



Federal Democratic Republic of Ethiopia

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Submission by

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 170 countries.
- 1.2 The Association for Human Rights in Ethiopia (AHRE) is a non-governmental, non-partisan and not-for-profit organisation dedicated to the advancement of human rights in Ethiopia. AHRE is registered and based in Geneva, Switzerland.
- 1.3 The Committee to Protect Journalists (CPJ) is an independent, non-profit organisation that champions press freedom across the world. Founded in 1981, CPJ campaigns for the right of journalists to report the news without fear of reprisal.
- 1.4 DefendDefenders (The East and Horn of Africa Human Rights Defenders Project) is a regional CSO which seeks to strengthen the work of human rights defenders throughout the East and Horn of Africa.
- 1.5 PEN International is an international NGO founded in 1921 with PEN centres in over 100 countries. PEN works to defend freedom of expression and writers at risk around the world.
- 1.6 Article 19 was founded in 1987 and defends freedom of expression and information worldwide, including in 14 Eastern African countries through a Kenya-based office.
- 1.7 Consortium of Ethiopian Rights Organisations (CERO) is a consortium of five Ethiopian charities working on advocacy of human rights and democratic governance.
- 1.8 Access Now is an international organisation that works to defend and extend digital rights of users globally, including through its digital security helpline.
- 1.9 In this submission, the authors examine the Government of Ethiopia's (GoE) compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse the GoE's fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on HRDs since its previous UPR examination in 2014. To this end, we assess Ethiopia's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.10 In February 2018, Ethiopia underwent a political transition with the resignation of former Prime Minister Hailemariam Desalegn and the appointment of Dr. Abiy Ahmed.

This transition came with some positive changes, including the lifting of the February 2018 State of Emergency (SoE) and the release of thousands of political prisoners.¹ Prime Minister Abiy pledged various reforms, including amendments to restrictive legislation such as the Anti-Terrorism Proclamation, Civil Society Proclamation and Mass Media Proclamation.²

1.11 During the 2nd UPR cycle, the GoE received 49 recommendations relating to the space for civil society (civic space). Of these recommendations, 26 were accepted and 23 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the GoE has fully implemented only one recommendation relating to civic space, partially implemented 13 and failed to implement 35. While the government recently committed to amending the restrictive legislative framework alongside releasing large numbers of political prisoners, these recommendations were documented as ‘partially implemented’ because at the time of writing, the restrictive legal framework remains in place. Acute implementation gaps were found regarding civic space and issues relating to the rights to the freedoms of association and peaceful assembly.

- Section 2 examines Ethiopia’s implementation of UPR recommendations and compliance with international standards concerning the freedom of association.
- Section 3 examines Ethiopia’s implementation of UPR recommendations and compliance with international standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Ethiopia’s implementation of UPR recommendations and compliance with international standards concerning the freedom of expression, independence of the media and access to information.
- Section 5 examines Ethiopia’s implementation of UPR recommendations and compliance with international standards related to the freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and to advance implementation of recommendations under the 2nd cycle.
- An annex on implementation of 2nd cycle UPR recommendations related to civic space can be found in Section 7.

¹ ‘Ethiopia lifts state of emergency imposed in February’, Al Jazeera, 5 June 2018, <https://www.aljazeera.com/news/2018/06/ethiopia-lifts-state-emergency-imposed-february-180605081810759.html>.

² ‘Ethiopia PM pledges to reform security sector and revisit repressive laws’, Africa News, 15 April 2018 <http://www.africanews.com/2018/04/15/ethiopia-pm-pledges-to-reform-security-sector-and-revisit-repressive-laws>.

2. Freedom of association

- 2.1** During Ethiopia's examination under the 2nd UPR cycle, the government received 21 recommendations on the right to the freedom of association and creating an enabling environment for CSOs. Of the recommendations received, the government accepted nine and noted 12. Among other recommendations, the government committed to ensuring the realisation of the right to the freedom of association and providing an environment conducive to the growth and development of charities and societies. However, as evidenced below, the government has failed to take adequate measures to realise many of these recommendations: of the 21 recommendations, the government partially implemented five. In April 2018, Prime Minister Abiy Ahmed pledged to review all restrictive legislation, including the Charities and Societies Proclamation and the Anti-Terrorism Proclamation, and on 29 June 2018, established a Legal and Justice Advisory Council and held a public consultation on the laws under review.³
- 2.2** Despite recommendations encouraging the government to open up democratic space ahead of the 2015 elections, the process was marred by restrictions and repressive tactics targeting the political opposition, the media and civil society. These tactics compounded the restrictive legal framework in place and severely curtailed public participation. The elections, which saw the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) win all seats in parliament, were criticised by international rights groups as being neither free nor fair.⁴
- 2.3** The SoE imposed between October 2016 and August 2017, and again from February to June 2018, exacerbated existing restrictions on the freedoms of association, peaceful assembly and expression. The SoE directives gave sweeping powers to the Command Post, a military taskforce entrusted with enforcing the directives, and unwarrantedly restricted people's communications with foreign governments and CSOs and the right to disseminate information through the media.⁵ During the period when the two SoEs were enforced, widespread violations of civic freedoms took place, as detailed throughout this submission.
- 2.4** In late March 2018, the EPRDF elected Abiy Ahmed as its new chairperson following a closed meeting of 170 of the party's senior leadership. Since the Prime Minister came to

³ 'Advisory Council Begins Consultation To Amend Anti-Terrorism And CSOs Laws', Embassy of Ethiopia, Brussels Belgium, 20 August 2018, <https://ethiopianembassy.be/en/category/embassy-news>.

⁴ 'Dispatches: Alarm Bells for Ethiopia's 100% Election Victory', Human Rights Watch, 23 June 2017, <https://www.hrw.org/news/2015/06/23/dispatches-alarm-bells-ethiopias-100-election-victory>.

⁵ 'DON'T SHOOT THE MESSENGER- Journalists as human rights defenders in the East and Horn of Africa,' DefendDefenders, 2 November 2017, <https://www.defenddefenders.org/publication/dont-shoot-the-messenger-journalists-as-human-rights-defenders-in-the-east-and-horn-of-africa>.

power, he has pledged to push through a raft of reforms.⁶ His election came after three years of unrest, during which mass protest movements developed in Amhara, Oromia and southern states, and the authorities killed over a thousand protesters and arrested more than 26,000.⁷ Violations of the right to peaceful assembly during the protest movement are detailed in section 5 of this submission.

2.5 Article 31 of the Federal Democratic Republic of Ethiopia's Constitution guarantees the right to the freedom of association.⁸ Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Ethiopia is a state party, also guarantees the freedom of association. However, despite these commitments, the Charities and Societies Proclamation No. 621/2009 (CSO Law), in its current form, imposes organisational, operational and regulatory limitations on the work of civil society and severely restricts freedom of association.

2.6 The CSO Law limits access to foreign funding for human rights organisations and places undue restrictions on the process of formation, licensing and registration of CSOs. Under the CSO Law the government has wide discretionary powers to silence organisations it perceives as dissident by denying them access to domestic and foreign funding.⁹ The CSO Law mandates that organisations that receive more than 10 per cent of their funding from sources outside Ethiopia cannot work on a broad spectrum of human rights activities including, inter alia, human and democratic rights, the promotion of gender and religion, the rights of children and people with disabilities, conflict resolution or reconciliation and the promotion of the efficiency of justice and law enforcement agencies.¹⁰

2.7 Article 77 of the CSO Law requires CSOs to disclose the identity of all donors and states that organisations wishing to hold a national fundraising event are required to secure permission from Charities and Societies Agency (ChSA), the government body tasked with overseeing implementation and adherence to the CSO Proclamation. Directives issued by the ChSA also place restrictions on CSOs working on human rights issues ability to generate income, cover administrative costs and network.

⁶ 'Abiy Ahmed elected as chairman of Ethiopia's ruling coalition', Al Jazeera, 28 March 2018, <https://www.aljazeera.com/news/2018/03/abiy-ahmed-elected-chairman-ethiopia-ruling-coalition-180327201015850.html>.

⁷ 'Ethiopian state of emergency must end, says journalist freed from jail', Reuters, 2 May 2018, <https://af.reuters.com/article/topNews/idAFKBN1I31VZ-OZATP>.

⁸ Constitution of the Federal Democratic Republic of Ethiopia, 1995, <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf>.

⁹ For full analysis of the CSO law see: 'Joint NGO Submission on Ethiopia to the UN Universal Periodic Review, 19th Session of the UPR Working Group', CIVICUS, East and Horn of Africa Human Rights Defenders Project and HRCO, September 2013. <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=813&file=CoverPage>

¹⁰ Section 14 (5), Charities and Societies Proclamation 2009, <http://www.refworld.org/docid/4ba7a0cb2.html>.

2.8 On 3 October 2016, the authorities dispersed a fundraising event organised by one of Ethiopia's few remaining human rights CSOs, the Human Rights Council (HRCO).¹¹ Under article 85, the ChSA is permitted to investigate the activities of CSOs by searching their property, confiscating original documents and questioning staff without a court-ordered warrant or a specific purpose. Moreover, draconian and exorbitant financial penalties can be imposed on an organisation that violates provisions of the law. Organisations that fail to record the source and amount of money received during the fiscal year can be fined from 20,000 to 50,000 Ethiopian Birr (between approx. US\$1,370 and US\$3,425).

2.9 Since coming into force in 2009, the CSO Law has had a devastating impact, not only on the activities and role of civil society, but also on the continuation of their existence. Several local CSOs were closed and other influential organisations were forced to change their names and mandates. According to the International Center for Not-for-Profit Law, while 174 new CSOs were registered in 2014, 158 others were shut down, including 133 for failing to implement projects due to a lack of funds.¹² At least 17 organisations, including some of Ethiopia's leading human rights organisations, have changed their mandate or stopped working on human rights. The two prominent human rights organisations, the HRCO and the Ethiopian Women Lawyers Association, were also forced to scale back their operations significantly.

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Ethiopia's previous UPR examination, the government received 14 recommendations on the protection of HRDs, civil society activists and journalists. The government committed to implementing nine recommendations and noted five. One recommendation was fully implemented and six partially, while seven were not implemented.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, despite these protections, violations of these rights continued to occur during the reporting period.

3.3 The Anti-Terrorism Proclamation (ATP) broadly and vaguely defines a terrorist organisation as "a group, association, or organisation which is composed of not less than two members with the objective of committing acts of terrorism or assists or incites

¹¹ '2016 Country Reports on Human Rights Practices', US Department of State, Bureau of Democracy, Human Rights, and Labor, 3 March 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/af/265254.htm>.

¹² 'Civic Freedom Monitor: Ethiopia', International Center for Not-for-Profit Law, 12 July 2018, <http://www.icnl.org/research/monitor/ethiopia.html>.

others in any way to commit acts of terrorism.”¹³ Under article 5, it is a punishable offence to provide “skill, expertise or moral support” or “advice” in support of a terrorist act or organisation. Notions of moral support are neither sufficiently specific nor clear and have been misused to imprison perceived dissidents. Contravention of this provision is punishable with “rigorous” imprisonment of between 10 and 15 years.¹⁴

3.4 According to article 6 of the ATP on ‘Encouragement of Terrorism’, people are barred from “publishing or causing the publication of a statement that is likely to be understood by some or all of the members of the public... as a direct or indirect encouragement ... to the commission or preparation or instigation of an act of terrorism.” Such overly broad and imprecise prohibitions create a potential for abuse and further criminalise reporting deemed favourable to political opposition groups that have been placed on the government’s terrorism list. Offenders convicted under this provision are subjected to prison sentences ranging from 10 to 20 years.¹⁵

3.5 Draconian provisions of the ATP have led to long prison terms and has had a chilling effect on media and individual dissent across Ethiopia. Ethio-Trial Tracker, an independent project tracking individuals charged under the ATP, recorded 923 ongoing individual cases and 526 closed cases, many of which resulted in long prison terms.¹⁶ More broadly, those charged under the ATP include journalists, opposition members and leaders, students, teachers, bloggers, religious leaders, a lawyer, a doctor, a child as young as 16, singers, and artists.¹⁷ In addition, AHRE collected a list of 27 journalists and HRDs charged under the ATP or the Penal Code between 2009 and 2017.

3.6 In late March 2017, the SoE Command Post announced that 4,996 of a total of 26,130 people detained for taking part in protests in 2015 would be tried in court.¹⁸ Between November 2016 and March 2017, more than 20,000 detained protestors were released, many of whom reported being subjected to torture, harsh prison conditions and other forms of ill treatment while in detention.¹⁹

3.7 On 18 April 2017, Ethiopia’s National Human Rights Commission reported that a total of 669 people, including 63 police officers, died between August 2016 and March 2017 due

¹³ For full analysis of the ATP law see: CIVICUS, East and Horn of Africa Human Rights Defenders Project and HRCO, op. cit.

¹⁴ Section 5, Anti-Terrorism Proclamation 2009, <http://www.refworld.org/docid/4ba799d32.html>.

¹⁵ Ibid., Section 6.

¹⁶ ‘Defendants’ Info: Closed Cases’, Ethio Trial Tracker, 6 September 2017, <https://ethiotrialtracker.org/defendants-info-closed-cases>.

¹⁷ Yoseph Gemechu, a 16-year-old boy from Wollega, Oromia region, is among the people recently charged under the ATP.

¹⁸ ‘Ethiopia: Regime to charge 5000 protesters’, ESAT News, 28 March 2017, <https://ethsat.com/2017/03/ethiopia-regime-charge-5000-protesters>.

¹⁹ ‘5000 face trial for taking part in anti-government protests’, CIVICUS Monitor, 9 June 2017, <https://monitor.civicus.org/newsfeed/2017/06/09/ethiopia-5000-protestors-face-trial>.

to persistent violence in the aftermath of anti-government protests.²⁰ Human rights groups disputed the official numbers as well as claims by the state-affiliated Commission that the security forces used 'proportionate force' in Oromia region during the unrest and that opposition groups were to blame for the violence.²¹

3.8 Additionally, during the period under review, the government continued to use restrictive legislation to impede the work of HRDs and journalists, despite the fact that it had committed to take further measures to ensure the safety, and freedom of action of HRDs.²² On 23 May 2016, Getachew Shiferaw, editor-in-chief of the online newspaper *Negere Ethiopia*, was charged with terrorism and sent to Kilinto detention centre.²³ This charge was later reduced to inciting others to obstruct an official performing his duties.²⁴ CPJ's research showed that there were no journalists in prison in Ethiopia as of February 2018, a vast improvement from the 17 recorded in December 2014 and five recorded in December 2017.²⁵ These gains were briefly reversed on 28 March 2018, when 11 journalists, bloggers and activists were arrested by security forces at a private meeting in Addis Ababa for allegedly displaying a flag that could incite violence.²⁶ All those detained were released and all charges have been dropped, thereby fulfilling one recommendation and partially fulfilling another made during the last UPR cycle.²⁷

3.9 Moreover, the authorities have adopted further legislation with vague and ambiguous provisions that could be applied to target dissenting voices. The 2016 Computer Crime

²⁰ 'Report: 669 killed in Ethiopia violence since August', Al Jazeera, 19 April 2017, <http://www.aljazeera.com/news/2017/04/report-669-killed-ethiopia-violence-august-170418164259637.html>.

²¹ 'Thousands still detained as state of emergency continues to deny rights', CIVICUS Monitor, 7 February 2017, <https://monitor.civicus.org/newsfeed/2017/02/07/arrests-continue-ethiopia-state-emergency-denies-rights>.

²² 'Report of the Working Group on the Universal Periodic Review - Ethiopia', United Nations Human Rights Council, 7 July 2014, A/HRC/27/14, para 155. 113 (Finland), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/077/54/PDF/G1407754.pdf?OpenElement>.

²³ 'Hundreds of protestors shot dead in Ethiopia', CIVICUS Monitor, 27 June 2016, <https://monitor.civicus.org/newsfeed/2016/06/27/june-27th-update-ethiopia>.

²⁴ 'Ethiopian High Court convicts editor of inciting subversion', CPJ, 24 May 2017, <https://cpj.org/2017/05/ethiopian-high-court-convicts-editor-of-inciting-s.php>.

²⁵ '221 journalists jailed worldwide', CPJ, December 2014, <https://cpj.org/imprisoned/2014.php>; '262 journalists imprisoned', CPJ, December 2017, https://cpj.org/data/imprisoned/2017/?status=Imprisoned&start_year=2017&end_year=2017&group_by=location.

²⁶ 'Ethiopia arrests a dozen opposition activists over flag display', Bloomberg News, 26 March 2018, <https://www.bloomberg.com/news/articles/2018-03-26/ethiopia-arrests-a-dozen-opposition-activists-over-flag-display>. Those arrested included well-known journalists and bloggers Temesgen Desalegn and Eskinder Nega, Zone 9 bloggers Mahlet Fantahun and Befekadu Hailu, blogger Zelalem Workagegnhu and political activists Yidnekachewu Addis, Andualem Arage, Sintayehu Chekol, Addisu Getinet, Woynshet Molla and Tefera Tesfaye

²⁷ 'Joint letter to new Ethiopian Prime Minister on recent arrests of journalists and human rights defenders', CIVICUS, 29 March 2018 <https://www.civicus.org/index.php/media-resources/news/3119-joint-letter-to-new-ethiopian-prime-minister-on-recent-arrests-of-journalists-and-human-rights-defenders>; A/HRC/27/14, para 158.32 (Czech Republic), op. cit.

Proclamation states that anyone intentionally disseminating materials found to be “defamatory to the honour or reputation of another person” can be sentenced for up to three years in prison.²⁸ Section 14 further provides that anyone who intentionally disseminates information that incites violence or conflict among people shall be rigorously punished with a maximum sentence of three years’ imprisonment. The Proclamation neither defines what amounts to defamatory materials nor the activities that incite violence or conflict. Such overly broad provisions are prone to abuse. Additionally, the law enables real-time monitoring or interception of communications, authorised by the Minister of Justice, and requires service providers to store records of all communications and metadata for at least a year.²⁹

3.10 During its previous UPR, Ethiopia accepted a recommendation to ensure that journalists and media professionals can pursue their profession in a free environment that guarantees the rights of the freedoms of opinion and expression for all persons.³⁰ However, in April 2014, six members of the Zone 9 blogging collective were arrested and subsequently charged with terrorism, while a seventh was charged in absentia. The six were imprisoned for up to 18 months and reported being subject to ill treatment and torture.³¹ Although most were released and acquitted between June and October 2015, on 6 April 2017, the Supreme Court ruled that bloggers Atnaf Berhane and Natnael Feleke should be tried on charges of inciting violence, which carry a maximum sentence of 10 years.³² Prosecutors dropped terrorism charges against Befekadu Hailu but maintained a case of incitement against him. In February and March 2018, the Court dropped the incitement charges against all three.³³ In April immigration officials confiscated recently released journalist Eskinder Nega’s passport for approximately 24 hours, temporarily denying his right to freedom of movement just as he was scheduled to fly to Europe to attend an awards ceremony.³⁴

4. Freedom of expression, independence of the media and access to information

4.1 Under the 2nd UPR cycle, Ethiopia received 10 recommendations relating to the freedom of expression, independence of the press and access to information. The government accepted six of these recommendations and noted four.³⁵ For instance, the government

²⁸ Section 13, Computer Crime Proclamation N0 958/2016.

²⁹ ‘Freedom on the Net: Ethiopia’, Freedom House, 2017. <https://freedomhouse.org/report/freedom-net/2017/ethiopia>. [Computer Crime Proclamation No 958/2016](https://freedomhouse.org/report/freedom-net/2017/ethiopia)

³⁰ A/HRC/27/14, para 155. 108 (Chile), op. cit.

³¹ ‘Amnesty International Report 2014/15 - Ethiopia’, Amnesty International, February 2015, <https://www.amnesty.org/download/Documents/POL1000012015ENGLISH.PDF>.

³² DefendDefenders, op. cit.

³³ ‘CPJ calls on Ethiopia to drop case against Zone 9 blogger’, CPJ, 16 February 2018, <https://cpj.org/2018/02/cpj-calls-on-ethiopia-to-drops-case-against-zone-9.php>.

³⁴ ‘Denial of Eskinder Nega’s freedom of movement by Ethiopian authorities callous and baseless,’ PEN International, 2018. <https://pen.org/press-release/denial-eskinder-freedom-movement-callous-baseless/>

³⁵ A/HRC/27/14, op. cit.

committed to “repeal provisions of the legislation that can be used to criminalise the right to freedom of expression.”³⁶ As of August 2018, Ethiopia had partly implemented two of these recommendations and had not implemented the other eight.³⁷

4.2 Article 19 of the ICCPR guarantees the rights to the freedoms of expression and opinion. Article 29 of the Ethiopian Constitution also guarantees citizens the right to free thought, expression and opinion. The Constitution further promotes an independent and free press by providing protections against “any form of censorship” and guaranteeing “access to information of public interest.”³⁸

4.3 Despite these constitutional provisions and commitments made during the last UPR cycle to take measures to increase the freedom of expression of journalists and media workers,³⁹ Ethiopia continued to restrict critical voices between 2014 and 2017. In 2014, six media houses closed down following accusations of encouraging terrorism, inciting violence, and undermining public confidence in the government.⁴⁰ In 2015 Ethiopia ranked fourth in the CPJ’s list of 10 most-censored countries, amid a crackdown on the press that led to the imprisonment of at least 17 journalists and forced at least 30 others into exile.⁴¹ Restrictions on the freedom of expression were facilitated by a legislative framework that contravenes Ethiopia’s constitution and international standards.

4.4 Ethiopia retains laws that criminalise expression and which are incompatible with international standards.⁴² The Criminal Code stipulates prison terms for defaming the state or injuring the reputation of a third party.⁴³ The Code also states that truth alone is not sufficient defence in cases of defamation. The law has often been used to target journalists and bloggers, including the Zone 9 bloggers and Temesghen Desalegn, who spent three years in prison after convictions of publishing false news, defamation and incitement.⁴⁴

³⁶ Ibid., para 156.6 (Slovakia).

³⁷ Ibid., para 158.32 (Czech Republic).

³⁸ Constitution of the Federal Democratic Republic of Ethiopia, op. cit.

³⁹ A/HRC/27/14, para 155.105 (Republic of Korea), op. cit.

⁴⁰ ‘Ethiopian authorities convict journalist in Addis Ababa’, CPJ, 15 October 2014, <https://cpj.org/2014/10/ethiopian-authorities-convict-journalist-in-addis-.php>.

⁴¹ ‘Repressive nations threaten jail terms, restrict Internet to silence press’, CPJ, 2015, <https://cpj.org/2015/04/10-most-censored-countries.php>.

⁴² International Press Institute (2014). African rights court rejects imprisonment in defamation cases. <https://ipi.media/african-rights-court-rejects-imprisonment-in-defamation-cases/>

⁴³ Federal Democratic Republic of Ethiopia. (2008). *A proclamation to provide for freedom of the mass media and access to information*. Article 214 & Article 613.

<http://www.refworld.org/docid/4ba7a6bf2.html>

⁴⁴ ‘CPJ calls on Ethiopia to drop case against Zone 9 blogger’, CPJ, 16 February 2018, <https://cpj.org/2018/02/cpj-calls-on-ethiopia-to-drops-case-against-zone-9.php>; ‘2016 Prison Census: 259 journalists jailed worldwide’, CPJ, 1 December 2016, <https://cpj.org/imprisoned/2016.php>.

4.5 The Freedom of the Mass Media and Access to Information Proclamation of 2008⁴⁵ outlines financial penalties for defamation which “can put journalists and their respective out of business.”⁴⁶ It limits the public’s right to information on vaguely worded grounds of national security, economic interest, and international relations. The law grants prosecutors broad discretion to censor publishers and impose undue prior restraint. Association for Human Rights Ethiopia also argues that the registration requirements in the law make the government a “guardian” of the press, with control that could be used to silence critical publications.⁴⁷

4.6 In the first half of 2018, Ethiopia made positive strides towards achieving its constitutional ideals by launching consultations into the amendment of problematic legislation, releasing journalists and lifting internet restrictions.⁴⁸ However, the recurrence of restrictive actions, such as the above-mentioned 28 March 2018 arrest of 11 journalists, bloggers and activists as well as Internet shutdowns in August⁴⁹ and in September⁵⁰, during times of political tension, emphasises the need for comprehensive reform.

4.7 In April 2018 the government lifted a three-month internet shutdown in parts of Ethiopia.⁵¹ In June 2018 it restored access to 264 websites, including the sites of diaspora media outlets the Ethiopian Satellite Television and Oromia Media Network (OMN).⁵² The list of sites was not made public but subsequent research by the Open Observatory on Network Interference found that, with the exception of one site which had yet to be tested as of September 2018, all sites previously found to be blocked had been unblocked.⁵³ Journalists who spoke to CPJ in September 2018 said that they did not know of any sites

⁴⁵ ‘A proclamation to provide for freedom of the mass media and access to information’, Federal Democratic Republic of Ethiopia. 2008. <http://www.refworld.org/docid/4ba7a6bf2.html>

⁴⁶ ‘Ailing Civic Space in an Authoritarian State: The State of Human Rights Defenders and cost of Dissent in Ethiopia Association for Human Rights in Ethiopia’, AHRE, January 2018, https://ahrethio.org/wp-content/uploads/2018/01/AilingCivicSpace_large-1.pdf

⁴⁸ ‘Ethiopia: Council Arise to Reform Anti-Terrorism, Media Law’, Addis Fortune, 30 June 2018, <https://allafrica.com/stories/201807030771.html>.

⁴⁹ ‘Old Habits Die Hard: Ethiopia blocks internet in the Eastern part of the country, again!’, Access Now, August 2018, <https://www.accessnow.org/ethiopia-blocks-internet-in-eastern-part-of-country-again/>

⁵⁰ ‘In Ethiopia, mobile Internet cut in the capital amid clashes and protests’, CPJ, September 2018, <https://cpj.org/2018/09/in-ethiopia-mobile-internet-cut-in-the-capital-ami.php>

⁵¹ ‘Ethiopia Restores Internet Services’, BBC, 6 April 2018, <https://www.bbc.com/news/live/world-africa-43626503>.

⁵² ‘Ethiopia Allows Access to over 260 Websites’, CPJ, 22 June 2018, <https://cpj.org/2018/06/ethiopia-allows-access-to-over-260-blocked-website.php>.

⁵³ ‘Ethiopia: verifying the unblocking of websites’, Open Observatory of Network Interference (OONI), 29 June 2018, <https://ooni.torproject.org/post/ethiopia-unblocking>; September 2018 update provided to CPJ by OONI.

still blocked in Ethiopia. Terror charges against the two media outlets were lifted by the Attorney General in May, paving the way for OMN to set up office in Ethiopia.⁵⁴

4.8 State surveillance, perceived and real, remains a significant impediment to the practice of independent journalism and expression of dissent.⁵⁵ Research conducted in 2014 showed that the state had implemented surveillance systems to monitor telecommunications networks, to intercept text messages, and to record phone conversations. A lack of procedural or legal constraints further gave security personnel ease of access to private data.⁵⁶ Journalists have no guarantees that communication with sources will remain private.⁵⁷ Global watchdog groups have documented how information, obtained through warrantless digital surveillance, has been used to justify arrests and inform violent interrogations of dissenters.⁵⁸

5. Freedom of peaceful assembly

5.1 During Ethiopia's examination under the 2nd UPR cycle, the government received four recommendations on the right to the freedom of peaceful assembly. Among other recommendations, the government committed to "Take steps to guarantee the political rights of its people, freedom of expression, association and assembly, in particular."⁵⁹ Of the recommendations received, the government accepted two and noted two. However, as evidenced below, the government has failed to realise any of these recommendations adequately.

5.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. Article 30 of the Constitution guarantees the right of individuals to assemble, and hold unarmed and peaceful demonstrations.⁶⁰ Accordingly, individuals have the right to the freedom of peaceful assembly for any cause or purpose. But according to the very broad definition of terrorism in the ATP calling for national or regional strikes can be seen to "cause[s] serious interference or disruption of public service," and therefore labelled as terrorism.⁶¹ Additionally, protesters can be prosecuted as terrorists if a protest leads to

⁵⁴ 'News: Ethiopia frees Andargachew Tsige, drops charges against Berhanu Nega, Jawar Mohamed and two media orgs', Addis Standard, 29 May 2018, <https://addisstandard.com/news-ethiopia-frees-andargachew-tsige-drops-charges-against-berhanu-nega-jawar-mohammed-and-two-media-orgs>.

⁵⁵ 'Journalism is not a Crime: Violations of Media Freedoms in Ethiopia', Human Rights Watch, 21 January 2015, <https://www.hrw.org/report/2015/01/21/journalism-not-crime/violations-media-freedoms-ethiopia>.

⁵⁶ 'They know everything we do: Telecom and Internet surveillance in Ethiopia', HRW, 2014. <https://www.hrw.org/report/2014/03/25/they-know-everything-we-do/telecom-and-internet-surveillance-ethiopia>

⁵⁷ 'Internet Shutdowns in Africa Stifling Press Freedom', Jonathan Rozen, Inter Press Service, 21 August 2017, <http://www.ipsnews.net/2017/08/internet-shutdowns-in-africa-stifling-press-freedom>.

⁵⁸ 'How US Surveillance Helps Repressive Regimes - the Ethiopia Case', Human Rights Watch, 3 October 2017, <https://www.hrw.org/news/2017/10/03/how-us-surveillance-helps-repressive-regimes-ethiopia-case>.

⁵⁹ A/HRC/27/14, para 155.104 (Japan), op. cit.

⁶⁰ Constitution of the Federal Democratic Republic of Ethiopia, op. cit.

⁶¹ Anti-Terrorism Proclamation, op. cit.

the destruction of private property, which is common during large demonstrations. This wrongly puts the responsibility for maintaining public order on the protest organisers rather than public authorities.

- 5.3** As outlined in Section 2 of this submission, the lack of public forums for people to air their grievances and request compensation is one of the root causes of recent civil unrest in Ethiopia. Since November 2015, widespread protests have taken place in the Oromia region of Ethiopia and have spread to several other regions. Authorities have committed violations of the rights of protesters, who initially opposed the dispossession of land without adequate compensation under the government's Integrated Development Master Plan around Addis Ababa. Security forces violently dispersed demonstrations using lethal force, including live ammunition. While the government cancelled the Master Plan in January 2016, protests continued in response to the brutality of the government's actions.
- 5.4** In its 140th Special Report, HRCO documented violations committed by government officials in Oromia after protests against the Master Plan began. From November 2015 to February 2016, HRCO investigators visited 33 Woredas (districts) and documented 102 cases of extrajudicial killings, 81 cases of assault, 84 arbitrary detentions and 12 enforced disappearances.⁶²
- 5.5** In July 2016, more protests erupted in Gondar, Amhara, following an attempt to arrest Colonel Demeke Zewdu, one of the leaders of the Wolkait Identity and Self Determination Committee. Protesters called for, among other things, an end to arbitrary arrests and the marginalisation of minority groups.⁶³ In September 2016, protests began in Southern Ethiopia as dozens of ethnic Konso people were killed by security forces in the Southern Nations, Nationalities and Peoples' Region (SNNPR) following protests over administrative boundaries on traditional Konso land.⁶⁴
- 5.6** The Amhara and Oromo protest movements raised longstanding concerns of ethnic marginalisation, although the authorities' violent repression fuelled greater grievances over human rights violations. The violent response to the protests is an example of the government's intolerance of public dissent, reportedly resulting in more than a thousand deaths and tens of thousands of arrests.
- 5.7** The protest movements further developed after a stampede at the Ireecha Oromo cultural festival on 2 October 2016 resulted in at least dozens of deaths. Authorities reportedly fired teargas and rubber bullets into the crowd, triggering a deadly stampede and further

⁶² '140th Special Report', HRCO, 14 March 2016, <https://www.ehrco.org/wp-content/uploads/2016/05/140-Special-Report-English-scanned.pdf>.

⁶³ 'Ethiopia: After a year of protests, time to address grave human rights concerns', Amnesty International, 9 November 2016, <https://www.amnesty.org/en/latest/news/2016/11/ethiopia-after-a-year-of-protests-time-to-address-grave-human-rights-concerns>.

⁶⁴ 'World Report 2017 - Ethiopia: Events of 2016', Human Rights Watch, 2017, <https://www.hrw.org/world-report/2017/country-chapters/ethiopia>.

protests in its wake. On 8 October 2016, a six-month SoE was decreed, giving the authorities the power to suspend fundamental constitutional rights.⁶⁵

- 5.8** A tax increase for Category C taxpayers, which include small and medium businesses with an annual turnover of up to 100,000 Ethiopian Birr (approx. US\$3,600), led to protests and strikes across the Oromia region, despite the SoE ban on assemblies.⁶⁶ Businesses in Addis Ababa and parts of the wider Oromia region closed their doors in protest over the tax increase. Protesters reportedly attacked two government-owned vehicles in Ambo city on 13 July 2017.⁶⁷
- 5.9** On 24 August 2017, during the second day of a five-day, stay-at-home strike in the town of Jimma in the Oromia region, a bomb exploded, injuring at least 13 people. The opposition had organised the strike to demand the release of political prisoners.⁶⁸
- 5.10** On 12 September 2017, 18 people died and thousands fled deadly protests in eastern towns of Ethiopia, according to a spokesperson from the Oromo regional government.⁶⁹ The protests came after weeks of tension and clashes on the border of the Oromia and Somali regions. Activists accused a special unit of police from Somali region, known as the Liyu, of killings and violations.⁷⁰
- 5.11** On 26 October 2017, security forces killed at least 10 people and wounded 20 in the town of Ambo in Oromia, as they fired live ammunition at a crowd that had gathered due to a rumour that a shipment of smuggled sugar would be coming through the town.⁷¹ A sugar shortage had plagued the country for months, almost tripling the price.
- 5.12** On 10 November 2017, the government announced a ban on public demonstrations and rallies across Ethiopia, as part of a national security plan to consolidate peace and security.⁷² The new ban followed the 10-month SoE that was lifted in August 2017. The

⁶⁵ 'Ethiopia declares state of emergency over protests', Al Jazeera, 10 October 2016, <http://www.aljazeera.com/news/2016/10/ethiopia-declares-state-emergency-protests-161009110506730.html>.

⁶⁶ 'News: New Tax Hikes Pushing Ethiopians To Protest The Government', Addis Standard, 17 July 2017, <http://addisstandard.com/news-new-tax-hikes-pushing-ethiopians-to-protest-the-government>.

⁶⁷ 'Seven Performers Of A Popular Youtube Music Video Charged With Terrorism', CIVICUS Monitor, 31 July 2017, <https://monitor.civicus.org/newsfeed/2017/07/31/seven-performers-YouTube-music-video-charged-terrorism>.

⁶⁸ 'Ethiopia bomb blast injures 13 in Oromia region as shutdown continues', Africa News, 24 August 2017, <http://www.africanews.com/2017/08/24/ethiopia-bomb-blast-injures-13-in-oromia-region-as-shutdown-continues>.

⁶⁹ 'Thousands flee Ethiopia clashes', BBC, 14 September 2017, <http://www.bbc.com/news/live/world-africa-40829688>.

⁷⁰ 'Ethiopia: Addressing the alarming conflict in the border areas of Oromia National Regional State and Ethiopia's Somali Regional State', AHRE, 14 September 2017, <https://ahrethio.org/2017/09/14/ethiopia-addressing-the-alarming-conflict-in-the-border-areas-of-oromia-national-regional-state-and-ethiopia-s-somali-regional-state>.

⁷¹ '10 Dead in Ethiopia After Security Forces Fire on Protesters', Voice of America, 26 October 2017, <https://www.voanews.com/a/ten-dead-in-ethiopia-after-security-forces-fire-on-protesters/4088437.html>.

⁷² 'Ethiopia bans protest rallies across the country in 'national security' move', Africa News, 11 November 2017, <http://www.africanews.com/2017/11/11/ethiopia-bans-protest-rallies-across-the-country-in-national-security-move>.

government also vowed to prosecute officials who compromised state security. Despite the ban, authorities allowed a protest by Eritrean refugees and opposition groups against the Eritrean regime to take place on 15 November 2017.⁷³

- 5.13** Students at several university campuses in Amhara and Oromia protested after a student was killed on 9 December 2017.⁷⁴ The circumstances surrounding the student's death remain unclear at the time of writing, but the killing sparked renewed ethnic tensions at universities. Protests continued for several days with the presence of security forces.⁷⁵ Security forces killed at least 15 people and injured dozens more in Chelenko, Oromia region on 11 December 2017, during a protest against the alleged killing of Oromo citizen Ahimadin Ahmed Asasa by the Liyu in continued clashes between the Oromo and Somali ethnic groups.
- 5.14** On 21 January 2018, at least five people were killed at a religious festival in the town of Waldiya, northern Ethiopia, after security forces allegedly fired on a crowd who were reportedly shouting anti-government slogans.⁷⁶
- 5.15** On 26 January 2018, Oromia region spokesperson Addisu Arega announced the pardon and release of more than 2,000 prisoners, 1,568 of whom had been convicted, while the rest had been under investigation.⁷⁷ On 8 February 2018, state-affiliated media outlet, Fana Broadcasting Corporate, reported that the government would pardon and release another 746 suspects and prisoners, among them opposition politician Andualem Arage.⁷⁸
- 5.16** On 15 January 2018, Attorney General Getachew Ambaye announced that the country would drop charges against 528 prisoners after two days of "rehabilitation training."⁷⁹ The authorities would release 115 suspects at the federal level, along with 361 suspects in Dilla district and 52 in Konso district, both in Ethiopia's southern regional state. Those released included opposition leader Merera Gudina of the Oromo Federalist Congress and

⁷³ 'Ethiopia allows anti-Eritrea march to A.U. despite protest ban', Africa News, 15 November 2017, <http://www.africanews.com/2017/11/15/photos-ethiopia-allows-anti-eritrea-march-to-au-despite-protest-ban>.

⁷⁴ 'News: Number Of Civilians Killed By Security Forces In Chelenko Climbs To Fifteen, Several Wounded; Two Students Killed In Wolega Univ.', Addis Standard, 12 December 2017, <http://addisstandard.com/news-number-of-civilians-killed-by-security-forces-in-chelenko-climbs-to-fifteen-several-wounded-two-students-killed-in-wolega-unv>.

⁷⁵ 'Ethiopia bans protests months after state of emergency is lifted', CIVICUS Monitor, 21 November 2017, <https://monitor.civicus.org/newsfeed/2017/11/21/ethiopia-ban-protests-months-after-state-of-emergency-lifted>.

⁷⁶ 'Ethiopia Waldiya: Five killed by police at religious festival', BBC, 21 January 2018, <http://www.bbc.com/news/world-africa-42767234>.

⁷⁷ 'Ethiopia 'pardons 2,000 prisoners' jailed over Oromo protests', The Guardian, 26 January 2018, <https://www.theguardian.com/world/2018/jan/26/ethiopia-pardons-2000-prisoners-jailed-over-romo-protests>.

⁷⁸ 'Ethiopia pardons 746 suspects and prisoners, including Eskindr Nega and Andualem Arage', Fana Broadcasting, 8 February 2018, <http://new.fanabc.com/english/index.php/news/item/11299-ethiopia-pardons-746-prisoners.-including-eskindr-naga-and-andualem-arage>.

⁷⁹ 'Ethiopia to Free 528 People Arrested During Anti-Government Protests', Voice of America, 15 January 2018, <https://www.voanews.com/a/ethiopia-to-free-opposition-leader-others-jailed-for-involvement-in-unrest/4208412.html>.

academic Rufael Disasa. Merera Gudina was arrested under SoE provisions in December 2016 after returning to Ethiopia from Brussels, where he had attended a meeting with European parliamentarians.⁸⁰

6. Recommendations to the Government of Ethiopia

The organisations in this joint submission call on the GoE to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding, and the state's duty to protect. In the light of this, the following specific recommendations are made:

6.1 Regarding the freedom of association

- Remove all undue restrictions on the ability of CSOs to receive domestic and international funding in line with best practices articulated by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association.
- Revoke criminal responsibility for participation in the activities of non-registered organisations and lift the ban on the activities of non-registered organisations; revoke the 70/30 classification of the income of CSOs and redefine administration costs for CSOs.
- Immediately reinstate all CSOs that have been arbitrarily and unduly sanctioned or deregistered.
- Put an end to the practice of unwarranted raids on CSOs and unjustifiable disruptions of their activities.

6.2 Regarding the protection of human rights defenders

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and transparent investigations into all cases of attacks against and harassment and intimidation of them, and bring the perpetrators of such offences to justice.

⁸⁰ 'Merera Gudina, Ethiopia opposition leader freed', BBC, 17 January 2018, <http://www.bbc.com/news/world-africa-42716864>.

- Amend the Anti-Terrorism Proclamation and the Computer Crime Proclamation in accordance with the ICCPR and the UN Declaration on Human Rights Defenders.
- Publicly condemn, at the highest levels of government, instances of harassment and intimidation of civil society activists and CSOs.
- Apply legal provisions that promote and protect human rights, and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists, in accordance with Council resolution 27.31 of the Human Rights Council.

6.3 Regarding the freedom of expression, independence of the media and access to information

- Amend the Criminal Code and Freedom of the Mass Media and Access to Information proclamation to abolish criminal defamation, insult, and false publications provisions. These laws should also be amended to ensure that their provisions are precise enough and cannot be abused to silence journalists and critical voices.
- Amend the Mass Media and Access to Information Proclamation to ensure that that journalists are not constrained in the performance of their jobs, to maximize access to information, and limit the powers to deny information. The amendments to this law should include removing strict registration requirements; removal of clauses that enable politically motivated obfuscation of information valuable to public interest; capping civil defamation penalties so that they do not bankrupt media outlets; and abolishing wide prosecutorial powers to censor publishers.
- Organise inclusive consultations with journalists and civil society in the amendment processes of these laws.
- End the practice of internet shutdowns, especially during times of political tension, and the state should guarantee that Ethiopians will continue to have unfettered access to information online.
- End the system of government surveillance that has often been used to collect information to target journalists and other critical voices in society.

6.4 Regarding the freedom of peaceful assembly

- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and association in

his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble.

- Review the cases of all people detained for exercising their right to the freedom of peaceful assembly in order to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces while monitoring protests.
- Engage in a meaningful and inclusive national dialogue with civil society, regional governments and local elders to address grievances at the root of protest movements.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms, and instruct law enforcement and security agents to cease the use of excessive force against peaceful protesters.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch a formal investigation into such instances and bring the perpetrators of abuses to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of assembly by state authorities.

6.5 Regarding access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the Special Rapporteurs on:
 - 1) the situation of human rights defenders;
 - 2) the promotion and protection of the right to freedom of opinion and expression;
 - 3) the rights to freedom of peaceful assembly and of association;
 - 4) extrajudicial, summary or arbitrary executions;
 - 5) the rights to privacy.

6.6 Regarding state engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil

society in the preparation of law and policy, including the National Human Rights Action Plan and the Growth and Transformation Plan.

- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of the UPR, including by holding periodical and comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

