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少数群体问题独立专家凯·麦克杜格尔的报告

增 编

出访埃塞俄比亚 *
(2006 年 11 月 28 日 - 12 月 12 日)

* 本提要以所有正式语文分发。提要后所附报告正文，仅以提交语文分发。

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内 容 提 要

少数群体问题独立专家凯·麦克杜格尔女士根据她的任务于 2006 年 11 月 28 日至 12 月 12 日访问埃塞俄比亚。访问期间，独立专家在亚的斯亚贝巴举行了多次磋商，访问了 Gambella 地区。她会晤了联邦和州一级高层政府官员、民间团体、学术界、政治反对派成员、学生以及少数群体成员。她与各论坛，包括受 Gambella 地区冲突影响的族群的妇女进行了讨论。

埃塞俄比亚《宪法》为权利、自由和平等奠定了全面基础。它明显摆脱了以往历届政府以单一族群统治所有其他族群的政治构想。目前的宪政体制强调了埃塞俄比亚众多“种族、族裔和民族”的公民和政治权利以及经济、社会和文化权利。规定了所有族群通过联邦院享有在联邦机构中的政治代表权，在联邦院中，每一族群保证都有一个席位。然而，在一些基本问题上，《宪法》的根本承诺，即少数族群成员的平等和有效参与却尚未得到落实。

在建立九个基于种族的联邦州时，规定了自治，各州有权制定地方宪法，颁布法律，组建政府和履行政府职能，并有权退出联邦。该一制度使得少数群体语言得以作为本州“官方”语言，用于公共教育和地方政府机构中。不过，以种族为基础的联邦制将种族政治化，使之成为个人和群体的最突出标记，导致了造成种族分裂、歧视和排斥的新的领域、动态和问题。需要建立必不可少的制衡，确保联邦制民主履行职能，保障承受政治、社会和经济不平等的极弱势群体的权利。

持续不断的种族冲突，往往是土地、水和资源问题，或政治因素引发的，冲突破坏了区域稳定和建立统一、民主和繁荣的埃塞俄比亚的前景。需要作出协调一致的努力，预防和化解冲突，但迄今为止，这方面努力仍是不充分的。受歧视、排斥和被边缘化的少数群体往往成为冲突的受害者，可能被强制迁离其故土，缺少机会和能力促进和保护自身权利。一些群体，包括游牧部族，日常面临严重的生存问题、极端贫困以及粮食和水不安全。埃塞俄比亚一些很小的社群，作为独特的群体，由于环境、社会和政治压力以及同化过程，很可能不复存在。

2005 年 5 月选举和联邦当局随之采取行动后，人们普遍认为，埃塞俄比亚存在的民主欠缺可能导致不断加剧的紧张局势和潜在的动荡，独立专家对此表示关注。需要政府和在州一级作出努力，以建立对民主进程的信心，确保善政、人权和各项基本自

由。在这一方面，切实保证政治党派自由活动，重建独立的新闻自由，释放或公正审讯目前遭羁押的反对派成员、学术界人士、新闻记者和学生，是必须立即采取的至关重要的措施。

Annex

REPORT OF THE INDEPENDENT EXPERT ON MINORITY ISSUES: MISSION TO ETHIOPIA (28 November-12 December 2006)

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Introduction

1. The independent expert on minority issues visited Ethiopia from 28 November to 12 December 2006, in pursuance of her mandate. During her visit, she conducted extensive consultations with senior government representatives, civil society organizations, academic institutions and representatives of political parties. She consulted with the Ministers of Justice, Women's Affairs, Education and Federal Affairs and other senior government officials, in order to assess the government perspective on minority issues in Ethiopia. She also obtained the views of members of minority communities themselves, elders and women from different ethnic communities, through consultations and open discussion forums.[1] She undertook a visit to the Gambella region of southwest Ethiopia and consulted directly with community members, local regional government representatives and others in order to gain their views and opinions.

2. The independent expert takes this opportunity to thank the Government of Ethiopia for extending an invitation to her, and for their assistance and cooperation during the conduct of her mission. She also greatly appreciates the assistance of numerous civil society organizations and institutions within Ethiopia and internationally, and the cooperation of United Nations agencies in Ethiopia, in particular the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP) and United Nations Children's Fund (UNICEF).

3. The independent expert's evaluation of the situation of minorities in Ethiopia is based on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant international standards. She identifies four broad areas of concern relating to minorities globally. These are: (a) protecting the existence of a minority, including through protection of the physical integrity of its people and the prevention of genocide; (b) protecting and promoting cultural and social identity, and the right of national, ethnic, religious or linguistic groups to affirm and protect their collective identity and to reject forced assimilation; (c) ensuring effective non-discrimination and equality, including ending structural or systemic discrimination; and (d) ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them.

4. The independent expert notes that in using the term minorities, the focus of her work is on distinct groups within societies that have faced long-term discrimination and disadvantage on the basis of identity as belonging to a national, ethnic, religious or linguistic group. Under her mandate, minority status is not defined by numerical factors alone. She acknowledges that distinct groups that are numerically a minority in society may at the same time have dominance over the economy, political structures, or other sectors. The present report focuses on ethnic and religious groups of varying sizes in a society of numerous distinct ethnicities.

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[1] Quotes used in this report are original comments made to the independent expert during consultations with governmental and non-governmental sources during her visit. In all cases the identity of the source is withheld.

I. RECOGNITION OF MINORITIES IN ETHIOPIA

5. According to the Parliament of Ethiopia: "Ethiopia is a land of enormous ethnic diversity, with people of Semitic, Cushitic, Nilotic and Omotic stock. There are more than 80 ethnic groups and as many languages. In terms of religion, Christians and Muslims make up approximately 80 per cent of the population (Christians being slightly more preponderant), the remaining 20 per cent animists and others. Under the Constitution of 1995, religious rights, and the cultural and political rights of all ethnic groups are guaranteed."

6. Government census statistics from 1994 reveal that the Amhara and Oromo ethnic groups each comprise about 30 per cent of the population, while the Somali and Tigrayan ethnic groups each comprise circa 6 per cent. Numerous other groups make up the remainder of the Ethiopian population of over 70 million, with only the Afar, the Gedeo, the Gurage, the Hadiya, the Keffa, the Sidama, and the Wolaita officially constituting more than 1 per cent of the overall population. The populations of some of the smallest ethnic groups can be counted in the hundreds and research is still required to fully document all communities. Some have estimated that the true number of ethnic groups, including subgroups and "caste-groups" is far higher.

7. The Constitution recognizes all distinct ethnic groups as sovereign "nations, nationalities and peoples" defined as: "a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identity, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory". The Constitution does not articulate a distinction between the three categories or explicitly recognize national, ethnic, religious and linguistic minority or indigenous status.

8. In contrast to the policies of previous Governments, all languages and cultures are given equal recognition under the Constitution, and each national group has the right to develop and promote its own culture and preserve its own history (art. 39, para. 2). Each "nation" has an opportunity to govern within a defined territory. Each state government may promulgate its own regional constitution and laws, as long as these are consistent with the federal Constitution, declare its own official and working languages, and organize life within its territory in accordance with local customs and traditions.

9. Research demonstrates a high degree of ethnic mixing, interaction and geographical mobility amongst Ethiopia's ethnic groups, which have variously been voluntary (economic migration to other regions, inter-marriage between communities), or involuntary (including forced relocation or displacement due to conflict). This has resulted in regions in which numerous ethnic groups are present, often in significant numbers. Complex identity issues were demonstrated by a number of people who complained that the Government now requires everyone, for the purpose of national identity cards, to state a single ethnic status rather than identify themselves as of mixed ethnic origin, or as Ethiopian. In response, the Government states that identity remains a self-definitional exercise.

II. LEGAL AND POLITICAL CONTEXT

10. The current Government, the Ethiopian People's Revolutionary Democratic Front (EPRDF) took office in May 1991 following a protracted war against the Provisional Military

Administrative Council (PMAC) Government, commonly referred to as the "Derg".[2] The Derg had overthrown Emperor Haile-Selassie in 1974, and continued a process of Marxist centralization of power and "nation-building". Under both previous Governments, Amharic was imposed as the single official language of Ethiopia. An Amhara-dominated official State culture was promoted, alongside institutional reforms to extend the authority of the central State apparatus. The Tigrayan People's Liberation Front (TPLF) successfully liberated the Tigray region from Derg control by 1989 and established the EPRDF as a coalition of ethnically-based opposition groups to continue the war against the Derg. The objectives of the EPRDF, later articulated in the Constitution, were to establish a democratic Ethiopia and relative cultural and political autonomy for its ethnic groups.

11. The Constitution of the Federal Democratic Republic of Ethiopia, drafted and adopted in 1994 following a period of transitional government, is the supreme law within Ethiopia with which all other laws, practices and decisions must conform. The independent expert welcomed the Constitution as a comprehensive and valuable foundation for rights, freedoms, and equality in Ethiopia.[3]

12. The Constitution provides detailed provisions for the protection and promotion of human and democratic rights in chapter 3, and article 13 states that: "The fundamental rights and freedoms … shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, international covenants on human rights and international instruments adopted by Ethiopia."

13. Article 39 of the Constitution establishes a unique and elaborate federal governmental structure under which ethnic groups are entitled to self-determination or self-government, including the establishment of regional government institutions within ethnically defined territories. Uniquely, the Constitution provides the ultimate right of secession for a nation, nationality or people, under certain conditions and following a clearly defined process.

14. The Constitution establishes the system of ethnically-based federalism, which marks a significant departure from the political visions of previous Governments, and crucially brings to the fore the civil and political as well as economic, social and cultural rights of all Ethiopia's diverse groups.

15. Nine states were established according to chapter 4 of the Constitution,[4] which states in article 46 that these states: "shall be delimited on the basis of the settlement patterns, language,

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[2] "Derg" is Amharic for Council or Committee.

[3] The Independent expert noted that senior government representatives with whom she met, at both the national and regional levels, commonly had copies of the Constitution on their desks, and demonstrated knowledge of its provisions appropriate to their positions.

[4] Tigray, Afar, Amhara, Oromia, Somalia, Benshangul/Gumuz, the State of the Southern Nations, Nationalities and Peoples (SNNP), the State of the Gambella Peoples, and the State of the Harari People.

identity and consent of the peoples concerned". While in six states one ethnic group has a clear majority of the population or is politically dominant, as reflected in the name of the state, the other states do not give primacy to one particular group. The State of the Southern Nations, Nationalities and Peoples (SNNP), for example, is acknowledged to accommodate over 45 different ethnic groups within its territory. Within regions, smaller administrative territories, called "waredas" and "zones", operate to allow a degree of self-determination to specific groups that may be the numerical majority within those units.

16. The independent expert received a variety of opinions regarding the system of ethnically-based federalism. Some felt that it had been imposed without an adequate process of consultation, national debate or dialogue that could have ensured a more gradual introduction and avoided subsequent problems. Others felt that in demarcating particular territories as effectively belonging to designated ethnic groups, members of other ethnic groups became de facto minorities within that regional state, consequently making the protection of minority rights as crucial at the state level as it is at the federal level.

17. Some issues have caused increased tensions between communities and remain persistent problems. Imposition of local or regional languages as the official language of regional states has reportedly resulted in members of some communities of differing ethnic origin effectively becoming functionally illiterate overnight. Some of those living outside their "natural ethnic enclaves" faced attempts to evict them or claim their land and property, based on the perception that under the system only certain native groups were entitled to land. Some groups have been effectively excluded from participation in the public life of the regions in which they live, as they are not recognized as native to the region, or do not speak official local languages, and so cannot hold certain public offices including regional president or cabinet member.

18. The system of ethnically-based federalism has undoubtedly been useful in terms of its greater recognition of different ethnic groups, cultures and languages. Nonetheless, deeper analysis reveals the true costs of the system with respect to the protection and promotion of the rights of minorities. However, it may be too soon to make a comprehensive evaluation of its full merits.

III. ENSURING GROUP SURVIVAL

19. Some smaller minority communities in Ethiopia are considered to be in danger of disappearing completely as distinct ethnic groups and cultures, due to factors including resettlement, displacement, conflict, assimilation, cultural dilution, environmental factors and loss of land. National experts suggested that the number of endangered communities, some of which have less than 300 members, could be as high as 16 out of some 80 identified communities. An unknown number of minority communities are believed to have already disappeared completely. Adequate political representation of some of the smallest groups

at the regional and national level, vital to their continued existence, is hard to achieve for some groups.[5] For the smallest groups, lacking political awareness and capacity and unable to meet thresholds for representation, this remains inaccessible.

20. Decline in numbers is partially the result of voluntary cultural dilution through inter-ethnic marriage, voluntary relocation or assimilation. However, every effort is required to protect those small groups that wish to maintain their distinct characteristics yet are vulnerable to factors beyond their control, such as the impact of conflict or forced displacement from their traditional lands. Further research into such highly vulnerable groups is required to enable effective policy responses to protect their existence and preserve their cultures, also for the wider benefit of Ethiopia generally.

21. The protection of minorities, including protection of their physical integrity, must also be considered with respect to larger ethnic groups affected by conflict, and reported targeting or forced displacement of particular groups. Numerous inter-ethnic and intra-ethnic conflicts were reported, including in the regions of Gambella, Oromia, SNNP and Somali.

22. Ongoing conflicts amongst groups within Oromia region and with groups in neighbouring states were highlighted as requiring urgent measures to protect the security of vulnerable communities. The causes of conflict require urgent investigation, and if solutions are deemed to fall beyond the capacity of the regional authorities, the federal Government should take immediate action to provide solutions and security. It is alleged that conflicts in Oromia and between Oromo clans have been neglected or even orchestrated as a means of destabilizing effective political opposition in the region.

23. Conflicts, including between neighbouring Gabra clans of Oromo, between Guji and Borana, and between Oromo and neighbouring ethnic groups in Somali, Afar and Sidama, have allegedly resulted in the displacement of some 300,000 people. Policies of forced relocation of Oromo communities without compensation were claimed to have affected thousands, to make way for developments such as cut flower plantations. The independent expert welcomes the intervention of the House of Federation in issues which fall within its jurisdiction.

24. Interviews suggest a deteriorating situation in regard to religious tolerance and between those of Christian and Muslim faith. Tensions in some regions have reportedly been heightened by security and "counter-terrorist" operations against "Jihadists" and Ethiopian military activities in Somalia against the Union of Islamic Courts. In Afar and Somali, which has a porous border with Somalia and shared ethnic and religious clans, Islam is dominant. The Government should ensure that State activities do not impact on the legitimate rights and freedoms of religious communities under international human rights law and the Constitution of Ethiopia. Steps should be taken publicly by the Government to build confidence amongst Ethiopia's Muslim communities and to maintain historically good inter-religious relations.

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[5] According to national experts interviewed by the independent expert, studies suggest that some minority nationalities had a maximum of 700 members and a minimum of only 200.

25. Targeted attacks against particular communities can result in high loss of life and have a devastating social impact, including on the continuing livelihood and residence of particular groups in localities where attacks have been perpetrated. One example is the situation of the Anuak and other communities in Gambella region.

Case study of Gambella State

26. Recognizing that different social, economic and ethno-religious conditions prevail in different regions of Ethiopia, the independent expert nevertheless considers that Gambella, as an ethnically diverse, historically marginalized and underdeveloped region, illuminates minority issues common to other regions. Focusing on Gambella allows an examination of the effectiveness of the ethnically-based federal model, the challenges encountered, and the degree to which it facilitates the identification of solutions by regional and federal authorities.

27. Five officially recognized nations, nationalities and peoples are considered native to Gambella State. The Anuak and the Nuer constitute the largest ethnic groups, while Komo, Majangir and Opo are smaller groups. Relocation of some 60,000 people referred to as "highlanders" (i.e. those of other ethnicity from highland regions of Ethiopia, including Amhara, Oromo and Tigrayans) to the region under the Derg Government, following severe droughts, has impacted significantly on the demographic make-up of the region, and caused tensions since settlements were established on land claimed by the Anuak. The border with Sudan means that some communities such as the Nuer have historical ethnic connections with groups in Sudan. Serious conflicts have emerged in the region over the period of the present Government.

28. Elders of the Anuak and Nuer communities described to the independent expert historic harmony between the pastoralist Nuer and the settled agriculturalist Anuak. Land, water and resource sharing arrangements were traditionally negotiated peacefully, and when specific incidents of violence, ethnic tension, or low-level conflicts emerged, traditional and customary processes of conflict resolution and reconciliation were implemented to prevent confrontation and resolve such issues.

29. Elders described deterioration in this traditional harmony over the period of the current Government, culminating in what some have called genocide, when in December 2003, according to local sources and international human rights investigators, 424 Anuak were killed in Gambella town by federal military forces and other ethnic groups. The Government has claimed that 65 Anuak were killed. The killings followed an attack on a convoy of local United Nations workers, blamed on Anuak rebels but without a full investigation being carried out at the time.[6] The events of December 2003 were the low point in ongoing ethnic clashes which have seen victims amongst all groups and a serious deterioration in security generally. An Anuak community elder in Gambella town stated that: "When the Anuak are killed, that is called 'development' by some people."

[6] The subsequent final report of a commission of inquiry established by the Government to look into the Gambella massacre differed from the facts as described by elders, community leaders, and international NGOs.

30. Important contributing factors include the relocation into the Gambella region of highlanders and a porous border with troubled Southern Sudan, which has had a major impact on the region. Sudan People's Liberation Army (SPLA) fighters have used Gambella and there has been an influx of refugees from the Sudanese conflict. The Oromo Liberation Front has been accused of infiltrating fighters into Ethiopia via Gambella's Sudanese border. Heavily armed Sudanese Nuer groups (the Lou Nuer) have migrated into the region resulting in conflict with local Nuer groups, who have been forced from their traditional lands into Anuak areas, resulting in a breakdown of traditional land-sharing arrangements. Armed Anuak groups active prior to December 2003 were blamed for ambushes and killings of highlanders.

31. Most elders articulated the underlying problems behind the conflict as being about land issues and the encroachment on weaker groups by stronger or better armed groups. Regional politicians were accused of being too concerned with power struggles and achieving political power, and of working only for the interests of their own people. Despite warning signs and rising tensions, regional authorities failed to act to avert the incidents of December 2003. An influx of small arms contributed to rapidly escalating violence as previously unarmed groups also sought to protect themselves. An Anuak community elder in Gambella town stated that: "Many highlanders came and many SPLA from Sudan. Lots of people were killed. Since then we have not felt protected by the Ethiopian Government. We do not think that they are our Government."

32. Gambella region is uniquely impacted by events and the civil war in Southern Sudan, which have had a significant role in its relative instability. Under the Derg, it was claimed that regional police and military bases protected the border, stopping groups such as the Lou Nuer entering from Sudan and preventing escalation of ethnic tensions. The present Government, however, has reportedly abandoned regional police stations and evacuated military bases, resulting in the free movement of people and rising tensions that have been allowed to escalate unchecked.

33. Lack of investment in roads in the region makes it difficult to prevent or remedy problems in remote areas, even for the military. Community elders pointed out that development in the region had been seriously underfunded or neglected, or that money had disappeared. Gambella remains desperately in need of roads, infrastructure, schools, hospitals and clinics, electricity provision, and numerous other services which would contribute to peace and stability in the region. Such developments would provide much needed jobs that could benefit all communities. These issues demonstrate a strong developmental component to the ongoing conflicts in Gambella.

34. Interviews revealed perceptions that highlanders are politically and economically dominant, despite an ethnically mixed regional government. There was also a strong sense of skin colour bias, as highlanders demonstrated racist attitudes and used derogatory names toward Anuaks, Nuers and others. The independent expert was informed that if members of "black groups" wish to open a shop or business "it will be closed down". The events of December 2003 have heightened such perceptions and also led to claims that the military is dominated by highlanders, and present in the region to protect only highlander communities. The belief was commonly expressed that the military and political actors have provoked inter-ethnic conflict to safeguard highlander interests, divide political opposition, and clear communities from land for oil exploration.

35. A forum for Anuak and Nuer women to talk about their lives, issues and concerns highlighted the massive impact on individuals, families and communities, and on women in particular, of the ethnic conflicts, and the incidents of December 2003. The women talked of their despair over the fact that their Anuak sons and other male family members had either been killed or fled to avoid the killing and had not returned. They asked for help to convince their sons that it was safe to return to their communities. Many women face severe practical problems of daily survival, personal security, including the threat of rape, and loss of property in the absence of male members of their families. They spoke of the continuing trauma of their experiences and how their loss has left them in deep despair.

36. The regional president noted efforts by the Government[7] to address inequalities and prevent conflict, and that it strives to achieve equal treatment in such fields as employment and education, and participation of all groups in government. When asked about the events in 2003, the Gambella president blamed "lack of good governance" as the major issue contributing to the problems and conflict. The previous regional government had failed to address the root causes of problems. Contrary to community representatives, the regional government did not consider land and resource issues to be a major factor in conflicts, but considered competition for political power a crucial motivating factor. A Nuer community leader stated that: "This Gambella government is working for peace, and local ethnic groups have made conferences … but we also need education, clinics, electricity and development."

37. Representatives of the regional government noted that the granting of title to land was planned in Gambella through a new proclamation and law. While potentially providing greater security of land tenure, the independent expert cautioned that this should be sensitively conceived and implemented, to ensure fairness and avoid tensions over disputed lands and territories. It should not be a means to increase government revenues by imposing "title fees" upon those who have traditionally inhabited the land.

38. Since the 2003 events, the Gambella President had expanded his cabinet to include members of five different ethnic groups in key posts. The Anuak and the Nuer each hold seven cabinet posts, while the Majangir have three. In addition the number of seats on the regional council was increased from 55 to 82, to allow greater representation by different groups and reduce political competition. The Anuak and Nuer are allocated over 30 seats each. Local languages (Anuak, Nuer and Majangir) are taught in schools alongside Amharic and English, with some financial and technical support from the federal Government. The languages of smaller groups (Komo and Opo) are not commonly taught in Gambella schools.

39. The President noted that training and recruitment had been put in place to promote an ethnic balance in the regional police force. He noted that there are currently 480 Anuak, 400 Nuer and 100 highlander police officers, correcting a previous imbalance. Attempts to create similar balance in the regional judiciary had been initiated, although some communities,

[7] The independent expert held consultations with the Gambella regional President and senior members of the Council, including the regional Supreme Court President, the head of the Justice Bureau, the Minister of Women's Affairs, the Commissioner of Police (informal meeting) and representatives of the Bureau of Education, amongst others.

notably the Nuer, are reluctant to become judges. Independent non-governmental organizations (NGOs) noted that the Government had engaged with community-led conflict prevention and reconciliation projects and made efforts to listen to the concerns of different groups. They described "improved space" for civil society activities supported by international NGOs and agencies.

40. The Ethiopian National Defence Force (ENDF) had been called for by the state cabinet prior to 2003 to address "anti-peace" elements and assist the regional government. It was acknowledged that individual ENDF members may have committed crimes, and some had been arrested and convicted, although details were unavailable. Reports of ongoing violations by the ENDF, including killings and rape in rural areas, were described as "allegations to be dealt with by the courts". The military presence in the region was described as necessary for peace and security in the region, particularly in view of the porous border with Sudan, used by elements that wished to create instability. The security situation generally was said to have improved although recent reports from rural areas contradict this claim.

41. The independent expert expressed her serious concern to regional authorities over the fact that many individuals, largely of Anuak ethnicity, had been held in prison without trial since December 2003, in contravention of the constitutional guarantee of speedy trials. Subsequently during her visit, she was informed that the mobile federal court would be visiting Gambella the following week to conduct hearings into such cases. Since leaving the region, she has been informed of the release of six individuals due to lack of any evidence or witnesses against them. The mobile court is due to return to Gambella in January 2007 to recommence hearings.

42. The independent expert welcomed efforts on the part of the Government to promote stability, engage with communities and respond to their issues.[8] Efforts must be greatly enhanced, however, to ensure security for all communities and to safeguard against future serious incidents. In view of the prevailing circumstances in Gambella and continuing tensions, there remains a significant risk that such incidents could occur, and priority should be given to reducing tensions and building confidence among and between ethnic groups. Reports were provided of killings and other grave human rights violations that could have escalated rapidly, but which were contained, including through timely interventions of the federal police.

43. Military forces active in the region must be appropriate for, and sensitive to local conditions, including in regard to their ethnic composition, their distribution and the location of their barracks, their duties, and discipline. The military should be located in barracks outside Gambella town and restricted from entering it. Measures must be taken to ensure and demonstrate that communities such as the Anuak can be confident of protection by the military

[8] In addition, the President of the regional Supreme Court expressed an interest regarding the provision of human rights information and documentation, and possibilities for technical assistance by OHCHR. The independent expert noted that she would investigate possibilities and provide relevant materials to enable the Supreme Court to undertake human rights and minority rights awareness-raising initiatives within the judiciary. A similar request was made by the Commissioner of Police of Gambella regarding relevant materials relating to policing, security and criminal justice in multi-ethnic societies.

and the police, following the well-documented role of military personnel in the 2003 massacre, and lack of police protection at that time. Given highly volatile conditions following large-scale killings and reprisals, all communities must be equally protected. While a commission of inquiry was set up into the events in Gambella, there is widespread distrust as to the integrity of the published commission report and a belief that not all soldiers who committed crimes have been prosecuted. Widows interviewed by the independent expert stated that they had never had an opportunity to tell their stories. This may be a situation which would benefit from adapting a model of a truth commission.

44. The use of local and federal police, is considered preferable to the use of military forces in most instances relating to internal regional peace and stability. The military should however have an enhanced role in securing the border with Sudan and in protection of communities threatened and displaced by armed groups who originate from Sudan. Measures to peacefully disarm and repatriate Sudanese groups should be undertaken as soon as possible, with subsequent measure to allow native communities to return to the territories from which they were displaced. Such measures would greatly help to ease tensions related to land.

45. Oil exploration in Gambella is considered by some observers to be a factor in the increasing tensions in the region and in the displacement of some communities. Such activities may impact negatively on vulnerable communities, for example, in regard to environmental damage or the possibility of evictions from their land or other violations of their rights. The Government is urged at an early stage to consider programmes and policies that ensure that all local communities benefit appropriately from such activities, for example, in regard to employment opportunities and an equitable share of the newly generated wealth.

46. Numerous international agencies, NGOs and faith-based organizations[9] promote inter-ethnic cooperation, conflict prevention and peaceful development in Gambella alongside local civil society. The work of such organizations is extremely valuable, and their continued presence is considered essential to addressing the immediate and long-term needs of communities in the region, and to promoting peace and stability.

IV. LANGUAGE AND CULTURE

47. Article 39, paragraph 2 of the Constitution states: "Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history." In many respects the re-establishment of local languages has been a major success of the EPRDF Government.

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[9] International organizations and agencies including the Ethiopian Women Lawyers Association, Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations World Food Programme (WFP), International Committee of the Red Cross (ICRC), Pact, and Médecins Sans Frontières (MSF) amongst others are active in Gambella State. The Salesian Don Bosco organization is noted for its establishment of educational, vocational training and recreational facilities for children and young people from all communities in Gambella town.

48. An estimated 89 different languages, belonging to several different language groups, are spoken throughout Ethiopia. Language is however a highly politicized issue and historical dominance of Amharic under successive Amhara-led Governments saw decline in other languages with resulting tensions. The current language policy was established in the Constitution under articles 5 and 39. The federal system has been beneficial in terms of re-establishing minority languages that are fully recognized and promoted under the Constitution as working languages within schools and the various regional state administrations.

49. Amharic remains the official working language of choice in some states, including Amhara, the SNNP and Afar. Under previous Governments, Amharic was the language of primary school education nationwide and thus children from other ethnic groups had little possibility to learn their native language within the formal school system. Under article 5, paragraph 1 of the Constitution, all languages are given equal recognition by the State, and Amharic is recognized as the official working language of the federal Government. However each member state of the Federation may determine its own working language.

50. The situation in terms of the languages of smaller minority groups within a state is less certain and a number of minority languages are considered extinct.[10] Limited resources mean that not all languages can be represented in the school system, which in many regions is burdened by severe resource and access problems.[11] Under-resourced states may be unable to devote resources to minority languages in states with a dominant ethnic group. At the wareda or zone level, local education solutions should be encouraged, although these may require Government support. Guidelines may be required to ensure that the gap between constitutional recognition and practical realization of language rights does not result in conflict between groups, or arbitrary decisions that elevate certain languages over others.

51. Those speaking only their mother tongue may be disadvantaged beyond the regional level, and thus in all regions there is education in both Amharic and English, which are also commonly the languages of instruction in secondary and higher education. The independent expert strongly supports the opinion that a common language, learned by all in Ethiopia, is an effective mechanism contributing to national unity and equal opportunity. A unifying national language (a lingua franca) means that no groups should be disadvantaged nationally, or face restrictions on their geographical or socio-economic mobility due to issues of language proficiency. However, for minority groups in rural and disadvantaged regions, lacking basic access to education, language and literacy remains a serious barrier to full realization of their rights. A human rights advocate in Addis Ababa stated that: "People want to study English or Amharic … they don't want to commit suicide by only knowing their own language."

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[10] Ethnologue: Languages of the world (2005) www.ethnologue.com/web.asp states that there are 89 languages listed for Ethiopia of which 84 are living and 5 (Gafat, Geez, Mesmes, Rer Bare and Weyto) are extinct.

[11] According to the UNDP Human Development Index, net primary school enrolment in 2004 in Ethiopia was 46 per cent. The Government contests this and estimates that this figure was more than 70 per cent in 2004.

52. Interviews in Gambella revealed that: many children were not in school; the security situation had led to the effective suspension of education for two years in some waredas; schools had been destroyed and lacked materials; teachers had left or were poorly qualified; and there was little information available to the regional government about the functioning of the education system in rural areas, administered by the waredas. While some communities were felt to have adequate access to education, due in part to their disproportionate residence in relatively urban areas, inequalities in access to education for groups including Anuak, Nuer, Majangir, Komo and Opo residing in rural areas were cause for concern.

53. The Civic and Ethical Education Policy has been designed for the Ethiopian school system to promote core values and principles and assist in "developing a culture based on tolerance of different cultures". The values highlighted within the programme are: democracy; rule of law; equality; justice; patriotism; responsibility; industriousness; self-reliance; saving; active community participation; and the pursuit of wisdom. This extensive programme is in the curriculum of both primary and secondary schools. The civic and ethical education syllabus was established by the federal Ministry of Education, however regional governments have the right to make their own decisions regarding its adoption.

54. The independent expert welcomed the civic and ethical education syllabus as an example of good practice in promoting understanding and tolerance amongst Ethiopia's ethnic groups. She encouraged its vigorous promotion and endorsement at the federal and regional level, taking into account specific regional ethnic demographics, and including information about and relevant to different cultures, their histories and their contributions to wider society. The independent expert noted that she is promoting such positive practices in her work on minority issues in education globally and will use the example of Ethiopia. A representative of the federal Ministry of Education in Addis Ababa said that: "Our history of conflict has given us a combat culture under which 'patriotism' is equated with fighting. Now we say patriotism must transcend this combat culture."

55. The duties of the State in regard to cultural rights are set out in article 91, paragraph 1 of the Constitution which states that: "Government shall have the duty to support, on the basis of equality, the growth and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals, and the provisions of the Constitution." Efforts to promote cultural awareness and celebrate diversity through events such as the Day of Nations, Nationalities and Peoples, inaugurated in December 2006, are welcome. However, such initiatives must be underpinned by substantive investment and legislative and policy development, with the aim of ensuring the promotion and protection of cultural rights in practice.

Pastoralists

56. Pastoralists are distinct groups with traditional nomadic herding lifestyles, that are increasingly coming into conflict with settled farmers and the agro-industry. Their traditional

territories often cross State boundaries, and they suffer greatly from the effects of drought, flooding and conflict over land, resources and water. Pastoralists commonly face high and disproportionate levels of poverty, food insecurity and low educational enrolment levels.[12]

57. The Government reportedly favours a policy to settle nomadic pastoralist groups. For many pastoralists this is a denial of the right to their culture and lifestyle and contrary to the Constitution, which extends guarantees regarding cultural preservation, and grants the right not to be evicted from traditional lands. Pastoralist ethnic groups are present in the House of Federation and the House of Peoples' Representatives.[13] However, pastoralist representatives working for NGOs[14] are concerned that their opinions are not accurately represented and believe that the federal Government must play a more constructive role in reaching solutions to conflicts involving land use, that respect traditional lifestyles, land occupancy and usage.

58. The situation of the Karayu pastoralists, an Oromo tribal group inhabiting the Fantalle district of Oromia, and neighbouring pastoralist groups was highlighted. Allegations state that the Karayu have been forcibly displaced from their lands and denied access to the Awash River (their only natural water source), due to the establishment of the Awash National Park, Upper Awash Agro-industry Enterprise and Methara Sugar Factory in the area. Displacement has allegedly taken place without compensation, and brought them into conflict with neighbouring pastoralist groups including the Argoba, the Afar, the Ittu and the Arsi, since all must compete for pastureland, resources and water. Community representatives claim that conflicts have intensified and that traditional conflict resolution mechanisms are unable to resolve this situation.

V. NON-DISCRIMINATION AND EQUALITY

59. Article 25 of the Constitution states that: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status."

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[12] Pastoralist enrolment in education in Ethiopia is 24 per cent compared with a national average estimated by the Government to be 70 per cent. Pastoralists fall far behind national averages in regard to most human development indicators.

[13] In addition there is a Pastoralist Standing Committee at the House of Peoples' Representatives, which coordinates the role of the legislature in the enforcement of the rights of pastoral groups, and a Pastoralist Affairs Development Department.

[14] Pastoralist Forum Ethiopia states that 29 ethnic groups in 6 states in Ethiopia are pastoralist members of the Forum, which represents 11 NGOs working on 13 projects in areas such as good governance, best practice, and conflict prevention.

60. The Criminal Code of Ethiopia (Proclamation No. 414/2004) establishes equality before the law under article 4, noting that: "Criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, colour, sex, language, religion, political or other opinion, property, birth or other status."

61. The consultations she undertook led the independent expert to believe that discrimination is a serious problem within wider Ethiopian society. Discrimination along ethnic lines may have been further exacerbated under the ethnically-based federal system, which has created a new awareness of ethnic identity and increasingly politicized ethnicity. Ethnically-based federalism has also created new contexts, arenas and dimensions of racism and discrimination, as ethnic groups and ethnically-based regions have been forced to cope with new dynamics of minority/majority relations at the regional and even local administrative levels. A university student in Addis Ababa said: "The problem is that we are dividing more than ever before rather than uniting as Ethiopians. We are working against ourselves."

62. The causes and dynamics of discrimination are complex in Ethiopia. Historical factors and unequal power relations between different groups have further complicated the picture of discrimination. Ethnicity has emerged as the most salient aspect of individual and group identification. By allocating territories to the political control of particular ethnic groups, many people observed to the independent expert that ethnic divisions have become more deeply entrenched and discrimination has manifested itself amongst previously harmonious communities, as particular groups have emerged as numerically or politically dominant within new regional administrations.

63. Numerous consultations established that certain ethnic groups are more commonly subjected to discrimination and exclusion, both on the interpersonal and institutional levels, based on skin colour and other physical features. Reportedly, derogatory terms such as "slave", are commonly used in reference to certain ethnic groups, alluding to their historic dominance by other groups, and patterns of exploitation during the slave trade. Such overt discrimination may be the case, even in regions where those targeted for abuse are numerically in the majority and have the constitutional right to political power in regional government, such as is the case in Gambella.

64. Anti-discrimination provisions in specific laws relating, for example, to labour and the family are considered to be poorly implemented and not enforced nationally. In theory, international human rights instruments can be invoked directly before national courts, however they have not been published in the official Gazette, leaving lawyers and judges with the impression that they have no independent judicial force. Ethiopia currently lacks separate, comprehensive anti-discrimination legislation, which would greatly assist in elaborating upon standards and their application, requirements for compliance, and penalties for violation.

65. The Constitution guarantees the right to equality in employment (art. 35, para. 8). Equally the Labour Proclamation (No. 377/2003) which revised the Labour Law in 2004, in article 14, paragraph 1 (f) makes it unlawful for an employer to discriminate on the basis of nationality, sex, religion, political outlook "or any other conditions". Civil service employment

is regulated by the Federal Civil Servant Proclamation (No. 262/2002) which also protects against discrimination and under section 13, paragraph 3 authorizes preferential recruitment of women and members of ethnic groups underrepresented in the civil service.[15]

66. Ethiopia's revised Labour Law is a national law, which governs employment relations throughout the country. It is applicable to both public and private sector employment but not to the agricultural and informal sector in which the majority, some 80 per cent of people, are employed. Although the Constitution recognizes historical disparities, an obligation on employers to implement affirmative action measures, for example to advance women's participation, is not imposed.

Discrimination against women

67. While women generally face discrimination in Ethiopian society due to patriarchal systems and traditional gender roles and practices, women from different ethnic communities may face multidimensional obstacles, based on the particularities of the customary or religious practices of their communities and the relative status of their ethnic group within the ethnic hierarchy in their region and nationally. As such, protection of their rights requires legislative measures enforceable at both federal and regional levels, and practical policy initiatives.

68. The revised Family Code of Ethiopia was adopted in 2000 (Proclamation 213/2000) and is highlighted by the independent expert as a valuable addition to legislation that seeks to protect and promote the rights of women and conditions of equality. Unfortunately, as a federal law it is not compulsory at the regional level since regions maintain autonomy in cultural and social affairs.[16] Regions can choose to adopt it or to adopt their own family codes, which take into account cultural and regional particularities, so long as they do not contravene the Constitution.[17] While welcomed by civil society groups, serious problems with implementation and enforcement of the Code have been highlighted.

69. In rural areas, traditional or customary law practices and patriarchal family and community structures are prevalent and often incompatible with non-discrimination legislation. Cultural or religious practices, such as polygamy and male-only ownership of property, are still unofficially sanctioned in some states. Some states are, however, reportedly attempting to revise the law in a way that conforms with the Constitution yet recognizes the status of customary courts and laws and non-discriminatory traditional practices.

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[15] The ILO Committee of Experts on the Application of Conventions and Recommendations noted in 2005 that this had been used on only rare occasions and that women remained particularly underrepresented.

[16] The Code is only compulsory in Addis Ababa and Dire Dawa administrations (federal cities), unless otherwise adopted by regions.

[17] Five regions have reportedly adopted the revised Family Code (the first being Tigray), although some including Gambella continue to act according to previous legislation considered incompatible with the Constitution and international human rights standards.

70. Since over 40 per cent of the population is Muslim, sharia courts are used widely in the area of family disputes. In theory both parties should consent to adjudication by either the religious or local court system. In practice men often favour sharia courts because they are more likely to be successful in them, and women may feel pressured to accept this. Under the sharia court system, which has its own appellate level, there is no possibility of appealing a sharia court decision in a federal court. However, a landmark 2004 decision of the House of Federation upheld the right of women not to be judged by a sharia court without their full consent.

71. In Gambella, for example, local tribal customary courts are commonly used, and the rights of women are often not well protected; however there is an avenue of appeal to the formal local court system. Even within the regional court system, women are poorly represented as judges and may face discrimination by male judges who may be influenced by traditional practices and gender perceptions. The effects of discrimination on ethnic grounds were also mentioned, a clear example of the potential for multiple discrimination against minority women.

72. The Gambella Bureau for Women's Affairs noted that surveys had established that women and children had been significant victims of conflict. They were unable to flee and suffered from secondary effects, including loss of property and the support of male family members. In many regions, women traditionally have no customary rights to own or inherit property. Even where males have fled violence, property is commonly appropriated by remaining male members of the husband's family. In cases of divorce, property is generally retained by the husband, despite chapter 5 of the Family Code which establishes shared ownership of common property. The property rights of women generally were highlighted by the independent expert as an area requiring urgent legislative and practical protection.

73. The federal Ministry of Women's Affairs works directly with regional women's affairs offices to assist in issues of gender inequality and is responsible for implementation of a national Women's Policy. All Ministries have departments on gender issues, a mainstreaming initiative which is extended to the regional level. Such attention to gender issues is considered a positive practice by the independent expert, although she notes that the federal Ministry of Women's Affairs is relatively new, having been elevated within the past year from an advisory office to the Prime Minister. Its structures and methods of work are new and untested and its focus appears to be primarily on public education rather than implementation of the law. Dedicated attention is required to address the situation of women from the most disadvantaged and vulnerable groups in the most outlying regional states.

VI. POLITICAL PARTICIPATION OF MINORITIES

74. The independent expert considers that a crucial test of government efforts is whether minority groups feel that they have an effective voice in political decision-making. The vast majority of civil society actors interviewed spoke of being excluded from genuine political participation, or representation by authentic community leaders. This perceived exclusion, however, is relatively invisible, since representatives of diverse ethnic groups do hold office, often at a senior level, within federal and state administrations. There is a broadly held view that independent, ethnically-based political parties have been excluded in favour of others created by the Tigray People's Liberation Front (TPLF) and subordinate to it. The view is that ethnic political figure-heads have emerged and that senior officials, or advisors who hold the real power, are drawn from only one politically dominant ethnic group and party.

75. The independent expert considers that it is crucial that the Government takes steps to instil in all population groups true confidence that they have genuine, effective participation in decision-making through authentic representatives of their communities. Measures should be taken to guarantee and implement democratic governance, as provided in the Constitution, through free and fair elections in which the legitimate and peaceful rights of all political parties and individuals to stand for election and hold elected office without interference are fully respected. She equally highlights the need for a free and independent media which reflects a plurality of opinions, including those of minority groups and political opposition parties.

76. Prisoners, including those held in detention since the May 2005 elections, must be brought speedily to trial under international standards of fair trial, including in regard to the independence of judges and lawyers, or released if no evidence exists against them. In discussions with the Minister of Justice the independent expert raised questions regarding the appropriateness of charging those who opposed the conduct of the May 2005 elections with "attempted genocide". The Government states that these charges reflect attempts to organize armed opposition to oust the current Government. Civil society groups consider these charges and government action against opposition as politically motivated, repressive, unlawful and undemocratic.

77. Sources claim that Oromo people are disproportionately represented amongst prison inmates and are often held and convicted based on politically motivated charges. Representatives of the Oromo allege widespread violation of their civil and political rights, including killings and imprisonment of political leaders, journalists and students; restrictions on independent political parties; exclusion of students from universities; and discrimination against Oromo who fail to support the EPRDF ruling party.

78. The independent expert encourages the state and federal Governments to take all possible practical measures to ensure justice and the rule of law, security, and to promote peace and stability in Oromia and all other regions. The Government must fulfil its commitments in this respect under international human rights treaties to which it is voluntarily a party, and under the Constitution.

The House of Federation

79. The independent expert consulted with senior administrators of the House of Federation, the upper house of the bicameral Parliament of Ethiopia. It is composed of representatives of nations, nationalities and peoples, each of which can be represented by at least one member. Groups with a population of over 1 million are entitled to one additional member for each million of their population. Members of the House are appointed by state councils, which can directly elect representatives, or can hold elections in order to have representatives elected by the people. In December 2006, it was noted that there were 112 seats in the House of Federation,

representing 69 nations, nationalities or peoples.[18] The House does not have the authority to initiate laws or check the powers of the House of Peoples' Representatives or the Executive. However, it is intended to act as an assurance mechanism for the rights of different ethnic groups.

80. The functions and powers of the House are established in article 62 of the Constitution. It has the authority to interpret the Constitution via the Council of Constitutional Inquiry, which is composed of expert members of the House. It is empowered to "decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination", including ultimately the constitutionally established right to secession. It is called upon to "promote the equality of the Peoples of Ethiopia … and promote and consolidate their unity based on their mutual consent". While regional states have initial responsibility for resolving border disputes between themselves, where they fail, the House can be called upon to intervene and find a solution.

81. In practice, the House has deliberated on few cases. These include a decision relating to the promulgation of family law; a decision regarding a claim for recognition of identity by the Selti community[19] resident in SNNP; a decision on the rights of members of particular communities to elect and be elected in Benshangul/Gumuz State; and an appeal by an individual woman against being judged by sharia court. These few cases highlight the potentially valuable role of the House, which seems not to have been fully exploited to date. The independent expert commends the Five Year Strategic Plan drawn up by the House, and a detailed programme of work for the period 2006 to 2010 aimed at strengthening the performance of the House.[20]

The House of Peoples' Representatives

82. The House of Peoples' Representatives is the highest authority of the federal Government. It has full legislative authority in all matters assigned by the Constitution to federal jurisdiction. Members of the House are elected for a term of five years. Currently there are 548 members from different parties and independent members. Out of the 548 seats the TPLF/EPRDF has 496, the rest being held by minority parties and independent members. The House has 20 seats reserved for minorities; however it is unclear which groups qualify for representation under this

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[18] Gambella, for example, has 4 members of the House representing 4 different ethnic groups, while SNNP has 54 members representing 48 nations, nationalities and peoples. Communities not represented in the House can apply for representation, a recent example being the successful application of the Argoba community. A total of 21 of these seats are held by women.

[19] The Selti were successful in their claim for recognition and their own administrative zone in SNNP having claimed separate identity from the larger Gurage group of which they had been considered a part.

[20] Of particular relevance to her mandate, the independent expert welcomes the objectives of the House to better promote equality, non-discrimination, and unity between all nations, nationalities and peoples; to be more proactive in the field of conflict prevention and dispute resolution (including conducting conflict assessments in two regions annually); to initiate research and events to promote cultures and cultural diversity; to raise awareness of the Constitution; and to develop its capacity to reach decisions on issues under its jurisdiction.

"set-aside" provision. There are nine standing committees in the House, of which two are chaired by members of minority parties.

83. Despite devolution of power to ethnic groups under article 39 of the Constitution, the independent expert encountered persistent criticism that the TPLF/EPRDF central party is undermining democratic processes and exerting undue influence and control over state and federal affairs. Accusations that peaceful and democratic rights and activities of independent political parties are being restricted, including via arbitrary detention of political opponents and other illegal measures, require an immediate response from the Government in order to re-establish confidence in democratic processes amongst diverse ethnic constituencies. A human rights advocate in Addis Ababa stated that: "Everyone's hope to go against something has died. The Government has achieved its aim."

84. The Government is commended for attention to and data on women's participation in political structures.[21] While the total percentage of seats on regional councils held by women in all regions is 27.61 per cent, it is notable that there is a marked difference between states. While in Tigray 48.68 per cent of council seats are held by women, in Gambella the figure is 14.63 per cent, and in Somali it is only 3.27 per cent. While traditional gender and family roles and cultural practices help to explain low levels of female participation in some regions, it is evident that attention is required to ensure the adequate representation of all ethnic groups on state and federal political bodies, and that the participation of minority women in particular is promoted.

85. The independent expert expressed concern that members of ethnic groups who have migrated to a region or been relocated, often in large numbers, may be excluded from political office due to not being native to the region and/or lack of knowledge of local official languages. Tensions may result from resentment over de facto exclusion from political processes, since ethnically-based political parties are unlikely to fully represent the interests of other ethnic communities. The independent expert encourages mechanisms which ensure wider representation of politically excluded groups. A constitutional expert in Addis Ababa said: "Other groups are just migrants to the region and so have less rights. If you are an Anuak in Harari you cannot wield power, you have to go back to Gambella."

Civil society and the national human rights institution

86. Civil society groups have reflected some difficulties in pursuing aspects of work relating to particular ethnic groups or issues that are perceived as overly political or politically motivated.

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[21] The website of the House of Federation (www.hofethiopia.org) provides information on the gender and ethnicity of members of the House according to region and also details of female participation in regional state councils. Of the 548 seats of the House of Peoples' Representatives, 116 are currently occupied by women.

Detention of NGO workers or expulsion of international employees has been reported. The independent expert notes, however, the constructive nature of some government engagement with a number of national and international NGOs.[22]

87. The Ethiopian Human Rights Commission[23] started functioning during 2005. The Commission has to date not filed for accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). It is therefore not currently considered to be set up in accordance with the Paris Principles, for example regarding its independence from Government.[24] The mandate of the Commission is threefold: to promote the concept of human rights amongst the public; to monitor human rights violations; and to take measures to remedy violations. A human rights ombudsman was appointed in June 2004.

VII. POVERTY

88. Ethiopia is one of the poorest countries in the world and ranks 170 out of 177 nations in the UNDP Human Development Index.[25] Additionally, the Human Poverty Index for developing countries (HPI-1) looks beyond income deprivation to consider severe deprivation in, for example, health, education and access to clean water and sanitation. Ethiopia ranks 98 among 102 developing countries for which the index is calculated.

89. Minority communities uniquely affected by racism, discrimination, exclusion and often violence, suffer high and disproportionate levels of poverty.[26] Ethiopia gives some attention to regional disparities in its Millennium Development Goals (MDG) report and Poverty Reduction Strategy Paper (PRSP) and it was noted that pastoralist issues are included in the second phase of the PRSP. However Ethiopia does not provide data disaggregated by ethnicity that would reveal inequalities across ethnic and religious groups and allow policies and programmes to be designed for and targeted at particularly disadvantaged groups.

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[22] Pastoralist Forum Ethiopia cooperated with the Government to establish Ethiopian Pastoralist Day (declared a National Day) to raise awareness of pastoralist culture and issues, and bring pastoralist groups together to advocate for their rights.

[23] The Commission was established in 2000 by Proclamation 210/2000.

[24] In 2006 the Commission sought assistance and technical support from OHCHR and bilateral donors and the independent expert encourages such initiatives and early accreditation with the ICC.

[25] The Index is a comparative measure based on indicators in such fields as life expectancy, literacy, education, health and general standard of living for countries worldwide, and offers a broad consideration of “well-being”.

[26] The independent expert highlights the thematic focus established in her initial report on minorities to the Human Rights Council in the context of poverty alleviation and the Millennium Development Goals (MDGs), further developed in her 2007 annual report (A/HRC/4/9).

90. The Poverty Action Network Ethiopia (PANE) was established in March 2004. PANE has over 70 institutional members and aims to coordinate the involvement of civil society groups and to empower citizens for active participation in the design, implementation and monitoring of poverty reduction policies including the Government's Sustainable Development and Poverty Reduction Programme (SDPRP).[27]

91. Ethiopia's enhanced agricultural programme, food security and rural area safety net programme are valuable initiatives by the Government. However measures are required to ensure that such programmes meet the needs of minorities, often the poorest and most disadvantaged communities in all regions, including through awareness-raising initiatives, needs assessments and monitoring mechanisms.

VIII. CONCLUSIONS

92. The official recognition of distinct groups, cultures and languages has been a major success of the current Government and Constitution. Under the Constitution there is a clear acknowledgement that all groups have a place in Ethiopian society at both the regional and federal level. Reforms have given renewed status to many more languages and enabled their use in public education and government administration.

93. The independent expert considers the Constitution to be exemplary in its human rights provisions, and welcomes explicit references to international human rights law. Anti-discrimination provisions established in article 25 provide a valuable constitutional basis for promoting non-discrimination and equality.

94. Commendable efforts to recognize the diverse nations, nationalities and peoples of Ethiopia should go hand in hand with equally necessary policies to promote unity in diversity in a nation with historic ethnic divisions, tensions and unequal power relationships. The promotion of a common Ethiopian identity, shared by all groups, and underpinning the democratic functioning of the ethnic federal system, is considered a necessary component of a stable, peaceful and inclusive Ethiopia.

95. To date, however, the promise of the Constitution and the aspiration of ethnic groups for empowerment and a sense of full participation in decision-making have not been achieved and remain largely unfulfilled. The independent expert was deeply concerned that discussions with non-governmental actors commonly included expressions of lack of faith in political processes, domination by a political and ethnically-based elite, despair, hopelessness and fear. Events following the May 2005 elections, including well-documented killing of protesters and imprisonment of opposition leaders, have deeply undermined confidence in democratic processes and the democratic legitimacy of the current Government. Many remain in jail awaiting trial on charges of "attempted genocide" and "treason".

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[27] They have elaborated a system of citizen report cards to monitor and evaluate the Sustainable Development and Poverty Reduction Programme (SDPRP). The success of the initiative is recognized in the Government's invitation to PANE to comment on the draft SDPRP II.

96. It is clear that the continued imprisonment without trial according to international standards of opposition leaders, economists, scholars and university students, represents a violation of human rights obligations and a breach of trust between Government and citizens. Continuation of this situation will contribute to denying the full realization of the admirable initiatives represented in the Constitution regarding equal rights among all ethnic groups in Ethiopia and consequent recognition and protection of language, cultural and religious rights.

97. There is a widespread perception that ethnicity is being manipulated and used as a political tool. While the Government is said to favour and encourage the establishment of ethnically-based political parties over multi-ethnic parties, some consider this is a means of entrenching ethnic divisions. In a nation that has faced long and bitter ethnically-based conflict, domination by particular ethnic groups, and decades of authoritarian rule, a process of national dialogue and reconciliation seems required - one that enables all groups to build confidence in democratic processes, to disassociate politics from ethnicity, and to break down the perception that independent political opposition equates to armed resistance.

IX. RECOMMENDATIONS

98. **As a matter of priority the federal Government should:**

- **Take measures to depoliticize ethnicity and promote policies of inclusion, shared power and cooperation. Such measures could include urging political parties to develop non-ethnic policies and programmes, opening membership to those of different ethnicity and facilitating greater participation and membership of women from all ethnic groups;**

- **Treat those political opposition leaders, journalists, students and human rights defenders currently detained according to international law and standards of fair and speedy trial, and where no evidence exists for conviction release them immediately;**

- **Guarantee freedom of opinion, speech and the right of peaceful assembly at all times, in accordance with its obligations under international law;**

- **Take urgent and culturally appropriate security measures for all communities in high-risk areas, including Gambella State, to ensure protection of all communities and to promote the safe return of those who have fled their homes or lands due to violence and conflict;**

- **Address the needs of historically marginalized ethnic groups in the least developed regions in urgent need of infrastructure, sanitation, health-care services, and education facilities, with appropriate resources and development policies;**

- **Urgently address ongoing inter-ethnic tensions and conflict with conflict prevention and resolution measures. Community-led conflict prevention and**

management initiatives and Government-sponsored initiatives that include respect for traditional and customary conflict prevention and resolution mechanisms should be encouraged;

- **Ensure that civil society groups are free to function without interference, harassment, undue restrictions on their registration, activities, or ability to seek and accept funding. The establishment of civil society groups representing the interests of marginalized or disadvantaged communities should be encouraged as a means to ensure representation of their issues;**

- **Ensure that the activities of the Ethiopian National Defence Forces acting in any region are appropriate for and sensitive to local conditions, including in regard to their ethnic composition; their distribution and the location of their barracks; their duties; and their disciplinary standards. Military forces should be deployed in border areas only and not utilized for policing functions.**

99. **Additionally the Government should take the following measures:**

- **A national conference on the functioning of the system of ethnic federalism should be convened, open to the participation of all political parties, regional authorities, civil society and nations, nationalities and peoples;**

- **To ensure effective implementation and application of the international human rights instruments to which Ethiopia is a party and that are incorporated into the federal Constitution, the texts of the treaties should be published in the official Gazette. Awareness-raising and training initiatives should be undertaken to educate public officials and the judiciary;**

- **Ensure the independence of judges and lawyers and the impartiality of the judiciary. The right to a speedy trial should be guaranteed in fact as well as in law;**

- **Federal authorities must ensure that regional state constitutions and laws conform fully with the federal Constitution and with international human rights law. In particular, the activities of regional public bodies, and traditional customary and religious courts must be regulated to ensure such compliance;**

- **Without undermining or circumventing the authority or jurisdiction of the regional governments, the federal Government should provide enhanced assistance, training and support appropriate to ensuring the effective functioning of regional authorities;**

- **Make every effort to fulfil its responsibilities to report to United Nations treaty monitoring bodies according to the obligations voluntarily undertaken by Ethiopia;**

Ensuring group survival

- **Take urgent steps to protect the existence of some of the small minority groups in Ethiopia. Research should be undertaken into the situation of such communities and measures adopted to protect disadvantaged groups and those facing external threats to their existence;**

- **Grant land title in recognition of historic usage in order to ensure security of land tenure for all communities, including minorities facing encroachment on traditional lands. The recognized system of land tenure should include protection of the use of land by pastoralist groups, and recognize individual and a variety of collective ownership arrangements;**

- **Ensure that communities are secure from forced displacement or eviction from their lands and that measures are undertaken to effectively consult with communities regarding decisions that affect them and their respective territories. Communities relocated according to the law must be consulted regarding appropriate compensation and relocation arrangements, including land of comparable quality. Communities receiving relocated populations must also consent;**

Language and culture

- **Make available adequate funding and resources to assist teaching of and instruction in minority languages in public schools at the regional level. Such mother tongue language provision should be available to all communities, to the fullest extent possible;**

- **Maintain the principle of free choice in language education, and the opportunity to study and be instructed in both the mother tongue and the official national working language of Ethiopia (Amharic) at the regional level, to the fullest extent possible;**

- **Enhance its efforts to eradicate harmful traditional and cultural practices that are contrary to international human rights standards. In addition to legal prohibition, culturally appropriate education and public awareness programmes to this end are required;**

- **Protect the range of cultural practices and lifestyles that exist in Ethiopia including accommodation of the rights and needs of nomadic pastoralist communities and other non-settled communities;**

Non-discrimination and equality

- **Pass a comprehensive law on non-discrimination and equal treatment, applicable at both federal and state levels, to bring into effect constitutional non-discrimination and equality guarantees. Such legislation should identify**

discriminatory acts and practices including in the areas of employment, education, housing and social services. Legislation should be applicable to both public and private spheres.

- **Establish a statutory body, under anti-discrimination law, charged with monitoring and enforcing anti-discrimination legislation, and with the authority to receive complaints and issue legally binding decisions in cases of discrimination;**

- **Undertake targeted policy initiatives at the federal and state level to address the unique circumstances of multidimensional discrimination experienced by minority women due to their gender and their status as members of disadvantaged ethnic groups;**

- **Require the Ministry of Women's Affairs to undertake a survey in each region of the traditional customary and religious laws and practices of all ethnic groups that impact on the constitutional guarantee of equality to women;**

- **Ensure, in legislation and in practice, that protection of the property rights of women are equal to those of men, including rights to own and inherit property. In particular the rights to property of widows, divorced women, and those affected by conflict should be legally protected;**

Political participation

- **Ensure the representation of smaller and/or migrant communities from other states within regional councils, including through constitutional review. At the federal level, political bodies including the House of Federation should, to the fullest extent possible, ensure the representation of minority communities;**

- **Promote measures to ensure the participation of women from minority communities in federal government bodies, and in all regions, in particular Somali, Gambella, Benshangul/Gumuz and Afar where representation of women is extremely low;**

Poverty

- **Fully implement the recommendations of the independent expert in her annual report to the Human Rights Council in March 2007 (A/HRC/4/9) in regard to minorities, poverty and the Millennium Development Goals;**

- **Institute, in collaboration with the Central Statistical Authority, a programme of collection of data disaggregated by ethnic group so as to reveal inequalities across groups and allow for development of appropriate targeted poverty reduction strategies;**

Civil society and national human rights institutions

- **Require the Human Rights Commission of Ethiopia to conform to the Paris Principles in regard to its organization and the independence of its functioning, and apply for accreditation with the International Coordinating Committee for National Institutions for the Promotion and Protection of Human Rights. The Commission and the human rights ombudsman should give significant, dedicated consideration to minority issues within their respective mandates;**

- **Take steps to guarantee the safety and independent functioning of human rights defenders in accordance with the Declaration on Human Rights Defenders adopted by the United Nations General Assembly in December 1998;**

The international community

- **Request the international community to make special efforts to supply technical assistance and development cooperation to the Government of Ethiopia to achieve the recommendations made in this report. As the seat of the African Union and regional headquarters of many international organizations, the international community should have a special interest in assisting Ethiopia to be the exemplar of the highest aspirations of human rights, development and security cooperation.**

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