

Rule of Law and Human Rights in Ethiopia – Month of June

Ethiopian Human Rights Project (EHRP) is a nonprofit advocacy organization established to amplify human rights voices from Ethiopia. EHRP focuses on bringing out information from Ethiopia on human rights & rule of law and advocate for better human rights situation in Ethiopia.

This is our monthly human rights situation summary report. Below is the main Human rights and rule of law situation that we had been following up on.

1. Journalist Getachew Shiferaw presented preliminary objection on his charges

"There is no crime which I have committed; I should be released free." Journalist Getachew Shiferaw

"Since the details of the crimes are properly presented on the charge file, the preliminary objection filed by the accused should not be accepted." Prosecutor

It was last June 8 that journalist Getachew Shiferaw, who was Editor-in-Chief of 'Negere Ethiopia', filed his preliminary objections on the charge against him to the court. He is charged for terrorism and transferred to Addis Ababa Prison (Kilinto) after being detained at Maekelawi (Federal Investigation Center) for five months (with additional one month unlawful detention).

His charges are based on article 7/1 of the Anti- Terrorism Proclamation which mentions 'participating in acts of terrorism in any way'. One of the points Getachew raised in his preliminary objection states that the article *"should not be misinterpreted to include mentioning the name of an organization labeled as a terrorist; using [an independent] media the "terrorist organization uses"; or communicating with a person who is labeled as a member of the terrorist organization on matters of no significance to the organization."* In his objection, Getachew also states that the prosecutor's claim that the transferring of information on situations in different parts of the country to individuals (who the prosecutor says are leaders of the terrorist organization) as 'participating in the terrorist organization in any way' is a wrong presentation. Additionally, regarding the "accused has received a mission from a terrorist group" which is mentioned in the charges filed by the prosecutor, Getachew objected by claiming that it does not mention from whom, when and where he has received the said mission and accordingly requested these to be specified.

On June 22/2016 the prosecutor presented a response to Journalist Getchew's preliminary objections. The prosecutor demanded the court not to accept the objection claiming that the charge is filed following Criminal procedure and that the acts of crime will further be proved by evidence. The federal higher court 14th bench, after hearing the objection of the defendant and the prosecutor's response, adjourned the case for verdict for July 22nd 2016. The defendant is still in detention at Kilinto federal detention center.

The right to speedy trial, the right to freedom of expression and the right to be considered innocent until proven guilty are rights of the defendant that are breached this process so far.

2. Land rights activist Omot Agwa's case (3 defendants) witness hearings adjourned for 8th time

"If the prosecutor has the objective to ensure justice, as it is now unable to undertake its responsibility of following up and presenting its witnesses; moreover since the remaining witnesses are expected to testify on similar issues verdict shall be given now." Lawyer Amaha Mekonnen

It is now more than a year and three months since land rights activist Omot Agwa, former World Bank inspection panel translator and food security advocate, was arrested at airport on his way to travel to Kenya for food security training. Currently, three individuals including Activist Omot Agwa are on trial for terrorism charges. Though they appeared before the federal high court on 02/10/2008 for prosecutor's remaining witnesses hearing, the prosecutor was not able to present them. The defendants' lawyer Amaha Mekonen, reminding that the court has repeatedly adjourned the case for the witness hearing and also since the remaining witness testimony is on similar issues as the previous witnesses testified, requested a verdict be given. Yet, the court, declining the lawyer's request, adjourned the case for July 19th 2016. Court also ordered the police to find the remaining witnesses and present them before court. The three food security experts found in Omot's trial case appeared before court for eight times just only for the prosecutor's witness hearing. It is clearly visible that the right of persons under custody/detention to access speedy trial is being violated on these hearings.

3. Political prisoners were put in dark solitary confinement

Wearing on black cloths is not permitted, not only for the prisoners but also for their visitors

"Prisoners were mobilizing prisoners not to obey for prison regulations" Prison officials

Political prisoners, charged of terrorism with the pretext of membership in organizations labeled as terrorist, imprisoned at the Kilinto prison are put in dark solitary confinement for "instigating other prisoners to protest on prison regulation" Political prisoners including Vice chair of Oromo Federalist Congress (OFC) Bekele Gerba are moved to dark solitary confinement rooms.

While they were about to be taken to appear at court, Prisoners wore black cloths to commemorate those protesters killed by government forces during the public protest in Oromia. Prison officials told them they will not appear to the court unless they change their cloths, for that reason they were not presented to the court. During the next trial date, the prisoners appeared at court bare foot wearing only underwears. At the time, after hearing the prisoners' complaints, the presiding judge Ato Tarekegn requested the complaints to be filed in written form and advised them that they can also file their complaints to the Human Rights Commission, clearly showing how much the powers of the judiciary are eroded. The prison and trial situation of Ato Bekele Gerba and the other political prisoners during the month is an evident proof that the constitutional rights of prisoners and persons under custody (respect for dignity, protection against inhuman treatment...) is being hugely violated.

4. Court gave a verdict on Agbaw Setegn, Blue Party's Gondor coordinator, to defend the charges against him

He was on hanger strike food for seven consecutive days.

It is in the last month that the 14th criminal bench of the federal higher court gave verdict on the prosecutor's witness hearing on the 16 individuals found in the Getachew Mekonnen charge file. They are charged for terrorism and have been on trial for the past more than one year period. According to the court's verdict, Ato Zerihun Bere, Werkiye Misganaw and Amare Mesfin are the three individuals amongst the defendants in the charge file who are released free.

The remaining 13 individuals including Blue Party's Gondor coordinator Ato Agbaw Setegn have to defend the charges against them. On a related topic, Ato Agbaw Setegn has complained to the court on "being victim of harsh treatment based on his ethnic background" at the prison. Explaining further, Ato Agbaw Setegn told to the court that with "you have insulted us racists" given as a pretext he is in suffering and misery. If not taken out of the dark solitary confinement and allowed to be visited by family, Ato Agbaw told to the court that he will continue boycotting eating food. And with this, he said, it is 'my corpse that might come' in the next trial date. Again, from Ato Agbaw Setegn's case it is clearly visible that prisoners' complaints on human rights violations are not being resolved and also that the judiciary is incapable to give any solution.

5. Oromo Federalist Congress-OFC leader Ato Desta Dinqa charged for terrorism

His whereabouts were unknown for six months during which he was detained at Maekelawi investigation center

"He gave order to youths to organize under the cover of Idir and to instigate violence"

On Sene 7, 4 individuals including member of OFC's leadership Ato Desta Dinqa appeared at 19th criminal bench of the federal higher court. The terrorism charges filed by the prosecutor against them was read out. The prosecutor accuses the defendant of giving a mission to youths in and around Gindebere and Jeldu of North Shoa zone, Oromia Region to organize under the cover of Idir (community association) and instigate violence and instability. Ato Desta Dinqa's charge is related to Gurmesa Ayana, who is currently in prison and under trial charged for terrorism together with other OFC leaders like Bekele Gerba. The charge also accuses Ato Desta Dinqa for, together with Gurmesa Ayana, gathering youths at the OFC office during September 2008 and calling for violence to topple the government and telling to "use anything you get, a stick, matchet, stone, and free the people". The charges against Desta Dinqa accuses the defendant for offences of conspiring and planning acts of terrorism as per articles 4 and 3(1-6) of the anti terrorism proclamation 652/2001. The remaining 3 defendants in the charge are charged for taking part in an act of terrorism in any way as per article 7/1 of the anti terrorism proclamation.

6. Yonatan Tesfaye's preliminary objection rejected

"We shall see to it during evidence assessment"

"I have used my right to freedom of expression and written" Ato Yonatan

It is clearly stated in the criminal code that a person who is charged has the chance to make preliminary objections to the charges filed against him/her. Yet, this procedure is seen to have no use for a serious of political cases that are in trial. So far, amongst those activists, politicians and journalists that went through a trial process, it is only on the case of Zone 9 bloggers and journalists whereby a charge is amended following the acceptance of preliminary objections. Moreover, the rejection of preliminary objections have the negative effect of causing time delay to the trial process. The case of Yonatan Tesfaye, a young human rights activist and former Blue Party PR Head, is a clear manifestation. Once the young politician Yonatan Tesfaye submitted his preliminary objection and, following that, the prosecutor gave a reply to same, the court adjourned the case for Sene 14 for verdict. On its verdict, the court rejected the preliminary objection stating 'it will be evaluated by the evidences'. On that date, the court received the defendant's confession. Asked "have you committed the crimes you are charged of or not", the defendant confessed saying "I have not committed the acts of terrorism as presented and expressed in the charge file. But I have written using my rights to freedom of expression. Hence, I have not committed an act of terrorism; I am not guilty." The defendant also presented his complaints on prison handling stating that he is kept in a dark solitary confinement. Though he demanded a short appointment period and prompt resolve to the complaint he presented, the court gave order to the prison administration to provide a response to the matter during the next trial date on Hamle 20 during which prosecutor's witness hearing will take place.

7. Journalists Khalid Mohamed, Darsema Sori demanded investigation on the identity of the prosecutor's witnesses on their case

"The witnesses are those who used to threat us holding guns; as such we need their identities investigated"

Following the rights demand raised by Ethiopian muslims, one of the force measures taken by the government was arresting and imprisoning religious leaders, rights activists and journalists. Amongst which are Journalist Darsema Sori and Khalid Mohamed. The 20 defendants including Journalist Darsema Sori and Khalid Mohamed appeared at court last month, Sene 14 for prosecutor's witness hearing during which the hearing of the 3 witnesses took place. The witnesses testified that they were present while the defendants residents are searched and while they sign on papers. The defendants on their part said "since these witnesses are the individuals who threaten us holding guns at Maekelawi, we need their identities investigated." With regards to the remaining witnesses, the court gave order the police to find and bring them at court which is adjourned for Hamle 7. Similar to other cases, the case of the two journalists is being very delayed.

8. The prosecutor gave a reply on the preliminary objection of OFC leaders, including Bekele Gerba

"My 85 years old grandmother who came from 300kms away was not allowed to visit me" Ato Dejene Tafa

"We are being discriminated at the prison."

"Ato Bekele Gerba is defaming the prison"

The OFC leaders who are charged for terrorism and are in prison objected the charges against them stating that they have the right to be trialed in their own region and that it is the supreme court of Oromia that have the authority to see their case. Replying to this objection, the prosecutor, citing article 31 of the anti terrorism proclamation, said that the authority to trial charges of terrorism is given to the federal higher and supreme courts. Another reply given by the prosecutor was on the objection of the defendants that is related to the principle of legality (i.e. on presenting an act which is not declared illegal as a crime). On the reply, the prosecutor stated that "the crime is clearly stated by law. They have caused damage on people and property under the cover of the master plan; generally, since they were working to overthrow the system by force, the charge follows the principle of legality."

OFC leader defendants Gurmesa Ayana, Dejene Tafa, Addisu Bulala and Bekele Gerba have submitted a written complaint related with the handling at the prison. Ato Dejene Tafa said "we re being discriminated at the prison; we are imprisoned in a dark solitary that is not clean and have fluid leakage; we are being exposed to health problems due to this; we are having eye pains; when we go back the prison administration avenges us for what we speak here..." He further angrily said "if honestly it works without influence/if it is independent, let this court solve our problems". After hearing the complaints of the defendants, the court had given an order to the representative of the prison the bring a response on Sene 27. Accordingly, the prison reprehensive broght a three page written response. The response, contrary to the defendants complaints, accuses the defendants and requests the court to discipline them. The reply reads "by wearing black clothes, they were attempting to make prisoners disobedient. And they came to court barefoot and wearing underwears when we tell them not to wear black. They did all these to defame the institution. Hence, we request the court to make the defendants disciplined."

The response which dismissed complaints concerning the denial of family visit to defendants as 'false', explains that the prison "will continue using a procedure suitable for guarding". The court adjourned the case for Hamle 07 for verdict after evaluating the complaint and the response on same. The trial date set for verdict on the defendants preliminary objection and the prosecutor's reply on same which is Hamle 25 remains as it is.

9. Government of Ethiopia has killed innocent civilians- Human Rights Watch

-400 Oromos are killed

-Ten thousands are imprisoned

-"Those who are killed are 172 individuals; the government's actions were proportional" Ethiopian Human Rights Commission

The Human Rights Watch which makes strong allegations on the government's human rights records has released a report last week. The report focuses on the brutal/aggressive actions of the government on peaceful protesters following the Oromia public protest which have been going on since the past six months. The report which published the pictures of those peaceful civilians who were killed by government security forces, reports that about 400 Oromos are killed and more than ten thousand are imprisoned. Two weeks prior to the release of HRW's report, the government's Ethiopian Human Rights Commission, an organ established by a proclamation, had presented a report on the public protest in Oromia that sides to the government. This report makes the protesters responsible for the damages caused. The report which states that 172 people are killed by government security forces claims that the measures/actions taken by the government are 'proportional'.

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Brief informations

-The case of the 20 Addis Ababa University Oromo students, who demonstrated in front of USA Embassy gate, is adjourned for Hamle 4 for verdict.

-The health condition of the young politician Habtamu Ayalew is at critical stage. The supreme court have given him an appointment to present additional evidence concerning his request for travel abroad to access better medical care.

- The case of the prosecutor's appeal on Zone 9 bloggers and leaders of political parties, who were released from prison for free, is postponed to the next year, 2009.

- Zone 9 blogger Befiqadu Hailu's charge for 'inciting violence' is adjourned for Hamle 29 for verdict.

- Journalist Getachew Shiferaw filed a charge at the Supreme Court which requests an investigation to be conducted regarding his detention/imprisonment at the Maekelawi investigation center without any court order.