
It is obvious that this decision was not based on any political stance taken by Ms. Birtukan. There is no political issue involved for the pardons granted to her the other co-defendants who share her political convictions were not revoked. In truth all the pardoned prisoners are free to exercise their rights to engage in political activities including the right to travel freely at home and abroad. Indeed the fact that they are free to travel throughout all the regions in Ethiopia and engage in major political activities proves that espousing a different political view does not entail imprisonment in Ethiopia.

Ms. Birtukan has not been re-arrested for speaking against the government or for her opposing political views. She returned to prison because she herself said her pardon had been granted on the basis of deception. Her open declaration that she has never regretted her criminal conducts or lodged a petition for pardon constitutes a violation of the terms of her release. Ethiopian Government continues to make all efforts to ensure that rule of law is respected. The FDRE government has repeatedly clarified its position on this matter. Ethiopia is not a country where the government bows to pressures aimed at forcing it to apply one set of rules to the downtrodden and another for a select few that foreign governments might speak through any diplomatic push or State Department campaign designed to recast prosecutions of crimes as human

rights violations. Thus, it is for this reason alone that the campaign to depict those that must be held legally accountable --- regardless of their foreign support---as political victims is unacceptable.

4. Allegations on Denial of Access to a Fair Trial

The State Department Report notes that the Ethiopian constitution provides for the independence of the judiciary, however it expresses its disappointment on this score too:

“The Judicial system lacks the power to interpret the Constitution and that this interpretation solely remains with the House of Federation of the Parliament”.

Every country has its own mechanisms of interpreting its constitution. In this respect, there is no uniform practice among nations. In certain systems the power to interpret the constitution lies with the judiciary while in other this power is vested on other institutions designed specifically for this purpose. The Ethiopian Constitution clearly states that the power of constitutional interpretation should not be left to the judiciary. Instead it is left to the direct representatives of the people. Fundamentally sound as this theory is, since this model was chosen based on national interest, the issue is exclusively a matter for the Ethiopians themselves to decide.

By confusing issues of judicial independence with that of constitutional interpretation, the State Department Report gives the impression that judicial independence is absent in Ethiopia. This is far from the truth. An independent judiciary has nothing to do with the power of constitutional interpretation. Any arrangement that does not copy the American judicial model cannot therefore be discounted as lacking judicial independence. This accusation is based on erroneous premises. It appears to be yet another attempt to distort Ethiopia's image.

5. Allegations of the Use of Excessive Force

This section of the State Department report is based on allegations made by Human Rights Watch, the ONLF and the militants of the terrorist Al-Shabaab in Somalia. These accusations have already been addressed in a repeated and detailed government response last year, a response which the State Department Report chose to ignore. The State Department report continually blames government forces for the destruction of villages that were clearly committed by the ONLF. Just like Human Rights watch and Amnesty International, the Report uncritically repeats Al-Shabab's claim that the Ethiopian soldiers had committed atrocities in Somalia. The State Department makes no effort to mention

the response of the Government to these allegations. Instead, it merely repeats the accusations. The Report, in fact, provides numerous clear examples of bias and refrains from making any effort to provide objective assessment of the issue of human rights in Ethiopia. These accusations have no trace of fairness, justice or sensitivity at all.

Part two

“Respect for Civil Liberties”

1. Freedom of speech and the press

The State Department claims that while the Ethiopian Constitution provides for freedom of speech and the press, the government does not respect these rights, in practice. It accuses the government of repeated harassment and prosecution of journalists. It alleges that both the independent media and government journalists routinely practice self-censorship. The report even claims that the government owns the only newspaper publishing establishment, even though the government’s monopoly hold on publishing and printing operations had actually ended 18 years ago. Countless newspapers and books are printed at numerous private printing houses. From the zeal with which such preposterous allegations are leveled it is not difficult to infer ulterior political motive. Article 29 of the federal constitution which provides full guarantee to the right of freedom of expression also declares the abolition of all forms of censorship, though this had in practice been

abolished in 1995, four years before the adoption of the Constitution, in 1995. Any suggestion that journalists exercise some sort of direct or indirect self-censorship to avoid adverse consequences does not reflect the reality in Ethiopia. Suffice to say that the prevalence of low level of professionalism among most Ethiopian journalists working for private media and their strong conformational disposition as well as the absence of a voluntary press council that foster a culture of self-restraint, demonstrates one thing. Indeed journalists' resistance to heed any advice to form such a council explains the total absense of ethically motivated self-restraint. Conversely, the proliferation of news papers and magazines promoting hatred and contempt to the government and seditious libels pervades the media climate in Ethiopia. A cursory glance at the contents of any circulating newspaper suffices to refute the baseless allegation that intimidation or fear of prosecution has induced self censorship among journalists in Ethiopia.

A comprehensive understanding of the conditions of the press in Ethiopia requires a thorough reading of the constitution, the media law and its practical operation. The current media law in Ethiopia was enacted in compliance with the constitution. This law was mainly intended to promote, implement and give effect to the rights and liberties recognized by the constitution. The government commissioned internationally renowned media law experts to involve in the process of developing and enriching the media

law which contains provisions that do not essentially differ from laws in developed democracies. The new law fosters an enabling media environment in Ethiopia. The inclusion of a comprehensive freedom of information provisions in the media law which enables citizens to access information clearly shows not only the practical implementation of freedom of expression but bolsters the ever growing progress in developing the scope and extent of the right in Ethiopia.

It has now been years since a conducive media atmosphere was created that fosters ample space for the free exercise of freedom of expression via speech, text and other diverse outlets. This climate has spawned an increasing number of privately owned radio stations, newspapers and magazines. It has also given impetus for the proliferation of independent film production, and theatrical works that are screened and staged at will. In general, continuous efforts have been made to progressively improve the relationship between the state and journalists and to facilitate the ground for free, independent and unrestricted functioning of the media.

At an embryonic phase as it is, the press in Ethiopia has not reached a level of professionalism. In consequence offences and misdeeds committed through the press occur frequently. If therefore the media is to improve and act responsibly it has to shed its own flawed habits and traits.

Though it was the responsibility of journalists

themselves to put in place a self-regulatory mechanism, they nevertheless failed to do so despite continuous government insistence. This is one reason why the Ethiopian press eschewed legal responsibility whenever an offence is perpetrated through the private media. Thus, a media landscape has been created where there is no self-regulatory mechanism to correct misconducts and to prevent incidences of media crimes. The absence of a self-regulatory mechanism has left no option other than a frequent resort to legal measures in order to ensure accountability to the law.

This being the case, had the State Department had a sincere concern for the development of the press in Ethiopia, it ought to have criticized those chronic problems that fettered the development of professionalism in the media, namely the lack of appropriate skill and the absence of desire among media practitioners to establish a voluntary self-regulatory mechanism. While such is the reality, the State Department, nevertheless, conversely chose to focus on the very system which through its constitution provides guarantees for freedom of expression and fosters an enabling environment for its exercise.

Here we would like to reiterate our official position on offences committed through the mass media. The Ethiopian Government firmly believes that crime, anti-social as it is, shall be dealt with equanimity irrespective of the modality of its perpetration. Thus, whenever crime is committed through mass media, the

government would vigorously conduct inquiry to bring the responsible to justice. The rendering court either acquits or punishes the culprit based on evidence submitted to it. The general pattern followed so far by the government on this matter has not deviated from this legal path. Despite condemnations, the government does not believe that the measures it has taken so far in the course of discharging its responsibility to ensure the prevalence of the rule of law constitute violation of any human rights. For it has carried out this task in a manner consistent with the principle of human rights.

i) Telecom and Internet Freedom

Attributing the limited expansion of the Internet service to the state's monopoly-hold over telecom, the State Department Report claims that freedom of expression in Ethiopia is restricted. This implies that the government-run Internet outlets constitute human rights violation. This argument emanates from the longstanding difference between the United States and the Ethiopian governments on this matter.

The US government has always adhered to a principle where everything must be determined by the market and that the role of government should not go beyond ensuring law and order. The question of private or public ownership of telecom service cannot be a human right issue, but rather one that pertains to choices of economic policy. From the point of view of economic policy, there is no one correct or faulty position over the question of public or private ownership of telecom.

It is a contentious subject that continues to be debated among nations with no settled agreement. Apart from the economic advantage that could be gained by following either one of the options, the issue of human rights does not enter here. Until the 1990's, for example, the telecom industry in most developed countries was state owned. It is only in the last decade that these countries shifted to privatization of the industry. Just as it is baseless to blame these countries for human rights abuses before liberalizing the telecom, it would be equally ludicrous to criticize Ethiopia on grounds of human rights violation on accounts of its policy preference of retaining telecom within the public sector. What is apparent from this is the whole gamut of the criticism leveled under the guise of human rights abuse is nothing but blatant political and economic interest.

The Report also tries to imply that citizens have no right to access Internet service. Though much is left to be desired, the government has spared no resource or effort to allot a huge budget to telecom-infrastructure expansion aimed at extending its coverage, improving the quality of service and ensuring the widest possible access. There is nothing the government has done to prevent citizens from using the Internet service. A State that firmly believes in and has demonstrated commitment to the constitutionally entrenched freedom of expression cannot be reproached on this score.

Part three

“Respect for Political Rights: the Right of Citizens to Change their Government”

1. Elections and Political Participation.

i) Prohibition on opening an AEUP office

The State Department report states:

“a man named Bekele Girma on October, 2005 requested to open an AEUP office in Dilla City but was denied a permit”.

The officials of Dilla were questioned about the report about Bekele Girma. They said no one had made any such request. Dismissing the allegation as baseless, Samuel Dikabo, Gedeo Zone Administrator said:

“Opposition parties submit their request to establish an office once they are recognized, as such by the Ethiopian Electoral Board. Based on this procedure, we provide the necessary support for any party to open an office. Concerning the AEUP, no request was made to us; no individual came to us to request registration. Other parties, however, have opened offices and are working in Dilla, both before and since the election.”

In fact, the investigating team discovered several functioning opposition political party offices, including

those of the UDJ, the Gedo People Democratic Organization (GPDO) and the CUD led by Ato Temesgen, an activist in Dilla town.

This section of the Report also claims that other opposition party offices were closed. It alleges that in 2005 the ONC had 100 offices and that it was now left with only 2; that the AEUP had 280 offices during the 2005 national elections and is now left with only 25. The Report tries to link the decline in the number of party offices to human and political rights violation. This is palpably wrong. The number of opposition party offices perforce decrease between elections and increase as elections approach. The decline and increase is directly linked to the plans of the parties and their finances. It has nothing to do with the government.

Ethiopia is currently building a multi-party system. As it has made it clear, it does not believe that one party alone can represent the entire population of Ethiopia. The existence of several parties and a multi-party system is guaranteed by the Constitution. The right of parties to organize peacefully and legally is protected by the constitution. The government has no control over the organization of any parties or over how and when they can establish offices. This is entirely dependent upon the interest, plans and capacities of the parties themselves. The State Department Report once again levels accusations on false and misleading information without any effort to verify their validity.

ii) Regarding citizens' rights to elect a government of their choice

In the first page of its Report, the US Department suggests that 'citizen's right to change their government is limited. According to the Report this was demonstrated during the April local and by-elections. It further notes:

"In the 2005 parliamentary elections, the EPRDF won a third consecutive five-year term, in local and by-elections held in April. The EPRDF and allied parties won virtually all the more than three million seats contested severely diminishing opportunities for main stream political opposition ."

The Report then concludes:

"Human rights abuses reported during the year include limitations on citizens' right to change their government in local and by-elections."

This allegation concerning citizen's right to change their government is as baseless as its other allegations and smear campaigns.

A careful probe into the actual conditions regarding elections in Ethiopia would reveal a diametrically opposite picture as can be seen from the following detail.

The Report's claim that citizens in Ethiopia are denied the right to change their government through election is based on the 2008 local and by-elections. The Report does not cast any doubts on the integrity of the 2005

election. This finding itself would refute any accusation that citizens' right to change their government has been severely restricted in local and by-elections is logically inconsistent. For the issue whether or not restrictions are placed on citizens' right to change a government of their own is determined at national and regional elections and not at local and by-elections. This is because transfer of power or change of government can only occur as a result of national and regional elections and not at local polling. No doubt local elections are important. For it is at the level of local councils that decisions are made that impact the day-to-day lives of citizens. Hence it is indisputable that local elections are not means of altering governments at the national level. This is precisely why the State Department did not dare to level this kind of criticism based on national elections. Indeed the Report is absolutely silent regarding abridgements of citizens' right to change the government by one that meets their expectations during the 2005 national and regional elections.

As far as the 2008 local and by -elections are concerned, beyond lamenting the outcome, the Report presents no evidence that either shows much less prove the anti-democratic nature of the process. Again, it could not produce any supporting evidence because it was unable to do so for the 2008 local and by elections were incontestably free and fair. If prove need be, 32 political parties out of which 30 participated to the final

end. The notable exceptions were the OFDM and UEDF which are frequently cited as the primary sources in the Report that condemns Ethiopia as a human rights violator. In what appears to be a ploy intended to beef up the credibility of the Report, these parties withdrew from the race a week before the polls opened. Other than these parties who on accounts of their own problem withdrew from the process, the ruling and opposition parties as well as newly formed ones have registered all their candidates to run in the race. No parties were barred from fielding candidates. During the electioneering campaign all opposition parties had free access to the media beyond their size of their parliamentary seats warrant. It must be said that the election was peaceful and democratic from start to finish where the electorate voted for those it felt were better qualified among the available candidates.

This being the case, certain institutions in the US measure democratic nature of the election in Ethiopia not by the independence, fairness and integrity of the process but rather by the number of seats won by opposition parties. In this respect one might recall the International Republican Institutes' (IRI), a US organization declaration made prior to the 2005 national election in Ethiopia, that the election could not be fair and democratic unless opposition parties will obtain one third of the seats. IF the US department's accusation that Ethiopia's 2008 local and by-elections

were undemocratic is based on such assumptions, it is a serious error. This assumption is fundamentally wrong by any democratic standards. The fairness and democratic integrity of any election can not be measured by the level of success or failure of opposition parties alone.

Certainly, the 2008 local and by-elections conducted for the third time in Ethiopia, have been carried-out in accordance with the Constitution. The elections were held without discrimination, the legal rights of citizens to vote and stand in election in a free, fair and independent electoral process as well as their right to organize themselves in a political party or any form of association of their choice had been fully secured and enforced. The elections were conducted within a comprehensive regulatory framework in which all electoral laws and regulations which treat all parties and individual candidates fairly and equitably were put in place and all parties and independent candidates had equitable access to the media.

It is to be recalled that the ruling party had emerged victorious in last year's local and by-elections. The electoral process was conducted in a fair and free atmosphere which provided equal opportunity to all. If the US Department, dismayed as it were, by the results of the election thinks that opposition-victory as a yard stick to measure the availability of democratic governance and respect for human rights in Ethiopia,

then, it ought have to stated this very clearly. Unless the defeat of the opposition is considered a blemish, the electoral race was otherwise democratic from beginning to end.

Measured by democratic standards, elections in Ethiopia reflect the overall democratic process in which citizens in similar polities elect to power a party or candidate of their own choice. What the 2005 election in Ethiopia amply signifies is that citizens in Ethiopia can place in power a party of their preference.

Certainly, in national and regional elections held in 2005, the ruling party had won the majority seat of the federal parliament while the opposition received one third of the seats. A situation where one party almost exclusively sweeps the entire seats of a city council is not new in Ethiopian electoral history. The EPRDF is not the first party in Ethiopia to successfully win a hundred percent of the seats in a council. The opposition Coalition for Unity and Democracy (CUD) also scored a land slide victory in which entitled it to take a hundred percent of the seats in the Addis Ababa city administrative council in 2005. The State Department, however, is silent on the 2008 local and by-elections. The State Department has failed to adduce a shred of evidence to prove any irregularity. However, the State Department's desire to level accusations that are not supported by any evidence betrays its concealed disappointment with the results of the ballot.

The Government believes that elections are measured by the fairness of the processes and not by their outcome. Cognizant of this principle it has exerted every effort to ensure the integrity and fairness of the 2008 local and by-elections. Consider the case of those convicted and sentenced for an attempt to overthrow the duly elected government and who afterwards were released on pardon after expressing remorse. These individuals were subsequently free to exercise their democratic political rights and participate in the election. On the basis of the principles of universal enfranchisement voter registration was carried out. As a result, far more voters were registered. During the campaign period all parties had a three month access to the national media in proportion to the number of seats they hold in parliament. Parties were indeed able to freely pass their messages across and submit their alternative political agenda to the electorate. Finally, vote was cast to elect those, among contending parties which citizens felt represent their interest best. What is worth noting here is that not a single party claiming to be aggrieved had lodged any complaint during the electoral processes.

Conclusion

The Ethiopian Government has presented above its core research-based differences it has with the State Department's Annual Report on Human Rights in Ethiopia. The government research has proven that the bulk of the State Department Report on human rights is

baseless. Just like Human Rights Watch's release, the State Department Report is a compilation of hearsay on which it piles allegations after allegation combined with distortions of unrelated problems as human rights violation. The Report blames the Ethiopian government for opposition party members that in incidents private dispute fought and killed each other. Likewise, it indicts the government for individuals who died of natural causes. More serious, the Report suggests that the government should take responsibility for terrorist acts that targeted civilian citizens. Similarly, in a strange topsy-turvy the Report tries to implicate Ethiopia in the harm caused by land mines deliberately implanted by the Eritrean government. Worse even, the State Department has even gone to the extent of making a case of human right violation matters that pertain to policy differences, reinforcing the smear campaign against Ethiopia.

Even though several conclusions can be drawn from the State Department's Report, it is important to highlight two areas of focus. The first concerns the question why is the Report bases itself on unfounded grounds. The second relates to the nature of the relationship between the sources that the Report relied on and the United States.

As we have repeatedly shown in detail the State Department Report is based on baseless grounds. Firstly, all the evidences presented are full of deceit with no foundation in fact. Not only did the State Department fail to make any effort to consult with the Ethiopian government before it issued the Report, but also chose

to ignore the solid evidence in its hands. For instance, after seriously following the trial of Daniel Bekele and Nesanet Demese through a representative, the State Department even goes to saying that the defendants were unaware of the charges brought against them and the court sentenced them to terms of imprisonment. What we can adduce from this is that the whole problem has nothing to do with lack of facts and evidence. In fact, the preferred approach followed in the preparation of the Report is identical with that applied by the likes of Human Rights Watch and Amnesty International along with duplications of their litany of unsubstantiated allegations. Unless driven by a political agenda, the whole Report has nothing to do with human rights. But one thing can be said with certainty. The campaign being conducted under a smokescreen of human rights concern to discredit a government that takes its own independent stand, only creates confusion around the issue of human rights.

The second fallacy of the Report is that it is exclusively based on information supplied by opposition parties and non-government organization. In addition to those we cited above, these include indigenous NGOs and political parties are Coalition for Unity and Democracy (CUD), All Ethiopian Unity Party (AEUP), the Oromo Federal Democratic Movement (OFDM), the Oromo National Congress (ONC), the Ogaden National Liberation Front (ONLF), the Oromo Liberation Front (OLF), the former Ethiopian Teachers Association, the Human Rights Council (EHRC), the Ethiopian Women Lawyers Association(EWLA), the private media, the

Evangelical Church Organization, Wake Feta and the likes. Among the external sources the Report used are, UNHCR, Human Rights Watch, Committee for the Protection of Journalists and the UNICEF.

It is therefore important to properly identify the nature of the relationship between, on the one hand, these organizations, particularly the indigenous ones that supply fictitious information, and on the other, the United States government. It is well known that these organizations survive on direct and indirect funding from the US government. Obviously these organizations report to the US government fabrications of violation done to them to ensure the flow of crumbs from their underwriter. As they depend on such handouts they have made a habit of fabricating fictitious grievances.

On its part, though the US government knows very well that these organizations cannot stand on their leg, it maintains their precarious existence by a thin financial life line in exchange for gathering trivial information. The US government's shameful Report emanated from this kind of promiscuous liaison. That is why the Ethiopian government categorically rejects the accusation contained in the State Department's Report as the baseless work of rumormongers and political opportunists.

The quest which the Government's investigation could focus, we would like to emphasize firstly that the State fails to use any of the information available. The report all too often ignores the absence of evidence and the lack of any correlation between the State Department's claims and any human rights' issues. It is difficult

to believe that this consistently negative approach is purely accidental.

Secondly, the State Department report relies almost exclusively on information provided by opposition parties, individuals, and domestic or international non-governmental organizations with a very clear record of defamation and even of campaigning against the Government. We have listed some of these above (page 2). Here, it is of vital importance to appreciate the nature of the relationship between these organizations and the US Government. These relationships are intrinsically unhealthy, based as they are on a culture of dependence, with the organizations and groups dependent upon the US for material needs. As a result they have every incentive to exaggerate and provide politically motivated reports in return for direct or indirect financial gains. Although the US government knows only too well that these organizations do not have the capacity to function independently, it continues to ensure their survival in return for information flows irrespective of their accuracy. This is the methodology and approach on which the State Department's Report is based.

It is on these grounds that the Government of Ethiopia must expose this report as seriously flawed. It is grossly inaccurate, highly unreliable both in its facts and its interpretations, and sloppy in presentation. It should be used, if at all, with extreme caution.

