

Roundtable report

Political Rights In Ethiopia

Introduction

To generate ideas on how to support the strengthening of human rights protection and good governance in Ethiopia a roundtable discussion was convened in Ottawa on May 4, 2007, through the collaboration of the Solidarity Committee for Ethiopian Political Prisoners-Canada (SOCEPP-Canada), Amnesty International Canada, Partnership Africa Canada, SubSahara Centre, the Canadian Network of NGOs in Ethiopia, and the Canadian Peacebuilding Coordinating Committee (CPCC).

In the still supercharged political atmosphere stemming from the contested 2005 legislative elections in Ethiopia the by-invitation-only gathering was designed to provide a space for in-depth and candid discussion, in order to encourage constructive dialogue.

The roundtable brought together more than 30 opinion leaders from the Ethiopian diaspora in Canada, the U.S. and Europe, a senior advisor to the Government of Ethiopia, representatives of Canadian non-governmental organizations with ties to Ethiopia, officials of both the Department of Foreign Affairs and the Canadian International Development Agency and others.

To help ensure candour, it was noted that this report of the roundtable would not provide attribution of anyone's specific comments. The report was compiled by David Lord. While trying to avoid any errors of fact or interpretation, the author takes full responsibility for any that have occurred.

On the substantive side, the roundtable organizers set out to: examine the current political rights situation in Ethiopia; examine strategies to strengthen and support the exercise of political rights; to identify areas where Canadian non-governmental organizations, the Canadian government, the Ethiopian diaspora and other Canadians could make a meaningful impact in fostering political rights; and to generate policy options for non-governmental and governmental entities that have a direct or indirect relationship with Ethiopia.

To guide the discussion the organizers also proposed a number of questions they asked the panelists to address, among them:

- What are the strengths of Ethiopian political institutions and processes and what are the main challenges they face?
- What institutions and processes should be priorities in efforts to strengthen political rights in Ethiopia?
- How effectively is the legal system protecting political rights, including freedom of expression, association, minority rights, women's rights, etc?
- Is parliamentary democracy working in Ethiopia?
- What are key areas for change and assistance?

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The 2005 Election

In May 2005, Ethiopians had “an unprecedented open and democratic election,” according to one participant in the Ottawa Roundtable.

Unprecedented competition led to unprecedented opposition gains, particularly in the capital, Addis Ababa and quickly led to conflicting assertions of victory from the opposition and the Ethiopian Peoples’ Revolutionary Democratic Front government of Prime Minister Meles Zenawi. The opposition accused the government of fraud and rigging the election, while the government accused the opposition of destabilizing the country and subverting the constitution.

According to the European Union election observers: “In the post election day period, the human rights situation deteriorated, starting with a blanket ban, issued immediately after the end of voting, on freedom of assembly in the capital. Media coverage also worsened... Incidents involving students started on the night of 5 June and extended on 6 and 7 June with hundreds being arrested. During a demonstration in Addis Ababa on 8 June, security forces killed at least 36 citizens and in the aftermath arrested thousands of persons, mostly linked to the opposition, who were accused of spreading ‘political unrest’. Leaders of the opposition were harassed and threatened, and some were kept under house arrest.”²

² *Ethiopia Legislative Elections 2005*, European Union Election Observation Mission Final Report http://ec.europa.eu/external_relations/human_rights/eu_election_ass_observ/ethiopia/2005_final_report.pdf

The US State Department later reported that a total of 42 unarmed demonstrators were killed by police in the initial demonstration in June, and then another 46 when riots erupted in November.³ At that time, seven police officers were also killed.

The State Department report said, “The commission of inquiry established by the government to investigate the alleged use of excessive force by security forces...found that 193 civilians -- nearly four times the number originally reported by the government -- and 6 members of the security forces were killed, while 763 civilians and 71 members of the security forces were injured, many seriously.

“The commission also found that security forces did not use excessive force, given demonstration violence; however, prior to the release of the report, the chairman and deputy chairman of the commission fled the country, allegedly in response to threats made against them by government forces. After fleeing, both stated publicly and showed video evidence that at an official meeting in June, the commission had originally decided, by a vote of eight to two, that excessive force was used and that the total number of killed and injured was the same as eventually reported. Following this vote, government officials allegedly urged commission members to change their votes to indicate that excessive force was not used.”

Some external observers’ comments on the elections and their aftermath:

³ <http://www.state.gov/g/drl/rls/hrrpt/2006/78734.htm>

The final European Union observer team election report applauded the “positive developments” and peaceful election day procedures, but expressed concern with the “irregular practices”, “lack of transparency”, and post-election violence -- dozens killed and thousands arrested by the police. “...Overall...the elections fell short of international principles for genuine democratic elections.”⁴

Human Rights Watch said: “The aftermath of Ethiopia’s landmark May 2005 parliamentary elections has laid bare the deeply entrenched patterns of political repression, human rights abuse and impunity that characterize the day-to-day reality of governance in much of the country.”⁵

Amnesty International said: “Amnesty International believes the CUD (opposition) leaders, journalists and human rights defenders are prisoners of conscience who should not be facing charges carrying possible death sentences, such as treason, outrage against the constitution, inciting armed rebellion, and an absurd charge of ‘attempted genocide’.”⁶

Democratic Process

One roundtable participant noted that, “At times government officials, but

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<http://web.amnesty.org/library/index/engaf250132006>

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<http://hrw.org/english/docs/2006/01/18/ethiop12308.htm>

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<http://web.amnesty.org/library/Index/ENGAFR250182006?open&of=ENG-391>

mostly the government's foreign supporters, try to explain away and justify the lack of competitive politics in Ethiopia as a baby step of democratization, and as that which will bear fruit with time. This temporal explanation would have made sense had a mechanism for gradual progression been in place. However, as we saw... the promise of May 2005 was rudely and violently thwarted by none other than the government in power.”

Part of the opposition critique is that for parliamentary democracy to properly function in Ethiopia, the government has to show good faith efforts to accept opposition parties and others as “partners” in the development of the country. Banned political parties must be unbanned and allowed to operate legally, and jailed political leaders must be unconditionally released and allowed to start to rebuild their political parties.

“The opposition parties on their part need to diligently exercise responsible politics, and play the role of loyal opposition. They should diminish the employment of hateful and vitriolic politics. The concept of loyal opposition does not mean a quiescent and compliant opposition. Far from it. It means an opposition that has a clear oppositional platform and that campaigns for that legally and responsibly. When these conditions are met, Ethiopia will boast of a government and opposition plus civil society that can rally around the country's core issues despite their political differences.”

Ethiopian democracy will benefit from a parliament where there is a more equal balance of power between government and opposition, where criticism is

allowed to enter debate and the opposition has actual power to affect and influence policy.

The roundtable also noted, with serious concern, the situation pertaining to suppression of human rights defenders, the free press and civil society organizations such as the Ethiopian Teachers' Association.

The effective functioning of civil society, according to another participant, is "a necessary condition for sustainable development, both economically and socially. It is a sign of liberty, democracy and an exercise of free will."

However, some Ethiopian non-governmental organizations are seen to be overly dependent on either foreign or Ethiopian government funding and therefore inclined not to contest government actions for fear of interference or reprisals.

International NGOs involved in emergency relief or long-term development activities within Ethiopia stand accused of doing little to enhance democratic empowerment and the protection of human rights.

Justice System Reform

In relation to how effectively the legal system is protecting political rights, it was pointed out that while the Ethiopian Constitution sets out specific human rights, it remains very broad.⁷

While the Constitution provides for a separation of branches of power, i.e. an independent judiciary, legislative branch and executive, in practice, there is sometimes incorrect application or restrictive interpretations of laws and rights.

The round table noted and expressed serious concern about the independence of the judiciary and political interference by the executive.

In general, international laws, and principles and rights enshrined in the Constitution are not evident in the implementation of domestic laws, policies, or administrative action.

According to Human Rights Watch, "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

⁷ Ethiopia has also signed key international conventions and regional instruments, including the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of

Discrimination against Women and the African Charter on Human and Peoples' Rights.

prosecution requests for time to search for evidence of a crime.”⁸

In June 2004, the independent Ethiopian Human Rights Commission (EHRCO) estimated that over 10,000 people were in prison without a trial in Ethiopia and had never been afforded an opportunity to have a hearing in court.⁹

Structurally, the Ethiopian judiciary cannot interpret the Constitution. That authority lies with the House of Federation’s Council of Constitutional Inquiry. Therefore, courts are not able to assist in the development of legal authority through the interpretation of law, as in Canada. And in so much as financing is a measure of independence, it is notable that the Ethiopian judiciary’s budgets are set by the Ministry of Finance.

Ethiopia also faces a variety of challenges related to institutional capacities – of institutional knowledge, human resources, and resources generally.

Shortcomings are evident in legal training generally and in the understanding of human rights, in the effectiveness of judges (inexperience, insecurity, unwillingness to stand out), and in resource support (clerks, infrastructure, etc).

Institutional capacity is also lacking around public prosecutors, police, and

lawyers and there is insufficient involvement of women and minorities at all levels. Between institutions there is a lack of coordination, and no shortage of mutual distrust.

Educational requirements, qualifications and experience also have a negative impact when low salaries attract young, inexperienced applicants who receive insufficient training in human rights, ethics, and other areas and the judiciary is used as a steppingstone to other opportunities.

Another hurdle is that the disciplinary processes of Judicial Commissions are not clearly established, creating problems with standards and guidelines, politicization through the inclusion of legislative representatives on Commissions, and allegations of interference.

Ethiopian lawyers are under the supervision of the Ministry of Justice, not their own association or an independent body. While the Ethiopian bar has representatives on committees of the ministry that deal with licencing and discipline of lawyers, the minister of justice retains the authority for decisions and there have been times when bar members have been removed from the committees.

The roles of lawyers and the bar are not understood in Ethiopia as advocates of a client and that they should not be attacked for representing unfavourable clients. In addition, some necessary principles for the proper functioning of the legal system are not adhered to, such as the right to counsel, the right to confidential communications. The Bar is not seen as a key institution of value to

⁸ Ethiopia Country Summary, Human Rights Watch, 2007

<http://hrw.org/wr2k7/pdfs/ethiopia.pdf>

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<http://hrw.org/englishwr2k7/docs/2007/01/11/ethiop14704.htm>

the justice system that has a role in contributing to the development of laws and the administration of justice.

There are capacity issues with the legal profession as well. These include the unavailability of laws (including to lawyers), public unawareness of their rights, the inaccessibility of courts to enforce rights due to location, costs, language, and a general lack of legal aid. Although civil society organizations and the Bar are providing some legal aid, public defenders remain limited.

Ingrained attitudes are also problematic. There is clearly a need to develop capacity and an environment of openness for discussion by parliament, the public, and civil society groups on what rights mean in Ethiopia and in the development of laws. Repeated challenges to the judiciary by the executive, administrators, and other judges are hardly conducive to the effective dispensation of justice. Last, but not least, the government needs to recognize and value the role of civil society organizations in educating the public and contributing to the development of new laws.

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Recommendations on dialogue and reconciliation

Despite their strongly held views on the events of the recent past and their causes, roundtable participants also expressed strong views on the need for national dialogue and reconciliation as a means to finding durable solutions to the challenges facing the country.

To open the door to meaningful dialogue it was recommended that the government of Ethiopia move swiftly to release all political prisoners, lift the ban on political parties and end harassment of civic groups. The lead up to the celebration of Ethiopia's second millennium would be an appropriate time to free such prisoners.

It was also recommended that the government agree immediately to a process of inclusive national reconciliation and the opening of a constructive dialogue.

For its part, the Ethiopian opposition was enjoined to act responsibly and legally. Opposition parties and groups should engage in good faith dialogue with the government with full respect for the accomplishments the country has made in the face of many challenges.

Canada, other donors and international non-governmental organizations should help create the space for dialogue, peace and reconciliation, in part, by providing support to strengthen Ethiopian civil society and the participation of non-governmental actors and their capacities for advocacy. They should also engage with all Ethiopian political forces both inside and outside the country.

The Ethiopian diaspora also has a role to play in fostering peace and reconciliation. But there is much work to be done to build trust among the diverse diaspora groups and between the diaspora and the government of Ethiopia.

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Recommendations on Democratic Practice

It's not enough to talk about adherence to a separation of powers; real reform is needed to support getting the balance right between the executive, legislative, and judicial branches of government and enabling government based on the informed consent of all Ethiopians.

A central objective should be to develop an environment where civil society organizations, the legislative branch, the judicial institutions and government can work together effectively. Another leading objective should be to focus on capacity-building and strengthening accountability.

To avert a replay of the violence that marred the 2005 elections, both the government and opposition should agree on modalities for the 2010 elections, including how to guarantee the perceived and actual independence of an electoral commission.

Canada and other donor countries should exert constructive pressure for the application of political and other democratic rights, including freedoms of association, assembly and the press. One focus of diplomatic efforts should be on the application of the rule of law and the immediate release of political prisoners. Further more it was recommended that Canadian NGOs and other international agencies actively enhance democratic empowerment and the protection of human rights through capacity building in advocacy, civil society networking and training.

Long-term engagement and responding to priorities defined by Ethiopians were seen as key to effective donor action in this area, as in others.

It was also noted that the African Peer Review Mechanism -- a core component of the New Partnership for Africa's Development (NEPAD) that aims to encourage better governance -- could serve as a vehicle for improving democratic practice in the short- and longer-term. Through the APRM, African countries submit their economic, corporate and political governance, plus their socio-economic development, to peer review. Each country that undertakes its review is supported by technical assistance from other parts of Africa. It's a voluntary process, but already half of African countries, including Ethiopia, have agreed to participate and Ghana, Rwanda, Kenya and South Africa have completed their reviews.

A main outcome of the review process in each country is a national Program of Action, which describes the actions the country will take to strengthen governance in the different sectors. Drawing up a national Program of Action is above all participatory, for it includes stakeholders from all quarters of society -- government, the private sector and civil society. In doing so, it encourages and facilitates dialogue between stakeholders and promotes consensus on issues that require resolution. Implementation of the Program of Action is monitored by the APRM heads of state. With Prime Minister Meles taking up the Chair of the NEPAD executive committee as of June 6, 2007, Ethiopia will be expected

to undertake its own review in the near future.

The roundtable recommended that Ethiopians look to the peer review process as a possible avenue by which dialogue can be pursued in order to achieve reconciliation.

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as well as human rights violations.

- Ensure the involvement of women and minorities, and develop policies to promote inclusion.

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Recommendations on Justice System Reform

Justice system reform should include support from Canada and other donors, international NGOs and the Government of Ethiopia for reform that goes beyond the judiciary to include lawyers, prosecutors, police and prison personnel. Priority areas should include:

- Training in legal issues, human rights and ethics (theory combined with practice) to all judicial institutions, including lawyers, prosecutors, police and prison personnel;
- Improving and standardizing basic legal education (currently underway);
- The establishment of “Stakeholder Forums” -- judicial stakeholders need to come together, strengthen relationships to discuss justice sector issues and allow for the involvement of civil society organizations that have legal expertise;
- Establishing mechanisms to strengthen monitoring and reporting by rights groups as well as by other stakeholders (Stakeholders’ Forum) on interference in the legal process

Acknowledgements

We are deeply grateful to our panelists – Dr. Kinfe Abraham, Dr. Paulos Milkias, Jennifer Khor, Dr. Getachew Begashaw, Professor Mammo Muchie and Professor Alemayehu (Al) G. Mariam (for submitting a written brief), and our session chairs and moderators – Peggy Mason, Chair of the CPCC; Aklilu Wendaferew, Chair of SOCEPP-Canada; Alex Neve, Secretary General of Amnesty International Canada; Razmik Panossian, Director of Programs at Rights and Democracy; Bernard Taylor, Executive Director of Partnership Africa Canada and to Professor

We also sincerely thank the International Development Research Centre, Rights and Democracy, the Canadian Peacebuilding Coordinating Committee, Partnership Africa Canada and Amnesty International Canada for their financial support for the event, and CANADEM for the use of its conference facility.

Special thanks are also due Nicolas Moyer and Engudai Bekele of the Canadian NGO Network in Ethiopia, and the members of the planning group in Canada: Aklilu Wendaferew and Solomon Workneh of SOCEPP-Canada; Tag Elkhazin, Subsahara Centre; Bernard Taylor, Partnership Africa Canada; Hilary Homes, Amnesty International Canada; David Lord and Yasemin Ugursal, CPCC; and CPCC volunteers and interns, Emily Wall, Ebon Carmichael, Andrea Marchylo and Gypsi Fellows.

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