



**International Covenant on
Civil and Political Rights**

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**Replies from the Government of Ethiopia to the list of issues
(CCPR/C/ETH/Q/1) to be taken up in connection with the
consideration of the second periodic report of Ethiopia
(CCPR/C/ETH/1)***

[26 April 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Constitutional and legal framework with which the Covenant is implemented (art.2)

1. International legal instruments may be integrated into a national law by (a) enacting the whole text of the ratified international human rights convention in a proclamation; (b) by enacting a proclamation which makes reference to the convention but without expressly enacting its provisions, either with or without annexing the text of the convention; and (c) by incorporating into the law the convention or the relevant provisions of the convention.

2. The Federal Negarit Gazeta Establishment Proclamation does not provide an express provision explaining which method to be followed in the Ethiopian context. However, the practice shows that almost all ratified conventions including the International Covenant on Civil and Political Rights follow the second method. The problem in this regard is that the conventions are not systematically translated in the language the peoples of Ethiopia understand or the official languages of its courts. The Government clearly understands the impact of the non-domestication on the implementation of the Covenant. With this in mind, though it is in its infant stage, a national plan of action is being crafted in cooperation with the Ethiopian Human Rights Commission and consultations with other relevant stakeholders. The plan of action, among other things, seeks to translate the Covenant and other conventions in the various national languages. As a part of the Government's drive to ensure the fullest implementation of the Convention, the Government together with the Ethiopian Human Rights Commission and with the technical assistance of international and regional human right bodies is conducting national consultations with the general public, lawyers, judges and the mass media in order to raise awareness and facilitate the implementation of the Covenant.

3. The Ethiopian Human Rights Commission has been building its capacity since it started to function six years ago. It has since January 2011 set up a unit which will look into and comment on proposed laws. The Commission has also planned to assess and harmonize the existing laws of Ethiopia with the country's international obligations and commitments. The Commission prepares its activity reports and makes them available at its library. It has now published a consolidated five years activity report. Its major report on conditions of detention covering 38 prisons in Ethiopia has been made public and a summary of that report is available at the Commission's website. The Commission has provided technical assistance to both the Government and civil society to submit reports. By law the Commission is mandated to comment on the implementation reports of the Ethiopian Government. So far it has done so on all the reports before they are submitted to treaty bodies. In August 2009, the Commission participated during the consideration of Ethiopia's report by the Committee on the Elimination of Racial Discrimination where it made oral submissions to the Committee. It also participated in the consideration of Ethiopia's report by the Committee against Torture. The Commission is now in the process of compiling a major report on the status of human rights in Ethiopia which may consider, among others, issues on how to improve its engagements in the preparation of Ethiopia's report to treaty bodies. With respect to opening regional offices, the House of Peoples' Representatives has adopted proclamations authorizing the Commission to open regional offices. Accordingly, the Commission is in the process of opening branch offices in Mekelle, Bahir Dar, Gambella, Jimma, Hawassa and Jijiga. The Commission with the technical assistance from the OHCHR East Africa Regional Office has planned to assess its capacity and performance according to the Paris Principle by April. It will then submit its application to the Committee. Work is also in progress in finalizing the accreditation of the Commission as an "A status" national human rights institution.

4. During the assessment of the human rights situations in Ethiopia at the Human Rights Council's universal periodic review, Ethiopia accepted a great many of recommendations submitted by Member States and observers. In connection with implementing the recommendations forwarded and accepted during the universal periodic

review of Ethiopia, the Government has launched a national plan in cooperation with the Ethiopian Human Rights Commission with the technical assistance of OHCHR East Africa Regional Office. Accordingly, a national conference involving the federal and regional competent authorities was organized and a consensus has been reached on the way forward. Maximum efforts will be exerted by the Government to ensure that all the recommendations accepted are implemented, including the ratification of the First Optional Protocol to the Covenant.

Counter-terrorism measures and respect of Covenant guarantees

5. Incitement, in accordance with Anti-Terrorism Proclamation 652/2009, means to induce another person by persuasion, promises, money, gifts, threats or otherwise to commit an act of terrorism even if the incited offence is not attempted. Ethiopia considers this definition to be in line with various international treaties, United Nations resolutions and other domestic legislations. Similar definition has been used under the international Convention for the Suppression of Acts of Nuclear Terrorism (art. 7), United Nations Security Council resolution 1373 (fifth paragraph) and 1624 (paras. 1, 3 and 4), and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (art. 3, para. 1(c)). The American criminal law Title 18 section 2, Swiss Criminal law section 259, Rome Statute of the International Criminal Court, article 25, paragraph 3 (e) and the International Criminal Tribunal for Rwanda, article 2(3), have provided for similar and comparable understanding for the term incitement. This is also true to article 36 of Ethiopian Criminal Code's definition for incitement.

6. In line with the call of the United Nations by Security Council resolutions 1368, 1373, 1456 and 1566 to States to ratify and implement international Conventions and Protocols related with terrorism to combat threats to international peace and security caused by terrorist acts, the Government of the Federal Democratic Republic of Ethiopia signed and ratified United Nations and AU anti-terrorism conventions and has taken measures to implement them. Domestically, the Government of Ethiopia enacted the anti-terrorism proclamation No. 652/2009 to prevent and suppress money laundry and financing of Terrorism /Proclamation No. 657/2009, which are designed to prevent, control and foil terrorism, money laundering and the financing of terrorism.

7. As there exist no comprehensive definition of terrorism and terrorist acts, Countries have recognized different definition and acts that constitute terrorism in their domestic laws. Anti-Terrorism Proclamation of Ethiopia in its article 3 clearly stipulates what amounts to terrorism, terrorism acts and what makes an organization a terrorist organization or association. Terrorist acts provided in article 3 of the Ethiopian Anti-terrorism Proclamation are those which render serious harms to the right to life, liberty and security of person, property and other rights and freedoms provided in the Covenant on Civil and Political Rights. Though there is no comprehensive definition of terrorism in United Nations Conventions and Security Council resolutions, some acts are considered as acts of terrorists in the Conventions. Those acts are consistent with those identified under article 3. These include aircraft hijacking, acts of violence at airport, acts against the safety of fixed platforms located on the continental shelf, acts against the safety of maritime navigation, crime against internationally protected persons, acts of unlawful taking and possession of nuclear material, acts of hostage taking, acts of terrorist bombing, acts of funding of the commission of terrorist acts and terrorist organizations and nuclear terrorism by individuals and groups. The above-mentioned acts visibly causes a person's death or serious bodily injury, serious damage to property, serious risk to the safety or health of the public or section of the public and damage to natural resource, environment, historical or cultural heritages. Those acts punishable when committed to " advance a political, religious or ideological cause by coercing the Government, intimidating the public or section of the public, or destabilizing or destroying the fundamental political, constitutional or, economic

or social institutions of the country.” Definition of terrorist acts in the Ethiopian Anti-terrorism law is in line with respecting the principle of rule of law and legality, protecting and promoting fundamental freedoms and human rights and incorporating those acts scattered in different anti-terrorism conventions of the United Nations.

8. Similar with other criminal acts, perpetrators of terrorist acts are enjoying various supports from different individuals, groups or organizations before, after and at time of commission of the crime to enable them to commit the act successfully and to escape from prosecution. Therefore, in parallel with preventing perpetrators from committing the act or prosecuting before the court of law, those who aid and support terrorists should be made liable for their act. Paragraph 2 of Security Council resolution 1373 obliges States to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts. Whereas, Ethiopia is a member of the United Nations and is under obligation to accept and carry out the decisions of the Security Council pursuant to article 25 of the United Nations Charter, provided provisions in its Anti-terrorism proclamation to make liable those who support and aid terrorist acts, referring the natures of support extended and punishments which reflect the seriousness of terrorist acts. Other countries also extensively established legal framework for this purpose. Title 18, section 2339 of the American Criminal law, Section 270 of the Italian criminal law and article 295 of Criminal law of Chile may be cited as typical examples in this regard. Article 5 of the Anti-Terrorism Proclamation of Ethiopia stipulates for kinds of supports to the effect of commission of terrorist acts and terrorist organizations and punishments thereof, which is also based on paragraph 2 of Security Council resolution 1373 and articles 37 (1) and 40 of Ethiopian Criminal Code. This Article of the Anti-terrorism Proclamation is designed for combating terrorist act by denying safe heavens for those who support it and is compatible with each and every provisions of the Covenant on Civil and Political Rights.

9. Encouraging and giving recognition for criminal acts in general and terrorist acts in particular has an adverse effect for heartening peoples to commit criminal acts and which may finally end up with an repercussion on peace and security. Encouraging and recognizing criminal acts could be reflected by word of mouth, writing, image, gesture or in any other possible ways. The Ethiopian anti-terrorism law, under article 6, intends to prohibit encouragements or inducements to commission, preparation or instigation of an act of terrorism through publication. This Provision is formulated based on article 480 of the Criminal code.

10. Right to freedom of Association is recognized under article 22 of the Covenant on Civil and Political Rights and article 31 of the Ethiopian Constitution. The Covenant, itself, provided for restriction of this right by law when it is necessary in a democratic society for the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The Ethiopian Constitution also provided for restriction of right of Association for an organization to be executed in accordance with the relevant laws.

11. Considering the instability and terror that could be created with the false threats or rumours related with terrorist acts, the Ethiopian anti-terrorism legislation prohibits intentional communication, by any means, of false threats related with terrorist acts. Criminalizing false rumours or threats that could cause public disturbances and instability is also provided in articles 485, 486 and 487 of the Ethiopian Criminal Code. Article 11 of the Anti – Terrorism Proclamation does not violate provisions of Covenant rather it recognizes article 19, paragraphs 1 and 2) of the Covenant and framed in line with possible restrictions on the right to freedom of expression as indicated in sub 3 of the same article.

12. Considering the vital role police has played in combating terrorist acts and bringing terrorists to justice and having understood the increasing nature of the seriousness terrorist acts and ways of committing terrorist acts, the police has been bestowed with powers in relation to terrorist acts under the Ethiopian anti-terrorism law. Henceforth, under Article 16, power is given for the police officer, with the permission of the Director General of the Federal Police or a person delegated by him, to conduct a sudden search and seize relevant evidences on vehicle and pedestrian in an area where there is a reasonable suspicion that a terrorist act may be committed. Police could make this sudden search only as indicated in article 32 (1) of the Criminal procedure Code and article 16 of the Anti-terrorism Proclamation where there is reasonable suspicion. The Provision of the anti-terrorism proclamation in this regard is similar with articles 32 and 33 of the Criminal Procedure Code. The only difference in this case is the Anti – terrorism law gives the power to permit sudden search to the Director General of the Federal Police where there is reasonable suspicion of terrorist acts. This Provision is designed with a view to combat the devastating harm and threat terrorist acts caused on peace and security. In this regard, countries have given the power to permit sudden search in terrorist acts, even, to the level of senior police officers.

13. As the commissions of terrorist acts are accomplished in a secret and a very complicated ways, special mechanisms of investigation and acquiring evidence are needed to bring suspects to justice. To this effect the anti- terrorism Proclamation under Article 21 provided for a mechanism of taking samples of the suspects hand writing, hair, voice, finger prints, photograph, blood, saliva and other body fluids and undergoing of suspects for medical test. The Police has been given the power to use necessary and reasonable force to take samples if the suspect is unwilling for the test. The provision of the law is framed only to ascertain whether a suspect has committed the suspected terrorist act or not. This provision is not contrary to article 7 of the Covenant on Civil and Political rights which prohibits medical or scientific experimentation of an individual without his free consent. Article 7 of the Covenant prohibits medication for experimentation while article 21 of the anti-terrorism law provided for medical test to identify evidences which show whether a suspect has committed a crime or not.

14. Active participation of every individual through assisting the investigation of terrorist cases is crucial for the betterment of the criminal justice administration in one country. As a result, the Anti-terrorism proclamation provided a provision for a duty on individuals to give necessary information or evidence which could assist to prevent or investigate terrorism cases to the police. This provision of the law does not conflict with any provision of the Covenant. Those individuals who failed to give necessary information or evidence to the police when requested are punishable as per article 443 and the following Articles of the Criminal Code.

15. What acts can be grounds to prescribe organizations as terrorist, who is mandated to proscribe and de-proscribe terrorist organizations and what are consequences of proscribed as terrorist organization are clearly provided for under article 25 of the Anti-terrorism Proclamation. The Government is under obligation to identify organizations which participate in terrorist acts and should take appropriate measures to freeze these organizations for the sake of public peace and security. This provision of the Proclamation is framed with the effect of Security Council resolution which calls upon States to proscribe terrorist organizations and freeze their assets as they are the main source in financing terrorist acts. This provision does not violate provisions of the Covenant.

16. The procedure to arrest a suspect with court warrant and without court warrant are provided under articles 26, 50 and 51 and other provisions of the Ethiopian Criminal Procedure Code. Among other things, it is provided that any private person or member of the police may arrest without warrant a person who has committed a flagrant offence where

the offence is punishable with simple imprisonment for not less than three months /article 50 of the criminal procedure code/ and any member of the police may arrest without warrant any person whom he reasonably suspects of having committed or being about to commit an offence punishable with imprisonment for not less than one year /article 5(1) of the criminal procedure code. Similarly under article 19 (1) of the Anti-Terrorism Proclamation the police has been bestowed with a power to arrest without court warrant any person whom he reasonably suspects to have committed or is committing a terrorist act. In this regard, the above mentioned provision of anti-terrorism proclamation is similar with what is provided in the criminal procedure code. As terrorist acts are punishable with up to death sentence, which is not less than one year imprisonment, a police can arrest without court warrant any person whom he or she reasonably suspects of having committed or is about to commit terrorist crimes. In addition, the police has the power to arrest any person who is committing (flagrant case) terrorist acts without court warrant. Therefore, arrest of terrorist suspects by the police without court warrant is framed in line with the normal criminal procedure principles and is in conformity with article 9 of the Covenant on Civil and Political Rights. Moreover, other right of arrested person which is provided in the Covenant and Ethiopian Constitution is also observed in the handling of terrorist crime cases. Similar way of arresting terrorist suspects without court warrant is provided in other countries legislation related with terrorism.

17. Article 19 (3) of the Constitution and article 19 (2) of the Anti-terrorism Proclamation provided the right of arrested person to be brought before a court within 48 hours of their arrest. The court, after ordering prompt and specific explanation of the reasons to be given for the arrested person on his/her appearance, may decide on custody or release on bail of the person. Where the police investigation is not completed, the investigating police officer may apply for a remand for a sufficient time to enable the investigation to be completed and the court may not grant more than 14 days in each occasion /article 59 of the Criminal Procedure code /. In the Anti-terrorism Proclamation the period of remand granted to the completion of investigation is a minimum of 28 days which, in total, shall not exceed 4 months. Though the law extends the remand period to 28 days, it limits its total period to four months. Considering the seriousness and complexity of terrorist crime cases and to conduct complete and adequate investigation, the remand period have been extended to 28 days in the law.

Non-discrimination- discrimination and violence against women (arts. 2, para. (1); 3, 23 and 26)

18. Various measures have been taken to build the economic capacity of women. Leave no women behind partners Joint program is under implementation and totally 254,000 (100,000 direct and 154,000 indirectly) women are beneficiaries. The programme dwells on entrepreneurs training, establishment of cooperatives, promotion of saving, and designing credit modalities. Within Federal and Regional executive body structure women are getting benefit from micro and small scale in various types of businesses. As is the case in most parts of the world, women and men have different access to critical economic resources and varying power to make choices that affect their lives;

19. The direct result of this is seen in the unequal roles and responsibilities of women and men including inequality in economic structure. Core dimensions of poverty (opportunity, capability, security/risk, and empowerment) differ along gender lines, and function to enhance the vulnerability of women. For these reasons, the inclusion of gender in any effort to alleviate poverty is nonnegotiable in the country's development plan and programme intervention. The Government has taken strong measures in setting gender-responsive goals and targets in the Poverty Reduction Strategy with a view to reducing the workload of women so as to enable them fully participate in the political and socio-economic decision-making arena. These are exercised through proper implementation of

the constitutional provisions as well as the National policy on Ethiopian women. It is the result of the overall sectors' exerted effort /social, economical & political/ that is bringing the changes being registered in the country.

20. Since 2005, 53.7 and 47 per cent of women benefited from the Housing Development Program in main cities and in Regions respectively. Women's equal land use rights with their husbands is ensured through land certification, 28 per cent women headed household has got ownership of rural land and that enabled them with the opportunity to produce food for their families. Various interventions are undertaken in Agriculture extension programme to benefit 100 per cent of women in women headed households and 30 per cent of women in men headed household, and this is nearly achieved. Priority is given to women headed households in Food Security Program.

21. The Ethiopian Women Development & Change Package provides opportunity for rural women to be organized into various cooperative societies to ensure their economic benefit. Women's involvement in cooperatives grew from 10 per cent in 2005/06 to 17.4 per cent in 2007/08; Women cooperatives' was boosted up with a capital of 9 million and reached to 647 million; Beneficiaries of 28 Micro finance institutions registered reach to 40 per cent and about one million women in Rural areas are the members.

22. The State party has taken a lot of measures to ensure equal access of girls to education. To mention some: gender has been a cross-cutting issue from primary to higher education in all programmes. Affirmative action programme has been deployed for girls in 10th and 12th grade to increase their participation at preparatory and university programmes. Girls have been given 25 per cent seats in public universities to learn in the department of their first choice. Efforts have been made to lower drop-outs and attrition rate of girls at all levels through tutorial, counselling and financial supports. To enhance the awareness of society on girls' education different mechanisms have been employed. (Media, conference, training, etc.) To create role models and to support girls' education, the numbers of female teachers have been increased at all levels. Scholarship programme supported by UNICEF has started since 2007 for needy secondary school girls in all Regions. Incentives have been provided to high achievers in secondary school and higher learning institutions. Separate latrine houses were provided and new ones are being constructed for girls at all levels. Continuous training programmes have been conducted to girls to fight HIV/AIDS. All in all the participation of girls in education is increasing from year to year. For example the 2008/2009 statistical data of the Ministry of Education shows that the gross enrolment rate of girls at primary education is 90.7 per cent, at secondary education 32 per cent, at technical vocational and training education 50 per cent and at university level 29 per cent.

23. Article 34 of the FDRE constitution guarantees that men and women have equal rights while entering into, during marriage and at the time of divorce. It further stipulates that the full and free consent of the intending spouses have to be solicited before a marriage is entered into. The previous family law of Ethiopia has been revised in order to incorporate the noble idea that men and women are equal in marriage, among other things. The revised family law under article 42 provides that, without prejudice to the mandatory provisions of the law, the spouses are with full liberty to regulate by a contract the peculiar effects of their marriage, and their reciprocal rights and obligations in matters concerning their personal relations. Moreover, the family law mandatorily provides that spouses owe each other respect, support and assistance; and that they have equal rights in the management of the family. The joint management is reflected in the duty to cooperate to protect the security and interest of the family, to bring up and ensure the good behaviour and education of their children in order to make them responsible citizens. The law provides mandatory provisions which ensure the equal right of women and men in marriage. The Government in

cooperation with various stakeholders is exerting its maximum efforts to realize these rights by empowering women in all aspects of life in the first place.

24. Research has been undertaken to identify the type, nature and magnitude of harmful practices. Based on the findings of this research, a wide range of measures have been taken including the establishment of different HTP-eliminating committees at every level in most regional states and successive awareness creation activities have been undertaken by the Regional Women's Affairs' Bureaus in collaboration with non governmental organizations. In order to protect and prohibit violence as well as harmful traditional practices, training programmes have been devised for police forces, public prosecutors and lawyers as a preventive measure and legal protection. Prevention is regarded as the best tool to eliminate sexual harassment from occurring. Violence against women has clearly been defined and made public agenda through different policies and strategies. At policy level there is clear understanding that violence against women has been directly hampering women's participation and their benefit in all spheres of life. So the Government has understood that to solve women's economic, political and social problems multi-sectoral approaches are mandatory. Advocacy strategies have been implemented by the Government, NGOs and women's groups, particularly women's organizations of different levels have been making more rewarding efforts in this regard. All harmful traditional practices are prohibited under the Revised Criminal Code. Domestic violence is made punishable under the 2004 revised criminal law. The Ministry of women's Affairs in collaboration with other governmental and non-governmental stakeholders has implemented different mechanisms to enhance social awareness, through experience sharing, community dialog and panel discussions. In this regard, using religious leaders, clan leaders, elders and locally influential people as facilitators can be sighted as best experience. The concerted effort has born some fruits. Accordingly, FGM prevalence dropped from 74 per cent 1997 to 37.7 in 2009/10, abduction prevalence dropped from 23.3 per cent in 1997 to 12.7 per cent in 2009/10, and early marriage prevalence dropped from 33.1 per cent in 1997 to 21.4 per cent in 2009/10.

25. Homosexual and other indecent acts are contrary to and do not go in line with Ethiopian cultures, social norms and religions; and are in conflict with public morals. These deeds do not go in line with the social order and day to day interactions of the society and are contrary to the public morality. Thus, the Government does not see enough and convincing reasons to repeal article 629 of the revised Criminal code.

26. The National Human Rights Commission has stated that prisons in Somali national regional state as part of its comprehensive prison monitoring plan. The Commission has also set up two legal aid centres in collaboration with Jigiga University. Jigiga, the capital city of the Somali regional state, is one of the seats for the branch offices of the Commission.

27. Obong Uloj, Obong Uneguluang and Umer Obong were suspected as organizers of the unrest in Gambella in the Anuak Community. The suspects were serving illegally as a military commander, a central committee member and a militia, respectively, in the Gambella Peoples Liberation Democratic Front (GPLDF), established by the suspects in 2002. The suspects were responsible for instigating and arming youths; fighting with the National Defence Force in Ankuak zone, Chag Woreda; for the death of several people five of whom were personally slaughtered by the suspects with the goal of seceding the Gambella region from the Federation in unconstitutional way. The suspects, besides the crimes stated above, created relation with Commander Pilaman Fa'at's terrorist organization and other terrorist organization; and were being paid in dollars to commit terrorist activities on the country. They were providing logistic support for terrorists inside the country and their members who were in run-away in Sudan and Kenya. After the clash between the National Defence Force and GPLDF ended and things become normal, the Government granted pardon for those members who were in run-away in Sudan and Kenya

and they re-joined the community availing themselves of the pardon granted. The suspects, however, refused to seize the opportunity and continued with their illegal activities. They were finally apprehended at Puchela by Sudanese soldiers. The Federal Police conducted investigation after they were extradited to Ethiopia. Starting from the time of their arrest, the police organized its evidences in a way that respected the human rights of the suspects and the Federal Prosecutors Office brought its case before a court of law referring article 241 and article 539 of the criminal code. The hearing was conducted at the Federal High Court Publicly. The charges were transferred to the suspects in writing to which they did not oppose but pleaded not guilty. The witnesses called by the public prosecutor and the statements of the suspects recorded by the police at the time of investigation prima facie proved the suspects guilty to the court. The suspects called four persons who were their members and charged in connection with the case of OLF as a witness. The court decided that the suspects are guilty of the charges because the evidence presented by the suspects could not overrule that of the public prosecutor. Considering the submissions made by the prosecutor and the accused on sentences, the way the crimes committed, the role played by the accused on the commission of the crimes and other related points, the court sentenced Obong Ulej and Umer Obang to life imprisonment whereas Obones Uneguwang was sentenced to 10 years rigorous imprisonment. Generally, starting from the time of their arrest the human rights of the accused were protected in the investigation process, during the trial and in prison and nothing has been done beyond the limits of the law.

28. It is stated that death penalty shall be imposed under extreme cases or circumstances and it should relate to crimes that has resulted in the loss of human life. The comprehensive list of the existing international and regional human rights instruments ratified by Ethiopia do not prohibit the application of death penalty. States have the sovereign authority to enact criminal laws that may provide for the application of death penalty as a punishment for criminal conviction by a competent court of law based on accepted international norms and standards (paragraphs 2 and 4 of article 6 of the Covenant on Civil and Political Rights). The Ethiopian legal system protects the fundamental right to life as provided for both under international and regional human rights instruments. According to article 15 of the FDRE Constitution, every person has the right to life. Both the constitution and the revised criminal code provide a framework for a very restrictive interpretation of exceptions to this fundamental right. Article 15 of the Constitution stipulates: "No person may be deprived of his life except as a punishment for a serious criminal offence determined by law." Accordingly, not only ought the crime be serious and grave, but its determination must also be made based on a clear stipulation in the law. Moreover, the 2003 Criminal Law of the FDRE has prescribed death penalty as a punishment only for the most serious offences. As per article 117 of the Criminal Law, death penalty will be passed for the most serious crime which has exhausted all the possible legal routes. For a sentence of death penalty to be implemented, the special part of the code which makes the act a crime should specifically stipulate that the particular crime is punishable by death penalty. Therefore the law in Ethiopia guarantees the fundamental right to life; provide for the application of death penalty only for "the most serious crimes"; and provides ample opportunities for commutations. The defendants against whom capital punishment is imposed have committed very serious and grave crimes. They were found guilty on all the five counts. They instigated the army to commit mutinous crime. It has been proved beyond any doubt by oral testimonies, documents, video and audio evidence that the defendants along with three different anti-peace organizations (democratic guard, military alliance and Genbot 7) formed an association and organizing member of the armed forces which were expelled on the grounds of discipline and other active members of the armed as well as police force with a motive of achieving their purpose and with premeditated intention to instigate armed revolt and mutiny. The close reading of the court's file vividly indicates that the court rendered the death penalty against the defendants in accordance with the appropriate provisions of the Criminal Code of Ethiopia. The other defendants were found by the Court

for trying to commit a crime against the Constitution and the constitutional order by means of violence and conspiracy and had been punished by the Court ranging from rigorous up to life imprisonment. Among these defendants some were granted pardon for previous crimes based on their request but instead of learning from their mistakes they were found involved in the commission of other crimes. This shows the exceptional nature of the crime committed by the defendants and the absence of any serious extenuating circumstances. With respect to the execution of the penalty, it should be noted that the death penalty passed by a court would only be executed where the president has given his or her approval. Furthermore, without investigating the possibility of non-execution of the death sentence through amnesty or pardon or any other forms of commutation, it cannot be executed. This has encouraged a development with respect to a practice in Ethiopia which may be likened, as acknowledged in the Human Rights Council's report on Ethiopia's report under the universal periodic review to a de facto moratorium.

29. Biyansa Daba was a member of the Oromo Peoples' Democratic Organization (OPDO), contrary to what has been alleged by the Oromo Federalist Congress (OFC). This was evidenced by the documents signed by Biyansa Daba stating the fact that he was a member of OPDO and his membership contribution ID. No.715325. Moreover, the evidence deduced from the hospital tells that Biyansa Daba has passed away by reasons of internal diseases, not out of severe beating as claimed by the opposition. In addition, the opposition parties did not present concussive evidence showing that Biyansa Daba was a member of OFC and his death was caused by severe beating, except verbally alleging that he was a member of the OFC. The facts of the case were made public by the Oromia Police Commission. As immediately, after the act is committed, disclosed by various Medias, Aregawi Gebre-Yohannes was a victim of personal vendetta; and the killing did not have any political agenda. The person responsible for the killing was brought to justice and sentenced to 15 years of rigorous imprisonment. The death of Girma Kabe did not relate to the election process, rather it was caused by personal vendetta with the suspected person. The suspected person was arrested by the police and investigation is being conducted. The facts were made public through various Medias.

30. Pursuant to article 50 of the Constitution the Federal Democratic Republic of Ethiopia comprised the Federal Government and the State members; and both the federal and state legislatures are the highest authority of Ethiopia. The Constitution further guarantees that members of the legislative body has to be elected by the people for a term of five years on the basis of universal suffrage and by direct, free and fair elections held by secret ballot. Elections to select members of the legislature were held in 1995, 2000, 2005 and 2010 in a five years time accordingly. If violations, intimidation or harassment, fraud and fouls happen at the election process, anybody can report to the bodies empowered by the electoral laws and the criminal code as well as to a court of law; and may avail itself of the mechanism put in place to solve misunderstanding and complaints of the election process legally and amicably.

31. Whereas article 30 of the Constitution states that everyone has the right to assemble and to demonstrate together with others peacefully and unarmed and petition; it also states that restriction on this right may be imposed in the interest of public convenience, for the protection of democratic rights, public morality and peace, the well-being of the youth, the honour and reputation of individuals, propaganda of war, and human dignity. Accordingly, a mechanism has been established where anyone who wishes to conduct peaceful demonstration, assemble and petition gives information to the competent authority and do the same after securing a permit. This is becoming a custom in most parts of the world. Without prejudice to the right to seek justice in a court of law, every one has a right to petition in a peaceful demonstration.

32. The aftermath of 2005 election, however, witnessed disorder and violence instigated by political parties who refused to accept the results of the election regardless of the options to solve complaints and misunderstanding through court of law and peaceful demonstration. The then demonstration did not get any permit or recognition from the competent government organ; and aimed at creating violence and disorder through demolishing institutions rendering public services and their properties. These deeds endangered the safety of life, body and property of the public at large. The Government has tried to stop the violence to execute its popular and constitutional mandates of protecting the safety of citizens and public and government properties.

33. The violence claimed the lives of many who participated illegally at the violence and the police who were trying to curb the violence. High amount of public and government property has been destroyed. The House of Peoples' Representative through Proclamation No. 478/2005 established an independent inquiry commission to investigate the consequences of the disorder and the force taken by the Government in light of human rights protection. The inquiry commission after a thorough investigation has concluded that the force taken by the Government was legitimate, proportional and necessary. Thus, no need has arisen to prosecute members of the police and security forces involved in curbing the violence. Since the force taken has been proved to be legitimate, proportional and necessary; compensation was not paid by the Government to the families of the deceased as well.

34. The two judges chairing the inquiry commission were taking part in the investigation process. And, if they found out that the force taken by the Government disproportionate, they should have made their vote count based on article 9 of Proclamation No 478/2005 which calls for such decisions to be made on a majority vote. Nothing would have happened to them if they have voted either way. That they have fled the country does not show that the Government used disproportionate force. The decision of the inquiry commission was reached by the two judges but by the majority vote of the entire members. And the majority has voted that the government force was proportionate, legitimate and necessary. The comments forwarded by the two judges, after they fled the country, stating that the Government has to be forced away from power poses a question whether the two judges were independent at the first point. The inquiry commission has found out that the force taken by the Government to curb the violence and disorder following the 2005 election was proportionate, legitimate and necessary. So no member of the police or security forces were brought to justice and no compensation was paid for the families of the victim. Moreover, the two judges should have made their vote count if they have the belief that the forces taken were disproportionate. There is nothing to suggest that they would be forced to flee the country if they have done so.

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

35. Ms. Birtukuan Mideksa was one of the members of the coalition for Democracy and Unity who were found guilty on charges of instigating public disorder and attempt to dismantle the constitutional order by force and sentenced to life imprisonment. While serving the sentence, she and other prisoners asked the Government and the peoples of Ethiopia for pardon. Accordingly, the Government has granted them conditional pardon based on their plea. Ms. Birtukuan, however, denied asking for pardon while addressing supporters during a visit in Sweden. Article 16(2) of Procedure of Pardon proclamation No. 395/2004 proclaims that a pardon delivered on grounds of fraud or deceit does not have any effect. The pardon granted to Ms. Birtukuan was conditional and the denial breaks the condition as per article 16(3) of the Proclamation. She was asked to invalidate the denial within three days of her return from abroad. Because she did not invalidate the denial, she

was re-arrested, her pardon being revoked as per article 16(2) cum articles 10(1) and (2) of the Proclamation.

36. Ms. Birtukan Mideksa had expressed her deepest regrets for deceiving the people and government of Ethiopia by denying the pardon granted to her by the Government on the apologetic letter addressed to H.E. Meles Zenawi, Prime Minister of the Federal Democratic Republic of Ethiopia, on September 15, 2010. Therefore, the action taken by the Government in revoking the pardon and re-arresting Ms. Bitukuan is in conformity of the Government's responsibility to protect crimes and criminals; and in line with Pardon Proclamation. Any suggestion that her arrest has been done arbitrarily is therefore far from the reality. While she was in prison, Ms. Birtukan Midekesa had been treated with full respect to her human dignity like any other prisoner in accordance with article 21 of the Constitution. And she was not prohibited from being visited by her relatives, friends, doctor, religious leaders, lawyer and her daughter.

37. It is a practice that a prisoner registers the persons he/she wanted to be visited by. This enables the prisoner to decide who can visit him/her. Ms. Birtukan registered only her relatives, friends, mother and daughter. She did not want to be visited by other persons. Personal doctor and religious advisors did not even come to visit her and so were not prevented at all. She did not register members of the opposition parties and as a practice of the prison administration, none but the registered visited Ms. Birtukan Mideksa.

38. To enforce the sentence of courts and pursue the goal of rehabilitation, prisoners will be held in different rooms separately on the basis of their sex, age, the gravity of the crimes committed and the terms of the sentence. The rooms are built in ways which allows sufficient light and air. Prisoners are provided with beds and blankets. And as practical as possible, prisoners will serve their sentences in a prison found near to their families. In order to avoid overcrowding, the Prison Administration will transfer the inmates to prisons found at Shoa Robit and Ziway where they will be encouraged to exert their time and efforts on development endeavours; and will serve their sentences in accordance with the terms of the sentence on the basis of their age and in a way of bringing behavioural changes. Inmates will be provided with sufficient healthy foods and clean water in accordance with the Treatment of Inmates Directive. The prison medical personnel will examine that foods and water is served accordingly. Every inmate will be provided with free medical services and medicines while he is in prison. If the treatment requires further attention and that cannot be provided by the prison's clinic, the inmates will be sent to referral hospitals. The status of the medical clinic of the prison administration has been scaled up to a general hospital. To make the scaling up practical, training has been provided to improve the capacity of medical professionals; several medical personnel have been recruited and hired; medical equipments have been bought; and sufficient reserves of medicines were made available in order to improve the supply.

39. Pregnant prisoners will be provided with special rooms suitable to their health; and special foods and medical treatment will be accorded to them. At the time of gestation, the necessary medical examination and check up will be held. When they gave birth, additional food and medical treatment will be provided to the baby child after they gave birth and until charities who will be guardian are found to take the child. If a physician orders a pregnant inmate to have a check up at a special hospital, she will be allowed to leave the prison with an escort. If they have to give birth at that special hospital, this will also be facilitated. The children born in these situations will not be registered as born in prison. If a child not more than 18 months old is detained with his/her mother, the mother and child will be put in a healthy and suitable place with free foods and medical services.

40. Based on the free will of inmates, examination for HIV/AIDS will be conducted preceded by counselling of the prison medical professionals. Inmates living with

HIV/AIDS have special counselling, medical coverage and food; and are entitled to ART drugs freely.

41. The prison administration facilitates opportunities to provide the inmates with disabilities with equipments that can support their non-functioning body parts. Bedrooms, toilets and dining rooms arranged in a way that is comfortable to inmates with disabilities. Primary opportunities will be given to these inmates for education and training so that they develop self confidence and build their capacity. They will be allowed to take part in development endeavours in accordance with their skills. They will be made stay with other prisoners to advance a good social interaction and boost up self confidence. In order to enable inmates bring behavioural change and their peaceful re-integration into the society, education, training and counselling services will be provided by the prison administration. Inmates who did not finish or start formal education will be made finish or start their education in accordance to the circumstances of the case based on their consent. If they score grades sufficient to enrol them to higher education institutions, recommendation that allows them join the institutions will be written to the relevant authorities when they finish the terms of their sentences. Based on the consent of inmates, special technical trainings will be provided on wood and metal work, plumbing, waving, agriculture, tailoring, hair dressing and food preparation. Basic computer skill training forms one part of these technical trainings. Inmates with the help of professionals will be encouraged to take part in construction, agriculture, daily labour, wood and metal works, waving and tailoring so that they support themselves financially and develop a working spirit. Sport facilities such as table tennis, football, volleyball, handball, and chase are some which serve as means of recreations for prisoners. The library is well organized so that the prisoners may go there and enlighten themselves.

42. Professional counselling service will be provided to enable the inmates bring behavioural changes. Prisons guards, wards and officials will be admitted to a mandatory eight months training immediately after they are recruited for the post. Consecutive capacity building programmes will be held to pursue the objectives and purposes rehabilitation and the criminal justice system at large. The capacity building programmes dwells on the State party's constitution, human rights protection, criminal law and international law on the treatment of prisoners. Training will be conducted on Federal Prisons Commission Establishment Proclamation No. 365/2003, Federal Prison Wardens Administration Regulation No. 137/2007, Treatment of Prisoners Regulation No. 138/2007 as well as other laws related to prison administration; and on first aid, fire prevention and protection. The wardens will be sent to schools to build their capacity. Cruel treatment is proclaimed to be illegal; and enforcing directives are issued. Strict regulation will be conducted to this effect. When a prisoner joins the prison, he/she will be informed about his rights and obligations clearly. The rules and regulations will be put in libraries so that inmates can refer at any time and are able to understand them properly. Persistent training will be conducted on to make sure that inmates' rights are not transgressed. Regular consultations between the inmates and officials of the prison will be held to raise the awareness and understanding of all.

43. Inmates may present their grievances to the different levels of the prison administration. They can also make any complaints known by putting it in the suggestion boxes hanged near the rooms. The administration will collect the complaints from the boxes and take corrective measures. Moreover, regular visits will be paid by the head of the prison administration, members of parliament, Ethiopian Human Rights Commission, and representatives of the Ministry of Federal Affairs. The inmates, therefore, will have the opportunity to present their complaints to these officials. Finally, the prisoners have also every right to take their complaints before a court of law.

Right to a fair trial (art. 14)

44. Article 185(1) of the Criminal Procedure Code stipulates that a convicted person can appeal against his conviction and sentence. However, a convicted person can not lodge an appeal if he or she has pleaded guilty and has been convicted on such plea. The purpose of appeal on the first place is to take corrective measures on the fault of the lower court if the latter failed to notice the petition or claim of the convicted person. In the case of persons pleading guilty, the lower court will reach a decision on the person's plea and there is no need to guarantee the right of appeal except wasting the time and money of courts, prosecutor and the convicted person. Thus a convicted person can only appeal on his conviction if he pleaded not guilty. However, the right to plea on the extent and legality of the sentence is reserved.

45. As a principle, Decision rendered by Sharia Courts will not be reviewed by regular courts. Article 5(4) of Proclamation No. 188/1999 (Federal Courts of Sharia Consolidation) provides that a case brought before a court of Sharia, the jurisdiction of which has been consented to, will not be transferred to a regular court and vice-versa under no circumstances. For both the regular and Federal Courts have different administrative organizations and entertain cases on different laws (regular and Sharia laws respectively), the decision of Sharia Courts will not be over-seen by regular courts. The Sharia Courts apply the Sharia laws substantively but apply the regular Procedure Code regarding the procedures to be followed. Without prejudice to the above stated basic principle, if one of the parties is of the view that there is a basic error of law made by the Sharia courts, he/she can present his/her case to the Federal Supreme court cassation bench. The Federal Supreme court has a power of cassation over any final court decision containing a basic error of law pursuant to article 80(3)(a) of the Constitution; and Proclamation 454/2005 determines the particulars.

46. As article 34(5) of the Constitution and article 4 of Proclamation No. 188/1999 stipulates that if and only if the parties to the case have contented to be adjudicated in accordance with Islamic law that the Sharia Courts will assume jurisdiction. Where a party brings a case before a court of Sharia, it will be presumed that he/she gave his/her consent to the adjudication of the court; while a summon will be issued to the other party to disclose his/her consent according to article 5 of Proclamation No. 188/1999. A party properly served with summons has to appear before the registrar of the Sharia court and confirm his/her objection or consent. Where a party properly served with summons and fails to confirm his/her objection or consent by appearing before a registrar of the court will be presumed not to have objected and the case will be heard *ex parte*. Generally, the preceding paragraph has stated the procedure to be followed in confirming consent/objections to Sharia courts jurisdiction; and the parties have the right to consent or object to cases being entertained by Sharia courts. Though no special procedures are put in place, women can avail themselves of the procedures stated above to disclose their consent.

47. Before the coming into force of the Charities and Societies Proclamation No. 621/2009 there was no comprehensive legal framework to regulate the activities of civil society organization. After the establishment of a democratic government, the right to association has been firmly established in the Constitution. A proclamation has been enacted and implemented to ensure the realization of citizen's right to association; and to aid and facilitate the role of charities and societies in the overall development of Ethiopian peoples. The promulgation of the law has resolved the staggering problems related with establishment, registration and regulation of CSOs; and put in place transparent and accountable working environment; as well as provided suitable conditions for the CSOs advance their objectives. The law clearly provides that CSOs established and administered wholly by Ethiopian citizens have the right to protect their rights and benefits participating in national, political, democratic and developmental endeavours by bringing together their

wealth, knowledge and administration. Article 14(2) and (5) stipulates the purposes and activities of Ethiopian, foreign and foreign funded CSOs. Ethiopian CSOs are formed under the laws of Ethiopia, all of whose members are Ethiopians, generate income from Ethiopia and wholly controlled by Ethiopians; may take part without any restrictions in the advancement of human and democratic rights, promotion of equality of women, promotion of the rights of disabled and children's rights, and the right to participate in the country's long term development directions. While article 2(2) of the Proclamation allows these Ethiopian CSOs to use not more than 10 per cent of their funds which is received from foreign sources to assure that charitable activities are done by the country's potential in the long term, articles 98 and 103 of the same Proclamation introduces new mechanisms to achieve the bold measure, the right to engage in income generating activities that are incidental to the achievement of their purposes. For encouraging results are being seen in practice using the aforementioned mechanisms and since 400 newly established CSOs are registered within a year after the law came into force, it is practical evidence that the law has provided suitable condition for Ethiopian citizens to advance their right to associations.

48. The Proclamation provides ways for foreign and foreign funded CSOs who receive more than 10 per cent of their funds from foreign sources to play a role in the overall socio-economic development. The Government is doing its best to facilitate suitable conditions for foreign and foreign funded CSOs to actively participate in the development efforts of the country in unison. However, article 14(5) of the Proclamation clearly prohibits these CSOs from undertaking those right related activities exclusively left for citizens. The main reasons for the prohibitions are:

(a) The Constitution stipulates that the enforcement of the right to association is the responsibility and the right of Ethiopian citizens;

(b) Political rights (the right to association) is enforced only through the active participation and commitment of citizens, not through foreign associations and foreign funds;

(c) For funds imply accountability, allowing those association who uses considerable share to advance their purposes to take part in national democratic endeavours may let the country be susceptible to unjustified foreign intervention and pressure. The above stated facts explain why the preservation of the right based association to Ethiopian citizens.

49. Therefore, it has to be noted that even though foreign funded CSOs are prohibited from using more than 10 per cent of their funds received from foreign sources to advance democratic rights, no restrictions are imposed on the personal activities and rights of Ethiopian citizens beyond their duties and responsibilities in the CSOs.

Freedom of expression and freedom of association (arts. 19 and 22)

50. Freedom of the Mass Media and Access to Information Proclamation No. 590/2008 has been adopted with the view to guaranteeing freedom of expression and of the mass media; realizing the responsibility of the Government in enforcing this right; minimizing the restriction on freedom of expression and of the mass media; nurturing the indispensable role a free, independent and diverse mass media plays in the national endeavour to build democratic order in the country; and making accountable the mass media for illegal activities. Article 29 of the Constitution and the Proclamation has been crafted in a way that ensures the implementation of the right to hold opinions freedom of expression without any interference guaranteed in article 19 of the Covenant on Civil and Political Rights. Article 29(6) and (7) of the Constitution, article 41 of the Proclamation and articles 613 to 618 of the Criminal Code provides the limitation on the rights of freedom of expression and the mass media, and the liabilities imposed on persons violating the legal limitations in

accordance with article 19, paragraph 3 of the Covenant. Therefore, the measures being taken to bring to justice those who violate the legal limitation provided in the Covenant and the aforementioned laws committing unethical acts, or acts that injure the honour and reputation of individuals, national security or public safety and health by all means has to be encouraged and do not violate any law. The Government has firm conviction that the penalties imposed are complementary to the offences and their effect. Thus, there is no sufficient reason to review the penalties for criminal defamation.

51. The Charities and Societies Agency will take appropriate measures on CSOs which are found breaking the law by conducting transparent fact-finding operations. These operations will only be conducted on the basis of legal and institutional framework, not on individual wills. Furthermore, CSOs aggrieved by decisions of different levels of the Agency have the right to appeal and pursue justice. Accordingly, Ethiopian CSOs have the right to appeal decisions of the Agency regarding registration, suspension and dissolution to the director of the Agency then to the Charities and Societies Board. If the CSOs did not find satisfaction by the decision of the Board, they have the right to appeal before a court of law. Hence, citizen's rights to get judicial remedy against the decision of the Charities and Societies Agency and Board is guaranteed by the law. Foreign and Foreign funded CSOs have the right to appeal and be heard at the highest level against the decision given at different levels of the Agency's administration. Any foreign and foreign funded CSO has the right to present their case to the Board against the decision of the highest level of the Board. As per article 9 of the Proclamation, the Board is vested with ranging powers and functions from deliberating and making recommendation on policy matters to hearing appeals against the decision of the director general of the Agency. The Board has seven members, five of whom are appointed by the Government. Though the Government has the right to pick the rest of the two members from the CSOs as per article 8 of the Proclamation, they were chosen by the CSOs themselves. The Proclamation has provided fertile grounds for the CSOs to be represented in the highest decision making body, the Board.

52. Since its establishment, the Board has considered eight appeals lodged by the CSOs against the decision of the Agency. The Board has devised a transparent and accountable procedure; and is reviewing the cases brought against the decision of the Agency on registration, suspension and dissolution in accordance with the laws in force. The Board has posted advertisement on public places for CSOs to lodge their appeals against the Agency's decisions. The Board is reviewing the cases by granting ample time for the CSOs to organize their evidences and to come with relevant representatives so that they can present their cases properly.

53. Therefore, the Board has gone far than expected to set up a fair and balanced procedure on cases brought before it against the decision of the Agency on registration, suspension and dissolution of CSOs. Moreover, the Board is executing its responsibilities by adopting directives issued by the Agency after a thorough examination and deliberations. Hence, foreign and foreign funded CSOs have the right to present their case at different levels of the Agency's administration and be heard; and without the need to go to court, final administrative decision will be given by the Board.

54. The Ethiopian Human Rights Council and the Ethiopian Women Lawyers Association are Ethiopian CSOs as per the definition of article 2(2) of Charities and Societies Proclamation No. 621/2009 established to pursue the activities stipulated in article 14(5) of the Proclamation. A CSO of such a kind cannot conduct these activities soliciting more than 10 per cent of its funds from foreign sources. In fact, when the Agency registers and gives recognition to Ethiopian CSO, it is expected to pursue its objective mainly by funds obtained within the country, though it can use not more than 10 per cent of its funds from foreign sources. Therefore, a registered Ethiopian CSO shall not advance its goals

using funds obtained from foreign sources contrary to the objectives and the provision of article 111(1) of the Proclamation, even if the funds were obtained before the coming into force of the Proclamation. Any right and duty obtained before the coming into force of the Proclamation continues to exist as long as it does not contravene the Proclamation. While the Proclamation entered into force on the 13th day of February 2009 after published in the Negarit Gazette, a restriction has been imposed on Ethiopian Human Rights Council and Ethiopian Women Lawyers Association from using more than 10 per cent of their funds from foreign sources since their re-registration according to the requirements of the Proclamation in 2010. Since the Proclamation allows using only 10 per cent of the funds obtained from foreign sources, they will be given that amount when they present their actual income. The Agency has the responsibility of making sure that the management of CSOs does not commit misconduct or mismanagement of the funds. To this effect article 90(2) of the Proclamation provides that the CSOs cannot make payment without the approval of the Agency; or the Agency may deposit the payment in a certain place or bank. The reasons why the Agency froze the bank accounts of the two CSOs are firstly, article 111(1) of the Proclamation requires the CSOs not to contravene the objectives and purposes of the Proclamation. Secondly, any decision to transfer the assets or funds of a CSO to be applied *cy-pres* shall have effect only with the approval of the Agency as per article 95(5) of the Proclamation. Thirdly, passing a decision on the fate of funds obtained from foreign sources is bestowed only on the Agency.

55. The Agency has been ensuring that CSOs do not contravene the purposes of the law (art. 111(1) of the Proclamation), CSOs are operating legally (art. 5(3)), its mandate and duties stated in article 6 are being implemented properly. To this end, the Agency has issued various directives pursuant to article 34 of the Proclamation. One of these directives stipulates that the accounts Ethiopian CSOs obtained from foreign funds has to be frozen until the 10 per cent share is calculated and given to the CSOs. For the enforcement of this directive and other laws the Proclamation under articles 77(2), 77(3), 80 and 83 requires CSOs to report annually on their activities and statement of accounts, and to keep records that clearly show the identity of donors. It is for the purpose of implementing the Proclamation, Regulation No. 168/2001 and the Agency's directives; and in advancing the mandate of supporting and regulating CSOs that the Agency froze the accounts of Ethiopian Human Rights Council and Ethiopian Women Lawyers Association. Since the two CSOs cannot pursue the objectives they are registered for using these funds, the Agency has the mandate to make sure that the funds are not misused until a decision is rendered to apply *cy-pres* and each of the two CSOs takes their 10 per cent share.

56. The unverified claim by the Ethiopian Human Rights Council that 15,000 birr has been collected from the contribution of its members notwithstanding, the source of the funds were not domestic. It was rather obtained from other foreign sources and embassies. In order to allocate 10 per cent of this fund EWLA and EHRC were asked to provide their assets. In the mean time 1,596,291.70 birr and 883,170.47 birr was released to EWLA and EHRC respectively to cover the expenses of salaries, severance pay and other administrative costs. Furthermore, the Agency has approved EWLA's request to solicit funds from foreign sources and revenue generation; in addition to facilitating the importation of goods duty free for this purpose in consultation with the competent government authorities.

57. Article 111(2) of the Proclamation requires all CSOs previously registered to re-register in accordance with the new Proclamation. The Ethiopian Lawyers Association claimed that it was registered by the name "Ethiopian Bar Association" previously and has to be re-registered by the same name accordingly. However, the association could not produce a document in support of the claim, but for a photocopy of a certificate with a name in Amharic claimed to be issued by the then Ministry of Interior in 1975. The Agency has its doubts on the photocopy certificate presented. The Agency has conducted its own

investigation to verify the claims and came up with certain documents evidencing the fact that the association had been using the name “Ethiopian Bar Association” illegally, without getting recognition from the competent authorities. Asefa Kesito, the former Minister of Justice, has issued a warning to the association to stop using that name without any recognition; to which the association promised not to use that name again. Generally, the association could not produce any document showing that it has been using the name “Ethiopian Bar Association” when it appears before the Agency for re-registration. Moreover, since the name has not been given recognition previously and it is not an equivalent translation to the Amharic name of the association, the Agency has requested the association to come up with a different name which has equivalent translation to its Amharic name. The association came up with “Ethiopian Lawyers Association” to which the Agency gave its recognition and serving as the English name of the Association.

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

58. The National Electoral Board of Ethiopia (NEBE) has executed the recruitment of election officers and observers according to the criteria set in the Electoral Law. Article 22, sub-article 8 of the Electoral Law states that each polling station shall, as appropriate, have a committee comprising five electoral officers who fulfill the requirements provided in article 6(e) of this Proclamation. The Chief Electoral Officer chairs the committee. Article 6, sub-article 3 states that the composition of Board members shall take into consideration national contribution, and gender representation, and at least one member of the Board shall be a lawyer. The members shall be loyal to the Constitution; non-partisans; have professional competence; and known for their good conduct. The NEBE Recruited, on permanent and temporary basis, competent and non-partisan electoral officers required to conduct elections at every level as per the requirements mentioned above. Moreover, it will provide training to them the electoral officers before their assignment.

59. In order to make sure the participatory nature of the electoral process and guarantee the ownership of important decisions made by political parties and other stakeholders were consulted along the way. When the electoral time table was prepared as per the Electoral Law NEBE consulted parties in order to make sure all participating political parties can plan along. The same was done with 16 Regulations and Directives and various laws stipulated to govern various aspects of the electoral process. Political parties were consulted in the process of legislation all the way.

60. NEBE has been widely reaching out to the public through its Civic and Voter Education activities. It has utilized public and private media on Federal and Regional levels to educate the public on their Civic and Voter rights, as well as duties. It has previously prepared a teaching material that has enabled it to give uniform standard of education across the nation. The teaching material is to be revised and upgraded to a "manual" after the Post Election Evaluation that the Board is currently undertaking is concluded. Since, there has never been a uniform material of conducting this education; the preparation of the manual is to close this gap. It is expected that this measures will enable NEBE to enhance the awareness of the public on the electoral process to a better degree thereby strengthening public trust.

61. NEBE has been receiving and investigating complaints from political Parties and individual candidates at polling station, constituency and regional office levels. Complaints lodged during the voter and candidate registration period have been handled by complaints hearing committees at every level. Complaints lodged at the Board level were 62 in number and all have been disposed according to the Electoral laws and within the appropriate time. The complaints lodged at this time by some political parties were mainly concerning the impartiality of election officers, complaints lodged on the Election Day have also been disposed off by the Board and its offices at every level. The complaints on the Election Day

were mainly concerning the presence of representatives of candidates at polling stations. Many of the complaints were allegations that were not backed by evidence; nonetheless, NEBE has seriously considered all of them and has given the appropriate measures in due time. Political parties were solving their problems mainly through their National Council.

62. As part of the general budget of the election, the Government has allocated 7,223,000 birr to be apportioned among parties. However, after considering the request of the political parties for more money, the Government added an additional 5,753,762 Birr making the total amount 12,976,762. Political parties have participated in the process of developing the formula of apportionment of the financial assistance and agreed on the formula. Accordingly, it was agreed that;

- 55 per cent of the budget was to be apportioned to the parties based on the amount of seats they held in the Federal and Regional Parliaments,
- 25 per cent of it was apportioned based on the number of candidates the parties have filled,
- 10 per cent of it was apportioned based on the number of women candidates parties have filled, and
- The remaining 10 per cent was apportioned between contesting political parties equally.

In addition, parties are to get financing for their day to day running. However the preparation to carry out this plan is still underway.

63. NEBE has taken some measures to make sure that the media covered the elections in an objective manner. This was done by training the media professionals regarding the Media Code of Conduct and making them aware of their duties and contributions to a smooth and peaceful election. Training programme for 120 journalists and editors from State and private media organizations was conducted in collaboration with the School of Journalism and Communications of Addis Ababa University as well as Electoral Reform International Services (ERIS). The trainings were on electoral laws, on the code of conduct on reporting and on the role of the media while reporting the elections and international experience on election reporting. ‘

64. Media time has also been allocated in such a way that all parties had time to campaign using State media. The method used to apportion time was equitable and was designed in a participatory way. Accordingly 30 per cent of the time was equally distributed and 60 per cent allotted based on the number of seats in Federal Parliament and Regional Councils. Moreover, 10 per cent of the time was distributed on the basis of the number of candidates political parties filled for Federal and Regional Councils. Though all political parties participated in developing a formula, some have failed, mainly due to lack of the necessary capacity, to utilize the time.

65. CSOs have been a part of this electoral process. They have participated as domestic observers as well as beneficiaries of training programmes as part of the civic and voter education provided to the wider public. A consortium of CSOs was involved in the electoral process as domestic observers. The consortium mobilized 41,000 observers while four additional CSOs involved 503 observers for the Election Day. CSOs are currently not allowed legally to participate in any election campaign activities; however, they can participate in Civic and Vote Education and observation of the elections upon acceptance and permission from NEBE. During the General Elections in May, CSOs did not participate in the Civic and Voter Education since NEBE decided to give the education by itself at this time. However, it plans to include CSOs in these endeavours in the coming elections.

66. The Education and Training Policy of the Government of Ethiopia clearly indicates that the right of nations, nationalities and peoples to use their language at primary education. Therefore, after making the necessary preparation nation and nationalities can either learn in their own language or can choose from among those selected in the basis of national and country wide distribution. As a result of this several nations, nationalities and peoples use their own language at primary education. Some, however, however have chosen Amharic as a medium of instruction and learn their language as a subject at primary school.
