

**THE OBSERVATORY**  
for the Protection of Human Rights Defenders

**L'OBSERVATOIRE**  
pour la protection  
des défenseurs des droits de l'Homme

**EL OBSERVATORIO**  
para la Protección  
de los Defensores de los Derechos Humanos

# **Report**

## **International Mission of Judicial Observation**

### **ETHIOPIA:**

# **The Situation of Human Rights Defenders From Bad to Worse**

<b>INTRODUCTION</b> .....	<b>5</b>
<b>I. THE MAY 2005 PARLIAMENTARY ELECTIONS AND THE WAVES OF VIOLENCE TRIGGERED</b> .....	<b>9</b>
<b>II. THE "TREASON" TRIAL</b> .....	<b>15</b>
<b>CONCLUSION AND RECOMMENDATIONS</b> .....	<b>24</b>
<b>ANNEXES</b> .....	<b>26</b>

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## **TABLE OF CONTENTS**

<b>INTRODUCTION</b> .....	<b>5</b>
<b>A. Rationale and objectives of the mission</b> .....	<b>5</b>
<b>B. Working methods and definitions</b> .....	<b>5</b>
<b>C. Ethiopia in a nutshell</b> .....	<b>6</b>
1) General data .....	6
2) History .....	7
<b>I. THE MAY 2005 PARLIAMENTARY ELECTIONS AND THE WAVES OF VIOLENCE TRIGGERED</b> .....	<b>9</b>
<b>A. The pre-election context</b> .....	<b>9</b>
<i>The constitutional right of NGOs to monitor the elections under threat</i> .....	9
<b>B. The May 2005 elections</b> .....	<b>9</b>
1) The fairness of the elections under question .....	10
2) The Controversial official results .....	10
<b>C. The June events</b> .....	<b>10</b>
<b>D. The November Events</b> .....	<b>11</b>
<b>E. The Inquiry Commission and its controversial findings</b> .....	<b>12</b>
1) Composition and mandate of the Inquiry Commission .....	12
2) The findings of the "leaked report": the use of excessive force led to the death of 193 civilians .....	12
3) The findings of the official report: same civilian death toll but no use of excessive force .....	13
<b>F. An increasingly restrictive context: attempts to muzzle the press and civil society</b> .....	<b>13</b>
<b>II. THE "TREASON" TRIAL</b> .....	<b>15</b>
<b>A. Background information</b> .....	<b>15</b>
1) List of defendants .....	15
2) The specific cases against Messrs. Kassahun Kebede, Netsanet Demissie and Daniel Bekele .....	19
3) Chronology of the trial to date .....	19
4) International scrutiny .....	19
<b>B. Main concerns: due process and the right to a fair trial at stake</b> .....	<b>20</b>
1) The absence of court warrants .....	20
2) The continuing delays of the procedure, in violation of the right to be tried in a speedy manner .....	20
3) A very narrow interpretation of the right to bail .....	21
4) The use of illegally obtained evidence, manufactured evidence, and evidence unlikely to be genuine .....	21
5) Detention conditions .....	23
<b>CONCLUSION AND RECOMMENDATIONS</b> .....	<b>24</b>
<b>ANNEXES</b> .....	<b>26</b>

## **ABBREVIATIONS AND ACRONYMS**

AU	African Union
ACHPR	African Commission on Human and Peoples' Rights
AEUP	All Ethiopian Unity Party
CAT	United Nations Convention Against Torture
CERD	United Nations Convention on the Elimination of all Forms of Discrimination
CRC	United Nations Convention on the Rights of the Child
CUD	Coalition for Unity and Democracy
EBA	Ethiopian Bar Association
EDL	Ethiopian Democratic League
EDUP-Medhin	Ethiopian Democratic Unity Party-Medhin
EFJA	Ethiopian Free Journalists' Association
EHRCO	Ethiopian Human Rights Council
ENDF	Ethiopian National Defence Forces
EPLF	Eritrean People's Liberation Front
EPRDF	Ethiopian People's Revolutionary Democratic Front
ETA	Ethiopian Teachers' Association
EU	European Union
EUDF	Ethiopian United Democratic Forces
EWLA	Ethiopian Women Lawyers' Association
FDRE	Federal Democratic Republic of Ethiopia
FIDH	International Federation for Human Rights
HPR	House of People's Representatives
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
MP	Member of Parliament
NEB	National Electoral Board
NGO	Non Governmental Organisation
OLF	Oromo Liberation Front
OMCT	World Organisation Against Torture
TGE	Transitional Government of Ethiopia
TPLF	Tigrayan People's Liberation Front
UEDF	United Ethiopian Democratic Front
UN	United Nations
US	United States
WPE	Workers' Party of Ethiopia

## **INTRODUCTION**

### **A. Rationale and objectives of the mission**

On May 15, 2005, Ethiopians went to polls to elect the members of the House of People's Representatives (HPR), the lower chamber of Parliament. The protests against the official results of the parliamentary elections and the victory of the Ethiopian People's Revolutionary Democratic Front (EPRDF) were followed by two waves of repression by the police forces in June and November 2005. Numerous human rights violations, such as extra-judicial killings, arbitrary arrests, arbitrary and incommunicado detentions, beatings, torture, acts of harassment and disappearances, were committed by security forces in Addis Ababa and other towns. Thousands of people were arrested and more than 100 people, including unarmed protesters, students and children, were killed.

The two violent police crackdowns on the elections protests led to the indictment of several human rights defenders, including members of the Ethiopian Human Rights Council (EHRCO), journalists and political opponents. While thousands of detained people were subsequently released, 131 others were denied bail and formally charged on December 21, 2005 with serious crimes, including "conspiracy" and "armed uprising", "trying to subvert the Constitution", "high treason" and "genocide". The maximum sentences for these crimes range from 25 years' imprisonment to the death penalty. The trial of 111 of them - 20 were released in March 2006 - started on May 2, 2006 in Addis Ababa before the Second Criminal Bench of the Federal High Court and is still pending as of the date of issuing this report.

Concerned by the human rights violations committed during the June and November 2005 protests and the pending trial, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), in the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, dispatched two international judicial observation missions to Ethiopia in order to observe the trial of the human rights defenders who were part of the co-accused, from February 21 to March 1, 2006 and from October 4 to October 9, 2006.

### **B. Working methods and definitions**

The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (thereafter abbreviated as the UN Declaration on Human Rights Defenders), adopted by the United Nations (UN) General

Assembly on December 9, 1998, places a duty on State parties to ensure that certain minimum standards or conditions exist where human rights defenders operate. The UN Declaration on Human Rights Defenders provides, *inter alia*, that "everyone has the right, individually or in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels (article 1) and that "the State has the responsibility to take legislative, judicial, administrative and other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights" (article 14).

Based on the UN Declaration on Human Rights Defenders, the Observatory for the Protection of Human Rights Defenders uses the following operational definition of human rights defender: "*Each person victim or risking to be the victim of reprisals, harassment or violations due to his or her compromise exercised individually or in association with others, in conformity with the international instruments of protection of human rights, in favour of the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments*".

The Observatory's delegation agreed to make the definition of a human rights defender as wide as possible so as to include anyone striving for the promotion and the protection of universally recognised human rights and fundamental freedoms, namely members and representatives of non governmental organisations (NGOs), human rights lawyers and activists, academics, intellectuals, trade unionists and public officials such as public prosecutors, judges and magistrates, etc.

As such, the Observatory's delegation could identify a wide range of human rights organisations in Ethiopia, among which:

- the Ethiopian Human Rights Council (EHRCO),
- the Ethiopian Free Journalists' Association (EFJA),
- the independent Ethiopian Teachers' Association (ETA)
- the Ethiopian Women Lawyers' Association (EWLA)
- the Ethiopian Bar Association (EBA)

The Observatory's delegates, Mr. Etienne Antheunissens, a Belgian lawyer, and Ms. Marie Guiraud, a French lawyer, met with the following civil society and international representatives and government officials:

*Civil society representatives:*

- Mr. Taye Assefa, Deputy Chairman, EHRCO Board
- Mr. Baheru Hagos, Investigator, EHRCO

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

- Mr. Yeheyis Yetbarek, Deputy Secretary General, EHRCO
- Mrs. Konjit Fekade, Board member, EHRCO
- Mr. Samuel Haile Giorgis, Director of EBA
- Mr. Gemoraw Kassa, Director of ETA
- Mrs. Mahdere Paulos, Director of EWLA
- Mr. Akelilu Selmonn, counsel of Mr. Kassahun Kebede, Director of the ETA Addis Ababa branch

- Mr. Roger Briottet, chargé de mission, European Union
- Mr. Julian Filochowski, Special Representative, Action Aid International

*Government officials:*

- Mr. Solomon Abebe, General Director of the Press Info Department, Ministry of Foreign Affairs

*International representatives:*

- Mr. Markus Brudermann, Head of the International Committee of the Red Cross (ICRC), delegation in Ethiopia
- Mr. Stéphane Gompertz, Ambassador, French Embassy in Ethiopia
- Mr. Carlo Von Flue, Head of the ICRC representation to the African Union
- Mr. Timothy Clark, Head of the European Union Commission Delegation to Ethiopia

The delegation regrets that it was unable to meet with other government officials such as the Prime Minister, the Minister of Federal Affairs, the Minister of Justice and their related services although their offices were contacted prior to the missions.

**C. Ethiopia in a nutshell**

**1) General data**

**Geography**

**Map of the Federal Democratic Republic of Ethiopia**



Map No. 3720 Rev. 2 UNITED NATIONS  
November 2000

Department of Public Information  
Cartographic Section

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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## **Government**

Name: Federal Democratic Republic of Ethiopia  
President: Mr. Girma Wolde-Giorgis since 2001  
Prime Minister: Mr. Meles Zenawi since 1991  
Type: Federal Republic  
Constitution: Ratified in 1994

Branches:

Executive - President, Council of State and Council of Ministers. Executive power resides with the Prime Minister.

Legislative - Bicameral Parliament with the House of Federation (upper Chamber) and the House of People's Representatives (Lower Chamber)

Judicial - divided into Federal and Regional Courts.  
Administrative subdivisions: 10 regions

Suffrage: universal.

Political parties<sup>1</sup>: Ethiopian People's Revolutionary Democratic Front (EPRDF) and 50 other registered parties, most of which are small and ethnically based. The EPRDF of Meles Zenawi, which has been in power since 1991, won parliamentary elections in 1994 and 2001.

## **People and Economy<sup>2</sup>**

The population of Ethiopia is estimated at 77.431.000 inhabitants (2005 UN estimate).

Ethiopia's population is highly diverse, with more than 80 different ethnic groups, the Oromo and the Amhara, being the two most important groups.

The two main religions are the Muslim and the Ethiopian Orthodox Christian religions. There are also some Protestants and people of indigenous beliefs.

The following languages are spoken: Amharic (official), Tigrinya, Oromifa, English and Somali.

## **2) History<sup>3</sup>**

The reign of Haile Selassie, last emperor, was interrupted in 1936 when Italian Fascist forces invaded Ethiopia. The emperor was forced into exile in England despite his plea to the League of Nations for intervention.

Five years later, British and Ethiopian forces defeated the Italians, and the emperor returned to the throne. After a period of civil unrest which began in February 1974, the aging Haile Selassie I was deposed on September 12, 1974, and a provisional administrative council of soldiers, known as the Derg ("committee") seized power from the emperor and installed a government which was socialist in name and military in style. The Derg summarily executed 59 members of the royal family and ministers and generals of the emperor's government; Emperor Haile Selassie died in suspicious circumstances on August 22, 1975.

Lt. Col. Mengistu Haile Mariam assumed power as Head of State and Derg Chairman, after killing his two predecessors. Mengistu's years in office were marked by a totalitarian-style government and the country's massive militarisation, financed by the Soviet Union and the Eastern Bloc, and assisted by Cuba. From 1977 through early 1978 thousands of suspected enemies of the Derg were tortured and/or killed in a purge called the "red terror". Communism was officially adopted in the late 1970s and early 1980s with the promulgation of a Soviet-style constitution, a Politburo, and the creation of the Workers' Party of Ethiopia (WPE).

In December 1976, an Ethiopian delegation in Moscow signed a military assistance agreement with the Soviet Union. The following April, Ethiopia abrogated its military assistance agreement with the United States and expelled the American military missions. In July 1977, sensing the disarray in Ethiopia, Somalia attacked across the Ogaden Desert in pursuit of its irredentist claims to the ethnic Somali areas of Ethiopia. Ethiopian forces were driven back inside their own frontiers but, with the assistance of a massive Soviet airlift of arms and Cuban combat forces, the attack was stopped. The major Somali regular units were forced out of the Ogaden in March 1978. Thirty years later, the ethnic Somali areas of Ethiopia remain under-developed and insecure.

The Derg's collapse was hastened by droughts and famine, as well as by insurrections, particularly in the northern regions of Tigray and Eritrea. In 1989, the Tigrayan People's Liberation Front (TPLF) merged with other ethnically based opposition movements to form the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF). In May 1991, EPRDF forces advanced on Addis Ababa. Lt. Col. Mengistu fled the country and was granted asylum in Zimbabwe.

In July 1991, the EPRDF and the Oromo Liberation Front (OLF) established the Transitional Government of Ethiopia (TGE), together with other political groups such as the Afar, Gambella

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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and Omali, which was comprised of 87-member Council of Representatives and guided by a national charter that functioned as a transitional constitution.

In June 1992 and March 1993 respectively, the OLF and the Southern Ethiopia Peoples' Democratic Coalition withdrew from the government.

Mr. Meles Zenawi, President of the TGE, and other members of the party pledged to oversee the formation of a multi-party democracy. The election for a 547-member constituent assembly was held in June 1994, and this assembly adopted the Constitution of the Federal Democratic Republic of Ethiopia on December 8, 1994. The elections for Ethiopia's first freely chosen national Parliament and regional legislatures were held in May and June 1995. Most opposition parties chose to boycott these elections, ensuring a landslide victory for the EPRDF. Mr. Meles Zenawi was elected Prime Minister of the FDRE in August 1995.

In May 2000, whereas war was raging between Ethiopia and Eritrea<sup>4</sup>, national elections for the House of People's Representatives (HPR) were held. Numerous acts of violence against opposition candidates and supporters, as well as irregularities - notably in rural areas - were reported. EPRDF was reaffirmed as ruling party of the country. Parliament re-elected Meles Zenawi Prime Minister for a six-year term on October 8, 2001.

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1. See Part I.A.1 for a detailed political context.

2. See: UNDP Human Development Statistics and the International Monetary Fund, 2005.

3. For a general history overview, see the fact-finding mission report of the Observatory for the Protection of Human Rights Defenders, April 14, 2005: "Ethiopia: Human rights defenders under pressure".

4. The conflict between Ethiopia and Eritrea started in May 1998.

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## **I. THE MAY 2005 PARLIAMENTARY ELECTIONS AND THE WAVES OF VIOLENCE TRIGGERED**

### **A. The pre-election context**

On November 8, 2004, the All Ethiopian Unity Party (AEUP), the Ethiopian Democratic Unity Party-Medhin (EDUP-Medhin), the Ethiopian Democratic League (EDL), and the Rainbow Movement for Social Justice (Rainbow) formed the Coalition for Unity and Democracy (CUD) for the purpose of the national and regional elections.

The CUD and the United Ethiopian Democratic Front (UEDF) challenged Prime Minister Meles Zenawis's ruling EPDRF, which was dominating Ethiopia's outgoing Parliament by controlling fewer than 88 percent of the 547 seats.

During the pre-election period, the Ethiopian Human Rights Council (EHRCO) issued several reports that exposed a number of human rights violations, notably the harassment, beatings, illegal detentions, and land dispossessions, that were committed by Government administrative organs and military men against 75 candidates, members and supporters of opposition parties in violation of Article 38.2 of the Ethiopian Constitution, which provides that *"the right of everyone to be a member of his own will in a political organisation, labour union, trade organisation, or employers' or professional association shall be respected if he or she meets the special and general requirements stipulated by such organisation"*.

EHRCO also documented the numerous irregularities during the voters' registration process in different parts of the country, as well as the killings, beatings, illegal detentions and threats that were being perpetrated by members of the police and the national reserve force, Kebele military men and members of the ruling party in different parts of the country<sup>5</sup>.

#### *The constitutional right of NGOs to monitor elections under threat*

Article 23 (f) of the Proclamation 111/1995 (as amended)<sup>6</sup> states that *"legally recognised political organisations and non governmental bodies may, through their respective representatives, observe the electoral process"*.

The National Electoral Board (NEB) of Ethiopia, which was established by the Proclamation n° 111/1995, is responsible for the administration, conduct and supervision of all elections in Federal and State constituencies in the Federal Democratic Republic of Ethiopia, and has to ensure the right of the people

to exercise their democratic right through a free and fair election.

The Board is composed of seven members appointed by the House of People's Representatives (HPR) upon the recommendation of the Prime Minister and is accountable to the HPR. Board members are appointed on the basis of their allegiance to the Constitution, their lack of political party affiliations and their professional competencies<sup>7</sup>.

In violation of the above-mentioned rule, the NEB of Ethiopia issued, a few weeks before the elections, a directive stating that non governmental organisations (NGOs) whose statutes do not contain the phrase *"election observation"* would not be allowed to observe the electoral process.

This very controversial directive received a fierce opposition from a large number of civil society organisations, that were getting organised to monitor the elections. As a result, they brought a lawsuit against the NEB in April 2005, saying that these new rules could prevent thousands of local observers from monitoring the May legislative elections.

Mr. Netsanet Demissie, Director of the Organisation for Social Justice in Ethiopia (OSJE), a public interest lawyers' group, established with a mission to promote human rights, democracy and social justice in Ethiopia, and one of the defendants of the pending trial, was one of the leading civil society representatives involved in this judicial battle. He publicly declared that *"this decision by the NEB is in contravention of the national election law of Ethiopia, and violates our constitutional rights"* and that *"this litigation is very important in many ways, because it sends a message that contradictory directives will not be tolerated by the public and civil-society organisations"*.

Finally, on May 3, 2005, the Ethiopia's Federal Supreme Court overruled the illegal decision of the NEB and OSJE, along with EHRCO and other NGOs, was allowed to observe the May 2005 elections. However, due to the late verdict, the "banned" organisations were not able to organise an effective monitoring.

### **B. The May 2005 elections**

*"[People's] sovereignty shall be expressed through their representatives elected in accordance with the Constitution and through their democratic participation"* (Article 8.3 of the Ethiopian Constitution)

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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On May 15, 2005, Ethiopians went to polls to elect the members of the House of People's Representatives (HPR), the lower chamber of the Parliament.

**1) The fairness of the elections under question**

EHRCO, which was able to observe the election process by deploying 1,500 observers in the pre-scheduled polling stations, found a large amount of irregularities, among others:

Irregularities observed	Number of polling stations in which they were observed
1) failure to post or place candidates' symbols in the proper places or placing them in places where they were not noticeable	125
2) admitting individuals to cast ballots without requiring them to produce elector's cards	482
3) individuals repeatedly casting votes	43
4) minors casting ballots	97
5) intimidating the observers in the stations	202
6) turning the light off during ballot counting	30
7) polling stations in which voters were not asked to show ID cards to check identity	240
8) unavailability of ballot cards in sufficient quantity and time	11
9) barring persons over 18 years of age, the pretext being they were minors	20
10) distributing pre-marked ballot cards	8
11) expelling election observers from the polling stations during ballot counting	23
12) voters found in possession of multiple ballot cards	20
13) non attendance of political party observers	45

In view of the irregularities observed during the elections, EHRCO concluded that there were not, as a whole, free and fair.

These conclusions are very similar to the ones adopted by the European Union Election Observation Mission, led by Ms. Ana Gomes, member of the European Parliament and Head of the EU election observation mission<sup>8</sup>. This report, released in March 2006, considered that "*the elections fell short of international principles for genuine democratic elections*". The report also stressed that "*the counting and aggregation process were marred with irregular practices, confusion and lack of transparency*"<sup>9</sup>.

**2) The controversial official results**

In early June 2005, the NEB issued preliminary results, giving the EPRDF, which has held power for 14 years, a narrow advantage, by taking 327 seats, winning another five-year term and controlling 59 % of the 547-seat Parliament<sup>10</sup>.

Opposition parties took 174 seats - 32 % of the seats - with the largest opposition group, the CUD, taking 20 % of the parliamentary seats. Opposition parties had won only 12 seats during the last elections in 2000<sup>11</sup>.

**C. The June events**

On May 14, 2006, on the eve of the election, the Government announced a one-month ban on street demonstrations.

Just after the announcement of the elections preliminary results by the NEB however, the CUD called for a peaceful demonstration through the hooting of car horns and "stay-home day", accusing the government of fraud. The government declared the protests "*unlawful*" and constitutive of "*an insurrection to overthrow the constitutional order*".

As a consequence, on June 8, 2005, a crackdown against peaceful protesters claimed dozens of lives and led to mass

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

arrests of thousands of civilians in Addis Ababa alone. Some 9,000 CUD supporters, including 2,000 university students and six EHRCO officials, Messrs. Yared Hailemariam, Cherinet Tadesse and Berhanu Tsige, along with three EHRCO branch officials, were detained by police. They were then provisionally released on bail by the end of July 2005 without any charge<sup>12</sup>.

Then the CUD elected members of Parliament (MPs) decided to initiate discussions with the EPRDF relating to, among others, human rights and freedom of the press, but these round table talks between the opposition and the ruling party, mediated by the diplomatic community in Addis Ababa, were discontinued without any result. One of the reasons of this failure was that the EPDRF had changed the parliamentary procedure, making it virtually impossible for the opposition to participate in the debates and initiate proposals<sup>13</sup>. The CUD leadership therefore decided to boycott the new Parliament. As a retaliation, the 109 CUD parliamentarians were stripped of their immunity<sup>14</sup>.

The UEDF, an independent MP, a section of the Ethiopian Democratic Union Party-Medhin, which had left the CUD coalition, and several CUD elected MPs then took up their seat<sup>15</sup>.

In parallel to the political negotiation attempts between the opposition and the ruling party, a Civil Society Peace Plan Initiative was launched by most of the civil society organisations in order to peacefully resolve the political impasse following the May 2005 elections.

The major points of the plan included:

- for all political parties to take the seats they have won according to the confirmed results issued by the National Electoral Board;
- in constituencies where electoral results have been disputed, political parties to resolve the dispute in accordance with the law;
- the establishment of an independent inquiry commission to investigate the post-elections violent confrontations.

Mr. Daniel Bekele, Head of Policy Research and Advocacy Department of Action Aid Ethiopia, a branch of Action Aid International<sup>16</sup>, and Mr. Netsanet Demissie, defendants in the ongoing trial, were among the citizens who had a leadership role in this initiative.

Following these events, on July 7, 2005, the European Parliament adopted a resolution on human rights violations perpetrated in the pre-election context, condemning the

violent repression of civilians, and calling for an impartial commission of inquiry to determine who was responsible for the tragic turn of events on June 8, 2005 in order that the persons in question be brought to justice<sup>17</sup>.

#### **D. The November events**

On November 1 and 2, 2005, a second wave of violence occurred in main cities between the police and youth demonstrators who questioned the validity of the election results, and the confrontations between people, especially the youths, and well armed security forces led to an unprecedented street violence, particularly in Addis Ababa.

On November 15, the Federal Police Commissioner reported to Parliament that 35 civilians and seven policemen had lost their lives in Addis Ababa and the outskirts, 156 civilians and 338 policemen had been injured, over 153 vehicles, most of them public buses, had been damaged, and private property burned down through the protest.

For its part, EHRCO announced in its reports that following the shooting by the security forces to stop the protests that arose as of November 1, 2005 in Addis Ababa, 34 persons died, 62 persons were wounded by bullet shots or beating and a number of others had been detained at different places. In a second report, EHRCO reported that 12 additional persons had been killed, nine persons had gone missing and 34 peoples had been illegally detained<sup>18</sup>.

In view of those elements, the Special Representative of the UN Secretary General on Human Rights Defenders, Ms. Hina Jilani<sup>19</sup>, jointly with other Special Procedures, sent several urgent appeals between June and December 2005, regarding the situation of human rights defenders in Ethiopia, in particular on the arbitrary arrests, detentions or forced disappearance of several of them<sup>20</sup>.

In particular, on November 3, 2005, the Special Representative of the UN Secretary General on Human Rights Defenders, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. Hailu Shawel, President of the Coalition for Unity and Democracy (CUD), Mr. Debebe Eshetu, CUD Spoke-person, Dr. Berhanu Negga, mayor of Addis Ababa, Gizachew Shifferaw, Dr. Hailu Araya former editor of the Press Digest Publication, Dr. Yakob Hailemariam, former UN official and International

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

Criminal Court official, Ms. Birtukan Mideksa, lawyer, as well as former army major Getachew Mengiste and Professor Mesfin Woldemariam, renowned human rights defender and founder and former chairman of EHRCO, now a CUD member.

According to the information received, all the above-mentioned persons were arrested together with numerous other journalists, human rights defenders and members of the Ethiopian Free Press Journalists' Association, as well as other leaders of the CUD and elected members of parliament. Many of the arrests took place at the persons' homes. Mr. Hailu Shawel was also beaten by the police officers upon being arrested. None of the persons arrested are reported to have been brought before a court of law within the 48 hour limit prescribed by law.

Besides, on April 2006, during a press conference held in Addis Ababa, on the occasion of her official visit to Ethiopia, the United Nations High Commissioner for Human Rights, Ms. Louise Arbour, asked for the "speedy conclusion of the investigation into the killing of at least 60 people in Ethiopia during this period". She also expressed concern "over the arrest of several of the country's opposition leaders". She particularly pointed to issues "regarding the nature of the charges against them, questions of bail and the expected trial of more than 100 officials of the main opposition party and journalists"<sup>21</sup>.

## **E. The Inquiry Commission and its controversial findings**

### **1) Composition and mandate of the Inquiry Commission<sup>22</sup>**

One of the promises Prime Minister Meles Zenawi made after the June and November events was to lead an impartial investigation into the way force had been used and whether legitimate defence could be put forward in all circumstances.

In December 2005, the Parliament appointed an 11-member independent commission which was entrusted with the task of conducting an inquiry concerning the violence that occurred on June 8, 2005 in Addis Ababa as well as those that occurred from November 1 to 10, 2005 and from November 14 to 16, 2005 in Addis Ababa and some other parts of the country<sup>23</sup>.

On April 25, 2006, five members of the Commission were replaced. The Standing Committee of the Legal and Administration Affairs said five members were missing due to alleged medical reason or denial of permission by their respective organisations, or work burden.

The mandate was threefold, as the Commission had to assess:

- *whether or not in the process of quelling the violence excessive force was used by law enforcement bodies,*
- *whether or not observance of human rights during the violence was consistent with the provisions of the Constitution and relevant laws,*
- *loss of life and destruction of property that resulted from the violence.*

The members of the Commission were academicians from universities, religious leaders and lawyers<sup>24</sup>. Mr. Samuel Fire-Hiwot, President of the High Court of the Southern region, was the original Chairperson of the Commission. Mr. Wolde-Michael, who was appointed a judge by the current government in 1994 and was President of the First Instance Court, was Deputy Chairperson of the Commission.

### **2) The findings of the "leaked report": the use of excessive force led to the death of 193 civilians**

The Commission spent six months interviewing over 600 people, including Prime Minister Meles Zenawi, police officers, witnesses, and government officials. It appealed to Ethiopians to come forward voluntarily and report what they had witnessed.

The Commission was originally due to release its report in March 2006. In early July 2006, shortly before completing their report, the team held a vote and ruled eight against two that excessive force was used, and concluded in its report that Ethiopian security forces massacred 193 people including 40 teenagers - i.e. five fold the official death toll - due to the use of excessive force<sup>25</sup>. Only two of the Commission members said the government responded appropriately<sup>26</sup>.

This outcome was rather unexpected since all members of the Commission had been nominated by the Government.

At this occasion, the vote and comments of the Commission members were recorded on videotape. In the video, the Chairman of the Commission, Mr. Samuel Fire-Hiwot, said that "*many people were killed arbitrarily*" and that "*old men were killed while in their homes and children were also victims of the attack while playing in the garden*".

Another Commissioner, as well an Ethiopian Orthodox priest, Mr. Estatiose Gebrekristos, were recorded as saying, "*from what my eyes, ears and knowledge tell me, the actions taken were 100 % wrong*".

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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The Deputy Chairperson of the Commission, Mr. Wolde-Michael, said the police records he saw showed 20,000 people being rounded up during the anti-government protests. He then affirmed that the inquiry team came under intense pressure once the ruling party learnt of its findings.

Electricity to their offices was cut and at one point their office was allegedly surrounded by security forces. According to the Deputy Chairperson, the team was also summoned by the Prime Minister, two days before the report was to be released, and told to change significantly its findings.

Mr. Wolde-Michael left the country in September 2006 after receiving anonymous death threats, leaving his wife and five daughters behind. He said he believed that the Ethiopian government was trying to cover up the findings and he is now claiming asylum in Europe.

Mr. Fire-Hiwot, who resigned from his position as Chairperson of the Commission on July 31, 2006, is also believed to have fled Ethiopia.

On October 18, 2006, a draft of the inquiry report, was obtained by Associated Press, through Mr. Wolde-Michael<sup>27</sup>. On this occasion, Mr. Wolde Michael publicly stated that the June and November events should be considered as a "massacre" and that "there is no doubt that excessive force was used".

Meanwhile, Mr. Bereket Simon, advisor to Prime Minister Zenawi, dismissed the charges as "rubbish" and described Mr. Wolde-Michael's allegations as "mere rumours"<sup>28</sup>.

Shortly before the report of the Commission was presented before Parliament on October 21, 2006, Mr. Mitiku Teshome, a member of the Commission and of the Catholic Secretariat in Ethiopia and one of the eight voters that approved that the Meles government had used excessive force to quell protests, also left the country following alleged pressures and threats<sup>29</sup>.

**3) The findings of the official report: same civilian death toll but no use of excessive force**

Strangely enough, the official report was released a few days after the leaked report, on October 21, 2006<sup>30</sup>. It has been made available on the Ethiopian Parliament official website<sup>31</sup>.

The report indicates that "the violence that followed the May 15, 2005 elections did manifest some weaknesses and mistakes on the part of the government. The circumstances at the time, the commission believes, are a result of the fact that the country's

democratization is at a nascent stage and also because it has not impacted society to the desired level. The commission underlines its conviction that the violence was truly a result of such an objective condition in the country";

"Nonetheless, if the range of the vastness and seriousness of the crisis is not considered in relation to the principles of the democratisation process and the objective condition in the country, the Commission is convinced that it is difficult to pass judgment regarding the proportionality or disproportionality of the measures taken. There is also an agreement that these principles are not controversial";

"the Commission believes that respect for the human rights was not strictly consistent with the Constitution.

"Based on this reality, the Commission believes that according to the responsibility accorded to it by the proclamation, the actions taken by the security forces to control the violence was a legal and necessary step to protect the nascent system of government and to stop the country from descending in to a worse crisis and possibly never ending violence upheaval. The issue of proportionality can not be seen outside these realities".

Reacting to the Inquiry Commission's final report the former vice-chairperson, Mr. Wolde-Michael, was quoted as saying that "it did not represent the will of the majority of commission members"<sup>32</sup>.

The unexpected findings of the original Commission - whose members were far from being opponents to the Zenawi regime - demonstrate the extent of the abuses committed by the security forces and the Army during the June and November events.

As Mrs. Ana Gomes declared this report "exposes the lie" that the government is moving towards democracy.

All this masquerade discredited on Prime Minister Zenawi's commitment to deal with the June and November events in a fair and transparent manner.

**F. An increasingly restrictive context: attempts to muzzle the press and civil society**

Since the November 2005 crackdown, most independent newspapers have been out of circulation since the beginning of November 2005. Moreover, a dozen of websites have been blocked by the Government since May 17, 2006<sup>33</sup>.

In addition, in 2005, new restrictive press and NGOs bills were underway and several associations - ETA, EFJA, etc. - were facing

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

judicial actions initiated by the government, aiming at curtailing their activities.

Freedom of Association is guaranteed by Article 31 of the FRDE Constitution of 1994. The current Ethiopian legislation on NGOs stems from the Civil Code of 1960 and the Associations Registration Regulation Legal Notice No. 321 of 1966, which requires NGOs to register with the Ministry of Justice. In 2003, an NGO bill was first introduced which would, if adopted, give the Minister of Justice more discretionary power towards civil society in general and NGOs in particular. Indeed, the Minister of Justice, in addition to being entitled to give or withdraw (renewable) authorisation to NGOs, would also have a new panel of discretionary decisions at disposal: closing down associations, getting rid of some of their members, seize documents and search without warrant at all times<sup>34</sup>.

This law has still not been adopted. However a notice issued by the Ministry of Justice on September 18, 2006, confirms and details the registration procedure by stating that: "1. NGOs are required to come up with project proposals and sign agreements with concerned government agencies in order to get license or get their licenses renewed. 2. A committee will examine the project proposals and other documents presented by NGOs to support their application for registration, license or renewal ". However, this notice does not explain if a committee has already been set up. This means that NGOs that apply for license or renewal after September 18, 2006 will have to pass through this procedure.

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5. See EHRCO: *Reports n°1, n°2, n°3 and n°4*, respectively issued on February 9, April 8, May 14 and June 3 2005.
  6. Proclamation to ensure the conformity of the electoral law of Ethiopia proclamation with the Constitution of the Federal Republic of Ethiopia, [http://www.electionsethiopia.org/PDF/Pro111%201995%20\(LF3\).pdf](http://www.electionsethiopia.org/PDF/Pro111%201995%20(LF3).pdf)
  7. Mr. Kemal Bedri Kelo has been Chairman of the National Electoral Board of Ethiopia since November 1993. He is also the President of the Federal Supreme Court. For the full composition of the Board, see: <http://www.electionsethiopia.org/NEBE%20Members.html>
  8. [http://ec.europa.eu/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/ethiopia/2005\\_final\\_report.pdf](http://ec.europa.eu/comm/external_relations/human_rights/eu_election_ass_observ/ethiopia/2005_final_report.pdf)
  9. *Ibid.*
  10. See Annex 1.
  11. See <http://www.ethiobar.net/type/English/hopre/pose.pdf>
  12. See Observatory Annual Report 2005.
  13. 51% of parliamentary seats could propose motions and present an agenda. Previously, only 20 lawmakers were needed to support a motion before it was tabled in parliament.
  14. See "*Opposition calls for demos to protest killings, arrests*", October 24, 2005 (IRIN).
  15. See "Ethiopia: Prisoners of conscience on trial for treason : opposition party leaders, human rights defenders and journalists", Amnesty International Report, September 2006.
  16. Formed in 1972, Action Aid international is an international development agency whose aim is to fight poverty worldwide.
  17. See Annex 5.
  18. EHRCO, "*Human rights are not respected=there is no democracy*", Special report n°92, January 12, 2006.
  19. See E/CN.4/2006/95/Add.1, March 22, 2006.
  20. See Observatory Annual Report 2005.
  21. See [http://www.irinnews.org/report.asp?ReportID=53012&SelectRegion=Horn\\_of\\_Africa&SelectCountry=ETHIOPIA](http://www.irinnews.org/report.asp?ReportID=53012&SelectRegion=Horn_of_Africa&SelectCountry=ETHIOPIA)
  22. See Annex 2.
  23. Proclamation 478/2005.
  24. See Annex n° 2 for the full composition of the Commission.
  25. "*Judge Says Ethiopia Forces Killed 193*", Associated Press, October 18, 2006.
  26. "*I consider the motives of the protesters was to overthrow the government*", Mr. Elias Redman, Vice-President of the Ethiopian Islamic Affairs Council, said on the video. "I therefore fully support the action taken by the police".
  27. "*Inquiry Says Ethiopian Troops Killed 193 in Ballot Protests in '05*", By the Associated Press, October 19, 2006.
  28. "*Zenawi massacred 193 civilians, says judge*", Ethiomedia/Voice of America, October 23, 2006 [http://www.ethiomedia.com/addfile/zenawi\\_massacre.html](http://www.ethiomedia.com/addfile/zenawi_massacre.html)
  29. Source: Ethiomedia, October 21, 2006, "Another Inquiry Commission official defects".
  30. It is worth noting that no precise date is mentioned in the document.
  31. <http://www.ethiobar.net/>
  32. "*Report exonerates government of excessive use of force*", The Reporter, October 28, 2006, <http://www.ethiopianreporter.com/modules.php?name=News&file=article&sid=9468>
  33. See Reporter without Borders (RSF), [http://www.rsf.org/article.php3?id\\_article=17783](http://www.rsf.org/article.php3?id_article=17783).
  34. See Observatory's 2004 Annual Report.
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**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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## II. THE "TREASON" TRIAL<sup>35</sup>

### A. Background information

In December 2005, 131 people (including 10 legal persons) presumed to be linked with the June and November events were charged with different offences.

Pressed by the international community, Prime Minister Meles Zenawi committed himself to providing a "fair, prompt, rapid and transparent trial".

The trial is known as "*Federal Prosecutor vs. Engineer Hailu Shawl and others*"<sup>36</sup>.

#### Seven charges were initially pressed:

<b>Charge 1</b>	crime of outrage against the Constitutional order	Articles 31(1) (a) and (b), 38, 34, 27(1) and 238 (2) of the 2005 Criminal Code
<b>Charge 2</b>	crime of obstruction of the exercise of constitutional powers	Articles 31(1) (a) and (b), 38, 34, and 239 of the 2005 Criminal Code
<b>Charge 3</b>	crime of inciting, organising and leading armed rebellion against the government	Articles 31(1) (a) and (b), 38, 34, and 240 (2), 258 of the 2005 Criminal Code
<b>Charge 4</b>	crime of endangering the integrity of the State(*) <i>*dropped by the Accusation in March 2006</i>	Articles 31(1) (a) and (b), 38, and 241 of the 2005 Criminal Code
<b>Charge 5</b>	crime of impairment of the State	Articles 31(1) (a) and (b), 38, 34, and 247 (a) (c)/258 of the 2005 Criminal Code
<b>Charge 6</b>	crime of high treason against the State	Articles 31(1) (a) and (b), 38, 34, and 248 (b)/258 of the 2005 Criminal Code
<b>Charge 7</b>	crime of genocide (*) <i>* amended in "attempt of genocide"</i>	Articles 32 (1) (a) and (b), 38, 34, and 269 (a) of the 2005 Criminal Code

Charge n° 4 was finally dropped in March 2006 and charge n° 7 (i.e. "genocide") was changed to "attempt of genocide". All charges except charge n°2 carry death penalty.

The Court systematically refused to grant bail, due to the seriousness of the charges<sup>37</sup>.

#### 1) List of defendants

**131 defendants (men and women) were originally charged, including legal persons.**

No.	Name	Party/Organisation
1	Ato Hailu Shawel	AEUP/CUD
2	Ato Abayneh Berhanu	AEUP/CUD
3	Maj. Getachew Mengiste	AEUP/CUD
4	Eng. Gizachew Shiferaw	AEUP/CUD
5	Dr. Hailu Araya	UEDP-Medhin/CUD
6	Ato Muluneh Eyoel,	EDL/CUD Secretary General
7	Ato Sileshi Tena	EDL/CUD
8	Dr. Berhanu Nega	Rainbow/CUD

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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9	Dr. Befekadu Degife	Rainbow/CUD
10	Prof. Mesfin Wolde-Mariam	Rainbow/CUD
11	Dr. Yacob H/Mariam	Rainbow/CUD
12	Wzr Birtukan Mideksa	Rainbow/CUD
13	Ato Aschalew Ketema	AEUP/CUD
14	Dr. Tadios Bogale	AEUP/CUD
15	Ato G/Tsadik H/Mariam	AEUP/CUD
16	Ato Assefa H/Wold	AEUP/CUD
17	Ato Biruk Kebede	AEUP/CUD
18	Ato Mesfin Aman*	AEUP/CUD
19	Ato Tamirat Tarekegn	UEDP-Medhin/CUD
20	Ato Andualem Arage	UEDP-Medhin/CUD
21	Wro. Nigist G/hiwot	Rainbow/CUD
22	Ato Debebe Eshetu	Rainbow/CUD
23	Ato Yeneneh Mulatu	Rainbow/CUD
24	Ato Mamushet Amare	AEUP/CUD
25	Ato Sileshi Andarge	AEUP/CUD
26	Lt. Alemayehu Yeneneh	AEUP/CUD
27	Ato Habtamu G/Hiwot	AEUP/CUD
28	Ato Asrat Tase	UEDP-Medhin/CUD
29	Ato Bedru Adem	Rainbow/CUD
30	Col. Tamiru Gulilat	AEUP/CUD
31	Ato Bekele Girma	AEUP/CUD
32	Ato Wondwossen Tsega	AEUP/CUD
33	Ato Anteneh Mulugeta	UEDP-Medhin/CUD
34	Ato Melaku Fantaye	UEDP-Medhin/CUD
35	Ato Tadios Beyene	Rainbow/CUD
36	Lt.Girma Amare	UEDP-Medhin/CUD
37	Ato Alemayehu Mesele	Rainbow/CUD
38	Wrt. Seblework Tadesse	Rainbow/CUD
39	Ato Eskindir Nega	AEUP/CUD
40	Ato Andargachew Tsige*	CUD
41	Dr. Negede Gobeze*	UEDF
42	Ato Solomon Bekele*	CUD
43	Ato Kiflu Tadesse*	
44	Ato Berhane Mewa*	CUD
45	Dr. Mamo Muchi*	CUD
46	Ato Abraha Belay*	
47	Prof. Getachew Haile*	CUD
48	Ato Yared Tibebe*	
49	Ato Mirchaw Sinshaw*	
50	Ato Tamagne Beyene*	CUD
51	Ato Elias Kifle*	Owner of www.Ethiopianreview.com



**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

52	Ato Dawit Kebede*	CUD
53	Ato Lishan Gizaw*	CUD
54	Ato Niguse Mengesha*	<i>Voice of America (VOA) Journalist</i>
55	Ato Addisu Abebe*	VOA Journalist
56	Ato Solomon Kifle*	VOA Journalist
57	Wro. Tizita Belachew*	VOA Journalist
58	Wro. Adanech Fisehaye*	VOA Journalist
59	Ato Kassa Kebede*	CUD
60	Dr. Moges W/Mariam*	CUD
61	Ato Fassil Belete*	CUD
62	Ato Aregawi Berhe*	CUD
63	Ato Solomon Tekaligne*	CUD
64	Ato Isayas Lisanu*	CUD
65	Ato Tefera Zewdie*	CUD
66	Ato Kefelegn Mamo*	CUD
67	Ato Tilahun Maru Gobena*	CUD
68	Dr. Assefa Negash*	CUD
69	Ato Getachew Garedeu	Journalist
70	Fassil Publishing and Adv Ent	Publisher of <i>Addis Zena</i> newspaper
71	Ato Fassil Yenealem	Addis Zena, General Manager (GM)and owner
72	Ato Wosenseged G/Kidan	Editor in Chief, <i>Addis Zena</i>
73	Sisay Publishing and Advertising Enterprise	Publisher of <i>Ethop</i> newspaper
74	Ato Sisay Agena	General Manager and owner of <i>Ethiopian newspaper</i>
75	Ato Andualem Ayele	Editor in Chief, <i>Ethiopian newspaper</i>
76	Serkalem Publishing Enterprise	Publisher of <i>Asqual, Menelik and Satenaw</i>
77	Wro. Serkalem Fassil	GM and owner and journalist
78	Ato Wenakseged Zeleke	Editor In Chief, newspapers
79	Ato Zelalem Gebre*	Editor in Chief, newspapers
80	Ato Dereje H/Wold	Dy. Editor in Chief <i>Menelik</i> and newspapers
81	Ato Nardos Meaza	Editor in Chief, <i>Satenaw</i> newspaper
82	Ato Dawit Fassil	Dy. Editor in Chief, newspaper
83	Zekarias Publishing Enterprise	Publisher of newspaper
84	Ato Zekarias Tesfaye	GM and owner <i>Netsanet</i> newspaper
85	Ato Abiy Gizaw*	Editor in Chief, <i>Netsanet</i> newspaper
86	Abay Publishing Enterprise	Publisher of <i>Abay</i> newspaper
87	Ato Mesfin Tesfaye	Editor in Chief, <i>Abay</i> newspaper
88	Aregawi Publishing and Advertising Enterprise	Publisher of <i>Hadar</i> newspaper
89	Ato Dawit Kebede	Editor in Chief, <i>Hadar</i> newspaper
90	Ato Feleke Tibebe	Dy. Editor in Chief, <i>Hadar</i> newspaper
91	Dr. Taye W/Semayat*	President of the Ethiopian Teachers' Association
92	Ato Kassahun Kebede	Ethiopian Teachers' Association
93	Ato Kifle Mulat*	President of Free Journalists Association
94	Ato Daniel Bekele	ActionAid Ethiopia

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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95	Ato Netsanet Demissie	Organisation for Social Justice in Ethiopia
96	Ato Mesfin Debesa	UEDP-Medhin/CUD
97	Ato Berhanu Alemayehu	
98	Ato Wedneh Jedi	UEDP-Medhin/CUD
99	Ato Wondimu Dessalegn	UEDP-Medhin/CUD
100	Ato Solomon Abebe	UEDP-Medhin/CUD
101	Wrt. Membere Cherinet	UEDP-Medhin/CUD
102	Ato Abraham Abiyu	CUD
103	Wro. Zinash Moges	CUD
104	Ato Biniyam Tadesse	CUD
105	Ato Fikadu Debesa	CUD
106	Wro. Kebnesh Habte	CUD
107	Ato Taye Getachew	CUD
108	Ato Eyob Bekele	CUD
109	Ato Mohamed Seman	CUD
110	Ato Kassa Tadesse	CUD
111	Ato Fekadu Assefa	CUD
112	Ato Melaku Ouncha	CUD
113	Ato Abiyot Wakjira	CUD
114	Ato Minale Gebre	CUD
115	Ato Mebratu Kebede	CUD
116	Ato Gezahegn Tesfaye	CUD
117	Ato Daniel Berihun	CUD
118	Wrt. Kidist Bekele	CUD
119	Ato Tesfaye Ganta	CUD
120	Ato Teferi Berhe	CUD
121	Ato G/Medhin Teferi	CUD
122	Ato Tesfaye Tariku	AEUP/CUD
123	Ato Walta Nigus	AEUP/CUD
124	Ato Mulu Gashu	AEUP/CUD
125	Ato Anteneh Getnet	CUD
126	Ato Wedneh Temesgen	AEUP/CUD
127	Ato Wondimeneh Dessalegne	AEUP/CUD
128	All Ethiopian Unity Party/CUD	AEUP/CUD
129	United Ethiopian Democratic Party	UEDP-Medhin/CUD
130	Ethiopian Democratic League	EDL/CUD
131	Rainbow Ethiopia, Movement for Democracy and Social Justice	Rainbow/CUD

**Note:**

\* Indicates people charged in absentia

As of November 2006, 76 individuals and 10 legal persons are currently before Court, and 25 persons are tried *in absentia*. A total of 111 persons are currently prosecuted, as 20 of the defendants were released and discharged in March 2006 (including the five VOA journalists).

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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**2) The specific case against Messrs. Kassahun Kebede, Netsanet Demissie and Daniel Bekele**

Based on the definition adopted by the Observatory and on international definitions, three of the 131 defendants originally charged were considered as human rights defenders, namely:

- Mr. **Kassahun Kebede**, Director of the Addis Ababa branch of the Ethiopian Teachers Association (defendant n° 92),
- Mr. **Daniel Bekele**, Head of Policy Research and Advocacy Department of Action Aid Ethiopia, a branch of Action Aid international (defendant n° 94),
- Mr. **Netsanet Desmissie**, founder of the Organisation for Social Justice in Ethiopia (OSJE), a public interest lawyers' group, established with a mission to promote human rights, democracy and social justice in Ethiopia (defendant n° 95).

All three are charged with "crime of outrage against the Constitutional order".

Moreover, the Observatory wishes to draw particular attention to the case of Pr. Mesfin Wolde-Mariam, founder and former President of EHRCO, now a CUD member, who was arrested on November 1, 2005, and charged with all seven charges above mentioned<sup>38</sup>.

The Public Prosecutor considered that:

*"The accused listed from number 91 to number 95 have fully associated themselves with the commission of the crime and the intended result of the accused listed from number 1 to number 39 by making the associations they represent function beyond their fundamental mandate and objectives and using them as instruments for their crime; mobilised and provided leadership to members of their associations in support of mutinous acts by passing decisions in the name of the associations, press releases, and agitation; and instigated and supported the youth to participated in mutinous acts"*<sup>39</sup>.

It is worth noting that both Mr. Daniel Bekele and Mr. Netsanet Dismissie were very active in the Civil Society Peace Plan Initiative which was launched by several civil society organisations in order to peacefully resolve the political impasse following the May 2005 elections<sup>40</sup>.

A lot of attention has focused on these three defendants since they are the only three civil society representatives who were not affiliated with any opposition political party and who

decided to defend themselves and have legal counselling during the trial<sup>41</sup>.

**3) Chronology of the trial: May-October 2006**

The trial began on May 2, 2006 and has been regularly adjourned since.

On July 19, 2006 the Public Prosecutor submitted 88 items of documentary evidence with a total number of more than 800 pages.

He then expressed the will to present extra evidence that was not mentioned in the original record presented to the Court and the defendants.

On August 4, 2006, the Federal High Court was meant to give its ruling on the two main issues raised during the previous session: firstly, the request made by the Public Prosecutor to be allowed to submit additional documentary evidence, and secondly the objections of Mr. Daniel Bekele and Mr. Netsanet Demissie on the admissibility of the documentary evidence originally submitted by the Prosecutor and the request here above.

However, the Court decided to adjourn its session.

On October 5, 2006, the trial resumed briefly, in the presence of one of the *chargés de mission* of the Observatory, and was suspended again on procedural grounds<sup>42</sup>.

On October 13, 2006, the Court finally gave a ruling in favour of the Prosecution and rejected the three defendants' objections.

**4) International scrutiny**

The trial has drawn a lot for international attention since its beginning in May 2006. Indeed, the two missions of the Observatory witnessed the presence of several international observers, be they from foreign embassies or international NGOs. At least four observers affiliated to the US State Department and the European Commission were deployed to monitor the conditions in which the trial takes place and assess its conformity with international conventions ratified by Ethiopia. Both American and European diplomats submitted a joint confidential report on their observations of the opposition trial to the government of Mr. Meles Zenawi, in late September 2006.

## **B. Main concerns: due process and the right to a fair trial at stake**

One should be very cautious when challenging the fairness and legality of a trial which is not yet completed.

However, due to the analysis of several documents, including memorandums from the Prosecution or the defendants or Court rulings, the Observatory mission was able to uncover several breaches of Ethiopia's commitment to provide a fair trial to all its citizens.

### **1) The absence of court warrants**

Under Articles 17 (1) and 19 (1), (2) and (3) of the Constitution and the 1961 Ethiopian Criminal Procedure Code, *"no one shall be arrested without a court warrant"*, except in the case of flagrant offences that are punishable with more than three months' imprisonment.

On November 1, 2005, Mr. Daniel Bekele was arrested by the police from his home. Mr. Daniel Bekele declared that no court order had been shown to him at that time. He was formally charged on December 21, 2005<sup>43</sup>.

On November 8, 2005, Mr. Netsanet Demissie handed himself in to the police as soon as he heard they were searching him. Mr. Demissie declared that no court warrant had been shown to him at the time of his arrest.

Both Mr. Daniel Bekele and Mr. Netsanet Demissie are facing charges of "crime of outrage against the Constitutional order", even though they were not members of any of the opposition political parties. Such is also the case of Mr. Kassahun Kebede.

### **2) The continuing delays of the procedure, in violation of the right to be tried in a speedy manner**

The Ethiopian Constitution recognises the defendants' right to a speedy trial, although it is framed as an obligation for the government to bring charges within a reasonable period of time.

However, Articles 14 of the International Covenant on Civil and Political Rights (ICCPR) and 7 of the African Charter on Human and Peoples' Rights (ACPHR) - both of which are parts of the law of the country per the 1994 Constitution - more explicitly provide that defendants shall be tried within a reasonable period of time or released.

Besides, the Ethiopian Criminal Procedure Code provides that *"all persons accused of having participated in whatever capacity in the offence or offences may be tried and charged together"*. This means that persons who have participated in the commission of an offence as either co-offenders or accomplices or by inciting others can be charged and tried together.

In this case, the Prosecutor originally charged up to 131 defendants in ONE charge sheet only.

Therefore, all charges are being presented in a single charge file whereas many of the defendants are concerned by only one or two charges maximum, such as the journalists and civil activists.

The Prosecution declared that *"All the evidence we submitted to support the charges against all the accused are presented against all of the conspirators. We have adamantly mentioned at every stage of the process of the trial, that, since conspirators who agreed to put into effect a general crime sign (goal) are accountable and responsible for the actions of one or some conspirators undertaken with a view to reinforce or implement their common objective, the actions of one conspirator will be considered as evidence against other conspirator<sup>44</sup>"*.

As a consequence of this "global approach", all defendants have to wait for the Court to rule on any objections that one or several defendants make, even though these very objections do not concern the globality of the defendants. As a consequence, the hearing of the cases of the other individuals who have nothing to do with these very objections is being delayed and affect their right to a fair trial.

The beginning of the trial is a clear example of the delay this approach entails for all defendants and their right to have their case heard in a speedy manner.

In their July 31 Memorandum, Messrs. Bekele and Demissie (who are only concerned by charge n°3) asked the Court to give an immediate ruling on the objections they made on the admissibility of the new evidence put forward by the Prosecution, in order to avoid further delay, according to Article 146 of the Criminal Procedure Code<sup>45</sup>.

On August 4, 2006 the Court which was meant to give its ruling on the issue adjourned its decision, stating that the quorum had not been met, one of the judges being unavailable.

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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On October 5, 2006, the Court once again adjourned for the very same reasons.

On October 13, 2006, the Court finally ruled on the objections and decided to accept the additional evidence of the Prosecutor.

### **3) A very narrow interpretation of the right to bail**

The right of detainees to be released on bail is provided for under Article 19(6) of the Constitution. However, restrictions may be prescribed by law:

- a) if there is reason to believe that the accused may tamper with evidence;
- b) if the detainee is suspected of a crime that may entail 15 years imprisonment and if there is reason to believe that the subject of the crime may die.

In the current trial, all defendants have been denied bail, from the very beginning of the case.

Although this general situation can be questioned, according to Article 63 of the Criminal Procedure Code and Ethiopian courts jurisprudence, the situation is a bit different for the three "strictly civil activists"<sup>46</sup>, who had no affiliation whatsoever with a political party, and who decided to get legal counselling throughout the trial. Messrs.

Messrs Netsanet Demissie, Daniel Bekele and Kassahun Kadebe applied for bail after their arrest in early November 2005.

On January 4, 2006, the Federal High Court rejected their requests. Its ruling was based mainly on two grounds, derived from Article 63 of the Criminal Procedure Code:

- the charge brought against the accused entails more than 15 years of imprisonment,
- the accused are responsible for the death of many people.

The defence presented two main objections:

- the defendants recalled that they were charged under Article 280 of the Criminal Code, which provided a sentence of three to 25 years' imprisonment. Therefore, the exceptions lied down in Article 63, relating to crimes that may entail 15 years imprisonment [i.e. at least 15 years imprisonment], should not apply in their case,
- on their alleged responsibility in the death of people, the defendants argued that they could not be held responsible for

the death of people before the independent Inquiry Commission releases its findings, notwithstanding the fact that no evidence had been shown by the Prosecutor in order to sustain this allegation.

On March 10, 2006, the Criminal Bench of the Federal High Court denied the right to bail of the defendants, dismissing the defendant's objections.

On June 5, 2006, the defendants applied to the Cassation Bench of the Federal Supreme Court alleging that a "fundamental error of law" had been made by the Federal High Court.

On August 3, 2006, the Cassation Bench gave a negative ruling saying that "there is no fundamental error of law in this case".

Conclusion: Even though one should be very cautious in criticising Court decisions, it is worth noting that the interpretation of Article 63 of the Criminal Procedure Code made by the Cassation Bench and the Criminal Bench of the Federal High Court seems very narrow due to the total absence of evidence put forward by the Prosecution in the case of these three defendants.

Indeed, the defendants are accused of having taken the criminal purpose of the principal alleged offenders as their own and using the organisations they represent for the purposes of the said criminal end by instigation and incitement.

However, to date, no statement issued by the civil organisations they work with or any single piece of evidence was presented by the Prosecution to the Court.

### **4) The use of illegally obtained evidence, manufactured evidence, and evidence unlikely to be genuine**

The Ethiopian Constitution and international and regional human rights instruments affirm the right of the accused in criminal proceedings to be presumed innocent and therefore to be protected against illegally obtained evidence, manufactured evidence, and evidence unlikely to be genuine.

For example, Article 20 of the 1994 Constitution states that "Accused persons have the right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing".

In a Memorandum dated 31 July, 2006, Messrs. Daniel Bekele and Netsanet Demissie explained:

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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"At the time we gave our statements to the police on this matter, we have repeatedly asked that we could respond to the charges if we are made aware of the evidence against us and the proper administration of justice should be guided in this line. However, the investigating officers have at the time told us that they do not know about any such evidence and could not do anything other than being ordered to take our statements"<sup>47</sup>.

The State Prosecution submitted several video and audio recordings which contained mainly election campaign speeches, proceedings of party meetings, press conferences, video clips of June and November 2005 violent protests, radio interviews and public addresses of CUD leaders.

Among these items of documentary evidence, only nine refer directly or indirectly to Messrs. Netsanet Demissie and Daniel Bekele<sup>48</sup>.

From among these nine items, the Prosecutor, in a memorandum dated July 24, 2006, submitted detailed descriptions of only four documents alleging to prove the charges as presented in the statement of charge<sup>49</sup>.

Indeed, the other documents that are directly or indirectly related to them have no explanatory notes. Therefore, the Observatory considers that such evidence should be considered as inadmissible for failing to mention what they should prove.

The document submitted by the Public Prosecutor under additional documentary evidence n° 52 is a letter allegedly written by a person named Mr. Elias Kifle to individuals named Ms. Ferezer Negash and Mr. Berhane Haile and stating that Messrs. Daniel Bekele and Netsanet Demissie are the contact persons of the "Kinijit" [Ethiopian name for the CUD], based on what the writer of the letter was told by Mr. Hailu Shawel, one of the accused.

The two accused know neither the writers nor the recipients of the letter.

The record of evidence states that the document was seized through a search of Ms. Ferezer Negash's residence<sup>50</sup>. However, the Public Prosecutor did not submit evidence showing that the police has been given a search warrant by the Court to search the residences of offices of Ms. Ferezer Negash<sup>51</sup>.

Moreover, the document does not show that Ms. Frezer

Negash has certified the document that was found in her residence. This letter is a computer print out that could have been written by anyone, and not signed by the person who allegedly wrote the document.

The evidence n° 65 is a three-page computer print-out with a note from an individual named Mr. Adane Bekele, saying "this paper is given to me by Mr. Netsanet Demissie to duplicate and distribute to others". This document is a photocopy with the following mention "has been compared with the original", with the signature and seal of the registrar of the Court.

It is interesting to note that the so-called "original" is indeed a photocopy itself.

When questioned, the registrar answered that "although evidence 65 is a photocopy and does not have the seal of the records of the police department, we consider it an original since it has the signature of the person named Mr. Adane Bekele.

The Public Prosecutor did not make available any information on the way this document was acquired.

The State Prosecution has completed showing the court several video and audio recordings which it submitted as evidence to the alleged offences involving the accused.

The document submitted by the Public Prosecutor under additional documentary evidence n°3 and n°62 are the proceedings of a meeting of Ethiopian civil society organisations and a joint call for peace made therein. The documents show that a large number of civil society organisations alarmed by the political disputes and political tension following the May 2005 elections have come together to deliberate on the matter and take a joint position on whether opposition parties elected members should take up their seats in Parliament.

The meeting finally called for opposition MPs to take up their seats and called for election disputes to be resolved in Courts.

It is interesting to note that the Prosecution is using the very same evidence in contradictory ways :

- to accuse Messrs. Bekele and Demissie of having used their associations for inciting the perpetration of mutinous acts,
- to accuse all the others for having ignored this call to join Parliament.

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

The Observatory cannot help noting that the argument of the Prosecution is wholly contradictory and inconsistent.

### **5) Detention conditions**

The Observatory sent an official letter to the Director of the Kaliti prison prior to its visit in November 2006 but was unable to give a visit to the defendants at the Kaliti prison. Indeed, when arriving at the gate of Kaliti prison, guards told the mission delegates to leave the premises and get authorisation from the Prison Federal Commission.

On that very day, the Commissioner and Second Commissioner of the Prison Federal Commission were said to be "out of town", with no possibility of knowing their return date.

Therefore, the mission was unable to visit the detainees and question them on their detention conditions.

However, the mission was informed of the bad state of health of several prisoners. For instance, Professor Mesfin Wolde-Mariam was hospitalised on August 18, 2006 after collapsing in his cell. He reportedly responded well to treatment for pneumonia in Addis Ababa's Police Hospital. However, he has now been returned to Kaliti Prison where the harsh conditions of detention mean that his health is likely to deteriorate.

Several other imprisoned defendants also had to be hospitalised due to their poor detention conditions over the past few months. For instance, on June 9, 2006, Mr. Berhanu Nega, who suffers from high blood pressure as well as cardiomyopathy, was hospitalised, and sent back to prison after 20 days, reportedly against the advice of doctors and without having been examined by a cardiologist. On July 19, 2006, however, the Court ruled that Mr. Nega shall be transferred to a less crowded cell.

Moreover, Ms. Serkalem Fasil, a journalist, who was pregnant at the time of her arrest in November 2005, gave birth in late June 2006, in prison. Her new-born son was sent to her family as she was sick and had to stay at hospital. Besides, Ms. Fasil's companion, journalist Mr. Eskinder Negga, was transferred in early August 2006 from Kaliti to a part of Karchele prison. These cells, called 'dark rooms', have been used for prisoners facing execution, but are also known to be used as punishment cells<sup>52</sup>.

Besides, on November 6, 2006, Mr. Daniel Bekele and Mr. Netsanet Demissie complained of mistreatment while standing their trial, and said they had been "psychologically tormented," because they had been deprived of sleep and prevented from seeing each other to prepare their case since November 3, 2006, whereas prosecution witnesses began giving evidence against them on November 6, 2006.

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35. See Annex 3 : relevant international instruments and provisions of the 1994 Constitution.

36. Mr. Hailu Shawel is the first defendant of the Prosecution's list.

37. See Part III B 3).

38. See above and Observatory Annual Report 2005.

39. Charge sheet, charge #1, IV.

40. See above.

41. It is reported that, at the beginning of the case, several lawyers volunteered to take up the 131 defendants defence. But restrictions were high and it was finally decided that none of the defendants - except for the three who were strictly civic society members - would not have legal defence.

42. "This session was called to rule whether the objection made by three of the accused on whether additional proof submitted by the prosecution was admissible or not ... but as we have no quorum among the judges we cannot issue a ruling", Presiding Judge Leoul Gebremariam said.

43. See Observatory Annual Report 2005 and Open letter to the authorities, January 5, 2006.

44. Responses submitted by the Public Prosecutor for the Statement of objections presented by Messrs. Kassahun Kebede, Netsanet Demissie and Daniel Bekele on the inadmissibility of the Public Prosecutor's Additional documentary evidence, August 4, 2006.

45. Article 146 of the Criminal Procedure Code states that, in the case of objection to evidence, the court "shall decide forthwith on the admissibility of such evidence".

46. i.e. Messrs. Kassahun Kebede, Netsanet Demissie and Daniel Bekele.

47. Statement of objection submitted on the inadmissibility of the Public Prosecutor's Additional documentary evidence, Messrs. Netsanet Demissie and Daniel Bekele, July 31, 2006.

48. These are additional documentary evidence 2, 3, 4, 24, 52, 59, 62, 65, and 66.

49. These are evidence numbers 3, 52, 62 and 66.

50. Statement of objection submitted on the inadmissibility of the Public Prosecutor's Additional documentary evidence, Messrs. Netsanet Demissie and Daniel Bekele, July 31, 2006.

51. See Article 32 of the Criminal Procedure Code: "Any investigating police officer or member of the police may make searches or seizures in accordance with the provisions which follow" and that "(2) no premises may be searched unless the police officer or member of the police is in possession of a search warrant in the form prescribed in the Third Schedule to this code".

52. See: Amnesty International; AI Index: AFR 25/022/2006.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

In light of recent events in Ethiopia, there is a serious growing concern for human rights and human rights defenders at large. The civil society's day-to-day situation on the ground has been going from bad to worse since the May 2005 elections.

The current trial of opposition leaders, journalists and human rights defenders shows a general context of hostility towards civil society activists<sup>53</sup>. In the government's opinion, it is clearly stated that, in the wake of democratic elections, opposition leaders, human rights and civil society activists wanted to undermine the political and ethnic values of the ruling regime. This trial, as well as the ongoing harassment of civil society organisations and the violent repression of the protest movements in June and November 2005, does not only represent an alarming step towards the hardening of the regime: it also clearly shows that the repeated statements of the Government claiming its commitment to democratic values and human rights are to be taken with the utmost prudence, if not refuted.

All defendants, currently behind bars, along with many others whose names and whereabouts remain unknown, are at risk of being kept at length in custody awaiting trial or sentenced to long imprisonment terms if not death. Moreover, allegations of ill-treatment, forced disappearances and summary executions are rampant in the country.

In view of these findings, the Observatory considers the charges to be arbitrary and disproportionate to the nature of the events that occurred in the aftermath of the May 2005 elections. The Observatory expresses its deepest concern about the fairness of this trial, as it believes it to be a way to silence any political criticism of the current regime.

The Observatory also strongly condemns the continuing repression of human rights defenders and is also extremely worried about the physical and psychological well-being of EHRCO members. Indeed, since the second crackdown on mass protests, three of EHRCO's veteran staff have been forced into exile for fear of their lives. Besides, several EHRCO members have been arrested arbitrarily and held in detention for various periods of time.

Due to fear of retaliation by government agents, families and friends of victims have been reluctant to come to EHRCO's office and report human rights violations. Even victims of

arbitrary arrests and acts of torture have been unwilling to speak about their sufferings for fear of further retribution. EHRCO is now operating in a very hostile environment.

### **Recommendations**

In view of this information, the Observatory for the Protection of Human Rights Defenders makes the following recommendations:

#### **1) To the Ethiopian authorities to:**

- Guarantee in all circumstances the physical and psychological integrity of human rights defenders in compliance with international instruments, especially the Declaration on Human Rights Defenders adopted by the U.N. General Assembly in December 1998;

- Ensure and respect the right for all people deprived of their freedom to treatments respecting their human dignity, as provided for by Article 21 of the Ethiopian Constitution and Article 10 of the International Covenant on Civil and Political Rights (ICCPR), ratified in 1993, and by the United Nations Standard Minimum Rules for the Treatment of Prisoners;

- Ensure that people subjected to arbitrary arrests, arbitrary charges or those without charges or conviction against them, including MM. Kassahun Kebede, Mr. Daniel Bekele, and Mr. Netsanet Desmissie be immediately released;

- Guarantee fair trials to all defendants as defined in Article 14 of the ICCPR and Article 7 of the African Charter for Human and Peoples' Rights (ACHPR) and notably to have adequate time and facilities for the preparation of their defence and to communicate with their lawyers;

- Respect the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines);

- Refrain from applying the death penalty, to ratify the second Optional Protocol to the International Covenant on Civil and Political Rights which provides for the abolition of death penalty and respect the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty (1984);

- Guarantee, at all times, the freedoms of opinion and expression as well as the right to hold peaceful



**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

demonstrations and to political assembly, in compliance with the Ethiopian Constitution and the international and regional instruments ratified by Ethiopia and, notably the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the ACHPR;

- Extend invitations to the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, the Special Representative of the UN Secretary General on the situation of human rights defenders, and the Special Rapporteur of the African Commission for Human and Peoples' Rights on Human Rights defenders;

- Conform with the recommendations, conclusions and observations made by Special procedures of the United Nations concerning Ethiopia<sup>54</sup>;

- Conform with the resolution adopted by the African Commission on Human and Peoples' Rights at its 38th Session in Banjul, in December 2005 and endorsed by African Heads of States and Governments at the African Union Summit held in the Gambia in July 2006;

- Conform with article 96 of the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, on the one part, and the European Community and its Member States, on the other part (Cotonou Agreement), which stipulates that respect for human rights and fundamental freedoms is an essential element of ACP-EU Cooperation;

- More generally, ensure in all circumstances the respect for human rights and fundamental freedoms throughout the country in accordance with international human rights instruments ratified by Ethiopia.

As requested by the European Parliament in its resolution of November 16, 2006<sup>55</sup>, to:

- "Publish un-amended and in its entirety, and without any further delay, the final report of the Commission of Inquiry; calls for the relevant courts to be supplied with the report, and urges them to take due account of it so that fair trials can be conducted;

- Immediately and unconditionally release all political prisoners, whether journalists, trade union activists, human

rights defenders or ordinary citizens, and to fulfil its obligations with respect to human rights, democratic principles and the rule of law";

- Disclose the total number of persons detained throughout the country, to allow visits by the International Committee of the Red Cross and to allow all detainees access to their families, legal counsel and any medical care that their health situation may require".

**2) To the European Union to:**

- Moreover, the Observatory strongly urges the European Union to continue to condemn serious human rights violations committed by the government of Ethiopia, and grant particular attention to the protection of human rights defenders in accordance with the EU Guidelines on Human Rights Defenders;

- Maintain the suspension of the European Union (EU) aid to the government of Ethiopia in response to the Ethiopian authorities' continuing failure to respect human rights and to take all appropriate measures within their mandate and Articles 9 and 96 of the Cotonou Agreement to guarantee the respect of human rights.

**3) To the United Nations Human Rights Council to:**

- Immediately establish an independent inquiry commission to investigate into the human rights violations committed by security forces in Ethiopia, in connection with the May 15, 2005 elections, of which the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhumane and degrading treatment or punishment and a member of the Working Group on Arbitrary Detention should be part.

**4) To the African Union to:**

- Enforce the resolution of the African Commission on Human and Peoples' Rights, adopted at its 38th Ordinary Session held in Banjul, Gambia, on December 5, 2005, whose provisions express deep concern about the situation going on in Ethiopia since June 2005 and notably the arbitrary arrests and other serious human rights violations directed at members and supporters of opposition groups, students and human rights defenders.

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53. See Compilation of recommendations, conclusions and observations by Special Procedures of the United Nations concerning Ethiopia - Annex 3.  
54. *Ibid.*

55. See Annex V.

**ETHIOPIA:**  
The Situation of Human Rights Defenders From Bad to Worse

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**ANNEX 1\***

**POLITICAL PARTIES AND THEIR SEATS IN THE THIRD TENURE OF THE  
HOUSE OF PEOPLES' REPRESENTATIVES  
(2005-2009)**

No.	Party	Number of Women MPs as related to their Parties			
		Men	Women	Total Seats	Share in percentage
1	TPLF	24	14	38	
2	ANDM	58	29	87	
3	OPDO	74	36	110	
4	SEPDM	64	28	92	
<i>Total Chairs Occupied by EPRDF</i>		<i>220</i>	<i>107</i>	<i>327</i>	<i>62.17</i>
5	AEUO	42	1	43	8.18
6	UEDP-MEDHIN	34	2	36	6.84
7	REMDSJ	8	0	8	1.52
8	EDL	1	1	2	0.38
9	UEDF	51	1	52	9.89
10	SPDP	23	1	24	4.56
11	OFDM	10	1	11	2.09
12	BGPDUF	7	1	8	1.52
13	ANDP	7	1	8	1.52
14	GPDM	3	-	3	0.57
15	ANDO	1	-	1	0.19
16	HNL	1	-	1	0.19
17	SMPDUO	1	-	1	0.19
18	Independent	1	-	1	0.19
<b>Total</b>		<b>410</b>	<b>116</b>	<b>526</b>	<b>100%</b>

<b>TPLF :</b>	<b>Tigray Peoples' Liberation Front</b>
<b>ANDM :</b>	<b>Amhara National Democratic Movement</b>
<b>OPDO :</b>	<b>Oromo Peoples' Democratic Organization</b>
<b>SEPDM:</b>	<b>Southern Ethiopian Peoples' Democratic Movement</b>
<b>EPRDF :</b>	<b>Ethiopian Peoples' Revolutionary Democratic Front</b>
<b>AEUO:</b>	<b>All Ethiopian Unity Organization</b>
<b>UEDP-MEDHIN:</b>	<b>United Ethiopian Democratic Party-MEDHIN</b>
<b>REMDSJ:</b>	<b>Rainbow Ethiopia Movement for Democracy and Social Justice</b>
<b>EDL:</b>	<b>Ethiopian Democratic League</b>
<b>UEDF :</b>	<b>United Ethiopian Democratic Force</b>
<b>SPDP :</b>	<b>Somali Peoples Democratic Party</b>
<b>OFDM :</b>	<b>Oromo Federalist Democratic Movement</b>
<b>BGPDUF :</b>	<b>Benshangul -Gumuz Peoples Democratic Unity Front</b>
<b>ANDP :</b>	<b>Afar National Democratic Party</b>
<b>GPDM :</b>	<b>Gambela Peoples Democratic Movement</b>
<b>ANDO :</b>	<b>Argoba National Democratic Organization</b>
<b>HNL :</b>	<b>Harrari National League</b>
<b>SMPDUO:</b>	<b>Shecko Mejenger Peoples Democratic Unity Organization</b>

**N.B.** The Number of Members of the House is stated as 526 as the remaining 20 failed to take up their seats.

**Feb. 1, 2006**

\*See Official Website of the Parliament of the Federal Democratic Republic of Ethiopia:  
<http://www.ethiopar.net/type/English/hopre/pose.pdf>

## **ANNEX 2**

### **THE COMPOSITION OF THE INQUIRY COMMISSION**

#### **Original members of the Commission assigned in December 2005**

1	Ato Firehiwot Samuel (Chairman)
2	Ato Wolde - Michael Meshesha (Vice - chairman)
3	*Ato Shiferaw Jamo
4	Sheik Elias Redwan
5	* Bishop Elsa-e
6	* Ato Abel Buse
7	*W/o Hikmet Abdela
8	Dr. Gemechu Megersa
9	*Ato Tamrat Kebede
10	Ato Abdu Da'ad
11	Father Dereje Jenberu

(\*) These members were replaced by the following members on March 29, 2006.

1	Dr. Mekonnen Disasa
2	Bishop Ewestatios
3	Ato Mitiku Teshome
4	W/o Haregewoine Tasew
5	Ato Belue Addis

(\*) : The chairman resigned on July 31, 2006 while the vice chairman left the country prior to the release of the Commission's report<sup>56</sup>.

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56. See: <http://www.ethiopianreporter.com/>

## **ANNEX 3**

### **RELEVANT PROVISIONS OF NATIONAL, REGIONAL AND INTERNATIONAL INSTRUMENTS**

#### **1/ International and regional instruments ratified by Ethiopia:**

The Federal Democratic Republic of Ethiopia (FDRE) ratified the following international conventions, which create an obligation on State parties to promote and protect the rights enshrined in these instruments and specifically the right to a free and fair trial.

- the International Covenant on Civil and Political Rights (ICCPR) in 1993 ;
- the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1993 ;
- the International Convention on the Elimination of all forms of Discrimination (ICERD) in 1976 ;
- the United Nations Convention on the Rights of the Child (CRC) in 1991 ;
- the United Nations Convention against Torture (CAT) in 1994 ;
- the African Charter on Human and Peoples Rights (ACHPR) in 1998 ;
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa in June 2004.

#### **2/ The 1994 Constitution**

The TPLF/EPRDF led government had formally pledged to promote democracy and the rule of law to differentiate itself from the Dergue regime.

Accordingly, the 1994 Constitution contains various provisions which provide formal high level legal guarantees to citizens.

**-Article 10, on Human and Democratic Rights,** states that :

- (1) Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable.
- (2) Human and democratic rights of citizens and peoples shall be respected.

**-Article 17, on the Right to Liberty,** states that :

- (1) No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law.

- (2) No person may be subjected to arbitrary arrest, and no person may be detained without a charge or conviction against him.

**-Article 18, on the Prohibition against Inhuman Treatment,** states that :

- (1) Everyone has the right to protection against cruel, inhuman or degrading treatment or punishment.
- (2) No one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited [...]

**-Article 19, on the Right of Persons Arrested,** states that :

- (3) Persons arrested have the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charge against them.
- (4) Persons arrested have the right to remain silent. Upon arrest, they have the right to be informed promptly, in a language they understand, that any statement they make may be used as evidence against them in court.
- (5) Persons arrested have the right to be brought before a court within 48 hours of their arrest. Such time shall not include the time reasonably required for the journey from the place of arrest to the court. On appearing before a court, they have the right to be given prompt and specific explanation of the reasons for their arrest due to the alleged crime committed.
- (6) All persons have an inalienable right to petition the court to order their physical release where the arresting police officer or the law enforcer fails to bring them before a court within the prescribed time and to provide reasons for their arrest. Where the interest of justice requires, the court may order the arrested person to remain in custody or, when requested remand him for a time strictly required to carry out the necessary investigation. In determining the additional time necessary for investigation, the court shall ensure that the responsible law enforcement authorities carry out the investigation respecting the arrested person's right to a speedy trial.
- (7) Persons arrested shall not be compelled to make confessions or admissions which could be used in evidence against them. Any evidence obtained under coercion shall not be admissible.

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

(8) Persons arrested have the right to be released on bail. In exceptional circumstances prescribed by law, the court may deny bail or demand adequate guarantee for the conditional release of the arrested person. partners, close relatives, friends, religious councillors, medical doctors and their legal counsel.

**-Article 20, on the rights of persons accused,** states that :

(2) Accused persons have the right to a public trial by an ordinary court of law within a reasonable time after having been charged. The court may hear cases in a closed session only with a view to protecting the right to privacy of the parties concerned, public morals and national security.

(3) Accused persons have the right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing.

(4) During proceedings accused persons have the right to be presumed innocent until proved guilty according to law and not to be compelled to testify against themselves.

(5) Accused persons have the right to full access to any evidence presented against them, to examine witnesses testifying against them, to adduce or to have evidence produced in their own defence, and to obtain the attendance of and examination of witnesses on their behalf before the court.

(6) Accused persons have the right to be represented by legal counsel of their choice, and, if they do not have sufficient means to pay for it and miscarriage of justice would result, to be provided with legal representation at state expense.

(7) All persons have the right of appeal to the competent court against an order or a judgment of the court which first heard the case.

(8) They have the right to request for the assistance of an interpreter at state expense where the court proceedings are conducted in a language they do not understand.

**-Article 21, on the rights of persons held in custody and convicted prisoners,** states that :

(9) All persons held in custody and persons imprisoned upon conviction and sentencing have the right to treatments respecting their human dignity.

(10) All persons shall have the opportunity to communicate with, and to be visited by, their spouses or

## **ANNEX 4**

### **ABSTRACTS OF RECOMMENDATIONS, CONCLUSIONS AND OBSERVATIONS BY SPECIAL PROCEDURES OF THE UNITED NATIONS CONCERNING ETHIOPIA**

**Report of the Special Rapporteur on Extrajudicial, summary or arbitrary executions, Philip Alston  
Addendum<sup>57</sup>**

The Special Rapporteur regrets that the Government of Ethiopia has failed to cooperate with the mandate he has been given by the United Nations Commission on Human Rights.

[The Special Rapporteur noted the] incommunicado detention of approximately 1500 demonstrating students, the killing of 26 persons, the wounding of 100 others and the arrest and harassment of various journalists [...] as well as human rights defender Chernet Tadesse, investigator for EHRCO [...].

**Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo  
Addendum<sup>58</sup>**

The Special Rapporteur deems it appropriate to make reference to the principles and concerns enunciated in Resolution 2005/38 of the Commission on Human Rights which, inter alia, expressed its continuing concern that violations of the right to freedom of opinion and expression continued to occur, often with impunity, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence, increased abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, against persons who exercise, seek to promote or defend these rights, including journalists, writers and other media workers, Internet users and human rights defenders.

The Special Rapporteur, pending a reply to this communication and without making any determination on the facts of this case, deems it appropriate to make reference to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular article 6, which provides that everyone has the right, individually and in association with others, ( a ) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how

those rights and freedoms are given effect in domestic legislative, judicial or administrative systems, ( b ) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and ( c ) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

The Special Rapporteur deems it appropriate to make reference to the principle enunciated, inter alia, by the Commission on Human Rights in its Resolution 2005/38, that the authorities should not resort to criminal laws and punishment for media related offences as these are deemed disproportionate to the gravity of the offence and are incompatible with international human rights law.

The Special Rapporteur deems it appropriate to make reference to Article 12.2 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms which provides that states shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

The Special Rapporteur remains concerned at the compatibility of the arrest and detention of the persons concerned with the right to freedom of opinion and expression as defined and further outlined in Resolution 2005/38 of the Commission on Human Rights.

The Special Rapporteur deems it appropriate to call the Government's attention to Resolution 2005/38 of the Commission on Human Rights which called upon States to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

---

violate international human rights law. Media related offences should preferably be dealt with under civil law.

**Report of the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani Addendum<sup>59</sup>**

Concern is expressed that this attack against Mr. Bekele is related to his activities as a member of the Executive Committee of the Network of Ethiopian NGOs and other civil society organisations which monitored the elections on 15 May 2005. Mr. Bekele had publicly expressed his opinion regarding alleged irregularities during the electoral process.

The Special Representative would like to reaffirm her genuine concern about allegations of arbitrary detention, arrest and legal proceedings against the human rights defenders in question in particular those who remain in detention pending prosecution and may be charged with treason which is punishable by death. The Special Representative looks forward to receiving information regarding the results of the investigations undertaken by the Neutral Inquiry Commission.

**Report of the Working Group on Enforced or Involuntary Disappearances<sup>60</sup>**

The Working Group wishes to remind the Government of Ethiopia of its responsibility to conduct thorough and impartial investigations "for as long as the fate of the victim of enforced disappearance remains un-clarified", in accordance with article 13, paragraph 6, of the Declaration.

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57. E/CN.4/2006/53/Add.1, 27 March 2006, *abstracts*.

58. E/CN.4/2006/55/Add.1, 27 March 2006, *abstracts*.

59. E/CN.4/2006/95/Add.1, March 22, 2006.

60. E/CN.4/2006/56, December 27, 2005.

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## **ANNEX 5**

### **RECENT RESOLUTIONS OF THE EUROPEAN PARLIAMENT ON ETHIOPIA**

#### **European Parliament resolution on the situation in Ethiopia<sup>61</sup> - October 13, 2005**

*The European Parliament,*

- having regard to its previous resolutions, in particular that of 7 July 2005 on the human rights situation in Ethiopia<sup>62</sup>,

- having regard to the preliminary statements of 17 May and 25 August 2005 by the European Union Election Observation Mission (EU EOM) in Ethiopia,

- having regard to the final statement of 15 September 2005 by the Carter Center Observation of the Ethiopia 2005 National Elections,

- having regard to Rule 103(4) of its Rules of Procedure,

A. recalling that the first properly contested election in Ethiopia took place on 15 May 2005, and noting that the period prior to this date was characterised by a peaceful atmosphere and that, despite some irregularities, the election went ahead without major confrontation between the government and opposition parties,

B. whereas over 90% of Ethiopian electors casting their vote expressed their faith in democracy and their strong will to exercise their fundamental rights,

C. whereas the above-mentioned preliminary statements by the EU EOM in Ethiopia, despite an extraordinary turnout by the Ethiopian electorate, revealed serious irregularities and a failure in many fundamental ways to respect democratic standards governing the organisation of elections,

D. whereas, in a statement by the UK Presidency of 29 August 2005, the European Union endorsed the EU EOM's comments,

E. whereas the above-mentioned final statement by the Carter Center reached the same conclusions as the EU EOM,

F. whereas the opposition is continuing to challenge the results of the elections held on 15 May 2005,

G. whereas the ruling party used the outgoing parliament to introduce an amendment under which an absolute majority is required to put forward an agenda, thereby depriving the opposition of their right to submit an agenda or a bill for discussion in the forthcoming parliament,

H. concerned by the anti-democratic conduct witnessed during the first regular session of the new parliament where opposition MPs who decided to take their seats were denied the right to express their views,

I. worried by the first bill of the new parliament which stripped of their parliamentary immunity elected MPs who decided not to participate in the assembly before their preconditions were met, and by the passing of another bill which extends the terms of office of the Addis Ababa city administration, thus ignoring the vote of the city's residents who voted unanimously in favour of the opposition,

J. whereas the negotiations opened on 2 October 2005 between the government and the two main opposition parties have broken down because of the ruling party's refusal to agree on minimum rules of conduct of multi-party democracy and respect for the opposition,

K. whereas the opposition parties have said they are willing to work in the framework of the constitution, without resorting to violence,

L. whereas the government has accused the opposition of fomenting a coup d'état and has arrested a large number of opposition leaders,

M. whereas the opposition has dropped its call for a general strike and a mass demonstration, which has been banned by the government, because of the risk of violent clashes, thus showing its sense of responsibility,

N. whereas, during the June 2005 demonstrations challenging the election results, the security forces' actions led to the deaths of at least 42 people and the arrests of thousands,

O. whereas the climate of threats and intimidation has continued throughout the inquiry into and the challenging of certain election results,



**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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P. whereas Ethiopia is a signatory to the Cotonou Agreement, Article 9 of which stipulates that respect for all human rights and fundamental freedoms is an essential element of ACP-EU cooperation,

1. Expresses its serious concern that the political dialogue between the government and the opposition, opened on 2 October 2005, was broken by the ruling party, and urges all parties to resume such dialogue without delay and to work to allow multi-party democracy to start functioning with the rights of the opposition fully respected by the government and the ruling party;

2. Welcomes the key role played by the head of the Commission's delegation in Ethiopia and the Council Presidency through its British Ambassador, in cooperation with other international diplomats, in realising the political talks;

3. Would welcome an invitation from the Ethiopian Parliament for a Parliament mission to visit Ethiopia to explore how to build the capacity of the new parliament and respond to the challenges of multi-party democracy;

4. Welcomes the opposition's commitment to working within the constitutional framework without resorting to violence;

5. Calls on the government also to respect the fundamental principles of the constitution, especially fundamental freedoms and human rights;

6. Calls on the government to guarantee opposition access to the media, as was made available in the run-up to the 15 May 2005 election;

7. Expresses its serious concern at the government's attempts to reverse the democratic process, including the introduction of an absolute majority requirement for the submission of agendas in the forthcoming parliament, which render the opposition's gains meaningless;

8. Welcomes the fact that, because of the government ban, the opposition withdrew its call for a mass demonstration on 2 October 2005 that could have given rise to serious clashes;

9. Calls on all political parties to work towards a political solution that will secure the Ethiopian Parliament's democratic prerogatives;

10. Calls for an end to the persecution and intimidation of

representatives of the opposition political parties and the immediate release of those still detained;

11. Calls on the Ethiopian Government to guarantee that detainees will not be subjected to ill-treatment and will have access to their families and medical care;

12. Calls on the Ethiopian authorities to bring all political prisoners before the courts within 48 hours of their initial apprehension, as prescribed under Ethiopian law, or to release them without further delay;

13. Calls on the government and political party representatives to reach agreement on the content of a code of conduct enabling the media to operate freely and independently;

14. Calls on the EU and the international community to remain vigilant, in particular with regard to respect for international human rights principles, and to continue supporting the Ethiopian democratisation process;

15. Calls on the Commission to pursue and, if necessary, to step up the European Union's humanitarian policy with regard to Ethiopia and to adjust its non-humanitarian aid in accordance with progress in the democratic process;

16. Instructs its President to write to the Speaker of the Ethiopian Parliament expressing the Parliament's strong concern about the denial to opposition members of the right to take the floor, about the bill passed stripping parliamentary immunity from all elected opposition members who did not take their seats and about the bill to extend the previous administration of municipalities in disregard of electoral results, and urging the prompt reversal of such measures, since they are incompatible with minimum democratic standards and further exacerbate political tensions and mistrust;

17. Instructs its President to forward this resolution to the Council, the Commission, the Ethiopian Government, the President of the Ethiopian Parliament, the President of the Pan-African Parliament, opposition parties and the African Union.

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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**European Parliament resolution on the situation in Ethiopia and the new border conflict<sup>63</sup> - December 15, 2005**

*The European Parliament,*

- having regard to its resolutions of 7 July 2005 on the human rights situation in Ethiopia<sup>64</sup> and 13 October 2005 on the situation in Ethiopia<sup>65</sup>,

- having regard to the preliminary report of the European Union Election Observation Mission of 25 August 2005,

- having regard to Rule 115(5) of its Rules of Procedure,

A. disturbed by recent news of large-scale human rights abuses following a massive and unprecedented crackdown, in which political leaders, human rights defenders, independent journalists, NGO workers and young people were arrested in Addis Ababa and in various other parts of the country,

B. whereas the demonstrations called by the Coalition for Unity and Democracy to protest against electoral fraud were severely repressed, with the use of live ammunition and armoured vehicles amongst other things,

C. whereas the political detainees include Hailu Shawel, President of the Coalition for Unity and Democracy, Professor Mesfin Woldemariam, former Chair of the Ethiopian Human Rights Council, Dr Yacob Hailemariam, former UN Special Envoy and former Prosecutor of the International Criminal Tribunal for Rwanda, Ms Birtukan Mideksa, former judge, Dr Birhanu Nega, Mayor-elect of Addis Ababa, Netsanet Demissie, Director of the Organisation for Social Justice in Ethiopia, and Daniel Bekele, of Action Aid Ethiopia,

D. whereas many of the above-mentioned prisoners have been on hunger strike since 28 November 2005,

E. alarmed by the information that thousands of youths arrested in Addis Ababa were taken to the Dedessa River (south-west of Ethiopia) and are being held in inhumane conditions,

F. welcoming the release of about 8 000 people, but worried at the massive scale of detention which this figure itself shows and by the fact that the government has not so far disclosed the total number of people actually in detention and still less their whereabouts,

G. disturbed by unsubstantiated allegations of treason made against members of parliament, journalists, civil servants, lawyers, aid workers and members of NGOs,

H. worried by the crackdown on the independent press,

I. having regard to the joint statement of 6 November 2005 by the EU and US Ambassadors in Addis Ababa, calling on the government to release all political detainees, to immediately put a stop to the use of brute force and to reopen the political dialogue, and calling for an independent investigation into the events of June and November,

J. whereas the European Union Election Observation Mission commented that the picture was mixed, with some positive aspects up to 15 May 2005 and some negative aspects thereafter,

K. whereas Ethiopia receives the equivalent of USD 1 billion in international aid each year (including 490 million from the European Union), which represents one quarter of its GDP,

L. whereas Ethiopia is a signatory to the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one Part, and the European Community and its Member States, of the other Part (Cotonou Agreement), Article 96 of which stipulates that respect for human rights and fundamental freedoms is an essential element of ACP-EU cooperation,

M. whereas troop movements have been observed on both the Ethiopian and Eritrean sides of the border and a ban has been imposed by the Eritrean Government on UN helicopters,

N. whereas relations between Ethiopia and Eritrea are poor amid fears of a new war and UN Secretary-General Kofi Annan has warned that the tense situation on the Eritrean-Ethiopian border could lead to another round of 'devastating hostilities',

1. Condemns the violence, the use of disproportionate means of repression by the armed forces and the mass arrests;

2. Calls on the Ethiopian Government to immediately and unconditionally release all political prisoners and journalists and fulfil its obligations with respect to human rights, democratic principles and the rule of law;

3. Calls on the Ethiopian Government to disclose the total number of persons detained throughout the country, to allow visits by the International Committee of the Red Cross and to

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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allow all detainees access to their families, legal counsel and any medical care that their health situation may require;

4. Calls on the Ethiopian Government to fully respect the fundamental principles of press freedom, put an end to the state media monopoly and allow the independent press to function by returning confiscated property;

5. Calls for the immediate establishment of an independent international commission of inquiry, ideally under UN responsibility, to investigate the human rights abuses and to identify and bring to justice those responsible;

6. Considers that, despite the political dialogue between the EU and the Ethiopian Government under Article 8 of the Cotonou Agreement, the latter has failed to fulfil its obligations with respect to human rights, democratic principles and the rule of law;

7. Calls on the Commission and the Council to take a coordinated stance consistent with Article 96 of the Cotonou Agreement;

8. Calls on the Council and the Commission to consider targeted sanctions against members of the Ethiopian Government if the current human rights situation is not significantly improved;

9. Calls on the Council and the Commission to channel humanitarian aid for the population of Ethiopia primarily through NGOs and UN specialised agencies in order to provide direct assistance to the population;

10. Calls for the resumption of the process of reform and improvement of democratic institutions, including a serious and international examination of the results of the parliamentary elections held in May 2005;

11. Expresses its full support for UN Security Council Resolution 1640(2005), which calls on Eritrea to immediately reverse its decision to ban United Nations Mission in Ethiopia and Eritrea (UNMEE) helicopter flights and all other restrictions imposed on UNMEE, demands that both parties return to the 16 December 2004 levels of deployment of their troops, and calls on Ethiopia to fully accept the final and binding decision of the Eritrea-Ethiopia Boundary Commission;

12. Welcomes the 7 December 2005 statement by the President of the UN Security Council condemning the decision

of the Government of Eritrea to request some members of the UNMEE to leave the country within 10 days;

13. Welcomes the decision of the Ethiopian Government to move its forces from its borders with Eritrea in compliance with a UN order aimed at averting fresh conflict;

14. Calls on the African Union, whose head office is in Ethiopia, to take a clear stance, proving its determination to bring democracy forward in Africa, especially in Ethiopia;

15. Instructs its President to forward this resolution to the Council, the Commission, the Ethiopian Government, the Ethiopian Parliament, the Pan-African Parliament, the two main opposition parties, the Coalition for Unity and Democracy and the United Ethiopian Democratic Forces, and the African Union.

**European Parliament resolution on Ethiopia - November 16, 2006<sup>66</sup>**

*The European Parliament ,*

- having regard to its previous resolutions on the post-election crisis and serious human rights violations in Ethiopia, in particular those of 7 July 2005 on the human rights situation in Ethiopia<sup>67</sup>, 13 October 2005 on the situation in Ethiopia<sup>68</sup> and 15 December 2005 on the situation in Ethiopia and the new border conflict<sup>69</sup>(3) ,

- having regard to Rule 115(5) of its Rules of Procedure,

A. disturbed by the arrest and expulsion from Ethiopia of two Commission officials on the alleged grounds that they tried to help Yalemzewd Bekele, a lawyer and women's rights campaigner, working for the Commission in Addis Ababa, to leave the country,

B. whereas there are reports of continuing arrests, harassment, arbitrary detention, humiliation and intimidation of opposition politicians, civil society activists, students and other ordinary citizens,

C. whereas, following high-level EU intervention on her behalf, Yalemzewd Bekele was released on 27 October 2006 after being held incommunicado for a few days,

D. whereas the Ethiopian Parliament established a government-backed Commission of Inquiry in late November 2005 with the task of investigating the June and November 2005 killings,

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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E. whereas the Ethiopian Government has put pressure on the members of the Commission of Inquiry to alter the findings and whereas three of the members, including the chairman and vice-chairman, have left the country after refusing government orders to alter the findings of the final report,

F. whereas the members of the Commission of Inquiry managed to leave the country with the final report, and whereas the report overwhelmingly condemns the government's handling of the crisis, which left 193 citizens dead following demonstrations in June and November 2005,

G. whereas, following the mass arrests of government opponents, human rights activists and journalists during demonstrations in June and November 2005, 111 opposition party leaders, journalists and human rights defenders are still in custody and are facing trial on charges including 'outrage against the constitution', 'inciting, organising or leading an armed rebellion' and 'attempted genocide',

H. recalling that post-election political detainees include Hailu Shawel, President of the Coalition for Unity and Democracy, Professor Mesfin Woldemariam, former Chair of the Ethiopian Human Rights Council, Dr Yacob Hailemariam, former UN Special Envoy and former prosecutor in the International Criminal Tribunal for Rwanda, Birtukan Mideksa, former judge, Dr Berhanu Nega, Mayor-elect of Addis Ababa, Netsanet Demissie, Director of the Organisation for Social Justice in Ethiopia, and Daniel Bekele, of ActionAid Ethiopia,

I. concerned at the recent arrest of Wassihun Melese and Anteneh Getnet, members of the Ethiopian Teachers' Association, and that these new arrests seem to be a response to Ethiopian Teachers' Association complaints about government interference in its activities and intimidation of its leaders,

J. whereas Prime Minister Meles Zenawi is one of the Commission's guests at the European Development Days, which are being held in Brussels from 13 to 17 November 2006,

K. whereas Ethiopia is a signatory to the ACP-EU Cotonou Agreement, Articles 9 and 96 of which stipulate that respect for human rights and fundamental freedoms is an essential element of ACP-EU cooperation,

1. Welcomes the EU's efforts to secure the release of

Yalemzewd Bekele and regrets deeply the expulsion from Ethiopia of Commission officials Björn Jonsson and Enrico Sborgi;

2. Calls on the Ethiopian Government to publish unamended and in its entirety, and without any further delay, the final report of the Commission of Inquiry; calls for the relevant courts to be supplied with the report, and urges them to take due account of it so that fair trials can be conducted;

3. Calls on the Ethiopian authorities to refrain from acts of intimidation and harassment against national leaders, including court judges and members of the Ethiopian Teachers' Association, carrying out their professional obligations;

4. Calls on the Ethiopian Government immediately and unconditionally to release all political prisoners, whether journalists, trade union activists, human rights defenders or ordinary citizens, and to fulfil its obligations with respect to human rights, democratic principles and the rule of law;

5. Calls on the Ethiopian Government to disclose the total number of persons detained throughout the country, to allow visits by the International Committee of the Red Cross, and to allow all detainees access to their families, legal counsel and any medical care that their health may require;

6. Calls on the Ethiopian Government to respect the Universal Declaration of Human Rights and the African Union Charter on Human and People's Rights, including the right of peaceful assembly, freedom of opinion, and an independent judicial system;

7. Deeply regrets the Commission's invitation to Prime Minister Meles Zenawi to address the European Development Days, especially on governance issues, a decision which sends out the wrong signal with regard to EU policy on respect for human rights, democratic principles, the rule of law and good governance;

8. Asks the Council and the Commission to monitor closely the situation in Ethiopia, and considers that development cooperation programmes under the Cotonou Agreement should be contingent on respect for human rights and good governance, as clearly set out in Articles 9 and 96;

9. Calls on the Council and the Commission to explore ways of organising an all-inclusive inter-Ethiopian dialogue with the participation of political parties, civil society organisations

**ETHIOPIA:**  
**The Situation of Human Rights Defenders From Bad to Worse**

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and all stakeholders in order to work out a lasting solution to the current political crisis;

10. Instructs its President to forward this resolution to the Council, the Commission, the Ethiopian Government, the Secretary-General of the United Nations and the Chairperson of the African Union.

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61. Ref. P6\_TA(2005)0383.  
62. See P6\_TA(2005)0305.  
63. Ref. P6\_TA(2005)0535.  
64. Texts adopted, P6\_TA(2005)0305.  
65. Texts adopted, P6\_TA(2005)0383.  
66. P6-TA(2006)0501.  
67. OJ C 157 E, 6.7.2006, p. 495.  
68. OJ C 233 E, 28.9.2006, p. 116.  
69. Texts Adopted , P6\_TA(2005)0535.

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## **ANNEX 6**

### **RESOLUTION OF THE AFRICAN COMMISSION FOR HUMAN AND PEOPLES' RIGHTS DECEMBER 2005**

The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session held in Banjul, The Gambia from 21 November to 5 December 2005;

Considering that the Democratic Federal Republic of Ethiopia is a State Party to the African Charter on Human and Peoples' Rights;

Recalling that freedom of opinion and expression as well as the right to assembly are fundamental rights enshrined in international instruments ratified by Ethiopia, and notably Articles 9 and 11 of the African Charter on Human and Peoples' Rights;

Recalling Article 7 of the Charter which ensures the right to a fair trial and the Guidelines and Principles on the Right to a Fair Trial and to Judicial Assistance in Africa developed by the African Commission on Human and Peoples' Rights;

Deeply concerned about the situation going on in Ethiopia since June 2005 and notably the arbitrary arrests and other serious human rights violations directed at suspected members and supporters of opposition groups, students and human rights defenders;

Recalling that on 8th June and 1st November 2005 security forces killed and injured demonstrators during a demonstration protesting the results of the parliamentary elections in Addis Ababa and other towns;

Concerned by the arbitrary detention of opposition leaders and journalists in Ethiopia;

Noting the creation by the government of Ethiopia of a National Parliamentary Commission to investigate the facts concerning the acts of violence in the country;

1. Deplores the killing of civilians during confrontations with security forces;

2. Requests that the Ethiopian authorities release arbitrarily detained political prisoners, human rights defenders and journalists;

3. Calls on the Ethiopian government to guarantee, for any accused individual, the right to a fair trial as provided by the African Charter on Human and Peoples' Rights and other relevant international human rights instruments, including the right to seek pardon or commutation of sentence;

4. Calls on the Ethiopian government to ensure the impartiality, independence and integrity of the National Parliamentary Commission investigating the recent acts of violence in the country and to bring the perpetrators of human rights violations to justice;

5. Urges the Ethiopian government to guarantee, at all times, freedom of opinion and expression as well as the right to hold peaceful demonstration and political assembly;

6. Requests that the Ethiopian government guarantees, in all circumstances, the physical and psychological integrity of human rights defenders in compliance with international instruments especially the Declaration of Human Rights Defenders adopted by the U.N. General Assembly in December 1998;

7. Calls on the Ethiopian government to comply with the international instruments ratified by Ethiopia, most notably the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).



# THE OBSERVATORY

For the Protection of Human Rights Defenders

## L'OBSERVATOIRE

pour la protection  
des défenseurs des droits de l'Homme

## EL OBSERVATORIO

para la Protección  
de los Defensores de los Derechos Humanos

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#### Activities of the Observatory

The Observatory is an action programme, based on the conviction that strengthened cooperation and solidarity among defenders and their organisations will contribute to break the isolation of the victims of violations. It is also based on the necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the priorities of the Observatory are:

a) a system of systematic alert on violations of rights and freedoms of human rights defenders, particularly when they require an urgent intervention;

b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;

c) personalised and direct assistance, including material support, with the aim of ensuring the security of the defenders victims of serious violations;

d) the preparation, publication and diffusion of a world-wide level of reports on violations of human rights and of individuals, or their organisations, that work for human rights around the world;

e) sustained lobby with different regional and international intergovernmental institutions, particularly the United Nations, the Organisation of American States, the African Union, the Council of Europe, the European Union, the Organisation for Security and Cooperation in Europe (OSCE), the International Organisation of the Francophonie, the Commonwealth and the International Labour Organisation (ILO).

The activities of the Observatory are based on the consultation and the cooperation with national, regional and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria for the examination and admissibility of cases that are communicated to it. It also targets action based interpretations of the definition of "Human Rights Defenders" applied by OMCT and FIDH.

The competence of the Observatory embraces the cases which correspond to the following "operational definition:" "Each person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments."

An FIDH and OMCT venture - Un programme de la FIDH et de l'OMCT - Un programa de la FIDH y de la OMCT



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