



**Joint contribution on Ethiopia to the 19th session of the Working Group of the Universal Periodic Review**

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**PEN International**

Brownlow House, 50/51 High Holborn, London WC1V 6ER United Kingdom [www.pen-international.org](http://www.pen-international.org)

**Committee to Protect Journalists**

330 Seventh Ave, 11<sup>th</sup> floor, New York, NY 10001 USA  
[www.cpj.org](http://www.cpj.org)

**Freedom Now**

1776 K St. NW, 8th Floor, Washington, D.C. 20006 USA  
[www.freedom-now.org](http://www.freedom-now.org)

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## **Introduction and Recommendations from the 2010 Review**

1. PEN International, the Committee to Protect Journalists, and Freedom Now welcome the opportunity provided by the Office of the High Commissioner on Human Rights to comment on the climate for free expression, press freedom, and digital freedom in Ethiopia.
2. Ethiopia is bound by several international commitments to human rights. The country acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1993, and Ethiopia is also bound, like all state parties of the United Nations, by Article 19 of the Universal Declaration of Human Rights that guarantees freedom of expression.
3. Ethiopia's Constitution and several laws also protect freedom of expression and freedom of the press. Article 29 of the Constitution protects the (1) "right to hold opinions without interference"; (2) the "right to freedom of expression without any interference"; (3) "freedom of the press and other mass media" (including the "prohibition of any form of censorship"; and (4) "access to information of public interest"), among other rights. The Constitution states that limitations to such rights should not unduly restrict freedom of expression. However, two major proclamations, the Freedom of the Mass Media and Access to Information Proclamation 590/2008 and the Anti-Terrorism Proclamation No. 652/2009, directly undermine the rights enshrined in the Constitution.
4. During the 2010 Universal Periodic Review, several countries made recommendations to Ethiopia regarding freedom of expression and anti-terrorism legislation. The governments of France, Germany, Norway and Australia recommended that the government of Ethiopia protect media freedom and freedom of expression. Sweden also recommended that Ethiopia take full measures to ensure its counter terrorism operations were in line with human rights obligations.
5. Despite these international commitments, domestic laws, and human rights recommendations from other states—which Ethiopia accepted—Ethiopia has failed to meet its obligation to protect freedom of expression. The country's treatment of writers, journalists, and bloggers raises other critical human rights issues in the country, including a lack of press freedom, arbitrary detention, an inability to access government information, suppression of peaceful association and assembly, and restrictive laws and policies regarding the internet and digital technologies.

## **Persecution of journalists and violations of press freedom**

6. Since the review by the Human Rights Council in 2010, Ethiopia has continued to threaten, prosecute, and imprison writers and journalists.

7. The ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) has used its tight grip on all three branches of government to restrict information and limit the freedom and growth of the independent press. The government has arbitrarily imposed restrictions on the distribution of broadcast and print licenses, the content and editorial position of news outlets, the freedom of movement of journalists, the accreditation of international journalists, and domestic access to international broadcasts and Internet content.
8. The EPRDF has also used the publicly-subsidized state media, private news outlets under party patronage, federal and regional security services, and officials to intimidate independent journalists. Journalists face frequent summons by the police, interrogations, and criminal prosecutions for reporting on sensitive issues such as allegations of human rights abuses or criticism of government authorities. Journalists are prosecuted under punitive and poorly defined statutes in the penal code and anti-terrorism legislation, often over content published several years earlier.
9. Since 1992, government pressure has forced at least 75 independent publications, overwhelmingly from the Amharic language press, to close. Although a large number of private publications continue to operate, less than a handful of publications cover politics with a critical perspective. A high number of journalists have fled the country as a result of government persecution.

#### Institutional Censorship

10. The country's main printing press, the Berhanena Selam Printing Enterprise (BSPE), is government-owned and promulgates restrictive laws and policies. In April 2012, the state-run company issued an edict banning any publication that it broadly deems to violate Ethiopia's 2009 Anti-Terrorism Proclamation. The company also announced that it reserves the right to cancel any printing contract with any publisher who repeatedly submits content that the printer considers legally objectionable. The directive essentially codifies pre-publication censorship under the broadly repressive terms of the Anti-Terrorism Proclamation.
11. The public prosecutor holds the unchecked authority to summarily impound any publication deemed a threat to public order or national security under the Freedom of the Mass Media and Access to Information Proclamation. Art. 7 also forbids ownership of multiple mass media companies, forcing an owner to choose between operating either a broadcast news agency or a periodical. This restriction severely limits the size and scope of media companies. On 20 July 2012, the ministry of justice ordered BSPE to block the printing of an edition of the Amharic weekly *Feteh* that carried front page coverage of conflicting reports about the health of late Prime Minister Meles Zenawi. The paper was never again authorized to be printed and distributed. The same day, security forces raided and forcefully shut down three newspapers which were extensively reporting on peaceful protests against the government's policy towards the Ethiopian Muslim

community: *YeMuslimoch Guday*, *Selefiah* and *Sewtul Islam*. On August 31, 2012, Berhanena Selam indefinitely refused to print the weekly *Finote Netsanet*, the official publication of the opposition Unity for Democracy and Justice Party.

12. The government also controls the Ethiopian Broadcasting Authority (EBA), an agency with unchecked authority to issue print and broadcast licenses in the country. As a result, the attribution of licenses and regulation of the media is highly politicized. Only one independently-owned broadcaster, Sheger FM, is licensed to operate in the country—with severe limits on its ability to cover local politics.
13. On 16 January 2013, the Ethiopian Broadcasting Authority declined to renew the Professional Competence Certificate—a required license—of Temesgen Desalegn, publisher of *Addis Times* and publisher of the banned *Feteh*, citing violations of regulations under the Freedom of the Mass Media and Access to Information Proclamation. Temesgen Desalegn was accused of failing to report changes in the address and ownership interests of shareholders in the public company within 15 days, and failing to submit two copies of every edition of the paper with the Agency of the National Archives and Libraries within 24 hours of their dissemination. The EBA also accused the editor of financing the company through investors other than the company’s shareholders. In March 2013, the ministry of trade revoked the license of the journal *Le'ilena* after the EBA accused Temesgen of illegally buying an interest in the company. Temesgen denied the accusations, and observers said the claims were spurious and politically-motivated in order to silence the publisher who is known for his critical coverage of the government.

#### Government control over publicly-funded news media

14. The Constitution stipulates that “any media financed by or under the control of the state shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion,” but the government exercises absolute control over the publicly-funded national press. The Prime Minister holds the authority to hand-pick the directors of the boards of Ethiopian Radio and Television Agency (ERTA) and Ethiopian Press, the state publisher. Parliament holds the authority to confirm nominees to these bodies but the selection process is not open and there are no eligibility criteria for the positions. With the EPRDF controlling 99 per cent of seats in parliament, confirmations are a mere formality. The board chairs of ERTA and Ethiopian Press are both EPRDF members who are only accountable to their party leader. In this vein, ahead of the 2010 national elections the government replaced professional journalists at senior editorial positions at ERTA with EPRDF loyalists.

#### Censorship and restrictions on international broadcasters

15. The government imposes significant restrictions on international broadcasters. For example, it periodically jams the Amharic-language broadcasts of U.S.

government-funded *Voice of America* and German government-funded *Deutsche Welle*, as well as the opposition station *Ethiopian Satellite Television*.

16. On 25 May 2012, police detained *Voice of America* correspondent Peter Heinlein and his interpreter, Simegnish Yekoye, while they covered a peaceful protest by Muslim Ethiopians. On 1 October 2012, police harassed individuals who spoke to the station about a dispute over resources between ethnic communities. On 5 October 2012, Ethiopian police detained *Voice of America* correspondent Marthe Van Der Wolf and forced her to erase her recordings of a peaceful demonstration of Muslims protesting alleged government interference in religious affairs. The same day, police arrested two individuals who spoke to *Voice of America* about a land dispute outside the capital.

#### Restrictions of movement

17. Independent journalists attempting to investigate allegations of human rights abuses in various parts of the country face restrictions and intimidation by local authorities. On 24 May 2013, police in the regional state of Benishangul-Gumuz arrested reporter Muluken Tesfaw of the weekly *Ethio-Mihdar* and confiscated his reporting equipment as he attempted to seek comment from local officials about allegations of human rights abuses surrounding the return in the area of thousands of ethnic Amhara, Oromo, and Agew farmers who had been forcibly evicted from their land in mid-March. Muluken was detained for 10 days without charge.
18. Ethiopian authorities also deny the press independent access to sensitive parts of the country, including the eastern region of Ogaden and the northwest region of Gambella. As a result, it is difficult for journalists to independently assess allegations of human rights abuses.

#### Prolonged detention without trial

19. Ethiopian authorities are holding journalists from Eritrea's state broadcaster ERI-TV, Saleh Idris Gama and Tesfalidet Kidane Tesfazghi, since 2007 without charge or trial. The government publicly disclosed holding the journalists in April 2007, and presented them on state television as part of a group of 41 people arrested on suspicion of involvement in terrorism in Somalia. Although the government of Eritrea often conscripted journalists into military service, the Ethiopian government did not present any evidence linking the journalists to military activity. The government pledged to subject some of the suspects to military trials but did not identify them by name. In a September 2011 press conference in Addis Ababa, the late Prime Minister Meles Zenawi said Saleh and Tesfalidet would be freed if investigations determined they were not involved in espionage. The whereabouts, legal status and health of the journalists are unknown.

## Arbitrary Detention

20. Since the 2010 Universal Periodic Review (UPR) of Ethiopia, Ethiopia has increasingly utilized its Anti-Terrorism Proclamation No. 652/2009 to arbitrarily arrest, prosecute, and imprison independent journalists and opposition activists.
21. During the previous review, the Ethiopian delegation defended the Anti-Terrorism Proclamation by claiming that the language mirrored the presumably valid anti-terrorism laws of other nations. A close review reveals, however, that the legislation is overbroad and inconsistent with international law. For example, while the section prohibiting the encouragement of terrorism copies the introductory paragraph of a similar law adopted by the United Kingdom, the Anti-Terror Proclamation omits a series of subsequent sections that define and limit the scope of the law. As a result, simply calling for peaceful protests can be conflated with “encouraging terrorism,” even without any danger to people or property. After examining the issue, the UN High Commissioner for Human Rights expressed concern that the “overly broad definitions” in the legislation “result in criminalizing the exercise of fundamental human rights.”
22. In 2010, the Ethiopian delegation also claimed that review of the recently approved Anti-Terrorism Proclamation was not yet warranted. Despite a commitment by the Ethiopian delegation during the 2010 UPR to “[t]ake steps to ensure civil and political rights are upheld, including freedom of expression and freedom from arbitrary arrest and detention,” the Ethiopian government has repeatedly utilized the Anti-Terror Proclamation to squelch dissent. Journalists have been imprisoned for criticizing the government, calling for reform, and reporting on opposition parties. Such actions violate Article 19 of the ICCPR, to which Ethiopia is a party.
23. The use of the Anti-Terror Proclamation to stifle the independent media has been condemned by regional human rights bodies and the United Nations. The African Commission on Human and Peoples’ Rights approved a resolution stating that it was “[g]ravelly alarmed by the arrests and prosecutions of journalists and political opposition members, charged with terrorism and other offences...for exercising their peaceful and legitimate rights.” The UN High Commissioner for Human Rights emphasized that “[t]he very harsh sentences handed down to journalists and other Government critics in recent months...have had the effect of stifling dissent and seriously undermining the freedom of opinion and expression in Ethiopia.” Five UN special procedure mandate holders have also expressed their concern in a joint statement on the issue, as did the UN Human Rights Committee in its 2011 Concluding Observations on Ethiopia.

### Emblematic cases

24. Emblematic cases demonstrate the devastating impact of the Anti-Terrorism Proclamation on the legitimate work of individual journalists. Eskinder Nega is a

- prominent Ethiopian journalist and received the 2012 PEN/Barbara Goldsmith Freedom to Write Award. Despite consistently emphasizing the importance of non-violence in his work and refusing membership in any opposition party, Mr. Nega has been detained eight times since 1993. After his most recent release from custody, Mr. Nega published articles about the Arab Spring protests and the necessity of peaceful reform in Ethiopia. Mr. Nega also publicly expressed concern about the use of the newly passed anti-terrorism legislation to crack down on the political opposition in Ethiopia. In response, the federal police arrested Mr. Nega on 14 September 2011. The government held Mr. Nega without charge and without access to an attorney for nearly two months.
25. When Mr. Nega was eventually brought before the Lideta Federal High Court, he faced vague charges of terrorism and treason along with 23 other defendants. After evidence was presented in trial that Mr. Nega had spoken at events sponsored by opposition parties, the presiding judge found Mr. Nega guilty of all charges. In delivering his verdict, Judge Adane explained that “[f]reedom of speech can be limited when it is used to undermine security and not used for the public interest,” a limitation far stricter than allowed under international law. On 13 July 2012, Judge Adane sentenced Mr. Nega to 18 years in prison for his public support of non-violent democratic reform.
  26. After reviewing the case of Mr. Nega, the UN Working Group on Arbitrary Detention found in November 2012 that the government’s terrorism charges were unfounded and the judgment against Mr. Nega stemmed directly from his “use of his free expression rights and activities as a human rights defender.” The Working Group further found that the overly broad offences established by the Anti-Terror Proclamation constituted “an unjustified restriction on expression rights and on fair trial rights.” The Working Group concluded that the Ethiopian government should immediately release Mr. Nega and make adequate reparation for his arbitrary imprisonment. The Ethiopian government has failed to do so.
  27. Several other journalists are being held under the country’s Anti-Terrorism Proclamation. Woubshet Taye, deputy editor of an independent newspaper, was sentenced to 14 years in prison for “planning terrorist attacks” after writing an article criticizing the ruling party’s governing tactics. Similarly, columnist Reeyot Alemu received a 14-year prison sentence, reduced to five-years on appeal, on vague terrorism charges after receiving e-mails from pro-opposition discussion groups and taking photographs of anti-government graffiti in Addis Ababa. These arbitrary detentions contradict the commitments made by Ethiopia during the prior UPR, violate international law, and seriously endanger the existence of independent journalism in Ethiopia.
  28. On 20 July 2012 authorities arrested *Ye Muslimach Guday* (Muslim Affairs) chief editor Yusuf Getachew and columnist Ahmedin Jebel, who was reportedly tortured in custody. Getachew was detained along with at least 27 other Muslim activists on accusations of terrorist activity. Two other editors from *Ye Muslimach*

*Guday*, Akmel Negash and Yishak Eshetu, fled into exile, citing fear of arrest. The publication was forced to cease publishing in July 2012, after Getachew's arrest. On 17 January 2013, *Ye Muslimach Guday* managing editor Solomon Kebede was arrested by the Ethiopian security forces in Addis Ababa and has been detained without charge under the anti-terrorism law ever since. It is believed that his arrest is linked to his columns criticizing perceived government intrusion in religious affairs. Kebede had recently covered demonstrations staged in 2012 by Muslims protesting alleged interference in Islamic Council elections. Kebede's health is reportedly poor and he has been denied access to a lawyer.

## **Freedom of Information**

29. The Freedom of the Mass Media and Access to Information Proclamation 590/2008 severely limits the free flow of information and ideas in Ethiopia in several ways. The Proclamation excessively empowers a cadre of “public relations” officers—government communications officers—and leaves many matters to their discretion, and permits the officers to cite any pretext to deny requests for government information. For instance, Arts. 15 through 27 of the Proclamation provide several loopholes and unnecessary prerequisites to access public information.
30. The public relations officers are the sole providers of public information and hold the power to reject or accept requests. An officer can deny a request for information on the pretext that the request will place an individual in jeopardy; harm commercial activities or financial welfare; or negatively impact policy, national security, or international relations. The provisions further encourage the public relations officers to deny information on grounds of a lack of resources, technical faults, or confidentiality.
31. Information which may be labeled as classified (national defense, cabinet documents, international relations, and financial information), can be critical for the watchdog role of the media, but is overly exempted from information requests to avoid public scrutiny. Since all requests are channeled through government public relations officers, the law prevents knowledgeable experts within the government from commenting on their fields of specialization and from communicating with the public. Public relations officers have 30 days in which to respond to information requests, harming the usefulness of timely information.
32. A media organization may be forced to pay up to 1,000,000 birr (approximately U.S. \$53,000) for defamation, a substantial sum in light of the small size of private media firms in Ethiopia. Media firms may also be charged with criminal defamation for defaming legislative, executive or judiciary authorities under Art. 43 of the Proclamation.



## **Peaceful Association and Assembly**

33. The government continues to stifle legitimate peaceful association and assembly in Ethiopia. On 24 August 2013, the Federal Police surrounded the office of Semayawi, an opposition party, and forcefully entered and confiscated all materials including computers and flyers announcing a demonstration for the following day. The police detained 100 key members of the party, several of whom were beaten, tortured, threatened, and then eventually released, and the scheduled protest was canceled. The government has denied its role in stopping the protests, but eyewitnesses testified that the police were responsible. No public officials have been held accountable for the arrest and torture of Semayawi party members.

## **Internet and Digital Freedom in Ethiopia**

34. Restrictive laws and policies regarding the Internet have stifled free expression in Ethiopia. The United Nations Human Rights Committee encouraged signatories to the ICCPR in General Comment No. 34 to take all necessary steps to foster the independence of new media and to promote universal access. The UN's Joint Declaration on Free Expression and the Internet further states that restrictions on freedom of expression on the Internet "are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognized under international law."
35. Ethiopia imposes severe restrictions on the Internet and digital communications. Ethiopia is the only country in sub-Saharan Africa to implement nationwide internet filtering, according to Freedom House. Ethiopia's low internet penetration rate of 1.1 percent and 17 percent mobile phone penetration rate has not prevented the government from cracking down on bloggers and activists. For example, the journalist Eskinder Nega, cited above, was targeted in part because of his online writings.

### Filtering, Blocking, and Malware

36. Ethio Telecom, Ethiopia's state-owned telecommunications provider, maintains a monopoly on internet access and mobile phone services, resulting in outages and the blocking and filtering of content. The monopoly has raised the cost of accessing the internet and information.
37. A 2012 research report by Citizen Lab, a Canadian research group, confirmed that Ethio Telecom utilized FinSpy technology to inject malware into computers by luring users on Facebook to click on images of the opposition activist group Ginbot 7, which was designated a terrorist group by the Ethiopian government in

2011. The malware may be utilized by the government to monitor and track individuals without their knowledge.
38. Other civil society groups have also documented the rise in blocking and filtering. In 2012, the Tor project reported that Ethiopia had successfully blocked its anonymizing service—an important tool for human rights activists that allows them to access information safely online. Individual Facebook pages have also been selectively blocked by the government, indicating a high degree of sophistication in controlling the public’s access to information.
39. The 2012 Telecom Fraud Offenses Proclamation, ostensibly designed to prevent and control telecom fraud, imposes prison sentence of up to eight years and a fine of up to 80,000 birr (US\$4,500) for any communications that would disseminate a “terrorizing message,” a poorly defined provision that could easily be used to ban opposition groups. The Ministry of Information and Communication Technology was empowered by the legislation to exert total authority over the import, sale, and possession of telecom equipment, with a potential four year penalty for violating the regulations. Attempts by a journalist to circumvent state surveillance, interception, or internet censorship during their investigative work could result in a prison sentence of up to 15 years.

## **Recommendations and solutions**

PEN International, the Committee to Protect Journalists, and Freedom Now call on the Ethiopian government to:

- Issue standing invitations to the UN Special Rapporteurs on freedom of expression, counter terrorism and human rights, freedom of peaceful association and assembly, human rights defenders, and the independence of judges and lawyers.
- Immediately and unconditionally release independent journalists and activists imprisoned and detained for peacefully exercising their fundamental right to freedom of opinion, expression, and association.
- Repeal or amend the Anti-Terrorism Proclamation and the Freedom of the Mass Media and Access to Information Proclamation so that they comply with Ethiopia’s obligations under international law regarding the freedom of opinion, expression, and association.
- Implement reforms to ensure the independence of the Ethiopian Broadcasting Authority and the publicly-funded state media in line with the constitution.
- Lift restrictions on international broadcasters and end the blocking of international news outlets.
- Eliminate restrictions on the freedom of movement of independent journalists in areas of the country where allegations of human rights abuses persist.
- End the blocking, filtering, and monitoring of internet and mobile phone usage, which severely limit digital freedom and the right to free expression.