

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

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Excellency,

We have the honour to address you in our capacity as Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism pursuant to Human Rights Council resolutions 27/1, 25/2, 24/5, 25/18, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **brutal repression of peaceful protests since mid-November 2015 in the Oromia region**.

Concerns relative to the application of the Anti-Terrorism Proclamation 652/2009 have been expressed several times in previous communications sent by Special Procedures since its implementation in 2009, especially in communications ETH 4/2011, ETH 7/2011, ETH 1/2012, ETH 4/2012, ETH 2/2014, ETH 6/2014, ETH 1/2015, ETH 2/2015, and ETH 4/2015. We take note of the responses of your Excellency's Government to communications ETH 4/2011, ETH 4/2012 and ETH 6/2014, but regret that no response has been received to date to communications ETH 7/2011, ETH 4/2012, ETH 2/2014, ETH 1/2015, ETH 2/2015, and ETH 4/2015. The application of the Anti-Terrorism Proclamation 652/2009 has also been the subject of a press release on 18 September 2014 issued by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special

Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the Independence of Judges and Lawyers, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment¹.

According to the information received:

Since mid-November 2015, several peaceful demonstrations have been organised by students throughout the Oromia region to protest against the “Addis Ababa Integrated Development Master Plan”. The aim of this plan, designed by the Ethiopian authorities, is to expand Addis Ababa’s municipal boundary by potentially clearing a forest, as well as seizing agricultural land in the Oromia region. The first peaceful protests were organised in Ginchi, 80 kilometres from Addis Ababa, before spreading to the Oromia region, where students were joined by farmers and other people.

It is alleged that the police and military forces violently repressed several peaceful demonstrations, by firing live ammunitions on protesters. As a result, since mid-November, at least 75 persons have reportedly been killed, while the Government acknowledged that only five protesters had been killed. Opening fire on protesters by security forces were reported in the Shewa and Wollega provinces as well as in the town of Walliso in December 2015. The bodies of dead protesters were allegedly left lying on the streets. There are also reports of beatings as well as arrests of protesters by security forces. The whereabouts of at least eight protesters’, who were taken by the police, remain unknown to date.

On 15 December 2015, Ethiopian State intelligence services issued a statement, which claimed that Oromo protesters had “direct connection with forces that have taken mission from foreign terrorist groups”, labelling protesters as “terrorists” without producing substantiated evidence to link these persons with terrorist activities. Such an allegedly unfounded label permits the Government to enforce the Anti-Terrorism Proclamation 652/2009 against protesters, authorising the use of unrestrained force against “suspected terrorists”, including pre-trial detention of up to four months.

The Anti-Terrorism Proclamation 652/2009 was reportedly extensively applied since its entry into force, as well as lately, in April and May 2014, after the organisation by students of some peaceful protested in the Oromia region, which led to the alleged killing as well as the arrest and detention without charges of several protesters. On 2 December 2015, five Oromo students were convicted under the same law for their role in the 2014 protest movement. No official

¹ Please see: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15056&LangID=E>

investigation into the alleged excessive use of force and use of live ammunitions during the 2014 protests has reportedly been initiated to date.

On 16 December 2015, the Ethiopian Prime Minister allegedly said on state television that the authorities will “take merciless legitimate action against any force bent on destabilizing” the country. The authorities also allegedly mentioned that Ethiopia’s Anti-Terrorism Task Force would be the institution leading the response against the protests.

Due to the reported shutdown of mobile phone coverage in some areas where there is significant military deployment, as well as the limited access to the region by media and members of the civil society, scarce information is available about the situation in some parts of the Oromia region.

Grave concern is expressed regarding the alleged violent repression of peaceful protests against the “Addis Ababa Integrated Development Master Plan” in the Oromia region since mid-November 2015, which has reportedly led to the killing of at least 75 people and numerous injured protesters, as well as the lack of investigation against the use of violence by the police and security forces, and the alleged arrest, detention and disappearances of several protesters.

While we take note of the responses from the Government to communications ETH 4/2011, ETH 4/2012 and ETH 6/2014, which affirm that the Anti-Terrorism Proclamation 652/2009 is in compliance with the fundamental rights and freedoms enshrined in the Ethiopian Constitution and is based on the best practices drawn from countries with well-established democratic systems, we wish to reiterate our concerns at its continuous application against voices of dissent, including peaceful protesters. We express particular concern that the application of the Anti-Terrorism Proclamation 652/2009 criminalises peaceful protests, restraining the legitimate exercise of the right to freedom of expression and of peaceful assembly. Concerns also relate to the designation of the Ethiopia’s Anti-Terrorism Task Force as the institution leading the response against the protests. We also express concerns at the shutdown of mobile phone coverage as a form to further stifle the right to freedom of expression, the access to the information and prevent the organisation from conducting peaceful demonstrations.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency’s Government to the international principles and norms applicable to the present case.

We would also like to draw the attention of your Excellency’s Government to the rights to freedom of expression and opinion and freedom of peaceful assembly as set forth respectively in articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Ethiopia on 11 June 1993, and articles 9 and 11 of

the African Charter on Human and People's Rights (ACHPR), which Ethiopia ratified on 15 June 1998.

We would also like to refer to article XII (1) of the Declaration of Principles on Freedom of Expression in Africa, where public figures shall be required to tolerate a greater degree of criticism and any sanctions imposed for such criticism should not be so severe as to inhibit the right to freedom of expression.

In addition, we would like to draw the attention of your Excellency's Government to the fundamental principles set forth 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to highlight articles 1, 2, 5 and 12. In this context, we wish to also refer to Human Rights Council resolution 22/6, which urges States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law and that it is not used to impede or restrict the exercise of any human right (OP 4). It further urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which reminds States that it is their obligation of States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline as well as to take measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

Furthermore, in his first thematic report to the Human Rights Council, the Special Rapporteur on the rights to freedom of peaceful assembly and of association called upon States to "strictly and narrowly define the offence of terrorism in line with international law" and to ensure that any restrictions on the rights to freedom of peaceful assembly and of association are prescribed by law, which is necessary in a democratic society, and proportionate to the objective pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Therefore, any restrictions should be subject to an independent, impartial, and prompt judicial review (A/HRC/20/27, paragraph 84 (d) and (e)).

With regards to the allegations of excessive use of force by law enforcement officials that resulted in allegedly at least 75 persons killed, and the leading role of the Ethiopia's Anti-Terrorism Task Force in the State's response to the protests. we wish to draw your Excellency's Government's attention to Articles 3 of the Universal Declaration

of Human Rights, 6 (1) of the ICCPR and 4 of the ACHPR, which respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

Furthermore, we would like to draw your attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. Moreover, the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to these instruments, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning, and providing medical assistance as soon as possible when necessary. Principle 9 of the Basic Principles further stipulates that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

In relation to the allegations according to which the whereabouts of at least eight protesters are unknown, we would like to recall the prohibition to practice, permit or tolerate enforced disappearance (article 2); the obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance (article 3); that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7); the right to be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention and the obligation to make available accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest (article 10); and the obligation to maintain in every place of detention an official up-to-date register of detained persons (article 12).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the above-mentioned rights in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide the details, and when available the results, of any investigation, medical and judicial, or other inquiries carried out in relation to the killing of protesters in the context of the abovementioned peaceful protests. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information concerning the legal grounds for the arrest and detention of the protesters, as well as the charges brought against them, indicating how these are in compliance with international norms and standards.
4. Please provide the details and where available, the results, of any judicial investigation, or any criminal charges and other inquiries carried out in relation to the aforementioned incidents. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please provide information on the compliance of the Anti-Terrorism Proclamation 652/2009 with international human rights norms and standards, in particular with regard to the rights to freedom of peaceful assembly and freedom of expression.
7. Please provide detailed information concerning measures to ensure that everyone, including human rights defenders, can exercise their rights to freedom of peaceful assembly and expression in Ethiopia without fear of

harassment or retaliation, including the ability to peacefully express views critical of the human rights situation and of the governance.

8. Please provide information on whereabouts of the alleged disappeared protesters. If their fate and whereabouts are unknown, please provide the details on any investigation or other inquiries which may have been carried out. If no inquiries have taken place, or if they have been inconclusive, please explain why.
9. Please provide information concerning the legal grounds for the shutdown of mobile phone coverage, indicating how this measure is in compliance with international norms and standards, especially with the right to freedom of expression and the right to peaceful assembly.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would like to bring to the attention of your Excellency's Government that should the sources submit the allegations concerning the enforced disappearances as a case to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by separate correspondence.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Involuntary Disappearances

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