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OPERATIONAL GUIDANCE NOTE

Ethiopia

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1. Introduction

1.1 This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Ethiopia, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions (AIs) for further details of the policy on these areas.

1.2 Caseworkers must not base decisions on the country of origin information (COI) in this guidance; it is included to provide context only and does not purport to be comprehensive.

1.3 The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence.

1.4 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or humanitarian protection is being considered, caseworkers must consider any elements of Article 8 of the European Convention on Human Rights (ECHR) in line with the provisions

of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.

1.5 Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.

1.6 If, following consideration, a claim is to be refused, caseworkers should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

2.1 There is no Country of Origin Information (COI report produced for Ethiopia. When country information is required, caseworkers should contact the Country of Origin Information Service (COIS) using the request form available on the Horizon intranet site: see “How to make a country of origin information (COI) request”.

2.2 Actors of protection

2.2.1 Caseworkers must refer to section 7 of the AI - Considering the asylum claim and assessing credibility. To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence. Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the state, any outcome of doing so or the reason for not doing so.

2.2.2 Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the state) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

2.2.3 The US State Department (USSD) in its 2012 Human Rights Practices report for Ethiopia states “The [Ethiopian] Federal Police reports to the Ministry of Federal Affairs, which is subject to parliamentary oversight. The oversight was loose in practice. Each of the country’s nine regions has a state or special police force that reports to the regional civilian authorities. Local militias operated across the country in loose coordination with regional and federal police and the military, with the degree of coordination varying by region. In many cases these militias functioned as extensions of the local Ethiopian People’s Revolutionary Democratic Front (EPRDF) political boss”.[1]

2.2.4 In its 2012 Country Report on Terrorism – Ethiopia, the USSD states “Ethiopia's National Intelligence and Security Service (NISS) has broad authority for intelligence, border security, and criminal investigation and is responsible for overall

[1] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: d. Arbitrary Arrest or Detention: Role of the Police and Security Apparatus. Page 5

counter-terrorism management".[2]

2.2.5 "The Government of Ethiopia convicted 46 people, 24 of whom were tried in absentia, under its 2009 Anti-Terrorism Proclamation, including an 11-person al-Qaida (AQ) cell and three members of the Ogaden National Liberation Front (ONLF). Also among those convicted were 12 journalists, opposition political figures, and activists whose trials were deemed by several international human rights organizations and foreign diplomatic missions to be politically motivated and based on evidence indicative of acts of a political nature rather than linked to terrorism. The government also invoked the Anti-Terrorism Proclamation in charging 28 Muslims in connection with protests that alleged government interference in religious affairs and accused one Muslim of accepting funds illegally from a foreign embassy".[3]

2.2.6 In its 2013 Freedom in the World report: Ethiopia, Freedom House notes "The Anti-terrorism Proclamation gives great discretion to the security forces, allowing the detention of suspects for up to four months without charge. It was used in 2011 to detain more than 100 members of opposition parties; terrorist suspects were denied legal assistance whilst they awaited trial".[4]

2.2.7 The USSD Human Rights report also states "Security forces were effective, but impunity remained a serious problem. The mechanisms used to investigate abuses by the federal police were not known. Numerous complaints of human rights abuses were lodged against the Somali Region Special Police. Several of its members reportedly were arrested for acts of indiscipline. The government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detention and beatings of civilians".[5] "Authorities regularly detained persons without warrants and denied access to counsel and in some cases to family members, particularly in outlying regions. Some detainees reported being held for several years without being charged and without trial".[6]

2.2.8 "In 2010 the UN Committee Against Torture reported that allegations as to the use of torture "frequently occurred with the participation of, at the instigation of, or with the consent of commanding officers in police stations, detention centres, federal prisons, military bases, and unofficial or secret places of detention. Some reports of such abuses continued during the year. Sources widely believed police investigators often used physical abuse to extract confessions in Maekelawi, the central police investigation headquarters in Addis Ababa. Authorities continued to restrict access by diplomats and NGOs to Maekelawi".[7]

2.2.9 "Human Rights Watch in its World Report 2013: Ethiopia informs that it "continues to document torture at the federal police investigation centre known as Maekelawi in

[2] US State Department: Country Report 2012: Terrorism: Ethiopia: 30 May 2013: Legislation, Law Enforcement and Border Security.
[3] US State Department: Country Report 2012: Terrorism: Ethiopia: 30 May 2013: Legislation, Law Enforcement and Border Security.
[4] Freedom House, Freedom in the World 2013 – Ethiopia, 9 May 2013: Political Rights & Civil Liberties.
[5] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: d. Arbitrary Arrest or Detention: Role of the Police and Security Apparatus. Page 5
[6] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: d. Arbitrary Arrest or Detention: Arrest Procedures and Treatment While in Detention: page 6
[7] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: c Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. page 3.

Addis Ababa, as well as at regional detention centres and military barracks in Somali Region, Oromia, and Gambella. There is erratic access to legal counsel and insufficient respect for other due process guarantees during detention, pre-trial detention, and trial phases of politically sensitive cases, placing detainees at risk of abuse".[8]

2.2.10 The USSD Human Rights report goes on to state "The government continued its efforts to provide human rights training for police and army recruits. During the year the government continued to accept assistance from the Justice For All –Prison Fellowship Ethiopia (JFA-PFE) [a domestic NGO] and the Ethiopian Human Rights Commission (EHRC) to improve and professionalize its human rights training and curriculum by including more material on the constitution and international human rights treaties and conventions. The JFA-PFE and the EHRC conducted human rights training for police commissioners, prosecutors, judges, prison administrators, and militia in Tigray, Amhara, Oromia, Afar, Southern Nations, Nationalities and People's Region (SNNP), Gambella, and Addis Ababa".[9]

2.2.11 Freedom House observes **"**The judiciary is officially independent, but its judgments rarely deviate from government policy. Corruption is a significant problem in Ethiopia; in a survey of 1,000 people conducted by Transparency International (TI) in 2011, 64 percent of respondents reported having had to pay a bribe to customs officials and 55 percent to a member of the judiciary".[10] "Although the civil courts operated with a large degree of independence, the criminal courts remained weak, overburdened, and subject to political influence. The constitution recognizes both religious and traditional or customary courts".[11]

2.2.12 "The court system does not use jury trials. Judicial inefficiency and lack of qualified staff often resulted in serious delays in trial proceedings and made the application of the law unpredictable. Defendants were often unaware of the specific charges against them until the commencement of the trial; this also caused defence attorneys to be unprepared to provide adequate defence". [12]

2.2.13 "Many citizens residing in rural areas generally had little access to formal judicial systems and relied on traditional mechanisms of resolving conflict. By law all parties to a dispute must agree to use a traditional or religious court before such a court may hear a case, and either party can appeal to a regular court at any time. Sharia (Islamic law) courts may hear religious and family cases involving Muslims. Sharia courts received some funding from the government and adjudicated the majority of cases in the Somali and Afar regions, which are predominantly Muslim. In addition other traditional systems of justice, such as councils of elders, continued to function. Some women stated they lacked access to free and fair hearings in the traditional justice system because they were excluded by custom from participation in councils of elders and because there was strong gender discrimination in rural areas".[13]

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[8] Human Rights Watch: World Report 2013: Ethiopia: 31/01/2013: Extrajudicial Executions, Torture and other Abuses in Detention

[9] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: d. Arbitrary Arrest or Detention: Role of the Police and Security Apparatus.

[10] Freedom House, Freedom in the World 2013 – Ethiopia, 9 May 2013: Political Rights & Civil Liberties.

[11] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: e. Denial of Fair Public Trial, page 6

[12] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: e. Denial of Fair Public Trial: Trial Procedures, page 6

[13] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: e. Denial of Fair Public Trial: Trial Procedures, page 7

2.2.14 Amnesty International reports that the 2009 Charities and Societies Proclamation (CSP) places excessive restrictions on human rights work in Ethiopia. It denies human rights organisations access to essential funding, gives the governmental Charities and Societies Agency broad powers to intervene in and impede the work of human rights organisations, places onerous restrictions on domestic fundraising activities, further endangers victims of human rights violations by contravening principles of confidentiality, and, through its impact on human rights organisations, denies victims access to assistance and redress. The law therefore has the effect of restricting the promotion and protection of the rights of all Ethiopians. The consequences of the CSP are that there are now almost no domestic human rights organisations functioning to conduct human rights advocacy. The law enforcement agencies are themselves regularly accused of human rights violations. The judiciary is severely lacking in independence. In this context, the impact of the CSP on human rights organisations means that human rights violations go largely unmonitored, unreported and un-remedied.[14]

2.2.15 Conclusion: If the applicant's fear is of ill treatment / persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. Particular attention should be given to applications from women and female heads of households in light of the gender discrimination in the Ethiopian justice process.

2.2.16 If the ill treatment / persecution is at the hands of non state agents then case owners should assess the availability of effective protection on a case by case basis taking into account the specific characteristics of the claimant, the area of operation of the group and evidence of state willingness and ability to provide protection against human rights violations by these agents.

2.3 Internal relocation.

2.3.1 Where a category of applicant's fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. However caseworkers must refer to the AI on Internal Relocation and in the case of a female applicant, the AI on Gender Issues in the Asylum Claim, for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules.

2.3.2 It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection.

2.3.3 Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account. Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation

[14] Amnesty International, Written statement submitted to the UN Human Rights Council, 12 September 2012

from being applied.

2.3.4 Where a category of applicants fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

2.3.5 The USSD in its Human Rights report states "Although the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the government restricted some of these rights in practice. The government continued to relax but did not completely remove restrictions on the movement of persons into and within the Ogaden area of the Somali Region, continuing to argue the ONLF posed a security threat. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern".[15]

2.3.6 The same USSD report notes **"**The government at the federal level did not recognize IDPs as a distinct group, and there was no specialized office charged with managing matters such as IDP protection, return, resettlement, or durable solutions. The government did not maintain data on IDPs. Many persons who had been displaced due to conflict in the Gambella, Oromia, SNNPR, and Somali regions remained displaced. Drought also caused displacements during the year. Restrictions limiting the access of human rights organizations, the media, humanitarian agencies, and diplomatic missions to conflict-affected areas continued, particularly with regard to the Somali Region conflict zones of Fik, Degahbur, Korahe, and parts of Warder. The partial relaxation of those restrictions that began the previous year continued, with humanitarian access in the Somali Region improving in particular". [16]

2.3.7 In April 2013, the Internal Displacement Monitoring Centre reported that "In Ethiopia both natural and man-made disasters displace thousands of people every year. The country has experienced decades of violence between ethnic groups over access to resources and land, and between insurgent movements seeking autonomy and government. Displacement was caused by localised violence in regions including Gambella and Benishangul-Gumuz, and by protracted violent conflict in Oromiya and Somali regions. In the Somali region, fighting between the Ogaden National Liberation Front (ONLF) and government forces has been ongoing for over three decades. Restrictions on access mean that the needs of IDPs are not adequately addressed. In displacement-affected regions including Somali, southern Oromiya and Gambella, food security, health, nutrition and access to water were all major

[15] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 2 Respect for Civil Liberties, including d. Freedom of Movement, Internally Displaced Persons. Protection of Refugees and Stateless Persons; page 14.
[16] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 2 Respect for Civil Liberties, including d. Freedom of Movement, Internally Displaced Persons. Protection of Refugees and Stateless Persons: IDPs: pages 14-15.

concerns".[17] Insufficient rainfall caused food and water shortages in areas of Afar, Amhara, Oromia, SRS and Tigray, exacerbating the effects of conflict. Incidents of violence arising from competition for resources were reported in some regions".[18]

2.3.8 The Social Institutions and Gender Index notes that while there does not appear to be any legal restrictions specifically on women's freedom of movement, "some women may face restrictions on a day-to-day basis: of women surveyed in the 2005 Demographic and Health Survey, 20.8% reported that their husband had the final say on whether they were able to go and visit family or relatives".[19]

2.3.9 Freedom House in its Freedom in the World Report 2013: Ethiopia states "All land must be leased from the state. The government has evicted indigenous groups from various areas to make way for projects such as hydroelectric dams. It has also leased large tracts of land to foreign governments and investors for agricultural development in opaque deals. Up to 70,000 people have been forced to move from the western Gambella region, although the government denies the resettlement plans are connected to land investments.[20]

2.3.10 Amnesty International in its 2013 Annual Report: Ethiopia also states "The government continued to offer large tracts of land for lease to foreign investors. Often this coincided with the "villagization" programme of resettling hundreds of thousands of people. Both actions were frequently accompanied by numerous allegations of large-scale forced evictions.[21]

2.3.11 Conclusion: Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant.

2.3.12 Case workers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area.

2.3.13 Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network to the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves taking account of the latest information about the security and the acute ongoing humanitarian situation in Ethiopia.

2.4 Country guidance caselaw

Supreme Court. RT (Zimbabwe) & others *v* Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012) The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an

[17] Internal Displacement Monitoring Centre (IDMC), Global Overview 2012: People internally displaced by conflict and violence - Ethiopia, 29 April 2013
[18] International Committee of the Red Cross: Annual Report 2012: Ethiopia: published May 2013.
[19] Organisation for Economic Co-operation and Development, Social Institutions and Gender Index: Ethiopia Profile, November 2011 Restricted civil liberties
[20] Freedom House, Freedom in the World 2013 – Ethiopia, 9 May 2013: Political Rights & Civil Liberties.
[21] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013: Background

oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

MB (OLF and MTA – risk) Ethiopia CG [2007] UKAIT 00030 (29 March 2007)

1) As at February 2007, the situation in Ethiopia is such that, in general:-
   (a) Oromo Liberation Front members and sympathisers;
   (b) persons perceived to be OLF members or sympathisers; and
   (c) members of the Maccaa Tulema Association;

   will, on return, be at real risk if they fall within the scope of paragraph (2) or (3) below.

(2) OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy. Whether any such persons are to be excluded from recognition as refugees or from the grant of humanitarian protection by reason of armed activities may need to be addressed in particular cases.

(3) Given the proscription of the MTA and the current state of tension on the part of the Ethiopian authorities, the Tribunal considers that MTA members will also be at real risk on return if they have previously been arrested or detained on suspicion of MTA membership and/or of OLF membership or are known or suspected of membership of the MTA. Despite the banning of the MTA, the Tribunal does not consider that the evidence is such as to show a real risk where the extent of the authorities' knowledge or suspicion about an individual relates to something less than membership of the MTA.

HB (Ethiopia EDP/UEDP members) Ethiopia CG [2004] UKIAT 00235 (25 August 2004)

State persecution of members of opposition political parties(EPD/UEPD). The Tribunal found that the objective evidence does not support a claim that UEDP (formerly EDP) members are subject to routine persecution [para 31]. [These two parties are closely aligned and partnered the AEUP to form the opposition CUD coalition that contested the parliamentary elections in May 2005].

2.4.1 Nationality (CG and Other) caselaw

ST (Ethnic Eritrean – nationality – return) Ethiopia CG [2011] UKUT 00252(IAC) (1 July 2011)

Law:

(A) There is nothing in MS (Palestinian Territories) [2010] UKSC 25 that overrules the judgments in MA (Ethiopia) [2009] EWCA Civ 289 Where a claim to recognition as a refugee depends on whether a person is being arbitrarily denied the right of return to a country as one of its nationals, that issue must be decided on an appeal under section 82 the Nationality, Immigration and Asylum Act 2002 (paragraphs 69 to 72).

(B) Although the question of whether a person is a national of a particular state is a

matter of law for that state, the question whether a national of a particular state has been lawfully or unlawfully deprived of the nationality of that state is a legitimate issue for a court or tribunal to determine, in the course of deciding a person's entitlement to international protection (paragraph 74).

(C) Whether arbitrary deprivation of nationality amounts to persecution is a question of fact. The same is true of the denial of the right of return as a national; although in practice it is likely that such a denial will be found to be persecutory (paragraphs 76 and 82 to 89).

Country Guidance:

(1) Although the process established by the Ethiopian authorities in 1998 for identifying ethnic Eritreans who might pose a risk to the national security of Ethiopia, following the outbreak of war between the countries, was not arbitrary or contrary to international law, in many cases people were arbitrarily expelled to Eritrea without having been subjected to that process. Those perceived as ethnic Eritreans, who remained in Ethiopia during the war, and who were deprived of Ethiopian nationality, suffered arbitrary treatment, contrary to international law. Those who left Ethiopia at this time or who were then already outside Ethiopia were arbitrarily deprived of their Ethiopian nationality. Also during this time, the Ethiopian authorities made a practice of seizing and destroying identification documents of those perceived as ethnic Eritreans in Ethiopia (paragraphs 60 to 65).

(2) A person whose Ethiopian identity documents were taken or destroyed by the authorities during this time and who then left Ethiopia is as a general matter likely to have been arbitrarily deprived on Ethiopian nationality. Whether that deprivation amounted to persecution (whether on its own or combined with other factors) is a question of fact (paragraphs 76 to 78).

(3) The practices just described provide the background against which to consider today the claim to international protection of a person who asserts that he or she is an Ethiopian national who is being denied that nationality, and with it the right to return from the United Kingdom to Ethiopia, for a Refugee Convention reason. Findings on the credibility and consequences of events in Ethiopia, prior to a person's departure, will be important, as a finding of past persecution may have an important bearing on how one views the present attitude of the Ethiopian authorities. Conversely, a person whose account is not found to be credible may find it difficult to show that a refusal on the part of the authorities to accept his or her return is persecutory or based on any Refugee Convention reason (paragraphs 79 to 81).

(4) Although, pursuant to MA (Ethiopia), each claimant must demonstrate that he or she has done all that could be reasonably expected to facilitate return as a national of Ethiopia, the present procedures and practices of the Ethiopian Embassy in London will provide the backdrop against which judicial fact-finders will decide whether an appellant has complied with this requirement. A person who is regarded by the Ethiopian authorities as an ethnic Eritrean and who left Ethiopia during or in the immediate aftermath of the border war between Ethiopia and Eritrea, is likely to face very significant practical difficulties in establishing nationality and the attendant right to return, stemming from the reluctance of the Ethiopian authorities to countenance the return of someone it regards as a "foreigner", whether or not in international law the person concerned holds the nationality of another country (paragraphs 93 to 104).

(5) Judicial fact-finders will expect a person asserting arbitrary deprivation of Ethiopian nationality to approach the embassy in London with all documentation emanating from Ethiopia that the person may have, relevant to establishing nationality, including ID card, address, place of birth, identity and place of birth of parents, identity and whereabouts of any relatives in Ethiopia and details of the person's schooling in Ethiopia. Failing production of Ethiopian documentation in respect of such matters, the person should put in writing all relevant details, to be handed to the embassy. Whilst persons are not for this purpose entitled to portray themselves to the embassy as Eritrean, there is no need to suppress details which disclose an Eritrean connection (paragraph 105).

(6) A person who left Ethiopia as described in (4) above is unlikely to be able to re-acquire Ethiopian nationality as a matter of right by means of the 2003 Nationality Proclamation and would be likely first to have to live in Ethiopia for a significant period of time (probably 4 years) (paragraphs 110 to 113).

(7) The 2004 Directive, which provided a means whereby Eritreans in Ethiopia could obtain registered foreigner status and in some cases a route to reacquisition of citizenship, applied only to those who were resident in Ethiopia when Eritrea became independent and who had continued so to reside up until the date of the Directive. The finding to the contrary in MA (Disputed Nationality) Ethiopia [2008] UKAIT 00032 was wrong (paragraphs 115 and 116).

(8) The 2009 Directive, which enables certain Eritreans to return to Ethiopia as foreigners to reclaim and manage property in Ethiopia, applies only to those who were deported due to the war between Ethiopia and Eritrea and who still have property in Ethiopia (paragraphs 117 and 118).

(9) A person who left Ethiopia as described in (4) above, if returned to Ethiopia at the present time, would in general be likely to be able to hold property, although the bureaucratic obstacles are likely to be more severe than in the case of Ethiopian citizens. Such a person would be likely to be able to work, after acquiring a work permit, although government employment is unlikely to be available. Entitlement to use educational and health services is, however, much more doubtful. At best, the person will face a bureaucratic battle to acquire them. He or she will have no right to vote (paragraphs 119 to 124).

(10) Such a person would be likely to feel insecure, lacking even the limited security afforded by the 2004 Directive. Tensions between Ethiopia and Eritrea remain high (paragraph 125).

(11) The following CG cases on Ethiopia are superseded or replaced, as the case may be, by the present determination: GG (Return – Eritrean) Ethiopia CG [2002] UKIAT 05996; NB (Mixed Ethnicity – Ethiopian – Eritrean) Ethiopia CG [2002] UKIAT 06526; AA (Children – Eritrean) Ethiopia CG UKIAT 06533; TG (Mixed Ethnicity) Ethiopia CG [2002] UKIAT 07289; and DA (Ethnicity – Eritrean – Country Conditions) Ethiopia CG [2004] UKIAT 00046.

MA (Ethiopia) v Secretary of State for the Home Department [2009] EWCA Civ 289 (02 April 2009)

The appellant (MA) appealed against the decision of the AIT, MA (Disputed Nationality) Ethiopia [2008] UKAIT 00032, (below) dismissing her appeal against

the decision of the Secretary of State refusing her asylum claim. The following points were held:

- The AIT had perceived the issue to be whether MA would face the risk of being denied her status as a national; it was assumed that this would, if established, constitute persecution. Having recourse to concepts of legal and factual nationality was likely to obscure that question (EB (Ethiopia) SSHD [2007] EWCA Civ 809 (2009) considered). It followed that the AIT's analysis of how MA would be treated if returned to Ethiopia was wrong in law (paragraphs 41 and 42).

- The case was unusual, in that it became apparent during the hearing before the AIT that the outcome of the appeal was dependent upon whether the Ethiopian authorities would allow MA to return to Ethiopia. Normally, if the essential issue before the AIT was whether someone would be returned or not, the AIT should usually require the appellant to have taken all reasonable and practical steps to obtain the requisite documentation for return. There may be cases where it would be unreasonable to require this, such as if disclosure of identity might put the applicant at risk, or perhaps third parties, such as relatives of the applicant who may be at risk in the home state if it is known that the applicant has claimed asylum. There was no reason why MA should not visit the embassy to obtain the relevant documents however. Such an approach entailed no injustice to MA; it did not put her at risk, but was consistent with the principle that, before an asylum applicant could claim protection from a surrogate state, he should first have taken all reasonable steps to secure protection from the home state (R v SSHD Ex p Bradshaw (1994) Imm. AR 359 considered). The AIT did not approach matters in that way (paragraphs 49 to 52).

- Lacking evidence as to how MA would have been treated had she made a proper application, the AIT sought to resolve the issue by considering whether someone in her position was likely to be allowed to be returned or not. It followed that the AIT had erred in law as it ought not to have engaged in that enquiry without first establishing that MA had taken all reasonable and practical steps to obtain authorisation to return. Generally, remittal would be appropriate; however the position in respect of MA's efforts to obtain permission were known, since she had given evidence that she had gone to the Ethiopian embassy and asked for a passport, but told staff there she was Eritrean. That could not constitute a reasonable or bona fide attempt to obtain necessary documentation. Therefore, there was no ground to enable the AIT to find that she had acted in good faith and taken all reasonable and practical steps to obtain a passport, and any remission would be futile (paragraph 54-55).

- (Obiter) it was not possible to state as a universal proposition that deprivation of nationality had to be equated with persecution (EB considered).Persecution is a matter of fact, not law. Whether ill treatment amounts to persecution will depend upon what results from refusing to afford the full status of a de jure national in the country concerned (para 59).

Lord Justice Stanley Burnton:
I have no difficulty with the proposition that the deprivation of a person's nationality can amount to persecution. It will do so if the consequences are sufficiently serious. And clearly, deprivation of nationality may be one aspect of ill treatment by the state

that in its totality amounts to sufficiently serious ill treatment as to constitute persecution. But the above considerations are inconsistent with the proposition that a deprivation of foreign nationality is, as a matter of English law, necessarily sufficiently serious as to amount to persecution. If free from authority, I would hold that the question whether deprivation of nationality constitutes persecution, assuming the deprivation is for reasons referred to in Article 1(A)(2), will depend on the consequences of the deprivation for the person in question in the state in question. The legal and practical consequences for any person of the deprivation of nationality in a foreign state are questions of fact, and the decision of the Court of Appeal in a particular case is not binding authority in a subsequent case on such questions [66]. **MA (Disputed Nationality) Ethiopia [2008] UKAIT 00032 (17 April 2008)**

In any case of disputed nationality the first question to be considered should be: "Is the person de jure a national of the country concerned?". This question is to be answered by examining whether the person fulfils the nationality law requirements of his or her country. Matters such as the text of nationality laws, expert evidence, relevant documentation, the appellant's own testimony, agreement between the parties, Foreign Office letters, may all legitimately inform the assessment, In deciding the answer to be given, it may be relevant to examine evidence of what the authorities in the appellant's country of origin have done in respect of his or her nationality.

If it is concluded that the person is de jure a national of the country concerned, then the next question to be considered is purely factual, i.e. "Is it reasonably likely that the authorities of the state concerned will accept the person, if returned, as one of its own nationals?"

This decision replaces MA (Ethiopia – mixed ethnicity – dual nationality) Eritrea [2004] UKIAT 00324

KA (statelessness: meaning and relevance) Stateless [2008] UKAIT 00042 (14 April 2008)

1. Statelessness does not of itself constitute persecution, although the circumstances in which a person has been deprived of citizenship may be a guide to the circumstances likely to attend his life as a non-citizen.
2. The Refugee Convention uses nationality as one of the criteria of the identification of refugees: there is no relevant criterion of 'effective' nationality for this purpose.

EB Ethiopia CoA [2007] EWCA Civ 809 Ethiopia – Nationality (31 July 2007).
This was a Court of Appeal case against a Tribunal (AIT) decision to refuse asylum or leave to remain on human rights grounds. The appeal gave rise to the general issue of treatment of persons with Eritrean ancestral connections who had left Ethiopia.

It had been accepted by the AIT that the appellant (EB), an Ethiopian national of Eritrean descent, had had her identity documents taken by the Ethiopian authorities around the year 2000, had left Ethiopia in 2001 and had subsequently visited the Ethiopian embassy in London on two occasions who had refused to issue her with a passport because she did not have the required documents. In their findings on the case, the Tribunal referred to **MA and others [2004] UKIAT 00324** which stated that loss of nationality on its own did not amount to persecution. The Tribunal concluded that EB's loss of nationality was a result of her leaving Ethiopia and the deprivation of her documents in Ethiopia was not of itself an activity which resulted in ill treatment to her whilst she was in Ethiopia.

On referral of EB to the Court of Appeal, the Court of Appeal looked at the case of **LAZAREVIC** [**1997] 1 WLR 1107,** upon which the Tribunal in **MA** based their decision. The Court of Appeal noted that the Tribunal in MA found that if a State arbitrarily excludes one of its citizens such conduct **can** amount to persecution in that a "person may properly say both that he is being persecuted and that he fears persecution in the future." The Court of Appeal noted that in **MA,** the Tribunal emphasised the word 'can' and that it was not the act of depriving someone of their citizenship that was persecutory but the consequences of such an act could amount to persecution. The Court of Appeal disagreed with this position in MA. The Court of Appeal said that in the case of Lazarevic the deprivation of citizenship had not been found to be persecutory due to the fact that the situation in that case did not include a convention reason. In EB's case the identity documents were removed for a convention reason – therefore the question to be answered was "whether the removal of identity documents itself constituted persecution for a Convention reason or could only be such persecution if it led to other conduct which could itself be categorized as ill-treatment" (paragraphs 64 and 65)

The Court of Appeal findings in EB were as follows:

- By arbitrarily depriving someone of their citizenship, that person lost their basic right to freely enter and leave their country which was at odds with Article 12 of the International Covenant on Civil and Political Rights 1966 and Article 15 of the Universal Declaration of Human Rights (Paragraph 68). There was no difference between the removal of identity documents in EB's case and a deprivation of citizenship – the "precariousness is the same; the "loss of the right to have rights" is the same; the "uncertainty and the consequent psychological hurt" is the same." The act of depriving EB of her identity documents amounted to persecution at the time it occurred and that persecution would last as long as the deprivation itself (paragraph 70).

Therefore contrary to the position of the Tribunal in EB and that of the Tribunal in MA; "the taking of EB's identity documents was indeed persecution for a Convention reason when it happened and the AIT in MA were wrong to conclude that some further (presumably physical) ill treatment was required" (paragraph 70).

FA Eritrea CG [2005] UKIAT 00047. Eritrea – Nationality (18 February 2005).

This appellant claimed to have been born in Asmara but moved to Ethiopia when she was a child. The Adjudicator considered objective evidence and found that the appellant was entitled to Eritrean nationality and would be able to relocate there.

The Adjudicator was entitled to take into account all evidence when concluding that this appellant is entitled to Eritrean nationality. She did not fail to attach weight to the 1992 Nationality Proclamation and did not err in accepting the evidence in the Home Office Report (Fact-Finding Mission to Eritrea 4-18 November 2002) when considering how the Proclamation was interpreted and applied by the authorities (paragraphs 20-21). The Tribunal follow the case of **YL, (and in turn Bradshaw [1994] ImmAR 359)** in considering the correct approach to determining nationality (para 24). The test identified as "one of serious obstacles" in YL is followed and a claimant would be expected to exercise due diligence in respect of such a test' (paragraph 26).

3. Main categories of claims

3.1 This Section sets out the main types of asylum, humanitarian protection and discretionary leave claims on human rights grounds (whether explicit or implied) made by those entitled to reside in Ethiopia. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option.

3.2 The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant asylum instructions (AIs), but how these affect particular categories of claim are set out in the instructions below. All AIs can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at asylum policy instructions.

3.3 Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the AI 'Considering the asylum claim and assessing credibility').

3.4 For any asylum cases which involve children either as dependents or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction 'Every Child Matters; Change for Children' sets out the key principles to take into account.

3.5 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate (see AI on Humanitarian Protection). Where an application for asylum and humanitarian protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. They must also consider whether there are any compelling reasons for granting discretionary leave to the individual concerned (see AI on Discretionary Leave).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

3.6 An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR).

3.7 Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

3.8 There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point

that return in itself could, in extreme cases, constitute inhuman and degrading treatment.

3.9 Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures.

3.10 It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.

3.11 As a result of the Sufi & Elmi v UK judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for humanitarian protection.

Credibility

3.12 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision' in the AI: 'Considering the asylum claim and assessing credibility'.

3.13 Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file.

3.14 In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.15 Members of the ONLF or OLF

3.15.1 Applicants may make an asylum and/or human rights claim based on a fear of ill-treatment amounting to persecution at the hands of the state authorities due to membership of, involvement in or perceived involvement in, one of the main armed opposition groups: the Oromo Liberation Front (OLF), or the Ogaden National Liberation Front (ONLF).

3.15.2 This section should be read in conjunction with 3.16: Members of opposition political parties, in particular 3.16.16 to 3.16.19.

3.15.3 Treatment. "Founded in the early 1980s, when much of Ethiopia was still ravaged by civil war, the ONLF aims to create an independent state in Ethiopia's south eastern Ogaden territory, which is mainly inhabited by ethnic Somalis and is located in the Somali Region, one of nine ethnically based administrative regions in the

country".[22]

3.15.4 "The ONLF insurgency began in 1984, furthering earlier attempts either to separate the region or join it to neighbouring Somalia. The group partnered with the EPRDF [Ethiopian People's Revolutionary Democratic Front] in the 1991 removal of junta leader Mengistu Haile Mariam, after which the two groups effectively governed the Somali region as part of a transitional government. In 1994, following disagreements over the country's transition, the ONLF re-started its insurgency, demanding the right to self-determination. The group says it will use any means necessary - including violence - to unseat the central government. Though the ONLF fighters had, over the years, mounted several attacks, including assassinating and injuring regional government leaders, it remained a low-level insurgency for years. [Human] Right groups have accused both the government forces and ONLF fighters of multiple human right violations, including killings and halting deliveries of food and medicine to civilians".[23]

3.15.5 "In October 2010, the Ethiopian government said it had reached a peace deal with a major faction of the ONLF. The remaining insurgents denounced the peace deal and vowed to continue their bid for secession, calling the faction that signed the deal "a creation of the Ethiopian regime".[24] "Ato Abay Tsehaye, National Security Advisor to the Prime Minister, expressed his appreciation for the heroic decision taken by the ONLF leadership, in opting for peace and renouncing violence as a means of achieving political ends. Similar remarks were also made by the Somali Regional President, Abdi Mahamoud Omar, and by representatives of the ONLF from Europe and North America as well as clan leaders and elders representing a cross section of the region's population. Referring to Admiral Mohamed Omar Osman, the former head of the Somali navy, and a group of former Somali army generals, all now based in Eritrea, speaker after speaker emphasized that anyone who threatened to continue any insurgency was only advancing an outside agenda with no relevance to the people of the region. All speakers were in complete agreement that violence had no place in the region".[25]

3.15.6 "In 2010, [the Ethiopian] parliament took another controversial step, naming three domestic opposition groups - including the ONLF - as "terrorists" alongside international groups like Al-Qaeda and Al-Shabab. The Ethiopian authorities launched a campaign to prosecute people with perceived ties to these three organizations. In its 2011 country report Amnesty International said that by November 2011, 107 opposition politicians, activists and journalists were prosecuted under the law; some later received severe sentences".[26]

3.15.7 The US State Department Human Rights Practices report for 2012 states "During the year, scattered fighting continued between government forces, primarily regional government-backed militia, and residual elements of the ONLF".[27] "Factions of the ONLF operating in the Somali Region were responsible for abuses". In 2010, the UN Committee Against Torture expressed concern over the routine use of torture by the security forces against political dissidents and alleged supporters of separatist

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[22] Integrated Regional Information Networks (IRIN), Ethiopia's ONLF rebellion, 29 October 2012
[2323] Integrated Regional Information Networks (IRIN), Ethiopia's ONLF rebellion, 29 October 2012
[24] Integrated Regional Information Networks (IRIN), Ethiopia's ONLF rebellion, 29 October 2012: Why did the Peace talks fail.
[25] Web site of Embassy of the Federal Democratic Republic of Ethiopia "Peace accord signed between FDRE Government and the ONLF, accessed 6 August 2013
[26] Integrated Regional Information Networks (IRIN), Ethiopia's ONLF rebellion, 29 October 2012
[27] US State Department: Country Reports on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1: Respect for the Integrity of the Person, Including Freedom from: a. Arbitrary or Unlawful Deprivation of Life.

groups, like the ONLF and the Oromo Liberation Front (OLF). The committee noted that "such acts frequently occurred with the participation of, at the instigation of, or with the consent of commanding officers in police stations, detention centres, federal prisons, military bases, and unofficial or secret places of detention."[28]

3.15.8 Amnesty International (AI) reported "In September [2012], the government and the ONLF briefly entered into peace talks with a view to ending the two-decade long conflict in the Somali region. However, the talks stalled in October. The army, and its proxy militia, the Liyu police, faced repeated allegations of human rights violations, including arbitrary detention, extrajudicial executions, and rape. Torture and other ill-treatment of detainees were widely reported. None of the allegations was investigated and access to the region remained severely restricted. In June, UN employee Abdirahman Sheikh Hassan was found guilty of terrorism offences over alleged links to the ONLF, and sentenced to seven years and eight months' imprisonment. He was arrested in July 2011 after negotiating with the ONLF over the release of two abducted UN World Food Programme workers".[29]

3.15.9 Reporting on arbitrary arrests AI state that "Hundreds of Oromos were arrested, accused of supporting the OLF. In September 2012, over 100 people were reportedly arrested during the Oromo festival of Irreechaa. Large numbers of civilians were reportedly arrested and arbitrarily detained in the Somali region on suspicion of supporting the ONLF. The authorities continued to arbitrarily detain UN employee, Yusuf Mohammed, in Jijiga. His detention, since 2010, was reportedly an attempt to get his brother, who was suspected of links with the ONLF, to return from exile".[30]

3.15.10 Freedom House in its 2013 Freedom in the World report states "In 2012, there was halting progress in ending the conflict between the government and separatist rebels in the Ogaden region, who have fought for independence since 1991. Talks between the government and the ONLF were convened in Kenya but broke down in October without agreement. Persistent claims that war crimes have been committed by government troops in the Ogaden are difficult to verify, as independent media are barred from the region. However, Human Rights Watch accused government paramilitaries of executing 10 men during an operation in the Gashaamo district in March 2012."[31]

3.15.11 However in an August 2013 report, Ethiopia: Prospects for Peace in Ogaden, the International Crisis Group (IGC) examines the roots of longstanding conflict in the Somali-inhabited region of Ethiopia and the prospects for renewed dialogue. ICG state "Nearly a year after the talks facilitated by Kenya between the Ethiopian government and ONLF rebels stalled in October 2012, there are signs that the process may restart. There are solid reasons why this is a promising time for both parties, as well as neighbouring countries and other international partners, to try to renew meaningful talks. Two decades of deadly conflict– especially an intense five-year, relatively successful government counter-insurgency campaign – have exhausted the local Ethiopian-Somali population sufficiently to push the ONLF back to the table. Likewise, Addis Ababa's determination to accelerate economic growth, also argues for sustainable peace.[32]

[28] US State Department: Country Reports on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Executive Summary.
[29] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013: Conflict in the Somali region.
[30] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013: Arbitrary arrest and detentions
[31] Freedom House, Freedom in the World 2013, Ethiopia, 9 May 2013: Overview
[32] International Crisis Group: Ethiopia: Prospects for Peace in Ogaden: 6 August 2013: Executive summary.

3.15.12 The same report acknowledges that "the ONLF has been forced to look for allies further afield, especially Eritrea, whose invaluable tactical support has embroiled an internal Ethiopian issue in wider regional rivalries. Unless its regional relations, especially with Eritrea but also with Somalia, improve, Addis Ababa will continue to view the Ogaden issue through a national security lens".[33]

3.15.13 A report on Eritrea to the UN Security Council by the Secretary General in August 2012, states that "In its midterm briefing to the [Security Council] Committee in February 2012, the Somalia and Eritrea Monitoring Group reported that it had obtained sufficient information on and evidence of Eritrea's recent violations of resolutions 1844 (2008) and 1907 (2009), including support to the ONLF and OLF". The same report goes on to state "On 13 July 2012, the report of the Monitoring Group was issued as a document of the Security Council (S/2012/545). The Group found during that reporting period, the Monitoring Group also confirmed Eritrea's continued support to Ethiopian armed opposition groups, including ONLF and OLF".[34]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.15.14 Conclusion: The Tribunal in **MB (Ethiopia) [2007] (CG) UKAIT 000300** found that OLF members and sympathisers and those specifically perceived by the authorities to be such members or sympathisers, will in general be at real risk if they have been previously arrested or detained on suspicion of OLF involvement. So too will those who have a significant history, known to the authorities, of OLF membership or sympathy.

3.15.15 Consequently if it is accepted that a claimant has been involved in or is suspected of membership or sympathising with the OLF or ONLF and has previously come to the adverse attention of the authorities, then they are likely to be at risk of persecution and a grant of asylum will be appropriate.

3.15.16 The available evidence also suggests that perceived members or sympathisers of the OLF or ONLF are likely to be targeted and should they come to the attention of the authorities, are likely to be at risk of persecution. However given the fluidity in the Ethiopian political climate post the death of PM Zenawi, up to date country information should be sought from COIS [see 2.1].

3.15.17 Ethiopian citizens are generally able to travel freely within the country and change their place of residence without obtaining official permission. However, as this category of applicants' fear is of ill-treatment/persecution by the state authorities, and the government administers tight control of the entire state, then in general internal relocation to escape that persecution will not be an option.

3.15.18 Caseworkers should note that members of the OLF and ONLF have been responsible for serious human rights abuses, some of which amount to war crimes and crimes against humanity. If it is accepted that an applicant was an active

[33] International Crisis Group: Ethiopia: Prospects for Peace in Ogaden: 6 August 2013: Executive summary
[34] UN Security Council, Report of the Secretary General on Eritrea, 29 August 2012, Compliance of Eritrea with Security Council resolution 2023 (2011), paragraph 8.

operational member or combatant for the OLF or ONLF and the evidence suggests he/she has been involved in such actions, then caseworkers should consider whether any of the exclusion clauses are applicable. Such cases should always be referred to a Senior Caseworker. Guidance on Article 1F can be found in the AI on: Exclusion – Articles 1F and 33(2) of the Refugee Convention.

3.16 Members of opposition political parties

3.16.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of the state authorities due to membership of, or involvement with, political opposition groups.

3.16.2 **Treatment**: The US State Department in its Human Rights report for Ethiopia states "The constitution and law provide citizens the right to change their government peacefully. In practice the ruling party's [Ethiopian People's Revolutionary Democratic Front (EPRDF)] electoral advantages limited this right".[35]

3.16.3 Freedom House in its 2013 Freedom in the World report state "The government tends to favour Tigrayan ethnic interests in economic and political matters, and the EPRDF is dominated by the Tigrayan People's Liberation Front".[36]

3.16.4 The same Freedom House report notes "The death of Prime Minister Meles Zenawi was announced in August 2012, following months of speculation about his declining health, and he was replaced by his former deputy, Hailemariam Desalegn. Despite the change in personnel, the regime continued its pattern of harassing and imprisoning political opponents. The 2010 parliamentary and regional elections were tightly controlled by the EPRDF. Voters were threatened with losing their jobs, homes, or government services if they did not turn out for the ruling party. Opposition meetings were broken up, and candidates were threatened and detained. Opposition-aligned parties saw their 160-seat presence in Parliament virtually disappear, with the EPRDF and its allies taking all but two of the 547 seats in the lower house".[37]

3.16.5 "In 2011, Parliament's lower house declared five groups to be terrorist entities, including the U.S.-based opposition movement Ginbot 7 [see 3.16.17 – 3.16.19]. Any journalist who interviewed movement members faced arrest on terrorism charges. Domestic nongovernmental organizations (NGOs) estimated that there were up to 400 political prisoners by the end of 2012. In June 2012, 24 journalists and opposition activists were found guilty of offences under the law, including the award-winning journalist Eskinder Nega, who was sentenced in July to 18 years in prison".[38]

3.16.6 The USSD report states "Political parties were predominantly ethnically based. EPRDF constituent parties conferred advantages upon their members; the parties directly owned many businesses and were broadly perceived to award jobs and business contracts to loyal supporters. During the year [2012], there were credible reports teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to Oromo opposition

[35] US State Department: Country Reports on Human Rights Practices for 2012: 19 April 2013, Section 3. Respect for Political Rights: The Rights of Citizens to Change their Government.
[36] Freedom House, Freedom in the World 2013, Ethiopia, 9 May 2013: Political Rights & Civil Liberties.
[37] Freedom House, Freedom in the World 2013, Ethiopia, 9 May 2013: Overview
[38] Freedom House, Freedom in the World 2013, Ethiopia, 9 May 2013: Overview

groups, the Oromia regional government continued to threaten to dismiss opposition party members, particularly teachers, from their jobs. Government officials made allegations many members of legitimate Oromo opposition political parties were secretly OLF members and more broadly that members of many opposition parties had ties to Ginbot 7 [see 3.16.17 to 3.16.19]. At the university level members of Medrek and its constituent parties were able to teach".[39]

3.16.7 "Authorities arrested and harassed persons for criticizing the government. The government attempted to impede criticism through various forms of intimidation, including detention of journalists and opposition activists and monitoring and interference in the activities of political opposition groups. Some villagers continued to report local authorities threatened retaliation against anyone who reported abuses by security forces".[40]

3.16.8 "In 2010 the UN Committee Against Torture reported it was "deeply concerned" about "numerous, ongoing, and consistent allegations" concerning "the routine use of torture" by police, prison officers, and other members of the security forces--including the military--against political dissidents and opposition party members, students, alleged terrorists, and alleged supporters of violent separatist groups like the ONLF and the OLF. Some reports of such abuses continued during the year [2012]".[41]

3.16.9. Freedom House reported "The presence of the EPRDF at all levels of society inhibits free private discussion. Many people are wary of speaking against the government for fear of being overheard by party officials. The EPRDF maintains a network of paid informants, and opposition politicians have accused the government of tapping their telephones. Freedoms of assembly and association are guaranteed by the constitution but limited in practice. Organizers of large public meetings must request permission from the authorities 48 hours in advance. Applications by opposition groups are routinely denied. Peaceful demonstrations were held outside mosques in July 2012, but the security forces responded violently, detaining protestors, including several prominent Muslim leaders. A total of 29 Muslims were eventually charged with offences under the antiterrorism law. They were awaiting trial at year's end" [2012].[42]

3.16.10 Amnesty International also noted that "Between July and November 2012, hundreds of Muslims were arrested during a series of protests against alleged government restrictions on freedom of religion, across the country. While many of those arrested were subsequently released, large numbers remained in detention at the end of the year, including key figures of the protest movement. The government made significant efforts to quash the movement and stifle reporting on the protests".[43] In early August 2013, another incident related to the protests reportedly ended in the deaths of an unconfirmed number of people in the town of Kofele in Oromia region.[44]

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[39] US State Department: Country Reports on Human Rights Practices for 2012: 19 April 2013, Section 3. Respect for Political Rights: The Rights of Citizens to Change their Government.: Elections and Political Participation.
[40] US State Department: Country Reports on Human Rights Practices for 2012: 19 April 2013, Section 3. Respect for Political Rights: The Rights of Citizens to Change their Government.: Elections and Political Participation.
[41] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 1. Respect for the Integrity of the Person, Including Freedom from: c Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. page 3.
[42] Freedom House: Freedom in the World 2013: Ethiopia: 9 May 2013: Political Rights & Civil Liberties
[43] Amnesty International Annual report 2013: Ethiopia: 23 May 2013.
[44] Amnesty International, Ethiopian Repression of Muslim Protests Must Stop, 8 August 2013

3.16.11 The Inter Press Service notes that "in July 2013 the major opposition party, the Unity for Democracy and Justice (UDJ), organised protests in two major cities, Gondar and Dessie. In the run-up to the protests in Gondar, UDJ party leaders reported that they faced extreme harassment by the regional state authorities. This included having their office surrounded by local police who would not let their members out all day and the arrest of more than 10 of their members for distributing leaflets to the general public in the days leading up to the protest. Some Gondar residents also told IPS they were too scared to join the protests due to threats made throughout the city".[45]

3.16.12 Amnesty International in its 2013 report on Ethiopia states **"**The authorities arrested members of political opposition parties, and other perceived or actual political opponents. Arbitrary detention was widespread. According to relatives, some people disappeared after arrest. The authorities targeted families of suspects, detaining and interrogating them. The use of unofficial places of detention was reported".[46]

3.16.13 "In January [2012] the All Ethiopian Unity Party called for the release of 112 party members who, the party reported, were arrested in the Southern Nations, Nationalities and Peoples (SNNP) region during one week in January. A number of political opposition members were sentenced to lengthy prison terms on terrorism charges for calling for reform, criticizing the government, or for links with peaceful protest movements. Much of the evidence used against these individuals consisted of examples of them exercising their rights to freedom of expression and association. Trials were marred by serious irregularities, including a failure to investigate allegations of torture; denial of, or restrictions on, access to legal counsel; and use of confessions extracted under coercion as admissible evidence".[47]

3.16.14 "In January [2012] opposition party leader Zerihun Gebre-Egziabher, and former opposition supporter Hirut Kifle, were convicted of terrorism offences. In June, the opposition leader Andualem Arage, and other dissidents, were given prison sentences ranging from eight years to life in prison on terrorism charges. In December, opposition leaders Bekele Gerba and Olbana Lelisa were sentenced to eight and 13 years' imprisonment respectively, for "provocation of crimes against the state".[48]

3.16.15 LandInfo, the Norwegian Country of Origin Information Centre, in its report "Ethiopia – The Ginbot 7 party" states "Since the transfer of power to the EPRDF in 1991, Ethiopian politics has been characterised by a Marxist and centralised political model which leaves very little room for oppositional political activity. There are registered opposition parties in Ethiopia, but their scope is significantly restricted by law, a politicised central government and ethnic conflict. 70 registered parties participated in the election in 2010. The ruling party won all the seats except one in parliament and 1904 seats in the regional assemblies. The opposition won four seats in the regional assemblies". [49]

3.16.16 "Since 1991, several Ethiopian parties inside and outside Ethiopia have had armed rebellions as a means of regime change. Amongst these are the OLF, the

[45] Inter Press Service, Opinion Divided on Rebirth of Ethiopia's Opposition, 19 July 2013
[46] Amnesty International Annual report 2013: Ethiopia: 23 May 2013.
[47] Amnesty International Annual report 2013: Ethiopia: 23 May 2013.
[48] Amnesty International Annual report 2013: Ethiopia: 23 May 2013.
[49] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, 2, Background.

ONLF and the Ethiopian People's Revolutionary Party (EPRP). These parties are illegal and any activities in Ethiopia are mainly underground".[50]

3.16.17 "The Ginbot 7 party is a political party established in 2008. The party works for regime change, including the use of military means, and is therefore illegal. G7 mobilises Ethiopians in the diaspora and in Ethiopia, but it is uncertain how extensive the party's activities in Ethiopia are. Several people have been arrested, indicted and convicted of terrorist acts under the auspices of G7 in 2009 and 2011. However, it is unclear whether the arrests reflect the defendants' concrete connection to terrorist plans or acts, or whether the charges camouflage measures to limit unwanted oppositional activity".[51]

3.16.18 LandInfo also report that "In August 2010, the [Ginbot] party joined with two other unregistered political groups in Ethiopia; Afar People's Party (APP) and Ethiopian Movement for Unity and Justice (Ethiopian Review 2010). The coalition's new name is "Alliance for Liberty, Equality and Justice in Ethiopia" (ALEJE). The OLF, under the leadership of Kemal Gelchu, announced on 2 January 2012 that the party no longer demands independence for the Oromo and sought cooperation with other Ethiopian groups for regime change. The day after, the ALEJE coalition confirmed the agreement. This marked a new alliance between Kemal's faction of OLF and G7".[52]

3.16.19 In a conversation with LandInfo in March 2011, party leader Berhanu Nega said that "G7 has a widespread, secret party network in Ethiopia; that the party is organised in a cell structure and is active throughout Ethiopia. The cells are autonomous and each cell consists of four to five people.[53] LandInfo also reported that "G7 has been active in the Diaspora and since 2008 has built up an organisation with many former CUD [Coalition for Unity and Democracy] members in Europe, Australia and North America. The party has offices in many European countries, including England. The party operates the website ginbot7.com". [54]

3.16.20 Human Rights Watch in its report "They Want a Confession: Torture and Ill-Treatment in Ethiopia's Maekelawi Police Station" notes "In the heart of Ethiopia's capital, Addis Ababa, near a hotel and an Orthodox Christian cathedral, lies one of the country's most notorious police stations, the Federal Police Crime Investigation Sector, commonly known as Maekelawi. Many of Ethiopia's political prisoners—opposition politicians, journalists, protest organizers, alleged supporters of ethnic insurgencies , and many others—are first taken to Maekelawi ("central" in Amharic), after being arrested. There they are interrogated, and, for many, at Maekelawi they suffer all manner of abuses, including torture. Police investigators at Maekelawi use coercive methods on detainees amounting to torture or other ill-treatment to extract confessions, statements, and other information from detainees. Detainees are often denied access to lawyers and family members. Depending on their compliance with the demands of investigators, detainees are punished or rewarded with denial or access to water, food, light, and other basic needs".[55]

[50] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, 2, Background.
[51] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, Summary.
[52] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, 3: Party's establishment and programme.
[53] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, 4, The Party's activities in Ethiopia.
[54] LandInfo: Topical Note: Ethiopia: The Ginbot 7 party, 20 August 2012, 5, The Party's activities outside Ethiopia.
[55] Human Rights Watch "They want a confession" 18 October 2013.

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.16.21 Conclusion: Individuals perceived to be active or influential in opposition to the Ethiopian state are at risk of ill treatment, including persecution, by the Ethiopian authorities.

3.16.22 The perceived political profile of the applicant must be carefully considered, together with up to date country information, to determine whether the Ethiopian authorities are likely to view the applicant adversely. If a claimant is perceived to be of adverse interest to the Ethiopian authorities, then a grant of asylum would be appropriate as internal relocation is not a viable option.

3.16.23 In the Country Guidance case of **HB (Ethiopia EDP/UEDP members) Ethiopia CG [2004] UKAIT 00235** the Tribunal found that members of the UEDP/EDP are not subjected to routine persecution (paragraph 31). Party members with involvement limited to attending meetings in London and paying contributions are not reasonably likely to result in being monitored or identified (paragraph 31).

3.17 Persons of mixed Ethiopian / Eritrean origin

3.17.1 Some applicants may seek asylum on the grounds that they consider themselves to be of mixed Ethiopian or Eritrean ethnicity and the state authorities' treatment of this group. Applicants may also consider that they have been arbitrarily denied Ethiopian citizenship on account of their Eritrean descent.

3.17.2 Treatment. The US State Department report of 2000 stated that the Ethiopian government stopped forcibly deporting Eritreans and Ethiopians of Eritrean origin after it signed the cessation of hostilities agreement with Eritrea in June 2000, although 1,200 male Eritreans and Ethiopians of Eritrean origin were being held in internment camps at Dedesa at year's end [2000].[56]

3.17.3 According to the UNHCR, as of January 2006, deportations from Ethiopia of persons of Eritrean origin have not happened since June 2001. In January 2004 directives were issued by the Ethiopian immigration department to regularise the status of Eritreans remaining in Ethiopia.[57]

3.17.4 In a 2008, report Refugees International (RI) notes that "During the 1998-2000 conflict, Ethiopia denationalized individuals of Eritrean origin, claiming that they were a security risk or that they had renounced their citizenship by voting in the 1993 referendum on Eritrean independence. An estimated 75,000 individuals were deported to Eritrea, ripping families apart and forcing those left behind to hide their identities. Without citizenship, Eritreans in Ethiopia faced restrictions on work, travel, education, and access to social services. Compensation has not been offered for confiscated property".[58]

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[56] U.S. Department of State, 2000 Human Rights Report, Ethiopia, 23/02/2001/ Introduction.
[57] Immigration and Refugee Board of Canada Research Directorate Response to Information Request. ETH100909.E. Ethopia: The deportation of Eritreans to Eritrea by Ethiopia, including who is considered an Ethiopian (August 2004-January 2006) http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?l=e&id=449824
[58] Refugees International, Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin, 30 May 2008

3.17.5 "Sources suggest that many, perhaps most, Eritreans living in Ethiopia reacquired citizenship under a nationality proclamation enacted in 2003. But as one person related, "People are still afraid to talk though their position has improved." Some interviewees reported problems obtaining national identification cards, including 3-year delays and interrogation by immigration officials. RI observed national IDs showing "previous nationality" as Eritrean. Eritreans with Ethiopian citizenship said they still feel compelled to conceal their background, even among close friends. They rarely congregate as a community, nor are they politically engaged. Some spoke of employment discrimination. Nearly everyone RI interviewed told a story of ongoing separation from loved ones, exacting a considerable personal and psychological toll". [59]

3.17.6 "Travel between Eritrea and Ethiopia is prohibited, there is no interstate phone system, and Ethiopians have reportedly been jailed for communicating with persons in Eritrea via the internet".[60]

3.17.7 Freedom House reported that "Tensions between Ethiopia and Eritrea remained high after a 2011 UN report accused Eritrean officials of a failed plot to bomb an African Union summit in Addis Ababa. In March 2012, Ethiopian troops carried out a series of military incursions into Eritrea, the first since the end of the war. The authorities said the attacks were aimed at rebels responsible for kidnapping a group of foreign tourists in the Afar region of Ethiopia".[61]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.17.8 Conclusion. The Ethiopian government stopped its policy of forced deportation of those of Eritrean descent from Ethiopia to Eritrea in 2000, after hostilities between the two countries ceased. Eritrea was recognised internationally as a separate country in 1993. Whilst tensions remain high between Eritrea and Ethiopia, there is no indication of any real risk in 2013 for persons of Eritrean descent of deportation from Ethiopia to Eritrea on return. The Ethiopian authorities have regularised the position of Eritreans remaining in Ethiopia after the conflict and it is very unlikely now that new claims will be made based upon Eritrean descent.

3.17.9 Consequently any claimant who cites a risk of forced deportation on account of their Eritrean descent will not be able to demonstrate treatment amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate. However, caseworkers should still consider whether an applicant is at risk of treatment amounting to persecution in Ethiopia on account of their Eritrean ethnicity and each case should be considered on its individual merits against up to date country information.

3.17.10 The assessment of an applicant's case must also include consideration of any wider claim from them relating to deprivation of citizenship in Ethiopia on account of Eritrean descent and caseworkers should refer to the relevant caselaw section 2.4 in this document. Further guidance can be obtained from Senior Caseworkers or the

[59] Refugees International, Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin, 30 May 2008
[60] Refugees International, Ethiopia-Eritrea: Stalemate Takes Toll on Eritreans and Ethiopians of Eritrean Origin, 30 May 2008
[61] Freedom House: Freedom in the World 2013: Ethiopia: 9 May 2013.

Country Specific Litigation Team.

3.17.11 Applicants of mixed parentage who lived in Ethiopia for most of their lives but consider themselves Eritrean, usually by virtue of them having been deported to Eritrea and claim to fear persecution in Eritrea, should be considered as Eritrean and their wider claim assessed accordingly. Reference should be made to the OGN and COI report for Eritrea.

3.18 Treatment of Journalists and Human Rights Activists

3.18.1 Some applicants may claim fear of ill-treatment amounting to persecution at the hands of the Ethiopian authorities due to perceived criticism of the government in their roles as journalists or human rights activists.

3.18.2 Human Rights Watch in its 2013 Ethiopia report states "Since the promulgation in 2009 of the Charities and Societies Proclamation (CSO Law), which regulates nongovernmental organizations, and the Anti-Terrorism Proclamation, freedom of expression, assembly, and association have been increasingly restricted in Ethiopia. The effect of these two laws, coupled with the government's widespread and persistent harassment, threats, and intimidation of civil society activists, journalists, and others who comment on sensitive issues or express views critical of government policy, has been severe".[62] See also Human Rights Watch report cited in paragraph 3.16.20 for treatment in Maekelawi Police Station.

Journalists

3.18.3 Treatment: The US State Department (USSD) in its 2012 Human Rights Report for Ethiopia reports "The constitution and law provide for freedom of speech and press; however, authorities arrested, detained, and convicted journalists and other persons whom they perceived as critical of the government".[63]

3.18.4 "Several UN special rapporteurs and the UN High Commissioner for Human Rights expressed concern about the government's use of the antiterrorism proclamation against journalists and opposition members. Government harassment of journalists caused them to avoid reporting on sensitive topics. Many private newspapers reported informal editorial control by the government through article placement requests and calls from government officials concerning articles perceived as critical of the government. Private sector and government journalists routinely practiced self-censorship". [64]

3.18.5 "The government used the antiterrorism proclamation to suppress criticism. Journalists feared covering five groups designated by parliament in June 2011 as terrorist organizations (Ginbot 7, the ONLF, the OLF, al-Qaida, and al-Shabaab), citing ambiguity on whether reporting on these groups might be punishable under the law".[65]

3.18.6 Reporters Without Borders report "Privately-owned newspapers have helped to sustain intellectual exercise in the capital, Addis Ababa, and other growing regional

[62] Human Rights Watch: World report 2013: Ethiopia: 31 January 2013: Freedom of Expression, Association and Assembly.
[63] US State Department, Country Reports on Human Rights Practices for 2012, Ethiopia, 19 April 2013, Section 2 Respect for Civil Liberties, including A. Freedom of Speech and Press.
[64] US State Department, Country Reports on Human Rights Practices for 2012, Ethiopia, 19 April 2013, Section 2 Respect for Civil Liberties, including A. Freedom of Speech and Press.
[65] US State Department, Country Reports on Human Rights Practices for 2012, Ethiopia, 19 April 2013, Section 2 Respect for Civil Liberties, including A. Freedom of Speech and Press.

cities. But the climate, which has significantly deteriorated since 2005, is hostile to media independence and self-censorship is very common. The laws on media provide for long prison sentences for those found guilty of defamation or publishing false information, as well as for those found guilty of "terrorist activities" under the July 2009 anti-terrorist law. Foreign reporters based in Ethiopia apply utmost caution not to embarrass the government over their coverage of news or face harsh repercussions that include deportation".[66]

3.18.7 Amnesty International reporting on Ethiopia states "The state stifled freedom of expression, severely restricting the activities of the independent media, political opposition parties and human rights organizations. Dissent was not tolerated in any sphere. A number of journalists and political opposition members were sentenced to lengthy prison terms on terrorism charges for calling for reform, criticizing the government, or for links with peaceful protest movements. Much of the evidence used against these individuals consisted of examples of them exercising their rights to freedom of expression and association. The trials were marred by serious irregularities, including a failure to investigate allegations of torture; denial of, or restrictions on, access to legal counsel; and use of confessions extracted under coercion as admissible evidence. In January [2012], journalists Reyot Alemu, and Woubshet Taye and Elias Kifle, were convicted of terrorism offences. In June, journalist Eskinder Nega [see 3.10.5] and other dissidents, were given prison sentences ranging from eight years to life in prison on terrorism charges". [67]

3.18.8 Human Rights Watch report "More journalists have fled Ethiopia than any other country in the world due to threats and intimidation in the last decade – at least 79, according to the Committee to Protect Journalists (CPJ). The Anti-Terrorism Proclamation is being used to target perceived opponents, stifle dissent, and silence journalists. In 2012, 30 political activists, opposition party members, and journalists were convicted on vaguely defined terrorism offenses. Eleven journalists have been convicted under the law since 2011".[68]

3.18.9 Commenting on Woubshet Taye and Reyot Alemu (see 3.18.7 above) Reporters Without Borders expressed concern about these two journalists, "who have been detained since June 2011 and were given long jail sentences more than a year ago on terrorism charges. The prolonged detention of these two innocent journalists, Taye's recent transfer to a place far from his family, and the lack of medical care for Alemu are indicative of the government's intransigence and have dashed all hope of a more tolerant attitude to media freedom." "The two journalists were sentenced to 14 years in prison under Ethiopia's anti-terrorism law in January 2012. The federal Supreme Court reduced Alemu's sentence to five years in prison eight months later but Taye's has been left unchanged. Ethiopia is ranked 137th out of 179 countries in the 2013 Reporters Without Borders press freedom index".[69]

3.18.10 Amnesty International also state "The few remaining vestiges of the independent media were subjected to even further restrictions. In April [2012], Temesgen Desalegn, the editor of Feteh, one of the last remaining independent publications, was fined for contempt of court for "biased coverage" of the trial of Eskinder Nega and others. Feteh had published statements from some of the defendants. In August, he was charged with criminal offences for articles he had written or

[66] Reporters Without Borders: World Report: Ethiopia: Updated March 2012.
[67] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression.
[68] Human Rights Watch: World report 2013: Ethiopia: 31 January 2013: Freedom of Expression, Association and Assembly.
[69] Reporters Without Borders: Concern about two journalists held since June 2011 for "Terrorism", 26 April 2011.

published that were deemed critical of the government, or that called for peaceful protests against government repression. He was released after a few days' detention and the charges were dropped".[70] "In both May and October 2012, Voice of America correspondents were temporarily detained and interrogated over interviews they had conducted with protesters".[71]

3.18.11 Human Rights Watch reports that "since January 2012, members of Ethiopia's Muslim community have held regular protests in the capital, Addis Ababa, and other towns over alleged government interference in religious affairs. The government has harassed and detained journalists who have reported on these protests. Yusuf Getachew, former editor of the now-defunct Islamic magazine Yemuslimoch Guday, was charged under the anti-terrorism law and is on trial, though the trial is closed to the public. Solomon Kebede, Getachew's successor at the magazine, was arrested on January 17 and has also been charged under the anti-terrorism law. Prior to charges being bought, Solomon spent more than two months in pre-trial detention at Maekelawi prison in Addis Ababa, which is notorious for torture, without access to legal counsel".[72]

3.18.12 In May [2012], the authorities issued a directive requiring printing houses to remove any content which could be defined as "illegal" by the government from any publications they printed. The unduly broad provisions of the Anti-Terrorism Proclamation meant that much legitimate content could be deemed illegal. In July, an edition of Feteh was impounded after state authorities objected to one cover story on the Muslim protests and another speculating about the Prime Minister's health. Subsequently, state-run printer Berhanena Selam refused to print Feteh or Finote Netsanet, the publication of the largest opposition party, Unity for Democracy and Justice. In November, the party announced that the government had imposed a total ban on Finote Netsanet. A large number of news, politics and human rights websites were blocked."[73]

3.18.13 Internet: Reporters without Borders state "The only Internet Service Provider in Ethiopia is the state-owned Ethio Telecom, which facilitates government control of online activity. But the government exercises relatively little control (just a few opposition websites are the victims of political censorship), partly because only 0.5 per cent of the population is online (around 500,000 Internet users in 2010)".[74]

3.18.14 According to Freedom House, "the government maintains a strict system of controls and is the only country in Sub-Saharan Africa to implement nationwide internet filtering. The government's approach to internet filtering has generally entailed hindering access to a list of specific internet protocol (IP) addresses or domain names at the level of the international gateway. One blogger reported in January 2011, however, that since mid-2010, the government had been introducing more sophisticated equipment capable of blocking a webpage based on a keyword in the URL path. The observable evidence he cited included the blocking of the individual Facebook page of the exiled news outlet Addis Neger, as well as the fact that blocked content could no longer be accessed via Google cache as was previously possible".[75]

[70] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression
[71] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression
[72] Human Rights Watch, Ethiopia: Terrorism Law Decimates Media, 3 May 2013
[73] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression
[74] Reporters Without Borders: World Report: Ethiopia: Updated March 2012.
[75] Freedom House, Freedom on the Net 2012 Ethiopia, 24 September 2012

3.18.15 The USSD in its 2012 report notes "The government restricted access to the Internet and blocked several Web sites, including blogs, opposition Web sites, and Web sites of Ginbot 7, the OLF, and the ONLF. The government also temporarily blocked news sites such as the *Washington Post*, the *Economist*, and Al Jazeera, and temporarily blocked links to foreign government reporting on human rights conditions in the country. Several news blogs and Web sites run by opposition Diaspora groups were not accessible".[76] Amnesty International noted in July 2012 that Parliament passed the Telecom Fraud Offences Proclamation, which obstructs the provision and use of various internet and telecommunications technologies.[77] The Human Rights League of the Horn of Africa pointed out that in 2012 Ethiopia banned by law Skype and other Voice-over–Internet Protocol (VoIP) services that offer audio related communications. Breaking the law is punishable by 15 years in prison".[78]

Human Rights Activists

3.18.16 Treatment: The US State Department in its 2012 Human Rights Practices report states "A few domestic human rights groups operated, but with significant government restrictions. The government was generally distrustful and wary of domestic human rights groups and international observers. State controlled media were critical of international human rights groups such as Human Rights Watch, which the government strongly criticized on several occasions during the year for what it described as biased and inaccurate reporting. The government also criticized an International Crisis Group (ICG) report that analyzed the impact of the death of Prime Minister Meles, claiming the ICG applied "very questionable standards" and did not reflect the reality on the ground". [79]

3.18.17 Freedom House in its report "Freedom in the World 2013 – Ethiopia", states "The CSP restricts the activities of foreign NGOs by prohibiting work on political and human rights issues. Foreign NGOs are defined as groups receiving more than 10 percent of their funding from abroad, a classification that captures most domestic organizations as well. NGOs have struggled to maintain operations as a result of the law, which also requires them to reregister with the authorities".[80]

3.18.18 Amnesty International in its 2013 Annual Human Rights report notes "It was reported that the Charities and Societies Agency began enforcing a provision in the [CSP] law requiring NGO work to be overseen by a relevant government body, severely compromising the independence of NGOs". [81] "There were credible reports security officials intimidated or detained local individuals to prevent them from meeting with NGOs and foreign government officials who were investigating allegations of abuse".[82] According to the U.S. State Department, in October 2012 the Agency announced it had closed 10 Civil Society Organisations (CSOs) over the past two years because of improper payment of taxes and lack of adherence to the CSO law and related regulations. The agency also reportedly

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[76] US State Department, Country Reports on Human Rights Practices for 2012, Ethiopia, 19 April 2013, Section 2 Respect for Civil Liberties, including A. Freedom of Speech and Press.
[77] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression
[78] Human Rights League of the Horn of Africa, Written statement*submitted by the Human Rights League of the Horn of Africa (HRLHA), a non-governmental organization in special consultative status to the Human Rights Council, 23 May 2013
[79] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5. Governmental Attitude Regarding International and Non governmental Investigation of Alleged Violations of Human Rights; page 18.
[80] Freedom House, Freedom in the World 2013 - Ethiopia, 9 May 2013: Political Rights and Civil Liberties.
[81] Amnesty International Annual Report 2013: Ethiopia: 23 May 2013 Freedom of Expression
[82] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5. Governmental Attitude Regarding International and Non governmental Investigation of Alleged Violations of Human Rights: page 19.

issued warnings to an additional 476 CSOs".[83]

3.18.19 Human Rights Watch reports **"**Ethiopia's most important human rights groups have been compelled to dramatically scale-down operations or remove human rights activities from their mandates and an unknown number of organizations have closed entirely. Several of the country's most experienced and reputable human rights activists have fled the country due to threats".[84]

3.18.20 Government Human Rights Bodies: **"**The government-established EHRC [Ethiopian Human Rights Commission], which is funded by the parliament and subject to parliamentary review, is a semiautonomous body that investigates human rights complaints and produces annual and thematic reports. The commission operated 112 legal aid centres in collaboration with 17 universities and two civil society organizations, the EWLA [Ethiopian Women's Lawyers Association] and the Ethiopian Christian Lawyers Fellowship. The EHRC reported its Addis Ababa headquarters resolved 90 percent of the 952 complaints submitted to it during the year."[85]

3.18.21"The Office of the Ombudsman has authority to receive and investigate complaints with respect to administrative mismanagement by executive branch offices. The majority of complaints dealt with social security, labour, housing, and property disputes. In May the government completed drafting of a National Human Rights Action Plan, with an implementation coordinating office to be housed at the Ministry of Justice".[86]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.18.22 Conclusion: Journalists, media professionals and human rights activists perceived by the Ethiopian Government to be in active opposition to the authorities are at risk of ill treatment, including persecution, by the state.

3.18.23 The profile of the applicant, actual or perceived, must be carefully considered, together with up to date country information, to determine whether the Ethiopian authorities are likely to view the applicant adversely. If a claimant is perceived to be of adverse interest to the Ethiopian authorities, then a grant of asylum would be appropriate on the grounds of perceived or actual political opinion. Internal relocation is not a viable option to avoid such a risk.

3.19 Women

3.19.1 Some women applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution on the grounds of gender-based persecution (where the type of harm is related to their gender).

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[83] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5. Governmental Attitude Regarding International and Non governmental Investigation of Alleged Violations of Human Rights: page 19.
[84] Human Rights Watch: World report 2013: Ethiopia: 31 January 2013: Freedom of Expression, Association and Assembly.
[85] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5. Governmental Attitude Regarding International and Non governmental Investigation of Alleged Violations of Human Rights: page 19.
[86] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5. Governmental Attitude Regarding International and Non governmental Investigation of Alleged Violations of Human Rights: page 19.

3.19.2 Treatment: The US State Department in its Human Rights 2012 report for Ethiopia states "whilst the [Ethiopian] "constitution provides all persons equal protection without discrimination based on gender, in practice the government did not fully promote and protect these rights."[87]

3.19.3 The same report notes "Women and girls experienced gender-based violence, but it was under reported due to cultural acceptance, shame, fear, or a victim's ignorance of legal protections. The law criminalizes rape and provides for penalties of five to 20 years' imprisonment, depending on the severity of the case; however, the law does not expressly address spousal rape. The government did not fully enforce the law, partially due to widespread under reporting".[88]

3.19.4 "Domestic violence, including spousal abuse, was a pervasive social problem. Although women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The government prosecuted offenders on a limited scale. Domestic violence is illegal, but government enforcement of laws against rape and domestic violence was inconsistent. Depending on the severity of damage inflicted, legal penalties range from small fines to imprisonment for up to 10 to 15 years. In the context of gender-based violence, significant gender gaps in the justice system remained, due to poor documentation and inadequate investigation. Domestic violence and rape cases often were delayed significantly and given low priority".[89]

3.19.5 The USSD does report that "The [Ethiopian] government established a National Commission for Children's and Women's Affairs in 2005, as part of the EHRC, to investigate alleged human rights violations against women and children".[90]

3.19.6 "Female Genital Mutilation/Cutting (FGM/C) is illegal, but the government did not actively enforce this prohibition or punish those who practiced it. The practice was still widespread; however, according to a 2010 Population Council survey the rates continued to fall. Eighty percent of women ages 40 to 49 reported they were subjected to FGM/C, while 58 percent of girls and women ages 15 to 19 reported the same. The prevalence of FGM/C was highest in the Afar, SNNPR, and Oromia regions".[91]

3.19.7 "Marriage by abduction is illegal, although it continued in some regions, including Amhara, Oromia, and SNNPR, despite the government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Sexual harassment was widespread. The penal code prescribes penalties of 18 to 24 months' imprisonment; however, authorities generally did not enforce harassment laws. Discrimination against women was most acute in rural areas, where an estimated 85 percent of the population lives". "In urban areas women had fewer employment opportunities than men, and the jobs available did not provide equal

[87] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, page 20.
[88] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, Women, pages 20-21.
[89] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, Women, pages 20-21.
[90] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, Women, pages 21.
[91] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, Women, pages 21

pay for equal work. The Ministry of Education reported female participation in undergraduate and postgraduate programs increased to 144,286 during the 2011-12 academic year, compared with 123,706 in 2010-11, continuing the trend of increasing female participation in higher education".[92]

3.19.8 In 2012, the Committee on Economic, Social and Cultural Rights expressed concern that "domestic violence continues to be under-reported, that disaggregated data on prosecution and conviction rates in relation to violence against women are absent, and that victim assistance and rehabilitation services are lacking."[93] The Immigration and Refugee Board of Canada notes that, according to Ethiopian lawyer Semhal Getachew, women who attempt to report their abuse to the police are often told to return home and reconcile with their abuser, unless they have suffered 'grave bodily harm'. Similarly, an article published by UN Women attests that judges advise women to turn to family or community elders for help rather than going to court."[94]

3.19.9 The 2011 Concluding Observations of the Committee on the Elimination of Violence Against Women reported that it was "concerned that FGM, sexual, domestic and other forms of violence against women are under-reported due to cultural taboos and victims' lack of trust in the legal system, and that criminal law provisions are not consistently enforced because of insufficient allocation of funds, lack of coordination among the relevant actors, low awareness of existing laws and policies on the part of law enforcement officials, lack of capacity to apply the law in a gender-sensitive manner, and discriminatory societal attitudes. Lastly, the Committee is concerned about the State party's failure to criminalize marital rape, its delay in adopting a national strategy to combat violence against women, lack of victim assistance and rehabilitation services, and the absence of disaggregated data on prosecution and conviction rates in relation to violence against women".[95]

3.19.10 Freedom House reports "Women are relatively well represented in Parliament, having won 152 seats in the lower house in the 2010 elections. Legislation protects women's rights, but they are routinely violated in practice. Enforcement of the law against rape and domestic abuse is patchy, with cases routinely stalling in the courts".[96] The US State Department Human Rights report also states as regards political participation "No laws or cultural or traditional practices prevented women or minorities from voting or participating in political life on the same basis as men or non-minority citizens. The Tigray Regional Council held the highest proportion of women nationwide, at 48.5 percent".[97]

3.19.11 The US State Department in its Trafficking in Persons Report 2012 notes "Ethiopia is a source and, to a lesser extent, a destination and transit country for men, women, and children who are subjected to forced labor and sex trafficking. Girls from Ethiopia's rural areas are exploited in domestic servitude and, less frequently,

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[92] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 6. Discrimination, Societal Abuses and Trafficking in Persons, Women, pages 21

[93] UN Economic and Social Council (ECOSOC), Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights- Ethiopia, 31 May 2012 paragraph 14

[94] Immigration and Refugee Board of Canada, Ethiopia: Domestic violence, including legislation, state protection and services available to victims (2007-2011), 14 December 2011

[95] UN Committee on the Elimination of Violence Against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women, 27 July 2011 paragraph 20

[96] Freedom House, Freedom in the World 2013 – Ethiopia, 9 May 2013: Political Rights & Civil Liberties.

[97] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government : Elections and Political Participation, page 17.

prostitution within the country. Many Ethiopian women working in domestic service in the Middle East face severe abuses, including physical and sexual assault, denial of salary, sleep deprivation, withholding of passports, confinement, and even murder. Ethiopian women are sometimes exploited in the sex trade after migrating for labour purposes – particularly in brothels, mining camps, and near oil fields in Sudan and South Sudan – or after fleeing abusive employers in the Middle East".[98]

3.19.12 "The Government of Ethiopia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government opened an emergency response centre in the Afar Region that provided emergency services and logistical support to migrants in distress, who may include trafficking victims, and regional governments within Ethiopia hosted workshops to raise awareness of human trafficking and established taskforces to coordinate their work on trafficking cases. The government provided only limited assistance to trafficking victims during the reporting period, instead relying almost exclusively on international organizations and NGOs to provide services to victims and not providing any care specific to trafficking victims, as opposed to victims of other crimes. Its provision of assistance to trafficking victims was compromised by its reluctance to partner with or otherwise support NGO service providers actively and consistently".[99]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.19.13 Conclusion: In general state protection is statutorily available to women; however societal norms and victims' lack of trust in the legal system are likely to deter the majority of women from seeking protection. Protection is compromised by the lack of enforcement of legal provisions, delays and discriminatory attitudes, in addition to a lack of victim assistance and rehabilitation services. Additionally, some women's ability to access assistance may be further limited by such factors as their location, religious faith, lack of literacy and lack of awareness of their rights in what remains a largely rural society.

3.19.14 Effective state protection is therefore unlikely to be available to the majority of women fearing sexual and gender based violence. Each case however should be considered on its individual merits to assess whether effective protection will be provided to an individual.

3.19.15 For some women in Ethiopia relocation, including to avoid FGM, might not be unduly harsh. However given the level of discrimination against women, numbers of IDPs in the country and the threat of trafficking, this is only likely to be the case where the individual can access adequate support from family, or from community members, based in Ethiopia or abroad, or is able to support herself and / or any dependents.

3.19.16 Where an Ethiopian woman is able to show that she faces a real risk of gender based violence amounting to torture or inhuman or degrading treatment is unable, or unwilling through fear, to access protection and where internal relocation is unduly harsh, a grant of refugee status would be appropriate.

[98] US State Department: 2013 Trafficking in Persons Report- Ethiopia 19 June 2013.
[99] US State Department: 2013 Trafficking in Persons Report- Ethiopia 19 June 2013.

3.20 Prison conditions

3.20.1 Applicants may claim that they cannot return to Ethiopia due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ethiopia are so poor as to amount to torture or inhuman treatment or punishment.

3.20.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

3.20.3 **Consideration:** The US State Department in its 2012 Country Report on Human Rights Practices: Ethiopia reports that there are "six federal and 120 regional prisons. There also are many unofficial detention centres throughout the country, including in Dedessa, Bir Sheleko, Tolay, Hormat, Blate, Tatek, Jijiga, Holeta, and Senkele. Most are located at military camps. As of September [2012] there were 70,000-80,000 persons in prison, of whom approximately 2,500 were women and nearly 600 were children incarcerated with their mothers. Juveniles sometimes were incarcerated with adults, and small children were sometimes incarcerated with their mothers. Male and female prisoners generally were separated".[100] See also section 3.16.20 re Maekelawi Police Station.

3.20.4 The US report notes "Prison and pre-trial detention centre conditions remained harsh and in some cases life threatening. There were numerous reports of authorities beating prisoners. Medical attention following beatings reportedly was insufficient in some cases. Severe overcrowding was common, especially in sleeping quarters. The government provided approximately eight birr ($0.44) per prisoner per day for food, water, and health care. Many prisoners supplemented this amount with daily food deliveries from family members or by purchasing food from local vendors, although there were reports of some prisoners being prevented from receiving supplemental food from their families".[101]

3.20.5 "Medical care was unreliable in federal prisons and almost nonexistent in regional prisons. Prisoners had limited access to potable water, as did many in the country. Also, water shortages caused unhygienic conditions, and most prisons lacked appropriate sanitary facilities. Many prisoners had serious health problems in detention but received little treatment. Information released by the Ministry of Health during the year reportedly stated nearly 62 percent of inmates in various jails across the country suffered from mental health problems as a result of solitary confinement, overcrowding, and lack of adequate health care facilities and services".[102]

3.20.6 **"**Pre-trial detention often takes place in police station detention facilities, where the conditions varied widely. Reports regarding pre-trial detention in police stations indicated poor hygiene, lack of access to visitors (including family members and

[100] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.
[101] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.
[102] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.

legal counsel), and police abuse of detainees".[103]

3.20.7 "It was difficult to determine if recordkeeping was adequate due to the lack of transparency regarding incarceration. Authorities did not employ alternative sentencing for nonviolent offenders. Prisons did not have ombudspersons to respond to complaints. Legal aid clinics existed in some prisons for the benefit of prisoners. Authorities generally permitted visitors. In some cases family visits to prisoners were restricted to a few per year. Family members of prisoners charged with terrorist activity alleged instances of blocked access to the prisoners; there were also reports those charged with terrorist activity were denied visits with their lawyers or representatives of the political parties to which they belonged. Prisoners were permitted to voice complaints about prison conditions or treatment to the presiding judge during the trial".[104]

3.20.8 "During the year [2012] the International Committee of the Red Cross (ICRC) visited regional prisons throughout the country. The visits occurred after a general assessment by the government reopened the path to regular ICRC access; the government had limited such access since 2004. Regional authorities allowed government and NGO representatives to meet regularly with prisoners without third parties present. The Ethiopian Human Rights Commission (EHRC) monitored federal and regional detention centres and interviewed prison officials and prisoners in response to allegations of widespread human rights abuses".[105]

3.20.9 "The government denied NGOs access to federal prisons, police stations, and political prisoners, with the exception of the domestic NGO Justice For All-Prison Fellowship Ethiopia [JFA-PFA] one of only three organizations granted an exemption enabling them to raise unlimited funds from foreign sources and engage in human rights advocacy. JFA-PFE was permitted to visit prisoners and played a positive role in improving prisoners' chances for clemency". [106] "The government and prison authorities generally cooperated with efforts of the JFA-PFE to improve prison conditions. The JFA-PFE ran model prisons in Adama and Mekele, with significantly better conditions than those found in other prisons. The government undertook renovations to prisons in the Tigray, Amhara, and Oromia regions and in the Southern Nations, Nationalities, and People's Region (SNNPR) during the year [2012]".[107]

3.20.10 Amnesty International reporting on human rights in Ethiopia during 2012 states **"**Torture and other ill-treatment of prisoners were widespread, particularly during interrogation in pre-trial police detention. Typically, prisoners might be punched, slapped, beaten with sticks and other objects, handcuffed and suspended from the wall or ceiling, denied sleep and left in solitary confinement for long periods. Electrocution, mock-drowning and hanging weights from genitalia was reported in some cases. Many prisoners were forced to sign confessions. Prisoners were used to mete out physical punishment against other prisoners. Allegations of torture

[103] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.
[104] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.
[105] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.
[106] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013: Section 5 Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights: page 19.
[107] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Prison and Detention Centre conditions.

made by detainees, including in court, were not investigated. Deaths in detention were reported".[108]

3.20.11 The 2012 U.S. State Department report notes that "there were numerous reports that security officials tortured and otherwise abused detainees. In 2010 the UN Committee Against Torture reported it was deeply concerned about "numerous, ongoing, and consistent allegations" concerning "the routine use of torture" by police, prison officers, and other members of the security forces."[109]

3.20.12 Conclusion: Conditions in prisons and police custody are harsh and potentially life threatening with overcrowding and a lack of medical care, food and sanitation. Torture and other ill-treatment are widespread in police stations and detention facilities and used to extract confessions. Conditions are likely to breach the Article 3 threshold and in such cases a grant of humanitarian protection would be appropriate.

3.20.13 Where caseworkers believe that an individual is likely to face imprisonment on return to Ethiopia, they should also consider whether the applicant's actions merit exclusion by virtue of Article 1F of the Refugee Convention. Where case owners consider that this may be the case they should contact a senior caseworker for further guidance.

4. Minors claiming in their own right

4.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.

4.2 At present there is insufficient information to be satisfied that there are adequate alternative reception, support and care arrangements in place for minors with no family in Ethiopia. Those who cannot be returned should be considered for leave as a Unaccompanied Asylum Seeking Children (UASC).

4.3 Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.

4.4 Information on the infrastructure within Ethiopia which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).

4.5 Caseworkers should refer to the AI: Processing an Asylum Application from a Child, for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the interim guidance on Court of Appeal judgment in KA (Afghanistan) & Others [2012] EWCA civ1014.

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[108] .Amnesty International 2013 report (covering period January to December 2012): State of the World's Human Rights, Ethiopia: Torture & other ill treatment, 23/05/ 2013

[109] US State Department: Country Report on Human Rights Practices for 2012: Ethiopia: 19 April 2013, Section 1: Respect for the Integrity of the Person, including freedom from: c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

5. Medical treatment

5.1 Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR.

5.2 Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).

5.3 The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of N (FC) v SSHD [2005] UKHL31, it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.

5.4 That standard continues to be followed in the Upper Tribunal (UT) where, in the case of GS and EO (Article 3 – health cases) India [2012] UKUT 00397(IAC) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, the absence of resources through civil war or similar human agency.

5.5 The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR.

5.6 All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.

5.7 Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of discretionary leave. Caseworkers must refer to the AI on Discretionary Leave for the appropriate period of leave to grant.

6. Returns

6.1 There is no policy which precludes the enforced return to Ethiopia of failed asylum seekers who have no legal basis of stay in the United Kingdom.

6.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.

6.3 The US State Department reported in 2013 that **"**Ethiopia's National Intelligence and Security Service (NISS) has broad authority for intelligence, border security, and criminal investigation and is responsible for overall counterterrorism management. Ethiopia continued to use the Personal Identification Secure Comparison and Evaluation System, PISCES, biometric security measures at immigration enforcement stations at Bole and Dire Dawa International Airports, as well as other points of entry throughout the country".[110]

6.4 Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with chapter 53.8 of the Enforcement Instructions and Guidance.

6.5 Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:

- leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
- leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
- leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.

Country Specific Litigation Team
Home Office
November 2013

[110] US State Department: Country Report 2012: Terrorism: Ethiopia: 30 May 2013: Legislation, Law Enforcement and Border Security.