



**THE ETHIOPIAN HUMAN
RIGHTS COMMISSION**
*Getahun Kassa**

PART A. INTRODUCTORY COMMENTARY

1 Introduction

Abuses of power and violations of human rights have a long history in Ethiopia and continue to the present day. In recent decades, the country underwent three transitional periods, two of which resulted in regime change and the third in the incumbent's remaining in power. Even so, reforms prompted by popular demands led to changes that affected the *modus operandi* of the ruling group.

Upheaval in the late 1960s and early 1970s brought Ethiopia's age-old imperial rule to an end and saw it replaced by a military regime called the Provisional Military Administration Council of Ethiopia (PMACE) and known also as the Derg. Widespread human rights violations were a part of the history of this period. The military regime was known for its brutal repression. Torture, summary execution and deprivation of liberty were mainstays of its *modus operandi*, with the result that freedom of expression and association and rights to political participation were severely curtailed.

* Center for Human Rights, Addis Ababa University.

During this period (the mid-1970s to mid-1980s), violence was used routinely to eliminate political opponents. The PMACE launched an offensive, known as the Red Terror, against those whom it labeled “counter-revolutionary”, “anti-people” and “feudal remnants”. One of the opposition groups, the Ethiopian Peoples’ Revolutionary Party (EPRP), retaliated with its “White Terror” offensive.¹ Thousands died in the conflict, while thousands more sustained physical harm and trauma.²

After a protracted bloody conflict, the military regime was overthrown by force of arms. A Transition Period Charter adopted in 1991 promised that “individual human rights shall be respected fully, and without any limitation whatsoever,”³ and affirmed “the rights of nations, nationalities and peoples to self-determination”.⁴ The Charter transformed the political landscape into a multi-party system, and set out to deal with human rights violations committed under the military regime. In 1992, the transitional government decided to adopt a criminal prosecution model for doing so. A Special Prosecutor Office (SPO)⁵ was established to investigate and institute criminal proceedings against persons suspected of perpetrating violations through the abuse of their positions in the party, the government or any mass organisations under the Derg-WPE regime.⁶ The SPO was mandated accordingly to investigate human rights violations, prosecute alleged perpetrators, document the violations, and educate the public so as to prevent a recurrence of such violations.⁷ About 5,200 suspects⁸ were charged for one or more crimes of genocide, crimes against humanity, murder, rape, injury to physical and mental health, unlawful detention,

1 TB Bouwknegt, “Eshetu Alemu: The Black Sheep of the Dergue – Ethiopian War Crimes and Universal Jurisdiction in the Netherlands”, 12 *International Journal of Transitional Justice* (2018), p 554.

2 The senior prosecutor of the SPO, who participated in the process from investigation to prosecution and appeal, pointed that one major challenge for the prosecution office was that victims who sustained physical and psychological harm did not want to remember about it and were thus unwilling to cooperate in the investigation and appear as witnesses in court.

3 Proclamation No 1/1991, Transitional Period Charter of Ethiopia, Article 1.

4 *Ibid*, Article 2.

5 Proclamation No 22/1992, Proclamation Establishing the Office of Special Prosecutor (8 August 1992).

6 *Ibid*, Article 6.

7 *Ibid*.

8 Persons accused of these crimes were charged in three categories: high-ranking politicians and military commanders of the Dergue regime; military officers and civilians who implemented orders; and individual perpetrators who executed the decisions. See “Report of the Special Prosecutor Office” (2010), pp 135-141.

and confiscating private property.⁹ It is worth noting that only members of the outgoing regime were charged with these crimes, which raised questions about the impartiality of the process.

A new constitution – the Constitution of the Federal Democratic Republic of Ethiopia (the 1995 Constitution) – was adopted in 1995, formally ending the transition period and paving the way for multi-party politics, the recognition of individual and group rights, and establishment of a national human rights institution. Nevertheless, human rights violations have continued unabated to this day. Restrictive laws and controversial national elections, coupled with a repressive law enforcement tradition, have severely undermined fundamental human rights that are recognised as “emanating from the nature of mankind, inviolable and inalienable”.¹⁰ The implementation of these laws has stifled dissent, curtailed freedom of expression, constrained the space for an independent civil society, and led to Ethiopia’s being identified as “the second-worst jailer of journalists in sub-Saharan Africa”.¹¹

Since 2015, the country has been mired in a political crisis triggered by anti-government protests and violent conflict in which government forces and protesters alike committed human rights violations with impunity. Developments between 2015 and 2018 took diverse forms – on the one hand, there was hope for political reform (which began with the release from prison of journalists and opposition political party leaders)¹² and, on the other, states of emergency were proclaimed, putting fundamental rights under threat.¹³ These measures compounded the already troubled state of human rights in the country in that the state of emergency proclamations and implementation directives contained highly restrictive provisions that prohibited basic freedoms. Widespread human rights

9 Some commentators call the trial the “African Nuremberg”. See J Ryle, “An African Nuremberg”, *The New Yorker* (2 October 1995), available at <https://www.newyorker.com/magazines/1995/10/02/an-african-nuremberg> (accessed in May 2018).

10 The Constitution of the Federal Democratic Republic of Ethiopia, Article 10.

11 Freedom House, “Freedom of the Press 2017”, *Ethiopia Profile*.

12 The release of opposition politicians and journalists in February 2018 was followed few days’ later by the declaration of a state of emergency.

13 The first state of emergency was declared in October 2016 and lifted in August 2017. In February 2018, a state of emergency was declared for a second time, raising concerns alongside hopes for reform. It was lifted in June 2018 after five months.

violations were reported during a state-of-emergency period that spanned a total of 16 months between 2016 and 2018.¹⁴

Conversely, the promise of reform raised hopes for a democratic transition and the protection of human rights. Prominent developments in this respect were Prime Minister Abiy Ahmed's official admission that the government had committed human rights violations in the past¹⁵ and his promise of genuine electoral democracy. However, despite the current leadership's explicit promises, violations of human rights have continued, often with impunity.

This is the context in which the Ethiopian Human Rights Commission (EHRC) implements its mandate.¹⁶ Ongoing political reform and popular demands for it present opportunities as well as challenges to the Commission's efforts to carry out its mission. This chapter seeks to assess the extent to which the EHRC has been able to exercise its mandate and the difficulties it faces in doing so. Following this introduction, sections 2-5 below discuss issues related to the establishment of the Commission, its mandate and selection procedures, and its organisation and staffing. Thereafter, sections 6-10 examine the activities of the EHRC, its accessibility, financial autonomy and relationship with civil society. The final section draws conclusions from the analysis in the preceding sections.

2 Establishment and evolution of the EHRC

The first indication of the desire to establish a national human rights institution was reflected in the 1974 draft constitution. The early 1970s were years when various sectors of Ethiopian society staged protests against absolutist monarchical rule. Prompted by the demands for political

14 Human Rights Watch, "Ethiopia: New State of Emergency Risks Renewed Abuses Overbroad, Vague Provisions Undercut Rights", available at <https://www.hrw.org/news/2018/02/23/ethiopia-new-state-of-emergency-risks-renewed-abuses> (accessed 5 March 2019).

15 Addis Standard, "Ethiopia: The Government's Approach to Past Human Rights Violations Needs to be Transparent" (25 January 2019). Prime Minister Abiy Ahmed's Speech in Parliament, available at <https://www.youtube.com/watch?v=wJnC2aX4jp8> (accessed 24 April 2019).

16 Proclamation 210/2000, Ethiopian Human Rights Commission Establishment Proclamation, Article 5. The objective of the Commission shall be to educate the public be aware of human rights to see to it that human rights are protected, respected and fully enforced as well as to have the necessary measures taken where they are found to have been violated.

reform and democratisation, a draft constitution¹⁷ (which proposed a transition to a constitutional monarchy) was tabled for discussion on 6 August 1974. The draft proposed an independent ombudsman answerable to the National Assembly. Articles 143-144 of the draft sought to vest this institution with the power to investigate administrative malpractice and issues subpoenas in the course of investigations. Nevertheless, the proposal did not materialise as the emperor was overthrown before the draft could be entered into force.¹⁸

The 1987 Constitution of the Peoples' Democratic Republic of Ethiopia, which was adopted after 13 years of rule without a constitution,¹⁹ was silent on this matter. The 1995 Constitution was more explicit. It provided for the House of Peoples' Representatives (HOPR) to establish a Human Rights Commission and determine by law its powers and functions.²⁰ To this end the House adopted the founding law, which came into effect on 4 July 2000.²¹ Nevertheless, the Commission commenced operation only in 2004 after the appointment of the Chief Commissioner. The Council of Commissioners²² was constituted and became operational upon appointment in July 2005 of the Chief Commissioner and Commissioner for Women and Children Affairs. The Council of Commissioners is composed of the Chief Commissioner, Deputy Chief Commissioner and other commissioners.²³ It has the power to adopt directives and by-laws necessary for the implementation of the founding law,²⁴ discuss the budget of the Commission,²⁵ appoint department heads,²⁶ appoint heads of children and women affairs departments,²⁷ and hear disciplinary cases relating to department heads.²⁸

17 Constitutional Commission, Draft Constitution of Ethiopia, Articles 143-146 (6 August 1974).

18 The draft constitution was tabled for discussion on 6 August 1974, and the military removed the emperor from power on September 1974.

19 The Provisional Military Administration Council of Ethiopia (PMACE) took power in 1974, suspended the 1955 Constitution, ruled the country for 13 years without a constitution, and finally adopted the 1987 Constitution.

20 Proclamation 1/1995, Constitution of the Federal Democratic Republic of Ethiopia, Article 55(14).

21 Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation.

22 *Ibid*, Article 30.

23 *Ibid*.

24 *Ibid*, Article 31(1).

25 *Ibid*, Article 31(2).

26 *Ibid*, Article 31(4).

27 *Ibid*, Article 31(6).

28 *Ibid*, Article 31(7).

Currently, the EHRC conducts its activities from a head office in Addis Ababa and has eight branch offices²⁹ situated in eight of the nine regional states of the Ethiopian federation. The establishment of branches was a step forward in making the Commission accessible to the population. The functions of the Commission are allocated among 13 directorates at the head office and eight regional branch offices. Each regional office has five directorates. These include directorates dealing with awareness-raising, monitoring, investigation, research, and women and children. The regional branch offices were established pursuant to Article 9 of the founding law, which provides that “the Commission ... may have branch offices at any place as may be determined by the House”.

Initially, neither the House nor the Commission showed any interest in establishing branch offices. This was prompted instead by the recommendation of the first cycle of the Universal Periodic Review.³⁰ The first six branch offices were established in 2011, with a further two added in 2014. While the founding law grants the Commission a broad mandate, it required parliamentary approval for the simple matter of opening a branch office.³¹

3 Selection, appointment and composition of commissioners

The procedure for the appointment of commissioners is specified in Articles 10-12 of Proclamation No 210/2000. According to it, for nominations to be conducted, a nomination committee must be convened and composed of the Speaker of the HOPR, the Speaker of the House of Federation (HOF), seven members of the HOPR, two members of opposition parties with seats in the HOPR, the President of the Federal Supreme Court, and a representative of the Ethiopian Orthodox Church, Ethiopian Islamic Council, Ethiopian Evangelical Church and Ethiopian Catholic Church.³²

In the last three of the Commission’s five-year terms, nominations were conducted based on a public call open for individuals as well as organisations. The committee proposes nominees selected from names

29 Assosa, Bahirdar, Gambella, Hawassa, Jigjiga, Jima, Mekelle and Semera branch offices.

30 Addis Ababa University and UPR INFO, “Post-UPR Conference on Ethiopia Accepted Recommendations” (January 2015), p 18.

31 Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation, Article 9.

32 *Ibid*, Article 11.

obtained in response to the public call. In doing so, the committee uses criteria stipulated under Article 12 of the Proclamation. The qualification criteria require a person who has acquired extensive knowledge of and experience in law or other relevant disciplines;³³ is “loyal” to the constitution;³⁴ is an Ethiopian national;³⁵ is reputed for his or her honesty and good conduct;³⁶ upholds respect for human rights;³⁷ has not been convicted for a criminal offence other than a petty offence;³⁸ and is above 35 years old.³⁹ Nominees supported by a two-thirds majority vote of the nomination committee are presented to the HOPR. The House, by a two-thirds majority vote, appoints commissioners from among nominees recommended by the committee.⁴⁰ The term of office of commissioners is five years.⁴¹ They are engaged on a full-time basis and are not allowed to engage in any gainful employment.⁴² Commissioners can be re-appointed.⁴³

The normative criteria and practice regarding the appointment of commissioners is, by and large, open and participatory, yet it also has limitations. Three issues are particularly important. First, the nomination process does not provide space for the participation of certain groups. For example, it does not allow civil society participation. Secondly, while the founding law sets criteria for appointment, it fails to stipulate which persons do not qualify for appointment. A review of the profile and political affiliation of previous appointees is instructive in regard to the importance of such a clause. It is therefore necessary to include an additional criterion to enhance efforts to guarantee the independence of the Commission. Thirdly, while in practice the nomination process is open to wide participation, it is not guided by clear rules of procedure, which are necessary for a transparent appointment process.

The NHRI in Ethiopia only became operational for the first time in 2004/5. The necessary policy, legal and institutional frameworks are in place. As regards policy, the 1995 Constitution proclaims the goal of building a political community founded on the rule of law, democratic

33 *Ibid*, Article 12(3).

34 *Ibid*, Article 12(1).

35 *Ibid*, Article 12(6).

36 *Ibid*, Article 12(4).

37 *Ibid*, Article 12(2).

38 *Ibid*, Article 12(5).

39 *Ibid*, Article 12(8).

40 *Ibid*, Article 10(2)(d).

41 *Ibid*, Article 14(1).

42 *Ibid*, Article 18(1).

43 *Ibid*, Article 14(2).

order and respect for freedoms and rights.⁴⁴ Similarly, the EHRC founding law declares the goal of building a unified political community by ensuring the protection of fundamental rights and freedoms.⁴⁵ The founding law goes further to state that the objective of the Commission is to educate the public about human rights; to see that human rights are respected, protected and enforced; and to ensure that necessary measures are taken when rights are violated.⁴⁶

The Commission is required to receive all complaints of human rights violations, except for cases brought to the HOPR, HOF and courts of law at any level.⁴⁷ Gebreselassie and Volker have underscored both the importance of national human rights institutions (NHRIs) for the protection of human rights in Ethiopia and the complementary role of NHRIs and judicial organs, noting that:

these semi-judicial safeguards (human rights commission and [the] institution of ombudsman) should not replace the mechanisms inherent in the legal structures. Instead, their activities must go hand in hand to complement the work of existing legal and other institutions in order to make them more effective institutions of human rights protection.⁴⁸

This issue was debated at a meeting convened by the EHRC to propose an amendment to the founding law.⁴⁹ Some participants argued that the Commission should have the power to investigate cases that have exhausted the judicial process; experts from the Commission counterargued that this would amount to interference in the jurisdiction of the judiciary, maintaining that the objective of the Commission is not to compete with but complement the efforts of the judiciary.

4 Mandate of the EHRC

The records of the Constitutional Assembly (which was convened in 1994 to approve the present constitution) show that it envisioned an independent NHRI answerable to the HOPR. Seeing as reference was

44 Proclamation No 1/1995, Constitution of the Federal Democratic Republic of Ethiopia, preamble paragraph 1.

45 Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation, preamble.

46 *Ibid*, Article 5.

47 *Ibid*, Article 7.

48 G Haileselassie and E Volker, "Contextualizing the Establishment of the Institutions of Human Rights Protection in Ethiopia", *Human Rights Symposium Addis Ababa* (1998), p 61.

49 Interview, expert at the Ethiopian Human Rights Commission (27 March 2019).

made to experience of the Scandinavian countries, the discussion initially suggested support for the introduction of an ombudsman institution.⁵⁰ Minutes of the Constitutional Assembly indicated that the mandate of the EHRC and the Institution of the Ombudsman would focus on ensuring the protection of human rights and upholding the rule of law.⁵¹ Though some members of the Assembly expressed concern that establishing two institutions could cause an overlap of mandate, the Assembly agreed to maintain the idea of having both institutions.⁵² That decision led to Article 55(14) and (15) of the FDRE Constitution which instruct the Federal House of Peoples' Representatives to establish NHRIs and determine their power and function by law. To address concerns about potentially overlapping mandates, Article 29 of the EHRC Proclamation provides guidance. It requires that, in the event of conflict between them, the Ombudsman and EHRC determine by mutual consultation which one of them will investigate the complaint at issue. This measure notwithstanding, conflicts in mandates continue to be a problem.

The mandate of the EHRC, as stipulated in Article 6, is structured in a manner that allows it to play a role in the promotion and protection of human rights. The EHRC can contribute to the protection of human rights only when it is able to implement this mandate and function as an independent and effective human rights organ.

Viewed from the perspective of the Paris Principles, the EHRC is vested with the mandate to promote and protect human rights. The process followed during the establishment of the Commission and the appointment of commissioners⁵³ complies by and large with the Principles. The EHRC is vested with the powers to ensure that human rights and freedoms are respected by citizens, organs of state, political organisations and other associations;⁵⁴ ensure that laws, regulations and directives as well as government decisions do not contravene human

50 Minutes of the Constitutional Assembly, Vol 4, Addis Ababa, Ethiopia (November 1994), pp 129-131.

51 *Ibid.*

52 *Ibid.*

53 In May 1998 the HOPR held an international human rights symposium to consider the experience of other countries and draw lessons for drafting the founding law. Academics and delegates from NHRIs from about 70 countries participated in the symposium. The founding law was drafted in a consultative process between 1998-2000. Some organizations expressed concern that the consultations excluded national and international human rights NGOs.

54 Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation, Article 6(1).

rights;⁵⁵ educate the public about human rights;⁵⁶ investigate human rights violations on its own initiative or upon complaint;⁵⁷ make recommendations for the revision of existing laws, enactment of new laws and formulation of policies;⁵⁸ provide consultancy services on human rights;⁵⁹ forward its opinion on human rights reports to be submitted to international organs;⁶⁰ translate into local vernaculars and disseminate international human rights treaties ratified by Ethiopia;⁶¹ and perform such other activities as may be necessary to attain its objectives.⁶²

5 Organisation and staffing

The organisational capacity of the EHRC has been growing slowly. When it commenced operation in 2004/5, following appointment of the commissioners, its staff was less than 20. Until the opening of branch offices in 2011, it had only the head office in Addis Ababa. The staff size grew to 59 in 2007/8. Currently, the EHRC (head office and branch offices) has 432 staff (239 male and 193 female).

Table 3: Staff composition of the EHRC

Location	Female	Male	Total
Head office (Addis Ababa)	84	74	158
Assosa	8	24	32
Bahirdar	14	23	37
Gambella	12	21	33
Hawassa	17	20	37
Jigjiga	9	19	28
Jima	14	26	40
Mekelle	17	19	36
Semera	17	14	31
Total			432

55 *Ibid*, Article 6(2).

56 *Ibid*, Article 6(3).

57 *Ibid*, Article 6(4).

58 *Ibid*, Article 6(5).

59 *Ibid*, Article 6(6).

60 *Ibid*, Article 6(7).

61 *Ibid*, Article 6(8).

62 *Ibid*, Article 6(11).

Of the 432 staff, 11 are commissioners based in the head and branch offices (three and eight, respectively); 63.8 per cent of the staff are holders of BA degree or above. The Commission has two PhD, 10 LL.M, 28 MA, 68 LL.B and 168 BA degree-holders. The remaining staff comprise 45 diploma holders, 12 holders of vocational training diplomas, and 99 persons with secondary-school-level education.

The key challenge in the Commission's efforts to fulfil its need for a qualified workforce is the high rate of staff attrition, which is caused both by internal and external factors. Over the past five years, 213 staff have left the Commission, mostly for reasons of remuneration or due to issues related the work environment. In interviews with staff, it emerged that the problem stems largely from the commissioners' lack of political neutrality, as a result of which commissioners and experts take differing views on the role and mandate of the Commission.⁶³ In addition, low salaries and inadequate remuneration are an impediment to retaining highly qualified staff.

6 Financial autonomy

Adequate funding that guarantees independence from government is crucial for an NHRI's ability to operate effectively. In this respect, Proclamation No 210/2000 provides that a quarterly portion of the Commission's budget shall be deposited in advance at the National Bank.⁶⁴ It also provides that the Commission's account shall be audited by an organ designated by the HOPR.⁶⁵

Nevertheless, the Commission has to present its budgetary request to the Ministry of Finance and Economic Development every financial year, with the latter determining the total amount to be allocated at its absolute discretion. The total amount of funds made available to the Commission is only made available in instalments and often, the Commission has to request for funds after spending the first installment. This has now become accepted practice, as a result of which the EHRC and other organs, such as the Supreme Court, have lost their financial autonomy. The Ministry of Finance and Economic Development exercises discretionary authority not only over budget allocations stage of the process but also the spending of the allocated amounts.

63 Interview with former employee of the EHRC (29 March 2019).

64 Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation, Article 36(2).

65 *Ibid*, Article 37(2).

One part of the EHRC's budget is allocated by the government treasury, while the other part is made up of financial support received from partner organisations. Financial grants in the form of technical support come from the UNDP, UNOHCHR, UNWOMEN, WHO, DFID, the government of Austria, and Irish Aid. The Commission's annual budget for the years 2014-2018 was approximately USD 2 million, 2.7 million, 2.8 million, 2.6 million and 2.5 million for each of these years, respectively.⁶⁶

Each fiscal year a sizeable portion of the budget is spent on salaries and other basic expenses. The Commission's reports show that in the last five years it has faced serious financial problems and consequently has had to cancel certain of its planned activities. On average, 65-70 per cent of its funding comes from the government treasury. The remaining part, as mentioned, is obtained from assistance and grants. For example, a multi-donor project – the Democratic Institutions Project – provided the Commission with critical support in its early years (2008-2012). While the Commission kept expanding its physical presence by opening branch offices, the annual increase in the budget allocated from government treasury was on average only 10-12 per cent.

As noted in the General Observations of the ICC Sub-Committee on Accreditation, adequate and appropriate funding is essential for an NHRI's independent, effective operation.⁶⁷ However, the funds allocated have never matched the Commission's demand. For instance, its Human Rights Protection and Monitoring Directorate was designed to engage 18 experts, but currently has only eight experts and one director, which covers half of the approved plan. Due to its low salary-scale, the directorate could not fill the vacant positions. This problem is aggravated by the high attrition rate the directorate is experiencing: the director noted that 40 experts have left it over the last four years.⁶⁸

Nonetheless, the directorate remains responsible for several of the Commission's key activities, such as monitoring the state of human rights in the country, lobbying for the ratification of international treaties, submitting alternative reports, and monitoring government compliance

66 Ethiopian Human Rights Commission, Annual Reports (2014, 2015, 2016, 2017, 2018).

67 International Coordinating Committee for the Promotion and Protection of Human Rights, Sub-Committee on Accreditation General Observation (May 2013), available at <https://bit.ly/2XcOe6V> (accessed in March 2019).

68 Interview, Adham Duri, Director Human Rights Protection and Monitoring Directorate (27 March 2019).

with the recommendation or concluding observations of treaty bodies.⁶⁹ It is evident that the principle of adequate and appropriate funding has not been observed and that this adversely affects the Commission's ability to execute its mandate effectively.

7 Relations with civil society

The EHRC's founding law does not make clear provision for partnership with civil society. In practice, few activities have been carried out in collaboration with the civil society. Despite the wide range of possibilities for collaboration with civil society in general, this has happened rarely and has not extended beyond organising joint initiatives such as celebrations of Human Rights Day,⁷⁰ 16 days of activism campaigns,⁷¹ consultative workshops⁷² and training programmes.

The Commission has also provided financial support to enable some civil society organisations (CSOs) to conduct legal aid programmes. These were important interventions made at a time when local CSOs faced serious problems due to restrictions on funding that were imposed by the Charities and Societies Law. Despite their importance, though, these initiatives were not sustainable as they were dependent on the availability of donor support and did not last long.

Other than that, the Commission has done little to support CSOs, and almost no platform has been established for it to coordinate its human rights engagements with those of civil society. This shortcoming has weakened the Commission's credibility, with certain CSOs alleging that it avoids collaboration with CSOs that are critical of the government's human rights record. Amnesty International, for instance, remarked that:

HRCO is an outspoken organization with strong record of monitoring and documenting human rights violations. As a result, it has been the target of government hostility throughout its existence. Amnesty International believes

69 Ethiopian Human Rights Commission, "Head Office Directorates", available at www.ehrc.org.et/web/guest/human-rights-monitoring-directorate (accessed in March 2019).

70 The National Committee for the Commemoration of the 60th Anniversary of the Universal Declaration of Human Rights (UDHR), which comprises the EHRC and local CSOs (APAP, JFA-PFE, OSJE, EHRCO, ACPF), conducted a series of activities for the Commemoration of the 60th Anniversary of the UDH (November-December 2008).

71 16 Days of Activism to End Violence, Poverty, Exploitation and Discrimination in Ethiopia (25 November - 10 December 2006).

72 National Consultative Workshop on the Prohibition of Torture (26 June 2008).

that in denying HRCO one of the only sources of funding available to human rights organizations after the passing of the Charities and Societies Proclamation, the EHRC is acquiescing in the government's attempts to silence this organization.⁷³

Human Rights Watch's senior researcher for East Africa contended that the EHRC issued an inaccurate report in that it concluded that the extent of force used by security forces in dispersing protests in Oromia, Amhara and SNNPRS regions⁷⁴ was "proportionate ... in most cases".⁷⁵ The researcher held that the report lent credence to the doubts many have about the Commission's independence, a view that other informants in this study shared as well.⁷⁶ If the Commission is to meet the expectations and goals set by its founding law and the principles governing national human rights institutions, it needs to rectify the perception that it is covering up governmental abuses of human rights.

8 Accessibility

The establishment of branch offices was a major step forward for accessibility. Since then, the volume of cases received by the Commission has increased significantly. It has also made other efforts to enhance accessibility. One of such effort was the adoption in 2018 of the Human Rights Complaint Handling and Investigation Directive pursuant to the authority bestowed upon the EHRC by the founding law.⁷⁷

The directive provides that investigation shall be guided by the principles of independence, non-discrimination, transparency, accountability, accessibility, effectiveness and the prioritisation of complaints by vulnerable members of society.⁷⁸ The directive outline the duties and responsibilities of commissioners and the units of the

73 Amnesty International, "Review of Ethiopian Human Rights Commission's Accreditation Request"; letter to Sisi Shahidzadeh, Deputy Chief National Institutions and Regional Mechanisms Section, Office of the UN High Commissioner for Human Rights, Ref: TIGO IOR 40/2012. 175 (31 October 2012).

74 F Horne, "State of Emergency Ends in Ethiopia: Government Should Use Reform, Not Force, to Avoid More Protests" (August 2017), available at <https://www.hrw.org/news/2017/08/07/state-emergency-ends-ethiopia> (accessed March 2019).

75 *Ibid.*

76 Discussion with two directors and a board chairman of three Ethiopian human rights CSOs (28 March 2019).

77 Proclamation 201/2000, Ethiopian Human Rights Commission Establishment Proclamation, Article 31(1).

78 Ethiopian Human Rights Commission, Human Rights Complaint Handling and Investigation Directive No 7/2018, Article 5.

Commission; the responsibilities of investigation officers and mediators; the procedure for filing and handling complaints; the mediation procedure; the rights and duties of complainants; the enforcement and follow up of recommendations; and the procedure for referral to the prosecutor of persons unwilling to comply with request or recommendation of the Commission.

The directive provides, furthermore, that complaints can be filed in oral, written or any other form.⁷⁹ Though the phrase “any other form” is not defined, the directive diversifies the modes of filing complaints. This could be considered as the strength of the directive, as it makes the system more accessible. In addition, in cases of serious human rights violation, the complainant’s name can be kept secret at his or her request.⁸⁰

Investigations can be initiated on a complaint or on the Commission’s initiative. The directive requires the Commission to initiate investigations when it learns about a pattern of human rights violation from frequently filed complaints or other sources.⁸¹ The Commission has made a hotline service available which is used mostly to give advice to the public or refer complaints for investigation. Three experts are assigned to this service.⁸²

9 Accountability

The founding law’s stipulations regarding the accountability of the EHRC lack clarity. General stipulations were incorporated according to which the Chief Commissioner is accountable to the HOPR and other commissioners, to the Chief Commissioner.⁸³ The institution submits its reports to Parliament on a regular basis. Parliament’s appointment of the commissioners is another process that links the EHRC to the legislature. Nevertheless, the provisions of the law are vague as to the nature and scope of Commission’s accountability, and over the years this has opened room at an unofficial level for the HOPR to intrude unduly into the functions of the Commission.⁸⁴ For example, in several instances the Commission has sent drafts of its reports to members of the Parliamentary Standing

79 *Ibid*, Article 14.

80 *Ibid*, Article 17.

81 *Ibid*, Article 21.

82 Interview with an investigator at the HRC’s investigation directorate (27 March 2019).

83 See note 77, Article 3(2).

84 In some cases, the Commissioners share draft reports to members of the parliamentary standing committee for legal and administrative affairs. According to sources at the Commission, such reports often go unpublished or, if they are, see significant changes to their content.

Committee for Legislative and Administrative Affairs,⁸⁵ thereby abdicating its independence and setting a bad precedent: the fact that the Commission is accountable to the Parliament does not mean it should seek the latter's approval for every step it takes.

The Belgrade Principles⁸⁶ on the relationship between NHRIs and Parliament could offer guidance in this regard. These require parliaments to develop a framework for debating on the activities of NHRIs without undermining their independence;⁸⁷ to conduct open discussion on the recommendations of NHRIs;⁸⁸ to seek information from public authorities on the extent of compliance with the recommendations of NHRIs;⁸⁹ to develop a framework for mutual cooperation;⁹⁰ and to seek the expert advice of NHRIs in parliamentary proceedings that concern human rights.⁹¹

By contrast, the relationship between the EHRC and HOPR is not articulated in detail and with any clarity. Moreover, little is known about how Parliament debates the reports and findings of the Commission. The reporting practice, though, has been much the same as in the routine examination of performance reports submitted by government agencies. The only exception to this was in regard to the Commission's 2016 report on human rights violations during protests in the Oromia and Amhara regional states. Surprisingly, even in this case the HOPR ended up doing nothing other than adopting a resolution stating that it accepts "the free and independent commission's investigative report" and requesting that "the relevant bodies ... implement the recommendation provided in the report".⁹² Nevertheless, since the publication of the report no single known measure has been taken to apply its recommendations through concrete action.

85 Interview with present and former members of staff of the EHRC (25 March 2019).

86 Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments (22-23 February 2012).

87 *Ibid*, Principle I, D, 17.

88 *Ibid*, Principle I, D, 18.

89 *Ibid*, Principle I, D, 19.

90 *Ibid*, Principle II, 20.

91 *Ibid*, Principle II, 24.

92 Report on the findings of the Ethiopian Human Rights Commission's investigation into the human rights situation during the disturbances in parts of Oromia regional State and the dispute related to issues of identity and self-administration raised by the Qemant nationality in Amhara regional state and the resolution passed by the Federal Democratic Republic of Ethiopia House of Peoples' Representatives (June 2016), p xii.

With the exception of its inaugural report in 2011,⁹³ the Commission essentially just reports on its own routine activities rather than on the human rights situation in the country.⁹⁴ Even so, the 2011 report tends to paint a rosy picture that does not reflect the reality on the ground. The following extract offers a good illustration of this:

It is only recently, and after much sacrifice by the people led by the EPRDF, that a new era capable of enabling an all-round respect and enforcement of the human rights of the people dawned. Thus, it is only as of 1991 that genuine, pro-people democratisation was initiated in Ethiopia under the stewardship of the current political leadership. The series of political and structural decisions taken by the government as integral parts of democratisation – in the form of the establishment of the enabling legal and institutional frameworks – have, furthermore, introduced significant changes in the nation's socio-political environment conducive to the genuine promotion and protection of human rights and freedoms.⁹⁵

Paradoxically, the report was issued at a time when Ethiopia was implementing controversial laws⁹⁶ that threatened fundamental human rights. Both during and after the period covered in the report, the country was imposing severe restriction on freedom of expression and stood accused of “frequent breach” of protection against torture.⁹⁷

Furthermore, senior government officials who participated in a televised discussion on good governance identified internal and external challenges facing Ethiopia's NHRIs, concluding that the performance of these institutions was unsatisfactory and that government support of them was poor.⁹⁸ In the same discussion, the Chief Ombudsperson commented that government organs are often unwilling to respond to the requests of her institution, sometimes to the extent of threatening investigators and complainants.⁹⁹

93 Inaugural Report of the Ethiopian Human Rights Commission (February 2011).

94 Annual reports of the EHRC for 2014-2018 and broadcast discussion by senior government officials on Ethiopian state television (2 May 2013). None of these reports describe the situation of human rights in the country, identify perpetrators of violations, or note redress measures taken to correct wrongs or remedial measures that were requested.

95 See note 93.

96 See Proclamation No 621/2009, Proclamation to Provide for the Registration and Regulation of Charities and Societies, Proclamation No 652/2009, Anti-Terrorism Proclamation.

97 CAT/c/ETH/CO/1/, Concluding Observations of Committee against Torture, Ethiopia (20 January 2011).

98 Discussion on good governance among senior federal government officials, Ethiopia Radio and Television Enterprise (12 October 2012), ERTV Ref. No ESR 641 A.

99 *Ibid.*

These manifestations of political interference in the mandate of the Commission underline the fact that the challenges affecting the credibility of the Commission are not entirely external. To be, and be seen as, independent, the EHRC needs to undertake principled engagement. Adopting and applying some of the principles discussed above would undoubtedly improve its independence and effectiveness. Equally relevant is its accountability to the general public: so far, little that is known has been done in this regard. The Commission can draw lessons from the customs of similar institutions in other countries. Some NHRIs, for instance, issue a public accountability statement¹⁰⁰ in which they state their accomplishments and challenges. NHRIs in Ethiopia should do the same thing, over and above reporting to Parliament.

10 The Commission's major activities

Over the past 15 years, the Commission has carried out a number of useful activities. These have focused on raising awareness of human rights through print and broadcast media; short-term training; publications; hosting and sponsoring human rights discussion forums; and supporting legal aid programmes to provide free legal assistance to indigent persons.¹⁰¹

Human rights training was delivered to Members of Parliament, media professionals, government officials, police officers, prison officers, schoolteachers and persons with disabilities. Since the establishment of branch offices, the EHRC's training programmes have extended their geographical reach and reached larger audiences.

Moreover, the monitoring department has carried out frequent visits to prisons and police stations. In 2012 it visited 170 police stations across the country and issued reports on the human rights situation of persons in police custody.¹⁰² In the same year, a report entitled *Human Rights Protection Monitoring in Ethiopian Prisons* was published.¹⁰³ The Commission observed the 2010 national election and published a report on it;¹⁰⁴ it also

100 Kenya Human Rights Commission, Public Accountability Statement: Statement of Success and Challenges 2003-2008 (31 July 2008).

101 See note 93. See also annual reports of the EHRC (2014, 2015, 2016, 2017, 2018).

102 Ethiopian Human Rights Commission, Report on the Situation of Human Rights of Persons in Police Custody (May 2012).

103 Ethiopian Human Rights Commission, Human Rights Monitoring in Ethiopian Prisons Primary Report (June 2012).

104 Ethiopian Human Rights Commission, Monitoring Report of the Fourth Round General Election of the Federal Democratic Republic of Ethiopia (September 2011).

observed the 2015 national election, but the whereabouts of the accompanying report are unknown.

Investigating human rights violations is a key component of the Commission's mandate. The adoption of the Human Rights Complaint Handling and Investigation Directive, the provision of a hotline service, and the introduction of mediation and legal advice services have contributed to better implementation, with the number of complaints filed increasing every year. A total of 7,551 complaints were filed in five years: 1,124 in 2014; 1,437 in 2015; 1,419 in 2016; 2,013 in 2017; and 1,558 in 2018. Each year at least 50-60 per cent of complaints filed are rejected for lack of mandate.¹⁰⁵ A maximum of 18 per cent¹⁰⁶ and minimum of 10.8 per cent¹⁰⁷ of the complaints filed are referred for investigation.

A notable development in the Commission's experience in human rights investigation was the report issued in 2016. It showed that serious human rights violations were committed in the territories of Oromia and Amhara regional states.¹⁰⁸ The EHRC's investigation and reporting of these situations was a positive step towards implementing its mandate. However, the way the process ended raise serious concerns about the role of the EHRC. The report concludes that the measures taken by security forces following the protests in the Oromia region "to save lives ... to save government investment and public property, to preserve the constitutional order and to prevent further destruction were necessary and proportional to contain the disturbances".¹⁰⁹

Given the scale of the violations that occurred, the Commission ought to have focused on the plight of the countless victims rather than on rushing to give a verdict on the proportionality of the measures taken. This is a matter worth serious consideration as it raises questions about its independence and impartiality. To play its role in protecting human rights, the Commission needs to exercise maximum caution to ensure that its work is not manipulated in the service of partisan agendas aiming to perpetuate impunity. Other investigations by the Commission (for example into alleged human rights violations in conflicts in Gedeo, Hawassa and Woklite) are yet to be made public. The founding law envisages public reporting by the EHRC on the state of human rights in the

105 Seventy-five per cent, 52 per cent, 56 per cent, 53 per cent, and 61 per cent of complaints filed in 2014, 2015, 2016, 2017 and 2018, respectively, were rejected for lack of mandate.

106 Ethiopian Human Rights Commission, Annual Report (2015).

107 Ethiopian Human Rights Commission, Annual Report (2016).

108 See note 92.

109 *Ibid*, p 57.

country. The EHRC should discharge this mandate and the HOPR should ensure that it does so.

The EHRC has undertaken a joint project with the Ministry of Foreign Affairs to enable the government of Ethiopia to comply with its treaty obligations in the African and UN human rights systems. Supporting treaty reporting is hence a field of activity where the Commission has made a significant contribution. Prior to 2008, Ethiopia complied with its reporting obligations in the case of only two treaties, namely the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW), having submitted periodic reports to the committees concerned.¹¹⁰ The Ministry of Foreign Affairs was able to implement a treaty-reporting project with the support of the EHRC and the OHCHR East Africa Regional Office. The Ethiopian government was, as a result, able to submit several overdue reports to the African Commission on Human and Peoples Rights, the Committee against Torture, the Committee on Economic Social Cultural Rights, and the UN Human Rights Council. These reports, except for the one submitted to the Human Rights Council, were all overdue reports submitted for the first time after more than a decade.¹¹¹

The ratification of human rights treaties is one mechanism for upholding accountability and protecting human rights. The EHRC could have contributed in this regard by encouraging the government to ratify the various human rights treaties and optional protocols to which it is not a party. For instance, Ethiopia has not ratified the Protocol of the African Court on Human and Peoples' Rights, nor is it a party to any optional protocol. Although the Commission has the power to recommend the revision of existing laws or enactment of new laws or policies, there is no evidence that it has exercised this power with regard to international treaties.

110 E Brems, "Ethiopia before the United Nations Treaty Monitoring Bodies", 20(1-2) *Afrika Focus* (2007), p 53.

111 Ethiopia's human rights reports were examined by the African Commission on Human and Peoples' Rights, the UN Human Rights Council, Committee against Torture, Committee on Economic, Social and Cultural Rights. Concluding Observations of the African Commission on Human and Peoples Rights: Ethiopia, 47th Ordinary Session (11-26 May 2010); Universal Periodic Review Conclusions and/or Recommendations: Ethiopia, A/HRC/13/17 (4 January 2010); Concluding Observations of the Committee against Torture: Ethiopia, CAT/C/ETH/CO/1 (20 January 2011); and Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ethiopia, E/c.12/ETH/Co/1-3 (18 May 2012).

11 Conclusion

The EHRC's founding law vested it with powers that, by and large, are compliant with the Paris Principles. Indeed, the Commission has carried out activities that are of relevance to protecting human rights and upholding the rule of law. It has conducted extensive education programmes. Its translation of the core international human rights treaties into local languages and its support to the government in treaty reporting were commendable endeavours. Efforts were also made to systematise investigations, and prison monitoring is conducted regularly.

For all that, the Commission faces internal and external challenges that undermine its ability to function as an independent and effective NHRI. Several factors contribute to this situation. From the outset, the process that led to the establishment of the Commission was sluggish and the process of opening branch offices took even longer. In view of these delays, it is not inappropriate to question the commitment of the legislature. The founding law recognises the autonomous status of the Commission but requires it to seek the approval of the HOPR for the simple administrative activity of opening branch offices.

Furthermore, parliamentary deliberation on the state of human rights in Ethiopia is a rare occurrence. The EHRC seldom submits investigation and monitoring reports, while Parliament for its part has never requested them. Instead, a dubious precedent was set when the Commission began seeking the agreement of the Parliamentary Committee for Legal and Administrative Affairs before finalising certain of its investigative findings. It would appear that the Committee and EHRC have a tacit understanding in terms of which the latter abdicates its mandate to issue public reports. Moreover, although the Commission has persistently highlighted its budgetary challenges, the legislature has done little for it other than promulgate its founding law and appoint its leadership. The Commission's budget is determined at the discretion of the Ministry of Finance and Economic Development, with its outreach capacity continuing to be handicapped by financial constraints.¹¹²

The Commission was less active in finding remedy to human rights violations. While the number of complaints received increases every year, only a small percentage of them are investigated, in addition to which no mechanism is in place to follow up on the investigations. The

112 Annual reports, Ethiopian Human Rights Commission (2014, 2015, 2016, 2017, 2018).

Commission's investigative work in general suffers from various limitations. Its inability to publish regular reports on the state of human rights in the country is but one example of them. The few reports that are published lack consistency and suffer from a credibility deficit.

Moreover, the EHRC has never exercised its power to make recommendations for the revision of existing laws or enactment of new ones. It is yet to enter into meaningful partnership with civil society. The limited relationship it has is based on mutual mistrust. Correspondence between the Commission and Human Rights Watch offers a good example to this. A letter by the executive director of Human Rights Watch pointed that the Commission was silent in a number of "worrying situations" where it "should have been gravely concerned", and "show[ed] no evidence of independence". The letter concluded by stating that "most helpful would be a description of the number and type of individual complaints EHRC has received, the investigations and remedies it has sought, and any public statements and reports that it has produced".¹¹³

The UN Committee against Torture in 2011 observed that while police and prison officers made "routine use of torture,"¹¹⁴ the Commission did not report on it. The Committee requested that the government support the EHRC in conducting unannounced visits to places detention,¹¹⁵ given that the Prison Administration Commissions allows visits only if the Commission announces them in advance.¹¹⁶ These recommendations stemmed from the Committee's assessment that the EHRC needed to do more to be compliant with the Paris Principles. The recommendation that the government take measures to strengthen the NHRIs is one it also accepted during the Universal Periodic Review.¹¹⁷ It should be noted that senior government officials too have come to the view that the

113 Human Rights Watch, Letter to Chief Commissioner Tiruneh Zena, RE: EHRC Letter to Human Rights Watch (16 February 2011).

114 CAT/c/ETH/CO/1, Concluding Observations of the Committee against Torture (20 January 2011).

115 See, for instance, the Concluding Observations of the Committee against Torture, where concern is expressed about "credible reports" of the frequent occurrence of torture.

116 Interview with a human rights expert at the Ethiopian Human Rights Commission (2 April 2019).

117 Universal Periodic Review Conclusions and/or Recommendations Ethiopia, A/HRC/13/7 (4 January 2010). See also African Commission on Human and Peoples Rights, Concluding Observations and Recommendations on the initial, 1st, 2nd, 3rd, and 4th Periodic Reports of the Federal Democratic Republic of Ethiopia, available at <http://www.achpr.org/files/sessions/47th/conc-obs/1st-4th> (12-26 May 2010).

performance of the EHRC is unsatisfactory and that government support for it is weak.¹¹⁸

As Zimble has observed, one of the key challenges to NHRIs in Africa is that oftentimes they are seen as complicit in government human rights abuses.¹¹⁹ He remarks that “taking history as a guide, accusations of this kind are appropriate, and even desirable, in the African context”.¹²⁰ The past 15 years’ experience of the EHRC does not seem an exception to this. It is thus remains for it to earn credibility through independent and effective performance. The way forward would lie, inter alia, in publishing independent human rights reports; seeking, or at least advocating for, redress where violations are identified; and taking steps to guarantee pluralism in its composition and the accessibility of its services to the people of Ethiopia.

References

Books

- Akokpatri J and Zimble DS (eds), *Africa’s Human Rights Architecture*, Cape Town, Jacana (2008)
- Besselink LFM, *Human Rights Commissions and Ombudsman Offices: National Experiences throughout the World*, Amsterdam, Kluwer Law International (2001)
- Zimble DS, “Towards an Effective Human Rights Architecture in Africa”, in J Akokpatri and DS Zimble (eds), *Africa’s Human Rights Architecture*, Cape Town, Jacana (2008)

Articles

- “Ethiopia: The Government’s Approach to Past Human Rights Violations Needs to be Transparent”, *Addis Standard* (25 January 2019)
- Addis Ababa University and UPR-INFO, “Post-UPR Conference on Ethiopia Accepted Recommendations”, *Addis Ababa University* (5 January 2015)
- Amnesty International, “Review of Ethiopian Human Rights Commission’s Accreditation Request”, letter to Sisi Shahidzadeh, Deputy Chief National Institutions and Regional Mechanisms Section, Office of the UN High Commissioner for Human Rights, Ref: TIGO IOR 40/2012. 175 (31 October 2012)
- Bouwknegt TB, “Eshetu Alemu: The Black Sheep of the Dergue – Ethiopian War Crimes and Universal Jurisdiction in the Netherlands”, *12 International Journal of Transitional Justice* (2018), pp 549-559

118 Ethiopia Radio and Television Enterprise, “Discussion on Good Governance among Senior Federal Government Officials”, ERTV Ref. No ESR 641 A (12 October 2012).

119 DS Zimble, “Towards an Effective Human Rights Architecture in Africa”, in Akokpatri and Zimble (eds), *Africa’s Human Rights Architecture*, Cape Town, Jacana Media (2008), p 289.

120 *Ibid.*

- Brems E, “Ethiopia before the United Nations Treaty Monitoring Bodies”, *20 Afrika Focus*, No 1-2 (2007), pp 49-74
- Ethiopian Human Rights Commission, “Head Office Directorates”, available at www.ehrc.org.et/web/guest/human-rights-monitoring-directorate
- Freedom House, “Freedom of the Press 2017”, *Ethiopia Profile* (2017) <https://freedomhouse.org/report/freedom-press/2017/ethiopia>
- Gebreselassie H and Volker E, “Contextualizing the Establishment of the Institutions of Human Rights Protection in Ethiopia”, *Human Rights Symposium Addis Ababa* (1998), pp 45-69
- Horne F, “State of Emergency Ends in Ethiopia: Government Should Use Reform, Not Force, to Avoid More Protests” (August 2017), available at <https://www.hrw.org/news/2017/08/07/state-emergency-ends-ethiopia>
- Human Rights Watch, “Ethiopia: New State of Emergency Risks Renewed Abuses Overbroad, Vague Provisions Undercut Rights” (23 February 2018), available at <https://www.hrw.org/news/2018/02/23/ethiopia-new-state-of-emergency-risks-renewed-abuses>
- Human Rights Watch, “Letter to Chief Commissioner Tiruneh Zena”, Re: EHRC Letter to Human Rights Watch (16 February 2011)
- International Coordinating Committee for the Promotion and Protection of Human Rights, General Observation, Geneva (May 2013), available at <https://nhri.ohchr.org/EN/AboutUs/Governance/Documents/ICC%20SCA%20General%20Observations.pdf>

Other sources

- A/HRC/13/7, Universal Periodic Review Conclusions and /or Recommendations Ethiopia (4 January 2010)
- African Commission on Human and Peoples Rights, Concluding Observations and Recommendations on the initial, 1st, 2nd, 3rd, and 4th Periodic Reports of the Federal Democratic Republic of Ethiopia (12-26 May 2010), available at <http://www.achpr.org/files/sessions/47th/conc-obs/1st-4th>
- Belgrade Principles on the Relationship between National Human Rights Institutions and Parliaments (22-23 February 2012)
- CAT/c/ETH/CO/1/, Concluding Observations of Committee against Torture, Ethiopia (20 January 2011)
- Constitutional Commission, Draft Constitution of Ethiopia (6 August 1974)
- Discussion on Good Governance among Senior Federal Government Officials, Ethiopia Radio and Television Enterprise, Amharic (12 October 2012), ERTV Ref. No ESR 641 A
- Ethiopian Human Commission, Annual Report (2014)
- Ethiopian Human Commission, Annual Report (2015)
- Ethiopian Human Commission, Annual Report (2016)
- Ethiopian Human Commission, Annual Report (2017)
- Ethiopian Human Commission, Annual Report (2018)
- Ethiopian Human Rights Commission, Complaint Handling and Investigation Directive (2018)
- Ethiopian Human Rights Commission, Human Rights Monitoring in Ethiopian Prisons Primary Report (June 2012)
- Ethiopian Human Rights Commission, Inaugural Report of the Ethiopian Human Rights Commission (February 2011)
- Ethiopian Human Rights Commission, Monitoring Report of the Fourth Round General Election of the Federal Democratic Republic of Ethiopia (September 2011)
- Ethiopian Human Rights Commission, Report on the Findings of the Ethiopian Human Rights Commission’s Investigation into the Human Rights Situation

- During the Disturbances in Parts of Oromia Regional State and Dispute Related to Issues of Identity and Self-Administration Raised by the Qemant Nationality in Amhara Regional State and the Resolution Passed by the Federal Democratic Republic of Ethiopia House of Peoples' Representatives (June 2016)
- Ethiopian Human Rights Commission, Report on the Situation of Human Rights of Persons in Police Custody (May 2012)
- Kenya Human Rights Commission, Public Accountability Statement: Statement of Success and Challenges 2003-2008 (31 July 2008)
- Minutes of the Constitutional Assembly, Addis Ababa, Ethiopia Vol 4 (November 1994)
- Proclamation No 1/1991, Transitional Period Charter of Ethiopia
- Proclamation No 1/1995, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia
- Proclamation No 210/2000, Ethiopian Human Rights Commission Establishment Proclamation
- Proclamation No 22/1992, Proclamation Establishing the Office of Special Prosecutor
- State of Emergency Command Post, A Directive for the Execution of the State of Emergency (2016)
- The Constitution of the People's Democratic Republic of Ethiopia (1987)

PART B. SELECTED HUMAN RIGHTS DOCUMENTS AND MATERIALS

B.1 Constitutional framework

The Ethiopian Constitution of Of 1995 merely confers powers to the House of Peoples' Representative (HOPR) to create a NHRI. It states as follows:

Article 55

Powers and Functions of the House of Peoples' Representatives

1. The House of Peoples' Representatives shall have the power of legislation in all matters assigned by this Constitution to Federal jurisdiction.

....

14. It shall establish a Human Rights Commission and determine by law its powers and functions.

B.2 Legislative and regulatory instruments

There are two main pieces of regulation that set up the Ethiopian Human Rights Commission.

Ethiopian Human Rights Commission Establishment Proclamation

PROCLAMATION No 210/2000

A PROCLAMATION TO PROVIDE FOR THE ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION

WHEREAS, the goal to jointly build one political community founded on the rule of law, as one of the basic objectives of the nations/nationalities and peoples, of Ethiopia, is to be achieved by guaranteeing respect for the fundamental rights and freedoms of the individual and of nations/nationalities an peoples;

WHEREAS, the immense sacrifices paid by the people of Ethiopia, in the protracted struggle they waged with a view to bringing about democratic order and to enhancing their socio-economic development, calls for paving the way for the unfettered protection of human rights;

WHEREAS, the Constitution of the Federal Democratic Republic of Ethiopia guarantees respect for peoples' rights and freedoms and provides that Federal and Regional government organs, at all levels, and their respective officials shall have the responsibility and duty to respect and enforce said rights and freedoms;

WHEREAS, it is found necessary to establish a Human Rights Commission, as one of the organs that play a major role in enforcing such rights and freedoms, and to determine its powers and functions, by law, in conformity with the provisions of the Constitution;

NOW, THEREFORE, in accordance with sub-Articles (1) and (14) of Article 55 of the Constitution, of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE: General Provisions

1. Short Title

This Proclamation may be cited as the “Ethiopian Human Rights Commission Establishment Proclamation No 210/2000.”

2. Definitions

Unless the context requires otherwise, in this Proclamation:

- 1) “Appointee” means the Chief Commissioner for Human Rights, the Deputy Chief Commissioner or Commissioner heading the children and women affairs, and commissioners at the level of branch offices, appointed by the House, in accordance with this Proclamation;
- 2) “Staff” includes department heads, professionals and other support staff of the Commission;
- 3) “Family Member” means a person of relation by consanguinity or affinity, in accordance with the Civil Code of Ethiopia;
- 4) “House” means the House of Peoples' Representatives of the Federal Democratic Republic of Ethiopia;
- 5) “Human Right” includes fundamental rights and freedoms recognized under the Constitution of the Federal Democratic Republic of Ethiopia and those enshrined in the international agreement ratified by the country;
- 6) “Person” means any natural or juridical person;
- 7) “Region” means any of those specified under Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and, for the purposes of this Proclamation, includes the Addis Ababa City Administration and the Dire Dawa Administration;

- 8) "Government" means the Federal, or a Regional Government;
- 9) "Third Party" means a deputy, an association or a non-governmental organization representing an individual or a group;
- 10) "Investigator" means a staff assigned, by the Chief Commissioner, to conduct investigation.

3. Establishment

- 1) The Human Rights Commission of Ethiopia (hereinafter referred to as "the Commission") is hereby established as an autonomous organ of the Federal Government having its own juridical personality.
- 2) The Commission shall be accountable to the House.

4. Scope

- 1) This Proclamation shall also apply to violation of human rights committed in any Region.
- 2) Provisions of this Proclamation set out in the masculine gender shall also apply to the feminine gender.

5. Objective

The objective of the Commission shall be to educate the public be aware of human rights see to it that human rights are protected, respected and fully enforced as well as to have the necessary measure taken where they are found to have been violated.

6. Powers and Duties

The Commission shall have the powers and duties to:

- 1) ensure that the human rights and freedoms provided for under the Constitution of the Federal Democratic Republic of Ethiopia are respected by all citizens, organs of state, political organizations and other associations as well as by their respective officials;
- 2) ensure that laws, regulations and directives as well as government decisions and orders do not contravene the human rights of citizens guaranteed by the Constitution;
- 3) educate the public, using the mass media and other means, with a view to enhancing its tradition of respect for, and demand for enforcement of, rights upon acquiring sufficient awareness regarding human rights;
- 4) undertake investigation, upon complaint or its own initiation, in respect of human rights violations;
- 5) make recommendations for the revision of existing laws, enactment of new laws and formulation of policies.

- 6) provide consultancy services on matters of human rights;
- 7) forward its opinion on human rights reports to be submitted to international organs;
- 8) translate into local vernaculars, international human rights instruments adopted by Ethiopia and disperse same;
- 9) participate in international human rights meeting, conferences or symposia;
- 10) own property, enter into contracts, sue and be sued in its own name;
- 11) perform such other activities as may be necessary to attain its objective.

7. Limitation of Power

The Commission shall have full powers to receive and investigate all complaints on human rights violations made against any person, save cases brought before the House, the House of the Federation, Regional Council or before the courts of law, at any level.

8. Organization of the Commission

The Commission shall have:

- 1) a Council of Commissioners;
- 2) (a) a Chief Commissioner;
(b) a Deputy Chief Commissioner;
(c) a Commissioner heading the Children and Women affairs,
(d) Others Commissioners and
(e) the necessary staff.

11. Head Office

The Commission shall have its Head Office in Addis Ababa and it may have branch offices at any place as may be determined by the House.

Appointment

- 1) The Chief Commissioner, the Deputy Chief Commissioner and other Commissioners shall be appointed by the House.
- 2) The appointment of the Chief Commissioner, the Deputy Chief Commissioner and of other Commissioners shall be made as under the following selection procedure:
 - (a) the appointees shall be recruited by a Nomination Committee to be formed pursuant to Article 11 hereunder;
 - (b) the nominees shall have to receive the support of a two-thirds vote of the members of the Committee;
 - (c) the list of nominees shall be presented to the House, by the Speaker, for it to vote upon;

- (d) the nominees shall be appointed upon receipt of the support of a two-thirds vote of the House.

Composition of the Nomination Committee

The Nomination Committee shall have the following members:

- 1) the Speaker of the House Chairperson
- 2) the Speaker of the House of the Federation Member(s)
- 3) seven members to be elected from Members among members of the House the Federation
- 4) two members of the House to be elected by joint agreement of opposition parties having seats in the House
- 5) The President of the Federal Supreme Court
- 6) a representative of the Ethiopian Orthodox Church
- 7) a representative of the Ethiopian Islamic Council
- 8) a representative of the Ethiopian Evangelical Church
- 9) a representative of the Ethiopian Catholic Church

12. Criteria for Appointment

Any person who:

- 1) is loyal to the Constitution of the Federal Democratic Republic of Ethiopia;
- 2) upholds respect for human rights;
- 3) is trained in law or other relevant discipline or has acquired extensive knowledge through experience;
- 4) is reputed for his diligence, honesty and good conduct;
- 5) has not been convicted for a criminal offence;
- 6) is an Ethiopian national;
- 7) is of enough good health to assume the post;
- 8) is above thirty-five years of age may be an appointee.

13. Accountability

- 1) The Chief Commissioner shall be accountable to the House.
- 2) The Deputy Chief Commissioner and other Commissioners shall be accountable to the Chief Commissioner.

14. Term of the Office

- 1) The term of office of an appointee shall be five years.

- 2) Upon expiry of the term of office specified Under Sub-Article(1) of this Article, the appointee may be re-appointed.
- 3) a person discharged from responsibility or removed from office, as under Article 15, shall not, unless re-appointed, assume a seat in legislative, executive and judicial organs for about six months thereafter.

15. Grounds for Removal of an Appointee

- 1) An appointee may be removed from office or discharged from responsibility upon the faring circumstances:
 - (a) upon resignation subject to a three-month prior written notice;
 - (b) where it is ascertained that he is incapable of properly discharging his duties, due to illness;
 - (c) where he is found to have committed an act of human rights Violation;
 - (d) where he is found to be corrupt or to have committed other unlawful act;
 - (e) where it is ascertained that he is of manifest incompetence;
 - (f) upon termination of his term of office.
- 2) Within six months of the removal or discharge of an appointee, as under Sub-Article (1) of this Article, another appointee shall be made to replace him.

16. Procedure for Removal of an Appointee

- 1) An appointee shall be removed from office, upon the grounds specified under Article 15(1)(b-e) hereof, subsequent to investigation of the matter by a Special Inquiry Tribunal to be formed pursuant to Article 17.
- 2) an appointee shall be removed from office, where the House finds that the recommendation submitted to it, as supported by the majority vote of the Special Inquiry Tribunal, is correct and where it upholds same by a two-thirds majority vote.

17. Composition of the Special Inquiry Tribunal

The Special Inquiry Tribunal shall have the following members:

- 1) the Deputy Speaker of the House Chairperson
- 2) the Deputy Speaker of the House of the Federation Member(s)
- 3) three members to be elected by the House
- 4) a member of the House to be elected by joint agreement of opposition parties having seats in the House
- 5) the Vice-President of the Federal Supreme Court

18. Prohibition to Engage in Other Employment

- 1) An appointee shall not be allowed to engage in other gainful, public or private employment during his term of office.
- 2) Notwithstanding the provisions of sub-Article (1) of this Article, the House may allow otherwise in consideration of the particular profession in which the appointee is required to make contribution.

PART TWO: Powers and Duties of Appointees

19. Powers and Duties of the Chief Commissioner

- 1) The Chief Commissioner shall be the top executive of the Commission and, as such, shall exercise the powers and duties of the Commission provided for herein.
- 2) Without prejudice to the generality stated under Sub-Article (1) of this Article, the Chief Commissioner shall:
 - (a) employ and administer the staff, in accordance with directive to be adopted by the Council of Commissioners.
 - (b) prepare and submit to the House, the budget of the Commission dealt upon by the Council of Commissioners; and implement same upon approval;
 - (c) transfer a case where he has sufficient grounds, from one investigation section or investigator to another; or investigate, himself, a case of human right violation committed anywhere;
 - (d) undertake study of recurrent cases of human right violations and forward together with remedial proposals to the House;
 - (e) give his opinion on reports prepared by the Federal Government in respect of human rights protection;
 - (f) prepare, and submit to the House, draft legislation on human rights; give his opinion on those prepared otherwise;
 - (g) submit a report, to the House, on matters of human rights and on the activities of the Commission;
 - (h) take part in meetings by way of representing the Commission, establish working relations with Federal and Regional government organs as well as with non- governmental organizations;
 - (i) Organize, Coordinate and follow up branch offices;
 - (j) perform such other activities as may be assigned to him by the House.
- 3) The Chief Commissioner may, to the extent necessary for the efficient performance of the Commission, delegate part of his powers and duties, other than those specified under sub-Article 2(b), (f) and (g) of this Article and Article 35(2), to Commissioners or other officials of the Commission.
- 4) assist the Chief Commissioner in planning, organizing, directing and coordinating the activities of the head office of the Commission;
- 5) undertake the activities of the Chief Commissioner, in the absence of the latter;

- 6) carry out such other activities as may be assigned to him by the Chief Commissioner.

Powers and Duties of the Commissioners of Branch Offices

In addition to exercising, within the local jurisdiction of a branch office, the powers and duties vested in the Commission, other than those specified under Sub-Articles (7) and (9) of Article 6 of this Proclamation; the Commissioner shall, as the superior head of a branch office, have the following powers and duties:

- 1) to transfer a case from one investigation section or investigator to another or to conduct investigation himself, where it has a good cause;
- 2) to submit, to the Chief Commissioner, a detailed report on matters of human rights;
- 3) to direct and organize the branch office as well to administer its professionals and support staff, in accordance with directive issued by the Commission;
- 4) to effect payments in accordance with the budget allocated to the branch office;
- 5) to establish working relations, as a representative of the branch office, with Regional government organs and non-governmental organizations operating within the Region;
- 6) to perform such other activities as may be assigned to him by the Chief Commissioner.

PART THREE: Rules of Procedure of the Commission

The Right to Lodge Complaints

- 1) A complaint may be lodged by a person claiming that his rights are violated or, by his Spouse, family member, representative or by a third party.
- 2) The Commission may, in consideration of the gravity of the human right violation committed, receive anonymous complaints.
- 3) Without prejudice to provisions of Article 7 of this proclamation, the right to lodge complaints, as under this Proclamation, shall be no bar to the institution of criminal or civil proceedings over the same case.
- 4) The Commission shall receive and investigate complaints, free of any charge.

23. Lodging Complaints

- 1) A complaint may be lodged, with the Commission, orally, in writing or in any other manner.

- 2) Complaints shall, to the extent possible, be submitted together with supporting evidence.
- 3) Complaints may be made in Amharic or in the working language of a Region

24. Investigation

- 1) The Commission may conduct investigation on the basis of complaints submitted to it.
- 2) The Commission shall have the power to conduct investigation, on its own initiation, where it so finds necessary.

25. Ordering the Production of Evidence

In order to undertake necessary examination, within a reasonable time, the Commission may order that:

- 1) those complained against appear, for questioning or that they submit their defence.
- 2) witness appear, and give their testimony;
- 3) any person in possession of evidence, relevant to the case, produce same,

26. Remedies

- 1) The Commission shall make all the effort it can summon to settle, amicably, a complaint brought before it.
- 2) It shall notify, in writing, the findings of its investigation, and its opinion thereon, to the superior head of the concerned organ and to the complainant.
- 3) The remedy proposed by the Commission, pursuant to this Article, shall expressly state that the act having caused the grievance be discontinued, that the directive having caused the grievance be rendered inapplicable and that the injustice committed be redressed or that any other appropriate measure be taken.
- 4) Complaints submitted to the Commission shall be accorded with due response, within a short period of time.

27. The Right to Object

- 1) Any complainant or accused shall have the right to object to the official, next in hierarchy, where he is aggrieved by a remedy proposed by a subordinate appointee or official of the Commission, within one month from the time he is notified, in writing, of such proposed remedy.
- 2) An appointee or official who receives an objection, pursuant to Sub-Article (1) of this Article, may modify, stay the execution of, reverse or confirm the remedy having been proposed.

- 3) The decision to be rendered by the chief commissioner shall be final.

28. Duty to Notify of Fault

Where the Commission, in the process of conducting investigations, believes that a crime or an administrative fault is committed, it shall have the duty to, forth with, notify in writing immediately to the concerned organ or official.

29. Overlap of Jurisdiction

- 1) Where cases falling both under the jurisdiction of the Commission and of the Institution of the Ombudsman materialize, the question of which of them would investigate shall be determined upon their mutual consultation.
- 2) Failing determination of the matter, as under Sub-Article (1) of this Article, the organ before which the case is lodged shall undertake the investigation.

PART FOUR: Administration of the Council of Commissioners and Staff of the Commission Council of the Commissioners

- 1) Council of the Commissioners (hereinafter referred to a “the Council”) is hereby established.
- 2) The Council shall have the following members:
 - (a) the Chief Commissioner Chairperson
 - (b) the Deputy Chief Commissioner Deputy Chairperson
 - (c) other Commissioners Members
- 3) The Council shall elect its secretly from among its members.
- 4) The Council may draw-up its own rules of procedure.

31. Powers and Duties of the Council

The Council shall have the following powers and duties:

- 1) to adopt directives and by-laws necessary for the implementation of this Proclamation;
- 2) to discuss on the draft budget of the Commission;
- 3) to adopt staff regulations in conformity with the basic principles of federal civil service laws;
- 4) to appoint department heads of the Commission and branch offices of same;
- 5) to examine, and decide on, cases, petitions or complaints submitted to it in relation to staff administration, within short period of time;

- 6) to appoint heads, at the level of branch offices, of the children and women affairs department;
- 7) to hear disciplinary cases, relating to department heads.

32. The Right to Appeal

- 1) Any department head of the Commission aggrieved by administrative decisions rendered by the Council may appeal to the Speaker of the House within one month from the date such decision has been made.
- 2) the decision rendered pursuant to Sub-Article (1) of this Article shall be final.

33. Utilization of Outside Professionals

The Commission may utilize, for a specific task and for a definite duration, outside professionals necessary for its functions, subject to making appropriate remunerations.

34. Observance of Secrecy

Unless ordered by a court or otherwise permitted by the Chief Commissioner, any appointee or staff of the Commission or any professional employed pursuant to Article 33 of this Proclamation, shall have the obligation not to disclose, at all times, any secret known to him in connection with his duty.

35. Immunity

No:

- 1) appointee, or
- 2) investigator

of the Commission may be arrested or detained without the permission of the House or the Chief Commissioner, respectively, except when caught in *Flagrante delicto*, for a serious offence.

PART FIVE: Miscellaneous Provisions

36. Budget

- 1) The budget of the Commission shall be drawn from the following sources:
 - (a) budgetary subsidy to be allocated by the government;
 - (b) assistance, grant and any other source.

- 2) Of the monies obtained from the sources mentioned under sub-Article (1) of this Article, an amount equivalent to a quarterly portion, shall, in advance, be deposited at the National Bank of Ethiopia, or at another bank designated by the Bank, and shall be utilized, in accordance with financial regulations of the government, for purposes of implementing the objectives of the Commission.

37. Books of Accounts

- 1) The Commission shall keep complete and accurate books of accounts.
- 2) The accounts of the Commission shall be audited, annually, by an organ to be designated by the House.

38. Duty to Cooperate

Any person shall provide the necessary assistance, with a view to helping the Commission exercise its powers and duties.

39. Reporting

- 1) The Commission shall issue an official report, as may be necessary.
- 2) The Commission shall exercise transparency in respect of its mode of operation, including issuance of regular reports.
- 3) Notwithstanding the provisions of sub-Article (2) of this Article, the Commission shall have the duty to exercise caution in respect of matters to be kept secret, with a view to not endangering national security and well-being or to protecting individual lives.

40. Non-Answerability for Defamation

- 1) No complaint lodged pursuant to this Proclamation, shall, entail liability for defamation.
- 2) No report of the Commission submitted to the House, on the findings of an investigation under- taken, nor any other correspondence of the Commission, relating to its activities, shall entail liability for defamation.

41. Penalty

- 1) Any person who, having received summons from the Commission, or been called upon by it otherwise, does not appear or respond, without good cause, within the time fixed or is not willing to produce a document or to have same examined, shall be punishable with imprisonment from one month to six months or with a fine from two hundred to one thousand Birr or with both.
- 2) Any person who causes harm to witnesses before the Commission or to persons having produced a document before it or who, without good cause, fails to take measures within three months from receipt of reports,

recommendations and suggestions of the Commission or does not state the reasons for such failure shall be punishable with imprisonment from three to five years or with a fine from six thousand to ten thousand Birr or with both; unless punishable with more severe penalty under the penal law.

42. Transitory Provisions

Complaints on violation of human rights that are under investigation by the House, prior to the enactment of this Proclamation, shall be investigated by this Commission.

43. Inapplicable Laws

No law or practice, inconsistent with this Proclamation, shall be applicable in respect of matters provided for in this Proclamation.

44. Effective Date

This Proclamation shall enter into force as of the 4th day of July, 2000

Done at Addis Ababa, this 4th day of July, 2000.

NEGASO GIDADA (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF
ETHIOPIA