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Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Ethiopia

1. The Committee considered the initial report submitted by Ethiopia (CCPR/C/ETH/1) at its 2804th, 2805th and 2806th meetings (CCPR/C/SR.2804, 2805 and 2806), held on 11 and 12 July 2011. At its 2823rd meeting (CCPR/C/SR.2823), held on 25 July 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Ethiopia and the information presented therein while regretting that it was submitted as much as 17 years late. The Committee is grateful to the State party for its written replies (CCPR/ETH/Q/1/Add.1) to the list of issues which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption, in 2004 of the Revised Criminal Code which criminalizes all acts of torture and cruel, inhuman or degrading treatment or punishment, sexual violence and harmful traditional practices; and

(b) The submission of a comprehensive core document, in compliance with the revised reporting guidelines, under a joint treaty reporting project of the Ministry of Foreign Affairs, the Ethiopian Human Rights Commission and the Office of the United Nations High Commissioner for Human Rights.

4. The Committee welcomes the ratification by the State party of the following international instruments:

- (a) The Convention on the Rights of Persons with Disabilities, in 2010;
- (b) The United Nations Convention against Transnational Organized Crimes and its Protocols, in 2007;
- (c) The ILO Convention against Forced or Compulsory Labour No.29, in 2003; and
- (d) The ILO Convention against the Worst Forms of Child Labour No. 182, also in 2003.

C. Principal matters of concern and recommendations

5. While taking note that international human rights treaties which the State party has ratified take precedence over national laws, albeit not over the Constitution, the Committee is concerned that none of the provisions of the Covenant have been invoked before national courts, and that the Covenant has not yet been translated into local languages and published in full in the Federal Negazit Gazette (art. 2).

The State party should take appropriate measures to raise awareness of the provisions of the Covenant among judges, lawyers and prosecutors to ensure that they are taken into account before national courts. In this regard, the State party should take effective measures to widely disseminate it in national languages. The State Party should also consider ratifying the Optional Protocol to the Covenant.

6. While the Committee welcomes the establishment of the Ethiopian Human Rights Commission, it notes that it is not yet compliant with the Paris Principles (General Assembly resolution 48/134). However, the Committee notes the fact that it has not made any recommendation regarding existing or new laws, it has undertaken very few investigations on alleged human rights violations, and its recommendations and suggestions following its monitoring of correctional facilities were not implemented by the State Party (art. 2).

The State party should promptly take the necessary measures to guarantee the development and proper functioning of the National Human Rights Commission. It should take all necessary steps to guarantee its independence, in line with the Paris Principles (General Assembly resolution 48/134, annex).

7. While welcoming the efforts of the State party towards establishing equality between men and women, including through the inclusion of the principle in the constitution and the adoption of the National Action Plan on Gender Equality, the Committee notes with concern that there are significant discrepancies in the improvement of the situation of women in the different regions (arts. 2, 3 and 26).

The State party should continue its efforts to increase in practice the access of women to employment, public life, education, housing and health, in all the regions of the country. The State party should include disaggregated statistical data on this matter in its next periodic report.

8. The Committee is concerned that marital rape is not criminalized, in the revised Criminal Code. (arts. 2, 3 and 26)

The State party should criminalize marital rape. It should vigorously prosecute and punish such acts, and provide the police with clear guidelines, together with awareness-raising and other training.

9. The Committee is concerned that even if polygamy is *de jure* prohibited at the Federal level, polygamy remains widespread and is still legal under the family laws of certain regional States of Ethiopia. The Committee recalls its view that polygamy violates the dignity of women as set out in the general comment No. 28 (2000) on the equality of rights between men and women, paragraph 24 (arts. 2, 3, and 26).

The State party should ensure that polygamy is effectively prosecuted at the Federal level and also prohibited at all levels and subject to prosecution. The State party should continue its efforts of raising awareness in order to change mentalities and eradicate polygamy, which is a form of discrimination against women.

10. While noting the recent decrease in the number of cases of female genital mutilation and other harmful traditional practices, as indicated in the State Party's report, the Committee notes with regret that such practices continue. The Committee regrets the discrepancy in the statistics related to these practices presented by different sources, which makes it difficult for the Committee to have a clear picture of the situation in the country. The Committee also regrets the lack of information on possible cases of prosecution of perpetrators (arts. 2, 3, 7 and 26).

The State party should further enhance its efforts to prevent and eradicate harmful traditional practices including female genital mutilation and strengthen its awareness-raising and education programmes in that regard, in particular in those communities where the practice remains widespread. It should ensure that perpetrators are brought to justice and present data on this matter in its next report.

11. While the Committee acknowledges the efforts of the State party to address and combat trafficking in women and children, the Committee remains concerned about the prevalence of this phenomenon in Ethiopia, about the lack of information on the investigation and prosecution of trafficking cases and the protection of the rights of victims (arts. 3, 8, 24 and 26).

The State party should reinforce its measures to combat trafficking in women and children and prosecute and punish perpetrators. The State party should collect and submit data in this regard in its next periodic report. The State party should also put in place strong programmes to support the human rights of the victims.

12. The Committee, is concerned about the criminalization of "homosexuality and other indecent acts", as are other international human rights treaty bodies. As pointed out by the Committee, such criminalization violates the rights to privacy and to protection against discrimination set out in the Covenant. The Committee's concerns are not allayed by the information furnished by the State party that the provision in question is not applied in practice or by its statement that it is important to change mindsets before modifying the law in this regard (arts. 2, 17 and 26).

The State party should take steps to decriminalize sexual relations between consenting adults of the same sex in order to bring its legislation into line with the Covenant. The State party should also take the necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation.

13. While the Committee welcomes the development since August 2010 of the out-of-camp policy for Eritrean refugees and is conscious of the increasingly large refugee population within its borders, it is concerned by the difficulties other refugees experience, which are preventing any long-term solution for them, beside resettlement (arts. 2 and 26).

The State party should strive to promote the integration of asylum-seekers and refugees, including by extending the out-of-camp policy to the extent possible. The Committee invites the State party to ratify the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).

14. The Committee notes with concern that there is no comprehensive mechanism established by the State Party to address the protection needs of internally displaced persons, and in particular for those who are displaced as a result of conflict (arts. 2, 3, 12 and 24).

The State party should, in accordance with international standards on the subject, including the Guiding Principles on Internal Displacement, take measures to: (a) increase protection for displaced persons; (b) formulate and adopt a legal framework and a national strategy covering all phases of displacement; (c) create conditions that offer lasting solutions to displaced persons, including their voluntary and safe return. The Committee invites the State party to consider ratifying the African Union Convention for the Protection and Assistance of Internally Displaced Persons (2009).

15. While the Committee appreciates the State party's need to adopt measures to combat acts of terrorism, it regrets the unclear definition of certain offences in Proclamation 652/2009 and is concerned by the scope of some of its provisions, including the criminalization of encouragement of and inducement to terrorism through publication, which can lead to abuse against the media (arts. 2, 15 and 19).

The State party should ensure that its anti-terrorism legislation defines the nature of those acts with sufficient precision to enable individuals to regulate their conduct accordingly. The State party should ensure that its legislation is limited to crimes that deserve to attract the grave consequences associated with terrorism, and revise its legislation that imposes undue restrictions on the exercise of rights under the Covenant.

16. The Committee notes with concern the numerous reports received about serious human rights violations committed in the Somali Regional State of Ethiopia¹ by members of the police and the army, including murder, rape, enforced disappearance, arbitrary detention, torture, destruction of property, forced displacement and attacks on the civilian population, as well as the recent reports of apprehension of foreign journalists in the region. The Committee is also concerned at the lack of cases in which perpetrators of serious crimes have been prosecuted and punished and by the refusal of the State party to have an independent inquiry on the situation (arts. 2, 3, 4, 6, 7 and 12).

¹ Some information received by the Committee also refers to this area as Ogaden.

The State party should put a stop to such violations and ensure that all allegations of such violations are effectively investigated, that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims have access to effective remedies, including adequate reparation.

17. The Committee notes with concern numerous reports suggesting that torture and cruel, inhuman or degrading treatments are widespread in the State party and used against detainees by the police, prison officers and military, especially with regard to alleged members of armed insurgent groups active in certain regions of Ethiopia (the Somali Regional State and the Oromia Regional State of Ethiopia²). Moreover, perpetrators reportedly very often go unpunished (arts. 2, 6, and 7).

The State party should (a) guarantee that all allegations of torture or cruel, inhuman or degrading treatment are effectively investigated, and that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that the victims have access to effective remedies and adequate reparation; (b) improve the training of State agents in this regard, in order to ensure that all persons who are arrested or held in custody are treated with respect; and (c) in its next report, provide disaggregated data on all allegations of torture.

18. The Committee is concerned over allegations of the resort to excessive and sometimes lethal force by the security forces, notably during the post-elections violence in 2005, and by the manner in which the Commission of Inquiry established to investigate these events, may be presumed to have applied an inappropriate test of proportionality and necessity, its actual content of which the State party failed to clarify (arts. 6 and 7).

The State party should take measures to eradicate all forms of excessive use of force by law enforcement officials. It should, in particular (a) establish a mechanism to carry out independent investigations of complaints; (b) initiate proceedings against alleged perpetrators; (c) provide training to law enforcement officers; (d) bring its legislative provisions and policies into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and (e) provide adequate reparation to the victims.

19. While acknowledging the de facto moratorium on the death penalty, the Committee remains concerned that death sentences are still imposed by courts for crimes which appear to have a political dimension, as well as following in-absentia trials without adequate legal safeguards (arts. 6 and 14).

The State party should consider abolishing the death penalty. It should ensure that, if the death penalty is imposed, it is only for the most serious crimes and in compliance with article 14 of the Covenant. The State party should consider commuting all death sentences and ratifying the Second Optional Protocol to the Covenant. The State Party should ensure legal safeguards for persons tried in absentia.

20. The Committee notes the information provided by the State party regarding the legal safeguards during criminal proceedings. However, the Committee remains concerned that the time for the transportation of an arrested person to a judge is not included in the rule that requires an arrested person to be presented before a judge within 48 hours. It is also concerned by reports that in practice the provision of free legal aid has been seriously impeded by the restrictions imposed on non-governmental organisations (NGOs) by the Proclamation to Provide for the Registration and Regulation of Charities and Societies

² Some information received by the Committee also refers to these areas as Ogaden and Oromia.

(CSO) No 621/2009, as free legal aid was frequently provided by NGOs given the lack of capacity of the Public Defender Office (art. 14).

The State party should ensure that, where a person is undefended, the Office of the Public Defender Office provides all persons suspected of having committed a crime with legal counsel from the outset of their detention. The State party should also take steps to guarantee that all the other legal safeguards are implemented in practice. The State party should also remove those restrictions on NGOs which in effect preclude them from offering legal aid services.

21. The Committee notes with concern that a statute of the State party totally precludes the possibility of appealing a conviction based on a guilty plea. Although limiting the issues that can be raised on appeal from such a conviction may be consistent with its article 14, paragraph 5, the Covenant does not permit total preclusion of an appeal (art. 14).

The State party should amend its statute to recognize, within appropriate limits, the right of persons convicted of a criminal offense after a guilty plea to appeal both the sentence and the conviction.

22. While acknowledging that submission to sharia courts can only happen with the consent of the parties, the Committee remains concerned by the fact that such courts can take binding decisions, which cannot be appealed against on the substance, in matters such as marriage, divorce, guardianship of minors, and inheritance. The Committee also notes that the Covenant is not part of the laws applied by the sharia courts (art. 14).

The State party should ensure that all tribunals and courts in Ethiopia operate in accordance with the principles set out in article 14 of the Covenant and paragraph 24 of the Committee's general comment No. 32 (2007). Accordingly, religious courts should not hand down binding judgments recognized by the State, unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters, meet the basic requirements of fair trial and other relevant guarantees of the Covenant, and their judgements are validated by State courts in light of the guarantees set out in the Covenant and can, if necessary, be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the Covenant. These principles are notwithstanding the general obligation of the State to protect the rights under the Covenant of any persons affected by the operation of religious courts.

23. While taking note of the State party's plans to ease prison overcrowding and improve the conditions of detention, particularly through the construction of new facilities, the Committee regrets the lack of concrete details received about this plan and its implementation. It is concerned that the present prison conditions remain alarming, in particular for women and children, and not compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners. The Committee also notes with regret that the International Committee of the Red Cross (ICRC) is not granted the right of accessing prisons and other places of detention (art. 10).

The Committee recalls the recommendation made by the Committee against Torture, that the State party should establish an effective independent national system to monitor and inspect all places of deprivation of liberty and to follow-up on the outcome of such systematic monitoring. In addition, the State party should grant independent international monitoring mechanisms access to prisons, detention centres and any other places where persons are deprived of their liberty, including in the Somali Regional State

24. The Committee is concerned by provisions of the Proclamation on the Freedom of the Mass Media and Access to Information (No. 591/2008), in particular the registration requirements for newspapers, the severe penalties for criminal defamation, and the inappropriate application of this law in the combat against terrorism, as illustrated by the closure of many newspapers and legal charges brought against some journalists. The Committee is also concerned by reports received about the impossibility of accessing various foreign websites and radio stations (art. 19).

The State party should revise its legislation to ensure that any limitations on the rights to freedom of expression are in strict compliance with article 19, paragraph 3, of the Covenant, and in particular it should review the registration requirements for newspapers and ensure that media are free from harassment and intimidation.

25. The Committee is concerned by the provisions of the Proclamation on Charities and Societies No.621/2009, which prohibits Ethiopian NGOs from obtaining more than 10 per cent of their budget from foreign donors, and at the same time, prohibits the NGOs considered by the State party to be foreign, from engaging in human rights and democracy related activities. This legislation impedes the realisation of the freedom of association and assembly as illustrated by the fact that many NGOs and professional associations were not authorized to register under the new Proclamation or had to change their area of activity. (arts. 21 and 22)

The State party should revise its legislation to ensure that any limitations on the right to freedom of association and assembly are in strict compliance with articles 21 and 22 of the Covenant, and in particular it should reconsider the funding restrictions on local NGOs in the light of the Covenant and it should authorize all NGOs to work in the field of human rights. The State party should not discriminate against NGOs that have some members who reside outside of its borders,

26. The Committee notes the recognition of the rights of ethnic and linguistic communities to self-determination at the level of the regional State according to the “ethnic federalism” established by the Constitution, but is concerned about the lack of recognition and participation in public life of the ethnic and linguistic minorities living outside their designated “ethnic regions” (arts. 1, 2, 25, 26, 27).

The State party should recognize the existence of the various ethnic and linguistic minorities in each regional State and ensure their adequate political representation and participation at regional State and federal levels.

27. The State party should widely disseminate the Covenant, the text of the initial report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations so as to increase awareness among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into official languages of the State party. The Committee also requests the State party, when preparing

its first periodic report, to broadly consult with civil society, the National Human Rights Institution and non-governmental organizations.

28. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 16, 17 and 25 above.

29. The Committee requests the State party, in its next periodic report, due to be submitted on 29 July 2014, to provide, specific, up-to-date information on all its recommendations and on the Covenant as a whole.
