

Ethiopian Human Rights System: an overview

Alene Agegnehu Worku Dibu

Department of Civic and Ethical Studies, Adigrat University, Ethiopia, Po.Box- 50

Abstract

This article employed a more descriptive approach in dealing with the Ethiopian human rights system. To this effect, the national human rights experience in the past regimes along with their respective constitutional principles is referenced for the sake of comparison with the present system on the subject in question. Besides, it attempts to reveal the then socio-political and economic state-society inter-course in the way to assert that whether there is any change in the present human rights system compared to the hitherto regimes as due emphasis is made to contrast the two (past-present regimes).

An attempt is also made to provide a full image on the present human rights system in particular with a more detail discourse on the institutional structure of the national human rights system of post 1991. Accordingly, the paper explores lists of the institutional function, the mandate given thereby as well as the extent of human rights enshrined in the current constitution. In doing so, the following research questions are answered accordingly:

1. How the present human rights differ from the hitherto regimes both in principle and practice?
2. What are the institutions currently considered as tools of the national human rights system?
3. How do these institutions behave for the realization and effectiveness of human rights?

Keywords: Human Rights, Ethiopian Human Rights System, Ethiopian human Rights commission, Institutes of ombudsman.

Introduction to Human Rights System

Human rights can be defined as entitlements that all human beings assert merely because they are human. As such human rights are basic moral claims invoked for the purpose of enjoying a decent human life rooted in dignity. As they often are linked to the nature of human kind, they are also asserted as 'natural' rights. Consensus among human rights scholars reflects that human rights emanate from fundamental human dignity and worth. Mariek Piechowiak recognizes and reinforces the consensus when she defines human rights as rights of "all human beings acknowledged independently of law."¹ Thus, most common features identified as attributes of human rights include the following: universality, inherence (in human dignity), inalienability, indivisibility, and equality.

In fact, human rights as we conceive them today didn't happen in vacuum, rather they have undergone in a very terrible scenario across the board. In human history there was time that man trading men like any commodity which was known as slavery. No polity in the world naturally accepted human rights as we conceive them these days. Even Athens, the womb of democracy, made differentiation among its community (some entitled citizenship, some not). Human rights laws developed and gained momentum in an accelerated pace only in the aftermath of experiencing human atrocity in WW I and II.

As a reaction to such massive state abuse of human beings, thus, the modern concept of human rights with a sincere devotion for its practicality compelling all states of the world has been setup. Obviously, in pre-WWII, some regimes were even officially dictated by "legal lawlessness" with the doctrine of "nationalism" or even "national socialism" such as the Nazi, in Germany, and the Fascist, in Italy respectively. In response to such lawlessness, the international human rights regime developed since WWII. The milestone in the history of the development of the international human rights regime is the adoption of the United Nations General Assembly (UNGA) in 1948, called the Universal Declaration of Human Rights (UDHR).

An Overview of Ethiopian Human Rights System

Throughout the history Ethiopia, it is arguably possible to remark that there has been no satisfactory human rights protection record. Rather, Ethiopia has been disgracefully known for abuses and violations of fundamental human rights and freedoms under nearly all successive regimes taking the state power. The natural domestic political culture about human rights dignity and worth in the country has remained markedly poor for centuries. In practice, the issue of human rights system in Ethiopia is at its nascent stage till date that it cannot freely walk with two legs let alone in the past regimes (Bahru, 2002).²

Although in principle, every state owe the responsibility to promote and protect human rights for their citizens irrespective of the ground on gender, ethnicity, religion, race or class, this was not happening in the state of Ethiopia, in which the state itself was rather a predator, which used to plunder and loot the people's property

¹ Mariek Piechowiak, "What are Human Rights?: The Concept of Human Rights and their Extra-legal Justification," Institute of Human Rights, Abo Akademi University, 1999.

² Bahru Zewde, the modern history of Ethiopia, 2002.pp. 12-7.

violating the fundamental human rights and freedoms for centuries.¹

Absence of lower and broader levels of participation, deprivation of cultural, religious and economic rights for the overwhelming majority of the people, the terror and violence by the consecutive regimes against ethnic groups demanding basic right and political freedom used to characterize the country's human rights system in the past regimes including the military junta regime, Dergue. In fact, the military regime equally maintained the continuity of the past by employing a new social myth ("socialism") to justify the practice of the old 'feudal' suppression.²

In the history of the country so far, there happened four codified constitutions (of course, neglecting the draft constitution of the 1974 as it was not put in effect) beginning from 1931. Two of the constitutions were endorsed in the reign of Emperor Haile Selassie I; and the remaining two were endorsed with the advent of the two successive regimes: the military junta, Derg, and the current government, the EPRDF.

When the remote past and immediate past constitutions are seen in light of human rights embodiment, undeniably they had some elements therein with the exception of, may be, the first written constitution in 1931. For instance, the revised constitution of the 1955 embodied the fundamental principles of human rights such as rights and duties of citizens, the idea of due process of law, the responsibility of state officials, supremacy of constitution, independent judiciary, check and balance, protection against double jeopardy, civil right and freedom of speech, press, religion, assembly, and elective house of deputies (Art.37-65).

Similarly, the PDRE constitution which was adopted after a decade of power seizure by the military junta, Dergue, in 1987, declared several human rights provisions such as expressions of popular sovereignty, equality of nationalities, human and democratic rights of the working people (Art. 35-58). Despite a theoretical depiction on the paper, none of the human rights articles enshrined in the respective constitutions had got practicality, rather remained a paper value and as tool of legitimacy acquisition on the eyes of external powers.

Continued deprivation of fundamental human rights had generated multitudes of conflicts which eventually led to armed struggle in search of democracy, greater participation, cultural and religious equality, and regional autonomy for ethnic nationalities. Consequently, the continued armed struggle brought down the military regime, and replaced it by the EPRDF in 1991.³

The new regime that have come into being by replacing the military junta, Derg in May, 1991, has consistently worked for the human rights reforms aimed at promoting democratic frame of governance with a new constitution named as the FDRE. From the beginning, the transitional charter of the 1991 incorporated the rights and principles of International Bill of Rights the main one being UDHR which was declared in 1948 under the UNGA-(United Nation General Assembly) provision (Article 1 of the charter).

Actually, the constitution which came to force in 1995 enshrined even more than the provisions of human rights stated in International Bill of Rights. Among the fundamental rights and freedoms provided in the constitution, the following can be cited. In Article 39 of the FDRE constitution, nations, nationalities and peoples are granted unconditional right to self-determination, including the rights to secession. Moreover, each group (nation, nationality, and people) has the right to speak, write, and develop its own language; to express, develop, and promote its culture; and to preserve its history (Art.39/2).

In Article 39/3 there are more rights enshrined in the FDRE constitution, among others, for instance, each group has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits, and to equitable representation in the state and federal governments (Art. 39/3). In fact, the FDRE constitution embodies both individual and group rights as it has just been discussed above.

Moreover, the constitution under chapter three distinguishes between two clusters of rights, namely "Human" and "Democratic". Most civil and political rights such as the right to life (Art 14 and 15), liberty (Art 14 and 17), security of the person (Art 14 and 16), rights against torture, slavery, forced labor and related vices (Art 18), rights of arrested (Art 19), accused (Art 20), and detained (Art 21) persons, rights against retroactive laws (Art 22), double jeopardy (Art 23), rights to honor and reputation (Art 24), equality (Art 25), privacy (Art 26), religion, belief, and opinion (Art 27), and rights against crimes against humanity (Art 28) are all clustered under a category of "Human Rights" (FDRE Constitution, 1995 Art14-28).

The remain rights such as the right to thought, opinion, and expression (Art.29), assembly, demonstration, and petition (Art 30), association (Art 31), movement (Art 32), nationality [alias citizenship] (art 33), marital, personal, and family rights (art 34), access to justice (art 37), vote and be voted for (art.38), property (art 40), economic, social, and cultural rights (art. 41), dignified labor (art 42), development (art 43),

¹ Ibid, pp.19-23

² Bahru zewde. *the modern history of Ethiopia* 2002.pp.45.

K. Hossain et al. (eds) Human rights commission and ombudsman office.pp.7

³ Gebru Tareke. "Ethiopia: power and protest, the peasant revolts in the twentieth century".1991.pp.12

environment (Art 44), rights of women (art.35), children (art 36), and nations, nationalities, and peoples [*alias* organic collectivities] (art 39) are enumerated under “Part Two”, the part chiefly elaborated as “Democratic Rights”.

Considering the list of rights in the two parts of chapter three, one quickly notices the fact that traditional civil and political rights are rampant in both parts although most economic, social, and cultural rights are found in part two. It seems, thus, that there is not much of a method into the classification. (The rationale behind for such classification is that while ‘human’ rights are entitlements bestowed on us by virtue of our being human, ‘democratic’ rights are rights we claim only as a consequence of our being members of a political community.

The strong emphasis of the new regime's stand against abuses and violations of fundamental human rights and freedoms has been clearly expressed in Article 1 of the transitional charter of 1991, and in chapter 3 of the 1995 constitution which expresses in detail in articles 14-28 of part one (*regarded as Human rights*) and articles 28-44 of part two (*assumed as Democratic rights*). Moreover, the entrenchment of all three generations of human rights, and further provisional prescriptions anchored on the principles of the International Bill of Rights to establish an additional enforcement bodies, human rights commissions and ombudsman office, at national level strictly differentiates the FDRE constitution from the past successive constitutions and regimes.

The 1995 FDRE constitution under article 9(4) also recognizes “all international agreements ratified by Ethiopia shall be taken as an integral law of the land.” Besides, under article 13 (2) provides that the fundamental rights and freedoms recognized under Chapter 3 of the constitution shall be interpreted in a manner conforming to International Covenants on Human Rights and international instruments adopted by Ethiopia.¹

In fact, Ethiopia has ratified numerous other international and regional treaties. For instance, it has ratified the (Banjul) African Charter on Human and Peoples Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the 1965 Convention on the Elimination of Racial Discrimination, the 1982 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.²

Despite all the qualities that the FDRE constitution and the regime in power reveals as compared to its predecessors, the terrible record of human rights violation is still there. In fact, the government has been severely criticized by the political opposition located inside and abroad, and by international human rights, in particular, the Ethiopian Human Rights Council (EHRCO), Amnesty International and organs of private press. Both opposition and non-governmental human rights have accused the government of imposing serious restrictions on political participation in the course of elections. There are also even more complaints concerning freedom of press, associations and participation during elections by Amnesty International and US state department.³

Regardless of constitutional protection of collective and individual rights, the government in power is still being criticized for massive and widespread human rights violation. Recently, the UN committee on the Elimination of Racial Discrimination (CERD) issued an extremely critical report on Ethiopia. According to the report Ethiopia has failed to fulfill the reporting obligation on the status of racial and ethnic discrimination. The state party which is responsible for reporting has ignored any request by CERD to contribute information on the status of racial and ethnic discrimination in the country, and neither did it respond to an invitation by the Committee to participate in one of its meetings.⁴

Normative standards of the FDRE human rights system

As in the preamble of the FDRE constitution stated, the goal to jointly build one economic community is founded on the rule of law by guaranteeing the fundamental rights and freedoms of the individual and of nation, nationalities and peoples. The constitution of FDRE guarantees respect for people's rights and freedoms and provides that the federal and regional government organs, at all levels and their respective officials shall have the responsibilities and duties to respect and enforce the alleged rights and freedoms.⁵

The normative standards by which the Ethiopian human rights system works with are, thus, include: the determination and commitment to consolidate peace and prospect of a democratic order for full respect of individual and group fundamental rights and freedoms, to live together on the spirit of equality and liberty

¹ Ibid, Article 9 and Article 13 of the FDRE constitution.

² Girmachew Alemu, *Introduction to the Ethiopian Legal System and Legal Research*. Published August/September 2010.PP:4-6.

³ K. Hossain et al. (eds) *Human right commission and ombudsman offices*. pp. 21
Yash Ghai. *the structure of human rights in federations*.2010. pp. 52-53

⁴ Kjetil Tronvoll. *Human Rights Violation on Federal Ethiopia: Ethnic Identity is a Political Stigma*.2008.pp.56-57.

⁵ Article 13(3) of Federal Democratic Republic of Ethiopia constitution).

without discrimination on the grounds of culture, language, religion, ethnicity; and is based on the confirmation that human rights and freedoms do emanate from the nature of mankind, and remain inherent, inviolable, inalienable, unconditional, and universal.¹

The foundational principle that underscores the normative structure of human rights in Ethiopia is the principle of sanctity of human rights enshrined under Article 10 of the FDRE Constitution which reads as follows: (1) “*Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable.* (2) *Human and democratic rights of citizens and peoples shall be respected.*” This article articulates the principle of sanctity of human rights in unequivocal terms. A deeper examination of the words of the article suggests that: a) human rights are *inherent* in the nature of human kind; b) they are universal (i.e. applicable to every human); c) they cannot be subject to any legitimate violation; and d) they are indivisible. Thus, it is evident that they remain, at once *inherent, universal, indivisible, and even absolute*. This gives the moral force that shapes and influences laws, decisions, practices, and actions taken in the public life of a society.²

The Institutional Structure of the FDRE Human Rights System

The primary institutions responsible for the protection, promotion, and enforcement of human rights in Ethiopia are: the *legislature* (both the House of Peoples’ Representatives (HPR) and the House of Federation (HoF)), the *executive* (especially those institutions such as the police, prosecution, prisons who administer civil and political rights and those who are in charge of providing public goods and services such as education, health, social welfare, clean environment, clean water, etc), and the *judiciary* (which includes the institutions with the responsibility to adjudicate cases over constitutional disputes such as the Council of Constitutional Inquiry (CCI). Thus, one can note that the primary institutions that are custodians/guardian/ of the human rights norms in Ethiopia are the mainstream institutions in charge of human rights administration. In the discourse of protecting human rights in a domestic setting, the tasks that are involved can, thus, be summarized as follows: a) constitutional guarantee; b) legislative protection; c) judicial application; and d) executive implementation. These tasks entail a process of *concretization* of the principle of sanctity of human rights.³ The Constitutional guarantee of human rights is all about extending recognition to a particular right in the most fundamental law of a polity/state/. This helps to bestow a more elevated status to the right as a consequence of which restriction, suspension, or deviation from it becomes difficult, if not totally impossible. The prevalence of Legislative protection ensures that no violation can occur with impunity and the judicial applications enable to ensure that the actual violations of human rights need an urgent possible remedy or redress by presenting cases before the courts. *All these tasks are inter-related and interdependent one on the other* (Tsegay, 2001).⁴

On the other hand, by the institutional structure of human rights system in Ethiopia, it embrace semi-judicial institutions as well, which are concerned with human rights promotion and protection being constitutionally empowered to promote and safeguard the individual and collective rights, and such institutions include the Ethiopian Human Rights Commission (EHRC), the Ombudsman Offices and some similar institutions as *special bodies* that serve as ‘patrons’ of the human rights promotion like NGOs engaged in such businesses.⁵

In fact, it is worthy to notice that these institutions have *a secondary role* as compared to the role of the mainstream rights administration institutions that earlier mentioned. The EHRC, for instance, is an institution which is mainly engaged on promotional tasks than protection and remedial tasks. Besides, it is noticeable from the law promulgated to establish the Commission, Proclamation No. 210/2000 that it attends to a systemic problem rather than specific cases which might be taken as oddness, otherwise. The role of *non-governmental organizations (NGOs)* and their immense contributions towards the betterment of human rights situations by fostering the human rights culture (through training, education, and dissemination of information) is remarkable as well.⁶

The role of the national human rights institutions

i) The legislature- this is the highest organ of the government entrusted to represent and speak on behalf of the people being a mirror reflection to whom it represents. In fact, the legislature is of bicameral which constitutes HPR, the lower house representing the whole people in the federation and endowed with the highest legal power in making legislation (Art. 55). This organ of the government has power of checking and supervising the

¹The 1995 FDRE constitution

² Ibid

³Tsegay Regassa. Making legal sense of human rights: the judicial role in protecting human rights in Ethiopia. Mizan law review vol. 3 No.2, September 2009.

⁴Tsegaye Regassa, “courts and the human rights norm in Ethiopia” in tsegaye regassa and assefa fiseha (eds), *courts and the constitution: proceedings of a symposium on courts and the enforcement of the constitution, June 2000*. Addis Ababa: Ethiopian civil service college, 2001.

⁵ Girmachew, Alemu. [journal] Ethiopian: *human rights practice*. august/September 2010).

⁶ Tsegay Regassa. MAKING LEGAL SENSE OF HUMAN RIGHTS. Mizan Law Rev. pp. 305

executive whether it is abiding by constitution in its deed (Art 55(17)). This organ basically stands a head to represent the people, and strives to maintain the human rights implementation in conformity with the law of the land. Furthermore, as this organ represents the people at grassroots level, it remains responsible to establish the executive having got majority seat in the parliament (Art 56).

On the other hand, the HOF is an upper house composed of representatives of nations, nationalities, and peoples which is empowered, among others, to ultimate interpretation to the constitution (Art.62(1)). It has power to decide on the issues of nation, nationality, and people to self-determination, including the rights to secession. It has also the mandate to promote the equality of the peoples of Ethiopia enshrined in the constitution (Art. 62(4)). In its operation of constitutional interpretation, the HOF is assisted by an expert body called Council of Constitutional Inquiry (CCI), which examines each case upon which constitutional interpretation is requested and submits its recommendations to the HOF, which ultimately makes a final binding decision upon cases (Article 84)¹.

ii) The executive organ of government- this organ is primarily there to execute the mandate of law implementation or enforcement. Police, security force, military, and prosecution are the prominent agents of non-political executive who stand for enforcement of human rights laws. In fact, majority of the government agents fall under the executive branch of governments it embodies political and non-political. The Prime Minister and Council of Ministers also fall under this organ which is most empowered political executives in charge of state functions. Derogation of protected rights in cases of emergencies with the decree by this organ is stated in the constitution. Derogation clauses relate to provisions that permit the temporary suspension of the application and enjoyment of rights in response to incidences of emergency that threaten the life of a nation.

iii) The Role of the Judiciary in Protecting Human Rights-The role of the judiciary in the protection of human rights is so immense that it cannot be exaggerated. Often, they are rightly presented as “the safeguard against abusive governmental practices”². In most jurisdictions, they are the primary bodies to which victims of human rights violations look to obtain formal redress. That is perhaps the reason it is often said that “undoubtedly, the protection of constitutional rights and freedoms is the objective of all courts.”³

The judiciary as part of the three major organs of the state, the *trias politica*, is one of those institutions that have these triune duties to respect, to protect, and to fulfill the exercise and enjoyment of human rights. In the Ethiopian constitution, the courts are identified as one of the three organs of the state that have “the responsibility to respect and enforce the provisions of this [i.e., the Human rights] chapter.”⁴ The judiciary, being staffed with judges who are viewed as the oracles of the law, is primarily the protector of the weak from the strong, the poor from the wealthy, and the powerless from the powerful. The protection of “the worst and the weakest amongst us” is one of the cardinal duties of the judiciary. The judiciary in Ethiopia has no less important task than the one outlined for courts elsewhere. The constitution (in its arts 78-81) recognizes the establishment of a three-tiered independent judiciary which is vested with all judicial power.

The Ethiopian Human Rights Commission (EHRC) and Its Structure

In fact, the Ethiopian Human Rights Commission followed by the Offices of Ombudsman most represents the semi-judicial human rights system of Ethiopia.

The proclamation statement under Article 3 about the commission's establishment reads as: “*The human rights commission of Ethiopia or the commission is hereby established as an autonomous organ of the federal government having its own juridical personality.*” ultimately, the commission is responsible to the statutory, the house of the peoples' representatives.⁵

Article 55 of the FDRE Constitution requires the Federal government to establish a Human Rights Commission and an Office of Ombudsman, and Proclamation No 210/2000 was enacted to provide for the establishment of the Ethiopian Human Rights Commission. The Parliament, in July 2000, approved Proclamation 210/2000, which established the Commission and defined its mandates and powers. With regard to the purpose of the commission, Article 5 of Proclamation 210/2000 provides that:

“The objective of the Human Rights Commission is to educate the public be aware of human rights, to see that human rights are protected, respected and fully enforced as well as to check

¹ Assefa Fisha. “Federalism: Teaching material. Prepared under the Sponsorship of the Justice and Legal System Research Institute” (2009). PP. 410-414 .

² Lawrence Friedman, “Turning to the Courts: Human Rights before the Bench” (Book Review), *Harvard Human Rights Journal*, Vol. 13 (2000), p. 316.

³ Khalnar Hajiyev, “The Role of the Constitutional Court and Ordinary Courts in the Protection of Human Rights” (Paper presented on a conference on “Human Rights Protection Systems”, Bishkek , 21-22 November 2002), p. 3.

⁴ Art 13 (1), the provision regarding state duty for human rights, reads as follows: “All Federal and State legislative, executive, and judicial organs at all levels shall have the responsibility and duty to respect and enforce the provisions of this chapter.”

⁵ Proclamation 210/2000 of Ethiopian human rights commission (EHRC).

whether the necessary measures taken where there are human rights violations.”¹

The EHRC and EIO are semi-judicial human rights institutions established by constitution. It is particularly, the power of the House of Peoples' Representatives to establish the Human Rights Commission and Institute of Ombudsman for terms of five years by the constitutional proclamation 210/2000 and 211/2000 respectively.²

The Human Rights Commission and the Offices of Ombudsman are mandated to promote human rights nation-wide by working hand in hand with the primary human rights institutions by rendering awareness creation to the public at large and of members of relevant institutions and civil society organizations.³

Structural organization of the HRs commission: as it is stated under article 8 of the proclamation, the organization of the commission are described generally in two ways:

- a) A council of commissioners
- b) (1) A Chief commissioner
(2) A deputy chief commissioner
(3) A Commissioner heading the children and women affairs
(4) Others commissioners and
(5) The necessary staff (Article 8 of proclamation No.210/2000).⁴

Regarding the appointment procedures of members the commission, the chief commissioner, the deputy commissioner and other commissioners are appointed by the Parliament for the terms of five years. The appointees first recruited by the 'Nomination committee' and receive the support a two-thirds votes of the members of the committee; and after presented the nominees to the house, the one who receive two-thirds votes of the house will be appointed as a commissioner. To be a member of the commission, the candidate shall be loyal to the constitution of FDRE, uphold and respect for HRs, has to be an Ethiopian national, has to be free from criminal offence, need to have honesty and good conduct, and has to be above thirty five years of age.⁵

Composition of the nominators: According to article 11 of the proclamation No. 210/2000, the Ethiopian human rights commission nomination committee is comprised of: the speaker of the House who act as a chairperson; the speaker of the House of Federation, seven members from among members of the HoF, the president of the Federal Supreme Court, a representative of from the Ethiopian Orthodox church, Islamic council, and catholic church; and a representative of the Ethiopian Evangelical church who acts as members of the commission. As far as check and balance principle is concerned, the chief commissioner is directly accountable to the house; Whereas the deputy chief commissioner and other commissioners are immediately responsible to the chief commissioner.⁶

Objectives of the commission

The Commission has various programs of action carrying out specific activities with a view to achieving the overall objectives of the Commission. The following are some of the specific activities to be discharged under each program:

1. **Human Rights Education-** the core of this activity revolves around creating public awareness on human rights or on specific rights through face to face contacts or via the media, publications; supporting awareness raising education and promotion by being a depository for human rights materials as well as through training key professionals
2. **Human Rights Protection (complaint investigation)** – includes activities dealing with inherited backlogs, filed complaints, sensitive or priority cases, systemic or group issues; ensuring the application of remedies, attempting amicable resolution of cases as well as ensuring the implementation of settlements.
3. **Human Rights Monitoring** – under this category the Commission monitors places of detention; ensures the implementation of recommendations; monitors the general human rights situation of the country; as well as undertakes event monitoring.
4. **Advising Government-** this program involves the Commission's provision of advice on existing legislation, policy and practices; provision of advice on proposed legislation, policy and practices as well as provision of advice on Treaty Bodies Reporting to the Government.
5. **Human Rights Research**– under this Program, the EHRC seeks to conduct in-house or contracted research into human rights issues; carry out in-house or contracted research to support the development of guidelines, policies, procedures, etc; carry out in-house or contracted research to support program delivery; encourages academic research into human rights issues and develop a program of action research.

¹ Supra notes 15.

² Human Rights Commission Establishment proclamation No 210/2000

³ proclamation No,211/2000 of institutes of ombudsman(IO)

⁴ Human Rights Commission Establishment proclamation No 210/2000

⁵ Ibid

⁶ Article 13 of the proclamation No.210/2000) of EHRC.

6. **Democratic Institutions Program (DIP)**-under this Program, major donors and UN agencies working in Ethiopia have agreed to collectively support the strengthening of the capacity of the main democratic institutions in the Country including the Ethiopian Human Rights Commission(EHRC). The current program aims at strengthening the capacity of the EHRC to be in full compliance with international standards for national human rights institutions (such as the Paris Principles) and pursues with the objectives to:

- a) Strengthening national capacity to respect, protect, promote and fulfill human rights;
- b) Facilitate the enhancement of skills relating to treaty reporting obligations, documentation, public awareness and project development and management; and
- c) Strengthening of the public awareness of human rights and the capacity of Ethiopian Civil Society to participate and network in the promotion, protection, and awareness raising on human rights.¹

Powers and duties of Ethiopian human rights commission

According to Article 6 of Proclamation No.210/200, the Ethiopian Human Rights Commission has the powers and duties to: ensures the human rights and freedoms provided under the FDRE Constitution are whether respected by all citizens, organs of state, political organizations and other associations as well as by their respective officials; ensures that laws, regulations and directives as well as government decisions and orders do not contravene the human rights of citizens guaranteed by the constitution; educates the public, using the mass media and other means, with a view to enhancing its tradition of respect to, and demand for enforcement of rights upon acquiring sufficient awareness regarding human rights; undertakes investigation, upon complaint or its own initiation, in respect to human rights violations; and makes necessary recommendations for the revision of existing laws, enactment of new laws and formulation of policies. It also provides consultancy services on matters of human rights; participates in international human rights meeting, conferences or symposia; and to translates into local vernaculars, international human rights instruments adopted by Ethiopia and disperse same (Article 6 of the proclamation).²

However, there are varieties of constraints facing the EHRC, which limits the institution from the full realization of the mandates given. One of the potential setbacks facing the institution is limitation of human and financial resources with a possible serious implication for the commission's work. Given the likely more complaints on the one hand, and the limited financial and human resources on the other, has remained a serious challenge in the capability of the commission to discharge the mandate.³

Another structural setback to the Human Rights Commission is unawareness of the public at large about the exercise of human rights and less commitment by government institutions supposedly engaged in the protection of fundamental rights. Institutions which are supposed to be directly involved with the enforcement of human rights namely, the military, the police, security forces, courts, prosecution and prison administration have had a negative role to play in the mass violation of collective and individual rights of the people defending for the authoritarian regimes.⁴The resultant effect of the above legacy has become that, the public at large doesn't fully tend to trust and regard these institutions as human rights enforcement agents.⁵

The Ethiopian Institution of the Ombudsman (EIO)

The institution of ombudsman was established by the house of peoples' representatives by the power entrusted to it under article 55(15) of the FDRE constitution. The proclamation which provides the establishment of the institution of Ombudsman No.211/2000 was promulgated by the house in 2000.⁶ The institute of Ombudsman is accountable to the house of peoples' representatives. The institution has council of Ombudsman, a chief Ombudsman, a deputy chief Ombudsman, an Ombudsman heading the children and women affairs, Ombudsman heading branch offices and the necessary staff. The Proclamation established that the main function of the EIO is to prevent and rectify maladministration and, thus, to promote good governance.

The EIO is designed to prevent and remedy (rectify) arbitrary or unjust administrative actions of the executive vis-à-vis its citizens, and to provide an easily accessible means to the public to assure that the basic rights are not violated by the executive without an avenue for complaint investigation and redress, and promote good governance.⁷

¹ Ethiopian institute of ombudsman proclamation; History and profile of Ethiopian Human Rights Commission (EHRsC). [http://www.ehrc.org.et/AboutUs/Profilehistory/ tabid/ 56/Default. aspx](http://www.ehrc.org.et/AboutUs/Profilehistory/tabid/56/Default.aspx).Sunday, March 17, 2013.

² Ibid under Article 6 of the proclamation.

³ K. Hossain et al. (eds) Human rights commission and ombudsman office.pp.25-6

⁴ Ibid, pp. 26-27

⁵ Ibid, pp. 24.

⁶ Abrham, Yohannes . *Ethiopian legal brief*. Proclamation no. 211 /2000 establishment of the institution of the ombudsman, retrieved from on August 3, 2011.

⁷ Ibid

As the preamble part EIO explain, its main objective is to duly rectify or prevent the unjust decisions and orders of executive organs, and officials thereof. According to Article 5 of Proclamation 211/2000, the objective of the EIO is:

“[T]o see to bringing about good governance that is of high quality, efficient and transparent, and are based on the rule of law, by way of ensuring that citizens' rights and benefits provided for by law are respected by organs of the executive.”¹

The Mandate of Institution of Ombudsman

The ombudsman institution is a system of accountability mechanism that helps citizens know and appreciate their rights to complain against the decision of the executive branch of the government. The Ethiopian Institution of the Ombudsman (EIO) is established in the Ethiopian constitutional order as a system of oversight and accountability mechanism over both federal and state public administration.² Article 6 of Proc. 211/2000 stipulates that the EIO shall have the powers and duties to: supervise that administrative directives issued, and decisions given, by executive organs and the practices thereof do not contravene the constitutional rights of citizens and the law as well; receive and investigate complaints in respect of maladministration; supervise, with a view to ensuring that the executive carries out its functions in accordance with the law and to preventing maladministration; Seek remedies in case where it believes that maladministration has occurred. Moreover, it has also power to undertake studies and research on ways and means of curbing maladministration; Make recommendations for the revision of existing laws, practices or directives and for the enactment of new laws and formulation of policies, with a view to bringing about better governance; and Conduct supervision so see if the services of executive organs to women, children and people with disability do have gaps on law and regulation and make recommendations (Article 6 of Proc. 211/2000).

The constitution of the FDRE envisions a democratic community that respects the rule of law and ensures respect for human and democratic rights. The Ethiopian Institution of the Ombudsman, along with other democratic institutions works for the realization of this vision. The establishment of the Institution of the Ombudsman is set out in Article 55(15) of the FDRE Constitution. In 2000, the enabling legislation of the Ethiopian Institution of the Ombudsman (EIO) was passed by the Parliamentary Proclamation 211/2000. This Proclamation established that the main function of the EIO is to prevent and rectify maladministration, and thereby to promote good governance.³

All in all, the Ethiopian human rights institutions generally have vested with the mandate of promotions and protection of fundamental rights of citizens. To this effect, they are given as broad mandate as possible which is clearly set forth in the constitution and/or legislative text. Among the major responsibilities, the institutions must ensure certain rights from violation; and assist to give remedy for violation at national level.⁴

The proclamation for Ethiopia Human Rights Commission sets the protection, respect and enforcement of human rights as its core objectives. Institutes of Ombudsman, on the other hand, has the objective of ensuring good governance by respecting rule of law and protecting human rights. Currently, it is also empowered to ensure the protection and implementation of proclamations, but also strongly deals with administrative matters.⁵

As far as communication procedure is concerned, the UN human rights principle recognized that, individual complaints could be submitted either directly by the victim or indirectly through third person. In the same way, the Ethiopian constitution allows victims to submit their complaints before national human rights institution (Art 22(2)). However, the Ethiopian human rights institutions accept third party complaints on behalf of the victim, while the victim is not personally capable to bring complaints due to either mental or physical disability, declaration of absence or death. Human rights commission allows the victim's relatives, spouse, representatives or any third party to bring complaints on the victim's behalf.⁶

The Ethiopian Human rights institutions also, admit complaints made in any form, such as in a written form or orally. The use of e-mail, fax and telephone are other means to ensure effective communication between national human rights institution and potential complaints. And, the institution allows an interpreter without compromising the values of confidentiality and impartiality to tackle language constraints; because of the presence of multiple minority languages in the country.

¹ Proclamation no. 211 /2000 of Ethiopian Institute of Ombudsman. Article 5

² http://www.bod.com/index.php?id=3435&objk_id=706009.

³ proclamation No. 211/2000 of institute of Ethiopian Ombudsman

⁴ Kidane, Yemsrach. *The roles and challenges of Ethiopian National Human Rights in the protection of Human Rights in light of the Paris principle*. Budapest, Hungary, 2010 :37

⁵ Ibid PP :38

⁶ Ibid PP:38 and Article 22 of the proclamation of Ombudsman.

Conclusion

Even though, Ethiopia has experienced a written constitution since 1931, the issues of Human rights were practically neglected and in some cases remained merely a paper value till the late 20th century. Following the dethrone of military junta (Derg) replaced by the EPRDF with the promulgation of FDRE constitution, Human rights issue has begun to gain momentum. The FDRE constitution devotes one-third of the constitution under chapter three dealing with Human rights.

The unique features of the FDRE Human Rights system is that it has ratified a number of international human rights convention such as African charter of human rights, the ICCPR, the ICESCR, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the 1965 Convention on the Elimination of Racial Discrimination, the 1982 Convention against Torture etc.

Taking the above conventions and treaties into account, the constitution supposedly interpret Fundamental rights and freedoms specified in chapter three in conformity to the principle of the UDHR and International covenants on human Rights and International instruments adopted by the country (article 13(2)). The constitution, again under the same article, grants the primary institution responsible for the protection, promotion, and enforcement of human rights in Ethiopia are given to legislative, executive and the judiciary organs both at federal and regional levels. The legislature can protect human rights through making protecting laws. Through its budgetary and control powers, it can also press the executive in to deference for negative rights and facilitation of the enjoyment of positive rights. The Executive, on its part, has the role respecting human rights and preventing violation by others. The Judiciary enforces rights by determining entitlements, punishing violator, and by redressing the victims. Usually, courts are viewed as the custodians of human rights. In Ethiopian, however, because of their limited role in constitutional interpretation, this role is undermined.

Besides, the main stream institutions, the constitution grant the house to established additional institution to foster and promote human rights. These institutions are Ethiopian Human Rights Commission (EHRC), Institutes of Ombudsman (IO), which had established by the constitution under article 55(14) and (15), by the proclamation number 210/2000 and 211/2000, respectively. The ombudsman has the duties to ensure good governance through addressing male administration and limiting excess power exercise by administrative agency which potentially affect individual human rights. The Ethiopian Human Rights commission (EHRC) is also the subsidiary national institution mandated to promote Human rights in Ethiopia. However, it faces many critical challenges due to the political influence which negatively affects its independence, has little experiences because of its appearance at its early stage, and limited staff capacity, lack of awareness to the people and limited commitment to the government official in promoting and protecting human rights; and lack of co-ordination by concerned bodies.

Reference

- Abraham Yohannes (2011). Ethiopian legal brief: Proclamation no. 211 /2000 establishment of the institution of the ombudsman, retrieved from on August 3, 2011.
- Assefa Fisha. Federalism: Teaching material. Prepared under the Sponsorship of the Justice and Legal System Research Institute (2009). PP. 410-414.
- Bahru Zewde (2002). A History of Modern Ethiopia:1855-1991 2nd edition Oxfor James Currey Center, Local Government Bulletin Conference, 23, July 2009.
- Christopher Clapham (1987)., "The constitution of the people's democratic Republic of Ethiopia", Journal of Communist Studies and Transition Politics.
- Edmond J. Keller (1991). The 1987 Constitution. Ethiopia: A country study (Thomas P. Of cansky and La Verle Berry, (ed). Library of Congress Federal Research Division. This article incorporates text from this source, which is in the public domain.
- Gebru Tareke (1991). Ethiopia: power and protest, the peasant revolts in the twentieth century.pp.12.
- Girmachew Alemu (2010). Introduction to the Ethiopian Legal System and Legal Research. Published August/September. PP; 4-6.
- Girmachew Alemu (2010). Introduction to the Ethiopian Legal System and Legal Research. Published August/September .PP;4-6.
- Girmachew Alemu (2010). *Introduction to the Ethiopian Legal System and Legal Research*. Published August/September 2010.PP;4-6.
- Girmachew Alemu (2010). Ethiopian: *human rights practice*.
- Hajiyev Khalnar (2002). The Role of the Constitutional Court and Ordinary Courts in the Protection of Human Rights: Paper presented on a conference on "Human Rights Protection Systems", Bishkek , 21-22 November , p. 3.
- K, Hossain *et al.* (Nd) Human rights commission and ombudsman office.pp.25
- Khalnar Hajiyev (2002). "The Role of the Constitutional Court and Ordinary Courts in the Protection of Human Rights" (Paper presented on a conference on "Human Rights Protection Systems", Bishkek , 21-22, p.

3.

- Kidane Yemsrach (2010). The roles and challenges of Ethiopian National Human Rights in the protection of Human Rights in light of the Paris principle. Budapest, Hungary,:37.
- Kjetil Tronvoll (2008). Human Rights Violation on Federal Ethiopia: Ethnic Identity is a Political Stigma.pp.56-57.
- Lawrence Friedman (2000). "Turning to the Courts: Human Rights before the Bench" (Book Review), *Harvard Human Rights Journal*, Vol. 13 (2000), p. 316.
- Mariek Piechowiak(1999). "What are Human Rights? The Concept of Human Rights and their Extra-legal Justification," Institute of Human Rights, Abo Akademi University.
- Tsegaye Regassa (2001). "Courts and the human rights norm in Ethiopia" in Tsegay Regassa and Assefa Fiseha (eds), *courts and the constitution: proceedings of a symposium on courts and the enforcement of the constitution, June 2000*. Addis Ababa: Ethiopian civil service college.
- Tsegaye Regassa (2001). Courts and the human rights norm in Ethiopia: courts and the constitution: proceedings of a symposium on courts and the enforcement of the constitution, June 2000. Addis Ababa: Ethiopian Civil Service College.
- Tsegay Regassa (2009). Making legal sense of human rights: the judicial role in protecting human rights in Ethiopia. *Mizan law review* vol. 3 No.2, September.
- Yash Ghai (2010). The structure of human rights in federations. pp. 52-53.

Proclamation

The 1931 Imperial constitution, the first written constitution.

The 1955 Revised constitution.

People Democratic Republic of Ethiopia (PDRE) (1987) constitution.

Federal Democratic Republic of Ethiopia Constitution (1995). *Negarit Gazeta*, 1st Year Number.1,1995.

The Ethiopian Human Rights commission establishment Proclamation No. 210/2000.

The institute of Ethiopian Ombudsman establishment Proclamation No. 211/2000.

The IISTE is a pioneer in the Open-Access hosting service and academic event management. The aim of the firm is Accelerating Global Knowledge Sharing.

More information about the firm can be found on the homepage:

<http://www.iiste.org>

CALL FOR JOURNAL PAPERS

There are more than 30 peer-reviewed academic journals hosted under the hosting platform.

Prospective authors of journals can find the submission instruction on the following page: <http://www.iiste.org/journals/> All the journals articles are available online to the readers all over the world without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. Paper version of the journals is also available upon request of readers and authors.

MORE RESOURCES

Book publication information: <http://www.iiste.org/book/>

Academic conference: <http://www.iiste.org/conference/upcoming-conferences-call-for-paper/>

IISTE Knowledge Sharing Partners

EBSCO, Index Copernicus, Ulrich's Periodicals Directory, JournalTOCS, PKP Open Archives Harvester, Bielefeld Academic Search Engine, Elektronische Zeitschriftenbibliothek EZB, Open J-Gate, OCLC WorldCat, Universe Digital Library, NewJour, Google Scholar

