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OPERATIONAL GUIDANCE NOTE

ETHIOPIA

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1. Introduction

1.1 This document evaluates the general, political and human rights situation in Ethiopia and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseowners must refer to the relevant Asylum Instructions for further details of the policy on these areas.

1.2 This guidance must also be read in conjunction with any COI Service Ethiopia Country of Origin Information published on the Horizon intranet site. The material is also published externally on the Home Office internet site at:

http://www.homeoffice.gov.uk/rds/country_reports.html

1.3 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, caseowners 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.

Source documents

1.4 A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

- 2.1** The Provisional Military Administrative Council (known as the Derg) which had ruled Ethiopia since the 1974 revolution was overthrown in May 1991 when rebels of the Ethiopian People's Revolutionary Democratic Front (EPRDF) led by Meles Zenawi captured Addis Ababa. After elections for a Transitional Government in 1992, he presided over the establishment of Ethiopia's current political structures. In a decisive break with Ethiopia's tradition of centralised rule, the new institutions are based on the principle of ethnic federalism, designed to provide self-determination and autonomy to Ethiopia's different ethnic groups.¹
- 2.2** Ethiopia's current constitution was adopted in December 1994, with executive powers vested in the Prime Minister. Meles Zenawi has occupied this post since 1995. Elections in 1995 and 2000 gave the component parties of the EPRDF an overwhelming majority of seats in the national parliament. The regional governments are similarly dominated by the EPRDF affiliated parties (ie the Tigray Peoples' Liberation Front (TPLF) in Tigray region, the Amhara National Democratic Movement (ANDM) in Amhara region, the Oromo People's Democratic Organisation (OPDO) in Oromia and the Southern Ethiopia People's Democratic Front (SEPDP) in Southern Nations) Dr Negasso Gidada became President in 1995. He was replaced by Girma Wolde Giorgis in October 2001.²
- 2.3** Prime Minister Meles is a founder member of the TPLF. Since 2001 he has moved to develop a new power base that draws more heavily on the non-Tigrayan parties within the EPRDF alliance. Ethiopia has a deeply authoritarian political tradition but there has been some opening up of political space and increased opposition participation in political life.³
- 2.4** However, opposition parties remain profoundly weak and divided over policy, identity and tactics. Two prominent coalitions dominate the scene - the United Ethiopian Democratic Forces (UEDF) formed in 2001 and the newer Coalition for Unity and Democracy (CUD) formed in 2004. Both coalitions query the principle of ethnic federalism and assert a national identity. They are made up of smaller parties, such as the Southern Ethiopian Peoples Democratic Coalition (SEPDC) and Oromo National Congress (ONC), that assert a regional identity outside the EPRDF fold. Other older political groups, such as the Oromo Liberation Front (OLF), are outlawed and remain locked in the logic of armed struggle.⁴
- 2.5** Official tallies in the weeks following the 15 May 2005 general election indicated that opposition parties had made enormous gains in parliament but had fallen well short of obtaining a majority. The largest opposition coalition, the Coalition for Unity and Democracy (CUD), refused to accept those results, alleging that it had been robbed of outright victory by widespread government fraud. The government, in turn, has accused the CUD of conspiring to overthrow the government by force. At the end of 2005 it was still unclear whether the CUD would take its seats in parliament.⁵
- 2.6** These tensions exploded in early June 2005, when protests broke out in Addis Ababa in defiance of a government ban on public assemblies. Police and military forces responded with excessive force, killing at least thirty-six unarmed civilians and wounding more than 100. Security forces then arrested several thousand opposition supporters throughout the country. In November 2005 negotiations between the government and leading opposition parties broke down, sparking a fresh wave of protests. Ethiopian security forces again reacted with brutality, killing at least 46 people and arresting more

¹ COIS Ethiopia Country Report (History; Political overview)

² COIS Ethiopia Country Report (History; Constitution; Political system)

³ COIS Ethiopia Country Report (Ethnicity in Ethiopian politics; Coalitions; EPRDF & Annex B)

⁴ COIS Ethiopia Country Report (Political system; opposition parties...)

⁵ COIS Ethiopia Country Report (National elections May 2005)

than 4000 in Addis Ababa and other towns. The government then ordered the arrest of several dozen opposition politicians, journalists, editors and civil society activists. Ethiopian authorities have indicated that several among them are likely to face charges of treason, which carries a potential sentence of death under Ethiopian law.⁶

- 2.7** In January 2006, the authorities freed more than 11,200 people seized following the political unrest in November 2005. There were further reports that over 2,000 prisoners were released without charge after prosecutors said they had played a minimal role in the violence. The Ethiopian High Court on 22 March 2006 dropped charges against 18 defendants. They were part of a group of 129 people - including 29 leaders of the opposition CUD alliance, 19 journalists and human-rights activists - on charges of conspiracy to overthrow the constitutionally installed government. The trial against the remaining 111 accused would continue. Meanwhile the authorities' clampdown on political and media opposition continued when prosecutors charged a new group of 151 people with incitement to violence and attempting to subvert the constitution in March 2006.⁷
- 2.8** In May 2006, members of Ethiopia's main opposition party walked out of the parliament to protest the nomination of a caretaker authority to run the capital, Addis Ababa, despite the opposition's victory in the city during the elections in May 2005. Sixty legislators from CUD walked out after Prime Minister Zenawi named an interim mayor and nine-member, politically neutral panel to administer Addis Ababa for the next year. Also in May 2006, the trial of Ethiopian opposition leaders and journalists accused of trying to overthrow the government after disputed elections in May 2005 resumed with the prosecution making its submissions about how the accused planned to carry out their alleged plot against the state. The 111 defendants – which include at least 54 officials of the country's main opposition party, the Coalition for Unity and Democracy (CUD) and 15 journalists – faced "charges of attempting to "overthrow the constitutional order through violence" and outrages against the constitution". Other charges include high treason and attempted genocide and twenty-five individuals are being tried in absentia. In June and July 2006 tens of thousands were displaced from their homes in the southern regions following land disputes between neighbouring Guji and Borena ethnic groups.⁸
- 2.9** Ethiopia agreed to grant independence to Eritrea after a UN supervised referendum in 2003 following a dispute over the ill-defined border which had erupted into military conflict in May 1998. There were an estimated 100,000 casualties. Hostilities concluded with the signing of the Algiers Peace Agreement of December 2000. This established a Boundary Commission to delimit and demarcate the border and established a 25km Temporary Security Zone (TSZ) between the two countries. A UN peacekeeping force (UNMEE) has been deployed along the TSZ since 2001. India, Jordan and Kenya are the major troop contributors to the 4000 strong force. Under the Peace Agreement, UNMEE is to remain in place until the delimitation and demarcation of the border had been completed.⁹
- 2.10** The Boundary Commission (BC) announced its decision on the border on 13 April 2002. Demarcation was due to follow in 2003. However, when it became clear that the town of Badme (where the hostilities started) had been awarded to Eritrea, Ethiopia challenged the BC's conclusions. In November 2004 Ethiopia announced its acceptance "in principle" of the BC ruling but progress on demarcation remains stalled. The international community continues its efforts to keep the peace process on track by underlining that the BC decision is final and binding and by urging both Governments to engage in political dialogue. Tensions continued with large numbers of troops massed on the disputed border in 2005 when Eritrea banned all UNMEE helicopter flights and vehicle

⁶ COIS Ethiopia Country Report (National elections May 2005)

⁷ COIS Ethiopia Country Report (National elections May 2005 & Annex A)

⁸ COIS Ethiopia Country report (Recent developments May, June & July 2006)

⁹ COIS Ethiopia Country Report (Border conflict with Eritrea 1998-2006)

movements on its side of the border In December 2005, Eritrea ordered out western UN troops serving in the UNMEE mission.¹⁰

- 2.11** The stalemate with Eritrea persisted in 2006, but Ethiopia was forced to shift focus to its longer and more porous border with Somalia. The Union of Islamic Courts (UIC) regime was unseated in December 2006 by Somali Transitional Government forces backed by the Ethiopian army. Since the UIC fled Mogadishu in late December 2006 the Ethiopians have begun a phased withdrawal with TFG forces and Africa Union peacekeepers replacing them. The period of UIC dominance in southern Somalia between June and December 2006 allowed increased infiltration by fighters of a Somali irredentist group, the Ogaden National Liberation Front (ONLF), into Somali state in Ethiopia's southeast, armed with sophisticated weapons and equipment largely supplied by Eritrea.¹¹
- 2.12** In 2006 the human rights situation continued to be poor with serious concerns in some areas. The Ethiopian government continued the heavy-handed suppression and punishment of any form of political dissent in 2006 as reintroduced following the 2005 elections. While most international attention focused on events in Addis Ababa, security forces and civil officials continued campaigns of repression and brutality in many parts of the country. International donors protested human rights abuses but took no meaningful action.¹²
- 2.13** Following the 2005 elections the government in 2006 sharply reversed a liberalising trend and subjected independent newspapers and their editors, publishers, and reporters to renewed harassment, intimidation, and criminal charges solely because of their reporting and editorials. In addition to the 18 journalists facing treason and genocide charges, journalists were convicted under the pre-1991 military government press law, which makes alleged defamation and the printing of "false" information criminal offenses. Beginning in September 2006, security forces detained individuals caught with copies of a political manifesto by imprisoned Mayor Berhanu published in Uganda after the manuscript was smuggled out of prison. Also arrested were people found to have copies of an anonymous civil disobedience "calendar" containing pictures of the "treason" defendants and calls to non-violent action, such as boycotts of government-controlled businesses, to win their release. The government blocked access to internet blogs critical of its policies.¹³
- 2.14** Authorities in Oromia state in 2006 continued to use exaggerated concerns about armed insurgency and terrorism to justify the torture, imprisonment, and sustained harassment of their critics, including school children. In late 2005 and in 2006 federal and regional police in Oromia engaged in mass arrests, often in nighttime raids. Those arrested were informally accused of being supporters of the Oromo Liberation Front (OLF), a clandestine armed rebel group, but detainees were also accused of being supporters of the Oromo National Congress (ONC), a registered opposition political party that won seats in the 2005 elections. Most of those arrested were released after having been held for some weeks and forced to sign statements disavowing the ONC as a condition for release.¹⁴
- 2.15** The government has taken no meaningful action to address widespread atrocities committed by Ethiopian military forces in Gambella state, bordering Sudan. A government-sponsored commission of inquiry set up to investigate December 2003 violence in Gambella resulted in a whitewash. Although the scale of abuses in Gambella moderated in 2005-06, extrajudicial killings, rapes, beatings, and arbitrary arrests by

¹⁰ COIS Ethiopia Country Report (Border conflict with Eritrea 1998-2006)

¹¹ Human Right Watch (HRW) World Report 2006 & COIS Somalia Report (Recent developments, Latest News)

¹² HRW 2006 & US Department of State (USSD) HR Report 2006 (Introduction)

¹³ HRW 2006 & USSD 2006 (Section 1 & 2)

¹⁴ HRW 2006 & USSD 2006 (Section 1 & 5)

armed forces personnel still occurred. Reports of extrajudicial executions and torture also emerged from Somali state, but access to the region has been restricted by the military and by the ONLF insurgency, making these reports impossible to confirm.¹⁵

- 2.16** In high-profile cases, courts show little independence or concern for defendants' procedural rights. The two-month recess in the treason trial in August-September 2006, coupled with frequent shorter adjournments, ensured the defendants' prolonged detention. The trial judges put off addressing defense objections to evidence and ignored claims of serious mistreatment by prison authorities. Although criminal courts in Ethiopia have some independence with respect to less prominent cases, the judiciary often acts only after unreasonably long delays, sometimes because of the courts' workloads, more often because of excessive judicial deference to bad faith prosecution requests for time to search for evidence of a crime.¹⁶
- 2.17** Ethiopia has only one nationwide human rights organisation, the Ethiopian Human Rights Council (EHRCO). Government officials routinely accuse the organization of working to advance an anti-government political agenda and its staff is subjected to harassment and intimidation. One investigator was charged in absentia in the treason trial. While EHRCO was not forced to close, it was far less active in 2006. The Oromo-focused Human Rights League, having been allowed to register in 2005 shortly before the elections after years of litigation, remains inactive.¹⁷

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ethiopia. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. 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. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant 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 *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instructions on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is not designed to cover issues of credibility. Caseowners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the Asylum Instructions on Assessing the Claim)

¹⁵ HRW 2006 & USSD 2006 (Section 1)

¹⁶ HRW 2006 & USSD 2006 (Section 1)

¹⁷ HRW 2006 & USSD 2006 (Section 3)

- 3.5** All Asylum Instructions can be accessed via the on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Members of the OLF, ONLF or IUP

- 3.6.1** Most claimants will make an asylum and/or human rights claim based on mistreatment 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), the Ogaden National Liberation Front (ONLF) or al-Ittihad al-Islamia (Islamic Union Party).
- 3.6.2** ***Treatment.*** Clashes between members of the OLF and members of the OPDO (a member-party of the governing EPRDF coalition) during the run up to elections led to a final break with the EPRDF in 1992, after which the OLF went into armed opposition and in July 1996 signed a military co-operation agreement with the ONLF. The groups advocate self-determination for the Oromo People and the use of Oromo language and culture. The ONLF also receives support from the IUP, a Somali organisation which has been fighting for an Islamic state in Somalia.¹⁸
- 3.6.3** Occasional skirmishes between security forces and armed insurrectionary bands continued in many parts of the country in 2004. Security forces frequently arrest civilians, claiming they are members of the OLF in Oromia state or ONLF and IUP members in Somali state. Few of those arrested are brought to trial. Some are released; others are kept in arbitrary detention for prolonged periods, often without a hearing or cause shown, sometimes incommunicado. Frequent reports of extrajudicial executions and torture emerge from Somali region, but access to the region has been restricted by the military to such a degree that these reports are impossible to confirm. Authorities accused the OLF of organising the Oromo student demonstrations in the first half of 2004 after which 25 persons were charged with armed conspiracy and membership of the OLF.¹⁹
- 3.6.4** In July 2004 the Ethiopian government revoked the license of the venerable Oromo self-help association Mecha Tulema for allegedly carrying out “political activities” in violation of its charter. The police subsequently arrested four of the organisation’s leaders on charges of “terrorism” and providing support to the OLF. The four were released on bail in August but were arbitrarily arrested a week later. In August 2004, several dozen individuals were arrested in and around the town of Agaro in Oromia and imprisoned for allegedly supporting the outlawed OLF. Some prisoners reported mistreatment while in custody and police reportedly threatened family members wishing to visit detained relatives. As of October 2004, the prisoners remained in detention even though none had been charged with any crime.
- 3.6.5** Armed elements of the OLF and the ONLF continued to operate within the country in 2005 and 2006. Clashes with government forces on numerous occasions resulted in the death of an unknown number of civilians, government security forces, and OLF and ONLF troops and members. Throughout 2005 there were reports of renewed activity by the ONLF. In December 2005 the Ethiopian opposition radio and website Radio Freedom reported 11 separate ONLF actions against Ethiopian government forces in several different areas of the Somali National Regional State. The reports details only the casualties to the Ethiopian forces and not the ONLF or civilian casualties. A further four engagements were reported in January 2006, again claiming casualties from the

¹⁸ COIS Ethiopia Country Report (Rebel groups/Illegal opposition parties; Opposition groups and political activists; Oromos; Somalis & Annex B)

¹⁹ COIS Ethiopia Country Report (Rebel groups/Illegal opposition parties; Opposition groups and political activists; Oromos; Somalis & Annex B)

Ethiopian army. The ONLF has warned against companies hoping to exploit natural gas reserves in the eastern Somali areas.²⁰

3.6.6 Authorities in Oromia state in 2006 continued to use exaggerated concerns about armed insurgency and terrorism to justify the torture, imprisonment, and sustained harassment of their critics. In late 2005 and in 2006 federal and regional police in Oromia engaged in mass arrests, often in night-time raids. Those arrested were informally accused of being supporters of the OLF and detainees were also accused of being supporters of the Oromo National Congress (ONC), a registered opposition political party that won seats in the 2005 elections. Most of those arrested were released after having been held for some weeks and forced to sign statements disavowing the ONC as a condition for release.²¹

3.6.7 ***Sufficiency of protection.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.6.8 ***Internal relocation.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.6.9 ***Caselaw.***

Birru (Ethiopia) [1997] 14775. The Tribunal found that merely being an Oromo will not put an individual at risk, nor is low level involvement with OLF ground for asylum.

Fuad Feki Abbanega (Ethiopia) [2002] UKIAT 02620. The Tribunal dismissed the appeal, finding that the appellant, of Oromo ethnicity, does not face a real risk on return to Ethiopia because of his support for the OLF. The IAT found that the "evidence as a whole does not support the view that anybody who is a supporter of the OLF faces a real risk for that reason alone. It does not even support the view that an OLF member is at a real risk simply because he is a member".

HA (Ethiopia) [2005] UKAIT 00136. OLF members and sympathisers – risk. The Tribunal found a risk on return for an OLF sympathiser who had been detained on a previous occasion for OLF activities. Ethiopian authorities prioritise targeting known OLF members or sympathisers and those who have come to the previous attention of the authorities are likely to encounter a real risk of persecution by the authorities. Internal relocation is not a viable option.

MB (Ethiopia) [2007] (CG) UKAIT 00030. OLF members and sympathisers. The Tribunal found that members of, or those perceived by the authorities as being involved with, the OLF. 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.

3.6.10 ***Conclusion.*** Though OLF, ONLF and IUP are outlawed armed opposition groups that are known to carry out organised attacks against the state authorities, ordinary low-level non-combat members who have not previously come to the adverse attention of the authorities are unlikely to be at real risk of persecution. The grant of asylum in such cases is therefore unlikely to be appropriate.

3.6.11 If it is accepted that the claimant has been involved in or is suspected of involvement in non-combat activities on behalf of one of these groups and has previously come to the

²⁰ COIS Ethiopia Country Report (Rebel groups/Illegal opposition parties; Opposition groups and political activists; Oromos; Somalis & Annex B) & USSD 2006 (Section 1)

²¹ HRW 2006 & USSD 2006 (Section 1 & 5)

adverse attention of the authorities then they are likely to be at real risk of persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate.

- 3.6.12** Caseworkers should note that members of the OLF, ONLF and IUP have been responsible for numerous serious human rights abuses, some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for the OLF, ONLF and IUP and the evidence suggests he/she has been involved in such actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category of claim to a Senior Caseworker in the first instance.

3.7 Members of the CUD alliance

- 3.7.1** Some claimants will make an asylum or human rights claim based on mistreatment at the hands of the state authorities due to membership of, involvement with or perceived involvement with the opposition Coalition for Unity and Democracy (CUD) which includes the All Ethiopian Unity Party (AEUP), Rainbow Ethiopia, Ethiopians Democratic Party-Medhin (UEDP-ME) and the Ethiopian Democratic League (EDL). The CUD was formed in 2004 and is the strongest opposition coalition bloc in Ethiopian politics.²²
- 3.7.2** ***Treatment.*** In the May 2005 elections the newly formed CUD led by AEUP Chair Shawel Hailu won 109 seats in the House of Representative, including all 23 Addis Ababa seats and others in Amhara, Southern and Oromiya regions. The CUD also won 136 out of 138 seats in the regional administration for Addis Ababa region and a substantial share of the seats in the Amhara regional council. However, the ruling EPRDF did not recognise the substantial gains made by the CUD due to registration irregularities and re-ran a highly contentious poll after which President Meles declared his party the winner. This immediately prompted widespread anti-government protests by opposition parties, media and human rights groups in mid-2005 which were violently suppressed by the authorities.²³
- 3.7.3** The authorities began arresting members of the two opposition coalitions, the CUD and the United Ethiopian Democratic Front (UEDF) in mid-September 2005, following the announcement of the demonstrations planned for 2 October 2005. The CUD said up to 12 of its regional party offices had been shut down and officials detained. The Oromo National Congress (ONC), part of the UEDF coalition, made similar charges. In total, the CUD and the UEDF claim that over 850 people have been detained, mainly in the central Amhara and Oromia regions, and in the south. In October 2005, Ethiopian police arrested 34 members and supporters of the CUD on weapons charges amid government claims the group was attempting to foment a coup. Citing police officials, the state-run Ethiopian News Agency reported the backers of the CUD) had been detained in the southern Oromo region.²⁴
- 3.7.4** Some 29 CUD leaders, including its Chairman, Hailu Shawl, Vice Chair, Ms Birtukan Mideksa and Mayor-elect, Berhanu Nega, along with other elected CUD representatives, have been detained since November 2005. In December 2005 the detained leaders embarked on a hunger strike in protest at their incarceration. They face a number of serious charges, including trying to undermine the constitution. Some other elected CUD representatives have refused to take up their seats in parliament or the regional assembly.²⁵

²² COIS Ethiopia Country Report (National elections May 2005 & Political system; opposition parties)

²³ COIS Ethiopia Country Report (National elections May 2005 & Political system; opposition parties)

²⁴ COIS Ethiopia Country Report (Political system; opposition parties)

²⁵ COIS Ethiopia Country Report (National elections May 2005 & Political system; opposition parties)

- 3.7.5** The CUD leadership, civil society members, human rights defenders, and journalists arrested following the demonstrations in November 2005 remained on trial at the end of 2006, facing charges of treason, attempted genocide, and "outrages against the constitution," among other serious charges carrying potential punishments of life in prison or death. Those on trial included Addis Ababa mayor-elect Berhanu Nega, former UN Rwanda Tribunal prosecutor Yacob Hailemariam, human rights activist Mesfin Woldemariam, ActionAid representative Daniel Bekele, Netsanet Demissie, and federal parliamentarian Kifle Tigneh, among other prominent individuals. Nearly 200 defendants, ranging in age from 18 to 76, were being prosecuted in four separate cases in Addis Ababa. Five Voice of America (VOA) journalists were among those initially charged, although their cases were dropped following international pressure. The 200 political prisoners on trial in the Addis Ababa federal system were held in two separate prisons, Kaliti and Kerchele, often under harsh conditions. In March 2006 CUD Secretary General Muluheh Eyoel was placed in solitary confinement at Kerchele prison. In August fellow CUD member Andualem Arage, along with journalists Sisay Agena and Eskinder Nega, were placed in solitary confinement.²⁶
- 3.7.7** During 2006 the CUD reported arrests of their members and the forced closure of most political party offices throughout the country. There were credible reports that the government used legal means to harass leadership from an influential opposition political party, utilizing government agencies to restrict party control and membership. At the end of 2006 scores of CUD leaders, several members of NGOs active in civic education, and independent journalists detained in November 2005 remained in detention.²⁷
- 3.7.8** ***Sufficiency of protection.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.7.9** ***Internal relocation.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.7.10** ***Caselaw.***
- HB (Ethiopian) CG [2004] UKIAT 00235.** State persecution of members of opposition political parties (EPD/UEPD). The Tribunal found no objective evidence to the effect that UEDP or EDP members are subject to routine persecution. [These two parties are closely aligned to and partnered the AEUP to form the opposition CUD coalition that contested the parliamentary elections in May 2005.]
- 3.7.11** ***Conclusion.*** Though hundreds of members, activists and leaders from all opposition parties were arrested and detained for long periods in the second half of 2005 following the disputed May 2005 elections, the mass release of political detainees of all levels in 2006 has highlighted an improvement in the stand-off between the ruling EPRDF and opposition political parties. Nevertheless, the political situation remains unstable with the outcome of the May 2005 elections essentially still disputed and activists remain detained.
- 3.7.12** If it is accepted that the claimant is a prominent activist or high profile leader within the CUD alliance of parties then it is likely that they will still be of adverse interest to the authorities and will be able to demonstrate a real risk of ill-treatment amounting to persecution under the terms of the 1951 Convention. The grant of asylum is likely to be appropriate in such cases. However, the calming of the political situation in 2006 means that claimants who have adduced evidence of mid or low profile activism or association

²⁶ USSD 2006 (Section 1e)

²⁷ USSD 2006 (Section 2)

within the CUD alliance of parties are unlikely to be at risk of ill treatment amounting to persecution. In such cases the grant of asylum is not likely to be appropriate.

3.8 Persons of mixed Ethiopian / Eritrean origin

3.8.1 Some claims will raise the issue of whether the claimant considers himself/herself to be Ethiopian or Eritrean, and the state authorities' treatment of those who consider themselves of mixed ethnicity. Though this will not usually be a main or sole basis for a claim, it will be crucial to establish the applicant's parentage, length of time spent in Eritrea and the location of the alleged persecution to substantively assess the wider claim.

3.8.2 *Treatment.* As a result of the 1998 to 2000 war with Eritrea, thousands of persons were displaced internally. Of the approximately 350,000 IDPs resulting from the border war, approximately 225,000 IDPs have been resettled. During 2003 1,579 cases of Eritrean civilians waiting to return to Eritrea in the country were pending with the International Red Cross (ICRC). There were several ICRC overseen returnee occasions during 2004. The law requiring citizens and residents to obtain an exit visa before departing the country was eliminated in July 2004. Eritreans and Ethiopians of Eritrean origin had their status regularised by the Government in 2004. During 2005, the ICRC repatriated 427 Ethiopians from Eritrea to Ethiopia and repatriated 192 Eritreans from Ethiopia to Eritrea. Most Eritreans and Ethiopians of Eritrean origin registered with the government and received identity cards and six-month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied 'indignant' Eritreans the right to free medical services.²⁸

3.8.3 During 2006 the ICRC repatriated 988 Ethiopians from Eritrea and repatriated 83 Eritreans. Most Eritreans and Ethiopians of Eritrean origin registered with the government and received identity cards and six month renewable residence permits that allowed them to gain access to hospitals and other public services. However, there were anecdotal reports that local government officials denied indigent Eritreans the right to free medical services. During 2006 the UNHCR processed 680 cases for resettlement in third countries, totaling 1,800 individuals, mainly from Sudan and Eritrea.²⁹

3.8.4 As regards entitlements to Ethiopian nationality, caseworkers should note that the criteria for citizenship and nationality is set out in full in the COIS Ethiopia Country Report; Citizenship and Nationality.

3.8.5 *Sufficiency of protection.* As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

3.8.6 *Internal relocation.* As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

3.8.7 *Caselaw.*

YL Eritrea CG [2003] UKIAT 00016. Nationality, Statelessness – Ethiopia-Eritrea. The Tribunal surmised that the only relevant question is whether this appellant can find 3 witnesses of appropriate standing to say that she is who she says she is, i.e. a person born in Eritrea with an Eritrean father. (para 52)

²⁸ COIS Ethiopia Country Report (Ethnic groups; Eritreans in Ethiopia, Deportations and repatriations, Repatriated Ethiopian refugees)

²⁹ USSD 2006 (Section 2d)

We [the Tribunal] think it reasonably likely the appellant can find three such witnesses. We appreciate that she has been to the Eritrean Embassy, although it may or may not be significant that her visit predates the letter of 29 August already cited. We also appreciate that it appears she was asked a number of questions relating to whether she had a referendum ID card and whether she paid 2% of her earnings to the Eritrean Authorities and whether she had paid £500 toward border defence costs. We also appreciate that she was told her application could not succeed. However, there is nothing in these statements of truth to suggest that the appellant was told that possession of a referendum ID card and payment of 2% of her earnings or £500 towards border defence costs were necessary preconditions to be eligible for Eritrean nationality. And the reason she was refused was stated as being that she could not provide evidence which can vouch for her Eritrean identity regardless of whether she can speak Tigrigna. Plainly, in our view, refusal in these terms was entirely consistent with the position as set out in the Embassy's 29th August 2002 letter (at para 40). Not having identified 3 witnesses, her application had to fail. (para 53). *This case continues to be the leading caselaw on mixed Ethiopia-Eritrean nationality.*

MA and others (Ethiopia) [2004] UKIAT 00324. Ethiopia – Mixed ethnicity-dual nationality. The IAT heard 3 appeals together due to common features. All the claimants originated from Ethiopia but are partly or wholly of Eritrean ethnic background. The appeals all raised an issue of whether nationals or former nationals of Ethiopia face persecution as a result of their ethnicity arising from a risk of discriminatory withdrawal of their nationality and a risk of deportation to Eritrea. The appeals also raise the issue of whether entitlement to Eritrean nationality deprives a claimant of a right to protection under the 1951 Convention. The following assessments were made:

The risk arising from mixed ethnicity The Tribunal is not satisfied that the evidence shows that Ethiopians of Eritrean or part Eritrean ethnicity fall within a category, which on that basis alone establishes that they have a well-founded fear of persecution. An effective deprivation of citizenship does not by itself amount to persecution but the impact and consequences of that decision may be of such severity that it can be properly categorised as persecution. One such consequence may be that if returned to Ethiopia there would be a risk of deportation or repatriation to Eritrea. – The Tribunal is not satisfied that there is now a government policy of mass deportations and it must follow that there is now no real risk for persons of Eritrean descent generally of deportation on return. The Tribunal accepted that some Ethiopians of Eritrean descent remaining in Ethiopia may be at risk of persecution because of their ethnicity. This depends upon the individual facts of each case.

Entitlement to dual nationality The Tribunal then considered the issue of whether claimants that are at risk of persecution in Ethiopia do not qualify as refugees because they can look to Eritrea for protection. Starting point is Article 1(A)(2) of the Convention which provides that a person who has more than one nationality shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well founded fear, he has not availed himself of the protection of one of the countries of which he is a national. In the present appeals the claimants assert that they have been effectively been deprived of their Ethiopian citizenship. The reason for this is their Eritrean background. If they qualify for Eritrean citizenship and there are no serious obstacles to their being able to apply for and obtain such citizenship, there is no reason in principle why they should not look to the Eritrean authorities for protection. It is not open to a claimant by doing nothing and by failing to make an application for citizenship to defeat the provisions of the Refugee Convention. The Tribunal is satisfied that if the evidence shows that a claimant is entitled to nationality of a country, the provisions of Article 1(A)(2) apply. He shall not be deemed to be lacking the protection of the country of his nationality if without any valid reason based on a well-founded fear he has not availed himself of the protection of that country. In most cases this will involve making an application for his/her nationality to be recognised. A claimant cannot decline to take up a nationality properly open to him without a good reason, which must be a valid reason based on a well founded fear. The protection offered by a state of second nationality must be "effective". It will be a question of fact in each case whether the claimant has a nationality, which will provide him with effective protection.

FA Eritrea CG [2005] UKIAT 00047. Eritrea – Nationality. 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 (paras 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.' (para 26)

- 3.8.8 Conclusion.** Since the end of forced repatriations in 2000/1 there has been no evidence that the Ethiopian authorities harass, discriminate or ill treat individuals who have spent time in Eritrea and/or consider themselves to be part Eritrean. Any claimant who cites mixed ethnicity as the sole or main reason for their asylum application 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.
- 3.8.9** Claimants of mixed parentage, who claim to be Ethiopian, have lived in Ethiopia all their life, and fear persecution in Ethiopia, should be considered as Ethiopian and their wider claim assessed accordingly. In the absence of a risk of forced deportation of those of mixed ethnicity from Ethiopia to Eritrea, applicants who fall into this category will not normally have a claim to asylum.
- 3.8.10** Claimants of mixed parentage who have lived in Ethiopia all their life and fear persecution in Ethiopia should be considered as Ethiopians and their wider claim assessed accordingly. If these individuals claim to be Eritrean however, they would have a right to Eritrean nationality and should therefore seek the protection of their Eritrean nationality before applying for international protection in accordance with paragraphs 106 and 107 of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status. Caseworkers should make clear reference to the applicant's entitlement to, and protection of, Eritrean nationality when considering such cases.
- 3.8.11** Claimants of mixed parentage who have lived in Ethiopia for most of their lives, but consider themselves Eritrean, usually by virtue of them having been deported to Eritrea relatively recently, and claim to fear persecution in Eritrea, should be considered as Eritrean and their wider claim assessed accordingly. **For guidance on mixed or disputed nationality cases and returns see [Returns](#) paragraph 5.2.**

3.9 Prison conditions

- 3.9.1** Claimants 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 the Ethiopia are so poor as to amount to torture or inhuman treatment or punishment.
- 3.9.2** 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 claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.
- 3.9.3 Consideration.** Prison and pre-trial detention centre conditions remained very poor in 2006, and overcrowding continued to be a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space each in a room that could contain up to 200 persons. The daily meal budget was approximately \$0.35 (3 birr) per prisoner, and many prisoners had family members deliver food daily or used personal funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was unreliable. There was no budget for prison maintenance.³⁰

³⁰ USSD 2006 (Section 1c)

- 3.9.4** In detention centres police often physically abused detainees in 2006. Authorities generally permitted visitors but sometimes denied them access to detainees. For example, the detained leaders of the CUD party had their visitation rights limited to immediate family members for a portion of the year. While statistics were unavailable, there were some deaths in prison due to illness and poor health care. Prison officials were not forthcoming with reports of such deaths. The commission of inquiry into the 2005 post-election violence found at least 17 arrested protestors died in detention.³¹
- 3.9.5** Authorities sometimes incarcerated juveniles with adults if they could not be accommodated at the juvenile remand home. There was only one juvenile remand home for children under age 15, with the capacity to hold 150 children. Human rights organizations reported that in 2005 the government had transported 10,000 to 18,000 individuals (mostly youths ages 18 to 23 detained during the November 2005 mass house-to-house searches in Addis Ababa) to Dedessa, a military camp formerly used by the Derg regime located 375 kilometers west of the capital. During 2006 most of the prisoners were released, although a few hundred remained in custody, facing charges for alleged crimes related to the November 2005 searches.
- 3.9.6** In July 2006 a new 90 bed facility for women was inaugurated at Kaliti. The separate building on the compound was constructed by Justice for All - Prison Fellowship, with funding from foreign governments. The facility improved sanitary conditions, provided greater privacy to female inmates, and was expected to help reduce overcrowding. The construction of a new prison for men near Kaliti was underway at the end of 2006.³²
- 3.9.7** During 2006 the International Committee of the Red Cross (ICRC) visited regional prisons, civilian detention facilities, and police stations throughout the country and conducted hundreds of visits involving thousands of detainees. However, they were restricted from visiting federal prisons, including those where senior opposition, civil society, and media leaders were being held. The Prison Fellowship Ethiopia, a local NGO, was granted access to various prison and detention facilities, including federal prisons. The government also periodically granted diplomatic missions access to regional prisons and prison officials, subject to advanced notification.³³
- 3.9.8** Authorities allowed the ICRC to meet regularly with prisoners without third parties being present. The ICRC received permission to visit military detention facilities where the government detained suspected OLF fighters. The ICRC also continued to visit civilian Eritrean nationals and local citizens of Eritrean origin detained on alleged national security grounds. Government authorities continued to permit diplomats to visit prominent detainees held by the Special Prosecutor's Office (SPO) for alleged involvement in war crimes and terrorist activities. However, the government limited access of representatives of the international community access to leaders of the CUD opposition party, members of civil society groups, and journalists detained in November 2005 for alleged involvement in antigovernment demonstrations in Addis Ababa, who remained in federal police custody at Addis Ababa's Kaliti prison at year's end. The government also permitted Prison Fellowship Association and local religious leaders to visit these detainees.³⁴
- 3.9.9 *Conclusion.*** Whilst prison conditions in Ethiopia are poor, with overcrowding and a lack of medical care, food and sanitation leading to disease all being reported, conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Ethiopia a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case

³¹ USSD 2006 (Section 1c)

³² USSD 2006 (Section 1c)

³³ USSD 2006 (Section 1c)

³⁴ USSD 2006 (Section 1c)

should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility, and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Ethiopia the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Claimants may claim they cannot return to Ethiopia due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 Ethiopia's health care system is relatively basic and cannot currently provide satisfactory treatment for all medical conditions. Only around 45% of the country in January 2007 was reported to have adequate primary healthcare. Tuberculosis is now one of the leading causes of death in the country. All appropriate drugs for the treatment of Tuberculosis are available throughout the country. Treatment centres for heart and eye diseases have also opened in the past decade. There is very limited treatment for psychiatric problems. The cost of anti-retroviral treatment for HIV/AIDS has diminished considerably in the past five years with greatly improved availability country-wide.³⁵

4.4.3 Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making 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.

³⁵ COIS Ethiopia Country Report (Medical issues)

5. Returns

- 5.1** 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, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** The Immigration (Notices) (Amendment) Regulations 2006 came into force on 31 August 2006. These amend the previous 2003 Regulations, allowing an Immigration Officer or Secretary of State to specify more than one proposed destination in the appealable Decision Notice. Where there is a suspensive right of appeal, this will allow the Asylum and Immigration Tribunal (AIT) to consider in one appeal whether removal to any of the countries specified in the Decision Notice would breach the UK's obligations under the Refugee Convention or the European Convention on Human Rights, thus reducing the risk of sequential appeals. More than one country, e.g. Ethiopia and Eritrea may only be specified in the Notice of Decision where there is evidence to justify this. Evidence may be either oral or documentary. Caseworkers are advised that their Decision Service Team/admin support unit must be instructed to record both countries on the Notice of Decision/Removal Directions for relevant cases.
- 5.3** Ethiopian nationals may return voluntarily to any region of Ethiopia at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ethiopia. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ethiopian nationals wishing to avail themselves of this opportunity for assisted return to Ethiopia should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- Human Rights Watch (HRW) World Report covering 2006: Ethiopia
<http://hrw.org/englishwr2k7/docs/2007/01/11/ethiop14704.htm>
- UK Home Office RDS-IND COI Service Ethiopia Country of Origin Information Report 14 February 2007 http://www.homeoffice.gov.uk/rds/country_reports.html
- UK Home Office RDS-IND COI Service Somalia Country of Origin Information Report 28 February 2007 http://www.homeoffice.gov.uk/rds/country_reports.html
- US Department of State Country Report on Human Rights Practices in 2006: Ethiopia 6 March 2007 <http://www.state.gov/g/drl/rls/hrrpt/2006/78734.htm>

**Asylum and Appeals Policy Directorate
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