in July 2004, which is based on the principles of the 1951 UN Convention Relating to the Status of Refugees and its Protocol of 1967 as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

37. Welcomes FDRE's social welfare policy that takes into consideration the welfare of older persons and the Government sponsored homes that provide institutional care for destitute older persons with significant number of others being run by various NGOs and philanthropic individuals.
38. Notes the measures put in place by the FDRE to reduce poverty and food shortage by way of introducing measures to reduce variations in crop production and food availability through more irrigation and water control, diversification of crops and better integration of markets, transport, and information links.

III - Factors Restricting the Enjoyment of Rights Guaranteed in the African Charter

59. The African Commission acknowledges that the State Party has had to face, during the past few years, economic, social and political challenges, due, *inter alia*, to years of civil war and the transition to democracy.
60. The African Commission notes the existence of interregional and urban/rural disparities, in particular with regard to the availability of resources and infrastructure, which may lead to discrimination in the enjoyment of the rights provided for in the African Charter.
61. The African Commission furthermore notes that certain traditional practices and customs, prevailing particularly in rural areas, hamper the effective implementation of the provisions of the African Charter, especially with regard to the girl child.
62. The African Commission notes the continuing incidence of natural disasters, including drought and floods, and further notes the negative impact upon respect for children's rights of the period of armed conflict with Eritrea.

IV - Areas of Concern

While recognising the efforts of the FDRE to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned:

37. That the public at large is not sufficiently aware of the African Charter and the work of the African Commission.

38. That not enough has been done to harness through affirmative action, the potential of Ethiopian women willing and available to contribute to the social, economic and political development of the Country.
39. About the substantial disparity of employment ratio between male and female employees, which stands at 84.7% for male employees as against 69% for female employees.
40. About the lack of concrete legislation at the national level on gender based violence, Female Genital Mutilation (FGM), and discrimination against women.
41. At the high incidence of infant and maternal mortality in the country.
42. That out of the 18 broadcasters (Television and Radio) only 5 are privately owned and this may not create an enabling environment for the enjoyment of freedom of expression and access to information.
43. About the silence of FDRE on reasons why judges Wolde-Micheal-Meshesha and Firehiwot Samuel fled and sought political asylum in Europe before the completion of their assignment.
44. That there are still incidences when children from rural areas have been imported to towns and compelled to work in an exploitative and unsafe conditions with or without the prior permission of their parents as evident in the additional answers forwarded by FDRE to the African Commission.
45. That the Charities and Societies Proclamation No. 621/2009 has the potential to violate the rights of freedom of expression as specified by the African Charter, especially the provision that requires NGOs not to raise more than ten percent of their funding out side of Ethiopia.
46. That the composition, appointment and termination of office of the Commissioners of the national electoral body and the Independent National Electoral Commission, do not sufficiently guarantee its independence.

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47. About Proclamation No. 590/2008 in relation to freedom of mass media and access to information that compels journalist to disclose their sources of information.
48. That on many occasions suspects are held in detention for a long time before being brought to court for trial.
49. That the FDRE is yet to make the declaration under Article 34(6) of the Protocol Establishing the African Court, that allows individuals and NGOs with observer status before the African Commission, to institute cases before the Court.
50. About the two leading causes of death, Malaria and Tuberculosis, and the failure of the FDRE to inform the African Commission about measures it has put in place to prevent or reduce deaths resulting from these diseases.
51. That Proclamation No. 568/2008 on the employment of persons with disabilities has not yet been implemented thereby leaving these segments of the population unprotected.
52. About child trafficking and sexual exploitation of children, which FDRE acknowledges, is still prevalent and widespread.
53. That law enforcement officials have not been sensitised about the Robben Island Guidelines.
54. That FDRE has not ratified the Optional Protocol on the Convention Against Torture (OPCAT).
55. That neither the report nor the additional answers forwarded provide adequate information about prison conditions in the FDRE.
56. About the silence of the Report on whether there are political prisoners in FDRE.
57. About the silence of the Report and the lack of adequate response from the Delegation on the CSO law, Electoral laws, and Proclamation 652/09 on terrorism and whether the Government will reopen dialogue with the civil society with a view to amend or review problematic laws in the country.

58. About the failure of FDRE to take steps to bring to justice those responsible for the death of protesters in the 2005 post-election violence.

V - Recommendations

The African Commission recommends that the FDRE should:

59. Make greater effort to ensure that the provisions of the African Charter as well as the work of the African Commission are well publicised in the whole country. In this regard, it encourages the State Party to take steps to translate and make available the African Charter in as many local languages as possible.
60. Take steps to create an effective affirmative action to guarantee female participation in all spheres of government, and also enact at the Federal level, legislation prohibiting FGM, violence and discriminatory practices against women.
61. Take the necessary steps to establish mechanisms for generating accurate statistical data on gender related issues, such as the level of female participation in all spheres and tiers of government and on the prevalence of FGM in each State of the Federation.
62. Introduce appropriate policies to address the high incidence of infant and maternal mortality, especially in the Northern part of the Country.
63. Ensure that its electoral laws conform to the relevant principles in the Declaration of Principles of Freedom of Expression in its entirety and also that it ratifies the African Charter on Democracy, Elections and Good Governance.
64. Step up efforts to protect women migrant workers, prevent activities of illegal employment agencies and ensure that women are provided with adequate information on safe migration before

departure, and conclude bilateral agreements with receiving countries.

65. Take steps to ease the difficulties of access to justice occasioned by the high cost of litigation and the complex court processes, through measures such as the provision of legal aid, establishment of mobile courts, introduction of para-legal officers in the judicial system and the use and availability of interpreters and local languages in Courts.
66. Increase the number of circuit courts in all districts to save litigants from walking for days before accessing a court.
67. Ratify the Protocol Establishing the African Court and make the declaration under Article 34 (6) of the same Protocol, which allows individuals and NGOs to have standing and bring cases before the Court.
68. Take steps to enact legislation protecting the rights of Persons Living with HIV/AIDS (PLWHA), which prohibits discrimination against them. The African Commission recommends that steps be taken to develop a programme preventing mother-to-child transmission of HIV/AIDS through which the necessary testing and provision of medicines to pregnant women is made available in all public health care facilities.
69. Take all measures to guarantee the protection of minor refugees in line with the provision of the African Charter and international refugee laws on treatment of unaccompanied and separated children outside their country of origin.
70. Strengthen the National Human Rights Commission and provide it with adequate human and financial resources in order to

increase effectiveness in mainstreaming gender perspective in all policies and in promoting the human rights of women.

71. Take the necessary steps to address through legislative measures concerns regarding resources allocation for the prevention of practices such as harmful traditional practices, birth registration, child labour, refugee children and juvenile justice.
72. Review the Charities and Civil Societies Proclamation (CSO) that proscribe human rights organisations from getting more than ten percent of their funding from abroad.
73. Guarantee the security of tenure of the members and the independence of National Electoral Body and the National Electoral Commission.
74. Adopt mechanisms to bridge the disparity of employment ratio between male and female employees.
75. Put in place concrete legislative measures on gender-based violence at the national level to address the problem of FGM and discrimination against women.
76. Create enabling environment to journalists by increasing the number of private radio stations and periodicals for easy access to information.
77. Supply information on reasons that led to the fleeing of the two judges, Wolde-Micheal-Meshesha and Firehiwot Samuel before the completion of their assignment.

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78. Review Proclamation 590/2008 to protect journalists from being forced to disclose the sources of their information.
79. Put in place mechanisms to bring suspects before a court of law in a timely manner.
80. Put in place measures, and legislations, that will protect persons living with HIV/AIDS from discrimination in the society as well as to address the problem of mother- to-child transmission of HIV/AIDS.
81. Put in place mechanisms to address the plight of persons with disabilities in the country.
82. Sensitize law enforcement officers about the Robben Island Guidelines.
83. Ratify the OPCAT.
84. Provide information on conditions of prisons and places of detention in Ethiopia, and ensure that prisoners are held in humane conditions.
85. Provide information regarding political prisoners, if any.
86. Bring to justice those responsible for the death of protesters during the 2005 post-election violence.

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87. Increase the existing measures aimed at improving food shortage, such as irrigation, water control and diversification of crops in order to effectively avoid the heavy dependence on international food aid.
88. Take measures to eradicate or reduce the two leading causes of death, which are Malaria and Tuberculosis.
89. Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

Adopted at the 47th Ordinary Session of the African Commission on Human and Peoples' Rights held from 12 to 26 May 2010, Banjul, The Gambia