

Contents

1. INTRODUCTION	1
2. BACKGROUND.....	2
2.1 The May 2005 elections	2
2.2 Killings of demonstrators and mass arrests	3
2.3 Human rights defenders on trial	5
2.4 Arrests of journalists	7
2.5 Other opposition supporters facing similar political charges	10
2.6 The international response to the post-election crisis	11
2.7 Refugees	12
2.8 Other human rights concerns.....	12
3. THE TRIAL, DEFENDANTS AND CHARGES	15
3.1 The defendants.....	15
3.2 Exiles on trial in absentia	17
3.3 The charges	18
4. TREATMENT OF PRISONERS.....	19
5. AMNESTY INTERNATIONAL’S CONCERNS ABOUT THE FAIRNESS OF THE TRIAL	21
5.1 Presumption of innocence	21
5.2 Legal defence rights and “equality of arms”	22
5.3 Prohibition of evidence obtained under torture or ill-treatment	22
5.4 Independence and impartiality of the judiciary	23
6. AMNESTY INTERNATIONAL’S RECOMMENDATIONS	24
6.1 To the Ethiopian Government	24
6.2 To the international community.....	24
Table 1: The Charges	26
Table 2: Groups of defendants and charges against them	26

ETHIOPIA

Prisoners of conscience on trial for treason: opposition party leaders, human rights defenders and journalists

1. Introduction

Amnesty International is deeply concerned about this treason trial scheduled to open substantively on 2 May 2006 with the presentation of the prosecution case before the Federal High Court in the Ethiopian capital, Addis Ababa. On trial, and charged with crimes punishable by the death penalty, are newly-elected opposition party members of parliament, human rights defenders and journalists, whom Amnesty International considers to be prisoners of conscience.

76 individuals are in court for trial, following earlier preliminary proceedings. They had been arrested in November 2005, with bail denied, in connection with opposition demonstrations against the government. 25 other defendants are being tried in their absence. Four political parties and six newspaper publishing companies are also on trial, making a total of 111 defendants – 131 were originally charged but 20 were discharged. The trial is likely to last several months. The European Union had called for the release of the defendants and is concerned about the fairness of trial, for which it has appointed an international trial observer.

The defendants, who include leaders of the opposition Coalition for Unity and Democracy (CUD) party, 14 journalists from independent newspapers and three civil society activists, are charged in different groups with treason, “outrages against the Constitution”, armed conspiracy or “genocide”, all of which can carry the death penalty in serious cases. All defendants except the civil society activists are refusing to participate in the trial or present a defence, on the grounds that they do not expect to receive a fair trial.

Amnesty International considers that the CUD leaders, human rights defenders and journalists being tried are prisoners of conscience who have not used or advocated violence. It has called for their immediate and unconditional release.¹ The organization believes that other defendants, about whom it has less information, could also be prisoners of conscience. Amnesty International is closely following the trial proceedings in order to assess whether the court adheres to internationally-recognized standards of fair trial as set out in the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights, both of which Ethiopia has ratified.

Amnesty International is concerned that four human rights defenders are among the accused, contrary to the government’s duty to respect the legitimate role of human rights defenders as set out in the UN Declaration on Human Rights Defenders. They are Professor

¹ Amnesty International news release 22 February 2006, AI Index: AFR 25/005/2006.

Mesfin Woldemariam, founder and former chair of the Ethiopian Human Rights Council, and three civil society activists – Daniel Bekele, policy director of the Ethiopian office of ActionAid, a South Africa-based international non-governmental organization; Netsanet Demissie, chair of the Organization for Social Justice in Ethiopia; and Kassahun Kebede, head of the Addis Ababa branch of the Ethiopian Teachers Association.

The inclusion in the trial of 14 journalists on account of their published articles contradicts guarantees of media freedom contained in the Ethiopian Constitution, as well as the international standards set out in the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.

Amnesty International is concerned about the treatment of the defendants in custody, relating to their general treatment and conditions, access to families and legal representatives, medical care, and access to reading and writing materials.

Amnesty International opposes the death penalty worldwide, and is calling for the removal of the death penalty in this trial. Ethiopia is a retentionist country as regards the death penalty. However, although perhaps over 100 persons have been condemned to death since 1991, there has been only one known execution after a court conviction.

This report includes the background to the trial, details of the charges and defendants - who include several lawyers and academics– and Amnesty International's concern that the defendants may not receive a fair trial in relation to recognized international and regional standards. It concludes with Amnesty International's recommendations to the Government of Ethiopia and the international community.

2. Background

2.1 The May 2005 elections

Ethiopia's third general elections under the current government and the Constitution (1995) for the national parliament (the House of People's Representatives), the Addis Ababa and Dire Dawa City Councils, and the seven Regional State Assemblies, took place in May 2005, though the Somali Region elections were held later in September 2005. These elections were observed by the European Union, the African Union, the US-based Carter Center and some Ethiopian non-governmental organizations (NGOs).² Two opposition coalitions – the Coalition for Unity and Democracy (CUD) and the United Ethiopian Democratic Front (UEDF) – were challenging Prime Minister Meles Zenawi's ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) coalition, which is headed by his Tigray People's Liberation Front (TPLF). The EPRDF has been in power since 1991 when it overthrew the former government of Mengistu Hailemariam, known as the Dergue, after a long armed conflict.

² The Ethiopian NGOs were at first prevented from observing the elections until allowed by a Supreme Court appeal decision a few days before the poll.

Prior to the 2005 elections and shortly after a visit to the country, Amnesty International had expressed concern at reports of human rights violations against opposition members, particularly the CUD, including several killings, arbitrary detentions, harassment and intimidation by police and local militias. In a report published in April 2005³, Amnesty International appealed to the government and all political parties to respect human rights during the election process, and for election observers to monitor and report on human rights violations.

Immediately after the 15 May poll, the opposition alleged rigging by the government and ruling party. The Prime Minister banned demonstrations and took personal control of the security forces in Addis Ababa.⁴

2.2 Killings of demonstrators and mass arrests

In early June 2005 preliminary results were released by the National Election Board giving the EPRDF a narrow lead. CUD supporters subsequently demonstrated in Addis Ababa, accusing the government and EPRDF of fraud, and the National Election Board of bias towards the EPRDF. Peaceful demonstrations led to violent confrontations with the security forces. A special army unit, known as *Agaazi*, reportedly shot dead at least 36 protesters and wounded many others in Addis Ababa on 8 June. Some 9,000 CUD supporters including 2,000 university students, and six Ethiopian Human Rights Council officials (who were not members of any political party), were detained by police but were provisionally released on bond by the end of July 2005 without being charged with any crime. The CUD supporters had in most cases been arbitrarily arrested and were not brought before a court within the 48-hour limit prescribed by Ethiopian law. Many were allegedly beaten or ill-treated.

The CUD leadership decided to boycott the new parliament in protest at the final official election results and because the outgoing EPRDF-dominated parliament had changed procedures making it virtually impossible for opposition MPs to initiate a debate. The UEDF, independent MPs, a section of the Ethiopian Democratic Unity Party-Medhin party which had left the CUD coalition, and eventually several of the CUD MPs-elect who had not been detained, took up their seats in the new parliament. They criticized repression of the CUD and the detention of its leading MPs-elect, as well as arrests and harassment of UEDF coalition members from the Oromo National Congress⁵ and the Oromo Federal Democratic Movement. The new Addis Ababa City Council, similarly boycotted by many new CUD members-elect (some 30 of whom are also believed to be detained and may face treason and other charges in separate cases), has not to date convened. The Prime Minister has proposed to establish a caretaker administration if the boycott continues and there is insufficient attendance.

³ Ethiopia: The 15 May 2005 elections and human rights – recommendations to the government, election observers and political parties, April 2005, AI Index: AFR 25/002/2005.

⁴ BBC World News, 16 May 2005.

⁵ Tesfaye Adane Jara, an elected ONC member of parliament, was killed in Arsi Negele district, allegedly by six police officers, who were later arrested and charged with his murder. They have not yet been brought to trial.

In a second series of pro-CUD demonstrations in early November 2005, police shot dead at least 42 protesters in Addis Ababa, wounded some 200 others and detained most of the CUD leadership, which had called for non-violent demonstrations. The protests, which started peacefully with drivers honking their horns and a workers' stay-home strike, led to violence with widespread police shootings, seven police officers being killed by protesters and considerable damage to government property. The security forces arrested over 10,000 CUD officials and supporters in Addis Ababa, the Amhara Region and some other regions, including many who had been arrested in June and photographed for police records. There were further pro-CUD protests starting in late December 2005, and continuing into early 2006. Students boycotted school and college classes, resulting in widespread school closures, and there were widespread arrests and beating of students and teachers suspected of instigating the boycotts.⁶ Many of these detainees have since been released provisionally on bond but several thousands reportedly remain in detention. Details of the arrests have not been disclosed to detainees' families or the public, and most detainees have not been brought before a court.

The detained CUD leaders and others held with them went on hunger strike in November 2005 in protest at their detentions, until mid-December. That month, charges were brought against 131 detained CUD leaders and others, as described below. The court refused to grant bail, citing the seriousness of the charges. The CUD leaders denied calling for violent demonstrations.

Most CUD offices are now closed as a result of arrests and intimidation of officials. Its four constituent parties are listed as defendants in the trial.

After the November 2005 demonstrations, Prime Minister Meles Zenawi publicly accused the CUD of treason and of organizing a violent uprising aimed at overthrowing the government. Shortly before the elections the Prime Minister had accused the CUD of fomenting strife and ethnic hatred which he said could lead to a "Rwanda-type genocide".⁷ He has refused to release the detainees despite appeals by the European Union and others. Prime Minister Meles Zenawi has also told members of the international community, who had pressed for a political reconciliation between the government and opposition parties to resolve the post-election crisis, that the detainees will not be released but will receive a fair trial, which will be prompt, rapid and transparent.

On 25 April 2006 the EPRDF-controlled parliament set up a commission of inquiry into the post-election violence of June and November 2005. It will reportedly seek to establish the number of people killed, property destroyed, and whether there were human and constitutional rights violations.⁸ To date, no details are available on its composition, full terms of reference or working methods. Previous parliamentary inquiries into incidents such as this where the security forces have killed unarmed civilians were not independent or impartial. Amnesty International urges the Ethiopian Parliament to ensure that this inquiry strictly

⁶ Amnesty International Urgent Action 25/06, 3 February 2006, AI Index: AFR 25/003/2006.

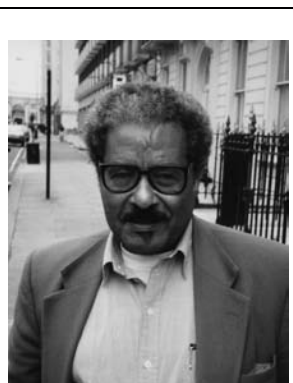
⁷ "PM warns voters of Rwanda-style bloodshed", Reuters, 6 May 2005.

⁸ Reuters news agency, 25 April 2006.

follows recognized international standards of investigations into excessive use of force and extrajudicial executions.⁹

2.3 Human rights defenders on trial

Four human rights defenders are among those charged in the treason trial, as mentioned above – Professor Mesfin Woldemariam, former chair of the Ethiopian Human Rights Council, Daniel Bekele of ActionAid, Netsanet Demissie of the Organisation for Social Justice in Ethiopia, and Kassahun Kebede of the Ethiopian Teachers Association.



Mesfin Woldemariam
©AI

Mesfin Woldemariam, a retired geography professor at Addis Ababa University, founded the Ethiopian Human Rights Council (EHRCO), a non-governmental organization, in 1991. It has issued over 100 reports of human rights violations, to which the government has not responded. Professor Mesfin Woldemariam was its chair until 2005 when he resigned and joined the CUD election campaign. The government has been consistently hostile to the organization, which has been the only human rights group (now officially registered) investigating, documenting and reporting on human rights violations through its central and regional offices. Six EHRCO staff members were detained for several weeks in June 2005, including Yared Hailemariam, a member of the investigation team, who was subsequently among those with arrest warrants issued against them in November 2005.

He was in Uganda at the time attending a Human Rights Defenders Conference and has since sought asylum abroad.



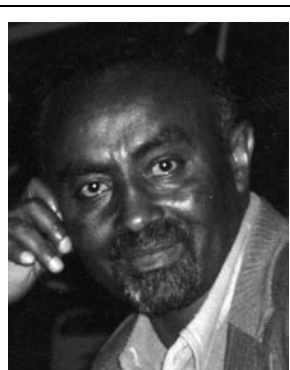
Daniel Bekele ©Private



Netsanet Demissie ©Private

⁹In particular, the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Daniel Bekele is the policy, research and advocacy manager of the Ethiopian office of ActionAid, the international development agency. He is a human rights lawyer. Netsanet Demissie, a human rights and environmental rights lawyer, is the founder and director of the Organization for Social Justice in Ethiopia (OSJE) a local human rights NGO with a mission to “nurture social justice, democracy and good governance by addressing the denial and violations of basic rights of the poor and the marginalized.” The OSJE had held the secretariat of a 35-member coalition of NGOs to observe the May 2005 elections. Both men, as anti-poverty activists, had been closely involved in activities in Ethiopia in support of the Global Call for Action against Poverty (GCAP). They were not members of any political party and it appears that they may have been arrested solely on account of their criticisms of the government in the course of their legitimate civil society activities.



Kassahun Kebede
©Private

On 21 February 2006 the Ministry of Justice issued a statement warning ActionAid, that its press release the previous day could be construed as “contempt of court”,¹⁰ libel and other criminal offences. The Ministry of Justice accused ActionAid of attempting to interfere with the administration of justice by calling for the release of Daniel Bekele and Netsanet Demissie and by declaring his innocence of the charge against them of “outrage against the Constitution”.

Kassahun Kebede, a teacher and chair of the Addis Ababa branch of the Ethiopian Teachers Association (ETA), is also accused of “outrage against Constitution”. The ETA, which is affiliated to the International Confederation of Free Trade Unions (ICFTU) and Education International, is the oldest trade union in Ethiopia, with half a million teacher members from primary, secondary and higher educational institutions. The ETA had issued statements criticizing the government in connection with the post-election crisis. Dr Taye Woldesemayat, a former prisoner of conscience who was re-elected as the general secretary of the ETA after he was released from prison in 2002, has also been charged in his absence, as he was visiting the USA at the time. He is known as a prominent critic of the government, though not a member of any political party, and has not used or advocated violence.¹¹

The ETA has been engaged in a 13-year court struggle to preserve its existence and independence, and has been under threat from a pro-government organisation of the same name, which the Ministry of Justice (which controls NGO registration) had formally

¹⁰ The new Criminal Code (2005) added the possible penalty of imprisonment for up to six months, alternative to a fine, for contempt of court not committed in open court (article 449).

¹¹ Dr Taye Woldesemayat is a former Addis Ababa University professor of political science, who was dismissed along with others in 1993 in a purge of government critics. He was imprisoned from 1996 to 2002 as a prisoner of conscience. He was convicted in an unfair trial for armed conspiracy, reportedly on the basis of false evidence given by a co-defendant as a result of torture. He was sentenced to 15 years’ imprisonment, reduced on appeal to the six years already served.

recognized, although it had not banned the original ETA. The original ETA head office in Addis Ababa has been shut down by the authorities for some years, although the organization still functions effectively for its members. On 1 April 2006 the High Court ordered the ETA to transfer its assets to the pro-government ETA. The original ETA is appealing against this new court decision.

Hundreds of teachers in different regions have been detained for some periods of time or arbitrarily dismissed in recent years, reportedly because of failing to support the ruling EPRDF party. At present, six teachers who are ETA members are among those detained since November 2005 without charge or trial in the context of the post-election pro-CUD or Oromo student demonstrations, although the government has not specifically accused the ETA of instigating these political protests.

2.4 Arrests of journalists

As well as the CUD leaders, 14 editors and reporters of independent and privately-owned newspapers were arrested and charged with treason, outrages against the Constitution and incitement to armed conspiracy. They are: Andualem Ayele (Etiop editor), Dawit Fasil (Satenaw deputy editor), Dawit Kebede (Hadar editor), Dereje Hailewold (Menilik and Netsanet deputy editor), Eskinder Negga¹² (Satenaw editor), Fasil Yenealem (Addis Zena publisher), Feleke Tibebe (Hadar deputy editor), Mesfin Tesfaye (Abay editor), Nardos Meaza (Satenaw editor), Serkalem Fasil (f) (co-publisher of Asqual, Menilik and Satenaw), Sisay Agena (Etiop publisher and editor), Wonakseged Zeleke (Asqual editor), Wossenseged Gebrekidan (Addis Zena editor), and Zekarias Tesfaye (Netsanet publisher).¹³



Serkalem Fasil ©Private



Eskinder Negga ©Private



Sisay Agena ©Private

¹² Eskinder Negga was charged as a CUD official rather than as a journalist but he was a known media critic of the government and had been arrested before.

¹³ Two former journalists - Hailu Araya (former Press Digest editor) and Sileshi Andarge (former Andinet editor) - were charged as CUD officials

The charges against the journalists are reportedly based on published articles but are also linked to the charges against the CUD leaders. The journalists were not CUD members, as far as is known, but had published interviews with opposition leaders and had criticized the government and EPRDF during the election process. Some of these published articles reportedly form the main prosecution evidence against them. Six publishing companies owned by some of the journalists were also charged as corporate entities. Amnesty International considers the 14 journalists to be prisoners of conscience, who are imprisoned on account of their opinions and exercising their legitimate professional activities as journalists.

Most of the detained journalists had been previously arrested several times before under the Press Law (1992) in the government's long-running repression of press freedom and many had been prisoners of conscience.¹⁴ Some 300 journalists have been arrested and many tried and imprisoned since 1992. Since 2003, there had been a gradual reduction in arrests and trials of journalists as a result of international criticisms. However, several journalists were arrested on account of their publications during the election campaign and the post-election crisis but were provisionally released, with some of them charged. There were reports that police were also searching for dozens of other journalists, but no further arrests were confirmed.

Since December 2005 there have been several new trials of journalists with long-pending charges under the Press Law who had been provisionally released. On 6 December, Wossenseged Gebrekidan (also on trial with the CUD leaders) was sentenced to eight months imprisonment in a separate trial on the basis of an article in 2002 allegedly defaming a foreign diplomat. In the same month, Getachew Simie of Agere newspaper was jailed for 3 months for defamation in a 1998 article, and Leykum Engeded of Wonchif newspaper was jailed for 15 months for a 1999 article, although later released on bail pending appeal. On 10 February 2006 two other journalists were fined for allegedly printing false information. On 8 March Abraham Gebrekidan of Politika magazine was jailed for a year for allegedly publishing false information. On 18 April, Wossenseged Gebrekidan was given an additional 18 months sentence on a separate charge based on a 2002 article, and Abraham Reta, a freelance reporter, was jailed for a year. On 19 April Goshu Moges of Lissane Hezeb newspaper, who had been arrested on 19 February, was charged with treason.

Two Oromo journalists working for the state television service, Dabassa Wakjira and Shifferaw Insarmu from the state television service remain on trial in custody since 2004 for alleged armed conspiracy and OLF membership in the Mecha Tulema Association case (see page 14).

Nine other journalists were charged in the CUD treason trial in their absence. Five work for the US-based Voice of America (VOA) international radio station and are US

¹⁴ See for example, Ethiopia: Journalists in prison – press freedom under attack, Amnesty International, April 1998, AI Index: AFR 25/10/98; Amnesty International's Annual Reports; and reports by the Committee to Protect Journalists, the International Freedom of Expression Exchange (IFEX), Reporters with Borders, Article 19, International Press Institute.

citizens. The VOA had broadcast interviews with a range of government opponents and officials. VOA strongly denied any political bias, and called for the discharge of its staff members. The five VOA journalists were discharged in March 2006. Two US-based Ethiopian website editors, Elias Kifle of Ethiopian Review and Abraha Belay of Ethiomedia, are still charged in absentia. In addition, the current and former presidents of the Ethiopian Free Press Journalists Association (EFJA), which had documented repression of the press, are charged in absentia. Kifle Mulat was abroad at the time the charges were made public, attending a Human Rights Defenders conference in Uganda co-organized by Amnesty International, while the previous EFJA president, Kefalegne Mammo, had fled the country in 1997.

Two other journalists were arrested separately. Frezer Negash (f), a reporter for the US-based Ethiopian Review website, whose editor is accused in absentia (see above), was arrested on 27 January 2006 when she was three months pregnant, but she was provisionally released by a court on 7 March, although prison officers delayed her actual release for three days. Solomon Aregawi, a reporter for Hadar newspaper, was arrested in November 2005 and later charged in a separate treason trial (see page 10).

There are thus a total of 20 journalists currently in prison in Ethiopia, most if not all of whom are prisoners of conscience. Amnesty International is investigating whether some of them may be human rights defenders imprisoned on account of exposing human rights violations.

A draft new Press Law, much criticized by international media organizations since it was drafted by the government in 2003,¹⁵ has not so far been introduced. However, new provisions in the Criminal Code (2005)¹⁶ significantly reduce the freedom of the media. Chapter IV on “Participating in crimes relating to the mass media” (articles 42-47) sets out the principle of “ensuring freedom of expression while preventing abuse” (article 42(1)) but the new provisions provide for harsher treatment for alleged “media crimes” and do not conform to international treaty standards of freedom of expression and the media.

Freedom of expression, including the right to seek and receive information, has been seriously limited in Ethiopia, as a result of the arrests of journalists and editors, and police closure of their offices. Although no newspaper has been formally banned so far, only a few independent newspapers, such as *The Reporter* and *Addis Tribune*, continue to publish but practise self-censorship and avoid strong criticism of the government.

In March 2006 a delegation of the US-based Committee to Protect Journalists (CPJ) visited Ethiopia and met the Prime Minister. He told them that the journalists would receive fair trials. Prime Minister Meles Zenawi agreed for the journalists to be allowed books in prison, which had originally been refused by prison officials. He stated that he would reconsider the policy of prosecuting journalists for pending alleged Press Law offences committed years ago. The CPJ delegates were allowed to visit all the detained journalists and witnessed the first permitted meeting in Kaliti prison between Eskinder Negga and his partner

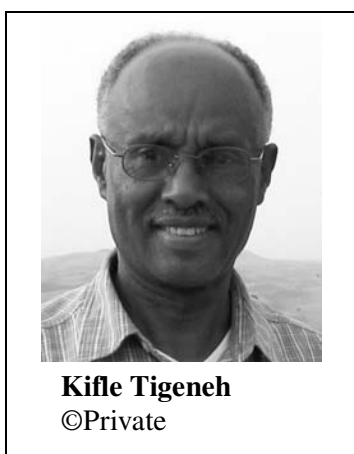
¹⁵ See Article 19 criticisms of the draft Press Law at www.article19.org.

¹⁶ Proclamation no.414/2004, coming into effect on 9 May 2005

Serkalem Fasil (f), then five months pregnant, who were detained in separate sections of the prison. Frezer Negash (see above) was provisionally released shortly after the CPJ visit but is still facing possible charges and trial.¹⁷

2.5 Other opposition supporters facing similar political charges

Amnesty International is concerned that, in addition to the trial of the CUD leaders, several other CUD officials and members who were arrested on or after November 2005 are facing trial or could be tried under similar political charges in federal or regional courts in the coming months. Some are or may be prisoners of conscience and may not receive fair trials. They include the following:



Kifle Tigeneh, a CUD elected member of parliament detained in Addis Ababa since November 2005 and under investigation by a lower court, was charged on 21 March 2006 with treason, “outrage against the Constitution” and “genocide”, together with 32 others, including six members-elect of the Addis Ababa City Council and journalist Solomon Aregawi. Eight of the defendants charged on 21 March complained to the judge that they had been tortured and denied medical treatment. They said they had been beaten, deprived of food for long periods, and suffered electric shocks. One said he had been forced to sign a statement he was unable to read on account of torture injuries. The court ordered that the eight defendants should be given medical treatment but did not order any investigation into the torture complaints.¹⁸ The trial is due to start on 8 May

2006.

- Berhane Moges, a lawyer who had earlier offered to represent CUD defendants such as Hailu Shawel, was arrested in Addis Ababa on 18 February 2006 shortly after he had met the visiting EU Commissioner for Development and Humanitarian Assistance. Berhane Moges was remanded in custody for investigation into alleged involvement in an alleged foiled conspiracy to plant bombs in Addis Ababa, which he denied. On 28 April 2006 he was charged with “outrage against the Constitution”, with the next court hearing scheduled for 12 May.
- 265 suspected CUD supporters who were arrested in Bahar Dar district of the Amhara Region in November 2005 were formally charged before a regional court on 16 February 2006 with involvement in rioting. They are still detained.
- Thousands of CUD supporters are believed to be still detained without charge in different parts of the country since the demonstrations of November/December 2005 and early 2006.

¹⁷ See the report of the CPJ visit at www.cpj.org, 14 March 2006.

¹⁸ Amnesty International Urgent Action appeal 72/06, 30 March 2006, AI Index: AFR 25/007/2006.

2.6 The international response to the post-election crisis

There has been considerable international concern about human rights violations arising from the May 2005 elections. The European Union Election Observation Mission in its interim report in August 2005 expressed serious concern about the fairness of the elections. It reported that the widespread violations of human rights “undermined the opposition’s ability to participate effectively in the process, independently of their competence to argue their case: material evidence was unobtainable because detained or fearful witnesses were unable to testify and, in one case an important witness was killed”. Prime Minister Meles Zenawi reportedly dismissed the interim report as “garbage”.¹⁹

The final election report published in March 2006 concluded that “overall ... the elections fell short of international principles for genuine democratic elections.” The report stated that “while the pre-election period saw a number of positive developments and voting on 15 May was conducted in a peaceful and largely orderly manner, the counting and aggregation process were marred by irregular practices, confusion and a lack of transparency. Subsequent complaints and appeals mechanism did not provide an effective remedy. The human rights situation rapidly deteriorated in the post-election day period when dozens of citizens were killed by the police and thousands were arrested.”²⁰ The government has not to date responded.

At its 38th Ordinary Session held in Banjul, The Gambia from 21 November to 5 December 2005, the African Commission on Human and Peoples’ Rights adopted a resolution on the human rights situation in Ethiopia, deploring “the killing of civilians during confrontations with security forces” and requesting “that the Ethiopian authorities release arbitrarily detained political prisoners, human rights defenders and journalists.” It called on the Ethiopian government to guarantee the right to fair trial, freedom of opinion and expression, as well as the right to hold peaceful demonstrations and political assembly, and to comply with international human rights treaties it has ratified.

In January 2006 the British government ended direct budget support to the Ethiopian government, which is a privileged form of development assistance, because of concerns about governance and human rights violations arising from the disputed elections. It said the aid, worth US\$88 million, would be redirected to specific development programmes.

The European Union Commissioner for Development and Humanitarian Assistance, Louis Michel, visited Ethiopia in March 2006 to meet the government, CUD officials and detainees, members of the international community and other Ethiopian groups. He called for a political dialogue between the government and opposition and for the defendants to be released on bail. The Prime Minister rejected both calls, saying the defendants would be tried and would receive a fair trial.

¹⁹ IRIN UN news agency, 30 August 2005.

²⁰

http://www.europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/ethiopia/index.htm

On 24 April 2006, Ethiopia's main donor group, the Ambassadors' Donors Group, which includes bilateral donors, the African Development Bank, the European Commission, the UN Development Programme and the World Bank, called for the release of the imprisoned CUD leaders and representatives of the media and civil society. It said that "All elected leaders should be given a chance to take part in the political reconciliation process".²¹

On 27 April 2006, the UN High Commissioner for Human Rights on a visit to Ethiopia strongly criticised Ethiopia's human rights situation.²²

While international and regional security issues in the Horn of Africa are a special concern of the international community, such as achieving a permanent settlement of the border conflict between Ethiopia and Eritrea, and certain aspects of the so-called "war on terror" affecting the countries bordering on Somalia (which still has no effective national government after 15 years of state collapse), vigorous action is needed to promote and protect basic human rights in each country of the Horn in order to achieve lasting peace and security in the whole region.

Amnesty International is urging the international community to increase their efforts with regard to the Ethiopian government to ensure that the government respects its obligations under international human rights treaties by guaranteeing and protecting the human rights of its citizens.

2.7 Refugees

As a consequence of these widespread human rights violations against opposition party members since the elections, including mass arbitrary arrests, torture and ill-treatment, extrajudicial executions and unfair trials, a new flow of Ethiopian refugees to neighbouring countries and other parts of the world, consisting of CUD members and supporters, as well as human rights defenders and journalists is starting.

Amnesty International believes that CUD activists and suspected activists at national or local level, as well as civil society activists and journalists who had criticized the government, who have fled the country on account of experienced or threatened human rights violations, would be those who are at risk of arbitrary and indefinite detention, possible torture or ill-treatment, unfair trial or even extrajudicial execution, if forcibly returned to Ethiopia. For these reasons, Amnesty International calls on governments to recognise them as in need of international protection from refoulement or enforced return to Ethiopia, under international and regional refugee law and international human rights law.

2.8 Other human rights concerns

Many other human rights violations have been committed in recent years, including arbitrary detentions, torture and extrajudicial executions, in the context of armed conflicts in the country, particularly on account of failures in the justice system and the absence of

²¹ <http://ethiopia.usembassy.gov/adg042406.html>

²² BBC World News, 27 April 2006.

accountability of the security forces, who have committed violations with impunity. The government faces, in particular, long-running armed conflicts with the Oromo Liberation Front (OLF) and Ogaden National Liberation Front (ONLF), both hosted by Eritrea, with whom Ethiopia fought a border war in 1998-2000. Certain other smaller armed opposition groups claim to operate in some parts of the country. Since February 2006 there have been several explosions in Addis Ababa and other towns, causing several casualties, for which no group has claimed responsibility. Police have made several arrests, though without releasing details.

Some of these human rights concerns documented by Amnesty International are listed below:

**Oromia Region demonstrations and detentions:* At the same time as the pro-CUD November 2005 demonstrations, there were other separate anti-government demonstrations in many towns in the Oromia Region, mainly in schools and colleges, in response to a call for a “popular uprising” by the Oromo Liberation Front (OLF) on its website. These ongoing demonstrations have focussed on Oromo political issues, including calls for the release of Oromo political prisoners detained without trial in recent years, mostly for alleged links with the OLF. They were calling particularly for the release of Diribi Demissie and Gemechu Fayera, both businesspersons and Sintayehu Workneh, a US embassy accountant. All three are leading officials of the main Oromo community welfare organization, the long-established and officially-registered Mecha Tulema Association (MTA). Amnesty International considers them to be prisoners of conscience who have not used or advocated violence, and is concerned that they are not receiving a fair trial.²³

In the November-December 2005 demonstrations in Oromia, which were largely peaceful, several thousand students and others were detained incommunicado without charge or trial. A few thousand are still believed to be held in different prisons and police stations, with only a few so far brought to court and charged. Several demonstrators were reportedly shot dead by the security forces, and many were allegedly tortured or ill-treated, particularly in Ambo palace prison and Senkele police camp near Ambo town, 35 kilometres west of Addis Ababa.²⁴

** Somali Region (Ethiopia’s Region 5):* There have been arbitrary detentions and killings linked to the long-running armed conflict in the drought-afflicted Somali Region. Hundreds or more people have been detained without trial in recent years and many have been reportedly

²³ They were arrested in Addis Ababa in May 2004 for alleged armed conspiracy and links with the OLF, in connection with a grenade explosion at Addis Ababa University. They denied the charges and were released on bail in November 2004 but re-detained in February 2005. In June 2005 with 24 other defendants, including two Oromo journalists working for the state television service, Dabassa Wakjira and Shifferaw Insarmu and several university students, they were all acquitted by the High Court but immediately re-arrested on virtually the same charges when the prosecution brought the case to a different bench of the High Court. They remain in detention, with their re-trial continually delayed.

²⁴ Amnesty International Urgent Action appeal 22/06, 30 January 2006, AI Index: AFR 25/002/2006.

extrajudicially executed or tortured, on account of suspected links with the armed opposition Ogaden National Liberation Front (ONLF), which is based in Eritrea and allied to the OLF.

* *Gambella Region*: There have been continued and new detentions of government opponents in the Gambella Region in the south-west, where hundreds of members of the Anuak (or Anywaa) ethnic group were killed by soldiers and civilian mobs in December 2003.²⁵ Some 900 alleged government opponents have been detained without trial since then, although 15 former senior regional officials among them were acquitted of criminal charges and freed in December 2005.

* *Sidama demonstration arrests*: There were detentions in March 2006 of some 60 peaceful demonstrators belonging to the Sidama ethnic group in the Southern Region, who were arrested in Awassa and other southern towns: they were calling for the Sidama administrative zone to be upgraded to a regional state.²⁶

* *The Ethiopia-Eritrea border conflict*: In the event of renewed armed conflict, Amnesty International has warned of a repeat of the human rights violations and violations of international humanitarian law committed by both sides in the 1998-2000 conflict, in which an estimated total of over 100,000 combatants on both sides were killed. The legacy of the conflict was incalculable damage, through rising military expenditure, to the struggle for development in two of the world's least developed countries. Both are heavily dependent on international food aid and humanitarian assistance, particularly during the current drought in the region. The UN Security Council in the past two years has expressed fears of a new border conflict between Ethiopia and Eritrea and threatened sanctions against either side which starts a new conflict. The mandate of the UN peacekeeping force along the border (the UN Military Mission in Ethiopia and Eritrea, UNMEE, which administers a buffer zone between the two countries) was recently renewed by the UN Security Council for a further month up to 15 May 2006. Eritrea continues to demand that Ethiopia hand over the border town of Badme in accordance with the International Boundary Commission's judgement. Ethiopia accepts this judgment in principle and offers talks about demarcation and border adjustments, which Eritrea refuses. Compensation issues judged by the International Boundary Commission remain unsettled.

* *The Dergue trials*: The trials of some 2,000 former members and officials of the Mengistu Hailemariam government arrested mainly in 1991 for "genocide" and "crimes against humanity", including extrajudicial executions, are nearing completion. Amnesty International has been concerned at the use of the death penalty in these trials, with several defendants already condemned to death but not so far executed, and at the length of the trials.

²⁵ Targeting the Anuak – human rights violations and crimes against humanity, Human Rights Watch, March 2005.

²⁶ Amnesty International Urgent Action appeal, 74/06, 31 March 2006, AI Index: AFR 25/008/2006.

3. The trial, defendants and charges

A total of 111 defendants are charged, with 76 before the court. The trial is held in open court before a panel of three judges headed by a presiding judge. As well as the EU trial observer, foreign diplomats as well as local and some foreign journalists²⁷ have been regularly attending the proceedings, with Amharic-English interpretation provided by the court.

If they are convicted, the defendants will have the right of appeal to the Supreme Court. If they are condemned to death, they will have the right to petition the Head of State (the President) for clemency. According to the Constitution, the President may commute a death sentence, except if the accused has been sentenced for a crime against humanity.

The CUD leaders and journalists decided, in advance of the opening of the trial, to boycott the trial on the grounds that they believed that it would be fundamentally unfair and that the court was not independent. They claimed that they had already been convicted in advance. The court entered pleas of “not guilty” on their behalf when they refused to plead.

The three civil society activists, Daniel Bekele, Netsanet Demissie and Kassahun Kebede, who are not part of the political opposition, pleaded “not guilty” and are contesting the charges, with their legal representative.

3.1 The defendants

The 76 defendants before the court include most of the central council and principal leadership of the CUD coalition party (*Kinjit* in the Amharic language), mainly from its two leading parties – the All Ethiopia Unity Party (AEUP), which was formed from the previous All-Amhara People’s Organization (AAPO), and the recently-formed Rainbow Movement for Democracy and Social Justice in Ethiopia (*Kestedemena* in Amharic).



Hailu Shawel ©Private



Berhanu Negga ©AI



Birtukan Mideksa ©Private

²⁷ Few foreign journalists are allowed visas to Ethiopia – an Associated Press correspondent was expelled in January 2006 on account of writing articles critical of the government.



Yakob Hailemariam



Muluneh Eyuel ©Private



Debebe Eshetu ©Private

©Private

The CUD leaders on trial are Hailu Shawel (CUD president and All Ethiopia Unity Party leader, civil engineer), Birtukan Mideksa (f) (CUD vice-president, Rainbow leader, lawyer), Berhanu Negga (CUD Mayor-elect of Addis Ababa, economics professor), Muluneh Eyuel (CUD secretary general, Ethiopian Democratic League leader, economist), Debebe Eshetu (CUD public relations officer, Rainbow member, theatre professional) and Hailu Araya (CUD and Ethiopian Democratic Unity Party leader, former academic and journalist), and others.

The defendants also include, according to different categories (some overlapping):

- five lawyers: Anteneh Mulugeta (also a former judge), Birtukan Mideksa (f) (also a former judge), Daniel Bekele (international NGO official and human rights lawyer), Netsanet Demissie (local NGO official, and human and environmental rights lawyer) and Yakob Hailemariam (former UN genocide prosecutor at the Rwanda tribunal and former UN Special Envoy in the Cameroon/Nigeria border dispute);
- five academics: Dr Berhanu Negga, Gizachew Shifferaw, Dr Hailu Araya, Professor Mesfin Woldemariam and Dr Yakob Hailemariam²⁸;
- nine members-elect of the national parliament²⁹: Abayneh Berhanu, Bedru Adem, Befekadu Degifie, Getachew Mengiste, Gizachew Shifferaw, Hailu Araya, Hailu Shawel, Mamushet Amare, Yakob Hailemariam;
- two members-elect of the Addis Ababa City Council: Berhanu Negga, the Mayor-elect of Addis Ababa, and Anteneh Mulugeta;

²⁸ Berhanu Negga, PhD, is assistant professor of economics at Addis Ababa University, AAU, and head of an the Ethiopian Economics Research Institute and an economics NGO); Gizachew Shifferaw is a lecturer in engineering at AAU); Hailu Araya, PhD, is a former lecturer in foreign languages at AAU, Mesfin Woldemariam, is a retired geography professor of AAU, and honorary PhD from Clark University, USA; and Yakob Hailemariam, PhD, is professor of economics at AAU and former professor of economics at Norfolk University, New Jersey, USA.

²⁹ The Inter-Parliamentary Union's committee on the human rights of parliamentarians has taken up their cases and questioned the earlier removal of their parliamentary immunity.

- five women: Birtukan Mideksa (as above), Nigist Gebrehiwot (CUD office secretary), Seblework Tadesse (CUD official), Serkalem Fasil (journalist), and Kidist Bekele (CUD member);
- 14 journalists (see section 2.4);
- Three civil society and NGO activists - Daniel Bekele and Netsanet Demissie, and Kassahun Kebede of the Ethiopian Teachers Association (see page 6). The court refused to separate their cases from those of the CUD members and journalists or grant them bail (with the Supreme Court rejecting their appeals), saying the charges were very serious and non-bailable, and were related with those against the other defendants, with some of the same prosecution witnesses;
- Ten “juridical persons” or “legal persons” - the four political parties constituting the CUD coalition and six publishing companies. Their inclusion appears designed to pave the way for banning the opposition political parties and closing down media which have been critical of the government.

3.2 Exiles on trial in absentia

An additional 25 defendants are being tried in their absence for “outrage against Constitution”. They are prominent Ethiopians in exile who are known or suspected to be active opposition party supporters. Nine other exiles were originally charged, including the five Voice of America journalists mentioned above, and Kassa Kebede, former Foreign Minister under the Mengistu Hailemariam government, who were discharged by the court at the prosecution request without explanation in March 2006.

Among those being tried in absentia are Elias Kifle, publisher of the US-based Ethiopian Review website; Abraha Belay, editor of the US-based Ethiomedia website; Professor Getachew Haile of St John’s University, Minnesota, USA; Professor Mammo Muchie of Aalborg University, Denmark; Dr Negede Gobezie, leader of the Me’isone political party which originally supported the Dergue but later opposed it, and now a member of the UEDF; Andargachew Tsege, former deputy Mayor of Addis Ababa and a former TPLF official, who returned to Ethiopia to work on the CUD election campaign but was arrested in Addis Ababa in June 2005 and tortured but was released without charge in September 2005 and allowed to return to the United Kingdom; and Kefalegne Mammo, former president of the Ethiopian Free Press Journalists Association, who fled the country in 1997. They are long-term citizens or residents (as former refugees) living in the US, Germany, the Netherlands and the United Kingdom.

Two other defendants who happened to be abroad at the time of the November 2005 also being tried in absentia – Dr Taye Woldesemayat, general secretary of the Ethiopian Teachers Association, and Kifle Mulat, president of the Ethiopian Free Press Journalists Association and editor of Lissane Hezeb newspaper.



Taye Woldeamayrat ©AI



Kifle Mulat

©AI

These 25 defendants tried in absentia – who have refused the court summons to return to Ethiopia to be tried - encompass different elements of the Ethiopian diaspora, especially in the USA. The charges are widely seen as a threat to try to silence other opposition supporters abroad, who may be arrested and charged with similar political offences if they return to Ethiopia. The Ethiopian diaspora initially comprised refugees from the Dergue after the 1974 revolution. They were joined after 1991 by refugees from the current government. Many Ethiopian diaspora members have been engaged in peaceful Ethiopian opposition party activism from abroad or via opposition-oriented websites such as Ethiopian Review and Ethiomedia. In the past year particularly, there have been numerous peaceful demonstrations abroad against the Ethiopian government and visiting Ethiopian officials, calling particularly for the release of political prisoners in Ethiopia.

3.3 The charges

The charges under the Criminal Code, promulgated in 2004 but signed into effect by the President on 9 May 2005 include high treason; “outrage against the Constitution”; inciting, organizing or leading armed rebellion; obstruction of exercise of constitutional powers; impairing the defensive power of the state; and genocide.

The most serious charges carry a possible penalty of life imprisonment or death, with the death sentence being imposed in cases of exceptional gravity.

The prosecution case is broadly that anti-government violence in post-election demonstrations was planned by the CUD and supported by the private media.

The “genocide” charge against the CUD officials and journalists relates, as listed on the charge sheet, to “beatings causing bodily injury on a Tigrayan-born individual..., arson on the home and property of two Tigrayan-born individuals...; acts causing fear and harm to the mental health of members of an ethnic group based on their ethnic identity; and indirect and direct acts causing harm to members and supporters of the EPRDF by excluding them from social interactions and preventing them from attending funerals”. The crime of genocide in the Criminal Code (article 269) includes elements of intent to destroy, in whole or in part, a “nation, nationality, ethnical, racial, national, colour, religious or political group” by ordering

or engaging in, *inter alia*, “killing, bodily harm or serious injury to the physical or mental health of members of the group”.³⁰

Amnesty International has described the use of the charge of genocide in this trial as “absurd”.³¹

The CUD leaders have consistently maintained that the CUD is a peaceful opposition party working within the framework of Ethiopia’s Constitution and laws, and that they have not used or advocated violence. They have vigorously rejected the accusation of conspiring or attempting to overthrow the government by violent means. They maintain that their opposition to the government, their call for demonstrations against alleged election fraud by the government and ruling party, and their criticisms of the National Electoral Board have been non-violent, legal and in accordance with the Constitution. They disclaim responsibility for the violence which erupted during the protests.

The prosecution’s documentary evidence against the CUD leaders and journalists has been listed in advance, but there appears to be no such evidence against the three civil society activists. The prosecution reportedly intends to call over 300 witnesses, which would extend the trial for a lengthy period. The court accepted the prosecution request for non-disclosure of names of prosecution witnesses, on the grounds of their personal security would be at risk.

4. Treatment of prisoners

Amnesty International is concerned about the treatment and health of the defendants in prison, which fall short of internationally recognized standards, including the UN Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Concerns are the denial of written communication with families and legal counsel, delays in medical treatment, reports of inadequate pregnancy medical care for Serkalem Fasil (now seven months pregnant), and restrictions on reading materials. There have also been some reports of beatings of prisoners, fears for the safety of those held in incommunicado detention and allegations of torture by defendants in the separate treason trial of Kifle Tigeneh and others (see page10).

The defendants were initially held in the police Central Investigation Bureau in Addis Ababa, known as the Third Police Station (or *Maikelawi* in Amharic). There were some reports of ill-treatment and intimidation of some of the defendants, including Hailu Shawel, in the first period after arrest.

After some weeks in custody, most of the CUD leaders (except those in poor health, such as Hailu Shawel, a diabetic) and others detained with them, including journalists, went on hunger strike in protest about being detained. The hunger strike lasted several weeks and was called off when they decided their protest had been noted by the public and international community.

³⁰ The trials of the former Dergue government and other officials (see page 15) are the only previous instances under the current government of the use of the charge of genocide.

³¹ Amnesty International news release 22 February 2006, AI Index: AFR 25/005/2006.

Amnesty International has been concerned, in particular, for the health of Professor Mesfin Woldemariam, aged 76, who had been ill in bed for three months prior to his arrest with serious leg and back problems. He was allowed to have his own mattress in prison but his physiotherapist was not allowed to treat him. Contrary to expectations, he managed to walk with a stick and his condition appeared to improve. However, he commenced (alone) a second hunger strike on 8 February 2006 for some weeks, leaving him weakened and increasing the concern for his health.

Amnesty International had serious concern too for Hailu Shawel, who was suffering from diabetic retinopathy threatening his eyesight. For some weeks as his vision deteriorated, the authorities refused to allow him to travel abroad, but finally allowed Chinese surgeons to operate in an Addis Ababa hospital to restore his sight and he is apparently recovering well.

After the charges were formally presented in December 2005, the defendants were all removed to Kaliti prison on the western outskirts of Addis Ababa, since the Central Prison (known as *Karchele*) was in the process of being closed for demolition and the land transferred to the adjacent African Union headquarters for redevelopment.

In Kaliti prison, the male detainees are held in three sections, with no visiting allowed between zones – for example between Eskinder Negga and his partner Serkalem Fasil who is pregnant (until a visit was permitted during the CPJ visit, see page 10). During the night they are locked into zinc-walled cells, which are hot in the day and cold at night. Cells are reportedly overcrowded, with one containing 30 prisoners and another holding some 300. Sanitary and toilet facilities are poor. During the day prisoners can associate freely in their zone of the prison. Women prisoners are held separately from the men. Serkalem Fasil, now seven months pregnant, is reported to have complained about lack of medical and pre-natal care.

Prisoners are allowed non-private visits at weekends in a group situation supervised by prison guards, and occasional private visits by foreign diplomats and others, international media and family members. Families can send food, bedding, changes of clothing and small items. Medical treatment is available, with admission to hospital when required, although often after some delay which may exacerbate the illness. Written communications are not allowed, even to legal counsel. Reading materials are allowed but restricted.

At a court hearing on 22 March 2006, Birtukan Mideksa said she had been beaten in prison but the judge stopped her from speaking further and took no action to investigate her allegation.

On 9 April 2006 Muluneh Eyeul was transferred to the Central Prison, reportedly after a dispute with prison officials over wearing a CUD T-shirt and other matters. He is detained there incommunicado in solitary confinement, raising fears about his treatment, which Amnesty International is investigating. He is said to be on hunger strike.

5. Amnesty International's concerns about the fairness of the trial

Amnesty International has been closely following reports of the preliminary judicial proceedings and will continue to monitor the reports of the trial starting from the opening of the prosecution case due on 2 May 2006, in order to assess whether the defendants receive a fair trial by an independent and impartial court in accordance with internationally recognized standards of fair trial.

Ethiopia is bound, under provisions of the human rights instruments it has ratified, to ensure the right to a fair trial of those charged with a criminal offence. Provisions in articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and articles 6 and 7 of the African Charter on Human and Peoples' Rights provide minimum standards of fair trial, which must be afforded to the defendants.

The fact that most of the defendants have decided to boycott the trial does not, in itself, mean that these fundamental principles of fair trial can be simply ignored by the judges or the prosecutor. This is particularly important, as most of the crimes for which the defendants are charged are potentially punishable by death at the option of the judges, if they rule that the crimes committed were of exceptional gravity (see Table 1).

Trials in capital cases, as in this case, involving 76 defendants charged with six of the most serious offences in the Criminal Code, five of which carry possible death sentences, require judges of the utmost integrity and with the relevant training and experience to be able to scrupulously observe all the international and regional standards protecting the right to a fair trial. The Human Rights Committee has stated that in death penalty cases the guarantees of fair trial prescribed in the ICCPR "must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher tribunal."³²

5.1 Presumption of innocence

Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law, as stated in Article 14(2) of the ICCPR and Article 7(1)(b) of the African Charter on Human and Peoples' Rights.

The burden of proof rests on the prosecution. The standard of proof has been interpreted to be that "no guilt can be presumed until the charge has been proved beyond reasonable doubt."³³ In trials where the death penalty can be imposed, the UN Special Rapporteur on extrajudicial, summary or arbitrary execution has stated that "defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence."³⁴

³² Human Rights Committee, General Comment No 6, paragraph 7.

³³ See Human Rights Committee, General Comment No 13, paragraph 7.

³⁴ See UN Doc. A/51/457, paragraph 111.

Amnesty International is concerned that the presumption of innocence may have been prejudiced by statements made by the Prime Minister, Minister of Information and state media commentators accusing the CUD of fomenting violence and ethnic hatred, committing treason and planning a Rwanda-type genocide.

5.2 Legal defence rights and “equality of arms”³⁵

In Ethiopia, defence counsel cannot communicate with their clients in full confidentiality: police or security officers are normally required to be present during the meeting,³⁶ exchanging communications and documents with their clients is prohibited, and consultations must be in Amharic, even if this is not the client’s mother-tongue.

Such practices are in violation of the right to have adequate time and facility to prepare a defence.³⁷ Principle 8 of the Basic Principles on the Role of Lawyers clearly states that: “All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.”

All defendants should also be guaranteed the right to examine, or have examined, witnesses brought by the prosecutor against them. In this regard, the African Commission on Human and Peoples’ Rights has stated that “the prosecution shall provide the defence with the names of the witnesses it intends to call at trial within a reasonable time prior to trial which allows the defendant sufficient time to prepare his or her defence.”³⁸

Although there are exceptions to this standard, including in order to ensure the protection of witnesses, such exceptions should not infringe the right of the defence to equality of arms.

5.3 Prohibition of evidence obtained under torture or ill-treatment

Evidence obtained as a result of torture or other cruel, inhuman or degrading treatment must not be used in any proceedings except those brought against alleged perpetrators.³⁹

³⁵ One essential criterion of a fair hearing is the principle of “equality of arms” between the parties in a case. This means that both parties are treated in a manner ensuring that they have a procedurally equal position during the full course of the trial, under conditions that do not place one party at a substantial disadvantage.

³⁶ There has also been a recent report of a seemingly private consultation being secretly recorded by the security authorities.

³⁷ See Article 14 (3)(b) of the ICCPR.

³⁸ See Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, N.6.f.1.

³⁹ See Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and also the Human Rights Committee general comment No 20, Paragraph 12, and the African Commission on Human and Peoples’ Rights Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, N.6.g.

Allegations of torture or cruel, inhuman or degrading treatment must be promptly and impartially examined by the competent authorities, including judges. Officials suspected of having committed acts of torture or ill-treatment should be brought to justice in proceedings that guarantee international standards of fair trial.

5.4 Independence and impartiality of the judiciary

Amnesty International has received reports that many judges have been dismissed in recent years, some allegedly on account of delivering judgments against the government (as Birtukan Mideksa, for example, alleges in regard to her own dismissal as a judge on account of delivering a judgment unfavourable to the government), and others allegedly promoted on account of delivering judgments favourable to the government.

Amnesty International has considered several political trials in recent years to have been unfair, in particular the following:

- the previous trial of Taye Woldesemayat (an absent defendant in the current trial);⁴⁰
- the trials of the late Professor Asrat Woldeyes, a medical professor, surgeon and leader of the All-Amhara People's Organization (AAPO), in 1994-5;⁴¹
- the trial of seven leaders of the Human Rights League, an independent Oromo organization, who were imprisoned as prisoners of conscience from 1997 to 2001, when they were finally acquitted of charges of armed conspiracy and supporting the OLF;⁴²
- the ongoing Mecha Tulema Association case (page 14);
- a separate pending trial of Professor Mesfin Woldemariam and Berhanu Negga, who were arrested after the Addis Ababa university student demonstrations in 2001 and detained for two weeks for investigation into alleged incitement of violence, which they denied. The case has been continually adjourned, though no date has been set for trial;
- As many as 200 or more summary trials of journalists since 1992 under the Press Law, where many defendants were convicted and imprisoned without legal representation.

If this treason trial is not conducted fully in accordance with the relevant international standards of fairness, the consequences for human rights progress in Ethiopia could be very serious.

⁴⁰ See footnote on page 6. The judges failed to investigate co-defendants' allegations (backed by display of visible torture injuries such as rib and skull fractures and open wounds) that they had been subjected to prolonged periods of torture by means of electric shocks, severe beatings while hung upside down, mock shooting and tying of limbs.

⁴¹ See Amnesty International annual reports, 1994-6

⁴² See Amnesty International annual report, 2002

6. Amnesty International's recommendations

Amnesty International, on the basis of the information it has received and reviewed about the circumstances leading to the trial, and its assessment of the preliminary proceedings prior to the opening of the prosecution case, makes the following recommendations:

6.1 To the Ethiopian Government

- To release immediately and unconditionally, with charges withdrawn, the political opposition leaders, human rights defenders and journalists, who are prisoners of conscience and have not used or advocated violence;
- To ensure that all elements of fair trial are afforded to the defendants, including the right to be tried by a competent and independent court; to guarantee the presumption of innocence, including by ensuring that the burden of proof rests on the prosecution, and to ensure the “equality of arms” between prosecution and defendants, including by ensuring adequate time and facility for those having legal counsel to prepare a full defence and effective examination of witnesses;
- To exclude the application of the death penalty, which is a violation of the right to life and a cruel, inhuman and degrading punishment;
- To establish independent and impartial investigations into any allegations of torture or ill-treatment made by defendants, and to ensure that evidence obtained as a result of torture or ill-treatment is not admitted in the proceedings, and that officials suspected of having committed acts of torture or ill-treatment are brought to justice;
- To ensure that defendants are treated humanely in custody in accordance with international and regional standards for the treatment of prisoners, such as the UN Standard Minimum Rules for the Treatment of Prisoners, with particular regard to medical treatment, family visits and communications, reading materials and writing materials for communications with families and legal representatives;
- To recognize and implement the right to freedom of opinion and association for political parties and civil society groups, including freedom of the media, as set out in the Ethiopian Constitution and international and regional human rights treaties to which Ethiopia is party, particularly the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights;
- To respect and protect the legitimate role of human rights defenders and civil society activists, in conformity with the UN Declaration on Human Rights Defenders.

6.2 To the international community

- To continue to press the Government of Ethiopia to observe international standards on freedom of expression and association, and to release immediately and unconditionally all the prisoners of conscience on trial, including the human rights defenders;

- To press for fair trial for the defendants in accordance with international and regional standards;
- To oppose the use of the death penalty and prevent any executions;
- To press the Government of Ethiopia to ensure defendants are treated humanely in prison, and to monitor their treatment;
- To press the Government of Ethiopia to fulfil its obligations to implement the rights to freedom of expression and opinion, including freedom of the media, and to protect the rights of human rights defenders;
- To guarantee the protection of the rights of Ethiopian refugees, and in particular to grant international protection or asylum to opposition party activists and suspected activists at national or local levels, as well as civil society activists and journalists known to be critics of the government: importantly, such persons should not be *refouled* or forcibly returned to Ethiopia where they may face persecution, arbitrary arrest or detention, unfair trial, torture or other ill-treatment.

Table 1: The Charges

Charges (Numbered according to the court charge-sheet)	Article of Criminal Code (2005)	Penalty
1. Outrage against the constitution	238 (1), (2)	3-25 years imprisonment, or “when the crime has entailed serious crises against public security or life” life imprisonment or death
2. Obstruction of the exercise of constitutional powers	239	Up to 15 years imprisonment
3. Inciting, organizing or leading armed rebellion	240 (2), 258*	Life imprisonment or death
4. Endangering the integrity of the state	241	10-25 years or “in cases of exceptional gravity” life imprisonment or death
5. Impairing the defensive power of the state	247 (a), (c), 258*	5-25 years or “in cases of exceptional gravity” life imprisonment or death
6. High treason	248 (b), 258*	5-25 years imprisonment or “in cases of exceptional gravity” life imprisonment or death
7. Genocide	269 (a)	5-25 years imprisonment or “in more serious cases” life imprisonment or death

* In case of aggravation in a crime where the law provides for life imprisonment or death, the court shall pass sentence of death.

Table 2: Groups of defendants and charges against them

Defendants Numbered according to the court charge-sheet	Charges (See Table 1 for description)						
	1	2	3	4*	5	6	7**
1-39 CUD leaders	X	X	X	X	X	X	X
40-69 Exiles	X						
70-90 Journalists	X			X	X		X
91-95 Civil society activists	X						
96-120 Other CUD officials	X	X	X				X
121-127 Other CUD members	X	X	X				X
128-131 CUD parties	X	X	X	X	X	X	X

* This charge was withdrawn by the prosecution in March 2006.

** The prosecutor requested the court in March 2006 to amend this to “attempt to commit genocide” but the court reportedly made no ruling at the time.