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Civil and Political Rights**

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

First periodic report of States parties

Ethiopia*

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* Annexes may be consulted in the files of the Secretariat.

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List of acronyms

ANRS	Amhara National Regional State
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPU	Child Protection Units
EHRC	Ethiopian Human Rights Commission
FDRE	Federal Democratic Republic of Ethiopia
HPR	House of Peoples' 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
NGO	Non-governmental organization
NISS	National Intelligence and Security Service
NPEW	National Policy on Ethiopian Women
SNNPRS	Southern Nations, Nationalities and Peoples Regional State
UNHCR	Office of the United Nations High Commissioner for Human Rights

Introduction

1. This report, prepared in accordance with Article 40 of the International Covenant on Civil and Political Rights (ICCPR), constitutes the initial and combined report of the Federal Democratic Republic of Ethiopia. It shows the different measures taken by Ethiopia to implement the political and civil rights provided in ICCPR. This report, which follows the harmonized guidelines on reporting to treaty bodies (HRI/GEN/2/Rev.4) and the ICCPR-specific guidelines included therein, should be considered with the Common Core Document submitted to the Secretary-General.
2. The Government developed and implemented a project in collaboration with the Ethiopian Human Rights Commission, with the technical assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR) East Africa Regional Office aimed at the submission of all Ethiopia's overdue reports under the international human rights instruments. The Government has successfully finalized the project and submitted a Common Core Document and all overdue treaty-specific reports, including this report.
3. Together with the Common Core Document, the Government believes this report would provide adequate information on the extent of the implementation of ICCPR in the country. The Government would like to express its satisfaction in submitting this report and its hope for constructive dialogue with the Human Rights Committee.

Article 1 Right to self-determination

4. The right of self-determination of Nations, Nationalities and Peoples is guaranteed under the FDRE Constitution. The exercise of this right is manifested in several ways. The following four ways deserve a special mention here.
5. First of all, the rights of Nations, Nationalities and Peoples to speak, write and develop their own languages as well as to express, to develop, promote and preserve their culture and history are guaranteed on a constitutional level. In fact, these rights are considered to be the inherent rights of Nations, Nationalities and Peoples of Ethiopia. Regardless of the administrative hierarchy of the territories inhabited by them, Nations, Nationalities and Peoples have a fundamental right to develop their respective cultures and preserve their history. If a Nation or Nationality believes that its identity is denied or promotion of its culture, language and history is not respected, it may submit its petition formally to the House of Federation for consideration and decision.
6. The House of Federation has recognized this form of self-determination in many of its decisions. HoF through various referenda determined the rights such as to have a distinct identity recognized and protected accordingly. For instance, a referendum had been conducted in the case of Siltie people living in the SNNPRS so as to determine their distinct identity as opposed to the other adjacent nations and nationalities.
7. The Siltie can now develop their own culture, language and history distinct from other ethnic groups. The decision of the House took into account the wishes and aspirations of the people to be identified in the way they have desired. Actually, it was a prime experiment in the exercise of the right to self-determination by a group in terms of cultural and linguistic peculiarities.
8. Another manifestation of the exercise of the right to self-determination is the right to a full measure of self-government which includes the right to establish institutions of

government in the territory which a given group inhabits. It has been proclaimed under the Constitution that the government shall promote and support the people's self-rule which is guided by democratic principles at all levels. Under this category, Nations, Nationalities and Peoples have the right to establish their own local governments such as the Zonal, *Woreda* and *Kebele* administrations. Hence, all regional states and their administrative subdivisions currently have their own governmental structures allowing them to administer their day-to-day affairs by themselves. The scope of such a right to self-administration extends to the formation of a regional state that would become a member of the Federation. The question of any Nation, Nationality and People to form its own state is carried out through the approval of a two-thirds majority vote of the members of the council of the Nation, Nationality and People concerned and by a majority vote in case of a referendum. Any party aggrieved by the decision of the council has the right to appeal the decision to the House of Federation.

9. The third manifestation of the exercise of self-determination is secession. This allows a Nation, Nationality or People to form its own sovereign state under international law. Given the unity in diversity and the brotherhood of the people and the protection of the fundamental individual group rights, the question of secession is not likely to arise. Yet, a Nation, Nationality and People may secede if the people opt for such an action. The Constitution and the House of Federation's Consolidation Proclamation have set out the procedure for secession to be carried out under the direction of the House of Federation. The principal requirements for a state to secede are two-thirds support by the legislative council of the Nation, Nationality and People concerned and a majority vote in a referendum.

10. The other aspect of the exercise of self-determination is the representation and participation of Nations, Nationalities and Peoples at all levels of government structure. By virtue of the Constitution, every Nation, Nationality or People has the right to be represented in both the state and federal governments. This representation embraces the right to participate in the legislative organs as well as executive and law enforcement bodies at federal and state levels. Hence, Nations, Nationalities and Peoples are represented in the two houses of the Federal Democratic Republic of Ethiopia. Members of the House of Peoples' Representatives, who shall not exceed 550, are directly and freely elected to represent the Ethiopian citizens as a whole, while the seats are allocated on the basis of the number of people belonging to Nations, Nationalities and Peoples.

11. Those minorities that do not meet the numerical requirement shall have special representation in the House. At least 20 seats are reserved for such Nationalities and Peoples. This is a special representation established by the Constitution from the very outset. Details of the criteria as to who shall fall within this category are to be set out by the decision of the House of Federation. On the other hand the House of Federation is composed of the representatives of all Nations, Nationalities and Peoples in the country. Currently, it has 120 members drawn from 74 Nations, Nationalities and Peoples across the country.

12. A fair representation of Nations, Nationalities and Peoples is also evident in other governmental institutions. In all law enforcement offices such as the police, prosecution and judiciary, efforts are being exerted to ensure the proportional representation of Nations, Nationalities and Peoples.

13. Although complete data are not available as to their disaggregation, the recruitment and composition of the police and national defense forces is reflective of such an equitable representation of this diversity as per the requirements of the law. In the judiciary as well, Nations and Nationalities are fairly represented. At the federal level, for instance, 39.2% of the judges are from Amhara, 15.5% from Oromia, 22.4% from Tigray and 22.9% from the remaining ethnic groups of the country.

14. From a practical standpoint, special measures are adopted in all government institutions to ensure the fair representation of all people of the country. The usual measure is to give priority at the time of recruitment or promotion to those candidates coming from a less-represented Nation or Nationality from among the candidates with equal results. The effort of the Federal Police Commission to accommodate the underrepresented Nations, Nationalities and Peoples is perhaps a good showcase in this regard.

Article 2

Implementation of the Covenant at national level

15. Information on the status of the publication of the Covenant in different languages is provided in the Common Core Document:

(a) Several measures have been taken by the state in order to familiarize citizens about their rights under the Covenant (reference is made to paragraphs 212–253 of Ethiopia’s Common Core Document);

(b) Several measures have been taken to familiarize government authorities on the Covenant (reference is made to paragraphs 212–253 of Ethiopia’s Common Core Document);

(c) The rights in the Covenant are provided for in the Constitution and other subordinate legislation. The incorporation of each right in domestic laws is elaborated under each Article in the subsequent sections of this report;

(d) Measures have been taken to provide remedies to give effect to the rights recognized under the Covenant (reference is made to paragraphs 173–188 of the Common Core Document).

16. There are several difficulties associated with the implementation of the Covenant at the national level. Some of them are:

(a) Lack of awareness of the rights enunciated in the Covenant by state officials such as members of the legislature, judges, and law-enforcement officers (reference is made to the Common Core Document);

(b) Lack of awareness on the part of the right-holders and inability to assert their rights (reference is made to the Common Core Document);

(c) As the ICCPR has not been published in the Federal *Negarit Gazette*, the official medium of publicity of law in Ethiopia, the authentic text of the instrument is not readily available and accessible, even to courts. Although some copies might be available in the libraries here and there to a limited extent, it should be admitted that most officials have no access to the Covenant. As a sign of positive development, though, it should be mentioned here that major human rights instruments, including the ICCPR, are translated in Afan-Oromo and Tigrigna (the languages most used in Ethiopia next to Amharic) by the EHRC and sent for publication. To this date, however, the Covenant is not widely available in the official languages of all the regional states (reference is made to paragraphs 233-235 of Ethiopia’s Common Core Document);

(d) There is also lack of training on the basics of the instruments governing international relations. Most of the judges, prosecutors, police and other law enforcement officials at lower levels rendering justice to the majority of the population are not acquainted with the basic principles of international law that could have enabled them to take into account human rights instruments to which Ethiopia is a party, while discharging their respective duties and responsibilities (reference is made to paragraph 233–235 of Ethiopia’s Common Core Document).

Article 3

Equal rights of men and women

17. Despite the multifaceted and significant role women play in the society, they have not been enjoying the fruits of their contributions in the past and lagged behind men due to political, economic, social and cultural bias. Women have quite often been considered inferior to men and were subjected to discrimination.

18. In order to combat this deep-rooted mentality and practice, the then-Transitional Government of Ethiopia adopted a National Policy on Ethiopian Women (NPEW) in 1993. The NPEW was the first-ever policy document of its kind in the history of the country clearly demonstrating the intention of the government to promote and protect the rights of women in the country (reference is made to paragraph 273 of Ethiopia's Common Core Document).

19. The FDRE Constitution provides for the right to equality of women in the enjoyment of the rights and protections enshrined therein. These definitely include civil and political rights as well. Hence, each and every governmental institution has the responsibility to enable the implementation of the provisions of the Constitution and thereby eradicate institutional discrimination against women. The Constitution further provides for the elimination of traditional practices harmful to women and explicitly abrogates laws, customs and practices that oppress or cause bodily or mental harm to women.

20. The positive achievement that should be highlighted in this respect is the inclusion of provisions on affirmative action in various laws. Taking cognizance of the historical legacies of inequality and discrimination suffered by women in Ethiopia, the FDRE Constitution stresses the need for affirmative measures to be employed with the view to rectifying the age-old imbalance. These measures are taken to render special attention to women so as to enable them to compete and participate on an equal basis in all sectors of public and private life (reference is made to paragraph 266–273 of Ethiopia's Common Core Document).

21. Besides the specific articulation of the constitutional provisions, the National Action Plan on Gender Equality, the Women's Development Package, and the Ethiopian Women Development and Change Program Implementation Plan are among the various policies and strategies that are directly focused on women and aimed at facilitating conditions favorable to speeding up equality between men and women in the enjoyment of their inherent rights. The government has also taken steps to improve the condition of women, including passing laws to protect their rights.

22. The constitutional provisions dealing with the rights of women have further been entrenched in the specific laws of the country. While enacting new laws, the legislature strives to uphold gender mainstreaming. Hence, an extensive revision of the existing laws is being undertaken and new ones are being issued in order to incorporate gender-sensitive ideals in the laws of the state.

23. The Government has taken strong measures in setting gender-responsive goals and targets with the view to reducing the workload of women so as to enable them to participate in political and socio-economic decision-making activities. The issue of women is also comprehensively addressed within the context of implementing the National Action Plan for Gender Equality. The position of the Government on this front is to continue emphasizing the consolidation of gender equality in the process of decentralization and empowerment.

24. Currently, there are a variety of institutional mechanisms devised by the state in order to enable women to enjoy their rights and freedoms guaranteed by the Constitution and other laws. The Federal Ministry, the Regional Bureaus as well as the Zonal and *Woreda* Offices of Women's Affairs are typical illustrations of these institutional arrangements. Mention should also be made of separate departments structured under each and every Ministry of the Federal Government as well as divisions of the Ombudsman and the Ethiopian Human Rights Commission to take care of the special concerns of women and children.

25. In spite of these efforts, it would be premature to claim that Ethiopian women have now been fully exercising their civil and political rights on a par with the expectations envisaged in the Covenant. Discrimination and inequality still exist, affecting the pace of their progress in almost every aspect of life. The Government is determined to accelerate change in every sector towards the full integration of women on equal terms with men.

Article 4

Non-derogation of rights

26. Both federal and regional governments are authorized to issue a state of emergency decree under exceptional circumstances within the strict constitutional limits as to time and space. At the federal level, the Constitution empowers the Council of Ministers to declare a state of emergency in the wake of an external invasion or a breakdown of law and order endangering constitutional governance to the point of not being controlled by the regular law enforcement, as well as in the event of looming epidemic and natural calamities. Likewise, regional states can declare the same in their respective jurisdictions in response to an outbreak of diseases and natural disasters. Understandably, the main purpose of such an extraordinary action is to maintain or to promptly restore public order or collective peace in those areas affected by an institutional instability or large-scale natural catastrophe.

27. The declaration of a state of emergency has strict formalities stipulated under the Constitution. The Council of Ministers, within the prescribed time-limit, has to submit the instrument declaring the state of emergency to the House of Peoples' Representatives (HPR) for possible approval. The submission has to be effected within 48 hours from the declaration of the state of emergency if HPR is in session; however, it shall not take more than 15 days when the legislature is not in session.

28. In order for the state of emergency decree to be effective, it needs the approval of a two-thirds majority vote of the HPR, if it survives an outright rejection upon presentation. Once it has been approved, the state of emergency decree can remain valid for up to six months subject to successive renewals every four months, if necessary.

29. It is the constitutional duty of the HPR to establish an inquiry board among its members together with legal experts simultaneously with the declaration of the state of emergency. The state of emergency inquiry board has, among others, the power and responsibility to make public the names of all individuals arrested on account of the emergency action along with the reasons for their arrest within one month, to inspect and follow up that no measure taken during the implementation of the state of emergency is inhumane, to propose corrective measures to the executive in case it has detected any scale of inhumane treatment and ensure the prosecution of perpetrators for their inhumane acts.

30. The Council of Ministers is vested with the necessary powers to protect peace and sovereignty and to maintain public security, law and order. In an effort to carry out its mandate effectively, the Constitution allows the Council to officially suspend the citizens' exercise of political and democratic rights as are contained therein to the extent necessary to avert the conditions that require the very declaration of the state of emergency.

31. Equally important to underscore here is that the Constitution, on the contrary, provides for a “non-derogation clause” in relation to the state of emergency decree. Thus, such fundamental rights as the right to equality, the right to self-determination, the right to develop and speak one’s own language, the right to promote culture and preserve history, as well as the right to be protected from inhumane treatment are specified as non-derogable rights in pursuance of the Constitution (reference is made to paragraphs 117-119 of Ethiopia’s Common Core Document).

32. Ever since the promulgation of the FDRE Constitution, no declaration of a state of emergency has been encountered, be it at the national or regional level.

Article 6

Right to life

33. The FDRE Constitution guarantees for everyone the inviolability and inalienability of the right to life. To that end, no person may be deprived of his life except in the case of punishment for a serious criminal offence determined by a court of law. It is true that the possibility of the deprivation of the right to life is still there so long as the death penalty is handed down and carried out in accordance with the law. What the Constitution explicitly and unequivocally prohibits is any arbitrary deprivation of the right to life.

34. In connection with this, the revised Criminal Code of 2005 allows the imposition of the death penalty, but only in case of grave crimes and exceptionally dangerous offenders, as a punishment for completed crimes and in the absence of extenuating circumstances. In all cases involving the death sentence, the execution of this extraordinary penalty normally requires final confirmation by the Head of State and prior ascertainment of its non-remission or non-commutation by pardon or amnesty.

35. It is not possible to impose the death sentence on an offender who has not attained 18 years of age at the time of the commission of the crime; nor can it be carried out on a fully or partially irresponsible or seriously ill person or a pregnant woman while the said convicts continue in that state. In case a woman is pregnant at the time of her conviction, or she gives birth to a live child in prison while awaiting the execution of a death sentence and such child has to be nursed by his mother, the penalty will be commuted to a rigorous imprisonment for life.

36. The treatment of those offenders awaiting confirmation or execution of the death sentence is similar to that of other prisoners serving terms of rigorous imprisonment, and if necessary, steps may be taken for the safety of the former. And such a convict may even be allowed to do some work inside his or her cell upon request.

37. Moreover, the criminal law provides for the manner and mechanisms of the execution of the death penalty. It prohibits the execution of the death penalty by hanging, body mutilation or any other inhumane means of ending someone’s life. The law rather requires for the execution of such a penalty to be conducted in a humane and acceptable way which will be determined by the executive body having authority over the federal or regional prisons’ administration. However, no regulation of that nature has ever been issued and put into effect so far.

38. As a rule, convicts receiving the death sentence have the opportunity to seek pardon or commutation. (Arts. 229 and 230 Criminal Code of 2005). A death sentence may be commuted or remitted to life imprisonment by way of pardon or amnesty in accordance with the Criminal Code and other laws.

39. The Federal Constitution permits the Head of State to commute a death sentence passed on offenders with the exceptions of those who have been found guilty of crimes

against humanity, genocide, summary execution, forced disappearances and torture. A Board of Pardon has been established by virtue of the Procedure of Pardon Proclamation No. 395/2004 in order to examine petitions for pardon. The Board, after having examined applications for pardon, has the power to submit to the President recommendations that the penalty be remitted conditionally or unconditionally, in whole or in part, or that it be lowered to a lesser one, either in length or gravity, or it be confirmed if found unpardonable.

40. Admittedly, the number of prisoners receiving the death penalty at the national level has increased from 68 in 2001/02 to 116 in 2006/07. Of these persons convicted of serious crimes, one has been pardoned and 34 death sentences have been commuted to life and rigorous imprisonment. Those remaining are either in the process of challenging the sentence at the appellate court or awaiting the decision of the Head of State on their petition for pardon.

41. While this general legal framework explains the extremely exceptional nature of the imposition of the death sentence in the country, the very limited and reluctant execution of the penalty so far clearly attests that capital punishment is already on the wane. During the last 15 years, only three death penalties have actually been carried out throughout the country. This is attributable to the strict and rigorous conditions associated with the imposition of the death penalty by the courts and the extreme reluctance of the Government to carry out the execution of such penalty.

42. The incidence of fatal and life-threatening crimes was 13.6 per 100,000 persons for the year 2001/02 and declined to 8.6 per 100,000 in the year 2003/04. Although it increased to 10.33 in the following year 2006/07, it was still less than what has been recorded in the year 2001/02 (reference is made to Table 61 in Ethiopia's Common Core Document).

43. It is true that the implementation of the right to life as enunciated under Article 6 of the ICCPR is equally enhanced by the positive actions of the state such as combating diseases and progressively raising the quality of life of the population. (Reference is made to Ethiopia's Common Core Document and ICESCR initial reports to facilitate understanding of the various measures which the Government has aggressively taken with the view to reducing child and maternal mortality rates and increasing life expectancy in line with the Millennium Development Goals.)

Article 7

Prohibition of torture

44. From a legal perspective, inhumane and degrading treatment, including torture, was banned decades ago. Both the substantive and procedural laws prohibit the practice in the strongest terms possible and penalize acts constituting torture.

45. Apart from proclaiming that international human rights instruments to which the country is a signatory are part and parcel of the law of the land, the FDRE Constitution unequivocally prohibits inhumane and degrading treatment or punishment under Article 18. A corollary of this general prohibition is the right to security of the person, which accords everyone due protection against bodily harm.

46. According to the constitutional provision, everyone has the right to protection against cruel, inhumane or degrading treatment or punishment. Although the Constitution does not explicitly use the term "torture" in its formulation, there could be no doubt that the practice is altogether banned within the extended meaning of the broad prohibition of "cruel or inhumane and degrading treatment or acts".

47. The fact that the right to be protected from torture and other forms of cruel, inhumane and degrading treatment or acts has consciously been added to the list of those rights and freedoms immune from suspension or limitation by the Council of Ministers when imposing a state of emergency decree. This clearly demonstrates the importance which the Constitution attaches to it. The Constitution also places torture on the list of crimes against humanity whose prosecution cannot be barred by a statute of limitation and whose penalties cannot be commuted either by pardon or amnesty by any state organ, including the legislature.

48. The Criminal Code, which has been revised and enacted in 2005, penalizes the act of any public servant charged with the arrest, custody, supervision, escort or interrogation of a person if he or she treats the victim concerned in an improper or brutal manner or in a manner incompatible with human dignity, especially through the use of cruelty by way of physical or mental torture. Such a criminal offense is punishable with up to rigorous imprisonment not exceeding 10 years, plus a fine in serious cases. The punishment is even heavier when it concerns public officials who may have ordered the act to be committed under the guise of their constitutional or statutory authority.

49. The Criminal Procedure Code enacted in 1961 also enumerates specific acts that a police officer or any person in authority is not allowed to commit during investigation. In order for any act of criminal investigation not to result in the violation of the rights of persons in custody, the Criminal Procedure Code emphatically bans the use of improper methods, including any kind of inducement or treatment in the course of interrogating suspects.

50. Ethiopia is a party to various international human rights instruments. One of which is CAT, which prohibits torture and other forms of cruel, inhumane and degrading treatment. Since this international instrument is now part of the law of the land, the definition of torture in the nation's domestic legal system inevitably shares the meanings attached to the notion by this instrument of comprehensive application.

51. The right of children to be free from corporal punishment or inhumane treatment at schools and other institutions responsible for their care and upbringing is guaranteed by the Constitution in specific provisions. The act of corporal punishment inflicted by a person on his child or pupil that was acceptable under the 1960 Civil Code is no longer tolerated after the enactment of the revised Criminal Code of 2005. In another development, the Civil Code allows a person to refuse to submit himself to a medical or surgical examination or scientific experimentation at any time, except where a public interest is involved.

Remedies for victims of torture

52. There exist several forms of remedies available for a person who may have become a victim of torture. A detainee can, for instance, lodge his/her complaint to the prison administration pertinent thereto, while in prison. Similarly, a person may bring his or her complaint to the attention of the court which he or she has appeared before, provided the alleged act constituting torture is claimed to have been perpetrated while in the custody of the police.

53. In some regional states like Oromia, the justice bureau of the state government has been providing considerable assistance to victims of torture by representing the complainants and bringing the perpetrators to justice. Obviously, the bureau's legal support in a court of law is rendered only to those victims who do not have adequate financial means to hire their own professional to represent and assist them before the court and get compensation from the perpetrator.

54. Moreover, there exists an organ called the Human Rights Protection Department under Oromia's Bureau of Administration and Security Affairs whose mandate is to

monitor detention to ensure that unlawful acts resulting in the violation of the human rights of persons under detention are not committed by means of arbitrary action.

Mechanisms for the protection of persons under detention

55. According to the Criminal Procedure Code, where an investigating police officer has a reason to believe that a person has committed a criminal offense, he or she may require such person to appear before him or her through a written summons. Once the suspect has appeared and his identity has been established, he will be asked to respond to the accusation or complaint made against him. In this course of action, it is prohibited to compel the suspect to answer, and he should be informed that he has the right to remain silent and that any statement he makes may be used as evidence against him in a court of law. Violation of human rights stipulated under the Constitution is one of the offences entailing rigorous disciplinary penalties against police officers under the Federal Police Administration Regulation. The penalties for grave disciplinary offences range from a fine of up to one month's salary of the accused officer to his or her total removal from duty. Where an investigating police officer is, for instance, found guilty of having committed acts of torture, physical assault or any other offence of a similar nature, it is more likely that he or she will be dismissed from public office. Such cases are, of course, subject to judicial review, upon request by the officer penalized or his representatives.

56. The police administration in each and every regional state has adopted its own disciplinary measures execution directive consistent with the above-mentioned federal regulation in order to curb such unlawful practices in the course of criminal investigation. The disciplinary committee established under the police administrations is capable of handling and examining the alleged violations under the directive and thereby take similar disciplinary measures within the limit of their respective jurisdictions.

57. The Establishment Proclamation of the Federal Prisons Commission equally declares the prohibition of inhumane acts or treatment against the human dignity of prisoners. Respect for human dignity and ensuring educative and rehabilitative execution of penalties are among the basic principles laid down in the recently enacted regulation on the treatment of federal prisoners.

58. As far as federal prisoners are concerned, the regulation issued by the Council of Ministers has made a separate accommodation of male and female prisoners mandatory. Similar provisions are also inserted in those regional laws regulating the administration of state prisons belonging to the regional states. Accordingly, male and female prisoners are confined separately in all prison cells. Moreover, the supervision of women prisoners is conducted only by female officers and wardens, and this is strictly in line with the regulation. In times when superior officials make visits to those prisons where female prisoners are confined, it is mandatory that they be accompanied by female wardens.

59. The regulation allows an infant not beyond 18 months and who needs close maternal care to stay with his/her mother who is serving a prison term. Undoubtedly, this puts the prison concerned under additional obligation to provide food, vaccinations, medical care and other essential services necessary for the maintenance and health care of the infant, as well. Where the stay of the child under this condition is likely to have an adverse physical or psychological impact on him, the Prison Administration is required to facilitate a voluntary guardian from outside the prison in the absence of close relatives.

60. The regulation also stipulates that a pregnant or female prisoner confined with her child be provided with additional food upon the recommendation of a medical officer. Accordingly, in those prisons where children are detained with their mothers, an extra meal including milk is provided for the child along with vaccinations and medical care in case of sickness. In situations where medical care is beyond the capacity of the clinical unit in the

prison compound, a referral mechanism to higher health care facilities outside the prison is put in place so as to extend the provision of the service.

61. According to the recent survey conducted by the EHRC, the number of prisoners in Ethiopia is currently 80,974, of whom 2,123 are females. The number of children living with their confined mothers in prison is 487.

Promotion of awareness

62. The Government is fully cognizant of the fact that lack of general awareness of human rights instruments on the part of the country's law enforcement officials and prison guards is largely responsible for hindering the move towards the complete elimination of isolated practices violating the rights of persons under detention and in prison. In view of this background, several human rights awareness promotion campaigns have been undertaken in different parts of the country. With the financial assistance of the Norwegian government, nationwide human rights training has been given to law enforcement officials at various levels with the view to enhancing their competence to better discharge their duties and responsibilities by respecting and protecting human rights and associated norms as enshrined in the FDRE Constitution and international human rights instruments to which Ethiopia is a party.

63. To date, a 10-day training program has been conducted in all regions of the country in several rounds. So far 4,300 law enforcement officers have received such training and a few more rounds still remain to be carried out. A training manual was prepared for the purpose of covering such important topics as the basic features and the development of human rights, their relationships with the domestic legal system, their implementation at the pre-trial stage and during trial, along with the special rights of women and children. In addition to the training manual, all the participants were provided with the reference material necessary for the proper enforcement of the human rights norms and values.

64. A comprehensive impact assessment of the project referred to above has not been carried out yet. However, the feedback collected from the trainees themselves at the completion of the training session, the testimonial statements of their supervisors and the early joint review meeting held by the Ethiopian and Norwegian government representatives roughly indicates that the project has been a success. The prevailing change in attitude amongst law enforcement officers shows that the ongoing endeavor has started to bear fruit due to successive awareness- promotion campaigns.

65. Currently, preparations are underway on the part of the federal government to take over the project by establishing a human rights institute under the Ministry of Justice with the objective of enhancing the overall capacity of the law enforcement officials in the field of human rights and constitutionalism.

66. Most of the regional states undertake human rights awareness promotion activities by themselves. An interesting account of such training is the training given in the Amhara National Regional State (ANRS) in the year 2008 to the prison administrative authorities and members of the militia on the treatment of persons under custody. Similar awareness-promotion works undertaken by the non-governmental organization called Center for the Rehabilitation of Victims of Torture in Ethiopia in different regional states is also another effort being exerted towards the attainment of the desired level of awareness by NGOs and civil society (reference is made to paragraph 238 of Ethiopia's Common Core Document).

Article 8

Prohibition of forced labour

67. According to the FDRE Constitution, “No one shall be held in slavery or servitude.” The revised Criminal Code of 2005 imposes rigorous imprisonment from 5 to 20 years and a fine on “whoever forcibly enslaves another, sells, alienates, pledges or buys him, or trades or traffics in or exploits him in any manner, or keeps or maintains another in a condition of slavery, even in a disguised form.” Where the crime is committed against women and children, the minimum punishment shall be rigorous imprisonment of not less than 10 years.

68. The Constitution also prohibits “trafficking in human beings for whatever purpose.” Similarly, the Criminal Code outlaws “trafficking in women and children.” Accordingly, “whoever by violence, threat, deceit, fraud, kidnapping or by the giving of money or other advantages to the person having control over a woman or a child, recruits, receives, hides, transports, exports or imports a woman or a minor for the purpose of forced labour, is punishable with rigorous imprisonment from five to twenty years, and a fine not exceeding fifty thousand Birr.”

69. In order to prevent trafficking in human beings both inside and outside of the country, several measures have been taken. The issuance of Private Employment Agency Proclamation No. 104/1998 regulating the involvement of private individuals and institutions in the employment of Ethiopians both locally and abroad may be seen as an important measure in the right direction. This measure essentially aims at protecting the rights, safety and dignity of Ethiopians sent and employed abroad.

70. Although Ethiopians are free to travel and work wherever they wish, their fundamental human rights have to be protected in the course of their mobility and working conditions. Accordingly, the government has been able to ensure the legality of employment agencies and the transparency of their activities along with the continued protection of those employees working abroad and the provision of the necessary guarantees for the observance of their rights as expatriate workers.

71. Recently, trafficking in women has become a critical issue in the country. In order to alleviate this problem, a national committee, whose purpose is to combat the illegal movement of persons, has been launched under the chair of the Federal Ministry of Justice.

72. The Constitution further prohibits the performance of forced or compulsory labour in an emphatic manner. The only exceptions or exclusions to this general prohibition of forced or compulsory labour are almost identical with the formulations contained in the Covenant.

73. The Criminal Code considers compulsory labour as one method of punishment for a crime punishable with simple imprisonment of not more than six months. This kind of labour penalty has to be ordered by a court of law in a manner not affecting the personal liberty and human dignity of the person concerned, and can only be imposed on healthy convicts.

74. Regrettably, no statistical data are available to show the extent of the practice and the number of perpetrators punished by forced or compulsory labour. In fact, the incidence of children from rural villages being imported to towns and compelled to work in exploitative and unsafe conditions, with or without the prior permission of their parents, is low. In most cases, parents have no idea about the future consequences of such actions which, we are convinced, require critical intervention at all levels.

Article 9

Right to liberty and security of persons

75. The right to liberty and security of persons is one of the inalienable and inviolable fundamental rights guaranteed by the FDRE Constitution. The Constitution guarantees the right to liberty, stating that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as is established by law. No person may be subjected to arbitrary arrest and be detained without charge or conviction. The Civil Code restates this right under the section that enumerates the rights of personality, prohibiting the restriction of freedom of a person except in a case provided by the law, and states that violation of this right will result in a civil liability.

76. A person may only be arrested with an arrest warrant issued by a court of law, except in the case of flagrant offences and other specified exceptions set in the Criminal Procedure Code. The Constitution guarantees arrested persons the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charges against them. The Constitution also sets out that an arrested person has a right to be given a prompt and specific explanation of the reasons for his arrest when brought before a court of law. There is not much practical problem observed in connection with the implementation of these rights.

77. Both the Constitution and the Criminal Procedure Code require arrested persons to be brought before courts of law within 48 hours. As a result, persons suspected of a crime and detained persons are brought before the courts immediately and are tried and/or released on bail. Especially with the recent introduction of “Real Time Dispatch” in the justice administration (the system by which the police, prosecutors and courts work together to immediately dispose of flagrant criminal cases within a day or so), most petty offences and flagrant cases are tried and decided within a day or two. This is practiced in Addis Ababa and in other major towns of the country. There are a few instances in which bail is not allowed under the law and where arrested persons may remain in custody during the trial (reference is made to paragraph 85 of Ethiopia’s Common Core Document).

The right to be released on bail and remand

78. The right to be released on bail is guaranteed under the Constitution except under a few circumstances prescribed by law. Release on bail may not be granted in cases where the offence with which the suspect is charged carries the death penalty or rigorous imprisonment for 15 years or more and if the person against whom the offence has been committed dies. Release on bail will not be granted to a person charged with corruption offences punishable with more than 10 years of imprisonment. The court may also reject an application for release on bail on the following grounds:

- Where the applicant is of such nature that it is unlikely that he will comply with the conditions laid down in the bail bond
- Where the applicant, if released on bail, is likely to commit other offences
- Where the applicant is likely to interfere with witnesses or will tamper with evidence

79. The Criminal Procedure Code provides that a suspect who has not been brought to a court of law may be released on bail bond by the investigating police officer. Accordingly, an investigating police officer may at his discretion release an arrested person where the latter executes a bond with or without sureties guarantying his appearance at such place and time as may be fixed by the police.

80. Where the interest of justice so requires, the court may, upon request by the investigating police, order the remand of an arrested person for the time strictly required to

carry out necessary investigations. In determining the additional time necessary for investigation, the courts are required by the Constitution to ensure that the responsible law enforcement authorities carry out the investigation in a manner respecting the right of the arrested person to speedy trial. The Criminal Procedure Code limits the duration of a remand period to 14 days. However, the number of times which remand may be granted is not limited. This gap may open the door for violation and abuse of the suspect's rights. As a result, courts examine requests for remand judiciously with a view to ensuring that the possibility to request an unlimited number of remands would not violate the rights of the person in custody. To correct this, a draft Criminal Procedure Law is being prepared by the Ethiopian Justice System Reform Institute and is expected to be enacted soon.

Arbitrary detention and remedies available

81. Unlawful detention or arrest is a crime under the Criminal Code. Hence, any public servant who, contrary to the law or in disregard of the forms and safeguards prescribed by law, arrests, detains or otherwise deprives another of his freedom, is subject to punishment. The Constitution guarantees the inalienable right of all persons to petition the court to order their physical release where the arresting police officer fails to bring them before a court within the prescribed time and to provide reasons for their arrest. Accordingly, persons arrested can file for habeas corpus and be released where they have been arrested arbitrarily. In addition, the Civil Code states that a person commits an offence where, without due legal authority, he interferes with the liberty of another person. Thus, any person whose right to liberty has been infringed unlawfully can file a suit to the court to get civil remedies.

Article 10

Humane treatment of persons deprived of their liberty

82. The right of all persons held in custody, and persons imprisoned, upon conviction and sentencing, to be treated with respect to their human dignity is constitutionally guaranteed. The government has also taken several legislative and other measures to avoid cruel, inhuman and degrading treatment of persons deprived of their liberty.

83. This right has been further embodied in the rules and directives adopted by police commissions and prison administrations regarding the care and treatment of persons under their custody. The preamble to the Establishment Proclamation of Federal Prison Administration clearly sets the objective of the institution as being to undertake the functions of the custody, reformation and rehabilitation of prisoners. The right of prisoners to be treated in conditions that respect their human dignity is among the fundamental principles stated in the Proclamation. This principle has been further elaborated in other legal documents regulating prison administration such as The Council of Ministers Regulation on Federal Prison Warden's Administration and the Council of Ministers Regulation on the Treatment of Federal Prisoners. Every prison in the country has adopted its own directives on the handling of prisoners in a manner that respects their human dignity.

84. The police administration, as an independent organ, has adopted rules and directives to protect the constitutional rights of persons under police custody. According to the terms of reference of an investigating police officer provided by the police administration, an investigating police officer has an obligation to respect, in the course of interrogation, the human and democratic rights of the suspect. Similar obligations are set out in the terms of reference provided to all law enforcement officials who work in connection with the custody of detainees, including operation workers and guards in police station. Mechanisms by which every member of the police will undergo frequent appraisals are set up in police

stations. This mechanism will enable to ensure that members of the police carry out their duties in line with the terms of reference.

Complaint mechanism

85. Complaint-lodging mechanisms for arrested persons in the event of the violation of their rights during their custody are set up in detention centers. Accordingly, prisoners can lodge a complaint to the detention center or police station. Where the remedy does not satisfy the prisoner, he/she can submit the complaint to the higher authorities of the Police Commission. Prisoners may also submit their complaints to the authorities when the latter conduct their regular prison visits every week.

86. Prisoners detained under the Prison Administration may submit their complaints to the Administration through the committees established for such purposes. Prisoners can also submit their complaint while prison visits are conducted by institutions such as the Ethiopian Human Rights Commission, the International Committee of the Red Cross and higher officials of the prison administration. In some prisons, for example in Afar Regional State prison, prisoners can submit complaints directly to the Commissioner by filling out the readily available complaint-lodging form.

Extent of implementation of relevant human right standards

87. The government has taken several measures in order to implement relevant human rights standards applicable with regard to the treatment of prisoners. The regulation enacted by the Council of Ministers on the treatment of federal prisoners is an instance of such legislative measures taken by the government. The regulation contains rules that comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners. In practice, implementing all the minimum standards in prisons has proven to be difficult due to many constraints, mostly related to limited resources and the high number of prisoners.

88. Most prisons have recreational places and libraries, albeit unsatisfactory one. The right to exercise one's religion in the prison compound is respected and inmates are free to manifest their religion or meet with religious leaders. Prisoners get food three times a day. The items of food and nutritional quality vary from one prison to another. The budget allocated for food also varies. While the highest is 6.00 Ethiopian Birr per day, in the prison of Afar Regional State, the lowest is 3.50 Ethiopian Birr per day in Oromia and Benshangul Gumez Regional States. Most prisons are revising their budget to accommodate the rampant inflation prevalent in the country.

89. Water and sanitary services are made available in detention centers, including prisons, as far as possible. Most prisons provide these services to the required standard; however, some prisons provide poor sanitary services. Tap water is not available in some prisons and prisoners use rivers. Some prisons also lack latrine services. Health facilities, medical professionals and medicines are available in the prison compounds in the country though the service they provide is poor due to shortage of logistics. The health centers may refer inmate patients to health centers outside of the prison where their case so requires.

90. Recently, the Ethiopian Human Rights Commission carried out a visit to 35 sample prisons, out of 120 found in the country, to assess the situation of the protection of the rights of persons under detention in light of the standards set by international human right instruments ratified by the country and the Standard Minimum Rules for the Treatment of Prisoners. The Commission in its report stated that though most of the prisons are unable to provide services that meet the standard requirements set out in the Standard Minimum Rules for the Treatment of Prisoners, every prison in the country has generally shown progress in affording prisoners treatment that respects their human dignity and by giving prompt solutions to their complaints. The report also stated that problems still exist in

connection with overcrowding and sanitation, and in some prisons complaints were made about the occurrence of violation of human rights (refer to Table 1 in the annex of complaints received by the Commission).

Method of monitoring the effective application of rules

91. Prison authorities employ various mechanisms to monitor the effective application of rules regarding the treatment of persons under custody. In most detention centers the performance of law enforcement officials is frequently assessed by their superiors. Discipline committees review and render final decisions where violation of the human rights of prisoners by a law enforcement official occurs. A similar mechanism is employed in prison administrations. Moreover, higher officials of the country conduct frequent visits, in addition to national and international organizations.

Disciplinary system during detention

92. The Council of Ministers Regulation on the Treatment of Federal Prisoners enumerates offences that might be committed by inmates and the disciplinary penalties each offence entails. Depending on the gravity of the offence the following disciplinary measures might be imposed on a prisoner for breach of discipline:

- Oral warning in private or in the presence of other prisoners
- Prohibition, for not more than one month, on being visited, sending and receiving letters, use of libraries and participating in recreational activities
- Solitary confinement ranging from eight days to two months
- Solitary confinement for not less than two months and for not more than four months
- Deduction of one third of the prisoners' wage for not more than six months and transferring it to the account of the prison

93. Most prisons have committees established to serve the interest of inmates. Disciplinary offences are most of the time reviewed by these committees and the decision will be passed on to the prison administration for approval to ascertain that the committee's decision does not violate the regulation of the prison. In most prisons, members of the committee are elected by the prisoners themselves. In some prisons the prison administration selects the committee members.

Separate accommodation of prisoners

94. The Council of Ministers Regulation on the Treatment of Federal Prisoners provides for separate accommodation to be provided for persons detained upon judicial remand and for convicted prisoners, to the extent circumstances allow. Most of the prisons in the country are old, though there are initiatives by the federal and some regional governments to build new prisons. Most of the prisons have only little open space, and are in need of repair and renovation. Overcrowding is prevalent and convicted and accused persons detained upon judicial remand share accommodation due to resource constraints on building more accommodation. In some prisons effort is made to provide separate accommodation to prisoners who have mental illnesses. According to the prison survey conducted by the Ethiopian Human Rights Commission, most of the prisons are unable to provide separate accommodation due to the high number of prisoners. The Commission pointed out valuable recommendations that could facilitate the improvement of prison conditions.

The penitentiary system

95. Since 1991, efforts have been made to change the penitentiary system from a punitive and retributive one to the one that is rehabilitative and reformative. Though a lot has been achieved, a lot still remains to be done to meet the standards set out in the Constitution, international human right instruments ratified by the country and international minimum standards for the treatment of prisoners. It goes without saying that solving all the deep-rooted problems that have persisted for a long time is an arduous task that requires considerable time and resources.

96. The following are the main principles upon which the prison administration system is based:

- Executing the decisions of courts impartially
- Providing rehabilitative and reformative services to prisoners so as to enable them make attitudinal and behavioral changes, and become law-abiding, peaceful and productive citizens
- Improving the capacity and competency of the institution
- Developing a positive attitude among the public towards the service given by the institution

97. These principles are reflected and enshrined in different documents regulating the penitentiary system. The establishing Proclamation of the Federal Prison Administration states that the objective of the administration is admitting and guarding prisoners, and providing them with reformative and rehabilitative services in order to enable them make attitudinal and behavioral changes, and become law-abiding, peaceful and productive citizens.

98. Moreover, the Regulation of the Council of Ministers on the Treatment of Federal Prisoners affirms this principle by stating that the treatment of prisoners is based on the basic principle of ensuring that the execution of penalties is educative and rehabilitative. To achieve this objective, the regulation provides for different mechanisms such as provision of educational services and working programs for prisoners. Some prisons even provide money and clothes to their former prisoners, where they do not have any means of subsistence, upon their release.

Education training and work programmes

99. The Council of Ministers Regulation on the Treatment of Prisoners imposes an obligation on prison administrations to provide prisoners with the opportunity to attend academic education and different kinds of vocational training. The regulation requires priority to be given to illiterate prisoners. The education and training program given is expected to be in accordance with the curriculum approved by the competent body. Certificates of qualification will be issued to prisoners who attend classes and pass examinations acknowledged by the competent body of the country.

100. In practice most prisons in the country provide two kinds of educational programs. Academic educational programs are provided in prisons as per the national education curriculum starting from grade 1 up to grade 10. In some prisons academic education is not given; instead, non-formal education is given to prisoners. In those prisons where academic education is not given, the prison administrations offer basic education. In addition to the educational services provided within the prison compound, some prisons create an opportunity for their prisoners to pursue distance education.

101. Vocational training is given to prisoners in order to enable them to acquire some skills. Woodwork, metalwork, sewing, knitting, cooking and catering, and computer

utilization are among the many sectors in which prisoners are given vocational training. Though the regulation demands special attention to be given to female prisoners with regard to educational opportunities, in most prisons women prisoners rarely take advantage of academic education. Even in the non-formal sector, the vocational training given to female inmates is limited to sewing and knitting.

Juvenile offenders

102. The Constitution states that juvenile offenders admitted to corrective or rehabilitative institutions should be kept separate from adults. Child Protection Units (CPUs) have been established in most police stations at the federal and regional levels. CPUs have been incorporated into police structures and are operational in several towns. Yet they have to be set up in all major urban centers. Community-based centers have been established as subcomponents of the child protection program to serve as an alternative to the protection of petty and first-time offenders reported to the CPU. Juveniles convicted of petty offences are protected from detention with adults at police stations and with adult suspects in remand homes. Juveniles are transferred to community-based correction centers, which focus on educational support to motivate juveniles in their schooling and prevent them from becoming involved in delinquent activities and truancy.

103. The community-based correction centers provide reading materials, apprenticeship and skills-training programs and recreational, as well as guidance and counseling services. The juvenile can be rehabilitated without interruption of schooling and while staying with his family. A Juvenile Delinquents Rehabilitation Institute has also been constructed to house suspected female offenders.

104. The laws governing prison administrations provide for separate accommodation based on age, to the extent that circumstances allow. However, the situation in most prisons does not comply with the requirements of these laws due to lack of resources. Most prisons do not have separate accommodation for juvenile offenders except a few such as the Addis Ababa, Showa Robit, Ziway and Jimma prisons. However, efforts are underway to rectify the problem.

105. One of the measures taken by the Government to expedite the process of justice was to establish special benches to adjudicate matters related to sections of the population that seek special attention. These benches have been established based on communities' needs and hear matters connected with juvenile delinquents, rape and flagrant offences (the system is called "real time dispatch"). The bench is assisted by various professionals such as psychologists and social workers. Juvenile delinquency cases are decided in less than two weeks' time. In making decisions the professional opinions of social workers and psychologists will be taken into consideration.

Article 11

Prohibition of imprisonment merely for inability to fulfill a contractual obligation

106. Ethiopian law does not allow civil arrest or imprisonment merely on the ground of inability to perform a contractual obligation. However an intentional breach of a contractual obligation against the Defense Forces and their auxiliary services is punishable with imprisonment. The punishment will be a fine if the offence is committed by a juridical person.

Articles 12 and 13

Right to freedom of movement and residence

107. Freedom of movement and the right to choose one's residence is guaranteed under the Constitution and subsidiary legislation. Special laws such as refugee law and immigration law have been enacted for the full enjoyment and implementation of this right.

108. The Constitution stipulates that any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the freedom of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to. This is a clear departure from previous laws which demanded that Ethiopians provide an exit visa from the government when leaving the country. Any Ethiopian national has the constitutional right to return to his country. A person may only be prevented from leaving the country by an explicit court order given in accordance with the law.

109. The Civil Code also provides that every person is free to establish his residence wherever it is suitable for him and to change the place of such residence.

110. The Criminal Code provides that whoever, not being authorized by law so to do, prevents another from moving freely within the territory of Ethiopia shall be punished with simple imprisonment or a fine. A person commits a fault where, without due legal authority, he interferes with the liberty of another person, even for a short time, and prevents him from moving about as he is entitled to. In such a case, a fault shall be deemed to have been committed notwithstanding that no injury is done to the plaintiff. It shall be sufficient for the plaintiff to have been compelled to behave in a certain manner by the threat of a danger of which he could not be aware.

111. The Revised Family Law stipulates that spouses should jointly decide their common residence. The law empowers women to decide on the common residence with their spouse. The spouses may agree to live separately for a definite or indefinite period of time.

112. With regard to minors, the law states that the guardian shall fix the place where the minor is to reside. The minor may not abandon such place without the authorization of the guardian, but if he does so, the guardian may compel him to return.

113. Under immigration law, foreign nationals are required to possess a valid travel document, properly issued visa or permanent resident permit, internationally valid health certificate as may be necessary (depending on the country of origin) and other documents specified by the Ministry of Foreign Affairs to enter the country. Foreign nationals of Ethiopian origin who have secured the Ethiopian Origin Identity Card do not need an entry visa or/and residence permit to enter into or/and live in Ethiopia.

114. Foreigners residing in Ethiopia shall be registered by the National Intelligence and Security Service with the exception of diplomats and international civil servants and members of their families residing in Ethiopia and foreigners who are recognized as refugees by the Government of Ethiopia and the UNHCR. A foreigner who is registered with the Immigration and Nationality Main Department will be issued with a temporary or permanent residence permit.

115. A permanent residence permit is issued for a foreigner who enters into the country with an immigrant visa, has a domicile in Ethiopia and lived in Ethiopia for at least three years preceding the submission of his application, is married to an Ethiopian national, is engaged in investment or humanitarian activities in Ethiopia or has made or is expected to make outstanding contributions in the interest of Ethiopia. A temporary residence permit is valid for one year and is issued for a person registered with the Immigration and Nationality Main Department and who is not entitled to a permanent resident permit.

116. Refugees do not need an entry visa or residence permit to enter and live in the country. Upon recognition of their refugee status, an identification card showing their refugee status is issued to them; pending their application they are issued with an identity card attesting their asylum-seeker status. They also do not need to possess valid travel documents and an international health certificate to enter the country. A valid travel document is issued to them for the purpose of traveling outside of Ethiopia; and it may be issued for exit only or for re-entry.

117. A refugee who is a lawful resident in Ethiopia shall not be expelled except on the ground of national security and public order. The execution of any expulsion order may, if the concerned refugee requests, be delayed for a reasonable period to enable such refugee to seek admission to a country other than the country to which he is to be expelled. An order to expel can only be done by the head of the NISS and the concerned refugee is also allowed to present his/her case.

118. Under the Ethiopian legal system no person shall be refused entry to, expelled or returned from Ethiopia where, as a result of this act the person may be subject to prosecution or torture or on account of his race, religion, nationality, membership of a particular social group or political opinion, his life, physical integrity or liberty would be threatened.

119. Expulsion or deportation of foreigners is conducted in accordance with the law and in exceptional circumstances. The grounds for deportation are: where the foreigner does not have visible means of support, or is likely to become a public burden, or is found to be a notorious criminal, or has been declared to be a drug addict, or has been suspected of suffering from a dangerous contagious disease, or has been a threat to the security of the state, or has furnished fraudulent information, or has violated the provisions of the immigration proclamation and regulations. Decisions of deportation are subject to appeal. A mass expulsion of non-nationals is prohibited.

Article 14

Equality before courts and tribunals

120. The right to equal treatment before the courts and other organs administering justice is a constitutionally recognized right in Ethiopia. The Constitution provides, “Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by a court of law or any other competent body with judicial power”. The Constitution guarantees the right of any association representing the collective or individual interest of its members, or any group or person who is a member of or represents a group with similar interests, to bring a justiciable matter to and to obtain a decision or judgment by a court of law or any other competent body with judicial power. It accordingly guarantees equality to everyone not only before courts but also before organs with judicial power.

121. Similarly, under the Civil Procedure Code, which regulates the procedures of administration of justice in civil matters brought before ordinary courts and other tribunals, any person can bring a civil action as long as she or he has a vested interest in the subject-matter. Furthermore, the Civil Procedure Code provides that those who do not have sufficient means to bring a court action may do so without payment of court fees as paupers. This is intended to ensure that costs of legal proceedings do not undermine access to court.

122. In criminal matters, the provisions of the Criminal Procedure Code, which provides rules for the administration of criminal justice, apply to all persons. No discrimination on the basis of race, nationality or gender is allowed. The Ministry of Justice renders legal aid to persons who are victims of violations of human rights with a view to promoting access to

justice. The Ministry has also the power to initiate civil proceedings on behalf of persons that are not capable of presenting their cases before the court.

123. The Constitution preserves customary practices which are consistent with the Constitution and which are instrumental in the resolution of disputes. By so doing the Ethiopian Constitution ensures that customary practices which are not in conformity with human rights standards do not infringe upon the right of access to justice. Hence, the legal system guarantees the right of access to courts and tribunals and equality before them to all individuals.

Fair and public hearing by a competent, independent and impartial tribunal

124. The Constitution stipulates that 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. The Federal Court Establishment Proclamation reiterates that all cases shall be heard in open court and cases may only be heard in camera in the interest of public and state safety and security or public morality and decency.

125. An independent judiciary is established by the Constitution. The Constitution provides that courts of any level shall be free from any interference or influence of any governmental body, government official or from any other source. The Constitution stipulates that judges shall exercise their functions in full independence and shall be directed solely by the law.

126. No judge shall be removed from his duties before he reaches the retirement age of 60 except under the following conditions:

- When the Judicial Administration Council decides to remove him for violation of disciplinary rules or on grounds of gross incompetence or inefficiency, or
- When the Judicial Administration Council decides that a judge can no longer carry out his responsibilities on account of illness, and
- When the House of Peoples' Representatives or the concerned state council approves by a majority vote the decisions of the Judicial Administration Council. The retirement age of judges may not be extended beyond the age determined by law. The tenure of any federal judge may be terminated upon resignation, subject to a two-month prior notice

127. The Federal Supreme Court draws up the budget of the federal courts and submits it to the House of Peoples' Representatives for approval and, administers it upon approval. Budgets of state courts are to be determined by the respective state council.

128. The President and Vice-President of the Federal Supreme Court, upon recommendation by the Prime Minister, are appointed by the House of People's Representatives. Regarding other federal judges, candidates are selected by the Federal Judicial Administration Council and the Prime Minister submits them to the House of Peoples' Representatives for appointment. With regard to judges of regional states, the state council, upon recommendation by the chief executive of the state, appoints the president and vice-president of the state supreme court. State supreme court and state high court judges are appointed by the state council upon recommendation by the state judicial administration council. The state judicial administration council, before submitting nominations to the state council, has the responsibility to solicit and obtain the views of the Federal Judicial Administration Council on the nominees and to forward those views along with its recommendations. If the Federal Judicial Administration Council does not submit its views within three months, the state council may grant the appointments.

129. Any Ethiopian who is loyal to the Constitution; has legal training or acquired adequate legal skill through experience; has a good reputation for his diligence, sense of justice and good conduct; consents to assume judgeship; and is not under 25 years of age may be appointed as a federal judge. No person may simultaneously assume judgeship while serving in the legislative or executive branches of government or while a member of any political organization.

130. No judge of a federal court shall hear any case where: he is related to one of the parties or the advocate thereof by consanguinity or by affinity; the dispute relates to a case in which one of the parties is a person for whom he acted as tutor, legal representative or advocate; he has previously acted in some capacity in connection with the case or the subject-matter of the dispute; he has a case pending in court with one of the parties or the advocate thereof; there are sufficient reasons to conclude that injustice may be done. The judge concerned shall withdraw as soon as he is aware that he should not sit and shall be replaced by another judge. Where a party to a case is of the opinion that a judge should not sit for one of the reasons specified above, he shall submit a written application to the court requesting the removal of the judge. This procedure helps to ensure the impartiality of judges.

Presumption of innocence

131. During proceedings, accused persons have the constitutional right to be presumed innocent until proven guilty. When a case is presented to the court and the court finds that no case against the accused has been made and if not refuted, would not warrant his conviction, it will order an acquittal. The police authorities, the judicial authorities and other public authorities are forbidden to express their opinions publicly concerning the guilt of the accused before the court reaches a decision. To avoid prejudice against the accused and ensure presumption of innocence, the accused person's previous convictions shall not be disclosed to the court until after he has been convicted, unless otherwise expressly provided by law.

Rights of persons charged with a criminal offence

132. The minimum guarantees for an accused person in the criminal justice system are ensured in the Constitution and in the Criminal Procedure Code. The rights of persons charged with a criminal offence are replicated verbatim in the Constitution from ICCPR. Accordingly, accused persons have the constitutional right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing. The charge shall be read out to the accused by the presiding judge who shall then ask the accused if he has any objection to the charge. 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. This guarantees the right not to be compelled to testify against oneself. The Constitution provides that any evidence obtained under coercion shall not be admissible.

133. Accused persons have the constitutional right to be represented by legal counsel of their choice, and to be provided with legal representation at the state's expense, if they do not have sufficient means to pay for legal counsel and miscarriage of justice would result because of that. In practice, the state provides counsel for accused persons with no sufficient means to pay where the crime they are accused of may entail 15 years' imprisonment or more. For those accused persons not represented by a counsel, courts are vigilant to ensure that the accused are well informed of the charges, and that their rights to cross-examine witnesses, to dispute the evidence brought before them, and to present arguments in their defense are respected.

134. The Office of Public Defenders, which was established under the auspices of the Federal Supreme Court, renders free legal assistance and legal counsel to accused persons charged before federal courts. The Office rendered free legal aid for 23,835 indigent accused persons charged with heinous crimes such as genocide, crimes against life, the person and health, and juvenile delinquents, in the period between 1995 and 2007. Within the last five years, the Office delivered free legal service for 6,485 accused persons charged with crimes carrying capital punishment.

135. All accused persons have a constitutional right to request the assistance of an interpreter at the states' expense where the court proceedings are conducted in a language they do not understand. To implement this constitutional guarantee, courts provide interpreters to those accused who do not understand their working language. At federal level, for instance, the working language is Amharic and courts are obliged to provide interpreters for those who do not understand Amharic. Likewise in all regional states and in several zones and *Woredas* where the official language is a local language, interpretation services are provided to those who do not speak the language used in those localities. Interpreters are appointed either on a permanent or ad hoc basis due to resource limitation.

136. The accused shall appear in person, together with his advocate, if any, to be informed of the charge and to defend the charges brought against him. The accused shall be adequately guarded and shall not be chained unless there are good reasons to believe that he is dangerous or may become violent or may try to escape. Proceedings shall not be instituted where there is no possibility of finding the accused and the case is one which may not be tried in his absence. Where the accused fails, without good cause, to appear on the day fixed for the hearing, the court shall record his absence and may direct that he be tried in absentia.

137. No accused person may be tried in his absence unless he is charged with an offence punishable with rigorous imprisonment or for not less than 12 years or an offence under Art. 346-354 of the Criminal Code which is punishable with rigorous imprisonment or a fine exceeding 5,000 Birr. Where the court decides to hear the case in the absence of the accused, it shall order the publication of the summons, which shows the date fixed for the hearing. It shall also contain a notification to the accused that he will be tried in his absence if he fails to appear on the day fixed.

138. The right to a speedy trial is incorporated in the Constitution and Criminal Procedure Code. Accused persons have the right to be brought before a court of law within 48 hours of their arrest and the police investigation has to be completed without unnecessary delay. The public prosecutor shall within 15 days of the receipt of the police report or the record of a preliminary inquiry, frame such charge as he thinks fit and file it in the court having jurisdiction. These obligations of the police and prosecutor ensure speedy trial in the criminal justice system.

139. Delay in the administration of criminal justice had been a chronic problem in the country. The government has undertaken series of measures to rectify the problem and to ensure speedy trial. The most notable measure is the adoption of "real time dispatch" from the French legal system. Under this procedure, justice would be administered within one or a few days for flagrante delicto offences, cases which do not need complex analysis of evidence, or where the accused admits his guilt. Study is underway to extend the procedure to other types of crimes.

140. Accused persons have the constitutional right to have full access to any evidence presented against them, examine witnesses testifying against them, adduce or have evidence produced in their own defense, and obtain the attendance of and examination of witnesses on their behalf before the court. Where the court finds that a case against the accused has been instituted and the witnesses for the injured party, if any, have been heard, it shall call

on the accused to inform him to make a statement of defense and call witnesses in his defense.

141. The accused or his advocate may then state the evidence he proposes to put forward and call on his witnesses and experts, if any, who shall be sworn or affirmed before they give their testimony. Where the accused wishes to make a statement, he shall speak first. The accused may not be cross-examined on his statement but the court may put questions to him for the purpose of clarifying any part of his statement.

142. The Criminal Code has special provisions applicable to young persons. A young person means a person between the ages of 9 and 15. No young person may be tried together with an adult. If at the time of the commission of the crime, the offender was over 15 but under 18 years of age, he shall be tried under the ordinary provisions of the criminal law. Young persons shall not be subject to the ordinary penalties applicable to adults, nor shall they be kept in custody with adult criminals.

143. A special procedure applicable to cases concerning young persons is provided for in the Criminal Procedure Code. The public prosecutor shall not institute proceedings against a young person unless instructed to do so by the court. All court proceedings with regard to a young person shall be held in chambers. No one shall be present at any hearing except witnesses, experts, the parents or guardians or representatives of welfare organizations. The public prosecutor shall be present at any hearing in the High Court. All proceedings shall be conducted in an informal manner. The accusation or complaint or the charge shall be read out to the young person and he shall be asked what he has to say in answer to such accusation or charge. If the accused fully understands and admits the charge, the court shall record what the young person has said and may convict him immediately.

144. If the accused fully understands but does not admit the accusation or charge, the court shall inquire as to what witnesses should be called to support such accusation or charge. The young person, his representative or advocate may cause any witnesses to be summoned. All witnesses shall be examined by the court and may thereupon be cross-examined by the defense. Judgment shall be given as in ordinary cases. The court shall explain its decision to the young person and warn him against further misconduct.

145. In assessing the penalties or measures, the court shall take into account the age, character, degree of mental and moral development of the young criminal, as well as the educational value of the penalty or measure to be applied. Where a crime is committed by young persons between the ages of 9 and 15 years, penalties and measures such as admission to a curative institution, supervised education, school or home arrest, admission to a corrective institution, reprimand and censure may be imposed by courts.

146. Any court which has sentenced a young person to a measure may, by its own motion or on the application of the young person, his legal representative or the person or institution to which he was entrusted, vary or modify such order at any time, if the interest of the young person so requires. The parents or other person legally responsible for the care of the young person may be ordered to bear all or part of the cost of his upkeep and training where it is owing to their failure to exercise proper care and guardianship that the court ordered the young person to be sent to the care of another person or to a corrective or curative institution. Where it thinks fit, the court may warn, admonish or blame the parents or other person legally responsible for the young person where it appears that they have failed to carry out their duties. The court, before passing penalties or measures, may order the young offender to be kept under observation in a medical or educational centre, a home or any other suitable institution.

147. In practice, a special bench has been established to entertain cases involving young offenders. Psychologists and social workers are employed to provide assistance to the judges and young offenders. The court takes the recommendation of psychologists and

social workers into account in rendering judgment. The average period that the trial of a case involving juvenile delinquent takes is two months.

Review by higher tribunal

148. The Constitution provides that 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. The Criminal Procedure Code stipulates that an appeal shall lie from a judgment of a criminal court which convicted the accused person. No interlocutory appeal shall lie from a decision of the court granting or refusing an adjournment, regarding an objection, or regarding the admissibility or non-admissibility of evidence, but any such decision may form the subject of a ground for appeal. A convicted person may appeal against his conviction and sentence, but no appeal may be lodged by a convicted person who has pleaded guilty and has been convicted on such plea, except as to the extent or the legality of the sentence.

149. Notice of appeal against a judgment shall be given by the appellant or his advocate within 15 days of the delivery of the judgment appealed against. On receipt of such notice of appeal, the registrar shall cause the judgment appealed against to be copied and handed to the appellant or his advocate and where the appellant is in custody, the copy shall be sent to the superintendent of the prison in which he is confined for service on the appellant. Such copy shall be dated when completed and the date on which it is handed to the appellant or his advocate or is sent to the superintendent of the prison shall be certified by the registrar. The memorandum of appeal shall be filed within 30 days of the receipt of the copy of the decision appealed against. The notice and memorandum of appeal shall be filed in the registry of the court which gave the judgment appealed against.

150. Where notice of appeal or a memorandum of appeal is filed out of time, the court against whose judgment the appeal is filed shall refuse to accept such notice or memorandum and shall require the person submitting such notice or memorandum to apply in writing to the court of appeal for leave to appeal out of time. The application shall state clearly the reasons why the appeal should be heard out of time and the reasons which occasioned the delay. The court of appeal shall not give leave to appeal out of time unless it is satisfied that the delay was not occasioned by the default of the applicant. Where leave to appeal out of time is given, the court of appeal shall fix the date by which the memorandum of appeal is to be filed.

151. In dealing with an appeal the court of appeal, if it thinks additional evidence is necessary, shall record its reasons and may take such evidence itself. The evidence taken shall be considered as if it were taken at the trial in the court of first instance. At the hearing of an appeal, the court of appeal shall dismiss the appeal where there is no sufficient ground for interference. Where it considers that there is sufficient ground for interference, the court of appeal may on an order of acquittal or discharge reverse such order and direct that the accused be retried by a court of competent jurisdiction or find him guilty and sentence him according to law; or on an appeal from conviction and sentence, reverse the sentence and acquit the accused; or with or without altering the finding, maintain, increase or reduce the sentence; on an appeal from conviction only reverse the finding and sentence and acquit the accused; on an appeal from sentence only maintain, increase or reduce the sentence. Where the court of appeal confirms the conviction but alters the sentence or vice versa, a second appeal shall lie only in respect of the conviction or sentence which has been altered.

Ne bis in idem

152. The principle of double jeopardy is incorporated in the Constitution. It states that no person shall be liable to be tried or punished for an offence for which he has already been convicted or acquitted in accordance with the criminal law and procedure. The Criminal Code reiterates that no one shall be tried or punished again for the same crime for which he

has been already convicted, punished or subjected to other measures or acquitted by a final decision in accordance with the law. The Criminal Procedure Code prohibits the institution of proceedings where the offence is made the subject of a pardon or amnesty.

Article 15

Non-retroactivity of laws

153. The principle of non-retroactivity of criminal laws is specifically provided for in the FDRE Constitution and accordingly no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time of commission. A criminal law would apply retroactively only when it is advantageous to the accused or convicted person.

154. The same principle has also been enshrined in the Criminal Code. Ethiopia has enacted a Criminal Code in 2004 repealing the 1960 Penal Code. Under the new Criminal Code, a criminal law would apply retroactively only when it is advantageous to the accused or convicted person. If an act, declared a crime under both the repealed law and the new Criminal Code, was committed prior to the coming into force of the latter, then it will be tried in accordance with the repealed Penal Code. Similarly, if an act committed prior to the coming into force of the Criminal Code was not declared a crime under the repealed Penal Code, it is not punishable even if it is a crime under the new Criminal Code. Furthermore, a criminal act committed under the repealed Penal Code is not punishable if the act is not a crime under the new Criminal Code; and any proceeding instituted in accordance with the repealed Penal Code shall cease.

Article 16

Recognition as a person

155. The FDRE Constitution enshrines the right to be recognized as a person and it provides that “Everyone has the right to recognition everywhere as a person.” The 1960 Civil Code of Ethiopia also states that a human person is the subject of rights from its birth to its death, irrespective of race, colour, religion or sex. Law enforcement organs of the country are required to respect and enforce these rights. For example, according to the Code of Conduct for Judges, a judge is obliged to respect the parties’ humanity, dignity, and rights. The Federal Prosecutors Administration Council of Ministers Regulations No. 44/1997 also imposes similar obligations on prosecutors: “A prosecutor shall always bear in mind that his actions concern the interest of the public,” and “shall respect human rights and human dignity”.

Article 17

Right to privacy, honour and reputation

156. The FDRE Constitution provides that everyone has the right to privacy. The right includes the right not to be subjugated to search of his home, person or property, or the seizure of any property under his personal possession, and the right to the inviolability of his notes and correspondence including postal letters, and communications made by means of telephone, telecommunications and electronic devices.

157. Restriction on these rights has to comply with stringent requirements. Accordingly, the rights can only be restricted in compelling circumstances and in accordance with specific laws whose purpose is safeguarding of national security or public peace, prevention of crimes or protection of health, public morality or the rights and freedoms of others.

158. The FDRE Constitution prescribes that everyone has the right to respect for his human dignity, reputation and honour. Everyone has also the right to the free development of his personality in a manner compatible with the rights of other citizens. The full exercise of these rights imposes an obligation on duty bearers to abstain from arbitrary and unlawful interferences and attacks against their enjoyment. The Constitution clearly stipulates that public officials shall respect and protect these rights. The duty bearers also include all natural or legal persons.

159. In addition to the constitutional guarantee, specific aspects of the right to privacy are protected by specific laws such as the Civil Code, Criminal Code and the Criminal Procedure Code. The laws provide civil and criminal remedies for violation of the rights. The Civil Code provides for the rights of personality including the right of every person not to be subjected to a search unless otherwise provided by the law. The Criminal Procedure Code also states that an arrested person may be searched only where it is reasonably suspected that he has any article which may be material evidence in respect of the offence with which he is accused or is suspected to have committed. In all cases, a search has to be made by a person of the same sex as the arrested person.

160. There exist personal searches at gates of government, non-governmental and intergovernmental institutions but the purpose of these searches is to safeguard the national security and the public peace, not to look for evidence for the purpose of criminal proceedings.

161. Personal and body searches are required to be made with full respect for the dignity of a person being searched. In some places, x-ray machines are used to conduct such searches. But due to resource constraints, such machines are not widely available.

162. The Civil Code provides that the domicile of a person is inviolable. Accordingly, no one may enter the domicile of another against the will of such person; neither may a search be conducted therein except in cases provided by the law.

163. The Criminal Procedure Code provides that the premises of an individual may not be searched without a search warrant. There are only two occasions when a police officer may search private premises without a search warrant: firstly, where an offender is followed in hot pursuit and enters the premises or disposes at the premises an article(s) which is/are the subject-matter of an offence, and secondly, where information is given to a police officer that there is reasonable cause for suspecting that articles which may be material evidence in respect of an offence, where an accusation or complaint has been made under the law and the offence is punishable with more than three years' imprisonment, are concealed or lodged in the premises, and the police have good grounds for believing that by reason of the delay in obtaining a search warrant, such articles are likely to be removed.

164. A court issues a search warrant only where it is satisfied that the purpose of justice or of any inquiry, trial or other proceeding under the auspices of the law will be served by the issuance of such a warrant. Even when a search is to be carried out with a search warrant, the law provides for several measures with a view to limiting the power of the police in conducting the search. Accordingly, a search warrant shall specify the property to be searched for and seized, and no police officer may seize any property other than that specified in the search warrant. Furthermore, in principle searches shall be carried out only between the hours of 6 a.m. and 6 p.m., unless specifically ordered otherwise by the court. On seizing any property the police officer shall make a list of the property seized and, where possible, shall have the list checked and signed by an independent person.

165. Trespassing entails criminal and civil liabilities under the Criminal and Civil Codes, respectively.

166. The FDRE Constitution and the Civil Code guarantee the inviolability of notes and correspondence. Other specific laws provide for exceptions where such rights could be limited.

167. The Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation No. 434/2005 provides that where it is necessary for the investigation of corruption offences, the head of the appropriate organ (an organ which is empowered to investigate and/or prosecute corruption offences) may order the interception of correspondence by telephone, telecommunications and electronic devices as well as postal letters.

168. The Proclamation prescribes some conditions on the rights of the authorities. Accordingly, such an order shall indicate the offence which gives rise to the interception and the duration of the interception, and if it is a telephone or telecommunication interception, the link to be intercepted. Unless the head of the appropriate organ decides otherwise, the duration of the interception may not exceed four months.

169. Under the Civil Code the addressee of a confidential letter may not divulge its contents without the consent of its authors. He may, however, produce it in judicial proceedings if he shows that he has a legitimate interest.

170. The Civil Code also states that a person commits a fault where he infringes any specific and explicit provisions of a law. Accordingly, a violation of any provision of a law providing for the inviolability of notes and correspondence brings with it a civil liability.

Right to honor and reputation

171. Any unlawful molestation or attack on the honour and reputation of a person entails civil and criminal liability. In addition to the right to demand the unlawful molestation or attack to be stopped, the victim of such an act may claim compensation under the law on defamation. The Criminal Code sets out a range of crimes against honour and reputation.

Article 18 Freedom of thought, conscience and religion

172. The FDRE Constitution provides for freedom of thought, conscience and religion in language which is a verbatim copy of the provisions of the Covenant providing for such freedoms. It reads, "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include the freedom to hold or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

173. Freedom of thought and conscience encompasses the right of an individual to freely choose and hold a conviction of any kind. It applies to holding or adopting traditional religions or religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. It equally applies to the right of atheists and agnostics to hold their conviction and manifest its teaching.

174. Everyone with a particular religion or belief is equally entitled to worship, including the exercise of ritual and ceremonial acts giving direct expression to the belief. In this regard, all faiths are given equal opportunities for accessing land to build places of worship.

175. Every religion or belief can use ritual formulas and objects in worshipping; it can have its own symbols and can display the same freely. Sunday is a rest day for workers and for Christians it is a day to discharge religious and other social duties. Civil servants are entitled to an extended lunch break on Fridays so that Muslims may attend the *juma* prayer.

176. Major Christian and Muslim holidays are also made public holidays by law. Accordingly, there are four Christian holidays that are officially recognized as national holidays. These are *Meskel* (“Cross Day”), Christmas, Epiphany and Easter. Ramadan, Arafat (Id Aladha) and the Birthday of the Prophet Mohammed (Maulid Annabi) are also recognized as national holidays.

177. Freedom with respect to the observance and practice of religion or belief includes the observance of dietary regulations, the wearing of distinctive clothing or head coverings, participation in rituals associated with certain stages of life and the use of a particular language customarily spoken by a group. For example, dietary regulations in boarding schools are based on students’ religious preference. In higher learning institutions, meals are provided separately to Christian and Muslim students based on their religions dietary regulations.

178. It is provided under the Constitution that state and religion are separate and the former shall not interfere in religious matters. This principle is practically implemented, among others, by the non-interference of the government in electing religious leaders. All religions choose their leaders, priests and teachers freely and according to their internal selection procedure.

179. Followers of a particular religion or belief have also freedom to establish seminaries or religious schools. Prominent in this regard, Orthodox Tewahidos, Catholics, Protestants and Muslims have established seminaries which train priests, teachers and other officials. For instance, the Ethiopian Orthodox Tewahido Church trains its followers for services in numerous monasteries and seminaries. It has also established a theological college that produces religious teachers with bachelor’s degrees. Ethiopian Muslims have institutions in different parts of the country, which produce middle-level trained followers for service. The Catholic Church provides religious education at different seminaries. Protestants also have different religious institutions that train persons who would render spiritual services. They have three colleges in Addis Ababa that teach theology at undergraduate and graduate levels.

180. Religious texts and publications are increasingly published and circulated. Currently, nine religious newspapers are published weekly, fortnightly or monthly and eight religious magazines are published every three months. Various religious books have been published and distributed throughout the country. Religious institutions disseminate their teachings freely through various forms of written materials, including pamphlets.

181. Freedom to adopt or hold a religion or belief of a person’s choice is an absolute right, while freedom to express or manifest one’s religion or belief may be limited. Such limitations should be prescribed by the law and be necessary to protect public safety, peace, health, education, public morality or the fundamental rights and freedoms of others, and to ensure the independence of the state from religion.

182. The FDRE Constitution prohibits the use of coercion or any other means to restrict or prevent the exercise of freedom to hold a religion or belief of a person’s choice.

183. The education system, as envisaged under the social objectives of the FDRE Constitution, is free from any religious influence. To ensure its secularity, among other things, an Ethical and Civics Education curriculum has been designed and implemented.

184. Blasphemous acts are considered as criminal acts under the Criminal Code.

Article 19

Freedom of expression

185. The FDRE Constitution provides that everyone has the right to hold opinions and the right to freedom of expression without any interference. The latter right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of one's choice.

186. Freedom of the press and other mass media and freedom of artistic creativity are guaranteed in the Constitution. Freedom of the press specifically includes prohibition of any form of censorship and access to information of public interest. The FDRE Constitution further states that in the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions. Any media financed by or under the control of the state shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion.

187. The FDRE Constitution also states that the rights can only be limited through laws which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed. Legal limitations can be laid down in order to protect the well-being of the youth, and the honor and reputation of individuals.

188. The Press Proclamation No. 34/1992 providing for the freedom, rights and duties of the press has recently been replaced by the Freedom of the Mass Media and Access to Information Proclamation No. 590/2008. The new Proclamation aims to preserve and consolidate past achievements and positive practices pertaining to freedom of expression while removing structural and institutional impediments that hinder the independent operation of the mass media and the free exchange of information and ideas, to ensure the existence of independent and diverse mass media with high ethical standards and professional competence and to promote and consolidate the values of transparency and accountability in the conduct of public affairs.

189. From October 21, 1992 to July 7, 2008, 1,267 press products (768 newspapers, 316 magazines, 180 electronic publishers and 3 news agencies) have been issued licenses. Among these, 550 newspapers and 175 magazines had entered the market while 100 electronic publishers and 2 news agencies are currently working (reference is made to Table 56 of Ethiopia's Common Core Document for the list of press outlets and other details).

190. The government has organized numerous training courses for journalists to build their capacity and professional ethics. It has provided support for the establishment and strengthening of journalists' associations. In this regard, notable assistance has been given to the Women Journalist Association. The government invites the private press to its press conferences. For instance, in 2007/08 the private press attended 69 press conferences of the government equally with government press outlets.

191. Despite the progress in press, there have also been challenges. Some private presses have been working in an irresponsible manner posing challenges to the smooth democratic development of the country. They have contributed to the violence following the 2005 national election.

192. In most cases the government has shown tolerance despite violations of the law, with a view to promoting press to contribute positively to the country's development endeavor in every spectrum. However, such a trend proved unworkable in May 2005, and the government prosecuted media organizations which operated in violation of the legal

regimes. The cases of about 17 press products have been adjudicated before courts of law with individuals convicted of violating the press and criminal law provisions. Eventually, for the sake of creating a tolerant society and to further solidify the democratic achievements of the country; their conviction was remitted by pardon.

193. Other challenges in the exercise of press freedom are the low level of development of some private press due to their own internal problems and absence of an umbrella journalist association or council, which may adjudicate professional misconduct of the journalists and bring together most journalist associations.

Broadcasting service

194. A Broadcasting Service Proclamation No. 178/1999 (replaced by Proclamation No. 533/2007) has been issued to ensure proper and fair utilization of the limited radio wave wealth of the country and to clearly define the rights and obligations of persons who undertake broadcasting service. Its preamble recognizes the significant role a broadcasting service plays in exercising the basic constitutional rights such as freedom of expression.

195. The proclamation established the Ethiopian Broadcasting Authority, whose objectives are to ensure the expansion of a high-standard, prompt and reliable broadcasting service that can contribute to political, social and economic development and to regulate the same. The Authority, among other things, has the power to issue, suspend and cancel broadcasting service licenses. There are three forms of broadcasting services: public, commercial and community broadcasting services.

196. Public broadcasting service is defined under the law as, “a radio or television transmission service established, for the purpose of educating, informing and entertaining the public, in the Federal or Regional State to which government budget is allocated in full or in part and is accountable to the Federal House of Peoples’ Representatives or to the Regional Councils.”

197. Commercial broadcasting service is “a radio or television transmission service established for the profit by a legal entity with the purpose of informing, educating or entertaining the public.”

198. Community broadcasting service means “a non-profit radio or television transmission service established by the will and interest of a community and administered and run by the community living in a specific area or who possess a common interest.”

199. The broadcasting law has assured access to diversified opinion by introducing commercial and community broadcasting service in a previously government-monopolized broadcasting service.

200. The Authority has registered two radio broadcasts previously with unclear ownership status as a commercial broadcasting service after considering their capacity. Four radio broadcasts, two of which had already started transmission before December 2008, have been issued with licenses to operate as commercial broadcasting service providers.

201. Community broadcasting service has a crucial role in disseminating information uncovered by other media. It is of high significance in countries like Ethiopia where various nations and nationalities exist. The Authority, as of December 2008, had issued community broadcasting service licenses to five organizations.

202. Government broadcasting has been expanding. There used to be only two radios and one television broadcasting service. Recently, seven city and regional administrations have secured radio broadcasting licenses, of which six have already started transmission. Oromia Regional State and Dire Dawa City Administration governments have also secured

television broadcasting service licenses. The former began trial transmission in December 2008.

203. Furthermore, a commercial broadcasting license has been issued to three organizations that transmit foreign channels to diversify the public television channel option.

Article 20

Prohibition of propaganda for war

204. The Constitution expressly provides that any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law. Pursuant to Article 257 of the Criminal Code, any person who, with the object of committing or supporting any of the acts regarded as crimes against the Constitution or the state, “publicly provokes them by word of mouth, images or writings, or launches or disseminates, systematically and with premeditation, by word of mouth, images or writings, inaccurate, hateful or subversive information or insinuations calculated to demoralize the public and to undermine its confidence or its will to resist, is punishable with simple imprisonment, or where the foreseeable consequences of his activities are particularly grave, it is punishable with rigorous imprisonment not exceeding ten years.” Crimes against the Constitution or the State include outrages against the Constitution or the constitutional order, obstruction of the exercise of constitutional powers, armed rising or civil war, attack on the political or territorial integrity of the State, violation of territorial or political sovereignty.

205. “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,” is considered as criminal conduct. (Reference is made to Ethiopia’s initial report to the Committee on the Elimination of Racial Discrimination for detailed discussion of criminal and other laws prohibiting any advocacy of national and racial hatred.) The Criminal Code also prohibits any advocacy of religious hatred which constitutes incitement to discrimination, hostility or violence.

Article 21

Peaceful assembly

206. The right to assemble freely with others is enshrined in the Constitution. Everyone has the right to assemble, demonstrate and petition together with others peacefully and unarmed. The Constitution, however, allows the imposition of restrictions on the manner of exercise of these rights. Appropriate regulations are allowed to be made in the interest of public convenience relating to the location of open-air meetings and the route of movement of demonstrators and, for the protection of democratic rights, public morality and peace during such a meeting or demonstration. This right does not “exempt from liability under laws enacted to protect the well-being of the youth or the honor and reputation of individuals, and laws prohibiting any propaganda for war and any public expression of opinions intended to injure human dignity.”

207. A proclamation entitled “Peaceful Demonstration and Public Political Meeting Procedure Proclamation No. 3/1991” has been issued to establish the procedure for peaceful demonstrations and public political meetings. The Proclamation states that every person “has the right to organize and participate in peaceful demonstration and public political meetings.” This right has to be exercised without interference with the legal rights of third parties. For the exercise of this right, there is the obligation to give notice and the Proclamation does not impose any obligation to seek permission per se. The Proclamation

provides that “any individual, group or organization that organizes a peaceful demonstration or public political meeting has the obligation to give a written notice 48 hours before the intended peaceful demonstration or public political meeting is to take place.” On the other hand, the government has the responsibility to make all the necessary preparation in order to maintain peace and security so that the daily life of the people is not disturbed. If the government, for reasons of peace and security, is of the opinion that it is preferable for the peaceful demonstration/public political meeting to be held at some other time or place, it shall notify the organizers accordingly by giving justification in writing within 12 hours following submission of their notice.

208. Peaceful demonstration or public political meetings with the objectives of discrimination based on race, colour, religion, sex or similar characteristics and racist promotion and provocation of ethnic mistrust and hatred among nations, nationalities and peoples is prohibited. The restrictions and requirements imposed by the Proclamation are in compliance with the provisions of the Constitution and are intended to facilitate the enjoyment of the right to peaceful assembly without infringing the rights of others.

Article 22

Freedom of association

209. Freedom of association is enshrined in the Constitution. Article 31 of the Constitution provides that “every person has the right to freedom of association for any cause or purpose”. The Article goes on to state that organizations formed in violation of laws, or to illegally subvert the constitutional order, or which promote such activities, are prohibited. As long as the purpose is lawful, freedom of association can be exercised for whatever purpose people please. Hence, associations may be organized for humanitarian, professional, social, political or other purposes. The Constitution affirms the right of everyone to be a member, of his own will, of a political organization, labour union, trade organization, or employers’ or professional association, if he or she meets the special and general requirements stipulated by such organizations.

210. According to recent statistics, more than 7,000 charities and societies are registered nationwide. The Ministry of Justice, which is empowered to register non-governmental organizations, effected the registration of more than 4,000 local and foreign charities and societies whose activities extended to more than one regional state during the period 2003/04-2007/08. During the same period, the registration of 111 associations was cancelled due to factors such as decisions by members, failure to discharge obligations, failure of renewal of registration, fraudulent registration and involvement in activities not related to the objectives or purposes of establishment. Three associations were also suspended due to naming, fraud, and failure to discharge their obligations. To promote the operation of charities and societies and to ensure their transparency and accountability, a Proclamation for Registration and Regulation of Charities and Societies has been issued and is effective now.

211. In labour relations, “factory and service workers, farmers, farm labourers, other rural workers and government employees whose work compatibility allows for it and who are below a certain level of responsibility, have the right to form associations” according to Article 42 of the Constitution. This right includes the right to form trade unions and other associations to bargain collectively with employers or other organizations that affect their interests. Likewise, employers have the right to form their own associations. By implementing the constitutional right of association, Labour Proclamation 377/2003 provides for the rights of workers and employers to establish and form trade unions or employers’ associations and actively participate therein. The Proclamation also outlines the procedure required to register trade union and employers’ associations. These associations

are required to be registered before the Ministry of Labour and Social Affairs at the federal level or their respective bureaus at regional levels.

212. Citizens are also allowed to form their own political organizations in order to compete for and hold political positions. With the exception of a few procedural requirements, observance of the laws of the country is the only requirement to form political organizations.

Article 23

Protection of the family

213. Article 34(3) of the FDRE Constitution provides that the family is the natural and fundamental unit of the society and is entitled to protection by the society and the state. The government has taken several measures, including enacting legislation, adopting policies and establishing institutions, to grant appropriate protection to the family. The government has adopted different laws which govern family relations and repealed laws inconsistent with the Constitution with a view to providing protection to the family. This mode of protection is entrenched in the Constitution, family codes at the federal and regional levels, labour law, and the 2005 Criminal Code as well. The Developmental and Social Welfare Policy was issued in 1996 by the government with a view to preventing and controlling social problems in the country. The Ethiopian Health Policy and the National Population Policy also accord protection to the family.

214. The Constitution guarantees the right to marry and form a family for men and women without any distinction as to race, nation, nationality or religion provided that they have attained marriageable age as defined by law. Furthermore, the Constitution asserts that spouses are entitled to equal rights on the conclusion of marriage, during marriage and upon dissolution of marriage. The Constitution also demands that laws be enacted to safeguard the interests of children at the time of divorce.

215. The Constitution provides that marriage may be entered into only with the free and full consent of the intending spouses (reference is made to paragraphs 181–189–192 of Ethiopia’s initial report under the ICESCR.) The Revised Family Code applicable for the two federal cities (Addis Ababa and Dire Dawa) makes free and full consent of the spouses one of the essential conditions for a valid marriage. This principle is reiterated in all state family codes.

216. The marriageable age of men and women is also provided in the federal as well as in the regional family codes. Hence, neither a man nor a woman who has not attained the full age of 18 years shall conclude marriage. This is applicable to all regions. In some exceptional circumstances, the Ministry of Justice at the federal level and Bureau of Justice at the regional level may grant dispensation for not more than two years for serious cause, upon the application of the future spouses or the parents or the legal guardian of one of them. Where a minor is married in accordance with this dispensation, he shall be emancipated from legal restraints by the sole fact of such marriage. The Criminal Code also punishes a person who concludes marriage with a minor.

217. Spouses are also entitled to equal rights in the management of the family, to bring up and ensure the best interests and education of their children and to decide their common residence. However, practically, there are some problems that women face in participating in decisions which affect them and their families. A lot more remains to be done to curb the traditional attitude that the husbands make the principal decisions at the household level.

218. The Revised Family Code requires courts of law to take measures safeguarding the best interests and the well-being of children. This could extend to setting aside the

conditions of marriage agreed by the parties, if they are found to be insufficient to protect the interest of children.

219. The Constitution recognizes religious and customary marriages in so far as they do not contradict the Constitution and the essential conditions of marriage (reference is made to paragraphs 181, 189, 192 of Ethiopia's initial report under the ICESCR). Hence, the federal and regional family codes recognize marriages concluded in accordance with the religion or custom of the future spouses; no distinction shall be made as to the effect of marriage, whether the marriage has been concluded before an officer of civil status or according to the forms prescribed by a religion or custom.

220. The Family Code demands that marriage, customary or religious, be registered by a competent officer of civil status which is a Notary Office. Should the spouses fail to register their marriage, the office of the civil status has the duty to register on its own motion upon learning about the conclusion of the marriage. Parties shall provide a certificate of marriage in order to prove the existence of marriage. Upon loss of the certificate or non-registration of marriage, they must prove to the court that they live as spouses and that they are considered and treated as such by their family and the community. Marriage will be effective starting from the day of the conclusion of the marriage.

221. Irregular union is also recognized under the Family Code. Hence, if a man and a woman live together as husband and wife without having concluded a valid marriage, their relationship will be considered as an irregular union. Unless the parties agreed otherwise, the property acquired during such relation shall be common property provided that the relation has lasted for not less than three years. Common expenses of men and women who live in an irregular union shall be shared by both, in proportion to their respective means. The court is the only competent body to decide whether an irregular union has been established between a man and a woman.

222. Marriage of an Ethiopian national of either sex to a foreign national shall not annul his/her Ethiopian nationality. Women who marry foreigners are not compelled to change their nationality. Marriages conducted outside of Ethiopia are also recognized under Ethiopian law, so long as they do not infringe public morality.

223. The federal and regional family codes prohibit marriage between relatives up to a certain degree of affinal or consanguinal relation. Hence, marriage between persons related by consanguinity in direct line, between ascendants and descendants is prohibited. In collateral line, one cannot conclude marriage with one's sibling, aunt or uncle. In addition, marriage between persons related in affinity in the direct line is prohibited. Marriage between a man and the sister of his wife, or a woman with the brother of her husband is prohibited. Incest is also punishable under the Criminal Code by up to three years' imprisonment, without depriving the convict of his or her family rights.

224. Persons who are judicially interdicted are prohibited from concluding marriage. A judicially interdicted person can only conclude marriage if authorized by a court of law. To this effect, the application can be made by the interdicted person himself or by his guardian.

225. The Family Code prohibits a person from concluding marriage in so far as he or she is already in wedlock owing to a preceding marriage. Bigamy is also punishable under the Criminal Code. However, bigamy is not punishable if concluded in conformity with religious or traditional practice recognized by the law. There was resistance against the move to outlaw bigamy in the Oromia Region. However, currently all regions rendered the practice generally unlawful under their family code. Bigamy is practiced especially in the rural areas of the country in conformity with religious or traditional practice. Awareness-creation programs were conducted by the government and non-governmental organizations to cure this practice.

226. Harmful traditional practices affecting women and children, including early marriage, abduction and forced marriage, remain major challenges in the country. Though complete statistical data are unavailable, arranged marriage and succession [inheritance] of marriage are also common in the rural areas of the country. Early marriage is the most commonly practiced harmful traditional practice in the country. The national rate is 54%. In rural areas, over 31% of women are married at the age of 15 and in urban areas 10.1% of women are married at the same age. The incidence of early marriage is in particular higher in the Amhara Region followed by Afar Region with a rate of prevalence of 45.8% and 29.9% respectively. Early marriage is also practiced in Tigray (28.9%) and Oromia (21.2%) Regions.

227. Abduction, the other harmful traditional practice, remains one of the major causes of early and forced marriages. According to the Criminal Code, which entered into force in 2005, abduction is culpable. Women in Ethiopia, especially those in the rural areas, are the foremost victims of abduction. According to the survey made in 2006/07, the conclusion of marriage following abduction is no longer condoned and is severely punished at present.

228. The underlying factors causing early marriage and abduction include lack of awareness in the society about its harmful effects, economic reasons and social norms. The government has launched awareness-creation programs in order to sensitize the community about early marriage and abduction. These efforts have led to the achievement of significant progress.

Article 24

Protection of children

229. The Government has adopted and domesticated international instruments aimed at protecting the rights of the child. These include the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and other international and regional human rights instruments relating to the rights of children.

230. The FDRE Constitution as well as all regional state constitutions devote a specific provision to enunciating the rights of children. The FDRE Constitution guarantees the rights that children are entitled to, including the right to life and maximum development, non-discrimination and special protection for children deprived of a family environment. The Constitution also enshrines protection from corporal punishment and exploitative practices which are hazardous or harmful to the education, health or well-being of the child.

231. The Constitution calls for all actions undertaken concerning children, by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, to make the best interests of the child their primary consideration. The Juvenile Justice Project Office, established under the auspice of the Federal Supreme Court, has been working to ensure that courts of law render their decisions and adjudicate matters based on the best interests of the child. In addition, pursuant to the FDRE Constitution, children born out of wedlock have the same rights as children born of wedlock. This right extends to equal rights to inheritance and other entitlements.

232. At the federal level, the Ministry of Women Affairs is the ministry responsible for the coordination of activities of sectoral ministries aimed at the implementation of the rights of the child.

233. According to the Civil Code, a minor is a person of either sex who has not attained the full age of 18 years. Children who have not attained 9 years of age cannot be criminally responsible (reference is made to paragraph 145 above.) In addition, children below 18 years of age are not liable for military recruitment.

234. The law also regulates the minimum age for admission to employment or work. The Labour Proclamation (Proclamation No. 377/2003) explicitly prohibits employing persons under 14 years of age. Children within the range of 14 to 18 years are considered to be young workers. The law sets the working hours for young workers to be seven hours and prohibits young workers from engaging in overnight work between 10 p.m. and 6 a.m. and overtime work, and from working on weekly rest days or on public holidays.

235. The law regulates employment relations between employers and employees, including child workers. The Proclamation also devotes a separate chapter to governing the working conditions of young workers. Hence, employers are prohibited from employing young workers on activities which endanger the life or health of the young worker, by their very nature or due to the conditions under which they are carried out. Accordingly, activities prohibited to young workers include working in transport of passengers and goods by road, railway, air and internal waterway; docksides and warehouses involving lifting of heavy weights, pulling or pushing or any other related type of labour; work connected with electric power generation plants, transformers or transmission lines; underground work, such as mines, quarries and similar work; work in sewers and digging tunnels. Though there are no organized data, in reality children work in working conditions prohibited under the law. For instance, it is common to see children working in the transportation of passengers around cities.

236. The government engaged consultants to prepare a National Action Plan (NAP) with a view to protecting those children who are victims of forced labour and the worst forms of child labour. The government has facilitated the establishment of child rights committees in all regions at different levels with a view to promoting and protecting the rights of children. Child protection units have been established in several police stations to give legal protection to child victims. Measures aimed at reunifying children with their families are also undertaken.

237. The obligation of the state to allocate resources within available means to provide assistance to children who are left without parents or guardians is entrenched in the Constitution. The state has a responsibility to ensure protection to orphans and to encourage the establishment of institutions which ensure and promote their adoption and advance their welfare and education. The government has taken several measures ranging from adopting policies to establishing institutions to facilitate the care of children found in especially difficult circumstances. Guidelines such as Guidelines for Adoption, Guidelines for Child-Family Reunification and Guidelines for Foster Family Care are formulated based on the best interests of the child principle.

238. Domestic and intercountry adoption services are rendered with a view to ensuring alternative care for children deprived of a family environment. In 2000, 3,067 children (1,463 females and 1,604 males) were adopted and went outside the country. The government has put in place a mechanism to follow up those children who left overseas, even after their departure. Accordingly, the conditions of 239 adopted children living in two countries have been scrutinized. The visits undertaken to these countries have yielded positive assessments of the conditions under which the children are found following these intercountry adoptions. Several studies pertaining to the prevalence and social problems revolving around child trafficking and problems of intra-state and intercountry adoption have been undertaken and consultation forums were also held.

239. The right of the child to a nationality is enshrined under the Constitution. According to the Ethiopian Nationality Proclamation (Proclamation No. 378/2003), any person born of an Ethiopian parent is deemed to be an Ethiopian national. And a child who is adopted by an Ethiopian national may acquire Ethiopian nationality where he has not attained 18 years of age and if he lives in Ethiopia with his adoptive parent. In addition, it has to be proved he or she has relinquished his or her previous nationality or has the possibility of obtaining

such a release upon the acquisition of Ethiopian nationality, or that he is a stateless person. If one of the parents is a foreigner, he or she is required to consent expressly in writing.

240. In order to make sure every child has a nationality and to reduce statelessness among children, the Ethiopian Nationality Law recognizes an infant who is abandoned and found in Ethiopia to be considered as having been born of an Ethiopian parent and to be considered as an Ethiopian national unless proved to have a foreign nationality.

241. In Ethiopia, there has been no practice of registering children in a systematic manner immediately following birth, and there is no domestic legislation to this effect. However, following the ratification of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, the country has been undertaking activities to realize the systematic registration of children immediately after birth. Efforts have been made to create awareness among law enforcement, executive, legal and administrative professionals through organizing national conferences focused on the registration of children. A taskforce has been established chaired by the Ethiopian Human Rights Commission to create the conditions necessary for the registration of children after birth. The preparation of a draft law concerning registration of vital events has been concluded. The law is expected to be submitted to the parliament and to be enacted soon.

Article 25

Participation in public affairs and elections

242. Any person shall be an Ethiopian national where either parent is Ethiopian on the basis of the Constitution and pertinent legislation on nationality in the country. Foreign nationals may also acquire Ethiopian nationality. Every Ethiopian national, irrespective of the method of acquisition of nationality, has the right to the enjoyment, exercise and recognition of all the rights and benefits accorded to Ethiopian nationals as prescribed by law.

Elections

243. The Constitution provides that every Ethiopian national has the right to take part in the conduct of public affairs, directly and through freely chosen representatives, without any discrimination. Every national has also the right to vote and to be elected at periodic elections to any office at any level of government. Elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors. Elections to positions of responsibility within political organizations, labour unions, trade associations, and professional associations shall be conducted in a free and democratic manner.

244. Members of the House of Peoples' Representatives, the highest organ of the federal government, shall be elected by the people for a term of five years on the basis of universal suffrage and by direct, free and fair elections held by secret ballot.

245. The House, constituted of representatives of the people, has the power to issue laws, control the executive organ and appoint judges at federal levels. This allows the people to have a say, through their representatives, in the administration of the affairs of the government. The representatives have to respect the wish of the people. In addition to the periodic expression of their wishes at the periodic elections, the people have the right to recall their respective representatives for misconduct, as prescribed by the law. A member of the House may, in accordance with the law, lose his mandate of representation upon loss of a vote of confidence by the electorate. The recall of members is regulated by the Proclamation on Loss of Mandate of the Members of the HPR (Proclamation 88/97).

246. It is not only at the highest level that people participate in public affairs. Adequate power is also granted to the lowest units of government to enable the people to participate directly in the administration of such units.

National Electoral Board of Ethiopia

247. The National Electoral Board of Ethiopia, which is accountable to the HPR of the federal government and which has its own legal personality, is established for conducting elections. The objectives of the Board include ensuring the establishment of a government elected through a free, impartial and fair election conducted at all levels in accordance with the Constitution, and enabling citizens to exercise their constitutional democratic rights to elect and be elected. The Board, in consultation with political parties, decides the registration timetable of the electorate. Missions of the Board include ensuring the establishment of a government at all levels elected periodically through a free, fair, impartial, transparent and peaceful election that fulfils national and international standards; and also thereby maintain the integrity and credibility of the electoral process in the country, and to enhance the participation of citizens in the electoral process by providing to the public civic and voter education.

Electoral principles

248. Electoral principles provided in the Proclamation are:

- (a) Any election shall be conducted on the basis of universal suffrage and by direct and secret ballot through which the electors express their consent freely without discrimination with equal participation;
- (b) Any Ethiopian whose electoral rights are not legally restricted shall be eligible to elect or to be elected;
- (c) Each vote shall carry equal weight;
- (d) No Ethiopian shall be compelled to elect or be elected.

Election criteria

249. The Proclamation sets three criteria to exercise the right to vote (to be an elector):

- The person shall be an Ethiopian
- The person shall be 18 years old or older at the time of registration
- The person shall have resided for six months in the constituency in which he or she wishes to vote

250. However, a person who:

- Is proved to be incapable of making a decision due to mental disorder
- Is serving a term of imprisonment passed by a court of law, or
- Is a person whose electoral rights are restricted by law is not entitled to vote.

251. The Proclamation also provides the criteria for candidature. Any person shall be eligible for candidature where the person:

- Is an Ethiopian
- Is versed in the working language of the regional state or the area of his intended candidature (this is meant to ensure that the candidate understands and fully represents his/her constituency)

- Is 21 years old or older on the date of the registration
- Has been regularly residing in the constituency of his intended candidature for two years immediately preceding the date of the election, or his place of birth is within the constituency of his intended candidature or within the city or *Woreda* where it has more than one constituency, or he or she has been regularly working in the city or *Woreda* for two years
- Is not deprived of his right to vote and to be elected

and, where he is a private candidate, he must be able to produce no fewer than 1,000 signatures from among people who are certified by the local administration to be residents of the constituency of his candidature.

Criminal sanctions

252. The Criminal Code imposes punishment on those who violate the free exercise of the rights associated with election. The Code provides that whoever, by intimidation, coercion, abuse of power or violence; by fraud, especially by changing names; by concealing or withholding a notice or summons; or by any other mischief or method (a) prevents a person from exercising his legitimate right to vote or to be elected; or (b) secures by such means his undertaking to exercise, or induces him to exercise, his right in a particular way, or to abstain from exercising it, is punishable with simple imprisonment not exceeding one year, or a fine.

253. Corrupt electoral practices are also punishable under the law. The Criminal Code provides that whoever, directly or indirectly, promises or grants a sum of money, or any other advantage whatsoever to an individual, in order to persuade him to exercise his right to vote or to be elected in a particular way, or to abstain from exercising it, is punishable with rigorous imprisonment not exceeding five years, and a fine. Likewise, the Criminal Code also provides that whoever possessing the right to vote or to be elected, accepts or agrees to accept a sum of money or any other advantage, in consideration of exercising his right, or exercising it in a particular way, or of abstaining from exercising it, is liable to the same punishments.

254. Secrecy of the ballot has to be respected. Any violation is dealt seriously under the Criminal Code. The Criminal Code provides that whoever (a) by any unlawful means succeeds in discovering the way in which an elector has exercised his right or cast his vote; or (b) having fortuitously learned of such a fact, intentionally makes it public and spreads it, whether by word of mouth, by way of the press or otherwise, is punishable with simple imprisonment or a fine.

Measures to ensure fair and free election

255. During the transitional period (at the beginning of the 1990s), when the multi-party democratic system became operational in the country, members of the then Election Commission and committees at constituencies were chosen from political parties having seats in the then house of representatives. This initial effort was transformed into a system aimed at ensuring fair and free election.

256. The Constitution ensured the independence of the National Election Board. The Board was made to be free from any influence in order to conduct free and fair election at federal and regional levels.

257. Four proclamations were issued in the last 15 years alone to ensure a fair and free election. As a result, this has made it possible to make amendments deemed to be necessary in the legal regime regulating the conduct of elections. Lessons learnt in conducting elections were accommodated in the proclamations issued subsequently. The present

proclamation, Electoral Law of Ethiopia Amendment Proclamation 532/2007, provides for members of the Board to be loyal to the Constitution, be non-partisan, have professional competence, and be known for their good conduct. Upon recommendation by the Prime Minister, Board members are appointed by the HPR. The Prime Minister shall, before nominating Board members, ensure that there has been sufficient consultation with political organizations having seats in the House to ascertain that the nominees are independent and impartial.

258. All elections in the country were conducted in accordance with the law and the time schedule with detailed election events/activities prepared by the Election Board, with a few exceptions in some pastoralist areas.

259. Civic and voter education has been carried out by the Board itself and civil societies before and at the time of election. The means to reach the public in the dissemination of civic and voter education included fliers, radio and television shows and, with the assistance of mobile audiovisual equipment, face-to-face community teaching. The subjects of the campaign and education have been mainly electoral laws, procedures, and the civic duty to elect and be elected.

260. Election documents and ballot papers have been made to be clear and sheets of paper used for election have been made easily understandable for all voters.

261. According to the Electoral Proclamation, polling stations are required to be arranged in such a way as to ensure that they are sufficiently secured and protected prior to polling day.

262. Laws and procedures of election practiced in the country ensure fairness, the secrecy of the election, and command the confidence of the people. In addition to the principal legislation identified above, there are several regulations and directives that facilitate the fair, free and transparent conduct of elections. Some of these are:

- Regulation to Determine Structure and Operation of Grievance-Hearing Committees at all levels, Regulation No. 1/ 2007/08
- Regulation on Issuance of Licenses and Code of Conduct for Civic and Voter Education, Reg. No. 2/2007/08
- License for the Operation and Code of Conduct of Local Election Observers and Code of Conduct, Regulation No. 3/2007/08
- Election Code of Conduct Regulation No. 4/2007/08
- Candidates' Registration Directive No. 1/2007/08
- Electors' Registration Directive No. 2/2007/08
- Public Observers and Representatives of Candidates Directive No.1/2007/08
- Code of Conduct of Electoral Officers Directive No. 4/2007/08
- Voting, Counting and Announcement of Results Directive No. 5/2007/08

263. All these directives and regulations are believed to have ensured the confidentiality of the voting process, the security of the voters, and the confidence people have in the electoral system of the country. In all polling stations, conditions are created by which voters can cast their vote in secret and comfortably. In accordance with the regulations and to build public confidence, all polling stations and constituencies are made to have observers from the public and representatives of candidates are assigned in the process of election from voters' registration up to the announcement of results. Local and foreign observers of election have been given recognition and permission by the Electoral Board so

that neutral third parties would observe the fairness and transparency of elections conducted.

264. On the basis of the Electoral Proclamation, any government employee may run for election as a private candidate or a member of a political organization. The employee may not lose any benefits as a result of his running for election as long as he has complied with the relevant requirements. However, given the high degree of independence required in the performance of their duties, judges, soldiers and policemen have to resign from their post if they run for election. They may not participate in political campaigning through speeches, writings and the like in support of any candidate while they are in office.

265. In the conduct of election, due process is respected. The Proclamation provides detailed procedures as to how election complaints are handled and entertained. Complaints relating to registration of the electorate may first be presented to the Polling Station Grievance Committee. If a party is not satisfied with the decision of the Committee, they may appeal to the Constituency Electoral Office (Constituency Grievance-Hearing Committee), and then appeal to the *Woreda* court. The procedure is the same for complaints related to voting. Complaints relating to registration of candidates may also be directed to the Constituency Grievance-Hearing Committee first, then to the Regional Electoral Office Grievance-Hearing Committee, and finally to the Regional Supreme Court. Complaints relating to vote counting and results may be taken to the Constituency Grievance-Hearing Committee, then to the Election Board and finally to the Federal Supreme Court.

266. A landmark case that called for constitutional interpretation on the right to be elected can be mentioned. The case arose in Benshangul Gumuz Regional State. The petition related to the refusal of candidature of members of some ethnic groups on the ground that they did not speak one of the five indigenous languages spoken in the region. The Electoral Board denied these people's claim for candidature. They petitioned to the House of Federation, the organ with the power of constitutional interpretation, claiming that their constitutional right to stand for election was unreasonably denied. The House considered the matter and gave its decision on March 14, 2003. The House found it unconstitutional and stated that they had the right to compete for election as long as they spoke the working language of the regional council, which the individuals did.

267. Broadcasting law requires any broadcasting service provider to allocate free air time for political organizations and candidates registered in accordance with the relevant law, to publicize their objectives and programs to the people or to transmit statements during the election period. Any political organization or candidate may also transmit election campaign advertisements. The fee to be charged for election campaign advertisements may not exceed the fee charged for commercial advertisements. This would assist in alleviating financial constraints political organizations and private candidates face in reaching the public with their political programs. The Broadcasting Service Operation Directive provides detailed information on the assignment of free air time during election. A broadcaster (a body carrying out radio and television transmission on the basis of the Broadcasting Service Proclamation) is under obligation to assign free air time to candidates. The assignment of air time has to be just and reasonable for all political parties and private candidates.

268. On the basis of the Federal Civil Servants Proclamation No. 50/2007, there shall be no discrimination among job seekers or civil servants in filling vacancies on the ground of their ethnic origin, sex, religion, political outlook, disability, HIV/AIDS or any other status. This ensures the right of citizens to take part in public services. Those who have been convicted by a competent court for breach of trust, theft, or fraud may be excluded unless reinstated. Any civil servant may also compete for promotion. Disciplinary measures and grievance procedures are clearly provided under the law. Disciplinary penalties, ranging from oral warning to dismissal, are imposed by the government institution, upon the

recommendation of the Grievance-Handling Committee. Administrative tribunals may also review, by appeal, the decisions of government institutions. Appeal on questions of law may also be lodged with the Federal Supreme Court, ensuring due process of law for employees working in the civil service. Termination in the civil service is allowed only on grounds specified in the law. Those grounds are resignation, illness, inefficiency, force majeure, retirement, and grave disciplinary grounds.

Problems associated with the exercise of the right to vote

269. Difficulties have been encountered in ensuring the participation of Ethiopians residing abroad in national and regional elections. This is attributed to the significant number of constituencies (more than 500) and the parliamentary system of election, making administration of elections in foreign lands complicated. Moreover, data gathering and communication systems in place within the country are not suitable to allow Ethiopians residing abroad to vote. Under the Electoral Proclamation, the Electoral Board is authorized to study and submit to the House of Peoples' Representatives ways of enabling the Ethiopian diaspora to participate in elections. Currently, preparations are being made to undertake studies on the exercise of this power.

270. There have been some difficulties in terms of establishing polling stations at locations near to all voters. The Electoral Proclamation allows the establishment of special polling stations near the place where the electorate is to be found for the purpose of enabling military and civil personnel who live in camps far from their constituency and students of higher learning institutions to participate in elections to tackle this problem. Hence, in the last election, students of higher learning were registered and allowed to vote at their universities. Moreover, since pastoralists move from place to place, registration and conducting elections is challenging in pastoralist areas such as Somali Regional State. Mobile polling stations were prepared for the last two elections and the people were allowed to exercise their right to vote in the nearby election polling stations. The Board is empowered to conduct registration in pastoralist areas by establishing mobile registration centers as necessary under the applicable electoral law. Preparation is underway for the issuance and implementation of a comprehensive directive for the implementation of this provision.

271. In the past, an overwhelming number of complaints were filed. Political parties have the habit of lodging complaints at different stages of the election process, starting from registration of voters up to the results of elections. In the May 2005 election alone, complaints were filed in 299 constituencies out of the total of 547 constituencies. This resulted in an added burden on the budget for elections and creating an atmosphere of suspicion in the entire election process. Most of the complaints were unsubstantiated. While rejecting complaints with no evidence of fraud or any other practice that would have impaired the election results, the Electoral Board, which reviewed all the complaints, ordered re-elections in a few constituencies.

272. Delay in the distribution of election materials in a few constituencies, inadequacy of the allowance paid to election officials, postponement of election schedules upon the request of political parties, shortage and misallocation of ballot papers in a few constituencies, election campaigns in places prohibited by law, inadequacy in the number and competence of election officials, taking unlawful actions against election officials by some government as well as non-government organizations, and failure on the part of donors to extend election assistance promised are a few of the difficulties associated with elections conducted in 2005 and 2007. The Electoral Board, in collaboration with the government and other stakeholders, has taken necessary measures so that these difficulties would not negatively impact on the conduct of free and fair election.

Article 26

Equality and non-discrimination

273. This Article has been adopted almost verbatim by the drafters of the Constitution. The legal and other measures that are taken to implement this overarching principle of equality and non-discrimination are discussed in Part 3 of the Common Core Document.

Article 27

Minority rights

274. Minority nationalities are recognized under the Constitution. However, neither national nor linguistic minorities have been specifically defined under the Constitution. The Electoral Law of Ethiopia Amendment Proclamation imposes an obligation on the House of the Federation to determine minority nationalities believed to require special representation in advance based on clear criteria. The House of Federation has not yet set clear criteria and determined minority nationalities, mainly due to lack of adequate manpower and financial constraints. It has designed plans to remedy the difficulties and undertaken research to identify minority nationalities.

275. The Constitution guarantees every Nation, Nationality and People in Ethiopia the unconditional right to self-determination, including the right to secession. Minority nationalities enjoy this right since they are encompassed within the definition of Nation, Nationality and People. Every Nation, Nationality and People in Ethiopia, including minority nationalities, has the constitutional right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history. Minority nationalities have also the constitutional right to a full measure of self-government, which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and federal governments.

276. Generally speaking, minority nationalities enjoy all the rights of Nation, Nationality and People which are provided in the Constitution.

277. According to the Constitution, members of the House of Peoples' Representatives shall be elected from candidates in each electoral district by a plurality of the votes cast. Provisions shall be made by law for special representation for minority nationalities and peoples. Members of the House, on the basis of population and special representation of minority nationalities and peoples, shall not exceed 550. Minority nationalities and peoples shall have at least 20 seats. The Ethiopian National Electoral Board reported that in the May 2005 election, 22 seats in the House of Peoples' Representatives were occupied by minority nationalities.

278. Each Nation, Nationality and People shall be represented in the House of the Federation by at least one member. Minority nationalities, therefore, are represented in the House of the Federation by one member. Some regional states' constitutions provide for special representation of minority nationalities and peoples in state councils. These enable minority nationalities to promote and protect their rights and articulate their interests in the law-making process and in the interpretation of the Constitution.