

060607488 [2006] RRTA 203 (31 October 2006)

DECISION RECORD

RRT CASE NUMBER: 060607488

DIMA REFERENCE(S): CLF2006/5948 OSF2002/122217

COUNTRY OF REFERENCE: Ethiopia

TRIBUNAL MEMBER: Karen Synon

DATE DECISION RECORD SIGNED: 31 October 2006

PLACE OF DECISION: Melbourne

DECISION: The Tribunal remits the matter for reconsideration with the direction that the applicant is a person to whom Australia has protection obligations under the Refugees Convention.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

This is an application for review of a decision made by a delegate of the Minister for Immigration and Multicultural Affairs to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).

The applicant, who claims to be a citizen of Ethiopia, arrived in Australia in 2003 and applied to the Department of Immigration and Multicultural Affairs for a Protection (Class XA) visa in early 2006. The delegate decided to refuse to grant the visa and notified the applicant of the decision and his review rights by letter posted in late 2006.

The delegate refused the visa application as the applicant is not a person to whom Australia has protection obligations under the Refugees Convention.

The applicant applied to the Tribunal for review of the delegate's decision.

The Tribunal finds that the delegate's decision is an RRT-reviewable decision under s.411(1)(c) of the Act. The Tribunal finds that the applicant has made a valid application for review under s.412 of the Act.

RELEVANT LAW

Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. In general, the relevant criteria for the grant of a protection visa are those in force when the visa application was lodged, in this case 2 May 2006, although some statutory qualifications enacted since then may also be relevant.

Section 36(2) of the Act relevantly provides that a criterion for a Protection (Class XA) visa is that the applicant for the visa is a non-citizen in Australia to whom the Minister is satisfied Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol. 'Refugees Convention' and 'Refugees Protocol' are defined to mean the 1951 Convention Relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees respectively: s.5(1) of the Act. Further criteria for the grant of a Protection (Class XA) visa are set out in Parts 785 and 866 of Schedule 2 to the Migration Regulations 1994.

Definition of 'refugee'

Australia is a party to the Refugees Convention and the Refugees Protocol and generally speaking, has protection obligations to people who are refugees as defined in them. Article 1A(2) of the Convention relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

The High Court has considered this definition in a number of cases, notably *Chan Yee Kin v MIEA* (1989) 169 CLR 379, *Applicant A v MIEA* (1997) 190 CLR 225, *MIEA v Guo* (1997) 191 CLR 559, *Chen Shi Hai v MIMA* (2000) 201 CLR 293, *MIMA v Haji Ibrahim* (2000) 204 CLR 1, *MIMA v Khawar* (2002) 210 CLR 1, *MIMA v Respondents S152/2003* (2004) 205 ALR 487 and *Applicant S v MIMA* (2004) 217 CLR 387.

Sections 91R and 91S of the Act now qualify some aspects of Article 1A(2) for the purposes of the application of the Act and the regulations to a particular person.

There are four key elements to the Convention definition. First, an applicant must be outside his or her country.

Second, an applicant must fear persecution. Under s.91R(1) of the Act persecution must involve “serious harm” to the applicant (s.91R(1)(b)), and systematic and discriminatory conduct (s.91R(1)(c)). The expression “serious harm” includes, for example, a threat to life or liberty, significant physical harassment or ill-treatment, or significant economic hardship or denial of access to basic services or denial of capacity to earn a livelihood, where such hardship or denial threatens the applicant’s capacity to subsist: s.91R(2) of the Act. The High Court has explained that persecution may be directed against a person as an individual or as a member of a group. The persecution must have an official quality, in the sense that it is official, or officially tolerated or uncontrollable by the authorities of the country of nationality. However, the threat of harm need not be the product of government policy; it may be enough that the government has failed or is unable to protect the applicant from persecution.

Further, persecution implies an element of motivation on the part of those who persecute for the infliction of harm. People are persecuted for something perceived about them or attributed to them by their persecutors. However the motivation need not be one of enmity, malignity or other antipathy towards the victim on the part of the persecutor.

Third, the persecution which the applicant fears must be for one or more of the reasons enumerated in the Convention definition - race, religion, nationality, membership of a particular social group or political opinion. The phrase “for reasons of” serves to identify the motivation for the infliction of the persecution. The persecution feared need not be *solely* attributable to a Convention reason. However, persecution for multiple motivations will not

satisfy the relevant test unless a Convention reason or reasons constitute at least the essential and significant motivation for the persecution feared: s.91R(1)(a) of the Act.

Fourth, an applicant's fear of persecution for a Convention reason must be a "well-founded" fear. This adds an objective requirement to the requirement that an applicant must in fact hold such a fear. A person has a "well-founded fear" of persecution under the Convention if they have genuine fear founded upon a "real chance" of persecution for a Convention stipulated reason. A fear is well-founded where there is a real substantial basis for it but not if it is merely assumed or based on mere speculation. A "real chance" is one that is not remote or insubstantial or a far-fetched possibility. A person can have a well-founded fear of persecution even though the possibility of the persecution occurring is well below 50 per cent.

In addition, an applicant must be unable, or unwilling because of his or her fear, to avail himself or herself of the protection of his or her country or countries of nationality or, if stateless, unable, or unwilling because of his or her fear, to return to his or her country of former habitual residence.

Whether an applicant is a person to whom Australia has protection obligations is to be assessed upon the facts as they exist when the decision is made and requires a consideration of the matter in relation to the reasonably foreseeable future.

CLAIMS AND EVIDENCE

The Tribunal has before it the Department's file relating to the applicant. The Tribunal has also had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

Protection visa application:

The applicant is from Ethiopia who describes his ethnicity as Oromo and his religion as Orthodox. He speaks, reads and writes English and Amharic. He has had few years of schooling and lists his previous occupation as being in the food industry. The applicant lists no family outside Australia and only a daughter born in Australia.

In late 2005 the applicant requested Minister's intervention to allow him to stay in Australia on compassionate grounds on account of the relationship with an Australian citizen and the birth of his Australian daughter. In this letter he said he had no country to return to but made no claims of persecution. He received a reply dated early 2006 advising him that the discretion under section 351 of the Act could only be exercised if an application has been reviewed by a Tribunal.

A file note is attached to the applicant's DIMIA file. Principally it discusses the applicant's arrangements to leave Australia after the expiration of his numerous bridging visas. During this discussion the applicant advised the DIMIA officer that he was planning to travel to Country A without documentation and hoping they would receive him there. He was advised that he would not be able to travel to Country A without a visa to which he replied that it is difficult for Ethiopians to get visas. The applicant also said he was in the process of claiming refugee status in Country B but then came to Australia on a provisional spouse visa. When the DIMIA officer advised the applicant that if he did not leave voluntarily the department would deport him to Ethiopia he responded that it would be DIMIA's fault if he went back to Ethiopia and something happened to him. The applicant then said that he could not go back to Ethiopia as his life would be at risk and that this is why he left over a decade ago and it is worse now. The DIMIA officer then suggested he could apply for a protection visa application if he fears persecution in Ethiopia.

Protection visa application:

The applicant claimed that while in Ethiopia he had been involved with the Oromo Liberation Front (OLF) movement by distributing pro OLF pamphlets. He claimed his father was an active member of the OLF and that one night heavily armed EPRDF security forces in plain clothes took him blindfolded to an unknown location and that as a result of this the applicant was picked up and dumped in the City 1 based commissioned camp. He claims that having "languished and rotten in that odious and horrible detention camp for several months without any trial or verdict I was subject to seven interrogation, electrical torture, beating, flogging, harassment, intimidation and mistreatment. Above all I was exposed to penal servitude, solitary confinement, acute disease, starvation and held in-communicado (sic). Some of my prison colleagues (inmates) were systematically executed in cold-blood. In subsequent time, I was transferred to military detention camp known as X which borders City 2 along with the remaining prisoners. As I (illegible) some amount of money with me bribed security guards and contemplated escape from the prison. The moment I got golden opportunity and escaped from the prison I reached City 3 by venturing on very tedious and (illegible) journey on foot. A month later I resumed my second awful journey by recording to City 4 after confining myself to City 4 for several weeks, I clandestinely (sic) boarded on a would be commercial ship and consequently reached Country B".

The applicant claims to fear instant persecution, summary political execution, arbitrary incarceration and torture from the Ethiopian Government Authority particularly the security apparatus that persecuted him in the past and compelled him to flee his mother country.

The applicant claims that the EPRDF regime considers him to be a political fugitive and states that if he returns he will be executed in cold blood or subject to instant persecution and arrest. The applicant states that the whole world community knows that the Ethiopian

government transgresses the Geneva Human Rights Convention and that accordingly he must repudiate Ethiopia as long as the EPRDF regime perpetrators are in power.

The applicant does not think that the authorities of Ethiopia can protect him as it is these authorities which he fears and he states that “returning to Ethiopia and living in amicable situation is tantamount to committing suicide”.

Application for review:

The applicant lodged an application for review in 2006.

Shortly after, a submission was received from the applicant’s adviser. This submission claimed that the applicant fled Ethiopia in the 1990s fearing for his life and that he went first to City 5 and then stowed away on a ship to Country B where he lived as an asylum seeker on temporary visas, subject to renewal, for a number of years. The submission contends that the list of human right abused detailed in the US State Department Report cited in the department’s decision, in fact supports a proposition that the applicant’s fears of persecution in Ethiopia are well founded. The adviser takes issue with the delegate’s reliance on various reports that Ethiopian authorities had released political prisoners early and submits that it is not acceptable for an Australian government department responsible for administering Australia’s obligations under the Convention to uncritically accept claims by the police and other government authorities who are, in part, the parties from whom the applicants fears persecution. The submission also contends that it is immaterial whether the OLF is a terrorist organisation as the applicant claims an imputed political opinion and no unacceptable qualities of the OLF can be attributed to him because he distributed pamphlets for them over a decade ago. The submission contends that indeed the unacceptable tactics of the OLF over the number of years that the applicant has been outside the country enhance the credibility of his claims of persecution for imputed political belief. The submission goes onto to quote extracts from a report titled ‘Unfinished business: Ethiopia and Eritrea at War’.

The hearing

The applicant appeared before the Tribunal to give evidence and present arguments. The applicant was represented in relation to the review by his registered migration agent and the hearing was conducted via video from another state.

The Tribunal commenced by asking the applicant about his family situation, noting that he had not covered these issues in his protection visa application. The applicant said that his mother and siblings were now living in Country C as permanent residents and he thinks citizens. His father is in Ethiopia and he has a sibling currently in another part of Africa. The applicant said he also has a number of step-siblings. The Tribunal asked the age of these siblings, and he said he did not know. The Tribunal asked to clarify that his mother and

father had divorced, and the applicant said yes, they were divorced in the early 1990s. The Tribunal asked the applicant why he did not know the age of his step-siblings and he responded that he had only been in contact with his father in the early 2000s, after an absence of a number of years. He said his father was very happy to talk to him and that he now contacted him every three months. The applicant also said his father advised him not to return to Ethiopia as the situation was not safe. The Tribunal clarified that the applicant is the oldest sibling in the family, and he said yes. The Tribunal then inquired about the ethnicity of his mother and father. (Details deleted in accordance with s.431). The Tribunal asked the applicant if he spoke Oromo, and he responded that he can listen perfectly, but cannot respond or speak. He said that previously he spoke it fluently, but he has not spoken it for many years.

The Tribunal again clarified with the applicant that he believes his mother and siblings have permanent residence in the Country C, and he said yes. The Tribunal asked if they are citizens, and he said he thinks so. (Details deleted in accordance with s.431). The Tribunal asked the applicant to clarify exactly when his siblings and mother had immigrated to Country C. The applicant responded (details deleted in accordance with s.431). The Tribunal asked the applicant how they came to immigrate to Country C, and he responded that he had an uncle and cousins there, but then clarified that it was not really an uncle but a close family friend and their children. The Tribunal asked the applicant if he was in touch with his mother, and he responded yes, that his siblings send him emails and they phone him. The Tribunal then pursued with the applicant the issue of why he did not go to Country C when he escaped from prison in mid-1990 rather than to Country B. The applicant responded that he had to use the options that were available then and he said he did not think or plan to travel to any other country at the time because of lack of finance. The Tribunal then asked the applicant why he did not make mention of his mother and various siblings in the Country C when he lodged his protection visa application. He responded that he did not think it was relevant to mention their names. The Tribunal also asked him about his answer to a question on his record of interview with the DIMA delegate in late 2005, when he was picked up as an unlawful citizen. The delegate had asked him if he had an overseas address and he responded Country C. The applicant said that he did not mention Country C and that it was possibly a misunderstanding because he said his family was in Country C. The Tribunal then told the applicant that it had spent considerable time pursuing the issue of where his family are resident because it needed to consider whether he might be eligible for Country C residency or citizenship, given the residency of his family there. The Tribunal explained that even if it found him to be a refugee, it must still consider the question of whether he had effective protection in a third country under s36(3) of the Act.

The Tribunal then went on to ask the applicant whether any of his other siblings were involved in politics along with his father, and he responded that no siblings were involved, it was just him, but that his uncle, who is now in the Country D, was also involved. The

Tribunal asked the applicant if his father is still a member of the Oromo Liberation Front (OLF). The applicant responded he did not know at the moment. The Tribunal asked him whether he had discussed this issue in any of their various telephone conversations, and he said he did not discuss this. The applicant did say that his father had told him that it was not safe to return and that if it were safe he would tell him so. The applicant also said that his father said they were following him and it would be good for the applicant not to return.

The Tribunal then asked the applicant to describe his political activities between the ages of 16 and 23. The applicant said that he started his involvement as a year 10 student, when he was about 16 and still at school. He said that his major role was distributing papers and collecting donations from Oromo ethnic groups and giving these to his father. The Tribunal asked the applicant whether his father had a formal position in the OLF. The applicant responded that his father was an administrator for one of the regions, the Showa Region, and that they had their own office. The Tribunal then asked the applicant if he undertook these activities from his commencement in year 10 until his imprisonment. The applicant said he was not only performing these duties, but was also collecting money, distributing pamphlets and also “agitating for Oromo ethnic groups”. The Tribunal asked the applicant to discuss this further and the applicant responded that he would agitate through the Oromo youth association and they would go from one family and house to another and agitate the people. The Tribunal asked him if he had any formal position in the OLF to which the applicant responded that everything was done confidential and underground.

The Tribunal asked the applicant what he had done for employment during the period from early 1990 to his arrest later in the 1990s. He responded that he worked in the family shop, which was owned by his mother and was a shop that sold hardware materials. He also said that he worked in another business owned by the family for one year after his mother sold the hardware shop when his parents divorced. The Tribunal asked the applicant whether they would have been considered middle-class. The applicant responded the family had a good life and they were higher class and rich people.

The Tribunal asked the applicant again whether he was a member of the OLF or the OLF youth association. He responded that he was leading the youth association and chairing meetings, so it is like being a member. The Tribunal asked him why he had not mentioned these activities before, especially in his protection visa application. The applicant responded that the reason was because when he arrived in Australia he did not think the problems would happen to him or that he would be separated from his wife. The Tribunal asked him why he did not detail these problems in his protection visa application, and he responded “that’s right, because I did not give good concentration on that”. Again, the Tribunal sought to clarify exactly what the applicant’s participation in the OLF was during his time in Ethiopia. He responded that his position was to deliver the papers and that he acted like a messenger.

He also said that whenever any mature person who was involved in politics spoke to him and others, they would then teach the youth what they had been told and they taught the youth about their identity and helped gather the youngsters together to talk to them. The applicant said that every month the young people met at someone's home for a discussion and that they rotated the homes where these discussions were held. The applicant said that they were sometimes held at his home when it was his turn. The Tribunal asked the applicant again whether he was a formal member of the OLF in Ethiopia, and he responded no, but he joined when he went to Country B. The Tribunal again sought to confirm that it was just the applicant and his father who were involved in the OLF, and he said yes.

The Tribunal then sought details about the arrest of the applicant's father. The applicant said that he was first arrested when he was a child of about 10 or 11, under the previous regime and that he was detained for a number of years. The applicant said he did not remember much about this because he was a child at the time. The applicant said that the second time his father was arrested was in the mid-1990s. The Tribunal asked the applicant what details he knew of his father's arrest and subsequent treatment. The applicant responded that he doesn't know anything; he only re-established contact by telephone with his father after a number of years' separation. The applicant said that he now supports his father financially.

The Tribunal then asked the applicant to tell it about his arrest. He said that he was arrested a few weeks after his father and that a friend; a class mate from school was killed. He said he was with two friends in an open public area called area Y and that his friend was killed and he was taken from this area to City 2. He said his friend was not involved in politics or the OLF. The Tribunal asked what questions they asked him when he was interrogated. The applicant responded that he gave them whatever information he could and that they asked him what his duties were and who he was contacting. He said he told them about his role but did not give any personal names. The applicant said he was kept there for several months and then transferred to X. The Tribunal asked if he had any problems there and he said that while prisoners were said to disappear from there he did not face any problems there. The applicant said that he had a good contact at this prison and that he gave the guard money to let him escape. The Tribunal explored at length with the applicant how he could have concealed money for several months while he was imprisoned and interrogated at City 1. The applicant took some time to explain and demonstrate how he was able to conceal the money he had when he was apprehended. He said he was not strip searched and was able to hide the money under a piece of lining above his pocket. The applicant said that he had continuing problems with his foot from the torture and that his foot is still scared and his leg still numb.

The Tribunal then asked the applicant to explain how he escaped. The applicant said he escaped by himself but that others had escaped before him. He said that he firstly travelled to City 3 and that there he met other people who were refugees and together they travelled to

City 4 and from there to Country B. The Tribunal asked how he could afford this given that he had used all the money he had to bribe the prison guard. He replied that he still had \$100 left and that while this was not enough others helped because there were a lot of Ethiopians all fleeing. The Tribunal asked if he had any problems getting protection in City B and he said no, because there are so many Ethiopians living there and that some of them took him to City 5 and gave him some money to get him started in a job. He said that for the first month he worked in the clothing industry but after that he worked in the food industry.

The Tribunal asked the applicant if, in the event he had to return to Ethiopia, he would involve himself in Oromo politics again to which he responded “after this time I don’t want to involve in any such situation, I want to live in free environment, I want to be free. Because of my father I have been tortured and my mentality is not good and I don’t want to be involved in any such situation”. Asked to answer directly he said, “no, I don’t want to participate in any politics but the problem is the previous situation”. The applicant said his father advised him not to return and that he would have advised him to go back if the situation was ok.

The Tribunal asked the applicant if he completed his national service to which he responded yes. The Tribunal asked if he had any problems during this time and he said he did national service after he completed year 10 and that he was very happy then and that the it before the EPRDF (the Ethiopian People's Revolutionary Democratic Front) came to power.

The Tribunal then asked the applicant about his time in Australia and asked if he married in Country B in late 2001. He said yes and that he came to Australia in mid-2003 and that his former wife was assisting him until the divorce was finalised and that she had said she would do everything to help him until the divorce. The Tribunal asked the applicant why he told the department he was still in a relationship with his former wife in 2003 and 2004 and he said his divorce was not final and that until he “stuck with his current friend their relationship was on and off”. The Tribunal put it to the applicant that just one month after he told the department he was still in an ongoing relationship with his former wife he had a child with another woman. The applicant said that he made a big mistake but that he was very confused because she (his former wife) came back every few months. The Tribunal asked when he commenced the relationship with the mother of his child and he said in late 2004. Again the Tribunal asked the applicant why he was dishonest with the department. He said that he was confused and he should not have lied to DIMIA and that he was confused about his wife and his friends said he could continue like this and that if he told the truth DIMIA would deport him immediately. The Tribunal asked the applicant why it should believe his account of his situation in Ethiopia when he had already demonstrated and admitted lying to DIMIA and said that this could impact upon his credibility in his claims before the Tribunal. The applicant responded that he did not intend to mislead DIMIA but he was not aware of the rules and regulations and was depending on his friends’ advice. The Tribunal said that given

he was prepared to lie to DIMIA in order to avoid deportation it had to seriously consider if he was lying to the Tribunal to avoid deportation. The applicant responded that he accepts he lied and misled DIMIA but that now the bible is in front of him and he gives all his information based on that.

The Tribunal asked the applicant if he ever applied for refugee status in Country B. He responded that yes, he lodged an application before he came to Australia because they had been told that to stay in the country they had to. He said he applied through the Country B government. The Tribunal asked him if he lives with his child and her mother and he said that yes, most of the time he does. He said he would like to live with them all the time but he cannot afford it. He said they live with her mother. The applicant said his name appears as the father on the birth certificate and that he will provide a copy to the Tribunal. The Tribunal asked if they were planning to marry or live together on a permanent basis when his divorce is finalised and he said he has his divorce papers and that yes, this is his intention and he only has his daughter. The Tribunal asked if they were engaged and he said yes, they are engaged.

The Tribunal then invited then applicant if there was anything else he wanted to add before his adviser made any submission. He said he just wanted to say thank you. The adviser said he relies on his written submission and he will forward a character reference and the applicant's child's birth certificate. He also said he might have some information in relation to the Country C and third country protection under s 36(3) of the Act.

In conclusion the applicant said his mental state is really affected by his previous situation and there is trauma in his mind. The applicant said he does not want to lose his daughter who means everything to him and that he also does not want to lose his daughter's mum.

The Tribunal then explained to the applicant about third country protection and asked him when he last saw his mother and siblings. He said this was in the mid-1990s and that his mother had not remarried.

Submission received after the hearing:

In late 2006 a submission was received from the adviser. The submission contends that the applicant does not have an automatic right to reside in the Country C and that any migration right he might have would be dependant upon his relatives sponsoring him to live there which it contends has not happened and cannot be assumed by the Tribunal. Included in support of this contention was some information relating to a previous client of the adviser which addressed a similar issue. Included with the submission was a birth certificate for the applicant's daughter which names the applicant as the father and his de facto/partner as the mother. The applicant's daughter was born in mid-2005. Also included are two favourable

characters references one from the applicant's de facto mother and one from a former employer.

Country Information:

The following relevant extracts are taken from the United Kingdom Home Office Report on Ethiopia dated April 2006

(http://www.homeoffice.gov.uk/rds/country_reports.html#countries - Accessed 2 August 2006):

- 5.07 The CIA World Factbook, last updated on 1 November 2005, noted that Ethiopia is a federal republic with nine ethnically based states and two self-governing administrations. Nationally the Government is split into executive and legislative branches.
- 4.01 "Ethiopia is the oldest independent country in Africa. It resisted colonisation by Italy and achieved international recognition in 1896 as a traditional monarchy, led by Emperor Menelik. For much of the 20th century Ethiopia was ruled by Haile Selassie. He became Regent in the 1920s and was crowned as Emperor in 1930. In 1936 Italy attacked Ethiopia from its colonies in neighbouring Somalia and Eritrea and went on to occupy the country until 1941. Haile Selassie spent his exile at Bath, in the UK and was restored to power with British military assistance. His long rule ended with the Ethiopian Revolution of 1974."
- 4.02 "Colonel Mengistu Haile Mariam emerged as the leader of the Provisional Military Administrative Council (known as the Derg) in 1977. He established a brutal Marxist dictatorship that evolved into an authoritarian communist system dominated by the Worker's Party of Ethiopia. Ethiopia was wracked by civil war for most of the Derg period, including a secessionist war in the northern province of Eritrea and regional rebellions in Tigray and Oromia. The population experienced massive human rights abuse and intense economic hardship, including acute famine." 4.03 "The Derg was overthrown in May 1991 when rebels of the Ethiopian People's Revolutionary Democratic Front (EPRDF) captured Addis Ababa. Meles Zenawi took the leadership. After elections for a Transitional Government in 1992, he presided over the establishment of Ethiopia's current political structures. In a decisive break with Ethiopia's tradition of centralised rule, the new institutions are based on the principle of ethnic federalism, designed to provide self-determination and autonomy to Ethiopia's different ethnic groups."

National Elections May 2005

- 4.17 In accordance with the 1995 Constitutions, elections are held every five years. Elections to the Federal Parliamentary Assembly (the House of People's Representatives) and to the Regional State Councils, which elect representatives to the upper house (the House of the Federation) were held in May 1995, May 2000 and most recently in May 2005. The EPRDF and its allies won overwhelming majorities in the 1995 and 2000 elections, taking over 95% of the seats in both the federal and regional assemblies. On the conduct of these elections, Africa South of the Sahara 2005 commented that the results were seriously undermined by the decision of most opposition parties to boycott, claiming

insufficient access to media, extensive arrest and harassment of their officials and closure of party offices. International observers generally agreed with the criticisms; there was a consensus that whilst the elections represented an advance on past experience, they were not entirely free or fair.

- 4.21 Opposition leaders accused the ruling party of killing and intimidating their supporters, claiming that two opposition supporters had been shot, hundreds rounded up and imprisoned and dozens had disappeared in the run up to election. Information Minister Bereket Simon rejected the allegations as ‘propaganda’ and absolutely false. (BBC and IRIN 27/8 April 2005).
- 4.22 Ethiopia’s Prime Minister Meles Zenawi accused opposition parties of fomenting ethnic hatred ahead of general elections on 15 May. AFP reported that in a national television address, he compared opposition tactics to those used in the Rwandan genocide. ‘The Ethiopian opposition is following the same trend to create havoc and hatred’, Mr Meles said,. Last week the prime minister’s party denied accusations that it was killing and intimidating opposition supporters. (BBC 6 May 2005)
- 4.24 Immediately after the elections the Prime Minister, Meles Zenawi, announced a ban on demonstrations for a month. The EU election observer report noted various shortcomings and delays in the counting and publication of official results. This contributed to conflicting claims and disputed results. (IRIN News 19 May 2005) (EUEOM final Report 14 March 2006)
- 4.26 ...IRIN noted on 24 May 2005 that: “Ethiopia’s main opposition party on Monday threatened to boycott the next parliament unless its complaints of alleged vote rigging in last week’s general elections were resolved. Hailu Shawel, leader of the Coalition for Unity and Democracy (CUD), said his party would not join any government if it believed that the elections were unfair.”
- 4.27 After provisional results indicated that the EPRDF had won a majority of the seats violence erupted in the capital, Addis Ababa. The BBC, in an article dated 6 June 2005, reported that: Hundreds of Ethiopian students had been arrested in the capital, Addis Ababa, after staging protests over last month’s elections. Baton-wielding police stormed the two university campuses which the students had occupied. They had accused the ruling EPRDF party of fraud”. The BBC further reported in an article dated 13 June 2005:
- “More than 3,000 people have been arrested in Ethiopia, since disputed elections last month, human rights workers say. The arrests have intensified since protests were violently suppressed last week, said an official with the Ethiopian Human Rights Council (EHRCO). The European Union has called together political leaders to defuse tensions. All parties signed an agreement on Friday to undertake a joint probe into complaints of voting irregularities. But the opposition alleged the government could not be trusted – though it later withdrew the comments”.
- 4.36 The election complaints process resulted in the partial or complete re-run of elections in 31 constituencies on 21 August, 2005. The final results, as announced

by the National Election Board, gave the EPRDF parties 327 seats, parties associated with the EPRDF 40 seats and the opposition 172 seats. Of the opposition seats, the CUD gained 109, the UEDF 52 and the Oromo Federalist Democratic Movement 11. (NEBE) The opposition continued to dispute the results and planned demonstrations.

- 4.37 According to an Amnesty International report dated 30 September 2005 the Ethiopian authorities began arresting opposition members in mid-September. The report noted that: “Hundreds of opposition party officials and members were being held incommunicado without charge in order to stop them attending nationwide demonstrations planned for 2 October....There has also been widespread intimidation and harassment of suspected opposition supporters, particularly youths. Amnesty International believed that those arrested may be prisoners of conscience, detained solely on account of their non-violent opinions. The authorities began arresting members of the two opposition coalitions, the Coalition for Unity and Democracy (CUD) and the United Ethiopian Democratic Front (UEDF), in mid-September, following the announcement of the demonstrations planned for 2 October. The CUD said up to 12 of its regional party offices had been shut down and officials detained. The Oromo National Congress (ONC), part of the UEDF coalition, made similar charges. In total, the CUD and the UEDF claim that over 850 people have been detained, mainly in the central Amhara and Oromia regions, and in the south. The government has accused the opposition parties of ‘a violent conspiracy aimed at subverting the constitutional order’, and refused permission for the demonstrations, claiming that the opposition parties were planning violence leading up to the demonstrations planned for 2 October in the capital, Addis Ababa, and other towns.”
- 4.38 Violence erupted again in the first week of November. According to an Amnesty International report of 11 November 2005: “At least 46 protesters were killed in Addis Ababa and other towns, and at least 4,000 were arrested.” “Detained opposition leaders and editors seized after bloody clashes in Addis Ababa last week will face treason charges, Ethiopian Prime Minister Meles Zenawi said. The Prime Minister declared that the worst of the violence was over, but his government had no intention of bowing to calls from the international community for the release of opposition leaders....’They are accused of engaging in insurrection’. He said. ‘That is an act of treason under Ethiopian law. They will be charged and will have their day in court’.”
- 4.39 According to an Africa Confidential article dated 18 November 2005: “The ruling party is on the defensive. Its brutal response to opposition protests at election irregularities and the criticism which that has aroused, may mark its transformation. At May's [2005] elections, the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) lost support markedly throughout the country and totally in the capital. Since then, some 76 civilians have died in disturbances, the last 40 of them on 1–2 November. The death-toll makes it seem that Prime Minister Meles Zenawi's government cannot regain its lost legitimacy, either with Ethiopians or with Western governments.”
- 4.40 Human Rights Watch reported on 13 January 2006 that:

“The Ethiopian government is using intimidation, arbitrary detentions and excessive force in rural areas of Ethiopia to suppress post-election protests and all potential dissent, Human Rights Watch said today after a research trip to Addis Ababa and the Oromia and Amhara regions....federal police in the Oromia and Amhara regions have threatened, beaten and detained opposition supporters, students and people with no political affiliation, often in nighttime raids. Alongside local government officials and members of local government-backed militias, the federal police have taken the lead in intimidating and coercing opposition supporters.”

Rebel Groups/Illegal Opposition Parties - Oromo Liberation Front

5.61 The OLF, as part of its mission as stated on its website is that:

“The Oromo Liberation Front (OLF) is a political organization established in 1973 by Oromo nationalists to lead the national liberation struggle of the Oromo people against the Abyssinian colonial rule. The emergence of the OLF was a culmination of a century old yearn of the Oromo people to have a strong and unified national organization to lead the struggle....The fundamental objective of the Oromo liberation movement is to exercise the Oromo peoples' inalienable right to national self-determination to terminate a century of oppression and exploitation, and to form, where possible, a political union with other nations on the basis of equality, respect for mutual interests and the principle of voluntary associations”. Whereas, Political Parties of the World, updated in January 2002, noted that: “Formed in 1975, the OLF operated through different branches with little central leadership, having a minor contribution to the military struggle against the Mengistu regime compared with the contributions of Eritrean forces or the TPLF. Mutual antipathy between the OLF and TPLF led to the creation, under the latter’s auspices, of the rival OPDO in 1990. Initially committed to an independent Oromo state, the OLF said in June 1991 that it would support substantial regional autonomy within a federal Ethiopia, and in August 1991 it accepted four ministerial posts in the TGE headed by Meles Zenawi of what had then become the EPRDF.”

5.62 Political Parties of the World, updated in January 2002, stated that:

“Clashes between members of the OLF and members of OPDO (an EPRDF member party) during the run-up to elections led to a final break with the EPRDF in 1992, after which the OLF went into armed opposition to the Government, carrying out low-level guerilla operations and advocating boycotts of all elections. The OLF also clashed with rival Oromo rebel groups (some of which had come into being through splits in the OLF).”

5.63 The article further noted that: “In July 2000 the OLF held a meeting with three other groups (United Oromo Liberation Front, Oromo Liberation Council and Islamic Front for the Liberation) to discuss joint action against the Ethiopian Government, which had ignored a peace proposal put forward by the OLF in February 2000.”

5.64 The Africa South of the Sahara 2005 Report stated that: “In October 2000 a conference in Eritrea, where the OLF was by this time based, brought together six Oromo opposition parties, including the OLF and the Islamic Front for the Liberation of Oromia, as the United Liberation Forces of Oromia.”

5.65 Human Rights Watch in its 2003 Report stated that:

“Since the Government banned the OLF a decade before, thousands of alleged OLF members or sympathizers have been arrested, and this trend continued in 2002...As of March [2002], more than 1,700 such prisoners were reportedly held at the Ghimbi central prison, half of them arrested recently and the rest having been there for five to ten years, some without charge. Hundreds more were detained in prisons and police jails across Oromiya State. Prisoners who were released or escaped from incarceration reported severe torture while imprisoned. The Oromiya State Minister for Capacity Building, who fled the country in May [2002], denounced the state Government for indiscriminately accusing the Oromo people of supporting the OLF.”

5.66 The Report further documented that: “Reliable sources reported that the Eritrean Government was giving logistical support, training, and weapons to OLF guerrillas attempting to infiltrate Ethiopia from Sudan, and to armed Tigrean groups opposed to the current Ethiopian government.”

Ethnic Groups

6.82 The US State Department’s Human Rights Report 2005 documented that:

“There were more than 80 ethnic groups living in the country, of which the Oromo was the largest, at 40 percent of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands played a dominant role. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.”

6.84 The Report goes on to state that: “The military remained an ethnically diverse organization; however, members of the Tigrayan ethnic group dominated the senior officer corps. During the May elections and subsequent demonstrations, there were many reports of Tigrayan or Gambellan troops being used in Addis Ababa and other urban centers where the opposition was strong, and where officials did not consider Amhara members of the armed forces sufficiently reliable.”

6.85.1 The Report also noted: “There were continued incidents of ethnic conflict during the year, particularly in the western, southern, and eastern areas. The OLF and the government engaged in many clashes. There were also clashes among ethnic groups in the Gambella, Somali, and Southern Nations, Nationalities, and Peoples regions.”

Oromos

6.93 The CIA factbook on Ethiopia (updated on 1 November 2005) stated that the Oromo People account for 40 per cent of the population, which makes them the majority group in Ethiopia. The World Directory of Minorities (1997) noted that: “Oromo are the largest ethnic minority group in Ethiopia, and are speakers of Oromo languages (Oromigna, Oromiffa, ‘Galla’). They are predominant in southern, south-eastern and south-western Ethiopia but also live in the highland areas.”

6.94 The World Directory of Minorities (1997) also notes that: “They are diverse in terms of their culture, social organization and religion, although most retain some features of their unique and complex generation-grading system, ‘gada’. In some areas they are too assimilated with the Amhara to be easily organised into a disciplined national opposition.”

6.96 The OLF website describes the Oromo people – as:

“The Oromo are one of the Cushitic speaking groups of people with variations in colour and physical characteristics ranging from Hamitic to Nilotic....The Cushitics have inhabited the north-eastern and eastern Africa for as long as recorded history. The land of Cush, Nubia or the ancient Ethiopia in middle and lower Nile is the home of the Cushitic speakers....The Oromo are also known by another name, Galla. The people neither call themselves or like to be called by this name. They always called themselves Oromoo or Oromoota (plural). It is not known for certain when the name Galla was given to them.”

6.97 Human Rights Watch notes:

“Oromia is the largest and most populous of Ethiopia’s nine regional states. It sprawls over 32 percent of the country’s total land area and is home to at least 23 million people. Oromia surrounds the nation’s capital, Addis Ababa, and divides Ethiopia’s southwestern states from the rest of the country. While Oromia’s population is ethnically diverse, the overwhelming majority of people who reside there are ethnic Oromo. The Oromo population is quite diverse in terms of history, religion and other factors, but the group shares a common language, *Afan Oromo* and a strong and distinct sense of ethnic and national identity. Oromo nationalism has evolved in response to the Oromo people’s long, difficult and often antagonistic relationship with the Ethiopian state. Much of what is now Oromia was conquered and forcibly incorporated into the Amhara-dominated Ethiopian empire towards the end of the nineteenth century. During the old imperial era, the Oromo people were subjected to widespread repression.”

Use of Torture

6.177 Amnesty International, in its 2003 Report, stated that: “Torture of political prisoners, particularly those accused of links with armed opposition groups, continued to be frequently reported. Several women accused of involvement with such groups were reportedly raped. Courts rarely investigated defendants’ allegations of torture.”

Following are relevant sections from The United States Department of State Country Reports on Human Rights Practices in Ethiopia in 2005 which was published on 8 March 2006

(<http://www.state.gov/g/drl/rls/hrrpt/2005/61569.htm> Accessed 2 August 2006):

After the May elections, serious human rights abuses occurred, when the opposition parties refused to accept the announced results, and in November after the Coalition for Unity and Democracy (CUD) called for civil disobedience, which resulted in widespread riots and excessive use of force by the police and military. Although there were some improvements, the government's human rights record remained poor and worsened in some areas. In the period leading up to the May national elections, campaigning was open and debates were televised. The Carter Center described this

period as credible and commendable. However, in the period following the elections, authorities arbitrarily detained, beat, and killed opposition members, ethnic minorities, NGO workers, and members of the press. Authorities also imposed additional restrictions on civil liberties, including freedom of the press and freedom of assembly.

During the year paramilitary groups committed unlawful killings, including political killings. The Ethiopian Human Rights Council (EHRCO) reported that from January to March armed militia killed several members of the opposition All-Ethiopia Unity Party/Coalition for Unity and Democracy (AEUP/CUD) in the Amhara Region. For example, on January 19, militia killed AEUP member Anley Adis and local AEUP chairman Eyilegne Wendimneh, both of Debay Telat-gen District, Yebabat Kebele. On February 28, militia killed Tilahun Kerebe of Ankesha District, Sostu Shumata Zegsa Abo Kebele; and on March 21, Alamir Aemero of Shikudad District, Absela Kebele. By year's end, police had arrested two suspects in the killing of Tilahun Kerebe. The Oromo National Congress (ONC) reported that, between March 19 and September 24, police, militia, and *kebele* (local administration) officials shot and killed 24 members and supporters...EHRCO reported that on April 23, *kebele* officials shot and killed Hassan Endris, a coordinator for the CUD in South Wollo Zone, Were-Ilu District, Kebele 11, in the Amhara Region. On May 15, government security forces shot and killed Sheikh Osman Haji Abdella of Shashamane District, Hurso Sembo Kebele, Oromo Region. The Ethiopian Social Democratic Federalist Party (ESDFP) reported that on August 18 army troops killed Bezela Lombiso of Gibe District in the Southern Nations, Nationalities, and Peoples Region, and raped his wife. Bezela faced charges of killing a policeman during the 2000 national and regional elections. The CUD reported that on September 11 armed militia beat CUD member Asefa Getahun and that he died of his injuries the following day. On October 1, local militia shot and killed CUD member Girma Biru, of Sultulta Wereda, Mulo Town. The CUD stated that local administrators and armed militia were responsible for the October 11 extrajudicial killing of Mosse Wasse, in Shoga District, west Gojjam/Jiga, Amhara Region; and the October 16 extrajudicial killing of Tila Tsega, at Lay Gaynt/Nefas Mewucha, North Gonder. In October 2004 EHRCO reported several alleged killings by police...

During 2005 EHRCO reported that, from June 6 to 8, the police and army shot and killed 42 unarmed demonstrators in Addis Ababa. Between November 1 and 7, military and police forces opened fire on rioters who were throwing rocks, and in some cases were armed with machetes and grenades, killing at least 40 individuals in Addis Ababa (see section 2.b.). For example, on June 6, following unrest at Addis Ababa University, police shot and killed Shibre Desalegn of Yeka Subcity and Yesuf Abdela, a student at Kotebe Teacher's Training College. On June 8, police shot and killed 16-year-old student Nebiy Alemayehu of Kolfe Subcity, and Zulufa Surur (a mother of seven children), while security forces killed 16-year-old brothers Fekadu Negash and Abraham Yilma. Federal police acknowledged the death of 26 persons on June 8 following an unlawful demonstration. Several police were also killed during the November riots. On December 7, the government established an independent commission of inquiry to investigate circumstances surrounding the killings. The commission publicly issued a call for information and complaints.

Armed elements of the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) continued to operate within the country. Clashes with government forces on numerous occasions resulted in the death of an unknown

number of civilians, government security forces, and OLF and ONLF troops and members...

There were reports of disappearances perpetrated by government forces during the year, some of which may have been politically motivated. In nearly all cases, security forces abducted persons and detained them in undisclosed locations for varying lengths of time ranging from weeks to months. Thousands of such cases occurred in response to calls for struggle against the government by the OLF in Oromiya and during post-election public demonstrations in November and December...

Although the law prohibits the use of torture and mistreatment, there were numerous credible reports that security officials often beat or mistreated detainees. Opposition political parties reported frequent and systematic abuse of their supporters by police and regional militias...

Role of the Police and Security Apparatus

The Federal Police Commission reports to the Ministry of Federal Affairs, which in turn is subordinate to the parliament. Local government militias also operated as local security forces largely independent of the police and the military. Petty corruption remained a problem in the police force, particularly among traffic policemen who solicited bribes from motorists. Impunity also remained a serious problem. The government rarely publicly disclosed the results of investigations into such types of abuses. The federal police acknowledged that many members of its police force as well as regional police lack professionalism.

The government continued its efforts to train police and army recruits in human rights. During the year the government continued to seek ICRC assistance to improve and professionalize its human rights training and curriculum to include more material on the constitution and international human rights treaties and conventions.

In late November parliament established a commission, whose members were appointed by the prime minister, to investigate the violent demonstrations of June and early November. The chair of the commission reported to a group of foreign ambassadors that it would begin in February 2006 to investigate alleged use of excessive force by security forces.

Arrest and Detention

Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions, and for those thousands of young persons detained during and after the November riots. According to law, detainees must be informed of the charges against them within 48 hours, but this generally was not respected in practice. While there was a functioning bail system, it was not available for some offenses, including murder, treason, and corruption. In most cases authorities set bail between \$115 and \$1,150 (1 to 10 thousand birr), which was too costly for most citizens. In addition police officials did not always respect court orders to release suspects on bail. With court approval, persons suspected of serious offenses can be detained for 14 days while police conduct an investigation, and for additional 14-day periods while the investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of crude, unofficial local detention centers used by local government militia. In the Oromiya region, a police training facility was used as a makeshift prison during and after the November riots.

The government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in pretrial detention, authorities allowed such detainees little or no contact with legal counsel.

There were many reports from opposition party members that in small towns authorities detained persons in police stations for long periods without access to a judge, and that sometimes these persons' whereabouts were unknown for several months. Opposition parties registered many complaints during the year that government militias beat and detained their supporters without charge for participating in opposition political rallies (see section 1.c.).

The government continued its harassment of teachers, particularly in Oromiya and Tigray. The independent Ethiopian Teachers Association (ETA) reported that authorities detained numerous teachers and accused them of being OLF sympathizers, many of whom remained in prison at year's end. Some of the teachers had been in detention for several years without charges. Human rights observers suspected several of the prolonged detentions were politically motivated.

Police continued to enter private residences and arrest individuals without warrants...

Following the June 6 to 9 demonstrations protesting the announced outcome of the May 15 parliamentary elections, police detained thousands of opposition members and other residents of Addis Ababa. Government security forces took three to four thousand residents from their homes and detained them in Zway prison outside the capital. EHRCO reported the illegal detention between June 10 and 16 of 74 opposition political party activists, businessmen, and students. Security forces beat and detained an estimated five thousand individuals in various prisons around the country. On June 29, the federal police reported that it had detained 4,455 "suspects;" most were released after several days of detention. In mid-September, however, 40 percent of the prisoners at Shoa Robit prison (742 of 1,866 prisoners), north of Addis Ababa, were young men arrested around the time of the June demonstrations on charges of dangerous vagrancy.

Political Prisoners

The total number of political detainees during the year was estimated to be in the several thousands.

While the law stipulates that all suspects be arraigned before a court within 48 hours, the leaders of the CUD, civil society, and journalists were held without access to courts, counsel, and family for many days. Human rights groups and political parties (such as the CUD, UEDF, and OFDM) reported that police and local militia detained thousands of persons in police stations and detention camps for several days in order to conduct interrogations. Beginning on November 1, violent antigovernment protests called by the opposition occurred in Addis Ababa, and the government arrested several dozen opposition leaders, as well as members of the independent media and civil society groups, for alleged participation in unlawful activities. Security forces also detained over 14 thousand demonstrators without charge. Military intervention led to widespread abuses such as arbitrary detention and killings. Security forces arrested at least 12 of the 20 CUD party executive committee members, including party president Hailu Shawel, vice chairman Bertukan Mideksa, secretary-general Muluneh Eyoel, and Addis Ababa mayor-elect Dr. Berhanu Nega, on charges of treason and genocide, among others. At year's end, they remained in prison as their trial began.

The EPRDF, its affiliates, and EPRDF supporters controlled all seats in the 108-member House of Federation, whose members were appointed by regional governments and by the federal government. Membership in the EPRDF conferred advantages upon its members, and the party owned many businesses and awarded jobs to loyal supporters. In addition to the government, only members of the Tigrayan People's Liberation Front (TPLF) had received permission to operate radio stations (see section 2.a.).

During the year the major opposition parties negotiated significant mergers. The AEUP, Rainbow Ethiopia, Ethiopians Democratic Party-Medhin, and the Ethiopian Democratic League formed the CUD, making it the strongest opposition political coalition in the country. During the year other opposition members founded the OFDM, which secured 11 seats in the federal parliament and 10 seats in the Oromiya Regional Council during the May national elections.

Registered political parties must receive permission from regional governments to open local offices. Opposition parties, such as the CUD, the UEDF, and the OFDM, claimed that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout the year. Opposition parties and the press reported hundreds of such cases, including killings, beatings, arrests, house burnings, and property confiscation.

In many of the cases reported, authorities allegedly told opposition members that they had to renounce their party membership if they wanted access to fertilizer, other agricultural services, health care, or other benefits controlled by the government. Authorities often disrupted or unlawfully banned opposition party meetings.

There were no new developments in the EPRDF's dissolution in late 2003 and early 2004 of offices of the Konso People's Democratic Union (KPDU) and the KPDU-dominated Abaroba and Jarsso local councils, or in the arrest and beatings of KPDU members. Authorities took no actions against those responsible for the February 2004 stoning of AEUP member Bekele Tadesse, or for the March 7 bombing of the house of Zemedkun Gebre Kidane, chairman of the AEUP organizing committee in Ankober District.

Of the 19 members of the Council of Ministers, two were women, and a number of women held senior positions. There were 116 women in the 547-seat House of Peoples' Representatives, and 21 women in the 113-member House of Federation. Of the 14 members of the Supreme Court, 3 were women. During the May 15 national elections women constituted nearly half of the community observers, party workers, and election officials at polling stations.

The National Memorial Institute for the Prevention of Terrorism (MIPT), Terrorism Knowledge Base which describes its listing as “A Comprehensive Databank of Global Terrorist Incidents and Organizations” (<http://www.tkb.org/Group.jsp?groupID=3651> – Accessed 2 August 2006) includes the Oromo Liberation Front in its database while noting that it is not designated as a terrorist organisation by the US, the UK, Canada, Australia or the EU. It describes the OLF as:

The Oromo Liberation Front is an ethnic separatist guerrilla group operating in the horn of Africa. Their goal is to carve out a separate state within the current borders of Ethiopia as a homeland for the Oromo people, currently estimated to make up some

40% of Ethiopia's population. The "homeland" presently claimed by the OLF would occupy more than half of Ethiopia's current territory, including the capital, Addis Ababa. The group formed in 1973 to fight for Oromo self-determination, driven in part by the repressive practices employed against Oromo separatists by the Abyssinian leadership in Addis Ababa. Although a more moderate Tigrean regime took power in 1991, the OLF has continued its terrorist campaign, signaling that nothing short of an Oromo state will bring about an end to the violence. Parties from the neighboring countries of Somalia and Eritrea are suspected of supporting the OLF in an effort to weaken Ethiopia.

OLF elements have killed 28 people in two separate terrorist attacks since 2000. The first, in March of 2000, occurred when a truck from neighboring Kenya drove over a landmine that had been set by the OLF, although it was probably intended for an Ethiopian target. The more recent attack involved a small explosive detonated at the Ethiopian Railway Commission in the Southeastern town of Daire Dawa. Each attack killed 14 people. Since the 2000 landmine disaster, the Ethiopian government has been on an aggressive campaign to eliminate the OLF and has recently scored successes against the organization, including mass arrests and the liquidation of key leaders. The OLF has not conducted a major terrorist attack since 2002, but it is not possible to estimate the likelihood of future attacks since no comprehensive peace arrangement or ceasefire is in place.

In a comprehensive and very relevant report *Human Rights Watch* titled 'Suppressing Dissent Human Rights Abuses and Political Repression in Ethiopia's Oromia Region' dated May 2005, (<http://hrw.org/reports/2005/ethiopia0505/> Accessed 2 August 2006) summarised that:

On May 15, 2005, Ethiopia will hold national elections. The international community, including international donors, who have poured substantial amounts of aid into Ethiopia since the current government came to power fourteen years ago, will be watching these elections closely for signs that Ethiopia is moving towards real democracy. In advance of these elections, the government of Prime Minister Meles Zenawi enacted reforms that could, on the surface, make the elections more open. However, as this report documents, the political freedoms required for elections to be a meaningful exercise of Ethiopian citizens' fundamental right to participate in the selection of their government do not exist for many Ethiopians. **In Oromia, the largest and most populous state in Ethiopia, systematic political repression and pervasive human rights violations have denied citizens the freedom to associate and to freely form and express their political ideas.** As a result, on election day, most voters there are unlikely to be presented with real choices.

Since 1992, regional authorities in Oromia have cultivated a climate of fear and repression by using state power to punish political dissent in often brutal fashion. Regional and local authorities have consistently harassed and abused perceived critics of the current government. And in the past year, these authorities have taken drastic new steps to consolidate their control over the region's large rural population. This backdrop of oppression must be factored into any assessment of the upcoming elections.

Oromia is governed by the Oromo People's Democratic Organization (OPDO), which was formed by the Tigrayan People's Liberation Front (TPLF) in 1990 and integrated into the TPLF-controlled Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition that seized power in and continues to hold power today. The OPDO has dominated politics in Oromia since 1992, when the Oromo Liberation Front (OLF), which had much older and deeper roots in Oromia, withdrew from the transitional political process after clashes with the EPRDF and the OPDO in the run-up to the country's first national elections in 1992. Since then, OLF has waged a generally ineffectual "armed struggle" against the government—and the OPDO, the TPLF's regional surrogate, has governed Oromia as if it were facing a serious military threat.

Since 1992, security forces have imprisoned thousands of Oromo on charges of plotting armed insurrection on behalf of the OLF. Such accusations have regularly been used as a transparent pretext to imprison individuals who publicly question government policies or actions. Security forces have tortured many detainees and subjected them to continuing harassment and abuse for years after their release. That harassment, in turn, has often destroyed victims' ability to earn a livelihood and isolated them from their communities.

In urban areas, regional authorities have treated Oromia's student population in particular with suspicion and mistrust. Between 2000 and 2004, Oromo students poured into the streets of major towns throughout the region several times to protest government policies. Police and security forces put those demonstrations down with unnecessary force—and the regional government reacted by subjecting students in schools throughout the region to persistent and intrusive surveillance, both in and out of the classroom. Teachers have been required to gather information about their students for school administrators and government officials on pain of transfer to remote postings far from their homes and families. Students who have had the misfortune to be labeled subversives by government officials have been imprisoned, tortured or expelled from school.

In the countryside, where more than eighty-five percent of Oromia's population resides, the government has gone to even greater lengths to maintain control and put down dissent. Expanding upon a pre-existing system of local government that was designed by the Derg primarily as a tool to maintain tight political control, regional authorities have created an entirely new set of quasi-governmental institutions that now monitor and control the activities, speech and movement of the rural population down to the level of individual households. Regional authorities claim that these new institutions, called *gott* and *garee*, are voluntary associations of like-minded farmers who have joined together to carry out development work in their communities. But farmers throughout Oromia told Human Rights Watch that *woreda* (district) authorities imposed these new structures on their communities and that the *garee* regularly require them to perform forced labor on projects they have no hand in designing. More disturbingly, regional authorities are using the *gott* and *garee* to monitor the speech and personal lives of the rural population, to restrict and control the movement of residents, and to enforce farmers' attendance at "meetings" that are thinly disguised OPDO political rallies.

These abuses stand in fundamental contradiction to the human rights principles enshrined in the Ethiopian Constitution and seriously call into question the Ethiopian government's claim that it is making real progress in putting in place democratic forms of governance. **The thousands of Oromo who have been subjected to detention, torture and harassment for voicing their political opinions serve as examples that intimidate their neighbors and friends into silence. Improvements in the electoral process have done nothing to change this reality. Instead, the pervasive pattern of repression and abuse documented in this report ensures that voting on May 15 will be a hollow exercise for most of Oromia's population...**

Specifically in relation to detention and torture the report said:

Since 1992, security officials have arrested tens of thousands of Oromo whom they have accused of being members or supporters of the OLF since that organization was banned in 1992. According to former Ethiopian President Negasso Gidada, when he left office in **2001 roughly 25,000 people were in prison on OLF-related charges throughout Oromia and in Addis Ababa and no public moves have since been made to substantially reduce the number of detainees.** Oromo civil society and community leaders have long complained that allegations of OLF involvement are used as a thinly veiled pretext to detain government critics and intimidate others into silence. One leading Oromo opposition figure, voicing an often-repeated complaint, lamented that "If you are a young man you are liable to ask questions. But if you ask questions you are liable to go to jail as an OLF suspect." A prominent Oromo academic put it this way: "OPDO officials feel that if you are not with them then you are their enemy. If you are not OPDO, you are OLF, and if you are OLF you are a terrorist and a criminal."

Human Rights Watch interviewed forty-one individuals who have been detained and released since 2001 by local or security officials who accused them of conspiring against the government. Many had been arrested more than once and some had been arrested as many as ten times since 1992. Most were accused of providing support to the OLF or of plotting acts of armed insurrection on the organization's behalf. Many were individuals who had been outspokenly critical of government actions or policies.

In all forty-one cases investigated by Human Rights Watch, courts or police investigators ultimately found the allegations against these detainees to be unsupported by any sort of evidence. None were ever tried for any offense related to the allegations that led to their arrest, but all were nonetheless imprisoned for weeks or months before being released. In many cases, police and military officials also subjected these detainees to interrogation and torture aimed at forcing them to produce information about OLF activities that they did not possess. **Taken together, their testimonies describe a widespread climate of suspicion and abuse within which many security and government officials make widespread use of arbitrary imprisonment as a weapon in an ongoing war against dissent.**

Police and security officials often target people who publicly criticize government policies for arrest and detention. One farmer from a village near Agaro said that he has been arrested four times since 1992 and accused of providing support to the OLF but has never been formally charged. In several public meetings in June and July of 2004, he stood up and argued that Ethiopian Prime Minister Meles Zenawi should be

required to stand down because he has been too long in power. In August 2004, he was arrested along with more than a dozen other people and accused of conspiring with the OLF to “make the [May 2005] elections unsuccessful.” No evidence was presented against him, but he was detained for six weeks before being released. “In meetings, I speak out,” he said. “The others don’t. That is my crime.”

Another man from Nekemte told Human Rights Watch that in the past, “many times in meetings when they said, ‘you are free to talk,’ I stood up and talked about the oppression that is taking place and said that these things should be corrected. I used to ask why people were being arrested.” In early 2004, he was arrested and detained for four months on charges of being a “member of an OLF cell. A court ordered his release in May 2004 after the police failed to produce any evidence to substantiate the charges. Human Rights Watch interviewed several other people who were detained shortly after publicly criticizing the government or specific actions of local officials. All were eventually released after one or more months in prison without being charged with any crime.

Not all of those arrested by security officials on allegations of OLF involvement are outspoken critics of the government. In fact, many of those interviewed by Human Rights Watch were at a loss to explain why they or their family members had been targeted for arrest. One distraught mother whose teenage son had repeatedly been arrested and accused of being involved with the OLF and was being held in Dembi Dollo prison when she spoke with Human Rights Watch said:

They say he is a *shifita* [bandit] and that he raises unrest among the people. I don’t know why they say this about him. I was asking [the woreda] many times but they started showing signs they suspected me also and so I stopped asking them. [My son] doesn’t speak much and because of this many people think he doesn’t like people or is hiding something. But really he is just a quiet fellow.... Now every night at home I look at his exercise books and cry because my home seems so empty. The young man had not formally been charged with the commission of any crime and had never been tried on any of the other occasions when he was arrested.

In some cases, arrests of suspected OLF “terrorists” border on the absurd. One 77 year-old farmer who has not seen his son since he ran away from home in 1992 told Human Rights Watch that he had been imprisoned ten times since his son’s disappearance and accused of collaborating with him to carry out acts of terrorism on behalf of the OLF: The last time they arrested me was in September [2004]. I am not sure exactly what it is all about but it has something to do with my son. He disappeared a long time ago but the imprisonment continues up until now. They always tell me to bring them my child and I tell them that I have lost him myself. They also say that I send provisions to the OLF. They never bring any evidence or take me to court. I go to jail and then I come out, sometimes after a month, sometimes after two weeks.

In early 2004, police in Dembi Dollo arrested a twelve-year-old schoolboy and imprisoned him after discovering that he had tattooed “ABO,” the *Afan Oromo* acronym for “OLF,” onto his hand. “They said he was a terrorist,” his father said. “They said he was a supporter of the OLF.” The child’s family petitioned the local authorities and secured his release after two weeks of detention, but the police continued to follow and harass the boy until the family was forced to send him to live with relatives in Addis Ababa. At least twenty other children under the age of fifteen have been imprisoned for similar reasons in Dembi Dollo alone since 2001. A

relative of one of those boys shook his head incredulously when remembering the incident that led to his arrest in early 2003. “I had an eleven-year old relative who wrote ‘ABO’ on the blackboard at school. He was dragged off to the police station and imprisoned there. They released him after several days because there was too much noise about it. I mean, come on- you’re not supposed to imprison 11 year-olds.” That child also experienced problems with the police after his release and eventually left to live with relatives in Canada.

In most of the cases reported to Human Rights Watch, the courts eventually stepped in to order the release of detainees when the police failed to produce any evidence in support of the accusations against them. This has not, however, prevented the authorities from detaining people for periods long enough to be punitive, or from detaining the same people repeatedly without any evidence. In many cases, the courts allowed police to hold detainees for several months by acquiescing to repeated requests for more time to look for evidence even though the police had already failed to meet one or more court-imposed deadlines for the production of such evidence. While prosecutors are legally obligated to promptly dismiss charges that are not supported by any evidence, they did not exercise that discretion in any of the cases documented by Human Rights Watch. Human Rights Watch also interviewed several people who had been detained on between five to ten separate occasions on allegations of OLF involvement only to be released each time when the police failed to produce evidence against them. Of the thirty-three people interviewed by Human Rights Watch who had been detained on suspicion of involvement with the OLF, not one had ever been brought to trial or confronted with any evidence that they had committed a crime. Some were released after several weeks or months without explanation while others were released after a court ordered the police to free them if they could not produce any evidence that they had committed a crime. Police detained several of them for weeks without being brought before a judge, in violation of the Ethiopian Constitution.

In relatively high-profile cases involving Oromo civil society leaders, regional and federal authorities have used several methods to keep persons in detention for longer periods despite prosecutors’ inability to produce any evidence against them. As of April 2005, four prominent Oromo civil society leaders were being kept in detention after having been released on bail and then quickly rearrested and eventually charged with new offenses arising out of the same allegations. Four leaders of the Mecha-Tulema Association, the oldest and most prominent Oromo civil society organization, were arrested in May 2004 and accused of providing support to the OLF and of having plotted a grenade attack at Addis Ababa University that took place on April 29, 2004. A court ordered their release on bail just over three months later, but all four defendants were rearrested one week later. When a second judge ordered that the original grant of bail be respected, the four were released only briefly before being rearrested on “new” charges of homicide related to the same grenade attack. As of April 2005, nearly a year after the date of their original arrest, all four remained in detention awaiting trial. One of the men responsible for organizing their defense told Human Rights Watch that he was not aware of any evidence that had been produced in support of the charges against them...

In another prominent case, eight founding members of the Human Rights League, an organization that set out to report on human rights issues affecting Ethiopia’s Oromo community, were detained in October 1998 and charged with involvement in terrorist activity. No evidence was produced in support of these charges, but by the time the

detainees were acquitted and released in 2002 they had spent three-and-a-half years in detention. The organization itself fared little better; federal authorities denied the Human Rights League the registration it needed to operate legally for eight years; the League obtained formal recognition only in March 2005, two years after a federal court ordered the government to recognize the organization. All of the lawyers and Oromo civil society leaders interviewed by Human Rights Watch said that they believed that these delays were deliberately used to keep outspoken Oromo in detention despite the lack of evidence implicating them in any crime, and to use their detention as an example to intimidate others into silence.

Police officials in Oromia often subject individuals who are arrested on suspicion of OLF-related activities to torture and other forms of mistreatment. In some cases torture is applied in the course of interrogations, while in other cases it is used as a form of punishment. Human Rights Watch interviewed several former detainees who had been severely beaten in police custody in 2003 and 2004. One nineteen-year-old woman who had recently been expelled from school after arguing with another student was arrested in Agaro in August 2004 and accused of working with other detainees to sabotage the May elections:

They told me that I had gone to school not for education but to do politics. They told me that I knew how much money [the other detainees] were receiving from abroad from the party [OLF]. Then they forced me to take off my clothes and I was naked except for my underwear when they started kicking me. They had some kind of a stick and they hit me with that one as well.... [Then] they put a pistol in my mouth and said that they would kill me. I couldn't go to the bathroom after that because of how they kicked me...

In other cases, Ethiopian military personnel have taken people accused of OLF involvement into their custody and subjected them to torture during interrogation in their own facilities. Human Rights Watch interviewed one man who had been detained in a military camp near Mendi in West Wollega in 2001. He was interrogated about his alleged involvement with the OLF and beaten severely by soldiers who nearly killed him when they fractured his skull with a blow from one of their rifles. Nearly four years later when Human Rights Watch interviewed him, his forehead was marked by a deep depression left by that fracture. In April 2004, the same man was again arrested and taken to a military garrison near Nekemte where he was imprisoned and tortured for nearly six months without ever being brought before a judge. His "release" came when his captors abandoned his unconscious body in a riverbed near the garrison after a particularly severe beating...

Human Rights Watch interviewed two men, one in Nekemte and the other in Agaro, whom police and military officials had allegedly tortured in the same manner by having a partially full bottle of water tied to their testicles. One man, a twenty-six-year-old arrested in August 2004, told Human Rights Watch that he was tortured and interrogated in the Agaro police station in the presence of police and military officials as well as an official from the woreda government. He was tied with his arms behind his back and beaten on the soles of his feet, and then made to stand naked with a bottle of water tied to his testicles. "I couldn't tell them anything," he said, "and after three days they sent me to prison." The other man, a thirty-five-year-old businessman who was arrested in Nekemte in March 2004 and accused of providing financial support to the OLF, also alleged that he was forced to stand naked with a bottle of water tied to his testicles. His police interrogators also broke

several bones in his right hand and left him with injuries to his back and legs that had not fully healed a year later. “When they continued to beat me and I couldn’t tell them anything, they didn’t think it was because I didn’t know anything,” he recalled. “They just thought I was so disciplined that I would not let my secrets out.”

Human Rights Watch also conducted interviews with several current and former government and OPDO officials who confirmed that the practice of torture was widespread. One elected local official from a town in Wollega responded to allegations that police had tortured dozens of people in his community by telling Human Rights Watch that “what you are describing is going on here, but it isn’t something I can discuss.” A former police officer from Ambo, who said that he was dismissed from his post after refusing to testify against students who had been involved in student protests in Ambo in February 2004, told Human Rights Watch that “most people who go to prison here [in Ambo] are beaten, even people we call elders or respected people.”

Many of the former detainees interviewed by Human Rights Watch said that their eventual release from custody was only the beginning of their ordeal. In many cases, police officials follow, harass and intimidate former detainees and their families for years after their release. One man who has been detained six times since 1992 on suspicion of belonging to an “OLF cell” told Human Rights Watch that since his last release in May 2003, “The police follow me and watch my house. They ask my neighbors whether they know anything about my involvement with the OLF. They try to make them hate me—my neighbors tell me they say that I have admitted to the police that I am an OLF supporter and that they should watch me closely.” Another former detainee who was detained and beaten for six weeks beginning in September 2004 after being accused of hiding weapons for the OLF said that, “Since my release, if someone comes to visit me he is asked by the police what he was doing talking to me. So people avoid me and I avoid them as well because I am afraid I will cause problems for them.” A young man in Nekemte told Human Rights Watch that since his release from two months of detention in a military camp outside of the town in October 2004, he has been followed and harassed continuously. “Two weeks ago I went to Addis Ababa to visit my family,” he said. “As soon as I came back they [soldiers] arrested me and took me back to the [military] camp and interrogated me. They asked me why I went there and what I had brought back with me.... I passed the night there.”

Several former detainees told Human Rights Watch that they had been forced to close their businesses because after their release the police harassed and drove away most of their customers. One man who had opened a modest but profitable tea house in Nekemte shortly after his release from detention in April 2003 said that the police quickly ran the business into the ground by harassing his clientele...

In some cases security officials have harassed even the family members and friends of former detainees. Several of the former detainees interviewed by Human Rights Watch said that their relationships with those people had suffered as a result, and in some cases people had been ostracized almost entirely. One woman who was detained in Agaro said that after her release, police harassment drove most of her family to reject her. After I left I tried to go back to my family in the countryside but they could not accept me because they were afraid.... My brother who did not reject me because of this took me in but then he was arrested for two months. They said that he is a thug, but he is a person with a wife and children and he has a job. He is

back home now but he avoids talking about anything now and [the police] are always telling him that he has the OLF in his house.

Several detainees told Human Rights Watch that police and woreda officials repeatedly told them that the only way to prove they weren't involved with the OLF was to become a member of the ruling OPDO. One man who was briefly arrested in October 1997 told Human Rights Watch that he has been summoned by the police for questioning related to suspected OLF activities in the area more than a dozen times since his release. "[A woreda official] called me to his office in December [2004]. He told me, 'you have to prove that you are not an OLF by joining our party.

Human Rights Watch on 13 January 2006, in a statement titled 'Ethiopia: Hidden Crackdown in Rural Areas' (<http://hrw.org/english/docs/2006/01/12/ethiop12417.htm> - Accessed 2 August 2006) reported

The Ethiopian government is using intimidation, arbitrary detentions and excessive force in rural areas of Ethiopia to suppress post-election protests and all potential dissent, Human Rights Watch said today after a research trip to Addis Ababa and the Oromia and Amhara regions.

"The Ethiopian government is violently suppressing any form of protest and punishing suspected opposition supporters," said Peter Takirambudde, director of Human Rights Watch's Africa Division. "Donor governments should insist on an independent, credible investigation into abuses by federal police and local officials in rural as well as urban areas."

In the wake of the May 15 parliamentary elections, in which opposition parties won an unprecedented number of seats amidst massive controversy over the election results, federal police in the Oromia and Amhara regions have threatened, beaten and detained opposition supporters, students and people with no political affiliation, often in nighttime raids. Alongside local government officials and members of local government-backed militias, the federal police have taken the lead in intimidating and coercing opposition supporters.

In one town in Oromia, a 17-year-old girl was stopped at a police checkpoint, beaten and detained for seven days by federal police for no apparent reason except that she was traveling with students to the funeral of a fellow student killed by police. Also in Oromia, a 38-year-old farm worker and a 40-year-old widow described nighttime raids in which police beat them with rifle butts and batons, resulting in serious injuries.

In Oromia, individuals detained by the federal police are often accused of being supporters of the Oromo Liberation Front, an illegal insurgency group that called for Oromia-wide protests against the government on November 8. Detained individuals were also accused by police of being members of the Oromo National Congress, although it is a registered political party that won seats in the May 15 elections as part of an opposition coalition group.

"The government is deepening its crackdown in Ethiopia's rural areas, far from the eyes and ears of international observers in Addis Ababa," Takirambudde said.

“People are being terrorized by federal police working hand-in-glove with local officials and militias.”

Several recently released detainees from different locations in rural Ethiopia said that police and other officials forced them to sign statements disavowing support to political opposition groups and pledging support to the local ruling party affiliate before being released.

A 37-year-old opposition politician from the Oromo National Congress told Human Rights Watch that federal police in western Oromia beat and arrested him in a nighttime raid on his house in early December. “They beat every part of my body; the blood was coming out of my mouth,” he said. “They beat with guns and sticks and plastic rope.”

In the Amhara region, witnesses told Human Rights Watch that kebele (local-level) officials, who are generally members of the Amhara National Democratic Movement—a party affiliated with the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF)—played a key role identifying individuals and guiding the federal police to their homes at night, where federal police beat and sometimes arrested them. “The kebele officials know everyone. They come late, at midnight, knock at the door and take the one they want and beat him,” a man from Bahar Dar, Amhara region, told Human Rights Watch.

Individuals in rural Oromia said they have been denied access to fertilizers and seeds by administrative officials who view them as opposition supporters. Farmers who have voiced support for recognized opposition political parties in rural Oromia have reportedly been detained without charge for 30 days or more by kebele “social courts,” which are run by government party appointees without legal training.

“Federal police and regional officials responsible for these abuses must be investigated and punished,” Takirambudde said. “Prime Minister Meles Zenawi should publicly order all security forces to abide by international standards on the use of force.”

Federal police—usually identified by their blue camouflage uniforms—have been responsible for many of the abuses in Addis Ababa and the rural areas since the parliamentary elections in May. According to victims and witnesses in Addis Ababa, Oromia and the Amhara region, federal police beat and shot students and other protestors in those locations in November. In one case from Bahar Dar, where two students were killed and two were wounded in early November, an eyewitness told Human Rights Watch that the school was surrounded by the police who shot into the compound where the unarmed students were collected...

Thousands of people were arrested and detained in Addis Ababa and the rural areas following the demonstrations in June and November. Many of the people detained in the wake of the November violence have since been released. Yet more than 3,000 detainees held at the Dedessa military camp since November are apparently being transferred to Ziway prison, 130 kilometers south of Addis Ababa, for further questioning and possible charges. As many as 2,500 other detainees, including many opposition supporters and some opposition party election observers, are reportedly

being held in another detention facility, Bir Shelako, about 385 kilometers northwest of Addis Ababa near Bure town in the Amhara region...

Amnesty International in an Urgent Action appeal on 19 January 2006

(<http://web.amnesty.org/library/Index/ENGAFR250012006?open&of=ENG-ETH> – Accessed 2 August) titled 'Ethiopia: Further Information on Possible Prisoners of Conscience/Fear of Torture or Ill-Treatment/Health Concern: New names' reported:

ETHIOPIA Hailu Shawel (m), member of parliament, President of the opposition Coalition for Unity and Democracy (CUD) party, civil engineer Professor Mesfin Woldemariam (m), aged 75, founder and former Chair of the Ethiopian Human Rights Council Birtukan Mideksa (f), CUD Vice President, lawyer, former judge Dr Berhanu Negga (m), CUD member of parliament, Mayor of Addis Ababa, economist Getachew Mengiste (m), CUD member of parliament, former army officer Gizachew Shifferaw (m), CUD member of parliament, university professor Dr Hailu Araya (m), CUD member of parliament, former press editor, academic Dr Yacob Hailemariam (m), CUD member of parliament, lawyer, a former UN Special Envoy and a Prosecutor in the Rwanda genocide tribunal, former academic Debebe Eshetu (m), CUD public relations officer, artist Muluneh Eyual (m), CUD secretary general, economist Daniel Bekele (m), policy director of the Ethiopian office of ActionAid (international non-governmental development organization), lawyer Thousands of other detainees

New names: Netsanet Demissie (m), president of NGO Organization for Social Justice in Ethiopia Dr Befekadu Degefe (m), CUD member of parliament, economist All those named above are now known to have been charged on 21 December by the High Court in Addis Ababa with a range of criminal offences, most of which can carry the death penalty. In total, 131 individuals and organizations were charged. The individual defendants, of whom about 88 are in custody, include 40 opposition party leaders or supporters detained since early November 2005; 10 newly-elected members of parliament; three prominent human rights defenders (Professor Mesfin Woldemariam, Daniel Bekele and Netsanet Demissie); 15 independent journalists; 30 people of Ethiopian origin who have been long resident abroad, including five journalists with the Voice of America radio station; and many members of the Coalition for Unity and Democracy (CUD). Five independent news organizations have also been charged, and all four political parties belonging to the CUD coalition. Arrests are continuing and more people may be charged. The 131 defendants were split into groups facing different charges. The charges include "outrages against the Constitution"; obstructing the National Election Board; inciting and organizing armed uprising; endangering the integrity of the state; and high treason. Most are also charged with "genocide", on the basis of allegations of the beating of an ethnic Tigrayan, arson against the property of two Tigrayans, causing fear and mental harm to members of an ethnic group, and harming members of the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) by excluding them from social events and funerals.

Amnesty International considers all those named above to be prisoners of conscience. Many others of the accused may also be prisoners of conscience. Several had begun a hunger strike in late November, in protest at being detained without charge. This ended in mid-December. On 18 January CUD leaders said they would not attempt to mount a defence during their trial, as the proceedings were unfair. All the defendants

are currently held in Kaliti prison in Addis Ababa, with access to their families and legal representatives severely restricted, and not possible in private.

BACKGROUND INFORMATION

Several thousand suspected government opponents from the CUD and other opposition parties are reportedly still detained without charge as a result of demonstrations that have been underway since November 2005 in Addis Ababa and other towns against alleged fraud in the parliamentary elections of 15 May 2005. The ruling EPRDF gained two-thirds of the seats. Police shot dead 42 demonstrators and wounded 200 others during the protests in early November. Schoolchildren, college students and teachers are among thousands of demonstrators detained in the past few weeks, particularly in Addis Ababa and the Amhara and Oromia regions. The protests led to violence on both sides, with many people reportedly severely beaten by soldiers and police and some killed. There have been reports of detainees held incommunicado in rural prisons and army camps being tortured, with several deaths.

Amnesty International

(<http://web.amnesty.org/library/Index/ENGACT600142006?open&of=ENG-ETH> – Accessed 2 August) in an Urgent Action dated 1 June 2006 and titled ‘Defending Their Lives: On Trail in Ethiopia’ reported:

In June and November 2005, demonstrations that left over 80 people dead and hundreds wounded took place in Addis Ababa, the Ethiopian capital, and other towns across Ethiopia in response to alleged election fraud in the May 2005 elections.

Thousands of opposition party members, human rights defenders, journalists and others were arrested during and after the demonstrations. Many have been released, but now 111 people are on trial before the Federal High Court in Addis Ababa. Charges filed against them include "high treason", "outrages against the Constitution", and "genocide". If convicted, they could receive death sentences. This trial has major implications for human rights, media freedom, democratization and the development of an effective and independent justice system in Ethiopia. The accused include elected opposition members of parliament, journalists and human rights defenders, considered Prisoners of Conscience (POCs) by Amnesty International (AI). AI is urging the international community to increase their efforts to work for the release of these defendants.

The general elections on 15 May 2005 were the third that took place under the 1995 Constitution and the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition, headed by Prime Minister Meles Zenwai, which has been in power since 1991. The coalition is headed by the Tigray People's Liberation Front (TPLF). The EPRDF overthrew the Marxist-Leninist government of President Mengistu Hailemariam (known first as the Dergue, or "committee", and which later formed the ruling Workers Party of Ethiopia (WPE) after a long armed conflict. Many are still being tried on capital charges of genocide for massive human rights abuses committed over a 17-year period by the Dergue and WPE governments after the revolution of 1974, which overthrew Emperor Haileselassie's government.

In the run up to the 2005 elections, AI had expressed concern at reports of human rights violations against opposition members, particularly the Coalition for Unity

and Democracy (CUD), including several killings, arbitrary detentions, harassment and intimidation by local police and militias. The EPRDF and its affiliated parties faced stronger opposition in 2005 than in previous elections by national and regional opposition parties, mainly from two coalitions, the CUD and the United Ethiopian Front (UEDF). Several opposition parties claimed that their members faced considerable restrictions and human rights abuses, particularly in remote rural areas outside the gaze of the international community and the media, centred in Addis Ababa.

Immediately after the 15 May poll, the opposition alleged election fraud by the government and EPRDF. In response, Prime Minister Zenawi banned demonstrations and took control of the security forces in Addis Ababa. On 8 June, soldiers in Addis Ababa shot dead 42 people who were protesting at the alleged fraud. Thousands of suspected opposition party supporters were also detained in harsh conditions and some were badly beaten. After a few weeks, all had been released on bail after short court appearances.

In early November, the main opposition CUD, whose 109 MPs were boycotting the new parliament after the removal of their parliamentary immunity, called for a series of non-violent protest actions and boycotts of ruling party businesses. On 1 November, 30 taxi drivers were arrested for honking their car horns during the protest action. The demonstrations reportedly started peacefully, but after riot police started using live ammunition to target protestors in the central Mercato and other districts, the protests deteriorated over the next two days into stone-throwing, building barricades and burning vehicles. Many people were reportedly beaten severely by soldiers and police with some 30 people reportedly shot dead, 150 people wounded and thousands of people arrested. Two police officers were also reportedly killed by the protestors.

Many thousands of people are still believed to be detained incommunicado in camps, despite the release of 8,000 people without charge in November 2005. Arrests have continued into 2006. Schoolchildren, college students and teachers were among thousands of demonstrators detained, particularly in Addis Ababa and the Amhara and Oromia regions after demonstrations at the end of December. The government-controlled parliament established an inquiry on 26 April 2006 to report within three months on the violence which surrounded June and November demonstrations, but the report has not yet been published.

The European Union Election Observation Mission expressed serious concerns about the fairness of the elections in both an interim report published in August 2005 and a final report published in March 2006. The final report concluded that "overall ... the elections fell short of international principles for genuine democratic elections." Prime Minister Zenawi called the interim report "garbage" and has not so far responded to the final report. In January 2006, the British government cut off US\$88 million equivalent budget support to Ethiopia due to concerns about governance and human rights issues arising from the elections.

After the demonstrations on 1 November 2005, following the street protests and police shootings, with a stay-home strike in process and many businesses closed, suspected opposition supporters, human rights defenders and journalists of the

private press began being systematically arrested by police and taken away to unknown destinations. A woman was reportedly shot dead at home when she complained about the police arresting her husband, a CUD activist. Several thousand suspected government opponents from CUD and other opposition parties were detained over the coming days. There were reports of ill-treatment and intimidation of defendants after arrest, and after several weeks in custody, most of the CUD leaders and journalists went on hunger strike until they felt that the international community had taken notice.

Over 80 defendants, which included ten newly-elected members of parliament and other officials of the opposition CUD party, appeared before the Federal High Court in Addis Ababa on 23 February when the trial formally opened. Charges filed against them included treason, "outrages against the Constitution", armed conspiracy, and attempted "genocide". The grounds advanced by the prosecution for the charge of "genocide" do not meet internationally-recognized definitions of genocide and AI has called this charge "absurd". A total of 111 people have now been charged and are facing trial.

Almost the entire leadership of the CUD party are on trial, including major elected officials of the capital Addis Ababa: Dr Berhanu Negga, Hailu Shawel (CUD President and All Ethiopia Unity Party leader and civil engineer) and Birtukan Mideska (f) (CUD vice-president, Rainbow leader and lawyer). The defendants also include human rights defenders, journalists, lawyers (including Yakob Hailemariam, former UN genocide prosecutor at the Rwanda tribunal and former UN Special Envoy in the Cameroon/Nigeria border dispute), academics, members-elect of the national parliament, and members-elect of the Addis Ababa city council.

In addition, six newspaper publishing companies are charged. Twenty-five defendants are being tried in absentia for "outrage against the constitution", including five journalists of original Ethiopian nationality who live in the United States and work for the Voice of America (VOA) radio station...

AI has received reports that many judges have been dismissed in recent years, some allegedly on account of delivering judgments against the government. Defendant Birtukan Mideska, alleges that her own dismissal as a judge was a result of her delivering a judgement that was unfavourable to the government. Other judges have allegedly been promoted on delivering favourable judgements.

On 5 December 2005, the African Commission on Human and Peoples' Rights adopted a resolution on the human rights situation in Ethiopia which included requests to release all those arbitrarily detained and to guarantee rights including fair trial, freedom of expression and political assembly. AI attended the 39th session of the Africa Commission in May 2006 and highlighted AI's concerns and pressed for the implementation of this resolution. The European Union, concerned about the fairness of trial, has appointed an international trial observer, and AI delivered a statement outlining concerns to the European Parliament on 15 May 2006...

The following article in the UK Telegraph's online newspaper, *Telgraph.co.uk* and titled 'Protesters killed and 40,000 jailed as Blair's friend quells 'insurrection'', dated 16 December

2005 estimated that 40,000 people were detained in the government crackdowns of November and December 2005:

A leader handpicked by Tony Blair to champion Africa has smashed his opponents with the biggest crackdown in the continent's recent history, jailing 40,000 people including boys of 15.

Meles Zenawi, the Ethiopian prime minister and a member of Britain's Commission for Africa, has launched a systematic onslaught against every possible adversary.

The entire leadership of Ethiopia's main opposition party has been locked up. Mr Meles has closed five newspapers and jailed their editors, while police have killed about 80 demonstrators.

Paramilitary units have killed people arbitrarily and thousands have been detained at random. This operation had thwarted "an insurrection", Mr Meles said.

A crackdown on this scale has not been seen in Africa for 20 years and the repression exceeds anything by President Robert Mugabe of Zimbabwe for the past decade at least.

Apartheid-era South Africa's onslaught against the black townships in the 1980s provides the only recent comparison. Ethiopia sank into crisis after a general election in May. The opposition said the polls were rigged and called mass protests in the capital, Addis Ababa.

Demonstrators gathered in huge numbers in June and again last month. On both occasions the security forces opened fire with live rounds. A handful of protesters were armed and shot at police. But most were unarmed and western diplomats dismissed Mr Meles's claim that a violent "revolution" was unfolding.

Instead, repression has followed November's demonstrations. Twenty-three leaders of the opposition Coalition for Unity and Democracy (CUD), including Hailu Shawal, its chairman, will be formally charged with treason today. The CUD holds all 23 of Addis Ababa's parliamentary seats and its most junior figures have not been spared...

Arrests were taking place across Addis Ababa. The city's jail overflowed and prisoners were held in its compound. As that became crammed, detainees were held in the National Exhibition Centre. Even that overflowed, so government offices were used as temporary prisons.

Detainees were beaten, stripped of their shoes then driven to an old military camp at Dedesa, 250 miles west of Addis Ababa. There they survive in disused barracks on daily rations of four slices of bread.

Western diplomats have reports of executions at Dedesa and of a body being hung on the camp's gates. The best estimate for the total detained is 40,000. Most were held for a few weeks. But Mr Meles said on Tuesday that 3,000 were still in detention.

(<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/12/16/wethiop16.xml&sSheet=/news/2005/12/16/ixworld.html> - Accessed 2 August 2006)

The *Sydney Morning Herald* referred to this government crackdown in its report on 29 December 2005 in an article titled 'Donors to withhold \$A518m from Ethiopia' (<http://www.smh.com.au/news/World/Donors-to-withhold-A518m-from-Ethiopia/2005/12/29/1135732673092.html> Accessed 2 August 2006)

Western donors plan to withhold \$US375 million (\$A518.31 million) in aid from Ethiopia over the government's recent crackdown on opposition supporters, The Financial Times reported.

"We are very concerned and have taken principled positions, along with our development partners, on the recent disturbances," Ishac Diwan, the World Bank's country director, was quoted by the FT as saying.

The \$US375 million involved is direct budgetary support.

Diwan said until the situation improves the World Bank, the European Union and Britain would look to disburse the funds in other ways to meet Ethiopia's humanitarian needs.

"Because of the situation, trust has broken down so we are trying to find other ways of doing it," the FT quoted another western development official as saying.

The Ethiopian government arrested thousands of opposition members and others after two spasms of violence struck the capital Addis Ababa, in July and November, over the disputed results of a May 15 parliamentary election. At least 82 people were killed in clashes with police and soldiers...

Prime Minister Meles Zenawi has said rioters and looters were to blame for the violence, which he said the opposition deliberately stirred up in a bid to topple the government.

Britain announced earlier it planned to freeze a 20 million pound (\$A47.84 million) increase in aid to Ethiopia. Foreign donors finance about one third of Ethiopia's annual budget, sending more than \$US1 billion (\$A1.38 billion) a year to the country.

The *Oromo Liberation Front's* website includes a comprehensive explanation of the aims and objectives of the OLF and documents the continuing situation of the Oromo people with regular press releases. The release "Oromo Uprising Nearing Three Months" is dated 20 January 2006

(http://www.oromoliberationfront.org/PressReleases/Press_012006_Oromo_Uprising.htm Accessed 2 August 2006):

The Oromo people have continued the popular uprising that started on Nov. 9, 2005 in protest to the Ethiopian regime's gross violation of fundamental human rights. To date we have issued four reports detailing the atrocities perpetuated against peaceful demonstrators by the government. This fifth one is an update on the continued suppression of human rights, the basic freedom of the Oromo and other peoples of Ethiopia, and the ruthless measures Meles' government is taking to stifle the popular uprising.

The underlying popular demands of the people remain the same: respect for human dignity and basic freedom, equality in the court of law, rights to self determination, release of all Oromo political prisoners, reinstatement of the Mecha Tullama self help Association, legalization of Oromo Relief Association, and etc. The people have acknowledged the Oromo Liberation Front (OLF) as the sole representative of the Oromo people. They have demonstrated their support for the OLF in many parts of the country by replacing government banners by that of the OLF. Typical slogans read "OLF means Oromo and Oromo means OLF". Such wide spread support for the OLF has invoked even more brutal reaction from the government. Summary and indiscriminate executions, torture, abductions, and unlawful imprisonment of peaceful people have become all too common. According to the Human Right Watch (HRW) report of January 13, 2006, intimidation and arbitrary detention of the Oromo people have intensified in rural areas.

High school and college students continue to join the popular uprising in increasing numbers. They have drawn attention to their demands by distributing pamphlets, staging hunger strike, and shaving their hair as a sign of mourning for peers killed by government agents. In areas where such protests have intensified, the government has closed schools in fear of further demonstrations. Daily demonstrations and strikes are going on all over Oromia...

Student demonstrations and strikes have spread to other parts of Ethiopia including the Amhara regions of Gondar and Gojam. The government has arrested thousands of students and several teachers in many of the educational establishments. Some are killed during indiscriminate shootings.

Large contingents of the Ethiopian Special Forces have been stationed in Oromia since the beginning of the ongoing popular uprising. Reports that reached us since our last update indicate that the Ethiopian government has increased the presence of these Special Forces including the police, particularly in areas where demonstrations continue as a daily phenomenon. The forces have been ordered to control the uprising at all cost. These forces are indeed responsible for the abduction, torture, and killing of several innocent individuals. In addition to those killed during the preceding months and reported in our previous communiqué, 14 Oromos have been killed during the last one-month by TPLF agents in different parts of Oromia. We have also documented the abduction of 51 civilians and the torture of 109 students from Finci'a, Galamsoo, Mandii, Aradda Biliqa, Ciro, and Asaasa. Many have sustained major bodily injuries. The HRW in its press release of Jan 13, 2006 has reported about the torture of several Oromos, allegedly for supporting or sympathizing with the OLF.

The Ethiopian government has also detained thousands of elementary school children, and elders, – in many instances for the mere reason of wearing traditional Oromo clothes. Most of the people detained are in rural areas, far from the eyes of the international community and journalists. The rural population of Oromia is truly under a collective punishment. The HRW (see press release of January 13, 2006) has stated that Oromos are randomly picked at a bus checkpoint and detained. It is difficult to obtain accurate information on the number of detainees. Some reports reaching us from Oromia have suggested it could be in the tens of thousands.

Over the years, the OLF has registered and alerted the international community about the seriousness of this growing tension between the peoples of Ethiopia and the dictatorial government of Meles Zenawi, the Tigrean minority ruling class in particular. We have observed the rising brutality of the government and the alarming deterioration of the rule of law, which could rapidly culminate into a serious political chaos enticing anarchy and mass massacre. Once again, we call upon all concerned governments, the United States of America, the European Union, the UN, and other government and non-government agencies to stop supporting the Meles regime and take a swift action to thwart this looming tragedy. Victory to the Oromo people!

Another press release dated 14 March 2006 and titled ‘The Popular Oromo People’s Uprising added a New Dimension’ reports:

The popular Oromo uprising that has counted more than four months continued with more commitment and a new dimension. The Oromo people’s struggle is now incorporated withholding any trade exchange with the government and its agents...

However, the government is becoming more aggressive towards the peaceful demonstrators showing its frustration and incapability to administer the Oromo people and others in Ethiopia. Particularly, the renewed protest of the Oromo people in a more coordinated and systematic approach created a huge panic among the local government cadres. At the moment most of the schools in Oromia are closed in fear of more protest.

The new strategy used by the Oromo people is to withhold their entire agricultural and other resources from local markets. This freshly coordinated remonstrance in parallel to the street protest has been taking place in many regions of Oromia. The government agents who have understood the tremendous economic impact of such a protest are trying their best to bribe some Oromos. In most of the meetings that are organized by force, the people either ask questions that the cadres do not want to hear/answer. In some instances the people left the meeting hall just after the arrival of the government appointees. There were also cases where protesters from the meeting burned both the federal and OPDO flags and replaced it with OLF flag and banner. There are also reports that disagreements are brewing among OPDO cadres regarding the response to the people’s request.

The government, panicked by the continued determination and the ever escalating protest of Oromo people, retort to the peaceful people in its usual way of indiscriminate killing, torture, harassment, detention, and rape. Since the last report 91 people have been massacred while 292 disappeared from different parts of

Oromia. Reliable sources have also confirmed that tens of thousands have been detained and interrogated by security agents while most of them sustained serious physical injuries from the torture during interrogation. In some places women are arrested in mass with a pretext that their men are members or supporters of OLF who organized the protests. We have received reports that all of these women are gang-raped by military forces at the detention camps. On the other hand intelligence coming from home also indicated that the security forces are intimidating the detainees to join the OPDO and expose operation cells of OLF that have engulfed the whole region of Oromia. Irrespective of the harsh measures taken by the security agents to recruit members, the response given by the people is one and the same: Only OLF is legitimate in Oromia...

Not heeding to the repeated call from Amnesty International, Human Right Watch and other human right groups, the Ethiopian government continued to indiscriminately kill, torture and haphazardly abduct peaceful protesters. We urge the international community to put necessary pressure on the Meles regime to end the tragedy going on in Oromia in particular and Ethiopia in general...

A further press release dated 8 April 2006 and titled "The Popular Oromo Protest and the Ever-increasing Crime of the Ethiopian Government" reports:

The OLF has issued several press releases and communiqués since November 2005 regarding the brutal repression of the Oromo people by the Ethiopian government. As these repressions intensify with increased popular protest and demand, the Ethiopian government is responding in its usual way of wanton arrests, torture, and killing of civilians, specifically the youth. Despite the brutal repressive act of the government, the Oromos are continuing to reveal firm reliance and fortitude demanding:

- Respect for human dignity and basic freedom,
- Justice through an impartial court of law,
- Right to self-determination enshrined in the Ethiopian constitution and international law
- Release of all political prisoners,
- Reinstatement of the Mecha Tullama self-help Association, and
- Addressing the grievances of the Oromo people through a peaceful political means, and more.

Today, as a result of continued demonstrations, most schools in Oromia remain closed by the government. There are also reports that in those areas where schools are open, government cadres are abducting students from their schools. The Ethiopian government is doing every thing to demoralize the Oromo youth. Young students of leadership quality are especially targeted...

The rising protests have been met by increased brutality from the government. Since February there are 203 Oromos that have been slaughtered in broad daylight. The killing of three and wounding of 30 Alemaya University students and the killings of six demonstrators in Siraaro, Arsi are examples of these growing atrocities.

Reports reaching us confirm that government agents from different parts of Oromia have kidnapped 617 Oromos recently, and their whereabouts are still unknown. **The total number of Oromos in detention is in the thousands. People are randomly picked from their residence and work places for no other reason than being an Oromo and suspected of participating in the popular uprising. Many of the detainees are school children including those as young as ten years old. Many of these detainees have also sustained serious bodily injuries including broken bones from beatings and tortures during interrogations.** There are many cases where detainees have lost part of their body such as an eye, teeth, leg and an arm either through beating by rifle butt or live ammunition. Detainees are often left to suffocate in small prison cells and often exposed to diseases...

There are also instances where civilian homes have been searched by security agents and their properties and belongings confiscated illegally, under the pretext that they supporters the OLF. In some of the homes, the security agents had raped women...

FINDINGS AND REASONS

The applicant claims to be a citizen of Ethiopia and of no other country. He travelled to Australia on a valid passport of Ethiopia and has made claims against no other country. Therefore for the purposes of the Convention the Tribunal has assessed the applicant's claims against Ethiopia as his country of nationality.

The Tribunal accepts that the applicant was involved in the Oromo Liberation Front starting when he was in year 10 and that this involvement was essentially of a low profile and level including distributing pamphlets, organising meetings with other youth, assisting his father by collecting donations and delivering papers in the role of a messenger. The Tribunal accepts that the applicant's father was heavily involved in the OLF and that he was an administrator for the OLF. The Tribunal further accepts that the applicant's father was arrested and detained in the 1990s and that the applicant was also arrested and detained some weeks after his father. These claims of arbitrary detention, interrogation and torture of OLF members and supporters after the OLF was banned in 1992 are entirely consistent with the extensive country information which is detailed above. In particular in relation to that period the Tribunal notes the following information from the *Human Rights Watch* report of May 2005, cited fully in country information above:

Since 1992, security forces have imprisoned thousands of Oromo on charges of plotting armed insurrection on behalf of the OLF. Such accusations have regularly been used as a transparent pretext to imprison individuals who publicly question government policies or actions. Security forces have tortured many detainees and subjected them to continuing harassment and abuse for years after their release. That harassment, in turn, has often destroyed victims' ability to earn a livelihood and isolated them from their communities.

Since 1992, security officials have arrested tens of thousands of Oromo whom they have accused of being members or supporters of the OLF since that organization was banned in 1992. According to former Ethiopian President Negasso Gidada, when he left office in 2001 roughly 25,000 people were in prison on OLF-related charges throughout Oromia and in Addis Ababa and no public moves have since been made to substantially reduce the number of detainees. Oromo civil society and community leaders have long complained that allegations of OLF involvement are used as a thinly veiled pretext to detain government critics and intimidate others into silence. One leading Oromo opposition figure, voicing an often-repeated complaint, lamented that “If you are a young man you are liable to ask questions. But if you ask questions you are liable to go to jail as an OLF suspect.”...

The Tribunal accepts that the applicant was interrogated and beaten at City 1 where he was first incarcerated but that after his transfer to X he did not suffer any further interrogations or mistreatment other than the detainment itself. In considering all of the applicant’s claims that Tribunal was mindful of his earlier misrepresentations to the department about his relationship with his former spouse and what these misrepresentations indicate about his overall credibility. Balanced against this the Tribunal notes that the applicant appears to have been honest in his recounting his experiences in detention and did not create any claims of mistreatment at X prison which he could easily have done given what was occurring in the country at the time.

The Tribunal accepts that the applicant was able to escape from X prison by bribing a prison guard and that he made his way to Country B where he lived for several years before coming to Australia. The Tribunal accepts that the applicant’s arrest, imprisonment, interrogation and torture constitute serious harm within the meaning of the Convention and that this was perpetrated for the essential and significant reason of the applicant’s political opinion and imputed political opinion due to his father’s active involvement with the OLF.

Although the applicant has been outside Ethiopia since the mid-1990s and he stated at the hearing that he would not reinvolve himself in Oromo politics should he return, the Tribunal finds, on balance, that there is still a more than remote chance that he could come to serious harm either because of his previous involvement or more probably because of an imputed political opinion attributed to him as a result of his father’s previous high profile involvement in the OLF. The Tribunal accepts that Oromo people, especially those involved with the OLF or imputed with support of it have been persecuted by the Ethiopian government and that this has intensified since the May 2005 elections. This finding is fully supported by the irrefutable country information cited above from many authoritative and reputable sources. The Tribunal notes that this country information highlights the arrest, interrogation and torture of main stream political figures in Ethiopia including former judges, journalists, elected members of the opposition and human rights advocates. The repression of people with suspected involvement with the OLF, who are more often not in the international

consciousness, appears to have been even more brutal. The Tribunal highlights the information from Amnesty International of June 2006 (cited above) that

Many thousands of people are still believed to be detained incommunicado in camps, despite the release of 8,000 people without charge in November 2005. Arrests have continued into 2006. Schoolchildren, college students and teachers were among thousands of demonstrators detained, particularly in Addis Ababa and the Amhara and Oromia regions after demonstrations at the end of December.

As the persecution which the applicant has suffered and which the Tribunal finds there is a real chance could occur again should he return to Ethiopia, is authorised by the Ethiopian ruling Party (the EPRDF) and administered by both the police and the military forces the Tribunal finds that no effective state protection, in accordance with international standards, will be afforded the applicant should he return to Ethiopia. This finding is fully supported by country information quoted by several sources in this decision. For example Human Rights Watch in its report of 16 January 2006 said: "People are being terrorized by federal police working hand-in-glove with local officials and militias." For the same reason and because the EPRDF rules the entire country the Tribunal does not consider that there is anywhere else within Ethiopia it would not be reasonable in all the circumstances for the applicant to relocate where he could be safe from serious harm.

The Tribunal must now consider whether the applicant has an existing legally enforceable right to enter and reside in Country C under s.36(3) of the Migration Act which arises as a possibility on the evidence before it that his mother and siblings have residency and possibly citizenship there. The Tribunal sought advice on this issue from the Consulate of the Country C and asked:

(Details amended in accordance with s.431):

A Member of the Tribunal is urgently seeking information about a male who escaped Ethiopia in the mid-1990s and was living in Country B until his arrival in Australia. His parents are divorced and his mother and four of his siblings now have permanent residence (and he thinks citizenship) in Country C.

Does he have a right to reside in Country C based on the fact that his mother and four siblings are permanent residents and possibly citizens?

The following response was received from a government official:

A foreigner does not have the legal right to be rejoined with his/her family based on the sole fact that his/her (naturalised) family are staying in the Country C. Only based on a specific request to that effect and on submission of the required documents submitted by the foreigner could be determined whether (sic) he/she may be eligible for admittance to the Country C.

The Tribunal relies on this advice from the Consulate General of the Country C that the applicant does not have any presently existing legally enforceable right to enter and reside in The Country C, to find that he has not.

The Tribunal has also considered whether the applicant has a presently existing legally enforceable right to enter and reside in Country B given that he lived there for several years before coming to Australia. It is not enough that the applicant could make some arrangements to re-enter a country where there is no present right to enter and reside there. The “right” in s 36(3) is more than an opportunity to seek the favourable exercise of discretion. It must mean, at least, a degree of certainty in the applicant’s circumstances that arises out of an entitlement exercisable by the applicant. In this regard the Tribunal notes that the applicant did not have any permanent residency or permanent visa to live in Country B and notes his comments at the hearing that he (and other) Ethiopians needed to apply for asylum through the Country B government to stay there; something he was in the process of doing when he met and married an Australian citizen and moved here. The Tribunal finds based on this that the applicant has no existing legally enforceable right to enter and reside in Country B.

The Tribunal finds that the applicant, should he return to Ethiopia now or in the reasonably foreseeable future, faces a real chance of serious harm on account of his political opinion and imputed political opinion, which engages a Convention nexus and that therefore he does have a well founded fear of persecution for a Convention reason. The Tribunal finds that effective state protection is not available to the applicant in Ethiopia, that he would be unable to relocate anywhere within Ethiopia and that he does not have a presently existing legally enforceable right to enter and reside in either Country C or Country B under s 36(3) of the Act. He is a refugee.

CONCLUSIONS

The Tribunal is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol. Therefore the applicant satisfies the criterion set out in s.36(2) for a protection visa.

DECISION

The Tribunal remits the matter for reconsideration with the direction that the applicant is a person to whom Australia has protection obligations under the Refugees Convention.

I certify that this decision contains no information which might identify the applicant or any relative or dependant of the applicant or that is the subject of a direction pursuant to section 440 of the *Migration Act 1958*.

Sealing Officer's I.D.

PRRTZB