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مجلس حقوق الإنسان
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البند ٢ جدول الأعمال المؤقت

تنفيذ قرار الجمعية العامة ٢٥١/٦٠ المؤرخ ١٥ آذار/مارس ٢٠٠٦
المعنون "مجلس حقوق الإنسان"

مذكرة شفوية مؤرخة ٢٨ شباط/فبراير ٢٠٠٧ موجهة من البعثة الدائمة لإثيوبيا لدى
مكتب الأمم المتحدة في جنيف إلى المفوضية السامية للأمم المتحدة لحقوق الإنسان

تهدي البعثة الدائمة لجمهورية إثيوبيا الديمقراطية الاتحادية لدى مكتب الأمم المتحدة في جنيف والمنظمات الدولية الأخرى في سويسرا، تحياتها إلى مفوضية الأمم المتحدة السامية لحقوق الإنسان، وتشرف بأن تشير إلى مذكرتها المؤرخة ٢٢ شباط/فبراير ٢٠٠٧، التي تطلب فيها تقديم تعليقات وملاحظات حكومة إثيوبيا بخصوص مشروع تقرير الخبيرة المستقلة المعنية بقضايا الأقليات بعد البعثة التي قامت بها إلى إثيوبيا من ٢٨ تشرين الثاني/نوفمبر إلى ١٢ كانون الأول/ديسمبر ٢٠٠٦ (A/HRC/4/9/Add.3) بوصفها وثيقة رسمية من وثائق مجلس حقوق الإنسان.

وترد طي هذه الوثيقة تعليقات أخرى وتعليقات ختامية تقدمها الحكومة بشأن نفس تقرير الخبيرة المستقلة ويرجى اعتبارها جزءاً من المجموعة الأولى من التعليقات وإصدارها كوثيقة رسمية من وثائق المجلس*.

* استُنسخت في المرفق كما وردت وباللغة التي قُدمت بها فقط.

Annex
Comments on
Report on the Implementation of General Assembly Resolution 60/251 of March 2006 by
the Independent Expert on Minority Issues
Mission to Ethiopia
28 November-12 December 2006

- 1-1 **Conduct of the research and report writing:** the report is littered with information that is based on hearsay and unfounded allegations. There is no section that neither describes the method used in undertaking the research, nor is there a list of individuals and institutions that participated in interviews and other methods of data collection. Different methods could have used to conceal the identity of interviewees if it was necessary. As it stands now, there is no possibility of counter-checking the accuracy of the facts referred to in the report. The report also incorporates issues that go beyond the mandate of the expert (some of these issues are outlined in the following paragraphs)
- 1-2 **Ethnic identity and federalism.** The major flaw of the report is that it does not fully highlight the institutional reflection of ethnicity and how that protects the rights of minorities in Ethiopia. The report alleges that people are forced to identify themselves as belonging to a given ethnic group and that there is no mechanism for reflecting mixed or multiple identity. In Ethiopia, identity remains a self-definitional exercise and individuals are free to express multiple identities. The referendum held by the Selti is one example.
- 1-3 **The electoral system and minority representation:** The report states in page 9, that “adequate representation of some of the smallest groups at the regional and national level, vital to their continued existence, is hard to achieve for some groups.” Ethiopia’s electoral system ensures the effective representation of all minorities through reserved seat and special representation. Proclamation No. 111/ 1995 states that “national minority “ means a community determined by the House of Peoples Representatives (HPR) to be of a comparatively smaller size of population than that of the other nations and nationalities. Proclamation No. 438/ 2005 further empowers the HPR to develop the criteria to determine such nationality. The House of Federation, the upper chamber of the Parliament can also establish constituencies other than the one provided for under article 15. National representation is also guaranteed in the Board where the composition of the board is required to take national representation into account. (Article 4(1)) Article 15 states that the Woreda shall be the basis of election constituency in Ethiopia. Each constituency shall be comprised of 150, 000 inhabitants. Nonetheless, minorities believed by the HPR believed to require separate representation shall be represented as such (Article 15(3). The requirement under Article 38 that a political party candidate that he bringing an endorsement signature from a minimum of 500 supporters has been amended by Proclamation No. 438/ 2005. Accordingly, there is no such requirement.

1-4 Cultural Identity: Appropriate institutional mechanisms are provided, for the protection of minorities even from voluntary cultural dilution. The House of Federation recently pronounced a ‘nationality day’ where the various cultural traditions of the various nations, nationalities and peoples are equally celebrated. The promotion of culture is indeed an important tenet of the Ethiopian federal arrangement. The Government is taking a number of positive measures, as recommended by the independent expert under para.2, in order to realize the cultural rights of the various groups. The Institute for Languages at the Addis Ababa University and the various cultural and linguists research centers established at the regional level (examples SNNPR, Harri, Afar etc.) are undertaking studies that would help minorities develop so that it can be used as a medium of instruction. There is a Pastoralist Standing Committee at the HPR which coordinates the legislature’s role in the enforcement of the rights of the pastoral groups. Institutions such as the National Coordination Committee on Harmful Traditional Practices seeks means and methods of ensuring the compatibility of minority’s cultural norms with human rights principles.

1-5 Conflicts: Article 55 of the Constitution provides for a federal intervention when conflict and human rights violations are not contained in a regional State. The Government has also established the Federal Affairs Ministry, which has a division that monitors conflict situations, conducts studies and suggests policy direction regarding the prevention, management and resolution of conflict. The Federal Government undertook such intervention when the situation in Gambella was beyond the capacity of the regional Government in 2003. There were allegations of human rights violations perpetrated by the federal law enforcement agencies. The HPR established an independent inquiry commission which, in its finding, has confirmed the compatibility of the intervention with the country’s constitution and international human rights instruments ratified by Ethiopia. Yet the Commission has also found that individual members of the federal forces were involved in certain violations of human rights, thereby recommending the prosecution and trial of the same. Trials of list of such individuals have been conducted, and this has been confirmed by the recent decision of the African Commission on Human and Peoples’ Rights when, during its 39th Session, rejected the admissibility of a communication brought by a Canada based NGO called Annua Justice Council. The Commission based its decision on the premise that the government is “able and willing” to undertake measures with the view to bringing the aforementioned individuals to trial.

1-6 Resettlement Programs: Resettlement Programs are conducted in such a way that they don’t undermine the survival of the group that is being resettled the Ethiopian Government has been undertaking well planned resettlement program designed to move people from overworked areas to fertile places. Such policy is a part of the Government’s well-planned food security programs. One of the features of such programs is that the cultural context of such plan is well considered. Grass-root level consultation has been undertaken to design the policy. Unlike in the past where people were forced to be ‘villagized’ in areas where they are culturally aliens, the new program encourages a voluntary settlement of people within the regional state where they have been living for generations. The Government, through the support of bilateral and multilateral donors, has provided social services such as schools, clinics, water supply etc.

- 1-7 **Religious communities:** Para. 22 of the report refer to “ deteriorating situation in regard to religious tolerance” in the country and particularly in the relationship between Christians and Muslims. Unwarranted claim is also made regarding a connection between Ethiopia’s intervention in Somalis and the condition of relationship between Muslims and Christians in Ethiopia. There is no indication or example provided suggesting such scenario. Such baseless claims only serve to propagate the propaganda of extremists bent on destroying the age old peaceful and harmonious co-existence between religious communities in Ethiopia. The reference did not also take into account the fact that numerous achievements have been recorded in expanding the entitlements of groups that were previously suppressed.
- 1-8 **Education:** One of the major achievements of Ethiopia’s Poverty Reduction and Sustainable Development Programs is gained in the education sector. The report refers to Human Development Index (2004) where allegedly the primary school enrolment is estimated to be 46. According to Government’s estimate, the enrolment rate for primary school is more than 70 percent in 2004. This estimate is confirmed by UNICE and other partners.
- 1-9 **Pastoralists:** the Constitution (Art. 40(5)) states that pastoralists in Ethiopia have the right to free grazing and cultivation land and are protected from forced displacement. The Government is fully committed to the fullest realization of the rights of pastoral communities. Its policies and strategies are concerned and implemented with the premise that the integrity of cultural rights and life style of the group should be preserved. The third leg of the national educational program, has taken the special needs of the pastoralist group for mobile schools. The regional State Government in Afar for example has been implementing Alternative Basic Education (ABE) for pastoral children. This program is supported by UNICEF. The ABE system responds to the urgent need for an education that suits the special needs and constraints of pastoral life. It provides flexible school hours, allowing pastoral children fulfil their household responsibilities while still finding time for school. The teachers are familiar with the community, and understand the pastoral lifestyle. Pastoral groups are also benefiting from agricultural extension programs designed for pastoral mode of production.
- 1-10 **Discrimination:** the protection of the individual from discrimination is one of the most cardinal principles of the Constitution. Various legislations are promulgated (such as the family code, criminal code, labour code, federal civil service legislation etc) which seek to protect citizens from myriad forms of discrimination. The report does not sufficiently appreciate these legislative reform programs. The Ministry of Justice and Institute of Legal System and Justice undertook most of these reforms. National Human Rights Commission and Office of the Ombudsman have been established and are fully operational. Protection from discriminatory practices is incorporated in the mandates of these important national human rights institutions. The report does not take into account the measures the Government has been undertaking with the view to enhance the capacity of its law enforcement agencies and judicial institutions. Steps have also been taken in almost all regions to reform the regional legislations. Family law reforms have been, for example, been conducted in Oromia, Tigray, SNNPR etc. A federal sharia proclamation is also issued in order to

ensure that religious laws are in conformity with federal legislations and human rights standards. In accordance with this proclamation, women have the right to chose which legal recourse they wish to adopt. These reforms were solely undertaken with the view to enhancing the protection of women. A baseless allegation about the violations of the rights of the Oromos is included in the report under para.72. The report also does not include information about Ethiopia's history of reporting under CERD. Currently the Ministry of Foreign Affairs is preparing an updated a report under the same instrument.

1-11 Political Participation: Ethiopia's federalism promotes the protection of minorities and ensures their effective political participation. Most of Ethiopia's regional states are not mono-ethnic. There are multiple ethnic groups inhabiting these regional States. The report does not incorporate the various institutional mechanisms that are used as modalities of ensuring effective institutional mechanisms of exercising the right to self-determination. Special Woredas are created so that minority groups make decisions that affect their life and manage their own resources. The Government has also been undertaking a continuing process of capacity bulging programs that seek to enhance the capacity of decision-making organs at the local level. The report fails to establish a connection between the conduct of the May 2005 election and the specific mandate of the Independent Expert. Moreover there are numerous unfounded allegations that are incorporated in the report. For example, the conduct of the ongoing trial of CUD leaders is not elaborated. There is no mentioning the fact that an international trial observation team has been observing this trial. There is also an outrageous and false statement incorporated in the report which states: "There is a broadly held view that independent, ethnically based political parties have been excluded in favor of other created by the TPLF and subordinate to it."

1-12 The role of the media: the report does not highlight the positive steps taken by Government media in promoting the rights of minorities. Unlike in the past, there are radio and television programs being broadcast in various languages in Ethiopia. The Government has taken steps to ensure that there is plurality of opinion in the media. There are numerous private and free media outlets in the country. New broadcasting legislation, which allows the participation of the private sector has been adopted by HPR. A federal authority entrusted with the responsibility of issuing certificates for private broadcasters is established. Currently two private broadcasters have become operational. A national institute for journalist has been established to enhance the capacity of journalists.

1-13 National Institutions: the report does not adequately discuss the various institutions created in order to further promote and entrench human rights. These institutions include the National Human Rights Commission and Office of Ombudsman. These offices are affiliated with international and regional partners. The Commission is a member of the African Coordinating Committee on National Human Rights Institutions and has an affiliate status in the African Commission on Human and Peoples Rights. These institutions have acknowledged the conformity of the Commission's legislative framework and its method of operation, with the Paris Principles. Para. 74 of the report states that the House of Federation does not have the power of checking the HPR and the executive. This statement does not go in line with the fact that the House of Federation is empowered to check on the constitutionality of legislation initiated by the executive and adopted by the HPR.

1-14 Response on the Case Study in Gambella State

1-14-1 Para. 27 of the case study quotes the Anywaa elders stating that the Ethiopian defense forces killed over 400 Anywaa in the events of December 13, 2003 and following that the report also indicates that killing of Anywaa is considered to be development by other community or people. The Ethiopian Defense Forces as one of the Federal institutions which protects the common interest of all nation, nationalities and peoples of Ethiopia, would not, at any circumstances, take any measure against one ethnic group and therefore, keeping this in mind, the Defence force as Federal Government institution did not kill any person from the Anywaa ethnic group. But, the Regional Government cannot deny the participation of individual members of the defence force by their own individual capacity and in this regard, the Ministry took measure against such members of the defence forces, who violated the constitutional framework. Thus, the number of people who lost their life at that period, as was later approved by the regional parliament, was 300 not over 400. In this case, the regional government cannot undermine even the loss of the life of one individual and give weight to the loss of 300 people that was approved by the Regional Government. The most important thing is to seek the root causes of the conflicts that led to death of the people within the Region.

1-14-2 The other point that the Gambella State would like to comment on is on the statement that alleges killing of Anywaa is considered to be development by other community or people. This kinds of statements are the one that creates mistrust among and between different ethnic groups within the Region. Accordingly, the Gambella State does not believe that the development of any group comes as a result of killing others.

1-14-3 Para. 29 of the case study states the events of December 13, 2003 conflict is about land issues and the encroachment of weaker by stronger or better armed group. Moreover, the report states that Anywaa people do not feel that the Ethiopian government is their own government. The real causes of the December 13, 2003 conflict is the lack of good governance at different capacity but not the competition for the land. Moreover, the Anywaa community without any exaggeration trusts the Federal Government and the Regional Government as their own. That is why they represent their delegates in different level of the government. Therefore, Art. 29 is a wrong quotation and regrettably so after such an open and frank discussion the President had with the independent expert.

1-14-4 Para. 32 of the Case Study states: the black groups are not allowed to participate in business activities; the defence forces are established to protect highlander interests; the military and political actors have provoked inter-ethnic conflicts to safeguard highlanders' interests and clear communities from land for oil. As far as the business activities are concerned, the Federal Constitution and the Regional Constitution give room for all people and therefore, there is no restriction on what are considered as black people. The establishment of defence forces is not for interests of one group but it is for the interests of the peoples of the Region. The defence forces do not provoke the conflict and politicians. The main cause of the conflict was rather lack of good governance.

- 1-14-5 Para. 36 states the numbers of seats in the Regional Parliament that is the seats for Nuer and Anywaa is 33 seats each, whereas the number of cabinet is 20. Among these, the Anywaa and Nuer are allocated 7 seats each, the Opo and Komo are allocated one each and the remaining 3 are allocated for majangir.
- 1-14-6 Para 37: In this article the President is quoted in connection with the ethnic composition of the police force. But the imbalance in the Regional police force he mentioned was that 480 Anywaa, 74 Nuer and 25 for Majangir, 8 for Opo and 5 for Komo, the figures being that of the conflict before 2002 not the December 13/2003 conflict. Hence, the statement is not representing the current numbers of the police force.
- 1-14-7 Para 41 states the Federal Defence Forces should be barracked out side Gambella town and restricted from entering it. This recommendation is not compatible with the practice and the system of the EDF of the Ethiopian Federation.
- 1-14-8 Para. 43 considers oil as a factor in the increasing tension in Gambella. But, the Gambella state disagrees with this statement because there is no oil discovered in Gambella Region; rather it is in the stage of oil exploration.

**Comments by the
Ministry of Women's Affairs
Government of Ethiopia**

1. Comment on Paragraph 64 and 65

“... protection of their right requires legislative measures... and practical policy initiatives...” We believe this paragraph has certain factual errors. As mentioned under Paragraph 65, the Federal government has taken a milestone legislative measure by adopting a progressive Federal Family Code of Ethiopia. Due to our constitutional federalism, regional states are free to have their own family law. In multicultural societies like ours with constitutional recognition of such multi-culture, one can hardly expect the regulation of such matters in just a single national legislation. But at the same time, regional states have the duty to respect and enforce the constitutionally guaranteed rights of women where their family law can never be below such constitutional standard. In fact, following the Federal Family code, several regional states have enacted their regional family law within our constitutional standard. The Tigray, Oromia, and Amhara Family Codes can be mentioned in this regard, as they adapted the Federal Family code with slight modification to it. Therefore, there are several legislative measures already taking place and it is not appropriate to put the above phrase in the report.

“... serious problems with implementation and enforcement...” in Paragraph 65 is somehow exaggerated and needs to the orientation of the problems. Otherwise it is misleading.

2. Comment on Paragraph 67

The ideas under Paragraph 67 of the report seem inconsistent to each other. On the one hand, it put Sharia Courts as free riders in giving decision on family disputes. On the other hand, the report mentioned how the HOF checked upon decisions of Sharia Court. Particularly, it is not appropriate to put, in the report, a phrase that reflects as if regular courts are prevented from scrutinising the decision of Sharia Courts. One can simply read Article 80 of the FDRE constitution that gives the Federal Supreme court the power to review any court decision.

3. Comment on Paragraph 75

There are also some factual errors under Paragraph 75 of the report. It is wrong to put in the report in a way implying that the government is doing nothing regarding legislative and practical protection of women’s property rights. In fact, the Ethiopian Government has taken several legislative and practical measures in this area. We can mention one best example in this regard. As an agrarian society highly dependent on natural resources, land is the key and essential property for every body including women. Thus, to ensure the land rights of women, both the Federal government and several regional states enacted detailed provisions in their land laws. And there are several women who are practically benefited from such laws and become land holders independent of their male counter part. These should have been reflected in the report and appreciated by the Independent expert. Thus, the last sentence of Paragraph 75 has a serious factual error.

4. Comment on Paragraph 76

What is mentioned under Paragraph 76 as the primary focus of the Federal Ministry of Women’s Affairs to address women’s problems misrepresents the reality. Of course “public education” about women’s right is one of the major areas of focus. But it is wrong to conclude that the Ministry’s primary focus is “on public education rather than implementation of the law”. One can simply read the duties and responsibilities of the Ministry listed under the law that established it. As problems of women in Ethiopia are cross-sectoral complicated issues – education, health, economic power, political power, justice, equality, etc..., there are technical and practical impossibility for our institution to do all these by ourselves. The Ministry, in cooperation with all relevant institutions, is trying to address all areas of the problems that need government interventions including adoption of proper policies and laws as well as their implementation as primary focus. Therefore, it is important to revisit this paragraph accordingly, and the recommendation part of the report related to this issue must also be revisited.

5. General Observation

While magnifying the problems of discriminatory traditional and customary practices of Ethiopian society, (mainly from Paragraph 64-76 (pages 19-20) this part of the report neglects the multi-cultural and multi-ethnic features of the country, which are recognised in the preceding parts of the same report. The struggle against discrimination against women as well as the challenges faced cannot be seen in isolation from the multiculturalism and traditionality of Ethiopian society. This could have helped any person reading this part of the report to understand the context.
