



**Ethiopia's Compliance with The International Covenant on Civil and Political Rights:
The Death Penalty**

Submitted by

The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (World Coalition), an alliance of more than 160 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report addresses Ethiopia's compliance with its human rights obligations with regard to the death penalty. Although there are currently 147 people on death row in Ethiopia (143 men and 4 women), the country has not carried out an execution since 2007 and has also pardoned and released 41 people from death row since 2011.¹ The Federal Supreme Court of Ethiopia has also issued sentencing guidelines that further reduce the likelihood of persons being sentenced to death as a punishment for their crimes.² Even with those changes, however, the country does not limit the death penalty to the most serious crimes, it is not taking steps toward a de jure moratorium on executions or ratification of the Second Optional Protocol, and it does not ensure that defendants in capital cases have a fair trial. Moreover, the high number of extrajudicial killings and evidence of due process violations, including the use of torture by state actors, raise concerns.

Ethiopia fails to uphold its obligations under the International Covenant on Civil and Political Rights

I. Ethiopia's death penalty practices are not in compliance with Article 6, 7, and 14 of the Covenant. (List of Issues Paragraphs 8, 9, 10, and 11)

Ethiopia has not abolished the death penalty or acceded to the Second Optional Protocol to the Covenant.

2. The Committee inquired whether Ethiopia "intends to abolish the death penalty and accede to the Second Optional Protocol to the Covenant."³ In response, Ethiopia asserted that there has not been any shift with respect to Ethiopia's position to abolish the death penalty and accede to the Second Optional Protocol.⁴
3. Article 15 of the Constitution of the Federal Democratic Republic of Ethiopia states that the death penalty may be imposed as punishment for a "serious criminal offence determined by law."⁵ There are currently 147 people on death row (143 men and 4 women), although the country has not carried out an execution since 2007 and authorities pardoned and released 41 additional people 2011.⁶ The most recently known execution seems to have been carried out in 2007; Major Tsehai Wolde Selassie had been convicted of shooting and killing a close ally of former Prime Minister Meles Zenawi and was likely executed by a firing squad.⁷

¹ Committee against Torture, *Third periodic report submitted by Ethiopia under article 19 of the Convention, due in 2014*, (Mar. 6, 2019), Advanced Unedited Version, ¶ 112; World Coalition Against the Death Penalty, *Ethiopia*, available online at <https://worldcoalition.org/pays/ethiopia/> (last visited Aug. 31, 2022).

² Committee against Torture, *supra* note 1.

³ Human Rights Committee, *List of issues in relation to the second periodic report of Ethiopia*, U.N. Doc. CCPR/C/ETH/Q/2, (Jan. 19, 2021), ¶ 9.

⁴ Human Rights Committee, *Replies of Ethiopia to the list of issues in relation to its second periodic report*, U.N. Doc. CCPR/C/ETH/Q/2, (Nov. 3, 2021), ¶ 40.

⁵ 1995 CONSTITUTION (Ethiopia), art. 15, available online at <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf>.

⁶ Committee against Torture, *supra* note 1.

⁷ Reuters, *Ethiopia carries out rare execution* (Aug. 6, 2007), available online at <http://www.reuters.com/article/idUSL06550887>.

4. Ethiopia has not moved to abolish the death penalty from its Constitution. Furthermore, despite the country's declining reliance on the death penalty, Ethiopia has denounced the UN General Assembly's resolutions proposing a global moratorium on the death penalty.⁸

Ethiopia does not limit the death penalty to the most serious crimes.

5. The Committee requested "additional information on the measures taken to ensure that the death penalty is imposed only for the most serious crimes and in compliance with [A]rticle 14 of the Covenant."⁹ Ethiopia asserted that "the adoption of sentencing guidelines by the Federal Supreme Court [of Ethiopia] is the most notable measure taken to ensure the imposition of death penalty only for the most serious crimes in effect making it to be in line with Article 14 of the Covenant."¹⁰ Ethiopia further noted that "the sentencing guideline further narrowed the likelihood of imposition of the death penalty for the most serious crimes."¹¹
6. Despite these assertions, Ethiopia does not limit the death penalty to intentional killings by the defendant. Currently, conviction of the following crimes may result in a death sentence: (i) aggravated murder; (ii) other offenses resulting in death; (iii) terrorism-related offenses resulting in death; (iv) terrorism-related offenses not resulting in death; (v) robbery not resulting in death; (vi) economic crimes not resulting in death; (vii) treason; (viii) espionage; (ix) military offenses not resulting in death; (x) war crimes, crimes against humanity and genocide; and (xi) attempted crime, which is punishable by the same punishment as the crime that was intended.¹²
7. According to the Criminal Code of the Federal Democratic Republic of Ethiopia, a crime may still be punishable by death even if that particular crime does not normally carry a death sentence.¹³ For example, if a criminal result was achieved through endangering public health or safety, the sentencing authority may impose an increased penalty, including a death sentence.¹⁴
8. The Ethiopian Criminal Code permits courts to reduce sentences based on statutory or court-designated mitigating factors; there are no offenses that carry a mandatory death sentence.¹⁵ Death sentences may not be imposed on persons who were under the age of 18 at the time of the offense, pregnant women, and "fully or partially irresponsible or seriously ill person[s]."¹⁶

⁸ Cornell Center on the Death Penalty Worldwide, *Federal Democratic Republic of Ethiopia (Ethiopia)*, <https://deathpenaltyworldwide.org/database/#/results/country?id=25>, (see the International Law Commitments, at 4.6 UN Human Rights Bodies) (last updated May 13, 2014).

⁹ *List of issues in relation to the second periodic report of Ethiopia*, *supra* note 3, ¶ 9.

¹⁰ *Replies of Ethiopia to the list of issues in relation to its second periodic report*, *supra* note 4, ¶ 39.

¹¹ *Ibid.*

¹² *Federal Democratic Republic of Ethiopia (Ethiopia)*, *supra* note 8 (see National Death Penalty Laws and Judicial Decisions, at 3.2 Capital Offenses).

¹³ *Ibid.*, citing The Criminal Code of the Federal Democratic Republic of Ethiopia, arts. 66(2), 187(2), Proclamation No. 414/2004 (May 9, 2005).

¹⁴ *Ibid.*

¹⁵ *Ibid.*, citing The Criminal Code of the Federal Democratic Republic of Ethiopia, arts. 82-86, 179, Proclamation No. 414/2004 (May 9, 2005).

¹⁶ *Ibid.*, citing The Criminal Code of the Federal Democratic Republic of Ethiopia, arts. 117(1), 176, 119-120, Proclamation No. 414/2004 (May 9, 2005).

Ethiopia's use of extrajudicial killings is widespread with insufficient investigation and penalties in place.

9. The Committee requested that Ethiopia respond to “the continued reports of extrajudicial killings by law enforcement personnel, including members of the regional police special force, and security forces, especially in the Amhara and Oromiya Regions.”¹⁷ Ethiopia asserted that “a number of disturbances occurred across the country in the reporting period which led to the loss of life” and that “accountability for extra-judicial killings committed during these disturbances in particular and over the past three decades in general is one of the key priorities of the criminal investigations being carried out against members of the law enforcement and security forces.”¹⁸ As an example, Ethiopia stated that “six members of the National Defense Force [were] on trial for killing 9 and wounding 6 civilians at Moyale town on March 10, 2018” and “after identifying victims and their family members, the Government, in consultation with community elders, has paid 75,000 and 150,000 Ethiopian Birr each for the wounded and family members of the deceased, respectively.”¹⁹
10. As noted in the 2018 Human Rights Foundation Report for the Universal Periodic Review of Ethiopia, extrajudicial killings by state actors has been a widespread issue in Ethiopia.²⁰ From 2014 to 2018, Amnesty International documented roughly 100 extrajudicial executions by special police forces acting in the Oromia and Somali regions of the country and noted that authorities had not opened formal investigations into any of the documented incidents.²¹
11. Despite Ethiopia’s assertions, recent events suggest that extrajudicial killings by state actors have continued. In November 2020, fighting between the ENDF and Tigray People’s Liberation Front Regional Security Forces resulted in an armed conflict in the northern part of the country.²² The U.S. Department of State’s 2021 Human Rights Report for Ethiopia noted credible reports that during the conflict, (i) the government and its representatives committed arbitrary and unlawful killings, and (ii) Amnesty International, Human Rights Watch, and the UN Office of the High Commissioner for Human Rights in collaboration with the EHRC had reported numerous cases of unlawful or extrajudicial killings.²³ Although the Ethiopian government took some steps toward holding government security forces accountable for abuses, it kept confidential any penalties imposed against the perpetrators and, according to the U.S. Department of State, some perpetrators were not prosecuted at all.²⁴
12. On September 13, 2021, the UN High Commissioner for Human Rights reported that it had “received disturbing reports that local fishermen found dozens of bodies floating along the river crossing between Western Tigray and Sudan in July. Some allegedly had gunshot wounds and bound hands, indications that they might have been detained and tortured before being

¹⁷ *List of issues in relation to the second periodic report of Ethiopia*, supra note 3, ¶ 8.

¹⁸ *Replies of Ethiopia to the list of issues in relation to its second periodic report*, supra note 4, ¶ 38.

¹⁹ *Ibid.*

²⁰ Human Rights Foundation, *Universal Periodic Review Submission for Ethiopia* (Oct. 4, 2018), ¶ 17, available online at <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6482&file=EnglishTranslation>.

²¹ Amnesty International, *Submission for the UN Universal Periodic Review 33rd Session of the UPR Working Group*, 6-17 May 2019, 3-4 (Oct. 2018).

²² United States Department of State, *Ethiopia 2021 Human Rights Report*, (2021), 1-3, available online at https://www.state.gov/wp-content/uploads/2022/03/313615_ETHIOPIA-2021-HUMAN-RIGHTS-REPORT.pdf.

²³ *Ibid.*

²⁴ *Ibid.*

killed.” The U.S. State Department referenced media reports that one witness counted 60 bodies in this location, that the victims were believed to be Tigrayans incarcerated by the ENDF and associated militias, and that a Sudanese forensic expert noted that there were “clear signs of a systematic manner of torture—aggressive and painful violence with intent to kill. The victims were dead before they hit the water.”²⁵

Ethiopia’s violations of rights to due process and a fair trial threaten the right to life.

13. The Committee requested information responding to allegations of: (i) torture or ill-treatment committed against detained persons; (ii) the admission of forced confessions made under torture into evidence; and (iii) a lack of prompt and effective investigation of allegations of torture or ill-treatment.²⁶ Ethiopia asserted that it had taken several measures, including: (i) closing detention centers used for torture; (ii) dropping charges brought against thousands of prisoners based on the express prohibition of illegally obtained evidence in a court of law; and (iii) conducting a criminal investigation that resulted in the arrest of members of law enforcement and senior officials suspected of committing acts of torture.²⁷
14. The Constitution recognizes several due process rights.²⁸ Article 19 prohibits the compulsion of confessions or admissions.²⁹ Article 18 guarantees the right to protection against cruel, inhumane or degrading treatment or punishment.³⁰
15. In the 2018 Universal Periodic Review, UN Member States raised several concerns relating to the use of torture to force confessions.³¹ Misbah Kedir, who was imprisoned for unfounded charges connected to a prison fire, reportedly collapsed from the torture used in his interrogation to force his confession.³² Similarly, Seyoum Teshome, a university lecturer, was severely tortured by over 30 police officers.³³ Seyoum fainted three times during his interrogation, where he was beaten with wood and plastic sticks, kicked, and fist-punched.³⁴
16. Amnesty International has reported that, while the primary aim of torture during interrogation is to extract “confessions” from alleged suspects, torture is also used to force people to testify falsely against others. Noted locations of torture included the Federal Police Central Investigation and Forensic Directorate in Addis Ababa, more commonly known as *Maekelawi*, as well as military bases and jails in several cities in Oromia (Shashemane, Borana, Neqemte, Dembi Dolo), the Amhara region (Gondor, Bahir Dar, Shewa Robit), the Tigray region (Humera, Mekele), and the Somali Region (Jigjiga).³⁵
17. Amnesty International further noted that authorities rarely investigate defendants’ allegations of torture and other ill-treatment and judges have mostly rejected arguments that courts should

²⁵ *Ibid.*, 13-14.

²⁶ *List of issues in relation to the second periodic report of Ethiopia*, *supra* note 3, ¶ 11.

²⁷ *Replies of Ethiopia to the list of issues in relation to its second periodic report*, *supra* note 4, ¶¶ 58, 59, 61.

²⁸ 1995 CONSTITUTION (Ethiopia), *supra* note 5.

²⁹ *Ibid.*, art. 19.

³⁰ *Ibid.*, art. 18.

³¹ *Universal Periodic Review Submission for Ethiopia*, *supra* note 20, ¶ 19.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ Amnesty International, *supra* note 21, at 4.

prohibit the prosecution from introducing into evidence information obtained through forced confessions; rather, courts typically accept evidence regardless of how it was obtained.³⁶

18. In 2017, the Ethiopian Federal High Court ordered an investigation into allegations of torture and other ill-treatment in trials related to a fire that took place in the Qilinto Federal Remand Center in Addis Ababa by the EHRC. Prisoners reported having undergone torture in the Shewa Robit Federal Prison (also in Addis Ababa) after being transferred from the Qilinto Federal Remand Centre following the fire. Although the EHRC investigated these allegations, their report neither confirmed nor denied the allegations of torture and there have been no formal remedies for any of the victims.³⁷

II. Suggested Recommendations for the Government of Ethiopia:

19. The coauthors suggest the following recommendations for Ethiopia:

- Immediately institute a de jure moratorium on executions with a view to abolishing the death penalty and, in the meantime, commute the death sentences of any persons currently under sentence of death and replace them with penalties that are fair, proportionate, and consistent with international human rights standards;
- Collect and regularly publish disaggregated data on the current number of persons on death row, including sex, age, ethnicity and offence;
- Ratify the Second Optional Protocol to the ICCPR;
- Amend the Ethiopian Criminal Code to eliminate any provisions authorizing the death penalty for any crime that does not constitute an intentional killing by the defendant;
- Collect and regularly publish data about all complaints received alleging extrajudicial killings, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, accountability measures pursued, and remedies, if any, provided to the victims' families;
- Collect and regularly publish data about all complaints received alleging torture or other ill-treatment during investigation of crimes, in police custody, and in detention facilities, including the nature of the complaint, the authority receiving the complaint, investigative measures taken, results of the investigation, accountability measures pursued, and remedies, if any, provided to the victim. The data provided should include all complaints received alleging torture or other ill-treatment in the following circumstances: during investigation of an alleged crime; during the period in which a person is on trial for a criminal offense; while a person is held in pre-trial detention; while a person is detained after conviction while any appeals are pending; and while a person is detained after conviction after the exhaustion of any appeals;
- Implement measures to ensure impartial, thorough, and transparent investigations into cases of torture perpetrated by state actors and regulate interrogation methods and their procedures, duration, and location; and

³⁶ Ibid.

³⁷ Ibid.

- Adopt a definition of torture and ill-treatment in line with international standards, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.