



FREEDOM NOW

FREEDOM NOW – INDIVIDUAL SUBMISSION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Introduction

1. Freedom Now submits this report to assist the UN Human Rights Council in its review of the policies and practices of the Government of Ethiopia (“Ethiopia”). Freedom Now is a non-partisan, non-governmental organization that works to free prisoners of conscience around the world through legal, political, and public relations advocacy.¹

2. This report documents the Ethiopian government’s use of arbitrary detention and politically-motivated prosecutions in violation of international law, as well as touching on some of the related violations of free expression, peaceful assembly, and freedom from torture. Although there has been improvement in recent months, throughout the last reporting period Ethiopia has silenced human rights defenders, opposition politicians, journalists, and bloggers through abuse, and wrongful criminal detention. Such practice violates the government’s obligations under the International Covenant on Civil and Political Rights (“ICCPR”), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”), and the Universal Declaration of Human Rights (“UDHR”).

3. Prior to this reporting period, Ethiopia had a history of arbitrarily detaining journalists, members of opposition political parties, and peaceful protesters, and convicting them to lengthy sentences after trials that failed to meet minimum international due process standards.² Concern regarding arbitrary detention of government critics and laws restricting fundamental freedoms was addressed in the most recent UPR of Ethiopia in 2014.³ During that review, it was recommended that Ethiopia “put an end to the harassment of journalists and release those detained without any valid grounds.”⁴ Ethiopia was also encouraged to “repeal the provisions of the media and anti-terrorism legislation that infringe on . . . freedom of expression.”⁵ Ethiopia did not accept either of these recommendations.

Use of Arbitrary Detention and Suppression of Rights to Free Expression and Peaceful Assembly

4. In this reporting period, the government detained numerous political opposition leaders, journalists, bloggers, and other critics, and convicted them to lengthy sentences on terrorism charges under the Anti-Terrorism Proclamation (“ATP”). The ATP’s definition of “terrorist acts” and expansive provisions on incitement and encouragement to terrorism are extremely broad and vague,

¹ Freedom Now previously served as international *pro bono* counsel to Ethiopian prisoners of conscience, Andualem Aragie Walle, Eskinder Nega, Yonatan Tesfaye, and the Zone 9 bloggers.

² The Ethiopian government has historically suppressed freedom of speech and assembly during times of political change or unrest. For example, following the 2005 elections, the government banned public demonstrations for a month and when protests ensued, thousands of opposition leaders and protesters were arbitrarily arrested. For more information, see Human Rights Watch, *Country Summary: Ethiopia*, <https://www.hrw.org/legacy/wr2k6/pdf/ethiopia.pdf>.

³ UPR Info, Database of Recommendations: Ethiopia, <https://www.upr-info.org/database/>.

⁴ *Id.*

⁵ *Id.*

which effectively allows the government to charge any individual who expresses opinions that the government deems to be harmful to its interests as terrorists.⁶ In 2016, the Special Rapporteur on the situation of human rights defenders and the UN Working Group on Arbitrary Detention expressed grave concern that the ATP was being used to persecute and silence government critics.⁷

5. Lack of judicial independence in general means that trials of government critics are replete with due process violations with conviction effectively pre-ordained. Due process violations are particularly egregious for individuals charged under the ATP, which makes bail unavailable for individuals charged under it and allows police authorities to hold individuals suspected of terrorism without charge for up to four months.⁸ Those charged under the ATP are often subjected to extended periods of pre-trial detention, during which they may be denied access to legal counsel, information regarding the charges against them, and visitation from family members.⁹ For instance, in 2014, six bloggers associated with the online group “Zone 9” and three other journalists were charged under the ATP and subjected to a pre-trial detention period which was extended 11 times.¹⁰ Not only were the Zone 9 bloggers’ and journalists’ access to legal counsel restricted, but they also complained that they had been beaten and forced to sign confessions.¹¹ The wave of arrests under the ATP caused roughly 30 journalists to flee the country and live in exile to avoid harassment, arrest, and arbitrary detention.¹²

6. Torture in detention facilities is widespread and used to elicit confessions or to obtain evidence that incriminates others.¹³ Prisoners are often subjected to systematic beatings within detention centers¹⁴ and prisoners (especially female prisoners) may face sexual assault.¹⁵ Prison conditions are generally inhumane; denial of medical care to sick or injured detainees is common.¹⁶ Overcrowding and lack of medical care contribute to the spreading of communicable diseases such as tuberculosis and HIV, and deaths resulting thereof.¹⁷

7. Beginning in November 2015, Ethiopia saw widespread protests in response to the government’s plan to expand the city of Addis Ababa, which aroused concern that Oromo farmers would be displaced.¹⁸ Oromo farmers have been negatively impacted over the past decade in favor of

⁶ *Opinions Adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017*, ¶¶ 17-20, 52, U.N. Doc. A/HRC/WGAD/2017, (Sept. 25, 2017).

⁷ *Id.*, at ¶ 45; Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders*, ¶ 54, U.N. Doc A/HRC/31/55/Add.1, (Feb. 22, 2016).

⁸ Maran Turner and Kate Barth, *Petition to: United Nations Working Group on Arbitrary Detention*, Freedom Now, 1, 10, (July 22, 2016) goo.gl/qkT1np; In practice, individuals are often held for longer than four months of pre-charge detention *see e.g.* Guest Contributor, *Free Zone 9 Bloggers*, Global Voices Advocacy, 1, 2 (Feb. 16, 2015) goo.gl/B3b7ks.

⁹ *Id.*

¹⁰ Human Rights Council, *Opinions Adopted by the Working Group on Arbitrary Detention at its seventy-fifth session, 18-27 April 2016*, ¶ 28, U.N. Doc A/HRC/WGAD/2016/10, (June 14, 2016).

¹¹ Amnesty International, *Report 2014/15: The State of the World’s Human Rights*, 1, 149 (2015) https://www.amnestyusa.org/pdfs/AIR15_English.PDF.

¹² Jacey Fortin, *Conflating Terrorism and Journalism in Ethiopia*, Committee to Protect Journalists, (Apr. 27, 2015), <https://cpj.org/2015/04/attacks-on-the-press-conflating-terrorism-and-journalism-in-ethiopia.php>.

¹³ Amnesty International, *Report 2017/2018: The State of the World’s Human Rights*, 1, 162, (2018) <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹⁴ Human Rights Watch, *We are Like the Dead*, 1,35, (2018)

https://www.hrw.org/sites/default/files/report_pdf/ethiopia0718_web.pdf.

¹⁵ *Id.* at 57.

¹⁶ Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst*, ¶ 66, U. N. Doc A/HRC/37/51/Add.1, (Feb. 16, 2018).

¹⁷ We are Like the Dead, *supra* note 14, at 52.

¹⁸ Human Rights Watch, *Such a Brutal Crackdown: Killings and Arrests in Response to Ethiopia’s Oromo Protests*, 1, 1-2, (June 15, 2016) <http://www.refworld.org/docid/576252954.html>.

expansion plans which disrupted their livelihood and communities.¹⁹ In October 2016, the government responded to these protests by imposing a state of emergency which allowed arbitrary detention, monitoring of communications, and further restrictions on freedom of expression.²⁰ During this time, the ATP was used to justify the government's reliance on excessive force and arbitrary arrests in responding to the protests.²¹ It is estimated that at least 20,000 prisoners were detained arbitrarily in the Oromia and Amhara regions, with many remaining in detention even after the state of emergency was lifted in August 2017.²² Ethiopia also enforced internet shutdowns to prevent protests and assemblies; at the time of the Oromo protests, there were reports of internet and phone service blackouts in the Oromia region.²³ Mobile internet was apparently unavailable for over a week after the state of emergency was declared in October.²⁴

8. In addition to the arbitrarily detained protestors, hundreds were also killed by government forces reacting with excessive brutality. In 2017, the Special Rapporteur on the rights to freedom of peaceful assembly and of association voiced concern that over 600 people had allegedly been killed by security forces in the Oromo protests.²⁵ In addition to those killed at the Oromo protests, many others suffered the same fate at the Irreecha festival²⁶ on October 2, 2016, where at least 52 people were killed as a result of a stampede that was caused by the government's presence, coupled with remaining tension from the Oromo protests.²⁷ The violence was initiated when festival goers did not cooperatively gather to listen to speeches from government officials, and in response, security forces used tear gas and live bullets.²⁸ Some reports estimate that hundreds were ultimately killed in the stampede.²⁹

9. In February 2018, likely in response to growing ferocity of the protests, Prime Minister Abiy Ahmed came into office and promised to strengthen civil and political rights.³⁰ In the beginning of 2018 the government released roughly 7,500 prisoners, some of whom were high-profile journalists and opposition leaders.³¹ Prime Minister Ahmed lifted the state of emergency two months early, has

¹⁹ *Id.*

²⁰ *E.g.* Under the state of emergency, social media, protests and political gestures were banned, a curfew was imposed to prevent people from visiting certain buildings, diplomats were subjected to restrictions on freedom of movement, and more. For more information, *see*, BBC, *Seven Things Banned Under Ethiopia's State of Emergency*, (Oct. 17, 2016) <https://www.bbc.com/news/world-africa-37679165>.

²¹ Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst*, ¶ 77, U.N. Doc. A/HRC/34/52/Add.1, (Feb. 20, 2017).

²² A/HRC/37/51/Add.1, *supra* note 16, at ¶ 66.

²³ Freedom House, *Freedom in the World 2017*, 1, 11 (2017) https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf.

²⁴ *Id.*

²⁵ Human Rights Council, *Report of the special Rapporteur on the rights to freedom of peaceful assembly and of association*, ¶ 72, U.N. Doc A/35/28/Add.3, (May 31, 2017).

²⁶ The Irreecha festival is an important celebration in Oromo culture during which the Oromo people give thanks and welcome new harvest. For more information, *see* Mekuria Bulcha, *Oromia's Irreecha Festival—A Revival of an Ancient African Culture*, (Sept. 27, 2015) goo.gl/PiBgDo.

²⁷ Briana Duggan, *At Least 52 Dead in Ethiopia after Stampede at Oromo Holy Festival*, CNN, (Oct. 3, 2016 8:17 AM) <https://www.cnn.com/2016/10/03/africa/ethiopia-oromo-deaths/index.html>.

²⁸ *Id.*

²⁹ Human Rights Watch, *Fuel on the Fire: Security Force Response to the 2016 Irreecha Cultural Festival*, <https://www.hrw.org/report/2017/09/19/fuel-fire/security-force-response-2016-irreecha-cultural-festival>.

³⁰ Aaron Maasho, *New Ethiopian Premier Promises Reforms at Meeting with Opposition*, Reuters, (April 13, 2018, 4:13 AM), <https://www.reuters.com/article/us-ethiopia-politics/new-ethiopian-premier-promises-reforms-at-meeting-with-opposition-idUSKBN1HK0YF>.

³¹ Reuters, *Ethiopia Releases 1,500 Prisoners in Eastern Somali Region: Statement*, (Feb. 22, 2018 8:28 AM) goo.gl/8HmnWR.

promised to reform the constitution, and to mend relations with Eritrea;³² in July 2018 Ethiopia and Eritrea signed a peace agreement, ending decades of conflict.³³

10. These efforts at reform are promising and should be applauded. Nonetheless, much work remains to be done; arbitrary detention and suppression of the rights to free expression and peaceful assembly continue to be problematic in the country. Although many prominent prisoners of conscience were released, it is estimated that thousands of protestors remain in detention.³⁴ The government has yet to address the violations it committed, or offer apologies, reparations, compensation or other forms of justice to those affected. There is some evidence that the media is still tightly watched; two media outlets were reportedly called to account before government officials when they refused to carry the government's preferred programming.³⁵ Perhaps most problematically, the laws which enable the government to repress its citizens' rights to free expression and peaceful assembly and to arbitrarily detain its critics as "terrorists" remain on the books.

³² The Washington Post, Abiy Ahmed Pulls off an Astonishing Turnaround for Ethiopia, (June 10, 2018) [goo.gl/HUok1k](https://www.washingtonpost.com/news/afghanistan/wp/2018/06/10/abiy-ahmed-pulls-off-an-astonishing-turnaround-for-ethiopia/).

³³ BBC, *Ethiopia's Abiy and Eritrea's Afwerki Declare End of War*, (July 9, 2018) <https://www.bbc.com/news/world-africa-44764597>.

³⁴ Yohannes Y. Gedamu, *Ethiopia Just Pardoned Political Prisoners: Could That Signal a Shift to Real Democracy?*, The Washington Post, (Feb. 9, 2018) [goo.gl/7pWdvU](https://www.washingtonpost.com/news/afghanistan/wp/2018/02/09/ethiopia-just-pardoned-political-prisoners-could-that-signal-a-shift-to-real-democracy/) (noting that the release of prisoners was partial, leaving thousands of journalists, opposition figures, and protesters still in jail).

³⁵ Roundtable discussion, held June 28, 2018, in Washington D.C., notes on file with author.

Ethiopia's Abuses Exemplified:

*Andualem Aragie Walle*³⁶

11. Andualem Aragie Walle is an opposition politician who was sentenced to life in prison on terrorism charges under the ATP in November 2011 on account of his peaceful political activism. He previously served as Vice President and Press Secretary for the Unity for Democracy and Justice party, the largest opposition party in Ethiopia, and was on the executive committee of Medrek, the largest opposition coalition in Ethiopia. After 6.5 years in prison, Mr. Aragie was pardoned and released on February 14, 2018. He was rearrested on March 26, 2018 when attending a gathering where a flag that did not include the symbol of Ethiopia's ruling party was displayed but released on April 5, 2018.³⁷

*Eskinder Nega*³⁸

12. Eskinder Nega is a well-known Ethiopian journalist who wrote pro-democracy articles and was sentenced to 18 years in prison on charges under the ATP of terrorism and treason in September 2014, alongside Mr. Aragie and other opposition leaders. While imprisoned, Mr. Nega was allowed only restricted visits with his family and was denied phone privileges to speak with his wife and child living in the United States and all reading and writing materials except for the bible. After six and one-half years in prison, Mr. Nega was pardoned and released on February 14, 2018. Along with Mr. Aragie, he was rearrested on March 26, 2018, but then released again on April 5, 2018.

*Yonatan Tesfaye*³⁹

13. Yonatan Tesfaye is an opposition politician who was sentenced to 6.5 years on charges of terrorism under the ATP for posting criticisms of the government on Facebook in May 2016. He was one of many opposition politicians that were arrested during Ethiopia's crackdown on civil society after the Oromo protests began in November 2015. Mr. Tesfaye was released on March 5, 2018.

*Zone 9*⁴⁰

14. In April 2014, six bloggers from "Zone 9", a blog which engaged in political activism through social media and by posting articles regarding political repression and social injustice in Ethiopia, were arrested and charged with terrorism under the ATP. Three journalists were charged along with the six bloggers. These nine individuals were held in pre-trial detention for over a year before finally being released piecemeal in July and October 2015.

³⁶ Freedom Now, *Cases in Ethiopia*, <http://www.freedom-now.org/campaign/cases-in-ethiopia/>.

³⁷ Daniel Mumbere, *Ethiopia Rearrests Opposition Leaders, Journalists During 'Prisoner Release' Celebrations*, Africa News (Mar 26, 2018) <http://www.africanews.com/2018/03/26/ethiopia-rearrests-opposition-leaders-and-journalists-during-prisoner-release/>; ECADF Ethiopian News, *Ethiopia Releases 11 Journalists, Politicians, Once Again*, (April 5, 2018) <https://ecadforum.com/2018/04/05/ethiopia-releases-11-journalists-politicians-once-again/>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

Conclusion and Recommendations

15. As a party to the ICCPR and the CAT and as bound by the UDHR, Ethiopia is obliged to respect its citizens' rights to freedom of expression, peaceful assembly, and to a fair trial and freedoms from arbitrary detention and torture. Although the recent reforms are encouraging, Ethiopia must ensure that those who remain in detention arbitrarily are immediately released; that the widespread practice of torture within the judicial system is stopped; the laws which enable repression are amended or repealed; and that the government takes steps to address past abuses.

Freedom Now recommends that Ethiopia:

- Immediately and unconditionally release and rehabilitate the civil and political rights of all individuals detained under pre-textual charges for exercising their fundamental human rights, including the rights to freedom of expression, association, and peaceful assembly, and allow them to peacefully promote the cause of human rights in accordance with the rights guaranteed to them in international human rights treaties without fear of mistreatment, including arbitrary detention.
- Ratify the Optional Protocol to CAT.
- Review and update laws pertaining to the freedoms of speech, association, assembly, and religion and freedom from torture to ensure compliance with international obligations, including the ATP and the press laws.
- Provide human rights training to the judiciary, police, and security forces to ensure that human rights protections in domestic and international law are guaranteed throughout the entire legal process.
- Thoroughly investigate all cases of arbitrary detention, fair trial abuses, torture, and killings that have occurred in relation to protests, as well as other rights abuses directed at journalists, opposition leaders, and other government critics. Ensure that perpetrators of such abuses are held accountable and that victims are appropriately rehabilitated and compensated.
- Ensure prison conditions meet international standards, particularly with regards to access to medical care, prisoner capacity, nutritious food and clean water, regular access to attorneys and family members, and freedom from abuse. Promptly and independently investigate all allegations of abuse or deaths in custody, provide adequate compensation and rehabilitation to victims and their families, and hold perpetrators accountable.
- Ensure detainees' prompt access to legal counsel of their choosing, that confessions are not obtained via use of torture or other undue pressure and that no such tainted evidence is introduced at trial, that presumption of innocence is respected, and that all other procedural rights are respected and guaranteed.
- Convene a round table discussion among the Ethiopian People's Revolutionary Democratic Front and all independent opposition political parties with the aim of moving towards free and fair elections in a true multi-party system.
- Implement a Truth and Reconciliation Commission to address and hold accountable perpetrators of prior human rights violations and to offer victims and their families a measure of transparency and restorative justice.
- Immediately end all censorship or harassment of journalists, human rights defenders, opposition political leaders and other civil society or religious leaders and protect their ability to freely continue their work.