



COUNTRIES AT THE CROSSROADS 2011: ETHIOPIA

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INTRODUCTION

Ethiopia's long-awaited democratization has stalled over the last half decade. Although the ruling party, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), has continued to pursue reforms aimed at state decentralization and local empowerment, the potential impact of such institutional changes has been stymied by the manner in which the party exercises power. Alongside its reforms, the EPRDF also continues to pursue authoritarian political strategies that impede the contestation of elected office as well as the creation of independent organizations. Opposition parties remain subjected to legal and physical harassment, members of the media face unrelenting persecution, and civil society organizations are constrained by restrictions on their operations, all while citizens experience increasing pressure to become members of the ruling party in exchange for access to socioeconomic opportunities. Today, there are fewer constraints on the EPRDF's power than at any other time in its 20-year rule.

After coming to power in 1991, when a coalition of rebel forces led by current prime minister Meles Zenawi overthrew the military dictatorship of Mengistu Haile Mariam, the EPRDF initiated an unprecedented period of political stability and economic development.¹ The party implemented a constitutional order that fundamentally altered not only the organization of the Ethiopian state, but also the very nature of state-society relations. The 1994 constitution established a federal system in which representation is largely based on ethnicity.² It offered legal recognition to the country's ethnic diversity and adapted state institutions to provide ethnic groups with national representation and local control, including the right to secede.³ Internal boundaries were redrawn along ethnolinguistic lines, and regional governments were empowered to administer their own economic and social affairs, including the adoption of local languages for government and education. The EPRDF enabled many of the country's ethnic groups, including those that had been historically marginalized, to effectively do what no previous Ethiopian

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government had ever permitted: articulate their respective policy interests and elect their own political representatives.

However, the promise of a democratic constitutional order that combines political representation for ethnic groups with civil liberties for individual citizens has yet to be realized in Ethiopia. The EPRDF has instead entrenched a hybrid regime that combines the institutions found in democracy with the practices typically associated with authoritarianism. The balance appears to have shifted toward the latter since 2005, when the EPRDF signaled its intention to hold onto power at all costs. National elections held that year were the most competitive in the country's history, with opposition parties winning at least one-third of the parliamentary seats. The balloting resulted in a political impasse, however, when the Coalition for Unity and Democracy (CUD), the largest opposition group, accused the ruling party of electoral fraud and refused to accept the officially declared results. The EPRDF ultimately chose to use force to resolve the dispute over vote tabulation. In the crackdown that followed, opposition leaders were imprisoned, while thousands of their supporters were arrested and some 200 others were killed.

The aftermath of the 2005 elections cast a shadow over Ethiopia's democratization. The EPRDF subsequently ensured that similar challenges to its authority would not be repeated. It has sought to insulate its hold on power by using legal and coercive measures to further restrict the scope of independent mobilization.⁴ Despite constitutional protections for basic civil liberties, since 2008 the EPRDF has enacted legislation—the Mass Media Law, the Charities and Societies Proclamation, and the Anti-Terrorism Law—designed to punish open dissent and discourage autonomous organization. At the same time, the EPRDF has sought to strengthen its own capacity by reinforcing the mechanisms of party control at the local level and recruiting millions of new party members nationwide.

The EPRDF has consolidated its political monopoly through recent electoral landslide victories. It secured over 99 percent of all seats in the 2008 local elections and again in the 2010 national elections. International human rights organizations criticized the party in both instances for failing to fulfill international standards for free and fair elections, pointing to credible claims of voter intimidation and opposition harassment. Human Rights Watch alleged that members of the ruling party manipulated food aid for electoral advantage.⁵ Ethiopia's donors, conversely, recognized irregularities in the electoral process but largely refrained from publicly criticizing the EPRDF.

EPRDF leaders dismiss allegations that their regime violates democratic norms by asserting that their emphasis on the representation of all ethnic groups, coupled with the mass participation of citizens, will provide a foundation for the country's democratization over the long term. EPRDF leaders claim, in this respect, to be pursuing the goals of "revolutionary democracy," also referred to as "developmental democracy." According to this view, liberal democracy is not only inappropriate for the Ethiopian context, but the EPRDF itself must lead the transformation of society by retaining control of the state, directing changes in the economy, and mobilizing the population as a whole.⁶ In the meantime, the party has wagered that its ability to combine political stability with economic development will ensure popular legitimacy. But as the EPRDF continues to blend its party apparatus with state institutions, all while suppressing the expression of political alternatives, the prospects for Ethiopia's democratization remain grim.

ACCOUNTABILITY AND PUBLIC VOICE

Ethiopia's electoral framework is consistent with international standards for holding free and fair elections. The country is a signatory to major international treaties, including the 1966 International Covenant on Civil and Political Rights and the 2007 African Charter on Democracy, Elections and Governance. The 1994 constitution provides for the basic freedoms of association, assembly, and expression necessary to ensure that citizens can participate in all aspects of the electoral process, as well as universal suffrage with access to a secret ballot, the right to compete for office, and the right to form political parties.

The National Electoral Board of Ethiopia (NEBE) is the constitutionally mandated independent electoral authority. Its powers include regulation of all aspects of the electoral process: registering voters, candidates, and parties; investigating electoral violations; and, when necessary, annulling election results and ordering new elections. The NEBE's nine-member board is accountable to the country's lower house of parliament, the House of Peoples' Representatives (HPR), which appoints board members upon the prime minister's recommendation. However, Ethiopia's electoral law contains provisions that restrict the involvement of civil society in the electoral process; for instance, civil society organizations are required to choose between voter education or election observation, and they are required to obtain a license from the NEBE to engage in these activities (and the NEBE's decision is final and cannot be appealed in court).

Following the controversy associated with its handling of the 2005 post-election crisis, the EPRDF purported to establish a level playing field for all parties by reforming the electoral framework. However, when the EPRDF amended the electoral law in 2007, the opposition United Ethiopian Democratic Front (UEDF) criticized the reforms for failing to limit ruling party dominance over the NEBE's composition. In 2009, the EPRDF negotiated an electoral code of conduct with some opposition parties to regulate campaign activities and establish interparty committees to investigate electoral abuses. Again, however, UEDF leaders refused to endorse the code, claiming that it would complicate the adjudication of electoral violations rather than enhance the independence of the NEBE in resolving them. The EPRDF nonetheless enacted the code into law, making its provisions binding on all parties.

In the absence of substantial reforms, elections continue to be marred by persistent claims of opposition harassment and voter intimidation. While the EPRDF dismisses such claims, independent country experts have documented numerous substantiating incidents.⁷

The NEBE, while displaying increasing technical competence in conducting elections with limited resources and across difficult terrain, remains a politicized body incapable of ensuring impartiality. The EPRDF refuses to compromise with opposition parties on the composition of the NEBE's board. Moreover, the temporary offices operated by the NEBE in each of the country's 547 constituencies during electoral periods are largely staffed by local government employees who have proven unable to resolve persistent opposition grievances concerning the closure of party offices, the detention of candidates, and the obstruction of campaign rallies.

The electoral framework provides public financing for all party campaigns as well as access to state-owned media, but the EPRDF's electoral advantage is secured by its command of state resources. Government offices and vehicles are routinely used for the ruling party's campaigns, while civil servants are pressured to become party members and vote for the party.

Local government officials reportedly compel citizens into supporting the EPRDF by claiming that social services, such as state-owned housing or fertilizer and food aid, will be withdrawn if they fail to do so. Given the opposition's inability to mount an effective electoral challenge under current conditions, most citizens have little choice but to acquiesce to the ruling party's demands if they wish to retain access to essential goods and services.

Recent elections reflect the extent to which the EPRDF's strategies have enabled it to reconsolidate its political position and neutralize the opposition. Postponed for over two years, the April 2008 elections for *wereda* (district) and *kebele* (neighborhood or village) councils were noteworthy for the lack of competition faced by the ruling party, which won over 99 percent of approximately 3.6 million local council seats. The councils have considerable impact on the daily lives of citizens because they exercise authority over the distribution of basic social services and the organization of local courts and security. Despite such stakes, most opposition parties had neither the candidates nor the resources to compete effectively, particularly after the EPRDF dramatically increased the number of local council seats in the run-up to the elections. Kebele councils, for example, were expanded to about 300 members even though the average kebele only has 400–500 households. Since opposition parties like the UEDF chose to boycott the elections, claiming that their candidates had been prevented from registering or pressured to withdraw, the EPRDF was ultimately able to place a representative in nearly half of the country's households.

Parliamentary elections for the HPR and the state councils that govern the country's regions were held on schedule in May 2010. The EPRDF and its affiliate parties together took all but 3 of 547 HPR seats and all but 4 of 1,904 state council seats. The Ethiopian Federal Democratic Unity Forum (Medrek), an opposition coalition, won a single parliamentary seat among its 487 candidates.⁸ Longtime opposition leaders Merera Gudina and Beyene Petros, both of whom served in the outgoing parliament and stood as Medrek candidates, lost their seats. Evidence of bias and harassment led European Union observers to conclude that “the electoral process fell short of international commitments for elections, notably regarding the transparency of the process and the lack of a level playing field for all contesting parties.”⁹

The EPRDF's electoral victories serve to reinforce a one-party regime that undermines the constitutional system of checks and balances. The 1994 constitution established a parliamentary system that ensures oversight by the legislative branch as well as an independent judiciary. In practice, however, the executive powers of the prime minister's office are unrestrained. The centralized authority structure of the ruling party, combined with its control of all elected bodies, means that the EPRDF executive committee is the only relevant decision maker. Its decisions are rubberstamped by the HPR. The House of Federation, the upper house of parliament, which has the authority to settle constitutional questions, is unlikely to issue decisions contrary to party wishes because its 112 representatives are elected by the EPRDF-controlled state councils.

The government has invested in the professionalization of civil servants by collaborating with international donors to strengthen administrative capacity and improve service delivery, particularly at the local level. The state has made a concerted effort to enhance the training of civil servants working outside urban areas. The Ethiopian Civil Service College, for example, annually graduates more than 500 degree and diploma holders, a majority of whom are recruited from the country's less-developed regions. Such investment helps to explain why Ethiopia is among the few African countries to have made real progress toward achieving the Millennium Development Goals. Nevertheless, civil servants are routinely pressed to serve as agents of the

ruling party. Failing to produce the expected results might result in job loss or relocation to a less desirable area.

The federal system, which the EPRDF espouses as an institutional mechanism for promoting ethnic self-determination, is similarly subverted by the ruling party's political monopoly. Because the state council of every region is controlled by the EPRDF or an affiliate, state leaders' tenure depends on the approval of the executive committee. Career concerns induce party members in elected positions at lower levels of government to implement decisions handed down from Addis Ababa, thereby fusing party and government functions from top to bottom.

The increasingly intertwined relationship between EPRDF party structures and federal institutions has bolstered the ruling party's influence at the local level. Weredas, the third tier of government defined in the constitution, are empowered with administrative and fiscal autonomy, which enables locally elected councils to arrive at their own decisions regarding service provision in areas such as agriculture, education, and health. However, local governments remain largely dependent on fiscal transfers from the federal government. While such intergovernmental transfers are ostensibly calculated through transparent formulas based on economic and demographic factors, research by scholars suggests the federal government has actively manipulated these transfers as a means of inducing political support in areas of concentrated opposition.¹⁰ Local authorities' discretionary authority then further magnifies the political impact of such resource manipulation. It is wereda and kebele officials who are typically implicated of intimidating voters and harassing opposition candidates in the run up to elections.¹¹

Complementing its efforts to fortify institutional mechanisms of control, the EPRDF has sought to weaken the capacity of civil society to act independently of government. The number of Ethiopian civil society organizations (CSOs) has grown tremendously, but given the country's historically narrow political space, relatively few groups have sought to openly lobby for policies or influence legislation in non-economic areas. Indeed, such attempts have been viewed as challenges to the ruling party's authority, resulting in punitive measures by the government.

Government measures to control civil society have intensified since the 2005 elections, when independent organizations and private media came to be seen by the ruling party as active supporters of the opposition. The ensuing arrest of Netsanet Demissie, founding director of the Organization for Social Justice in Ethiopia (OSJE), one of the leading groups that was instrumental in bringing together the coalition that sought to observe the 2005 elections, is illustrative. Concurrent with the arrests of opposition party leaders and Demissie in November 2005, the government also chose to arrest Daniel Bekele, a policy manager with ActionAid, the international nongovernmental organization (NGO) that funded OSJE's activities.¹²

Moreover, to ensure that civil society leaders would be unable to mobilize similar initiatives, the EPRDF subsequently issued the Proclamation to Provide for the Registration and Regulation of Charities and Societies adopted by Ethiopia's parliament in January 2009. It effectively forbids NGOs from working in areas considered to be politically sensitive by the government. This CSO law, as it is known, classifies organizations as "Ethiopian charities," "Ethiopian resident charities," or "foreign charities" on the basis of funding: organizations that receive more than 10 percent of their income from international sources are registered as foreign. The law prohibits foreign organizations from undertaking programs in the areas of governance, human rights, conflict resolution, or criminal justice.¹³ Individuals leading or belonging to organizations found to be violating the law's provisions can be imprisoned.¹⁴ In effect, CSOs founded and operated in the country by Ethiopian citizens, but sustained through foreign funds, are legally barred from undertaking, for example, voter education programs. A government body,

the Charities and Societies Agency (CSA), has been established to enforce the law through its powers to license and supervise NGOs. The new law required all organizations to reregister with the CSA between September 2009 and February 2010; of the 1,615 organizations that registered, 283 were designated as foreign.¹⁵

While the government claimed that the CSO law was aimed at improving NGO transparency and accountability, it has affected the most established and well-respected organizations working toward the protection of civil liberties in the country: the Ethiopian Lawyer's Association founded in 1966, the Ethiopian Human Rights Council (EHRCO) founded in 1991,¹⁶ and the Ethiopian Women Lawyers Association (EWLA) founded in 1995. In April 2010, the CSA, whose board is chaired by an EPRDF member of parliament, suspended the Ethiopian Lawyer's Association's activities on grounds that another association, which happens to be linked to the ruling party, had already registered the same name in English. The CSA also found that EHRCO and EWLA had violated the terms of their registration by relying on foreign sources of funding. It then froze the organizations' bank accounts. Such regulatory zeal has forced the organizations to divert their limited resources toward defending their registration rather than advancing civil liberties.

The government's growing influence over civil society parallels its power over all forms of mass media. Through its control of organizations such as the Ethiopian Radio and Television Agency and the Ethiopian News Agency, the state is not only the largest employer of journalists, but also the principal broadcaster of news and information in the country's multiple languages. The state owns the sole television network, Ethiopian Television, along with two radio stations that remain the primary source of information for Ethiopians, particularly the vast majority who live outside urban areas. The EPRDF runs its own radio station, Radio Fana. The state-owned Ethiopian Press Agency also publishes four newspapers in Amharic, Arabic, Afaan Oromo, and English.

Freedom of expression is constitutionally guaranteed in Ethiopia, but the law provides the government with considerable discretionary authority in controlling the press. The licensing of two private radio stations in 2006 and the 2007 release of 15 journalists detained under sedition charges related to the 2005 post-election crisis were viewed as signs that the government was loosening restrictions on independent media. However, the press has been subjected to continued official harassment through legislation that limits the broadcast or publication of alternative voices to the official discourse. The Mass Media and Freedom of Information Proclamation adopted in July 2008 was meant to reform a 1992 law that regulated the press. While the new law stipulates the conditions for accessing government information and prohibits the pretrial detention of journalists without charge—which was allowed under the previous law—its other provisions widen the scope of prosecutable offenses. Defamation of government officials is also criminalized, even without the alleged victim being required to file a complaint, and the associated fines have been increased from about \$60 to nearly \$6,000. The new law transferred the registration of media outlets from the Ministry of Trade and Industry to the Ministry of Information, which also has the authority to revoke licenses. Another law, the Anti-Terrorism Proclamation adopted in July 2009, further encourages self-censorship among journalists by allowing the government to prosecute and imprison for up to 20 years anyone who publishes statements deemed by officials to encourage acts of terrorism.

According to the Committee to Protect Journalists, 41 journalists were forced into exile between 2001 and 2009,¹⁷ with at least 24 journalists imprisoned in the same period.¹⁸ In 2008, for example, Ezedin Mohamed and Maria Kadim, respectively the editor and publisher of *Al-*

Quds, were jailed for two weeks and charged with defamation for publishing postings from a website that criticized the Ministry of Education's proposed policy on school prayer.¹⁹ Throughout 2008 the government actively prosecuted journalists reporting on the controversial trial of Tewodros Kassahun, the popular Ethiopian singer known as Teddy Afro, whose critical lyrics resulted in a ban on his songs on state-controlled radio. Tewodros' subsequent arrest in relation to a hit-and-run incident was interpreted by many as being politically motivated. Four employees of the magazine *Enku* were jailed for reporting on the case; the magazine was shut down as a result.²⁰ The judge in the case also ordered Mesfin Negash, editor of the independent newspaper *Addis Neger*, arrested on contempt charges for publishing an interview with Tewodros' lawyer, who was also arrested for participating in the interview. *Addis Neger* closed down in 2009 and three of its editors fled the country for fear of terrorism charges being brought against them.²¹

The fear of prosecution provoked by such cases has led journalists to exercise greater self-censorship; combined with state control of most media, Ethiopians have few alternative sources of information. The government began jamming radio signals for Voice for America and Deutsche Welle prior to the 2010 national elections. Although a relatively small percentage of the urban population has access to the internet, the Ethiopian Telecommunications Corporation, the state monopoly that is the country's sole internet provider, uses web-filtering technology to block websites critical of the regime, many of which are run by Ethiopians in the diaspora. Reporters Without Borders has identified Ethiopia as one of 15 global "internet enemies." The 2009 Anti-Terrorism Proclamation provides the government's intelligence services with additional powers to conduct surveillance over the internet.²²

CIVIL LIBERTIES

The Ethiopian constitution explicitly guarantees the fundamental rights of its citizens. Since coming to power in 1991, the EPRDF has sought to modernize the legal and police instruments used to protect such rights, including expanding its counterterrorism capacity.²³ Although long benefiting from a relatively low crime rate, Ethiopia faces severe institutional constraints in ensuring the basic protection of its citizens. It faces special challenges due to its location at a regional crossroads for trafficking in arms, money, and people,²⁴ yet has among the lowest per capita ratios of police, prosecutors, and judges in the world.²⁵

The governmental Ethiopian Human Right Commission (EHRC) issued a report in July 2008 acknowledging that the country's prisons fall short of international standards, including inadequate sanitation and 100 percent overcapacity. The EHRC claimed to have found no evidence of torture in the prisons,²⁶ but credible reports by independent domestic and international observers indicate that detainees in Ethiopia are routinely subjected to mental abuse and physical torture while in the custody of local police, federal police, or the army.²⁷ These same security forces often ignore or fail to carry out court-ordered releases of detainees.

Due to its status as a source of labor for countries in the Middle East and North Africa, Ethiopia faces a serious human trafficking problem. The U.S. State in 2010 classified Ethiopia as a Tier 2 country, which means it is taking steps to combat trafficking but remains noncompliant with minimum standards.²⁸ Ethiopia is not a signatory to the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. However, in 2009, in response to mounting reports of trafficking-related abuses, the government banned

Ethiopians from traveling to work in Lebanon, Syria, and Qatar. It also established a Human Trafficking and Narcotics Section within the Federal Police.

The protection of civil liberties deteriorated following the wide-scale arrest of opposition party leaders, civil society activists, and independent journalists in the aftermath of the 2005 elections. Neither the EHRC nor the Ethiopian Institution of the Ombudsman (EIO), both of which began operations in 2004, are perceived as capable of curbing abuses of power. On the contrary, the government has readily manipulated legal instruments to intimidate and thus neutralize the opposition. In June 2007, the Ethiopian High Court found 38 senior leaders of the opposition CUD guilty of attempting to overthrow the constitutional order and sentenced them to life in prison, despite a lack of evidence.²⁹ After 18 months in prison, these leaders were officially pardoned in July 2007 after they accepted the government's terms for their release, including submission to the government of a signed document in which they acknowledged having attempted to undermine the constitution and foment violence.³⁰ Two activists, Netsanet Demissie and Daniel Bekele, refused to seek a pardon, preferring to prove their innocence through the normal legal process. When the High Court convicted them, again despite a lack of evidence, they too were obliged to request a pardon to secure their release in March 2008.

The government's pardons, rather representing forgiveness for alleged crimes, reflect its ability to command the submission of political opponents. Many pardoned activists have chosen to go into exile. Those who chose to remain active within the country are harassed. Birtukan Mideksa, one of the CUD leaders pardoned in 2007, subsequently became the chairperson of the Unity for Democracy and Justice (UDJ) party, one of the successors to the CUD. In December 2008, Birtukan was rearrested and her life sentence was reinstated after publicly questioning the terms of the 2007 pardon. She was released once again in October 2010 after formally requesting a pardon and apologizing for her earlier statements.³¹

The systematic violation of civil liberties is most pronounced in regions of the country where long-lived insurgent movements remain active. While the government has sought to placate ethnic nationalist claims through both formal federal institutions and informal cooptation mechanisms, tensions surrounding the political demands of some of the country's larger ethnic groups persist. The government claims that its militarized response to such political demands, particularly since 2001, is a fight against terrorism. Since rebel groups such as the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) collaborate with Eritrea, Ethiopia's regional enemy, the government justifies its use of force as counterterrorism. However, in the parts of Oromia and Somali regional states where the government has concentrated its counterterrorism efforts, domestic and international observers have documented the frequent use of arbitrary detention, physical abuse, and extrajudicial execution by both government security forces and insurgents.³²

The OLF remains the focal organization for Oromo nationalism due to its historic role in fighting for the ethnic group's collective rights. Although the rebel group is no longer a credible armed threat to the EPRDF's hold on power or the territorial integrity of Ethiopia, the government continues to perceive the OLF as the only alternative to the ruling party's regional affiliate, the Oromo People's Democratic Organization (OPDO). It has therefore targeted the region for more systematic repression than is seen other parts of the country, routinely persecuting individuals it suspects of being OLF supporters or sympathizers. Leaders of the region's legal opposition parties, like the Oromo People's Congress (OPC) led by Merera Gudina and the Oromo Federalist Democratic Movement (OFDM) led by Bulcha Demeksa, regularly decry security sweeps in which members are detained without charges—often after courts have

dismissed cases for lack of evidence—and physically abused. In October 2007, Prime Minister Meles publicly accused Oromo parties of serving as fronts for the OLF.³³ In November 2008, OFDM Secretary General Bekele Jirata was arrested, along with scores of opposition members, businesspeople, and students on charges of conspiring with the OLF to engage in terrorist activities. Bekele fled the country before he and several others were sentenced to serve 10 to 13 years in prison.

The worst human rights abuses have occurred in Somali regional state, where the ONLF stepped up its separatist rebellion soon after Ethiopia began a military campaign in support of the teetering transitional government in neighboring Somalia. A series of ONLF attacks on civilian targets in the spring of 2007, reportedly with the aid of Eritrea, prompted the Ethiopian government to undertake a sustained counterinsurgency campaign. After the ONLF attacked a Chinese-managed oilfield in April 2007, the Ethiopian military sought to flush out the rebels among the local civilian population through a scorched-earth strategy, producing wide-scale extrajudicial killing, forced displacement, and the destruction of entire villages.³⁴ The seizure of food and livestock, coupled with a trade blockade imposed by the military, aggravated the region's food insecurity. Sporadic fighting throughout 2008 and 2009 led to further human rights violations by both the Ethiopian military and the rebels. The government restricted humanitarian operations in the region and prevented domestic and international groups from undertaking independent investigations of human rights violations. The scale of violence appeared to decline toward the end of 2010, when the government reached a peace agreement with a faction of the ONLF.

Gender equity in Ethiopia has been limited by traditional religious and social practices that sanction discrimination against women. Since coming to power, however, the EPRDF has pursued a progressive strategy of imposing legal penalties for gender discrimination. Article 35 of the 1994 constitution guarantees women the same rights and protections as men. The family code revised in 2000 raised the minimum legal age to marry to 18 for both women and men and provided women with greater rights within marriage. Criminal code revisions in 2004 further outlawed practices historically targeted at women, including female genital mutilation, early marriage, and domestic violence. In 2005, the government also created a National Commission for Children's and Women's Affairs under the supervision of the EHRC.

The EPRDF has also accelerated its recruitment of women into public life. The number of women in the HPR has risen considerably in successive elections: 15 in 1995; 42 in 2000; 116 in 2005; and 152 in 2010. An unprecedented eight women served as cabinet ministers between 2005 and 2010. Women's participation has similarly increased among the country's regional state councils. Given that the EPRDF controls all levels of government, the increased proportion of women participating in policymaking can be directly attributed to the regime's efforts.

But these legal and political gains belie entrenched social patterns of gender discrimination that continue to afflict the daily lives of many, particularly in socially conservative rural areas. According to the 2005 Demographic and Health Survey, approximately 74 percent of women have been subjected to female genital mutilation, though that figure is declining over time.³⁵ Despite legal penalties, early marriage, domestic abuse, sexual harassment, and rape are rarely prosecuted, in part because societal norms and ignorance of the law lead to underreporting. The same 2005 survey found that that 81 percent of women believed that husbands had a right to beat their wives. Moreover, since regional state governments are constitutionally empowered to regulate social concerns, the less developed and most conservative have lagged behind in enforcement efforts. In rural areas, women are often

disadvantaged in traditional courts that apply the customary norms of their respective ethnic groups despite legal prohibitions on doing so.

The government has increased its cooperation with international organizations to address persistent problems of gender inequality, particularly in the areas of education and health. Over the last decade, the number of girls enrolled in primary school more than doubled from 2000 to 2008,³⁶ while the rate of women who die in childbirth dropped from 750 per 100,000 live births to 470, reflecting improved health services for women in rural areas. However, the government's imposition of greater controls on civil society through the CSO law may undermine recent gains.

Ethiopians of different ethnic backgrounds live peaceably enough in multiethnic areas, including the capital and other towns. Yet despite the institutional mechanisms developed in recent years, perceptions of political and economic marginalization, combined with resource competition, continue to spark conflicts across the country. According to the 2007 report by the UN Committee on the Elimination of Racial Discrimination (CERD) (and reiterated in its concluding observations issued in August 2009 following an examination of Ethiopia's report to the Committee), government responses to these conflicts appear to involve human rights violations that target specific ethnic groups.³⁷ The use of the federal police and army to forcibly put down protests related to specific ethnic demands has disproportionately affected certain groups like the Oromo, whose members are singled out in security operations. Similar patterns arise in other regional states, as in Gambella and Southern Nations, Nationalities, and People's Region, where government forces have relied on coercion to pacify areas where groups have mobilized to demand greater political representation or access to economic resources.

EPRDF leaders recognize the need to meet growing demands for ethnic representation if Ethiopia is to enjoy sustained political stability. They have implemented a legal framework that is specifically designed to recognize the political rights of the country's more than 80 ethnic groups. Indeed, the 1994 constitution treats ethnic groups, not individuals, as the essential constituents of the country. All groups, regardless of size, are constitutionally empowered to use their language, be represented at state and federal levels, and seek to self-determination, including the right to secession.

Two federal institutions deal with questions relating to the recognition of ethnic rights and resolving cases of conflict and discrimination. The House of Federation is responsible for adjudicating the rights of ethnic groups by specifying institutional solutions to inter-group or group-state disputes. For example, in 2004 the House of Federation ordered a referendum to be carried out in districts where the Oromo-Somali boundary had been contested by the titular ethnic groups of those regional states. The House of Federation can order the federal government to intervene in any state where conflict threatens peace and stability. In practice, however, it limits its mediation to regions where the risk to central authority is relatively low.³⁸ The institution that is most directly involved in protecting the rights of groups as well as peace among them is the Ministry of Federal Affairs (MoFA). Tasked with resolving conflicts that arise between and within the country's regional states, MoFA manages federal intervention, including the deployment of the federal police, in communal conflicts. In recent years, MoFA has sought to implement early-warning mechanisms and promote grassroots peace-building initiatives to mitigate conflicts before they escalate into violence. Similarly, regional states like Oromia and Southern Nations have also developed their own bureaus for ameliorating conflicts.

The 1994 constitution guarantees freedom of religion and the separation of church and state. The government nevertheless closely regulates the activities of religious organizations, which must register with the Ministry of Justice to gain legal standing and are prohibited from

forming political parties. All religious organizations are equal before the law, but the Ethiopian Orthodox Church and the Ethiopian Islamic Affairs Supreme Council appear to have greater political influence because they represent the largest religious traditions. With a population largely divided into Ethiopian Orthodox (43.5 percent), Muslim (33.9 percent), and various Protestant traditions (18.6 percent), the government has actively sought to prevent the rise of sectarian conflict through peace-building programs managed by the MoFA. In addition, a 2008 law makes it a crime to incite religious hatred and permits the criminal prosecution of religious defamation. While there is little overt conflict between religious groups, in localities where members of different faiths compete for adherents and resources, Protestant and Muslim leaders complain that local officials unfairly block access to the land needed for religious buildings.³⁹

Protection for the freedoms of association and assembly, though constitutionally guaranteed, has been weakened in recent years by government practice and legal statute. There are clear procedures for securing permission to hold public demonstrations, but the government has continued to suppress the right of citizens to protest either by stalling the authorization or using excessive force to disperse them. Students, for example, have been subjected to indiscriminate detention even when demonstrating peacefully.⁴⁰ The government also arbitrarily denies permits for demonstrations unless they were organized by the ruling party or non-political groups on non-political issues. More generally, the government attempts to discourage public demonstrations by arresting the leaders of organizations, intimidating their members, and imposing additional legal restrictions on their activities. Even on the rare occasion when a demonstration is allowed, the government often chooses to limit the number of people participating, as occurred during the UDJ demonstration on Birtukan Midekssa's 2008 re-arrest.

The 1994 constitution is explicit in recognizing the right of Ethiopians to form and join labor unions. The 2003 Labor Proclamation further outlines the regulation of union organization and participation.⁴¹ The country's principal labor organization is the Confederation of Ethiopian Trade Unions (CETU), a national umbrella organization linked to the ruling party. Although only a small part of the working-age population participates in unions, the government actively intervenes in their activities, undermining organizational autonomy and ensuring compliance with ruling party objectives.⁴² The Ethiopian Teachers' Association (ETA), among the country's oldest trade unions, was subjected to persistent government harassment once the organization, in the 1990s, criticized education reforms and threatened to strike over compensation for teachers. The government has since responded by jailing the organization's leaders, freezing its assets, and revoking its registration. The ETA's dismantling was finalized in June 2008, when the Supreme Court upheld a lower court decision that transferred the organization's name and assets to a government-controlled counterpart that had been founded to replace it.

RULE OF LAW

Ethiopia's 1994 constitution provides for the independence of the judiciary and guarantees universal access to the courts. The judicial system mirrors the country's federal organization, with courts organized at the local, regional, and federal levels. As part of the broader effort to improve public sector governance, the government has undertaken a donor-supported Justice System Reform Program (JSRP) to strengthen the judiciary since 2004. According to the World Bank, the JSRP has already helped to improve the performance of the judiciary through the

professional training of over 22,000 judges and 2,000 support staff along with the introduction of a modern case management system within the federal courts.⁴³

Despite the progress made in improving the dispensation of justice, the rule of law in Ethiopia continues to be weakened by limited institutional capacity. The constitution guarantees the right to independent counsel and a timely public hearing, but the state lacks competent personnel who can adjudicate, prosecute, and administer the law in a consistent manner. The 120 federal court judges in Addis Ababa and Dire Dawa constitute the bulk of the entire federal judiciary.⁴⁴ Most Ethiopians must rely on so-called “social courts” organized at the kebele or community level and recognized under state, rather than federal, law. Supervised by locally appointed nonprofessional judges, these courts adjudicate property disputes and other small claims. Ethiopians living in rural areas also rely on customary forms of justice provided by councils of elders and customary courts, including Sharia courts for Muslims in cases of family or religious disputes. These local courts and traditional mechanisms often issue decisions that conflict with constitutional guarantees, particularly in cases involving gender issues. Most impoverished Ethiopians simply lack the resources to exercise their right to appeal to higher courts—which are increasingly seen as susceptible to corruption.⁴⁵ As a result, relatively few Ethiopians trust their inefficient and overburdened judicial system. According to a July 2007 Gallup poll, only about one-quarter of respondents expressed confidence in the courts, a rate half the regional average.⁴⁶

The rule of law in Ethiopia is further undermined by the EPRDF’s political monopoly. The House of Federation has the authority to settle constitutional questions, while the HPR confirms nominations of the president and vice president of the Supreme Court, as well as all federal judges. But because the EPRDF controls both chambers, the parliament is unlikely to support decisions or appoint justices not endorsed by the party’s executive committee.⁴⁷ The government regularly intervenes in the application of the law—by prosecutors, judges, and the police—in politically sensitive cases. In certain cases, state agents ignore court orders regarding the release or treatment of defendants, as occurred when a federal court ruled that holding Birtukan Mideksa in solitary confinement violated her constitutional rights. This subversion of judicial independence to political interests occurs at all levels of government. Reports suggest that judges who do not conform to those interests are disciplined or dismissed, and several have fled the country since 2005.⁴⁸

Civilian oversight of the security forces is enshrined in the 1994 constitution, which recognizes the prime minister as commander-in-chief of the armed forces and requires a civilian minister of defense. Since taking power in 1991, the EPRDF has sought to modernize and professionalize the Ethiopian National Defense Forces, transforming its former guerrilla army into a national institution. Civilian control of the military is assured, in part, by the dominance of the prime minister’s fellow ethnic Tigrayans in the military’s command structure.⁴⁹ Nevertheless, the government appears to be concerned by the potential threat posed by disaffected officers and soldiers from other ethnic groups. In 2009, the government arrested some 40 current and former members of the military, including a former air force general, on charges of allegedly planning to carry out assassinations as part of a plot organized by Ginbot 7, a group led by exiled opposition leader Berhanu Nega.⁵⁰ While the armed forces are celebrated during periods of national emergency, as occurred during the border war with Eritrea, the abuse of civilians by security personnel in parts of Oromia and Somali regional states undermines their popular support. Lack of accountability for such abuses of power may help to explain why the July 2007 Gallup poll found that only 46 percent of Ethiopian respondents express confidence in

their armed forces, a far lower rate than the nearly 70 percent average found in the other African countries surveyed.⁵¹

The 1994 constitution guarantees Ethiopian citizens the right to own private property, but restricts the ownership of rural and urban land to the state. Land is treated as the common property of the ethnic groups that constitute the country, and therefore cannot be sold. The constitution guarantees farmers and pastoralists access to land, but such rights are weakly enforced. Rather than privatize land, as lobbied for by some foreign donor and domestic groups, the government has worked to implement a large-scale registration and certification program to provide citizens in rural areas with greater land tenure security as well as flexibility in transferring holdings.⁵² The government has also taken steps to decentralize and streamline procedures for transferring property. The judicial system, however, lacks both the capacity to properly enforce property rights and the resources to resist corruption.⁵³ Particularly controversial in this largely agrarian economy is the government's strategy of luring foreign investors through long-term land leases for the cultivation of agricultural exports. Ethiopia is not self-sufficient in food production, and there is concern regarding the extent to which domestic farmers will be displaced by the entry of foreign-controlled agricultural firms and how the revenue from such investment will be shared between federal and regional states.⁵⁴

ANTICORRUPTION AND TRANSPARENCY

Ethiopia has the necessary legal and administrative mechanisms to combat corruption. The criminal code updated in 2004 and the anticorruption statutes revised in 2005 explicitly prohibit the abuse of power, including the offering and receiving of bribes and the use of public resources for private gain.⁵⁵ Relevant legislation specifies clear penalties that range from the imposition of fines and the confiscation of property to prison terms. The Federal Ethics and Anti-Corruption Commission (FEACC), whose members are appointed by the government, serves as the principal institution for combating graft in the public and private sectors. It was established by parliament as an independent agency in 2001 to investigate and prosecute acts of corruption as well as to conduct education campaigns for civil servants and the public at large. The FEACC maintains a toll-free phone number where complaints can be registered anonymously. The FEACC reports that, between 2009 and 2010, it won 85 court cases that led to the conviction of 213 individuals, confiscated thousands of square meters of land and hundreds of thousands of dollars, and initiated investigations into 405 of the 2,915 complaints filed.⁵⁶

Nonetheless, corruption continues to be perceived as a pervasive problem. Ethiopia's score on Transparency International's 2010 Corruption Perceptions Index was 2.7 on a 10-point scale, placing it 116 out of 178 countries measured.⁵⁷ In 2008, Transparency's Ethiopia chapter conducted a survey in Addis Ababa to gather information on citizens' confidence in public institutions as well as their perception of public institutions' effectiveness in combating corruption.⁵⁸ Fifty-five percent of respondents claimed that corruption had worsened over the previous two years, though a majority believed it would improve in the next two years. Respondents reported having the lowest levels of trust, on average, in the government authorities running kebeles, the neighborhood councils through which many public services are delivered. Respondents paid the highest bribes, on average, for transactions involving driver's licenses, property registration, and judicial, and tax records.

While citizens decry corruption at all levels of government, many do not trust the government's anticorruption efforts to be free from political manipulation. According to the 2008 Transparency survey, respondents have relatively little trust in the courts, the federal police, and the FEACC. In the same year that the survey was conducted, Addis Ababa city officials at various levels were implicated in unlawful acquisition of state lands and properties. These instances of corruption were not uncovered by the FEACC, but confessed to by the perpetrators themselves while participating in one of the EPRDF's self-evaluation meetings known as *gimgema*. The EPRDF uses these periodic *gimgema* sessions to enforce accountability among its members by assessing the work of individual party officials and civil servants. As a result of such evaluations, individuals may be removed from their positions, though it remains unclear whether they also face criminal prosecution.⁵⁹

Not only are FEACC board members appointed by the EPRDF, in some cases they are members of the party, leaving the commission's ability to conduct investigations and pursue prosecutions without political interference in doubt. The commission targets low-level officials or those who have fallen out with the regime while failing to pursue offenses committed by high-level ruling party members. The June 2007 corruption conviction of Siye Abreha, a former defense minister who fell out with the regime, conforms to the perception of politicized prosecutions.⁶⁰ By contrast, other EPRDF central committee members who have been implicated in acts of corruption may be temporarily removed from party posts, but not prosecuted.⁶¹ Moreover, given the restricted conditions in which the media operate, particularly the Media Law's defamation clause, journalists rarely undertake the kind of investigative reporting that would help shed light on patterns of corruption.

Corruption remains especially problematic in public procurement, loan financing, land distribution, public utilities, and customs administration—all critical areas for the survival of business in a highly regulated economy like Ethiopia's.⁶² The state's active intervention in the economy affords low-level officials the discretion to solicit bribes, while offering high-level officials the opportunity to enrich themselves by colluding with economic interests to evade regulation or commit fraud. Several public officials have been prosecuted by the FEACC on charges of corruption, including managers within the Privatization and Public Development Enterprise Agency, the Ethiopian Telecommunications Corporation, and the Ethiopian Revenues and Customs Authority. Since 2007, the National Bank of Ethiopia, the country's central bank, has been tarred by a series of embezzlement scandals that raise questions about its independence and management.⁶³ The government has responded by seeking to impose greater transparency on its own operations as well as the wealth of public officials. A new public procurement law was enacted in September 2009 that established an autonomous agency to manage open bidding as well as to administer public properties. In an additional move to improve transparency, the parliament adopted a law in March 2010 requiring public officials and their relatives to register their assets and properties.⁶⁴

The opacity associated with the state's control of the economy, while creating opportunities for corruption, also benefits the EPRDF politically. Businessmen linked to the ruling party, government officials and military officers-turned-entrepreneurs, and entities directly linked to the ruling party appear to gain unfair advantage in securing economic opportunities.⁶⁵ The Endowment Fund for the Rehabilitation of Tigray (EFFORT), a consortium of companies headed by members of the ruling party, operates over 20 businesses across a range of sectors, including construction, finance, manufacturing, and transport. Such economic links

not only allow EPRDF allies to gain control of scarce resources, but also permit its members to amass and channel resources that may later be deployed on behalf of the party itself.

The EPRDF has taken an important step in meeting its obligation to provide citizens with information through the July 2008 Mass Media and Freedom of Information Proclamation. While the law imposed new restrictions on journalists, it also included unprecedented provisions to guarantee citizens the right to access information of public interest from government agencies. The law, however, grants officials considerable discretion in determining whether information can be withheld due to its sensitivity. Appeals of such decisions must first work their way through the concerned government agency before being transferred to the Ethiopian Institution of the Ombudsman (EIO) and then the courts. The EIO is also tasked with coordinating the federal government's implementation of the law, which has been delayed due to a lack of capacity and training across agencies.

The EPRDF has taken steps to improve the country's fiscal governance through measures aimed at enhancing accountability in the budget process.⁶⁶ These auditing and reporting measures have been motivated by the government's commitment to expand the provision of social services under its Plan for Accelerated and Sustained Development to End Poverty (PASDEP). The measures also reflect foreign donors' reporting requirements for the aid provided in both direct budgetary support and the Protection of Basic Services (PBS) program, which redirected funds to social service spending by wereda or district authorities following an aid suspension in the aftermath of the 2005 national elections. Although the accountability and transparency of the budget-making process has improved appreciably, the government's own audit capacity remains underdeveloped and civil society's role remains weak, particularly at subnational levels. District budgets are now posted at public offices, but most citizens lack the education needed to scrutinize those figures. Moreover, the EPRDF's political monopoly undermines the HPR's oversight role in the budget process. Indeed, the government has often refused to implement recommendations put forward by the federal auditor general.⁶⁷ However, following controversies associated with unexplained budgetary expenditures,⁶⁸ the government in 2010 amended the law governing the federal auditor general, reestablishing the office as an autonomous entity and fixing the auditor's tenure for a six-year term.⁶⁹

RECOMMENDATIONS

- The EPRDF should establish a formal negotiation model with opposition parties over the composition of the National Electoral Board of Ethiopia to build confidence in the integrity of future elections.
- The law regulating civil society organizations should be revised, particularly provisions that restrict operations on the basis of funding sources, to enable them to play a greater role in promoting good governance, conflict resolution, and the protection of human rights.
- Existing legal restrictions on the media, including punitive defamation clauses, should be revoked.
- The training of judicial officials and law-enforcement personnel, particularly at the local and regional levels, should be accelerated and improved.
- Additional measures should be taken to increase the organizational autonomy and transparency of the Federal Ethics and Anti-Corruption Commission (FEACC), including

the appointment of board members through broad consultation with representatives of civil society.

¹ Under the EPRDF, between 1995 and 2009, Ethiopia attained an average annual economic growth rate of 7%, which is nearly two-thirds higher than the 4% regional average for all Sub-Saharan African countries.

² Parliamentary representation occurs largely through ethnicity. Candidates for seats in the lower house of parliament, the House of Peoples' Representatives, are required to speak the language from the region they seek to represent. Members of the upper house of parliament, the House of Federation, are elected by State Councils to serve as representatives of their respective ethnic groups and are selected in proportion to their population.

³ Article 39 of the constitution grants Ethiopia's regions the right to secede.

⁴ The EPRDF is a coalition of parties that are supposed to represent the country's principal ethnic groups: the Tigray People's Liberation Front (TPLF), the Amhara National Democratic Movement (ANDM), the Oromo People's Democratic Organization (OPDO), and the Southern Ethiopia People's Democratic Movement (SEPDM). The EPRDF's affiliate parties, which represent the peripheral regions of the country, are the Afar National Democratic Party (ANDP), the Benishangul-Gumuz People's Democratic Party (BGPDP), the Gambela People's Unity Democratic Movement (GPUDEM), the Harari National League (HNL), and the Somali People's Democratic Party (SPDP).

⁵ Human Rights Watch (HRW), *One Hundred Ways of Putting Pressure": Violations of Freedom of Expression and Association in Ethiopia* (New York: HRW, March 2010) <http://www.hrw.org/en/reports/2010/03/24/one-hundred-ways-putting-pressure-0>.

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⁹ "Final Report on the House of People's Representatives and State Council Elections of May 2010," European Union Election Observation Mission to Ethiopia, November 8, 2010, http://www.eucom.eu/files/pressreleases/english/final-report-eucom-ethiopia-08112010_en.pdf.

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¹¹ See René Lefort, “Powers – Mengist – and Peasants in Rural Ethiopia: The Post-2005 Interlude,” *Journal of Modern African Studies* 48, no. 3 (2010): 435–460.

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