

**ETHIOPIA:
COMMENTS ON
THE DRAFT
CHARITIES AND
SOCIETIES
PROCLAMATION**

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

Amnesty International is deeply concerned by the repressive Draft Charities and Societies Proclamation, which clearly aims not only to undermine and frustrate the work of independent civil society organizations in Ethiopia but also to bar foreign non-governmental organizations (NGOs) such as Amnesty International from operating in the country. The Draft Proclamation demonstrates the government's increasing intolerance of the work of human rights defenders and civil society organizations, and would seem to be a ploy by the government to conceal human rights violations and prevent public protest and criticism of its actions. If passed into law, the Draft Proclamation would frustrate the work of human rights defenders and NGOs, both Ethiopian and international, and would have an irreversibly negative impact on the protection of human rights in Ethiopia.

The Government of Ethiopia issued revisions of the Draft Proclamation in June and in August 2008. This comment analyses the version issued in August 2008.¹ Amnesty International considers that the Draft Proclamation remains inconsistent and incompatible with Ethiopia's national and international human rights obligations and that, if it is passed into law, it will have an extensive and damaging effect on the human rights situation in Ethiopia. Many restrictive provisions contained in the first draft of the bill have not been altered, including the exclusion of foreign NGOs from human rights and other activities in Ethiopia; the prohibition of Ethiopian charities receiving more than 10% of their funding from outside Ethiopia; the unduly burdensome requirements that must be fulfilled in order for organizations to obtain and keep a license and therefore operate legally; intrusive and unwarranted levels of state surveillance of charities and NGOs through a newly created Charities and Societies Agency. As a result of revisions to the draft, penalties for non-compliance with the Proclamation are less specific, but there are still disproportionate and criminal penalties for even minor administrative breaches.²

The provisions of the Draft Proclamation violate international and regional human rights treaties, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights to which Ethiopia is a party. Amnesty International is seriously concerned that if this proclamation is passed, it would lead to an increase in human rights violations in particular violations of the rights to freedom of expression, association and assembly. The Draft Proclamation also violates provisions of the Ethiopian Constitution, especially Article 31, which provides that "Everyone shall have the right to form associations for whatever purpose."

This is a brief commentary on some of the most repressive provisions of the Draft Proclamation in light of the obligations and commitments of Ethiopia under international and regional human rights treaties to which the Government of Ethiopia is a State Party. Where this commentary refers to 'foreign' NGOs, it should be read as meaning NGOs which are not registered or headquartered in Ethiopia. Amnesty International urges the Government of Ethiopia not to pass the Draft Proclamation into law, as to do so would violate the internationally recognized human rights of Ethiopian citizens and undermine the work of human rights defenders and independent civil society organizations.

2. CONTEXT OF THE DRAFT PROCLAMATION

The Draft Proclamation should be read in the context of the Government of Ethiopia's ongoing human rights violations in the country and repression of NGOs and humanitarian organizations. Amnesty International has documented numerous instances where human rights defenders and civil society activists have faced persecution and intimidation by security forces in Ethiopia.

These have included the detention and torture of the leadership of the Ethiopian Teachers Association (ETA), and the creation of a rival pro-government union which appropriated the name of the ETA, and the harassment and persecution of staff of the Ethiopian Human Rights Council. Two illustrative examples of cases where the Government of Ethiopia has sought to repress NGOs active in Ethiopia are outlined in more detail, below.

THE PROSECUTION OF DANIEL BEKELE AND NETSANET DEMISSIE

Daniel Bekele is the policy manager of ActionAid in Ethiopia. Netsanet Demissie is the founder and director of the Organization for Social Justice in Ethiopia. Both are prominent human rights lawyers. In November 2005, they were both arrested during major political unrest following the national elections of May 2005. There were demonstrations in Addis Ababa in June and November 2005 protesting alleged election fraud. The demonstrations were violently dispersed and security forces shot dead 187 people. Six police officers were also killed.

Both men were held and tried along with leaders of the opposition Coalition for Unity and Democracy party and a number of Ethiopian journalists. They chose to enter a defence, unlike their co-accused, during a trial process that ran for over two years. In December 2007, they were convicted by a majority verdict of the Ethiopian Federal High Court of provoking and preparing "outrages against the Constitution" and were sentenced to 30 months imprisonment. Amnesty International believes they were prisoners of conscience, detained and convicted solely for their peaceful work as human rights defenders. On 28 March 2008, both were pardoned, after signing a letter apologizing for their actions.

The detention and prosecution of these two prominent human rights defenders demonstrates the risks and obstacles facing civil society actors who carry out legitimate activities in Ethiopia. Their prolonged detention and conviction were not only grave violations of their fundamental human rights, but they have had an intimidating effect on other human rights defenders working in Ethiopia.

THE EXPULSION OF HUMANITARIAN AGENCIES FROM THE SOMALI REGION

On 26 July 2007, the International Committee of the Red Cross (ICRC) confirmed that it had been ordered by the Government of Ethiopia to leave the Somali region of Ethiopia, also known as the Ogaden. It was given only seven days to pull out, after 12 years of presence in the region.

The ICRC has a strict policy of independence and impartiality, and before the expulsion order was supplying medical supplies, and carrying out water and sanitation projects in the region, as well as visiting detention facilities and monitoring the treatment of detainees. As of 14 October 2008, the ICRC had not been allowed to return to the Somali region.

In August 2007, two sections of Medecins sans Frontieres (MSF) reported that they were being repeatedly denied access to their programs in the Somali region, in spite of a signed agreement with the government and a presence in Ethiopia since 1984.

A spokesperson of the Government of Ethiopia was quoted by Integrated Regional Information Networks (IRIN) as rejecting the accusation and claiming that the Government of Ethiopia had "never blocked any NGO" from the region. The spokesperson also accused MSF of making "political statements," reporting "fabricated stories" and having "an agenda of blackmailing the Government of Ethiopia."³

These incidents are only two of many instances where the Government of Ethiopia has sought to repress NGOs active in Ethiopia. Amnesty International fears that these cases and other similar instances demonstrate that the agenda of the Government of Ethiopia in drafting the Draft Proclamation is to create a legal framework to enable repression of and state control over NGOs, particularly those that may be perceived as too critical of government policies, or which may expose human rights abuses perpetrated by Ethiopian security forces.

3. COMMENTS ON KEY PROVISIONS IN THE DRAFT PROCLAMATION

THE DRAFT PROCLAMATION'S PROVISIONS AND OBJECTIVES ARE INCONSISTENT AND INCOMPATIBLE WITH ETHIOPIA'S INTERNATIONAL AND NATIONAL HUMAN RIGHTS OBLIGATIONS AND COMMITMENTS

According to its preamble, the Charities and Societies Draft Proclamation claims to “ensure the realization of citizens’ right to association enshrined in the Constitution” and to “aid and facilitate the role of charities and societies in the overall development of Ethiopian people.” However, the substantive provisions of the Draft Proclamation do exactly the opposite. They contain extraordinary measures that would thwart the work of individuals and independent civil society organizations, and which are aimed at putting the operation of non-governmental organizations directly under the control of the government. The Draft Proclamation characterizes legitimate human rights work as “illegal acts and illegal activities” in a bid to clamp down on any NGOs that are deemed too critical of government policies. It would impose an unnecessary and politically motivated registration regime on existing civil society organizations by requiring them to re-register under a new law. Given the broad grounds upon which registration could be refused, and the wide discretionary powers of a government-controlled agency (the Charities and Societies Agency) to be created under the Proclamation, as well as the history of government repression and undermining of NGOs outlined above, it is very unlikely that ‘unfriendly’ civil society organizations would be re-registered. Amnesty International fears that if enacted the Proclamation would be used to disband remaining independent NGOs throughout the country, and would put in jeopardy the efforts by these organizations to promote respect for human rights.

These draft provisions also raise doubts about the willingness of the government of Ethiopia to uphold its good faith obligations to its own citizens, including under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights, both of which the government has ratified.

Article 110 of the revised Draft Proclamation declares ineffectual “[a]ny law, regulations, directives or practice contrary to this Proclamation.” In addition to undermining Ethiopia’s own Constitutional provisions, this article is a breach of Ethiopia’s international human rights obligations and commitments. A State Party may not invoke the provisions of its national law as justification for its failure to implement an international treaty.⁴ In this sense, States parties are obliged to repeal or amend domestic laws to ensure that they are consistent with international treaties, and to adopt measures to ensure the implementation of the obligations contained in the treaties to which they are a party.

THE DRAFT PROCLAMATION WOULD DIRECTLY IMPINGE INTERNATIONAL STANDARDS BY PROHIBITING OR RESTRICTING ACCESS OF DOMESTIC HUMAN RIGHTS NGOS TO FOREIGN FUNDING AND BY EXCLUDING THE WORK OF 'NON ETHIOPIAN OR FOREIGN ORGANIZATIONS'

Under the Draft Proclamation, local human rights NGOs or "Ethiopian Charities and Societies" would be prohibited from receiving more than 10% of their funding from foreign sources. The membership of these organizations must be entirely comprised of "Ethiopians," and the organizations must be "funded or controlled by Ethiopians."⁵

These provisions have several grave implications for human rights defenders and for victims of human rights violations throughout Ethiopia. The level of funding which NGOs need to operate and function effectively is not available in Ethiopia, particularly given the current economic climate in the country. Most local human rights NGOs in Ethiopia are therefore heavily dependent on "foreign" donations and support.

These provisions also clearly amount to interference in and restriction of the work of independent human rights NGOs in Ethiopia. They directly violate the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by the General Assembly in 1999.⁶ This Declaration sets out a series of principles and standards aimed at ensuring that states fully support the efforts of human rights defenders and ensure that they are free to conduct their activities for the promotion, protection and effective realization of human rights without hindrance or fear of reprisals. Specifically, Articles 13 and 14 of the Declaration guarantee to everyone the right to: solicit, receive and utilize resources for the express purpose of promoting and protecting human rights through peaceful means. The individuals and NGOs who defend human rights need to have material and financial resources in order to carry out their work. Human rights defenders and NGOs cannot rely on being paid for the services they provide; the victims of human rights violations and the other people whom they represent or assist are mostly poor and vulnerable.

Prohibiting human rights NGOs from raising necessary foreign funds for their work in a country where such support is lacking or unavailable is to render these organizations inoperable. It could be expected to force many NGOs to close their offices entirely. This would in turn directly impinge the rights to freedom of expression, association and assembly, which are fundamental to the work of human rights defenders and NGOs. These rights are enshrined in the Constitution of Ethiopia, the International Covenant on Civil and Political Rights (ICCPR)⁷ and the African Charter on Human and Peoples' Rights.⁸ While the rights to freedom of expression, association and assembly are not unlimited, international human rights law prevents governments from arbitrarily restricting these rights. In respect to the rights contained in the ICCPR, the UN Human Rights Committee has stated:

States Parties must refrain from violation of the rights recognized by the Covenant and any restrictions on any of those rights must be permissible under the relevant provisions of the Covenant. Where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions

be applied or invoked in a manner that would impair the essence of a Covenant right.⁹

The African Commission on Human and Peoples' Rights (the African Commission) has repeatedly affirmed the rights to freedom of expression, association and assembly. The African Commission's Declaration of Principles on Freedom of Expression in Africa, adopted at the 32nd Session of the African Commission held in October 2002 in Gambia, reaffirms the fundamental importance of freedom of expression as a means of ensuring respect for all human rights, stating that freedom of expression is a fundamental human right and an indispensable component of democracy.¹⁰ The Declaration makes clear that any restrictions on freedom of expression should be proscribed by law, serve a legitimate interest and be necessary in a democratic society. This echoes the language of the ICCPR which states:

"No restrictions may be placed on the exercise of [the right to freedom of association] other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."¹¹

The African Commission Resolution on the Right to Freedom of Association also makes specific reference to the limits of any restriction on the right to freedom of association:

1. The competent authorities should not override constitutional provisions or undermine fundamental rights guaranteed by the constitution and international standards;
2. In regulating the use of this right, the competent authorities should not enact provisions which would limit the exercise of this freedom;
3. The regulation of the exercise of the right to freedom of association should be consistent with State's obligations under the African Charter on Human and Peoples' Rights.¹²

The African Union (and the Organization of African Unity before it) has repeatedly affirmed the importance of the work of human rights defenders and NGOs. The AU/OAU Ministerial Conference on Human Rights at Grand Bay, Mauritius in April 1999, called on "African governments to take appropriate steps to implement the UN Declaration on Human Rights in Africa."¹³ In 2004 the African Commission on Human and Peoples' Rights appointed a Special Rapporteur for Human Rights Defenders in Africa. In its resolution, the African Commission on Human and Peoples' Rights called on member states:

to promote and give full effect to the UN Declaration on Human Rights Defenders, to take all necessary measures to ensure the protection of human rights defenders and to include information on measures taken to protect human rights defenders in their periodic reports.¹⁴

Amnesty International believes that the Draft Proclamation fails to comply with the above directives by the AU and the African Commission on Human and Peoples' Rights and directly contravenes international law on the rights to freedom of expression, association and assembly, in particular because it places unreasonable limitations on the enjoyment of these freedoms.

For a country hosting the Headquarters of the AU, the Draft Proclamation stands in sharp contrast to the human rights objectives of the pan-African institution, and is a direct affront to its authority and mandate.

Further, under Article 14 of the Proclamation, foreign NGOs are inexplicably barred from taking part in activities concerning: human and democratic rights; equality of nations, nationalities, peoples and gender; protection of the rights of the child and disabled persons; conflict resolution or reconciliation; justice and law enforcement services. References to gender, children and disabled persons' rights groups have been added into the August 2008 draft. This restriction is, however, said not to apply to foreign NGOs operating in Ethiopia once they have signed an agreement with the Government of Ethiopia.¹⁵

Amnesty International fears that the Draft Proclamation would be used to prevent foreign human rights NGOs and Ethiopian human rights defenders from carrying out practically any human rights work in Ethiopia. In fact, the Draft explicitly forbids foreign civil society organizations from doing any human rights related work in the country. Such provisions mean that some foreign human rights NGOs would no longer be able to legally operate in Ethiopia. Amnesty International views these restrictions on foreign NGO operations as a violation of the right to freedom of association and contrary to the UN Declaration on Human Rights Defenders, which affirms the right of everyone to, individually and in association with others, promote and strive for the protection and realization of human rights at the national and international levels.¹⁶

THE DRAFT PROCLAMATION WOULD ALLOW STRICT GOVERNMENT CONTROL AND INTERFERENCE IN THE OPERATION AND MANAGEMENT OF CIVIL SOCIETY ORGANIZATIONS

Under the Draft Proclamation, a government-appointed and government-controlled Charities and Societies Agency (CSA) would oversee the operation and management of all civil society organizations in Ethiopia.¹⁷ The CSA, which would only be accountable to the Minister of Justice, a political appointee, would have broad discretionary powers to regulate NGO activities, including the power to refuse to accord legal recognition to NGOs and to disband existing and fully registered NGOs.¹⁸

If the Draft Proclamation becomes law, NGOs would be forced to register with the CSA, but registration could be denied on several grounds. The August 2008 draft does not contain the exceptionally broad ground for refusal of it being considered "that it is unlikely that the proposed society will achieve its purposes by virtue of its rules, insufficiency of funds or any other reason," which was included in the earliest draft. However, the CSA could still refuse registration "if there is sufficient reason to believe that the proposed charity or society is to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order in Ethiopia."¹⁹The CSA also has powers to revoke the license of a duly registered organization at any time on virtually the same grounds.²⁰

The Proclamation would also require civil society organizations to establish "a General Assembly," which must inform the CSA of the time and place of each of its meetings.²¹ Civil society organizations would be required to seek approval of the CSA before establishing a branch office, changing names or places of business, amending rules, and using any kind of

symbol or flag.²² In making inquiries, either 'general or particular', into charities, the CSA may make use of any information, including from the public and from government agencies. The CSA may order production or a copy of any document for the general purpose of 'discharging its functions,' which it is then entitled to keep.²³

The August 2008 draft of the Proclamation states that non-compliance with any of the provisions of the Proclamation would result in penalties prescribed by the criminal code. Amnesty International does not believe that the penalties would be less draconian than those detailed in the previous drafts.²⁴ Certain provisions of the latest Draft Proclamation carry specific penalties. For example, if a charity exceeds an allocation of 30% of its expenses in a given budget year on administrative activities, that charity would face a minimum fine of 10,000 birr (more than U.S. \$1,000) and any officer involved would face a minimum fine of 5,000 birr (more than U.S. \$500) and up to five years imprisonment.²⁵ These penalties, including heavy fines and lengthy minimum terms in prison, are disproportionate to the 'crimes' created by the Proclamation, are open to abuse by authorities, and would hamper the freedom of anyone involved in civil, charitable or human rights work.

Together, the above highlighted provisions of the Draft Proclamation amount to an unjust and unlawful attack on the rights of human rights defenders and NGOs to develop and discuss new human rights ideas and principles and advocate their acceptance, have effective access, on a non-discriminatory basis, to participation in the government and in the conduct of public affairs, and to lawfully participate in peaceful activities to monitor and prevent violations of human rights.²⁶

Amnesty International believes these provisions would impose unacceptable restrictions on the activities of independent civil society organizations and are inconsistent with international law and standards on, among other things, the rights to freedom of expression, association and assembly. The CSA would not offer the necessary guarantees of independence and impartiality and could be used to prevent the registration of any organization perceived to be critical of the government, or to interfere unduly with the activities of such organizations.

The UN Declaration on Human Rights Defenders states that human rights defenders, whether individuals or organizations, "shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."²⁷

The above highlighted provisions are wholly inconsistent with the UN Declaration on Human Rights Defenders and would very likely be used by the Government of Ethiopia as tools to intimidate, harass, repress and victimize those organizations deemed unfriendly by the government.

Article 3 of the UN Declaration on Human Rights Defenders provides that domestic law, consistent with states' international human rights obligations, shall form the juridical framework for the enjoyment of human rights, and for carrying out human rights activities. Article 4 provides that nothing in the Declaration shall be construed as impairing or

contradicting the purposes and principles of the Charter of the United Nations or the provisions of international and regional instruments relevant to the promotion and protection of the rights of defenders. Both Articles five and six reaffirm the human rights of everyone to, individually or in association with others: meet or assemble peacefully; form, join and participate in NGOs, associations or groups; and communicate with NGOs or intergovernmental organizations. These Articles also guarantee the right to: know, seek, obtain, receive and hold information about human rights; freely publish, impart or disseminate to others views, information and knowledge on human rights; and study, discuss, form and hold opinions on the observance, both in law and in practice, of human rights. In order to secure enjoyment of these rights, the independence and freedom of NGOs and other civil society organizations is essential. However, the restrictions contained in the Draft Proclamation, and the burdensome requirements it contains, mean that it would, if enacted, undermine the rights of Ethiopian citizens to participate freely in civil society.

THE DRAFT PROCLAMATION WOULD DIRECTLY VIOLATE INTERNATIONAL STANDARDS OF FAIRNESS

The Draft Proclamation would not only establish several 'criminal offences' to punish those legitimately engaged in human rights work, it would also completely remove any avenues of fair trial, except a limited administrative review process, which would also be prone to manipulation. No foreign NGOs would be able to challenge the actions of the CSA or its director before a competent, independent and impartial court. As Article 105 of the Draft Proclamation provides, only the "Ethiopian charity or society or any interested Ethiopian aggrieved by the decision of the minister may appeal to the federal high court on questions of law within 15 days from the date of his decision." But the Draft Proclamation contains no provision for appeal to a higher tribunal according to law. Also, Ethiopian NGOs designated as 'foreign NGOs' because they receive "more than 10% of their funding from foreign sources" may be denied the right to fair trial.²⁸ Amnesty International is deeply concerned that human rights defenders and members of independent NGOs would be at risk of being denied their right to a fair trial once they are cited for violating the provisions of the Proclamation. This is entirely inconsistent and incompatible with Ethiopia's international human rights obligations. Article 14 of the International Covenant on Civil and Political Rights (ICCPR) provides that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." Article 14(5) provides that "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."

4. AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE GOVERNMENT OF ETHIOPIA

In light of the inherent dangers of the Draft Proclamation, and the cases of previous attacks against human rights defenders and members of independent civil society groups outlined above, Amnesty International calls on the Government of Ethiopia to:

- Immediately withdraw the Draft Proclamation: passing it into law would violate internationally recognized human rights of Ethiopian citizens and undermine the work of human rights defenders and independent civil society organizations.
- Incorporate international human rights law and standards into national law and ensure all provisions are fully implemented.
- As Ethiopia has ratified among other things, the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, national legislation must be brought in line with the fundamental rights and freedoms contained in these legal standards, recognizing and impartially enforcing them.
- Repeal or amend all national legislation which is inconsistent and incompatible with international human rights law and standards including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights.
- Ensure that the principles contained in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms are incorporated into national law and fully implemented. Authorities at all levels of government should explicitly commit themselves to respect, protect and fulfill human rights, and to protect human rights defenders.
- Issue invitations to the following: The UN Special Rapporteur of the United Nations Secretary General on the promotion and protection of the right to freedom of opinion and expression, the independence of judges and lawyers; the UN Special Rapporteur on the situation of human rights defenders; and the African Commission Special Rapporteur on Human Rights Defenders

1 Amnesty International first released this comment on June 10 in response to the first draft of the proclamation (AI Index: AFR 25/005/2008) . It has since been revised and updated to correspond with the most recent draft which was released by Ethiopian authorities in August.

2 See Section 10, Article 103 (1). According to the second draft, anyone who participated in the management of any 'unlawful' or unregistered NGO would have faced a fine of 10,000 to 20,000 birr and a minimum of 5 years, up to 15 years imprisonment. This was an increase from the penalty contained in the original draft of a maximum of 10,000 birr and 5 years. It would be a criminal offence, punishable by fines of 5,000 birr and up to 10 years, with a minimum of 3 years, in prison, for any person to attend a meeting of an 'unlawful' NGO. This had increased from a maximum of 5,000 birr and 2 years. It would also be a criminal offence, punishable by fines of up to 5,000 birr and up to 5 years imprisonment, with a minimum of 3, for anyone to print, disseminate or display information 'in the interests of an unlawful charity.' According to the original draft, the maximum penalty was 5,000 birr and 2 years imprisonment.

3 Ethiopia: Government denies 'blocking' NGO, <http://www.irinnews.org/Report.aspx?ReportId=74107>, accessed 24 October 2008

4 See articles 26 and 27 of the Vienna Convention on the Law of Treaties (1969). Article 26 refers to the principle of *pacta sunt servanda* stating that "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." This is recognized as a rule of customary international law.

5 Draft Charities and Societies Proclamation, Articles 2(2); 2(3); 2(4)

6 Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,.

7 International Covenant on Civil and Political Rights, Articles 19, 21, 22

8 African Charter on Human and Peoples' Rights, Articles 9, 10, 11

9 General Comment No. 31, Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, CCPR/C/21/Rev.1/Add.1, at para. 6.

10 African Commission on Human and Peoples' Rights, Declaration of Principles on Freedom of Expression in Africa, I (1), October 2002, Gambia.

11 International Covenant on Civil and Political Rights, Article 22 (2).

12 African Commission on Human and Peoples' Rights, Resolution on the Right to Freedom of Association, Tunis, March, 1992.

13 Organization of African Unity, Grand Bay (Mauritius) Declaration and Plan Of Action, adopted at Grand Bay, Mauritius on 16 April 1999, para 19.

14 African Commission, Resolution on Protection of Human Rights Defenders in Africa, 35th Ordinary Session, Banjul, the Gambia, June 2004. See also, Amnesty International, "Towards the Promotion and Protection of the Rights of Human Rights Defenders in Africa. Amnesty International's recommendations to the Focal Point on Human Rights Defenders of the African Commission on Human and Peoples' Rights," 19 March 2004, AI Index: IOR 63/004/2004.

15 Draft Charities and Societies Proclamation, Article 3(2)(b).

16 Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 1

17 Draft Charities and Societies Proclamation Section Two, Article 4-13.

18 Draft Charities and Societies Proclamation, Article 6

19 Draft Charities and Societies Proclamation, Section 5, Article 70.

20 The license of a charity or society shall be cancelled where, 'it has been used for unlawful purposes or for purposes prejudicial to public peace, welfare or security.' Draft Charities and Societies Proclamation, Article 94 2(b)

21 Draft Charities and Societies Proclamation, Article 87.

22 Draft Charities and Societies Proclamation, Articles 73-75.

23 Draft Charities and Societies Proclamation, Section 7, Articles 85 and 86.

24 Draft Charities and Societies Proclamation, Section 10, Article 103 (1). According to the second draft, anyone who participated in the management of any 'unlawful' or unregistered NGO would have faced a fine of 10,000 to 20,000 birr and a minimum of 5 years, up to 15 years imprisonment. This was an increase from the penalty contained in the original draft of a maximum of 10,000 birr and 5 years. It would be a criminal offence, punishable by fines of 5,000 birr and up to 10 years, with a minimum of 3 years, in prison, for any person to attend a meeting of an 'unlawful' NGO. This had increased from a maximum of 5,000 birr and 2 years. It would also be a criminal offence, punishable by fines of up to 5,000 birr and up to 5 years imprisonment, with a minimum of 3, for anyone to print, disseminate or display information 'in the interests of an unlawful charity.' According to the original draft, the maximum penalty was 5,000 birr and 2 years imprisonment.

25 See n.24.

26 Towards the Promotion and Protection of the Human Rights of Human Rights Defenders in Africa (AI Index: IOR 63/004/2004 19 March 2004

27 Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 17

28 Draft Charities and Societies Proclamation, Article 2(3)

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