

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES

**ASSESSING THE EFFECTIVNESS OF THE ETHIOPIAN HUMAN
RIGHTS COMMISSION IN LIGHT OF THE 1991 PARIS PRINCIPLES**

BY
HELINA AZEZE

JUNE 2014
ADDIS ABABA

ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES

**ASSESSING THE EFFECTIVENESS OF THE ETHIOPIAN HUMAN
RIGHTS COMMISSION IN LIGHT OF THE 1991 PARIS PRINCIPLES**

HELINA AZEZE

ADDIS ABABA, JUNE 2014

**ASSESSING THE EFFECTIVENESS OF THE ETHIOPIAN HUMAN
RIGHTS COMMISSION IN LIGHT OF THE 1991 PARIS PRINCIPLES**

BY

HELINA AZEZE

**A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES OF
ADDIS ABABA UNIVERSITY IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE AWARD OF THE DEGREE OF MASTER OF
ARTS IN INTERNATIONAL RELATIONS**

ADVISOR: DR SOLOMON MEBRIE

**ADDIS ABABA UNIVERSITY
COLLEGE OF SOCIAL SCIENCES
DEPARTMENT OF POLITICAL SCIENCE AND INTERNATIONAL
RELATIONS**

JUNE 2014

**ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES**

**ASSESSING THE EFFECTIVENESS OF THE ETHIOPIAN HUMAN
RIGHTS COMMISSION IN LIGHT OF THE 1991 PARIS PRINCIPLES**

**BY
HELINA AZEZE**

APPROVED BY THE BOARD OF EXAMINERS

Advisor

Signature

External Examiner

Signature

Internal Examiner

Signature

Table of Contents

Acknowledgements.....	iii
List of Abbreviations.....	iv
Abstract.....	vi
General Introduction.....	1
1.1 Background.....	1
1.2 Problem Statement.....	3
1.3 Objectives of the Study.....	4
1.3.1 General Objective.....	4
1.3.2 Specific Objectives.....	4
1.4 Research Questions.....	5
1.5 Significance of the Study.....	5
1.6 Scope of the Study.....	6
1.7 Methodology and Methods of Data Collection.....	6
1.8 Organization of the Study.....	7
Chapter One: Conceptual Framework and Literature Review	8
1.1 The Concept of National Human Rights Institutions.....	8
1.2 Overview of Perspectives on the Establishment of National Human Rights Institutions....	10
1.3 The Paris Principles.....	12
1.3.1 Elements of the Paris Principles.....	15
1.3.1.1 Independence	15
1.3.1.2 Defined Jurisdiction and Adequate Powers.....	18
1.3.1.3 Accessibility.....	18
1.3.1.4 Cooperation.....	19
1.3.1.5 Operational Efficiency.....	19
1.3.1.6 Accountability.....	20
1.4 Evolution of National Human Rights Institutions	20

Chapter Two: Human Rights in Ethiopia	25
2.1 Overview of the Development of Human Rights in Ethiopia.....	25
2.2 Human Rights Protection under the 1995 FDRE Constitution.....	28
2.3 The Political Dynamics and Allegations of Human Rights Violations in Ethiopia since the 1990s.....	30
2.4 Origin and Development of Ethiopian Human Rights Commission.....	36
Chapter Three: Ethiopian Human Rights Commission In Light of the 1991 Paris Principles.....	43
3.1 Defined Jurisdiction and Powers of Ethiopian Human Rights Commission.....	43
3.2 Independence of Ethiopian Human Rights Commission.....	46
3.3 Accessibility of Ethiopian Human Rights Commission.....	49
3.3.1 Accessibility by Awareness	49
3.3.2 Physical Accessibility.....	52
3.4 Cooperation.....	54
3.5 Operational Efficiency of Ethiopian Human Rights Commission.....	58
3.6 Accountability of Ethiopian Human Rights Commission.....	60
Chapter Four: Effectiveness of Ethiopian Human Rights Commission.....	63
4.1 Effectiveness of Ethiopian Human Rights Commission In Light of the Paris Principles.....	63
4.2 Conclusion.....	69
4.3 Recommendations.....	71
References.....	72
Appendices.....	77

Acknowledgements

I am indebted to the almighty God for opening opportunities and making my dreams come true. A special thanks goes to my advisor Dr. Solomon Mebrie for his constructive comments and suggestions from the beginning to the end.

Thank you very much my husband for your priceless support and assistance. My family, your courage is the source of my strength and I will always be grateful for that.

I am grateful for all the people who assisted me and gave me information and interview starting from the initial stage of this study. I am also thankful for my friends, Political Science and International Relations department lecturers and my class mates for making my stay at the university enjoyable and easier.

List of Abbreviations

ACHPR- The African Charter on Human and Peoples' Rights

APAP- Action Professional Association for the People

CAT- Convention against Torture

CRC- Convention on the Rights of the Child

CSO- Civil Society Organization

ECOSOC- Economic and Social Council

EHRC- Ethiopian Human Rights Commission

EHRCO- Ethiopian Human Rights Council

EPRDF- Ethiopian Peoples' Revolutionary Democratic Front

ERTA- Ethiopian Radio and Television Agency

ESCR- Economic, Social and Cultural Rights

EWLA- Ethiopian Women Lawyers' Association

FDRE- Federal Democratic Republic of Ethiopia

GONGOs- Government Organized Non Governmental Organizations

HRCO- Human Rights Council

ICCPR- International Covenant on Civil and Political Rights

ICERD- International Convention on the Elimination of all forms of Discrimination

ICESCR- International Covenant on Economic, Social and Cultural Rights

ICHRP- International Council on Human Rights Policy

IGOs- Inter Governmental Organizations

MOU- Memorandum of Understanding

NGOs- Non Governmental Organizations

NHRIs- National Human Rights Institutions

OHCHR- Office of the High Commissioner for Human Rights

OLF- Oromo Liberation Front

ONLF- Ogaden National Liberation Front

OSD- Organization for Social Development

OSJ- Organization for Social Justice

TGE- Transitional Government of Ethiopia

UDHR- United Nations Declaration of Human Rights

UN- United Nations

UNCHR- United Nations Center for Human Rights

UNDP- United Nations Development Program

UNHRC- United Nations Human Rights Commission

US- United States

Abstract

National Human Rights Commissions are institutions established by nations across the world to protect and promote human rights. As such, the Ethiopian Human Rights Commission is established for similar purpose. Hence, this thesis aims at assessing the effectiveness of the Ethiopian Human Rights Commission.

It seeks to discover whether the Commission has met up with the protection and promotion of human rights as the sole purpose for which it was created. To achieve this, the thesis examines the activities of the Commission since it started operation. It generally assesses the Commission's effectiveness in light of some key elements of the Paris Principles particularly its mandate and powers; accessibility; independence; operational efficiency; accountability and its cooperation with international organizations, other human rights institutions and the civil society.

By using qualitative methodology, this thesis analyzed both primary and secondary sources of data collection. The primary sources include analysis of the Proclamation which established the Commission, Reports of the Commission, the 1991 Paris principles, interview with the Commissioner, representatives and leaders of EPRDF and opposition political parties, journalists, activists, and representatives of some selected civil society organizations.

To reflect the views of those sections of the society who are vulnerable to human rights violation the empirical data presented in this research paper has been supplemented by an interview with some human rights violation victims who have filed a complaint to the Commission. In addition, to validate the argument of those selected opinion makers a Focus Group Discussion has also been carried out with some selected sections of the society who are believed to represent and relate to the public.

This thesis finally has found that all the assessed elements of the Paris Principles are inadequate and insufficient for the Commission to perform to the expected level. As a result of these findings, the thesis recommends some legislative amendments in order to strengthen the legal framework of the Commission. It also recommends some far reaching measures to both the government and the Commission so as to enhance the Commission's performance and enable it to meet international standards of protecting and promoting human rights.

General Introduction

1.1 Background

In October 1991, guidelines were agreed in the wake of an International Workshop on National Institutions for the Promotion and Protection of Human Rights held in Paris. It was the First International Workshop ever held on National Institutions for the Promotion and Protection of Human Rights. The outcome of this workshop was a set of principles guiding the work and structure of national institutions. These so called 'Paris Principles' recognized that national institutions should be formally established, that they must have some form of guarantee of independence, and that they ought to be distinguished from an ad hoc body.

The Principles also outlined the commissions' mandate with regard to the following activities:

- 1 Publicly promoting human rights
- 2 Advising governments on protection of human rights
- 3 Reviewing potential human rights legislation,
- 4 Assisting governments in the preparation of reports, and
- 5 Receiving and investigating complaints from the public or other bodies of alleged human rights violations (UNCHR Resolution 1992/54, 1992).

These guidelines were endorsed by the United Nations Commission on Human Rights and each country was supposed to establish its own Human Rights Commission. Thus, it has become a highly fashionable step by most countries' governments to establish National Human Rights Institutions NHRIs. As a result, since then National Human Rights Institutions have spread across the globe and are today an important part of domestic institutional frameworks. Countries with different social and political backgrounds have moved to set up these institutions on their own and with encouragement and supports from international actors (Sian, 2013:2).

Hence, 1980s and 1990s have witnessed a rapid growth in what has come to be known as "National Institutions for the Protection of Human Rights," especially in Africa, Australia, Asia and Central and Eastern Europe. Although such national human rights institutions go under a variety of names, there is a certain degree of uniformity in their structure, functions, and powers. Nearly all are established and funded by government, though composed of members of civil

society rather than politicians or bureaucrats (Ibid). Their functions usually include things like investigating alleged violations of human rights, assisting victims before national courts or tribunals, promoting public knowledge of human rights, and conducting research. Many have the task of adjudicating on complaints of human rights violations submitted to them, while some are empowered to conduct visits to prisons and other places of detention.

However, some human rights activists and scholars are suspicious and skeptical about the establishment and operation of National Human Rights Commissions in Africa. For example Human Rights Watch (2001) in its Africa: Human Rights Commissions Have Little Effect Report argues that most of the commissions in Africa are designed not to address human rights abuses but rather to alleviate international community's criticism of human rights abuses.

Since the overthrow of Mengistu Hailemariam's Regime in Ethiopia, Human Rights organizations have began to emerge. Following the establishment of the Ethiopian Human Rights Council (EHRCO) in 1991, more groups have emerged including the Human Rights and Peace Center (Addis Ababa University), A-Bu-Gi-Da, the Center for Human Rights and Democracy, Forum-84, and the Inter-Africa Group.

The Ethiopian Human Rights Commission (EHRC) is considered to be one of the national human rights institutions which is established in compliance with the Paris principles besides the Ombudsman Institute. It is not in doubt that Ethiopia does not have many human rights organizations which can protect and promote human rights. What is lacking is also the ability of the government to uphold and nurture these institutions in order to allow them to function to the expected level.

The Ethiopian Human Rights Commission EHRC was established in July 2000 with an objective of "jointly building one political community founded on the rule of law through the instrumentality of guaranteeing the respect for the fundamental rights and freedoms of the individual and of nations/nationalities and peoples of Ethiopia"¹. The objective of the Commission as stated in its establishing proclamation is to educate the public to be aware of

¹EHRC, (2000), *Ethiopian Human Rights Commission Proclamation No 210.2000*, p; 1.

human rights, see to it that human rights are protected, respected and fully enforced as well as to have the necessary measures taken when they are found to have been violated.

1.2 Problem Statement

It is well known that in all the years of the Derg military rule, the political and human rights situations in Ethiopia suffered very adversely in view of the facts that military regimes in the country, as elsewhere, are not known to be tolerant of most of the human rights provisions. Nor are they known for the development of human rights institutions in their countries. Thus, creation of institutions to protect and promote human rights after the fall of the Derg Regime in Ethiopia is welcomed with suspicion and skepticism. Established in this circumstance of suspicion and skepticism, the Ethiopian Human Rights Commission faced challenges of legitimacy, effectiveness and sincerity. Added to this, many have condemned the existence and effectiveness of the Commission in view of its performance since its establishment.

It is against this background that this research work is embarked on. The thesis therefore, examines the effectiveness of the Ethiopian Human Rights Commission by evaluating its activities based on the Paris Principles since it entered into operation in 2005 till 2013. This is done with a view to identifying factors responsible for its weakness and strength.

After the establishment of the Ethiopian Human Rights Commission EHRC, much of the research on it including material produced by the institution itself, as well as literature propagated by other human rights organizations and academic institutions have been revolving around its impact in the protection of human rights. Since the Paris guidelines are an essential minimum as well as a useful roadmap in assessing the effectiveness of such national human rights institution its effectiveness in the eye of the guidelines has been an aspect absent from the discussion and most of the literatures conducted.

Although the credibility of national human rights institutions depends ultimately on their ability to earn and retain the trust of the public whose interests they have been created to serve, their societal legitimacy is not understood adequately. It is particularly critical to find out in this study, whether poor people and groups who are especially vulnerable to abuse are being protected by the Ethiopian Human Rights Commission.

The crucial measure of the effectiveness of an institution, it would seem, resides in its capacity to respond to the needs of those sections of society at risk of human rights violations. Based on the Paris Principles autonomy and independence are fundamental to such institutions and provided that it meets these basic standards of independence and impartiality, eventually, it is the practice and the performance of the institution as it performs that determines its effectiveness.

The effectiveness of such institutions also goes beyond successful investigation and resolution of complaints. It is the sum total of its ability to be legitimate, accountable, and accessible and the actual practice that emerges out of that performance that produces an effective institution. Having this in mind, this thesis stresses on assessing the effectiveness of the Ethiopian Human Rights Commission in light of the 1991 Paris Principles with a special focus on its mandate and powers; independence; accessibility; cooperation; operational efficiency and accountability.

Since, there is little question that national human rights institutions work most effectively when they are part of a functioning democratic framework, the assessment and the paper's findings will have its own implication in this respect. As with the absence of political and ethnic violence, acceptance of the rule of law, judicial independence, and a democratic or democratizing framework go a long way in creating favorable conditions for a national human rights institutions to be efficient.

1.3 Objectives of the Study

1.3.1 General Objective

The overall objective of this thesis is to assess the effectiveness of the Ethiopian Human Rights Commission based on the key elements of the Paris Principles regarding responsibilities and competence of national human rights institutions.

1.3.2 Specific Objectives

The specific objectives of the study are the following:

- To identify what the Commission has done so far and to find out if the Commission's mandate is as broad as possible.

- To assess its operational efficiency, assess its effectiveness in relation to independence and accountability, physical accessibility and the public's awareness of existence of the Commission and its collaboration with IGOs, NGOs and the civil society in the country and national institutions in other countries.
- And finally, to find out factors that limited its competence and not to perform to the required level and make recommendations for both the government and the Commission.

1.4 Research Questions

I have refined my basic interest in the question of what makes the Ethiopian Human Rights Commission effective into seven areas of research:

- Does the Commission have as broad mandates and powers as possible to promote and protect human rights in the country?
- How independent is the Commission and how far has it succeeded in gaining the public's trust?
- How accessible is Commission to those sections of the society that are most vulnerable to human rights violations? Implicit in this question is its awareness creation activities and its capacity with respect to the total number of the country's population.
- How far does the effectiveness of the Commission derive from the linkages that it is able to build with other institutions in the country? This question especially addresses the link with the civil societies working in the area of human rights in the country.
- What has the Commission achieved so far in human rights monitoring, complaint investigation and in line with this how efficient is it operationally?
- How transparent is it and what does the popular accountability of the Commission look like?
- Is it performing to the desired level and if not what are the factors that hindered it not to perform to the required level?

1.5 Significance of the Study

This thesis is meant to contribute to the progress of the Ethiopian Human Rights Commission role of promoting and protecting human rights by evaluating its performance and finding out its compliance

with the Paris Principles. The findings of this study may be used as a source of information for those who are interested in conducting research on human rights in Ethiopia and the Commission as well. It will be an important input for policy makers and the government to create the conducive environment needed for the Commission to perform to the highest level and for the Commission to make progress and move on performing very well based on the Paris Principles.

Finally, the study will help to bring into attention that the Paris Principles are there as a road map for national human rights institutions to be effective and competent in their respective countries and that it is based on those guidelines that the effectiveness of the Ethiopian Human Rights Commission should be evaluated and not just the activities it performed during the years.

1.6 Scope of the Study

This thesis is basically concerned with the Ethiopian Human Rights Commission and what it has been doing since it entered into operation. The study will cover the time span from the year 2005 until 2013.

1.7 Methodology and Methods of Data Collection

Although there is a wealth of written material about human rights institutions in Ethiopia, it lacks context and, ultimately, does not really communicate how effective the Ethiopian Human Rights Commission is on the ground in light of the 1991 Paris Principles. The only serious way of judging that is by first hand research. But carrying out such research across the country will immensely be time consuming. So, the compromise will be to carry out substantial research in the head quarter's office, Addis Ababa. Hence, this study has employed various techniques to obtain data useful to the study.

By using qualitative methodology, this thesis analyzed both primary and secondary sources of data collection. The primary sources include analysis of the Proclamation which established the Ethiopian Human Rights Commission, Reports of the Commission, the 1991 Paris principles, interview with Commissioner of the Commission, representatives and leaders of EPRDF and opposition political parties, journalists from government medias and the free press, activists, representatives of some selected civil society organizations working in the area of human rights.

To gain a much more balanced picture, it would have been important that the views from the lowest sections of the society who reside in the remote parts of the country, which the institution is mainly supposed to serve were contrasted with the views of those interviewees whom are believed to be representative of the different sections of the society. However, the original plan to get a questionnaire filled by them was not realized because of resource reasons and time constraint. Hence, the empirical data presented in this research paper to reflect the views of these sections of the society has been supplemented by an interview with some human rights violation victims who have filed a complaint to the Commission.

In addition, to validate the argument of those selected opinion makers a Focus Group Discussion has also been carried out with some selected sections of the society who are believed to represent and relate to the public. The primary data is also supplemented by secondary sources such as books, articles and literatures on other countries' experience, journals on the subject matter, reports of main international human rights monitoring organizations, and internet sources.

1.8 Organization of the Study

This thesis is organized into four chapters. After a general introduction the First chapter focusing on the conceptual framework deals with the concept and evolution of national human rights institutions. It also discusses about the Paris Principles, the essential elements that the guideline addresses and the rationale for establishing national human rights institutions.

The Second chapter observes the human rights situation in Ethiopia with an emphasis on its development; the political dynamics and allegations of human rights violations and also the origin and development of the Ethiopian Human Rights Commission. Chapter Three and Four being the main body of the study presents the data and assesses the effectiveness of the Commission by relating it to some of the important guidelines that the Paris Principles has stated and a concluding remark and recommendations is provided followed by list of references.

Chapter One

Conceptual Framework and Literature Review

1.1 The Concept of National Human Rights Institutions

Though many tried to define National Human Rights Institutions NHRIs, there is no uniformly accepted definition. But the United Nations (UN) describes these institutions as “bodies whose functions are specifically defined in terms of the promotion and protection of human rights”². These functions are pursued either in a general way, through opinions and recommendations, or through the consideration and resolution of complaints submitted by individuals or groups (Ibid). According to the UN fact sheet, such entities are established by a government under the constitution or by law or decree, the functions of which are specifically defined in terms of the promotion and protection of human rights.

Apart from this very broad concept, one cannot reasonably claim that there would be any single, universally accepted definition of National Human Rights Institutions. Instead as Pohjolainen (2006:12), said there is a bulk of recommendations and guidelines that have been developed and endorsed by different international institutions and non-governmental organizations, professional associations and expert bodies with a view to encouraging governments to create the most suitable and efficient national institutions possible.

By far the most authoritative set of recommendations, which have often served as a basis and inspiration for further conceptual development in the field, were adopted as a result of an international workshop on National Human Rights Institutions organized by the United Nations in Paris in 1991 (Ibid). Hence, National Human Rights Institutions NHRIs can be generally described as permanent and independent bodies, which governments have established for the specific purpose of promoting and protecting human rights.

To further distinguish these specialized institutions from other institutions that promote and protect human rights, other characteristics have been identified by the UN. National Human Rights Institutions accordingly are quasi judicial, in the sense that they are not judicial or law

² UN Fact Sheet No.19, (1993), p; 3.

making and have advisory authority in respect to human rights at the national or international level. Although these institutions are administrative bodies that are established within a domestic legal system to satisfy domestic demand, often the underlying motivation is to appease the international community (Peterson, 2011:197). Peterson strengthens his argument stating the fact that UN human rights treaty monitoring bodies regularly request national governments to establish national human rights institutions in order to help fulfill obligations under the core human rights treaties.

National Human Rights Institutions NHRIs differ depending on the needs and circumstances in each state. There is considerable variance in the structure and number of NHRIs between countries, based on the unique political, historical, cultural, and economic environment of each state (Reif, 2000:4). However according to the UN, these institutions may mainly be categorized as either National Human Rights Commissions or Ombudsmen. But though less common the UN in the above mentioned fact sheet adds what it calls specialized national institutions which function to protect the rights of a particular vulnerable group such as ethnic and linguistic minorities, indigenous populations, children, refugees or women.

Lindsnaes and Lindholt (2000: 13-14), on the other hand argue that the Ombudsmen, mediators and similar institutions from other bodies are not defined as a national institution since they do not meet the criteria of having as broad a mandate as possible which is one of the important elements of the Paris Principles. Human Rights Commissions are mandated to protect and promote human rights as opposed to the Ombudsmen which are not directly concerned with human rights.

The Ombudsmen's task is to protect the rights of those who see themselves as aggrieved by government administrative action (Ibid). The powers and functions of the two institutions are different as Human Rights Commissions unlike Ombudsmen have a promotional mandate, which involves raising the level of awareness on human rights and inculcating a culture that upholds and defends human rights. The Ombudsmen principally focus on complaints against public entities and officials while Commissions would typically focus on violations of rights regardless of whether the alleged perpetrators are private or public.

Human Rights Commissions and Ombudsmen's jurisdictions will sometimes overlap where issues of fairness and legality are intertwined with fundamental rights. In such instances one institution may find itself playing the role of the other. As a result of this, hybrid institutions have arisen mandated to perform both the roles of the Ombudsmen and the Human Rights Commission. Mohammad Mohamedou (2001:60) also claims that "National Human Rights Institutions come in all shapes and sizes ranging from Human Rights Commissions, Ombudsmen, Defensores del Pueblo, Procurators for human rights, national advisory commissions on human rights, to national anti discrimination commissions, and so on".

The International Council on Human Rights Policy (2004:17) in its 'Performance & Legitimacy: National Human Rights Institutions' shares what Mohamedou said adding that the above mentioned types "would exclude a government department on the one hand (say a human rights office in the foreign ministry) and non- governmental organizations (NGOs) on the other". In practice therefore as most writers agree it is difficult to use hard and fast rules to define and categorize national institutions because of the wide disparity that exists among these institutions.

1.2 Overview of Perspectives on the Establishment of National Human Rights Institutions

Existing scholarship seeking to explain why national governments establish and enforce formal international human rights norms mainly focuses on two modes of interstate interaction: coercion and normative persuasion, implying the realist and idealist thoughts respectively. Realist theories of international relations stress the distribution of interstate bargaining power. Accordingly governments accept international obligations because they are compelled to do so by great powers (Moravcsik, 2000: 221-222).

Establishment of a binding human rights regime requires, therefore, a hegemonic group of great powers willing to coerce or induce disobedient states to accept, adjust to, and comply with international human rights norms. Moravcsik links acceptance of human rights norms to the pressure by international financial organizations such as the World Bank, backed by Western donor countries.

For the idealists, governments accept binding international human rights norms because they are persuaded by the overpowering ideological and normative appeal of the values that underlie them. Accordingly, the most fundamental motivating force behind human rights regimes is not rational adaptation, but transnational socialization and the logic of appropriateness (Moravcsik, 2000: 223). Unlike the two the modern liberal explanation views them as resulting from instrumental calculations about domestic politics stressing the impact of varying domestic political institutions in particular and the scope and bias of political representation on foreign policy (Moravcsik, 2000: 225-226).

Charter of the United Nations proclaims that one of the purposes of the UN is to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms and it has been trying to achieve this by setting international norms since its inception. Since the responsibility to respect, protect and fulfill human rights primarily lies with states and their parts of government, National Human Rights Institutions take a unique position.

The sovereign state, precisely because of its political dominance in the contemporary world, is the central institution, the central mechanism by which contemporary international society seeks to implement internationally recognized human rights (Pinheiro and Baluarte, 2000:27). Most international mechanisms can do little more than provide recommendations and suggestions to domestic authorities and, in many cases; rely mainly on the power of publicity to persuade them to comply (Fisher, 2006:28)

The background for the development of national human rights institution was the United Nations' and its member states' need for an institution instrumental in servicing the United Nations system with information and, with the development of the Paris Principles, in promoting and protecting human rights standards at the national level. The United Nations realized that government authorities often focus on compliance with and enforcement of national legal regulations while the provisions of international law are left unaddressed. The task of the NHRIs, therefore, would be to identify problems relating to the practical implementation at the national level and then suggest ways to overcome these deficits to their governments (Aichele, 2010: 10)

The motivations for a State or governments to establish National Human Rights Institutions as some scholars say may be considered more objective being a consequence of the ratification of international instruments for the protection of human rights. Unlikely, other scholars say that the regular accomplishment of the State obligations to implement human rights and the creation of national institutions contributes to the good image of the country in the international community (Pinheiro and Baluarte, 2000:29). Peterson (2011:197) similarly claims that although these institutions are administrative bodies that are established within a domestic legal system to satisfy domestic demand, often the underlying motivation is to appease the international community.

According to Pohjola (2006: 121), governments have been reluctant to accept international guidance from the UN in establishing NHRIs. The majority of governments were supportive, in principle, of the idea of domestic human rights bodies; however, they also believed that the government should have a right to decide whether or not these institutions should be set up and how they should be formed. It was only in the early 1990s, following the adoption of the 1991 Paris Principles, that governments came to accept the idea that all national institutions should fulfill certain minimum criteria.

The final breakthrough took place in 1993 when the World Conference on Human Rights endorsed the establishment of national institutions in accordance with the Paris Principles (Pohjola, 2006: 122). Since then, reference to these Principles which I will go through in detail in the section following has become an inherent part of UN resolutions, along with the guarantee of the state's right to choose the most suitable legal framework for their national institutions.

1.3 The Paris Principles

As mentioned in the introductory section a step of major significance was the holding of the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris, from 7-9 October 1991. About 35 countries from both developed and developing countries were represented on the workshop. The Workshop had a double basis: the resolutions of the Human Rights Commission and the need for implementation of the United Nations Programme of Advisory Services. The output was a set of recommendations and principles

entitled the Paris Principles or guidelines, which were adopted and acclaimed by the Human Rights Commission the following year (E/CN.4/1992/43, 1991: 103).

Accordingly, the Paris Principles are the principal source of normative standards for National Human Rights Institutions. They marked the beginning of serious international cooperation and standardization of NHRIs. Both the United Nations Commission on Human Rights and the General Assembly later endorsed them and they apply to all NHRIs, regardless of structure or type (UN Handbook, 1995: 8). The principles set out broad guidelines on how national institutions should be organized and function. The UN Center for Human Rights has subsequently expanded upon these Principles. They have emerged as the focal point from which inspiration is drawn when establishing new NHRIs and has been a reference point to examine how existing institutions have interpreted and applied or not applied these guidelines.

According to the 1993, 85th plenary meeting of the General Assembly on National Institutions for the Promotion and Protection of Human Rights, the Paris Principles focus on three general areas which are stated below:

- 1) the competence and responsibilities of national institutions, which is concerned with their legislative foundation as well as their primary tasks (A/RES/48/134, 1993: 186-187),
- 2) the composition of national institutions and the guarantees of independence and pluralism, listing the criteria for appointment designed to ensure plurality of representation as well as financial independence (A/RES/48/134, 1993: 188); and
- 3) the methods of operation of national institutions including the mandate to take up matters as well as their cooperation with civil society (A/RES/48/134, 1993: 189). Finally, a specific section was added as a fourth point which:
- 4) relates particularly to those institutions with quasi-judicial competence, which is concerned with the competence to hear, transmit and settle individual complaints (A/RES/48/134, 1993: 190).

The Commission on Human Rights decided to publish the proceedings, and the UN Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights is a result of this. The process of formulation and elaboration of the concept of National Human Rights Institutions did not stop with the formulation of the Paris Principles; they

instead became the starting point for further exploration and dialogue at the United Nations as well as various regional levels. The Vienna conference in 1993 as well as the United Nations Commission on Human Rights in 1995 requested the Secretary General to accord high priority to requests from member states for assistance in establishing and strengthening national institutions (ICHRP and OHCHR, 2005).

The High Commissioner for Human Rights soon thereafter prioritized the strengthening of national institutions through technical assistance. Finally, the United Nations Secretary General and the Commission on Human Rights continued to focus on the subject, resulting in a number of reports and annual resolutions (Ibid). In later years, the main themes have been cooperation between the various institutions through the establishment of a Coordinating Committee as well as with the United Nations in relation to technical cooperation (UNHRC Resolution 1998/55, and Secretary General Report E7CN.4/1998/47).

After the adoption of the Paris Principles in 1991 and the Vienna Declaration in 1993, making national institutions the focal point for implementation of human rights standards, such national institutions have mushroomed. In the 1990s broadly mandated national institutions on the African continent have been set up in Cameroon (1991), Chad (1994) Ghana (1993), Nigeria (1996), Senegal (1997), South Africa (1995), Uganda (1996) and Zambia (1997). Three have been established in the Asia Pacific region: India (1993), Indonesia (1994) and Sri Lanka (1997) (Lindsnaes and Lindholt, 2000:24). In the American region, at least two national institutions have been set up in Mexico (1990) and Costa Rica (1993), respectively. In Europe, one national institution has been established in Latvia (1995). Today there are 103 accredited NHRIs across the world (Sian, 2013:2).

In addition, plans to establish national institutions were evolving in Bangladesh, Ethiopia, Germany, Fiji, Ireland, Kyrgyzstan, Liberia, Malawi, Mongolia, Nepal, Pakistan, Papua New Guinea, Rwanda, Tanzania, Thailand and Uzbekistan (Lindsnaes and Lindholt, 2000:24). According to Proclamation no.210/2000, a Proclamation to provide for the establishment of the Ethiopian Human Rights Commission, in Ethiopia it was finally established in the year 2000.

The key elements of the Paris Principles as identified by the UN National Human Rights Institutions Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights that affect the efficiency and delivery of national institutions will briefly be examined in the following section.

1.3.1 Elements of the Paris Principles

1.3.1.1 Independence

According to the Paris Principles national institutions are judged to be independent depending on how they are established, financed, and how they are composed. Hence, independence is guaranteed through four means. The first is composition, which ensures the pluralist representation of the social forces like that of the civil society involved in the promotion and protection of human rights. The second is a level of funding and infrastructure that allows it to be independent of the government and not be subject to financial control which might affect its independence. The third is that the mandate of the institution be established by law. As a fourth point the principles consider the appointment and dismissal procedures as a means of guaranteeing independence (UN Handbook, 1995:10).

A. Independence through Legal and Operational Autonomy

It is recommended that national institutions be established by law, indeed this is one of the distinguishing factors between these institutions and others that protect and promote human rights such as civil society organizations (Ibid). The law should provide the national institution separate and distinct legal personality of a nature which will permit it to exercise independent decision making power. Most of the national institutions established after the Paris Principles have been established in three ways:

- 1) by constitution or constitutional amendment;
- 2) by law or act of parliament; or
- 3) by presidential decree.

The establishment of national institutions within the constitution is believed to be the most powerful option as the procedural requirements for changing constitutions in many countries are

far stricter than requirements for changes of laws. According to Amnesty International (2001:3) on 'Recommendations on Effective Protection and Promotion of Human Rights' the value of this is that the institution will not be easily disbanded.

According to the UN Handbook (1995:10), independence of a national institution does not necessarily mean total lack of connection with the state; rather "it means independence from interference, obstruction or control by the government or any public or private entity". Accordingly this could be achieved by making the institution directly answerable to the parliament or to the head of state and as additional mechanisms to secure legal and actual independence it adds that the institution has operational autonomy and the legal authority to compel cooperation of others (1995:11).

B. Independence through Financial Autonomy

According to the Paris Principles, the other key factor securing independence and accountability as stated above is the provision of adequate funding, that the institutions must be able to function independently according to their aims without any state interference or financial control which might affect their independence (A/RES/48/134, 1993: 188). This condition accordingly addresses two issues. The first, is whether the funding is secured in such a way that political discussion of the priorities set by the members of national institutions can be avoided, otherwise the consequence could be that the politicians or responsible ministries set the priorities instead of the national institution themselves. The second is whether the funding is sufficient to secure a high level of activity and professionalism (UN Handbook, 1995:11).

As most writers agree, funding and financial autonomy goes to the heart of the independence of an institution, and the source and disbursement of funds should be free of conflict or potential conflict of interest. The funding in some countries is done by establishing a trust fund independent of the state's interests. The majority are funded directly by the finance act of the parliament, while others have funds allocated by a ministry approving the proposed budget.

Herbert Sian (2013: 3) in his 'Aid to National Human Rights Institutions' indicated that "a survey of 61 NHRIs worldwide carried out by OHCHR (2009) found that 67% of respondents said their NHRIs budget is funded entirely by the state. The majority of respondents (69%) also

confirmed that their NHRI is legally allowed to receive funding from sources other than the state”. Funding through the parliament is believed to give the highest degree of independence in decision making whereas funding through a ministry creates room for interference by political interests (Ibid).

C. Independence through Appointment and Dismissal Procedures

The Paris Principles deal with criteria for the appointment of leading members in a general way. It states that in order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. Accordingly, the founding legislation in its terms and conditions of appointment should include definition of method of appointment, criteria for appointment such as nationality, profession and qualifications, duration of appointment, whether members can be reappointed, who may dismiss members and for what reasons, privileges and immunities (UN Handbook, 1995:11).

Laws and statutes of national institutions mostly deal with the above sets of conditions and criteria in different ways. In Ethiopia the process is to initially be undertaken by the Nomination Committee established as per the enabling legislation and then concluded through a formal hearing and resolution of the house (Inaugural Report of the Ethiopian Human Rights Commission, 2011: 46). Accordingly, the Nominations Committee is to be made up of the speakers of both the House of Representatives and the House of Federation as well as nine members of the House representing both the ruling party and the opposition, the president of the federal Supreme Court and representatives of the four major religious communities of the country (Ibid).

D. Independence through Composition

According to the Paris Principles, National Human Rights Institutions in order to ensure their independence, shall in their composition ensure the pluralist representation of the social forces, actively engaged in the promotion and protection of human rights, by ensuring cooperation with, or the presence of, wide sections of civil society. It states that true pluralism with a reflection of the sociological and political situation requires the greatest diversity possible (UN Handbook,

1995:12).The composition of national institutions should be a reflection of its society, and accordingly its members should reflect diversity in sex, ethnic origin, language and political affiliation as appropriate.

The principles specifically call upon national institution to develop procedures which ensure the representation of all relevant social forces, in particular non-governmental organizations, trade unions, professional organizations, and trends in philosophical and religious thought (A/RES/48/134, 1993: 188). Accordingly, representative nature and accessibility may also be enhanced by including parliamentary or government officials in an observer or advisory capacity (Ibid).

1.3.1.2 Defined Jurisdiction and Adequate Powers

Referring to the Paris Principles, one of the most critical criteria for establishing national institutions is that the institutions shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence (A/RES/48/134, 1993: 186). This specific Principle addresses issues of subject matter jurisdiction, avoidance of conflicts of jurisdiction and the issue of adequate powers.

A particular national human rights institution may be established to educate about human rights, assist the government in legislative matters and to receive and act on complaints of human rights violations. When these are the areas in which that particular institution may exercise competence, thus they are meant to be part of its subject matter jurisdiction (UN Handbook, 1995:12). Regarding adequate powers the principles state that the powers of national institutions should be established by law and that provision should also be made for the imposition of legal or administrative sanctions when the free exercise of national institution's powers is obstructed (Ibid).

1.3.1.3 Accessibility

According to the Paris Principles, accessibility means that special group of people who might still not access the institution when all factors are held constant are considered and their needs taken into consideration. Other endeavors that are targeted towards accessibility to the services

of National Human Rights Institutions by the people who need them are public awareness programs. These are part of the promotional mandate of all national institutions and serve as a starting point from which the general public is made aware of the existence of the institution and its functions and capabilities (UN Handbook, 1995: 13-14).

Accessibility cannot solely be achieved through structural measures but it is influenced by all aspects of an institution's organization and procedure. Hence factors that affect accessibility according to the Principles include visibility of the organization, perceived legitimacy, awareness of its existence and its functions, physical accessibility and the perceived representative capacity of the organization (Ibid).

1.3.1.4 Cooperation

The Paris Principles (Para. 25-27) regarding cooperation state that, National Human Rights Institutions should cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of protection and promotion of human rights. Hence accordingly, national human rights institutions need to maintain cooperative relationship with non-governmental organizations, cooperate with national institutions and with intergovernmental organizations (A/RES/48/134, 1993: 187). Collaboration with intergovernmental organizations like the United Nations helps national institutions tap into the expertise as well as both technical and financial resources available.

1.3.1.5 Operational Efficiency

Operational efficiency touches on the working methods of an institution, the quality and quantity of staff, adequacy of resources and whether reviews and evaluations are undertaken to identify problem areas. According to the Paris Principles, lack of suitably qualified staff or an inadequate number of personnel impacts on the quality and scope of work, timeliness, general efficiency and may well have a serious impact on the capacity of the institution to discharge its responsibilities adequately (UN Handbook, 1995: 15).

1.3.1.6 Accountability

Being the sixth element of the Paris Principles, accountability is closely linked with the legitimacy an institution can acquire both with the government and with the public at large. According to the UN Handbook (1995: 17) national institutions are generally required to submit detailed reports of their activities to parliament or a similar body for consideration. Accordingly to ensure accountability, the founding legislation of each National Human Rights Institution should include the requirements to produce reports within a stipulated time, covering defined issues, issues to be reported on, possibility of submitting ad hoc, special reports, and also procedure for examining reports. It also states that reports should be published within a reasonable time and though directed to a body such as parliament, should be widely disseminated both for accountability and public awareness (Ibid).

Generally, according to the Paris Principles, National Human Rights Institutions NHRIs tend to be more effective when they enjoy public legitimacy; are accessible; have an open organizational culture; ensure the integrity and quality of their members; have diverse membership and staff; consult with civil society; have a broad mandate; have an all-encompassing jurisdiction; have power to monitor compliance with their recommendations; treat human rights issues systemically; have adequate budgetary resources; develop effective international links and when they handle complaints speedily and effectively.

1.4 Evolution of National Human Rights Institutions

National Human Rights Institutions NHRIs are becoming a common feature on the human rights landscape, as more and more of them are being established by states. As stated earlier there are various reasons for their establishment and each one identifies its competencies from the founding document or legislation. There are, however, common objectives sought by the institutions regardless of the state in which they are established, the promotion and protection of human rights, and certain basic features that should ideally characterize these institutions in order for them to be effective.

The historical process of external endorsement of National Human Rights Institutions goes as far back as 1946, to the second session of the United Nations Economic and Social Council

(ECOSOC). Here it was decided to invite member states to consider the desirability of establishing local bodies in the form of information groups or local human rights committees to function as vehicles for collaboration with the United Nations Commission on Human Rights (ECOSOC Resolution 2/9, 1946). In 1960, the issue was raised again, this time indicating a sharpening of the mandate of these institutions beyond being mere agencies of information and encouraging them to enter into the field of active participation and monitoring (Kumar, 2003:266).

The trend continued, in the wake of the growing recognition that with the continued expansion of human rights instruments during the 1960s and 1970s, there was an increasing need for mechanisms to ensure national implementation of these instruments as well. In this context, it was perceived that national institutions could obviously play a significant role, but since their number was still limited and experiences scattered, it was decided to convene a Seminar on National and Local Institutions for the Promotion and Protection of Human Rights in Geneva in 1978. This seminar ended up by adopting the first set of guidelines outlining the general functions of national institutions (Pohjolainen, 2006:44).

According to these guidelines, “national institutions should fall into one of two categories, the first of which would be occupied with the general promotion of human rights focusing on information and awareness raising. The other would take direct action in the form of reviewing national policy which encompasses legislative, judicial and administrative steps and decisions, reporting and making recommendations to the state” (Ibid). With regard to the organizational structure, it was recommended that national institutions should be composed in a manner reflecting a cross section of society with a view to facilitate popular participation. In addition, they should be immediately accessible to members of the public, function on a regular basis, and in appropriate cases be assisted by local or national advisory organs.

The guidelines were endorsed by the United Nations Human Rights Commission (UNHRC) and the General Assembly, which urged member states to comment on the guidelines, and to provide the Secretary General with relevant information relating to their own experience of establishing national human rights institutions (Kjaerum, 2003:6). The General Assembly raised the matter again in 1979, recommending the member states to take the necessary steps to create and

improve conditions for the establishment of national institutions, bearing in mind the guidelines adopted the previous year, and emphasizing the importance of ensuring the integrity and independence in accordance with national legislation. Finally, the constructive role to be played by Non Governmental Organizations NGOs was brought to the attention of the states.

Based on these resolutions the Secretary General was requested to report to the Commission on a survey of national institutions, which it continued to do the following years. In the General Assembly's Resolution of 1981, a section on the conceptual human rights foundation on which national institutions should be based is outlined. The Resolution further states that "all human rights and fundamental freedoms are indivisible and interdependent, and that equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political, and economic, social and cultural rights" (UN Handbook, 1995:5).

Regardless of the reasons behind the inclusion of the formulation in the 1981 Resolution, for the first time there was a direct indication that National Human Rights Institutions were not meant to occupy themselves merely with the judicial procedures and respect for civil and political rights (Ibid). According to the International Council on Human Rights Policy and Office of the High Commissioner for Human Rights (2005), the monitoring of the implementation of the entire scope of human rights would instead fall within the scope of the National Human Rights Institutions.

In the first and second reports of the Secretary General from 1981 and 1983 the mandate was perceived in the broadest possible manner, encompassing the examination of almost all varieties of institutions even remotely concerned with human rights (UN General Assembly A/36/440, 1981 and A/38/416, 1983). As such, these reports reveal a lack of definite limitations on the scope of institutions to fall under the category of National Human Rights Institutions. On the basis of information provided by individual states, the reports broadly categorizes the activities rather than specifying the framework of the institutions themselves.

The mandate therefore was twofold: the function of protection on one hand and the function of promotion on the other hand. The mandate of protection includes the hearing of complaints, seeking of amicable settlements, bringing matters to the attention of the Courts or prosecutors'

offices, providing legal counseling or instituting petition or inquiry procedures before national parliaments (Ibid). However, it excludes the issuing of independent and final decisions and does not mention the more pro-active methods of investigation. In addition, a tentative distinction is made between judicial and non-judicial institutions where the latter category encompasses Ombudsmen and similar bodies particular to each region, endowed with an independent status and the ability to hear complaints (Lindsnaes and Lindholt, 2000:19).

In relation to promotional activities, the reports are extremely broad, listing those activities directly related to human rights and legislation, such as participation in the legislative process, the work of electoral commissions, the dissemination of information and public awareness campaigns. They also include functions carried out by educational institutions and those dealing with health care, social security, employment, working conditions, race relations and the rights of special groups such as children and young persons (Ibid).

We can conclude that during this initial phase there were virtually no limitations on the definition of a National Human Rights Institution. The bodies defining the scope and role of national institutions seemed to perceive this broad all encompassing scope as strength rather than a weakness in order to include as many tentative institutions as possible. The mandate of the individual institution was therefore not narrowly described. The earliest resolutions even saw the institutions as a service organ of the United Nations in distributing materials, perceiving them as a resource for the United Nations rather than the other way around.

During the 1980s the United Nations Commission on Human Rights continued to place the question of national institutions on the agenda of its annual session, resulting in a series of resolutions subsequently endorsed by the General Assembly (UNCHR Resolution 1988/72, 1988). In addition, regional cooperation in the field was encouraged and resulted in the holding of workshops for Africa (Lome, 1988) and Asia-Pacific (Manila, 1990) (UNCHR Resolutions 1989/52, 1989 and 1991/27, 1991).

The potentially important role of national institutions has been discussed upon in different similar workshops and has been acknowledged by several intergovernmental and non-governmental organizations in the field of human rights, and many international actors have also

considerably stepped up their activities relating to these domestic bodies (Lindsnaes and Lindholt, 2000:20). Among them, in particular as I have stated above, the United Nations (UN) has actively advocated the expansion of national institutions, the milestone being the so called the 1991 Paris Principles, which were endorsed in 1993 by the World Conference on Human Rights and the UN General Assembly.

The central position that national institutions have gained in the overall human rights work of the organization is reflected in the Secretary General's report (2002) on 'Strengthening of the United Nations: An Agenda for Further Change'. It states that "building strong human rights institutions at the country level is what in the long run will ensure that human rights are protected and advanced in a sustained manner. The enhancement of a national protection system in each country should therefore be a principal objective of the Organization" (UN General Assembly A/57/387, 2002).

Chapter Two

Human Rights in Ethiopia

2.1 Overview of the Development of Human Rights in Ethiopia

To begin with, the term Human Rights is a name for what were formerly called the Rights of Man. It was Eleanor Roosevelt in the 1940s, who promoted the use of the term human rights, when she discovered that the rights of man were not understood in some parts of the world to include the rights of women. The rights of man at an earlier date had itself replaced the original term natural rights. So far it is difficult to come up with a complete definition encompassing all fundamental principles and features of human rights. Hence, there is no universally formulated and accepted definition although there are many definitions suggested by different scholars based on the international instruments of human rights. Keeping this fact in mind, I will briefly go through how different scholars have defined the concept.

Human Rights, by definition, are a universal moral right, “Something which all men everywhere, at all times ought to have, something of which no one may be deprived without grave affront of justice, something which is owing to every human being simply because he is human” (Fowler, 1987:70). From this definition it can be noted that human rights are rights one has simply because one is a human being. Another definition by Claude and Weston (1992:17) indicates that “if a right is determined to be a human right, it is general and universal in character, equally possessed by all human beings”.

Accordingly all human beings should enjoy human rights because of the mere fact that they are human beings which is also shared by Fowler (1987:70). Claude and Weston (1992:17) further explain human rights universality saying “human rights are held by all people and all human beings without distinction as to race, color, sex, language, religion, nationality, ethnic origin, family or social status, or political or other convictions”. Because people have rights by being human, no one can take their human rights away and they are also rights which seek a greater protection (Ibid).

In Ethiopia, historically before the reign of Emperor Haileselassie, the concept of Human Rights was neither developed in theory nor was it legally framed. The absence of written constitutions before 1931 does not however mean that there were no unwritten constitutions (Adem, 2011:41). The country had traditional constitutions, which was described by three instruments, namely the Fetha Negest, Kebre Negest and Serate Mengist. According to Fasil (1997:16) these documents hold constitutional principles. Fasil says that “these documents emphasized the monarchy’s dynasty claim and its profession of the orthodox Christian faith, as well as absolute loyalty thereafter” (Ibid).

The 1931 Constitution is the first written constitution in Ethiopian history, which was promulgated on 16 July 1931. According to Calpham and Paul (1967:92), this constitution did not establish civil and political rights as a working law. Moreover, the coming into effect of the constitution was related to consolidation of the power into the hands of the Emperor and to exhibit to the world that Ethiopia was a modern state (Fasil, 1997:17). Adem (2011:41) also implied that the 1931 Constitution does not have significant relevance for the human rights discourse in Ethiopia as it was primarily designed to reaffirm and fortify the absolute power of the Emperor and the state was generally not understood to owe duties to its subjects.

Tsegaye (2009:297) similarly argues that the 1931 Constitution being an Imperial grant to the subjects did not recognize human rights as such. Accordingly, as also shared by Adem the state is considered to owe no duty to the people and there was hardly any constitutional limit to state power save that which is tacitly imposed by religion and tradition which were the principal sources of legitimacy in Ethiopia for centuries. As stated above, although certain rights had been recognized in the 1931 constitution it was hardly implemented due to reasons such as lack of adequate legislation to implement the rights of the subjects, the unlimited power given to the Emperor would enable the emperor to suspend or abolish such rights at any time and lack of strong and independent institutions such as the judiciary made it difficult to protect such rights (Calpham and Paul, 1967:340-341).

Regarding the coming into effect of the 1955 revised constitution Fasil (1997:24-26) says that the revision of the 1931 constitution was mainly attributed to the ratification of the 1948 Universal Declaration of Human Rights UDHR. This revised constitution contained 27 articles

about human rights which according to Spencer (1993:340) were adopted from the developed European countries and also the American Bill of Rights. Although this constitution, which had included the modern concepts of fundamental rights of individuals, Spencer says that “it was nevertheless subject to the prerogative power of the Emperor”(Ibid).

According to Fasil (1997:24-26) there were no political parties to resist illegal practices and also there were no enforcement mechanisms to protect the rights of the subjects. Adem (2011:41) also agrees to what Fasil said implying that “there was the absence of an organ empowered to interpret and apply the Constitution”. Besides this he also mentioned that most of the rights were entangled with claw-back clauses. As to Tsegaye (2009:297-298) in the Revised Constitution of 1955, continuity rather than change was dominant. Although he admits the fact that there was recognition of a number of human rights in the constitution including the right to assembly, association, and election but as also shared by Adem he also says that these were often constrained by the claw back clauses marked by the phrase such as “in accordance with the law”, or “as shall be determined by law” making these rights lack essence and practicality.

As stated by different writers during the Derg regime from the period 1974 to 1987, no written constitution existed in the country. According to Fasil (1997:28), the Derg established a provisional military government through which it ruled the county by decree and force of arms for 13 years. As to Tsegaye during the time from 1974 to 1987, the state of human rights has deteriorated both conceptually and practically. But he also says that “there was an emphasis, in rhetoric at least, on the importance of respect for socio-economic and cultural rights although they are not implied in words that reflect the notion of human rights” (Tsegaye, 2009:298).

The 1987 Derg’s Constitution was the third constitution of the country. According to Fasil (1997:30) there has been no such constitution in Ethiopian history, which has provided for the protection of inalienable human rights but in practice, the opposite occurred. He says that the 1987 Constitution is said to highly focus on economic, social and cultural rights due mainly to the socialist tendency of the regime. It was nonetheless a regime beset by fear and there was no fertile ground to foster the recognition and exercise of human rights (Adem, 2011:41).

Given the military regime's nature and characteristics Tsegaye (2009:300) likewise says that, "it did not care about or only paid lip service to individual rights because there have been gross violations of human rights". The Constitution, which purported to espouse a commitment to basic freedoms and rights, was belied by the Derg's massive human rights violations (Mgbako, etal 2008: 263). According to Human Rights Watch (2003:8), "Derg was responsible for human rights violations on an enormous scale including the torture, murder, and 'disappearance' of tens of thousands of Ethiopians during the 1976-1978 period dubbed the Red Terror". It also stated that the Derg Regime continued to commit widespread violations of human rights until its defeat in 1991.

After the fall of the Derg government by the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) in 1991, the Transitional Government Charter was enacted. Although the Transitional Charter was considered as an agreement of the various opposition political groups that together toppled the Derg in armed struggle, it gave due recognition to human rights principles enshrined in the United Nations Declaration of Human Rights UDHR and other international conventions. But, as Mutua (1995:14-16) stated the Charter's formulation appeared to favour protecting civil and political rights.

Mutua however says that, "during the Transitional Government period, Ethiopia accepted the Universal Declaration of Human rights but the Judiciary part, which places more emphasis on the protection of individual rights, was not maintained in the charter" (Ibid). Therefore, as also shared by Abbink (1997:170) it can be noted that human rights provisions in the charter were hardly respected due to the fact that there has not been a mechanism for enforcing it such as an independent Judiciary. Tsegaye (2009:299) similarly also said that "the practice left much to be desired even in these times".

2.2 Human Rights Protection under the 1995 FDRE Constitution

As most writers agree the Federal Democratic Republic of Ethiopia FDRE Constitution is a compact document containing 11 chapters classified into 106 articles and the relevance accorded to human rights is reflected from the outset by the preamble of the Constitution which

emphatically affirms “the full respect for individual and people’s fundamental rights” as a condition precedent and foundational principles for the success of this ambition.

According to Girma (1995) the FDRE constitution had accommodated all the necessary human rights elements and accounted for one third of the total proclamations read about compared to the two preceding constitutions. Muhammad and Yusuf (2011:17) also implied that “the FDRE Constitution, including the several international and African regional human rights instruments ratified by Ethiopia since recent years, contains explicit commitment to ensure protection of human rights within the new federal political structure”.

In its chapter three, the chapter that qualify for being the Ethiopian Bill of Rights, the 1995 FDRE constitution offers a long list of rights that are divided into two categories, namely that of ‘Human Rights’ and ‘Democratic Rights’. In article 10 of this chapter, it goes on to endorse the general notion of human rights as universal, inalienable and inviolable, and stipulates that “the fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming³ to the principles of the Universal Declaration of Human Rights UDHR, International Covenants on Human Rights and International instruments adopted by Ethiopia.” The important thing about this provision of principle, however, is that all categories of rights are coequally to be respected without one having any superior claim to the other in terms of being prioritized or subordinated (Tsegaye, 2009:302-303).

The 1995 Constitution offers a comprehensive agenda of human rights and incorporates all ratified international human rights instruments as the law of the land. Ethiopia has been a member to different Conventions in different times. The major Conventions to which Ethiopia is a member include, the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of all forms of Discrimination (ICERD), Convention on the Rights of the Child (CRC), Convention Against Torture (CAT), the African Charter on Human

³ Art 13(2), FDRE Constitution provides that “The fundamental rights and freedoms specified in this constitution shall be interpreted in manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia”.

and Peoples' Rights (ACHPR) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa .

Apart from being a party to six of the seven core human rights treaties as mentioned earlier the constitution also provides for interpretation of domestic legislation to be in conformity with international human rights standards. However, as Olsen (2009:3) says “lack of enforceability of human rights and serious breaches of human rights at domestic level have become a matter of great concern to everyone even to these days”. This as Rakeb (2002:53) stated shows that implementation of human rights does not solely depend on just constitutional or legislative provisions.

But apart from the constitutional or legislative provisions Minasse (1996:20-24) says that various legislative, executive and judiciary bodies of the government have been put in place at the federal and regional levels to uphold and protect human rights principles enshrined in international human rights conventions and recognized by the Constitution. Adem (2011:43) also pointed out that a number of democratic institutions have been established to make the public aware of human rights issues and to monitor and assess progress in human rights protection.

The 1995 FDRE constitution also establishes national human rights institutions, such as an Ombudsman and a Human Rights Commission which the later section and the chapter following will focus on. But before that discussing the political context and allegations of human rights violations in the country is important as it has its own implications on how the legal framework to establish the Ethiopian Human Rights Commission has developed.

2.3 The Political Dynamics and Allegations of Human Rights Violations in Ethiopia since the 1990s

As stated above it is true that listing human rights provisions in the constitution and ratifying the different international human rights treaties and conventions does not alone guarantee protection of human rights. Gebreamlak (2008: 38) argues in this manner saying that “the ratification of international human rights treaties is nothing more than its expression or intent to abide by it. The incorporation is the decisive step toward their implementation”. Milofsky (2010) likewise

says that “although Ethiopia is a party to most of the core international human rights instruments, its human rights record is controversial”.

Despite the government's adoption of international norms of human rights Vestal (1999:137) argues that, “the FDRE, by committing abuses and atrocities, still claims a ‘right to be monstrous’ to its own citizens. Some apologists for the regime try to justify it with theories that rights should be sacrificed in favor of order, economic development, or repression”.

There is a belief that Ethiopian government’s human rights record must be put in perspective. Accordingly, Ethiopia’s record of human rights has been improving, when measured against international standards, since the country’s transition from the Derg regime to the EPRDF’s. Since EPRDF came to power in 1991, the US State Department country initial annual reports (1998) has put the Ethiopian government in the best possible light, conveying the impression that the “FDRE is committed to improving human rights and the democratization process”.

But soon in the years following the coming into power of the EPRDF, the State Department and other international human rights monitoring bodies like Human Rights Watch and Amnesty International reports have come to suggest that the government maintained its rule after the fall of the Derg through violations of civil and political rights, including harassment and arbitrary arrests of opposition members; extrajudicial killings; torture and ill-treatment of prisoners; restriction of independent civic associations and limits to freedom of expression⁴.

Included in the reports on the record of human rights abuses by the regime are the incarceration of prisoners of conscience, journalists, and leaders and members of opposition political parties and the suppression of members of professional and trade associations (Getachew, 1997:38-43). Particularly, EPRDF has been condemned for repeatedly committing politically motivated killings on suspected armed insurgents, such as the Ogaden National Liberation Front (ONLF) and the Oromo Liberation Front (OLF) in Somalia and Oromiya regions.

⁴ See for example, Getachew Haile, (1997), *Violation of Human Rights of Ethiopians by the Tigray People's Liberation Front, Unraveling Human Rights Abuses in Ethiopia: Ways and Means of Alleviating the Problem*, Theodore Vestal, (1999), *Ethiopia A Post-Cold War African State*, Human Rights Watch, (1997), *Human Rights Curtailed in Ethiopia*, Human Rights Watch, (1992), *Indivisible Human Rights; the relationship of political and civil rights to survival, subsistence and poverty*.

Amnesty International (1998) in what it described as "a pattern of widespread detention, torture, disappearances, and extrajudicial executions of suspected OLF supporters" says similar patterns are documented for members of other opposition political groups throughout the nation. US State Department (1998) report also states that security forces arrested and held people "incommunicado for several days or weeks."

According to Human Rights Watch (1992), human rights conditions have especially deteriorated during elections and many observers note that polls have generally not been competitive in the 1990s, due to restrictions on opposition parties and candidates. In the second half of the 1990s, there have been allegations on abuses against populations suspected of supporting the insurgents escalated in areas of armed conflict, particularly in Oromiya Region (Thomas and Ron, 2006). The FDRE, with its monopoly of power, according to Vestal (1999:130) has acted ruthlessly against critics of the regime and suppressed the human rights of citizens. He says, "the government's army, police, and security forces have had a free hand in crushing any citizens who attempt 'to obstruct the exercise of the rights of the masses' (i.e., disagree with the EPRDF or the government)".

During elections as also put by Vestal (1999:34) observers found widespread allegations of intimidation, harassment, and detention of candidates, potential candidates, and party officials and supporters principally from a number of non-EPRDF parties. He said that "arbitrary arrest and detention of individuals and the closing of party offices and occupation of party offices by police were also alleged and while these allegations could not always be verified by observers, the frequency with which they were raised suggests that such tactics were major factors in preventing multiparty elections". Political opposition groups maintain that many of the people detained are held for political reasons (Vestal, 1999:131).

Without an independent judiciary to protect the due process Vestal (1999:130) says that rights of the accused, human rights abuses of individuals or members of organizations expressing opposition to the government are pervasive. Accordingly, the various security agents, like the common police and special police force have arrested and detained, or taken other arbitrary measures, without warrant, charge or bail, and without time limit. Political and security suspects

have sometimes been taken away secretly without notice to family, friends, or close relatives; nothing said of their destination or reason for their arrest.

According to the reports by the different international human rights monitoring bodies, arbitrary arrest is considered as a powerful tool for the repression of political dissent. The reports show that at times authorities allowed unreasonably longer detentions with little or no chance of appearing before court. Even sometimes as to the reports arrested and detained persons may not know the reason for their arrest and detention let alone appearing before court. In 1998 the International Committee of the Red Cross estimated that 10,980 Ethiopians were in prison for political or national security reasons. As a result accordingly hundreds of civilians have been held under the authority of regional governments that suspected them of supporting armed opposition groups (Ibid).

The report says that “this particular category of detainees faces the greatest risk of political killings, torture, and harsh and inhumane treatment, mainly at the hands of rural militia men and other security forces that enforce law and order in remote rural areas”. According to Human Rights Watch (1997), the absence of effective judicial oversight has meant that most of those suffering abuse have had no recourse to legal remedy. Furthermore the report states that, “their plight frequently goes unreported because the work of most rights monitoring groups is restricted, by the FDRE, to Addis Ababa”.

Regarding freedom of expression Article 19 of the Universal Declaration of Human Rights, subscribed to by Ethiopia, declares that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers." According to Vestal (1999:133) government controlled media are used as propaganda tools to promote the Front's programs and to disparage any opposition. Apparently terrified of ideas, rather than challenged and stimulated by them Vestal says that, “the EPRDF seeks to keep unapproved and politically incorrect information from the people”. One way to do this as to Vestal is by keeping the private press in line and by limiting people's access to foreign journals.

New York Times, in its 15th March 1996 edition named "More Journalists Jailed, but Fewer Are Killed," stated that "the FDRE has continued the practice of the TGE of harassing the private press by routine use of detention and imprisonment and the imposition of prohibitive fines and bail amounts on journalists and editors". Accordingly it has detained more journalists in the past four years than any other African government. Amnesty International (1997) also reported that over 200 journalists of the Ethiopian private press have been detained under the 1992 Press Law. The government claims that, most were detained for writing or publishing articles which police claimed were defamatory or "incitement of conflict between people".

US Department of State (1997) report says that "in fact the journalists were imprisoned because the articles were critical of the government. Such harassment by the government has doubtlessly been an important factor in the declining number of newspapers published since the EPRDF came to power". Vestal (1999:134) likewise stated that "FDRE officials and the government media castigate most of the private publications as being unprofessional and printing inaccurate and untrue articles".

Reports released at various times by the different national and international human rights activists also indicate that human rights condition in the prisons and correctional camps is by far less satisfactory. Concerning freedom of association Vestal (1999:56) said that it was one of the bedrocks of human rights which was abrogated by the EPRDF/TGE as part of its monopoly of power. He stated that "central to the party's suppression of political opposition was control of the country's socioeconomic substructure of social organizations such as professional associations and trade unions".

Regarding human rights defenders a few domestic human rights groups operated during those years, but with significant government restriction. According to US State Department (2012:24) report "the government was generally distrustful and wary of domestic human rights groups and international observers". Accordingly there were two prominent human rights defender organizations, the Ethiopian Human Rights Council (EHRCO) now called the Human Rights Council (HRCO) and the Ethiopian Women Lawyers' Association (EWLA) registered as local charities to preserve their mission and adjust to the law. However, due to the restrictions of the

CSO law, both HRCO and EWLA have cut most of their staff in 2010, drastically reducing the services they provided and they had effectively ceased to function.

Before that HRCO challenges government policies and some of its actions that violate human rights and the rule of law. As Sisay (2002:11) stated it is one of the few organizations in the country that monitors and reports on human rights violations such as extra-judicial killings, arbitrary detention, torture, forced disappearances, unlawful and arbitrary confiscation of property, violation of privacy, unlawful dismissal of employees, denial of the freedom of conscience, religion, expression and association. Accordingly, since 1991 HRCO has conducted extensive work in monitoring and documenting human rights abuses across Ethiopia. The organizational objectives are to encourage and monitor the respect for human rights in Ethiopia; to promote the rule of law and due process; and to contribute to the establishment of a democratic system.

Before the law was passed, HRCO had 12 branch offices across the country, 58 staff members, and was the only organization conducting field based human rights research (Hayman, et al, 2013:12). Accordingly, it also carried out human rights education, advocacy, trial monitoring, detention centre visits, information dissemination, election monitoring and voter education, provided human rights training, including for security forces and judicial officials, and legal support to victims of human rights violations. Before the law was passed, HRCO was undertaking significant levels of human rights work across the country (Amnesty International, 2012: 25-26).

Regarding EWLA likewise before the law was passed it was a leading women's rights organization, and the only major organization focusing exclusively on women's rights at the national level (Ibid). The stated mission of the organization is to promote the economic, political, social and legal rights of women and to that end, assist women to secure full protection of their rights under the Ethiopian Constitution and the relevant international human rights conventions. There is also Action Professional Association for the People (APAP) which is a civic and legal rights educational association formed and run by young lawyers since 1992. In the year 2001, APAP, through its human rights popularization activities, disseminated information about human rights and corruption to more than 25,000 people, particularly through staging drama, puppet

show and public speech (Sisay, 2002:7). APAP has currently shifted its field of work to development.

The Ethiopian Government's reactions to accusations of human rights violations during those years have been characterized by denial. The government referred to such international organizations as a tool to foreign interests and dismissed their reports biased, untrustworthy, prejudiced, and evidence of an undeclared political agenda. The Government also claims credit for having ended the systematic violations under its predecessor, the Derg. According to Yacob (1999:667) "the government has committed itself to bring to justice those persons responsible for serious crimes against humanity which occurred under its predecessor". EPRDF often engages in a controversy with such organizations and states making reports on human rights situations in the country.

Given the political dynamics and allegations of human rights violations a conclusion can be drawn that all those situations could have forced the EPRDF government to establish the Ethiopian Human Rights Commission. Vestal (1999: 158) supporting this argues alleging that this may be to deflect international criticism of the regime's human rights abuses, that the House of Peoples' Representatives held a widely publicized Human Rights Conference in May 1998. He said that "the Front's products of the conference, a new Human Rights Commission and Ombudsman, will be used to further disparage the existing NGOs monitoring the human rights situation in the country and it remains to be seen if the Commission will be more than a propaganda vehicle of the government" (Ibid).

2.4 Origin and Development of Ethiopian Human Rights Commission

From the above discussion on the development of human rights in Ethiopia we have seen that the concept of National Human Rights Institutions NHRIs was developed and came into reality under the Federal Democratic Republic of Ethiopia FDRE constitution of 1995 as the Constitution has promised to establish an Ethiopian Human Rights Commission EHRC and the Institution of an Ombudsman.

The FDRE Constitution required that the appropriate institutional mechanisms should be in place as a means for implementing the human rights laws of the country. It is on the basis of this that

Article 55 (14) of the Constitution stated that, the House of Peoples' Representatives shall establish a Human Rights Commission and determine by law its powers and functions. Thus, although five years after the adoption it is based on this one of the National Human Rights Institutions which is the focus of this thesis, the Ethiopia Human Rights Commission EHRC, was established on July 4, 2000 through the legislative act of the House known as The Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000.

Regarding the process of the establishment Vestal (1999: 158) says that “when the House of Peoples' Representatives held a widely publicized ‘Human Rights Conference’ in May 1998 representatives from sixty eight countries were invited to participate in the meeting that was to set the stage for the establishment of a Human Rights Commission and Ombudsman in Ethiopia”. He however criticize the conference saying “notably excluded from the invitation list were Amnesty International, Human Rights Watch, EHRCO, the Human Rights League, and other Ethiopian NGOs critical of the government, as well as individual activists and scholars who have voiced opposition to EPRDF policies” (Ibid).

Inaugural Report of the Ethiopian Human Rights Commission (2011:28) on the other hand stated that the genesis of EHRC “clearly demonstrates that the Commission was established as part of the political transition that the nation is continuing to undergo”. It in fact said that, “the EHRC’s birth is a premeditated political decision on the part of the new polity and not a window dressing move” (Ibid). Thus, accordingly, the core rationale behind the establishment of the Ethiopian Human Rights Commission is “the firm belief that the realization of a harmonious polity within which the human rights of Ethiopians at both the individual and group level is best promoted where human rights are fostered and enforced in an organized manner, through a public institution specifically tasked with these objectives” (Inaugural Report of the EHRC, 2011:31).

As put on the establishing proclamation, the Ethiopian Human Rights Commission EHRC’s vision is that every citizen becomes free from any form of discrimination and that the respect of all the human rights of all Ethiopians is guaranteed. And in its mission statement it states that it is there to serve the citizens and peoples of the nation by promoting, protecting and enforcing the human and democratic rights of citizens and peoples of Ethiopia as enshrined in the constitution

and other laws of the land, as well as the international human rights conventions and instruments adopted by Ethiopia, and by ensuring that citizens and peoples can claim these rights.

The objective of the Ethiopian Human Rights Commission (EHRC) as stated in the establishing proclamation is: “to educate the public to be aware of human rights, see to it that human rights are protected, respected and fully enforced as well as to have the necessary measures taken when they are found to have been violated”. And as Asfaw (1987:24) said “no organ of the state can act in contravention of such rights and any act by the state which is repugnant to such right, must be avoided”.

The Ethiopian Human Rights Commission EHRC is armed with a very extensive mandate, founded upon the precepts enshrined under the Paris Principles. A look at the enabling legislation of the EHRC clearly shows that the House has taken care of infusing the drafting process of proclamation with the most notable benchmarks available with regard to the foundation and operation of National Human Rights Institutions NHRIs, principally the Paris Principles (Inaugural Report of the EHRC, 2011:8). Hence, it is established pursuant to the Paris Principles on the Status of National Human Rights Institutions (Tsegaye, 2009:304).

Regarding the mandate the Ethiopian Human Rights Commission EHRC has the responsibility of publicizing human rights, assisting in human rights education and reporting to the government on matters related to the promotion and protection of human rights. The Commission is also tasked with the duty of promoting harmonization between the content structure of the Ethiopia’s national laws and international instruments related to the promotion and protection of human rights and working towards further ratification of international human rights instruments. Contributing to the Government’s reports to international treaty bodies and building working partnerships and cooperating with international, regional and National Human Rights Institutions is also another element of the EHRC’s mandate.

According to the Inaugural Report of the Ethiopian Human Rights Commission (2011:29), after the establishment of the Commission EHRC’s enabling legislation, “the next step was to come up with a complement of commissioners with exemplary repute and integrity”. Accordingly, a process was initiated involving the widespread participation of the nations, nationalities and

peoples of Ethiopia in the selection of the commissioners. It states that extensive public consultations as well were undertaken before the commissioners were formally appointed. But Littmann (2005:18) on the other hand disprove this saying that “ it also suffers from a credibility problem, as its head was appointed without prior consultation with civil society, which expressed reservations about his competence and independence: the head of the Commission, Mr. Kassa Gebre Hiwot, is a former Ambassador, without any particular experience in the field of human rights”.

Furthermore, the Inaugural Report of the Commission also states that “it needs to be noted that, in addition to the lengthy process that preceded the appointment of the Commissioners, Ethio-Eritrean war of 1998-2000 which had diverted the attention of the authorities towards issues of national security had further delayed the Commission from going operational soon after it was legally born” (Ibid). Hence it can be noted that the first two years after officially being established were spent on appointing commissioners of the Commission.

The later years as stated in the Inaugural Report “had to go into laying the foundations for a National Human Rights Institution which included appointing appropriate office building and paraphernalia, hiring staff, drawing up a five year strategic plan and preparing relevant working manuals” (Ibid). Though lack of available resources and expertise are commonly used as excuses, it has been witnessed that the resources and expertise have been made available to undertakings that have the backing of the Government, such as the amendment of the Anti-Corruption legislation and the establishment of the Commission on Ethics and Anti-Corruption (Rakeb, 2002:26)

As mentioned earlier, although the Ethio-Eritrean war has resulted in delaying the time in which the Commission would have been able to open its doors and start its operation it was therefore, in the mid of its first five year tenure that the Commission had, by and large, assumed its responsibilities of promoting and protecting human rights in the country. So, although both the Commission and the Ombudsman were legally established in 2000 but they only became operational in 2005. As to Tsegaye (2010:111) “to date, they have not fully ensconced themselves in the system so as to be able to promote, monitor, and protect human rights”.

According to Inaugural Report of the EHRC for the year 2011 the Commission since operational has been doing capacity building work by training its staffs, securing headquarters space and expanding reach and conducting experience sharing programs. Concerning human rights education, advocacy and research works the report states that the Commission has been trying to raise the awareness of all stakeholders, including the legislative, the judiciary as well as the executive branches of government functioning at all levels on matters related to respect and enforcement of human rights.

According to the report the Commission's activities regarding human rights education, advocacy and research works is also discharged using media outlets including arranging training programs, symposiums, workshops and consultative conferences which enabled it to reach the target audience. As to the report the trainings have been targeting duty bearers and right bearers as well. The FDRE combined report to the African Commission on Human and Peoples' Rights (2008:87) stated that "to strengthen the development of teaching on human rights, the Ethiopian Human Rights Commission has prepared a draft study on incorporating human rights education in the curriculum for primary schools".

Apart from preparing national human rights reports the Commission regarding human rights violation investigations has been conducting this either on the petitions it accepts or on its own initiatives. The inaugural report (2011:87) in this regard says "since the public was not adequately informed of the Commission's mandate powers and responsibilities at the time it went operational, the petitions submitted to it during these early operational quarters were mostly outside its jurisdictions; being matters, for example, handled by regular courts and matters over which final judicial rulings have been given, etc". It adds that because of the continual awareness raising activities the situation gradually improving the Commission has handled three hundred one cases during its third year of operation with additional advisory services being provided to one hundred ninety three other petitioners (2011:87-88).

EHRC was able to receive four hundred eighty six petitions during the year 2010. Regarding the type of cases it received the report says that EHRC has noted that the majority of the cases brought before it during the past few years concerned violations of rights relating to employer-employee relations and were submitted by employees of private firms, aid agencies and religious

institutions (2011:89). The fact that the number of petitioners and advice seekers coming to the Commission has kept growing over time is, “we believe, indicative of the continual increase in understanding among the public about the Commission’s role in promoting and enforcing human rights” (2011:91).

Concerning prisons, the report states that EHRC has conducted a series of visits to many of the country’s detention facilities, including numerous police stations. It has conducted oversight and monitoring activities over thirty six federal and regional level detention facilities where some thirty eight thousand inmates were incarcerated (2011:97). Human Rights Watch (2013:4) regarding the Commission’s prison visits however says that “the Commission representatives were accompanied by Maekelawi officials, and the visits have not resulted in concrete improvements in their situation”.

Accordingly over the past decade Human Rights Watch and other domestic and international human rights organizations have documented patterns of serious human rights violations, including arbitrary arrest and detention, ill-treatment, and torture in many official and unofficial detention facilities throughout Ethiopia. The Ethiopian Human Rights Commission has also carried out three visits to Maekelawi since 2010 and met specifically with detainees held under the Anti-Terrorism Law.

Regarding Somalia region where EPRDF is mostly criticized for human rights violation in connection to ONLF the report states that it has conducted an oversight visit to the town of Jigjiga. Accordingly at the conclusion of the visit, “the Commission held talks with the chief administrator of the region, the officials of the region’s justice sector and finally with representatives of the office of the Prime Minister after which the recommendations made by the Commission were implemented” (2011:98). Human Rights Watch in its 2011 report on the other hand says that, in the parts of Oromia and Somali regional states “where the government has concentrated its counterterrorism efforts, domestic and international observers have documented the frequent use of arbitrary detention, physical abuse, and extrajudicial execution by both government security forces and insurgents which the Commission neglected”.

EHRC issued a report in July 2008 acknowledging that the country's prisons fall short of international standards, including inadequate sanitation and 100 percent overcapacity (Arriolla, 2011:7). The Commission claimed to have found no evidence of torture in the prisons, but reports by independent domestic and international observers indicate that detainees in Ethiopia are routinely subjected to mental abuse and physical torture while in the custody of local police, federal police, or the army (EHRC Report, 2010). Again in another report Human Rights Watch (2013:49-50) stated that “ investigation into prison conditions by the Commission found that detainees had been subjected to harsh disciplinary measures by fellow inmates and beatings by security personnel, but it did not identify any cases of ill-treatment that would amount to torture”.

Regarding election observation activities EHRC in the 2010 fourth national and regional election after conducting a pre, election and post election oversight work issuing a report conclude that “it was except for some minor flows, peaceful, democratic and just (2011:102). Concerning the 2005 election many literatures stated that the protection of civil liberties deteriorated following the wide scale arrest of opposition party leaders, civil society activists, and independent journalists in the aftermath of the elections. As to Arriola (2011:8) “neither the Commission nor the Ethiopian Institution of the Ombudsman , both of which began operations in 2005, are perceived as capable of curbing abuses of power”.

Besides providing advisory services to the government the inaugural report states that to foster cooperation and partnership networks the Ethiopian Human Rights Commission has been able to secure financial and technical support from regional and international organizations. And regarding the civil society working in the country it stated that “EHRC has been able to develop joint programs and conduct common projects with local NGOs active in human rights matters such as APAP, Prison Fellowship Ethiopia, EWLA, Network of Ethiopian Women's Associations' NEWA and the EHRCO (2011:110).

Furthermore, with the aim to expand the Ethiopian Human Rights Commission EHRC's scope and make its services accessible to the society, the Commission has opened branch offices in different regional states. So far, it has established eight branch offices, in Mekele, Bahir Dar, Jimma, Hawassa, Gambela, Semera, Asosa and Jijiga.

Chapter Three

Ethiopian Human Rights Commission In Light of the 1991 Paris Principles

3.1 Defined Jurisdiction and Powers of Ethiopian Human Rights Commission

Referring to the Paris Principles, one of the most critical criteria for establishing National Human Rights Institutions NHRIs is that the institutions shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

Awareness creation being one role of NHRIs, Ethiopian Human Rights Commission EHRC is explicitly mandated to “educate the public using mass media and other means, to enhance its tradition of respect and enforcement of human rights upon acquiring sufficient awareness about human rights”⁵. Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, said that the Commission mainly uses regional FM radio stations to promote its existence and its functions to the public at large as it is mainly the people living in the rural part of the country that the Commission is there to serve. Accordingly, using the press is not preferable as the people not only in rural Ethiopia but also those residing in cities including the literate ones have insignificant culture of reading.

Concerning monitoring and supervision role the law accords to Ethiopian Human Rights Commission EHRC the responsibility to ensure the respect of human rights by citizens, government organs and other entities; adding that it also has “the duty to monitor the compliance of laws, regulations, directives and government decisions with constitutionally guaranteed rights and ratified international instruments”⁶.

Till present time, the Commission to prevent human rights violations worked in monitoring areas like prisons and police stations, orphanages and the 4th national election. The Commission monitors prisons every two years so as to give the time for the government to make

⁵ EHRC, (2000), *Ethiopian Human Rights Commission Proclamation No 210.2000*, p; 4-5.

⁶ Ibid.

improvements based on the Commission's recommendations and make further visits to check if changes have been made⁷.

The other major mandate of NHRIs being compliant handling and investigation, Ethiopian Human Rights Commission with the help of its one hundred twenty six legal aid centers located in the different regions of the country has handled more than thirteen thousand complaints in the year 2013 only⁸. According to Commissioner Ambassador Tiruneh Zena, when the Commission entered into operation it was only three or four hundred complaints that it receives and investigates and now that number has increased to thousands.

As to Power to investigate, Ethiopian Human Rights Commission has the power to conduct investigations in its own initiation. And the law therefore imposed obligation on any person to assist the Commission in the process of discharging their duties⁹. But the law according to the Commissioner limited its jurisdiction not to investigate the decision of the parliament as it is accountable solely to the people and decisions made by the security, defense force and that they could not interfere on matters being handled by the courts. There is an argument that the fact that a complainant has been charged and a criminal prosecution is under way should not be a pretext for stopping the Commission from acting on a complaint, or taking any other action within its mandate to address human rights concerns.

However, both focus group discussion participants stated that the Commission has never been heard of criticizing the illegal imprisonment of journalists from the free press and the inhuman treatment they face in prisons while most of the international human rights monitoring bodies were shouting about it¹⁰. These issues have as well been raised by leaders of opposition political parties, representatives of civil society organizations and journalists from both government and the free press interviewed by the researcher saying that the Commission preferred not to investigate and was reserved from condemning the action while a displacement which resulted

⁷ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

⁸ Ibid.

⁹ EHRC, (2000), *Ethiopian Human Rights Commission Proclamation No 210.2000*, p; 5.

¹⁰ See for example, Human Rights Watch, (2013), *Country Report: Ethiopia*, US State Department, (2012), *Ethiopia: Human Rights Report*, Norwegian Refugee Council Internal Displacement Monitoring Center (2009), *Ethiopia: Human Rights Violations and Conflicts continue to cause Displacement*.

with a mass violation of human rights occurred in the different regions of the country and the capital city Addis Ababa¹¹.

Commissioner Ambassador Tiruneh Zena said that the accusation from the different international human rights monitoring bodies, opposition parties and the free press regarding displacement is baseless as the Commission has done its own part to improve the situation. For instance, the Commission has intervened and condemned the action when such a displacement occurred in Benishangul¹². And after submitting a report to the government, the Commissioner said that, measures have been taken as a result of the Commission's report.

Commissioner Ambassador Tiruneh Zena added that "the Commission does not believe in naming and shaming and it has other better mechanisms beyond that to create an influence and that was what it did"¹³. The reason for the accusation as to the Commissioner is because of the fact that they have not talked and publicized the result to the public and admits that the public relation and communication work of the Commission is inefficient and that is why that the Commission got a lowest point on its public relation activities while the UN was evaluating its performance.

Concerning legislative review Ethiopian Human Rights Commission undertakes research and studies to identify the source and means of curbing human rights violations. For this as a great move what Commissioner Ambassador Tiruneh Zena mentioned was that of the primary role of EHRC in pushing the Ethiopian government to come up with a Human Rights Plan of Action in the year 2014 to improve the situation of human rights violations in the country.

Besides assisting the government while drafting a new law, additionally the Commission has signed a contract with four universities to make research on human rights areas, for example, concerning the inclusion of human rights as a course in different educational levels¹⁴. Besides its advisory role Ethiopian Human Rights Commission plays additional roles such as consultancy on

¹¹ Interview with Engineer Yilkal Getnet, Chairman of Blue Party, 25/2/2014, Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, 27/2/2014, Dan Yirga, HRCO's Human Rights High Officer, 13/3/2014, Temesgen Desalegn, Former Fitihi Newspaper Chief Editor, Fact Magazine Columnist and Activist ,15/3/2014.

¹² Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

¹³ Ibid.

¹⁴ Ibid.

human rights matters, participate in international human rights meeting and conferences and forward opinion on human rights reports to be submitted to international organ.

3.2 Independence of Ethiopian Human Rights Commission

As evident from the discussion in chapter one, National Human Rights Institutions NHRIs established under the Paris Principles shall enjoy an important degree of independence from government and other organs. They should be able to carry out their duties autonomously without any interference and obstruction from other entities as it has essential contribution to the credibility of national institutions. Nonetheless, it does not mean that national institutions are absolutely separate from the government (UN Handbook, 1995:10).

Hence, Ethiopian Human Rights Commission EHRC, although part of the internal government structure and an independent body, it is established by the parliament and unlike other international human rights monitoring bodies whenever it says or advises on some matters the government does not see it as an interference as it is already part of the government structure and is there to serve both the government and the public¹⁵.

Regarding independence through legal and operational autonomy since it is recommended that national institutions should be established by law; there is no question that the Ethiopian law has provided that the Commission is separate and has a distinct legal personality of a nature which permits it to exercise independent decision making power. For independence through appointment and dismissal procedures, in order to ensure a stable mandate for the members of the institution, since, without which there can be no real independence, the law additionally has stated that their appointment shall be effected by an official act which shall establish the specific duration of the mandate.

Although the act magnifies the crucial requirement for appointees to be politically neutral and a person with high integrity, in the absence of this characteristic in practice it is highly unlikely that the Commission has got the confidence and trust of the public¹⁶. To ensure independence

¹⁵ Ibid.

¹⁶ Interview with Engineer Yilkal Getnet, Chairman of Blue Party, 25/2/2014, Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, 27/2/2014, Interview with Dr Merera Gudina, Chairman of Medrek,

through composition the Commission tries to accommodate the diversity in sex, ethnic origin, language and other social forces within its staffs¹⁷.

As stated earlier in chapter one, to secure true independence of National Human Rights Institutions NHRIs, there should be financial autonomy and their budget should not be subject to interference by any branch of the government. As of the Paris Principles financial source of NHRIs should vividly be specified in the enabling legislation as this strategy shields the funding of these institutions from being controlled by the government and any other organ and enables them to have their own staffs and premise independent of the government (UN Handbook, 1995:11).

Ethiopian Human Rights Commission's funding mainly being allocated by the government does not make it subject to financial control which might affect its independence says Commissioner Ambassador Tiruneh Zena. The first reason for this as to the Commissioner is that the law does not allow the government to make such an influence. He said that the nomination process that is undergone to elect him as a Commissioner was so complex and that he got the full consent of all parliamentarians including those from the opposition parties. However, he added that "the situation could be different in the current parliament where almost all the representatives are from the single ruling party and this paves the way for a significant amount of pressure and influence by the government"¹⁸.

Dr Merera Gudina, Chairman of Medrek, argues that Ethiopian government structure is dictatorial and that the check and balance system in such a dictatorial country does not allow Ethiopian Human Rights Commission be able to perform its mandates independently. Since, the funding is the public's resource the Public through the Parliament has the right to question if the budget is appropriately used in democratic countries and the government in Ethiopia is ruling by force and not really a peoples' government¹⁹.

25/2/2014, Temesgen Desalegn, Former Fitihi Newspaper Chief Editor, Fact Magazine Columnist and Activist, 15/3/2014.

¹⁷ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

¹⁸ Ibid.

¹⁹ Interview with Engineer Yilkal Getnet, Chairman of Blue Party, 25/2/2014.

The Commission mainly getting its funding from government given the rationale behind the Commission's establishment being to give protection for the abusive acts of the government which is the main responsible body in violating human rights and not really to protect human rights could not give it a position to perform its mandates independently²⁰. Reday Halefom, Ethiopian People Revolutionary Democratic Front EPRDF's Public Relations Department Head, believes that the legal framework in Ethiopia allows the Commission to perform its mandates independently and as the country's democratization process is in its initial stage the status of its independence will improve through time.

Birtukan Haregewoin, Ethiopian Radio and Television Agency ERTA's News Department Deputy Editor in Chief, stated that the Commission could not be an independent institution since it is not there to listen to the voice of the people and only to impress the government and its officials. One striking similarity between both of the discussion groups is that both groups stress the funding mainly being allocated by the government in a country like Ethiopia does not give the Commission a position to perform its mandates independently.

For instance, a participant from the focus group of assistant lecturers said that, "in such a government structure where the parliament is fully controlled by representatives from a single ruling party the Commission won't be in a position to question their wrong deeds as it is the government who is the main source of its funding". And in the same focus group, another participant added that, "since the government has everything in its hands including allocating, releasing and controlling the budget of the Commission, the Commission like any other institutions in the country which are funded by the government can't perform without the will and interest of the government".

Likewise in the focus group of journalists, one participant stated that, the Commission's budget mainly being allocated by the government in an infant democratic country like Ethiopia gives the government a wide space to interfere in everything the Commission does. It is thus clear that for both focus group participants in this study the Commission's independence through funding is questionable and both groups of participants clearly seem to agree on this issue.

²⁰ Interview with Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, 27/2/2014.

Human rights violation victims who filed a complaint to the Commission interviewed stated that there is a tendency of ignoring the decision of the Commission by some government institutions and they feel that the Commission's independence in this regard has made the public not to believe in its independence and that it sides to the government instead of the public²¹. They added that the belief that it is just like other government institutions stops human rights violation victims not to go and file a complaint to the Commission.

3.3 Accessibility of Ethiopian Human Rights Commission

Accessibility to the public is one feature of effective national human rights institutions which is recognized under the Paris Principles. Accessibility of these institutions is highly influenced by the whole organizational structure and procedures followed. National institution which is perceived to be responsible, effective and works to augment its relationship with clients should develop its accessibility to the public (UN Handbook, 1995: 13-14). Hence, accessibility has to be seen from two aspects that is familiarity of the public about the institution and physical accessibility.

As stated in the first chapter, the public awareness programs are part of the promotional mandate of all national human rights institutions and serve as a starting point from which the general public is made aware of the existence of the institution and its functions and capabilities.

3.3.1 Accessibility by Awareness

National institutions will be readily accessible when the public has enough awareness as to its existence and various functions it carries out. Paris Principles say that they should strongly use all the necessary means to make themselves known to individuals that benefits from their activities. They should enhance their visibility especially to groups of individuals that are susceptible to human rights violations (UN Handbook, 1995: 13). As stated above since awareness creation is one of the roles to be played by national human rights institutions, this task

²¹ Interview with Etsegenet Kebede, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 21/4/2014, Interview with Roman Assefa, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 21/4/2014, Interview with Meskerem Bekele, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 22/4/2014.

embraces the responsibility to enhance the public knowledge about existence and functions of the institutions.

Ethiopian Human Rights Commission EHRC for instance, as I stated earlier uses local FM radio stations to familiarize the public about its existence and functions as more than eighty five percent of the total number of population lives in rural areas. To bring about an impact the main target of EHRC is the people living in rural areas since most of the victims of human rights violations are located in rural areas²². According to Commissioner Ambassador Tiruneh Zena, the public in the rural areas is clearly aware about the Commission’s existence and functions and that is why the number of complaints the Commission is receiving is increasing from year to year.

Human rights violation victims interviewed stated that the public’s awareness about the existence and functions of the Commission is low and if it wasn’t for the abuse they faced and as a last resort to get justice after exhausting all the legal procedures they wouldn’t know about the Commission’s existence. However they stated that, although they have not heard about the Commission from the media, they have seen brochures about the Commission and that the public sometimes gets information through a word of mouth²³.

Year	No of people who contacted the Commission
2009	299
2010	543
2011	1615
2012	1319
2013	1290

Figure1: Source- Ethiopian Human Rights Commission

Opposition political party leaders, regarding awareness of the public about EHRC said that the Commission does not try to promote itself to the public and is simply there to cover up violations created by the government and send a wrong message to the outside world that Ethiopia has the

²² Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

²³ Interview with Etsegenet Kebede, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 21/4/2014, Interview with Roman Assefa, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 21/4/2014, Interview with Meskerem Bekele, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 22/4/2014.

needed institution to protect and promote human rights in the country. For them, the Commission is not close to the media and does not do promotional works because it does not want to as its intention is just to impress and deceive the West²⁴.

Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, for instance, raised Ethiopian Anti Corruption Commission and the Office of the Ombudsman as exemplary in promoting themselves on the media and informing the public about their contact address unlike the Commission which he has never seen it conduct such activities. Considering the media as a major instrument and using it to promote government activities at a country level in general is at its infant stage and that the Commission's performance in this regard should be seen in this framework²⁵. However, this does not mean that EHRC is negligent about promoting itself and improvement has been registered from time to time in using the media which needs to be worked on more²⁶.

Ethiopian Human Rights Commission to some extent tries to create awareness among the public about its existence and functions using the media but, "this is not enough as there is no clear understanding among the public about which type of cases the Commission and the Office of the Ombudsman handles and sometimes there is a confusion of considering the Commission as Human Rights Council HRCO as HRCO is very familiar and has already a wide popularity among the public"²⁷.

Although the Commission tries to promote itself using different government medias like Addis Zemen Newspaper and Ethiopian Television and Radio, which have the capacity to reach to more than ninety nine percent of the population, the public doesn't care about the existence and functions of the Commission²⁸. And the reason for the public's reluctance is that "achieving the full respect of human rights does not come from mere propaganda and public relation works and

²⁴Interview with Engineer Yilkal Getnet, Chairman of Blue Party, 25/2/2014, Interview with Dr Merera Gudina, Chairman of Medrek, 25/2/2014.

²⁵ Interview with Reday Halefom, EPRDF's Public Relations Department Head, 13/3/2014.

²⁶ Ibid.

²⁷ Interview with Birtukan Haregoing, Ethiopian Radio and Television Agency ERTA's News Department Deputy Editor in Chief, 13/3/2014.

²⁸ Interview with Temesgen Desalegn, Former Fitih Newspaper Chief Editor, Fact Magazine Columnist and Activist, 15/3/2014.

only from concrete and visible matters on the ground about what the Commission has so far done to promote and protect human rights”²⁹.

On the contrary, HRCO without using those Medias is highly accessible to the public and has a better awareness of its functions and existence by the population living in both rural and urban areas. Hence, the Commission has not earned the public’s trust and whatever means it uses to publicize itself to the public is of no use³⁰. It is believed that publicizing the Commission’s activities, releasing information on investigations conducted by the institution and measures taken has a contribution to increase the Commission’s accessibility and public awareness on human rights issues and develop the public’s trust in turn.

The journalists, in their focus group discussion, all stated that they came to know about the existence of the Commission through the training that they were given by the Commission to raise their knowledge about human rights. And since they all are working in it and near to the media they have expressed that they have seen the different promotional activities that the Commission carries out using different medias. However, they also have expressed their doubt if the public especially at the lower level has a similar level of awareness about the existence and functions of the Commission as they do.

The Assistant lectures group participants have a wholly similar perspective about the low level of the public’s awareness of the Commission’s existence and activities and they all explained that they came to know about the existence and functions of the Commission in the teaching learning process while teaching courses like Civics, Law, Human Rights and Political Science at their Universities and while learning for their masters degree.

3.3.2 Physical Accessibility

In addition to distributing extensive information about national human rights institutions and their functions, Paris Principles state that it is further essential to make sure about their physical accessibility to their beneficiaries. It is believed that access to national institutions in geographically large countries is very problematic. Practically on the other hand, many national

²⁹ Ibid.

³⁰ Ibid.

institutions are located in major population areas. This has a great impact in obstructing the accessibility of national institutions to people living in isolated part of the country.

To curb the above problem the Paris Principles clearly stipulate the importance and recommends that National Human Rights Institutions NHRIs should open regional or local offices (UN Handbook, 1995: 13-14). It is believed that these offices have vital importance to facilitate easy communication with national institutions in larger countries, or a country where there is a population living in remote and inaccessible locality, or where there is serious transportation difficulty. In light of these points, it can be noted that decentralization has great significance to provide rapid and full range of service to the constituency.

Hence, concerning physical accessibility in case of Ethiopian Human Rights Commission EHRC its previous head quarter office was somehow inaccessible as it was located at the extreme side of the capital city³¹. Human rights violation victims who filed a complaint to the Commission interviewed stated that both the former office of the Commission which was located around Legehar and the current office around Ksanchis are easily accessible locations. For eighty or ninety million population of Ethiopia as to Commissioner Ambassador Tiruneh Zena, mentioned the Commission's capacity when he took the position of the Commissioner was insignificant.

And trying to build and strengthen the organizational capacity besides increasing the number of experts the Commission has tried to expand its service to the different regions of the country and opened eight branch offices in major regional cities of Mekele, Bahirdar, Jimma, Hawassa, Gambela, Semera, Asosa and Jijiga³². A process is also under way to open additional branch offices in the South Region of Jinka and Somalia Region of Gode. He added that the premises of the Commission were installed in appropriate places to attract potential complaints and that the Commission considers geographical location of each office not to be in areas difficult to access.

Zenaye Tadesse, Ethiopian Women Lawyers Association EWLA's Executive Director, said that the Commission's physical accessibility when compared to the total population number of the country is a bit difficult and not accessible to all sections of the society. She in fact said that "the Commission tries to open branch offices besides the Addis Ababa office and that they recently

³¹ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

³² Ibid.

have opened another branch office in Semera and Asosa besides the six regional offices that they have already opened”³³. But still, the Commission has only few branch offices and it would be difficult to claim adequate level of accessibility to the lowest level of the society³⁴.

3.4 Cooperation

As noted earlier in chapter one, National Human Rights Institutions (NHRIs) must develop a strong cooperation with other human rights institutions either domestic or from other countries, international organizations like UN, governmental organs and Non Governmental Organizations NGOs. This same fact is affirmed in the Paris Principles to assure effective functioning of national institutions saying that “national institutions cannot work alone and be well productive” (A/RES/48/134, 1993: 187). To secure a well facilitated communication with other organs and national institutions it is highly recommended to prepare a Memorandum of Understanding MOU as well.

According to the Paris Principles a well organized and strong communication has a great significance to expand the operational degree of national institutions. It says that they should use this opportunity to exchange expertise, experience and information on different human rights violations. Establishing good relations particularly with NGOs is believed to be fundamental as it facilitates information exchange on human rights issues, providing feedback on the performance of national institutions and benefit from knowledge and expertise of NGOs (Ibid).

As part of this cooperation strategy Ethiopian Human Rights Commission EHRC particularly developed cooperation with International and Regional Human Rights Commissions like East African Human Rights Commission branch office, UNDP and other countries like Uganda, Ireland and Philippines Human Rights Commissions³⁵. The enabling legislation further expressly specified the need to establish a working relation with NGOs.

Working relationship with NGOs that work on the area of human rights is vital for Ethiopian Human Rights Commission for several reasons. For one thing, they can serve as a great source of

³³ Interview with Zenaye Tadesse, Ethiopian Women Lawyers Association EWLA’s Executive Director, 11/3/2014.

³⁴ Interview with Birtukan Haregoing, Ethiopian Radio and Television Agency ERTA’s News Department Deputy Editor in Chief, 13/3/2014.

³⁵ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

fund to the institution in addition to the budget from government. In the absence of branch offices, they assist the Commission to reach victims that are geographically isolated and they further contribute to the effective work of the Commission through exchange of best experience, expertise and information on human rights violations³⁶.

The Commission, for instance, has developed relation with Save the Children, Action Aid, Human Rights Council HRCO, and Ethiopian Women Lawyers Association EWLA³⁷. When Ambassador Tiruneh Zena took office as a Commissioner EHRC as he says was “literally a drop in the ocean and to conduct its activities what it initiated was to use and work in collaboration with other organs”. And since there were many stakeholders working in the area of human rights what the Commission did was to assist them technically and financially so that it could reach to the wider population. Putting a pressure and helping the government come up with a Plan of Action for Human Rights was one instance of working with government organs³⁸.

Another approach the Commission followed was to work together with NGOs which already are working in the area of human rights so that they expand their activities. Ethiopian Women Lawyers Association EWLA initially has opened its offices in remote rural areas of the country like Gambella Region and others and it already was working in areas of children and women. Since assisting these sections of the society is a huge responsibility EHRC has started assisting EWLA financially and technically so that it discharges its responsibilities efficiently³⁹. The Commissioner said that EWLA at the time was retreating because of the Civil Society Organization CSO law and the Commission’s financial assistance has helped EWLA expand its service and reach a wider section of the population.

Likewise Ethiopian Human Rights Commission EHRC is trying to work in collaboration with Human Rights Council HRCO. Besides the civil society EHRC is working with Women Associations’ in the country on areas of harmful traditional practices and by creating such working relationships the Commission is expanding its operational capacity⁴⁰.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

Regarding the effect of the CSO law on the Commission's cooperation with the civil society Commissioner Ambassador Tiruneh Zena said that he couldn't comment on the previous situation when the law was adopted and said that those NGOs which were working with the Commission when he took office are still with it carrying out different activities in collaboration with the Commission.

Zenaye Tadesse, Ethiopian Women Lawyers Association EWLA's Executive Director, said that their cooperation with the Commission was strengthened after the CSO law. She in fact said that "because of the CSO law they came to realize that they should help the Commission and get help from the Commission as well". Accordingly they have signed a Memorandum of Understanding MOU to work together in different areas.

Both financial and technical support from the Commission has helped EWLA to carry on to give a free legal advisory service and to expand this service in the rural areas of the country. The Commission and EWLA apart from these recently have signed a partnership agreement to expand these free legal advisory services to the four backward regions of the country⁴¹.

Dan Yirga, Human Rights Council HRCO's Human Rights High Officer, said that there were initiations to work in collaboration with Ethiopian Human Rights Commission EHRC. There was a time that HRCO won on a project proposal after a competition among different civil society organizations and a Memorandum of Understanding MOU was signed afterwards with the Commission. He however said that due to different reasons and complications created by the Commission they couldn't get into work on what they have agreed and signed a Memorandum of Understanding before. Hence, till now there is no concrete collaboration on the ground with the Commission.

However, HRCO recently has circulated a letter asking for the Commission's financial assistance and the Commission has given it a promising response⁴². The CSO law has affected not only HRCO but also other NGOs working in the area of human rights, for instance, Organization for Social Justice OSJ now called Organization for Social Development OSD which has been forced

⁴¹ Interview with Zenaye Tadesse, Ethiopian Women Lawyers Association EWLA's Director, 11/3/2014.

⁴² Interview with Dan Yirga, Human Rights Council HRCO's Human Rights High Officer, 13/3/2014.

to change its focus from human rights to development and a similar effect has happened on Action Professional Association for the People APAP⁴³.

Explaining the effect of the CSO law on HRCO, Dan said that before the law HRCO has more than ten branch offices and a staff of more than sixty employees. Accordingly, the branch offices have now been reduced to three and the number of staff has declined to twelve or thirteen. There were a wide range of program activities conducted by HRCO including media monitoring, conducting research, advocacy and others which after the CSO law are forced to be abandoned. Although HRCO is struggling to survive, the law discourages those working in areas of human areas and others not to enter to work in such areas and this in turn has decreased the scope of cooperation the Commission could have with other civil society organizations working in the area of human rights⁴⁴.

Dr Merera Gudina, Chaiman of Medrek, regarding the effect of the CSO law believes that it has seriously affected those organizations working in advocacy, human rights, women and children and what are there after the law are only what he calls Government Organized Non Governmental Organizations or GONGOs.

In developing countries like Ethiopia NGOs that work in areas of human rights, education, health and other sectors are vital and a conducive environment to perform their activities effectively should be created. But the CSO law has forced some to change their area of work while some others abandoned their works, for instance, Inter news which with USAID's funding was working in assisting journalists from the free press to get trainings, use studios and equip them with different recording equipments⁴⁵. However, Inter news after the CSO law has been forced to close its office in Ethiopia and move to Kenya. In such instances because of the few number of civil society organizations working in areas of human rights the Commission could not create a wider cooperation and become effective⁴⁶.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Interview with Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, 27/2/2014.

⁴⁶ Ibid.

The focus group participants also have their doubts about cooperation, and complain about the CSO law affecting the level of assistance the organizations could have contributed if the law was not there. A participant who conducted a research for her undergraduate degree on the performances of the Commission and HRCO stated that there is a tendency of accusing one another in what they are doing instead of cooperating with one another.

As an illustration of this point, a similar argument was raised by another participant stating that “there was an instance that the Commission was rejecting to work together with an NGO called Transparency International which works in the area of corruption and good administration and this could be an example that the Commission does not want to cooperate with such strong institutions which could have been a better means of assisting it achieve its goals”.

And one participant, who agrees with that, said that he is not sure if the Commission currently has such a cooperation culture with CSOs and the CSO law has almost pushed away those existing few civil society organizations working in the area of human rights and that this being the reality on the ground it couldn't cooperate with CSOs which are not existing.

3.5 Operational Efficiency of Ethiopian Human Rights Commission

Operational efficiency is an essential element of the Paris Principles for national institutions to achieve a goal they are established for. It refers to all aspects of institution's procedures essential to enforce regular programs. The idea of operational efficiency is very broad; however, according to the Paris Principles as mentioned earlier it has an inextricable link with the availability of adequate funding and sufficient human resources (UN Handbook, 1995: 15). As previously discussed funding should be guaranteed in law to assure compliance to Paris Principles and effectiveness. Hence it can be noted that operational inefficiency may arise when the institution is understaffed or under resourced but overburdened.

The critical problem faced by Ethiopian Human Rights Commission is lack of sufficient professionals to properly and effectively discharge their duties. And the major reason for absence of sufficient relevant staff member is lack of financial resources. Being highly dependent on

government funding is a basic challenge in this regard⁴⁷. Commissioner Ambassador Tiruneh Zena said that since the Commission was a body which questions the wrongful act of the government it should have a better capacity than other government institutions and when they were trying to build the capacity of the Commission due to insufficient allocation of funding the salary they were offering potential employees was not that attractive.

Since the matter of efficiency relates with the number of staff members, it is compulsory for national institutions to hire sufficient personnel for the proper performance of their function and the personal capacity and efficiency of the personnel is very crucial. When Commissioner Ambassador Tiruneh Zena took over office, Ethiopian Human Rights Commission EHRC has only about twenty staffs which after a while grew to over two hundred fifty. He however said that there is still a delivering problem as it takes two or three personnel to go out for about three or more days to work and investigate on a case.

When the Commission decided to monitor the 2002 election which will minimally demand about two hundred experts according to the Commissioner the Commission has only about twenty experts. So, what the Commission did at the time was to collaborate with some selected universities and recruit some law school students and instructors whose political stand is assumed to be neutral to conduct the election monitoring activity⁴⁸.

It should be noted that is unlikely that national institutions function with excess staff and funds however, they should look for alternative solutions in case scarcity is faced. Hence, Ethiopian Human Rights Commission implement the method of hiring temporary staffs to alleviate the problem of staff shortage that expose the institutions to inefficiency and sometimes conduct researches in consultancy⁴⁹. The Commission for instance has deployed some two hundred sixteen newly recruited temporary staff besides all the staffs of the Commission while monitoring the 2010 forth general elections to the House of Peoples' Representatives and State Councils⁵⁰.

⁴⁷ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ethiopian Human Rights Commission, *Report on Final Monitoring and Observation*, (2011), p; 6.

The Commission also highly relies on continuous training for its staffs to ensure efficiency. As national institutions are strongly engaged with the promotion and protection of human rights, the trainings involve developing staff's knowledge relating to domestic and international human rights instruments and organizing a forum to exchange experience with others is also a great mechanism to attain acceptable level of staff knowledge⁵¹.

Operational efficiency of the Commission was another important theme for discussion which both focus groups in one or another way tried to imply that the Commission has a capacity problem to reach to the most vulnerable sections of society. However, a participant from the Journalists focus group discussion added that he knows an instance when the Commission was trying to work with different law students at different universities to expand its free legal aid services.

Although one case is pending human rights violation victims interviewed stated that the Commission sent its experts away from Addis Ababa to Jijiga and Diredawa to work on their case and that they have observed a follow up and capacity problem with the experts of the Commission in giving a timely response unless their heads intervened⁵².

3.6 Accountability of Ethiopian Human Rights Commission

As discussed earlier, accountability is closely linked with the legitimacy an institution can acquire both with the government and with the public at large. The first layer of accountability requires national institutions to submit annual report to the authority that appoints them, mostly the parliament (UN Handbook, 1995: 17). This creates an opportunity for the parliament to scrutinize the performance of these institutions and give recommendation for the correction of mistakes, if any. Further it promotes the transparency of national institutions at times of discharging their responsibilities.

Public accountability accounts the accountability of national human rights institutions to the public at large. To this effect the reports made by these institutions should be made available to

⁵¹ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

⁵² Interview with Etsegenet Kebede and Roman Assefa , Human Right Violation Victims Who Filed a Complaint to the Commission, held on 21/4/2014.

the whole community as publicity is the best means to guarantee popular accountability (Ibid). Media and press are used to publicize the works of national institutions and promote accountability of the institutions to the public. Publicizing the opinion and recommendations of national human rights institutions following an investigation for instance, can maximize transparency and ascertains the independence of these institutions to the general public (Ibid). It has additional purpose of creating public shame on the organ at fault and put pressure to correct its mistakes.

Ethiopian Human rights Commission's establishing proclamation states that "the Commission shall be accountable to the House"⁵³ and that it is expected to submit annual report to the parliament. In the parliamentary country, where the majority seat is occupied by a leading party, opposition political party leaders interviewed said that it is difficult to separate the Commission from political influences and whatever the Commission reported is accepted with a full consent and no one opposes anything mentioned in the report⁵⁴.

Accordingly, the Ethiopian Parliament structure does not allow a free debate whenever the Commission submits its report as it is dominated by representatives from only a single party and just passes on a decision with a hundred percent consent. Its accountability to the parliament challenges its independence and it is impossible to talk of true accountability and independence until the system allows different parties to have recognizable seats⁵⁵.

The two focus group discussion groups have mostly been found to be on agreeing teams on assessing the effectiveness of the Commission based on some of the Paris Principles that are discussed above and again regarding public accountability they said that the Commission does not make enough effort to publicize its opinions on the investigations it undergone, the results it came up with and the different reports it submitted to the Parliament are not easily available to the public. They also implied that it's only because of the nature of their work and education that they are better informed about its activities and that the public does not have a similar level of understanding and information about what the Commission is conducting.

⁵³ EHRC, (2000), *Ethiopian Human Rights Commission Proclamation No 210.2000*, p; 4.

⁵⁴ Interview with Engineer Yilkal Getnet, Chairman of Blue Party, 25/2/2014, Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, 27/2/2014, Interview with Dr Merera Gudina, Chairman of Medrek, 25/2/2014.

⁵⁵ Ibid.

Commissioner Ambassador Tiruneh Zena said that the Commission's accountability to the parliament with the current composition does not challenge its independence adding that such accusations even from the outside world has stopped and that the Commission becoming a member of the United Nations Human Rights Council is an implication that they have proved the Commission's independence.

Since national human rights institutions should publicize their reports and works to ensure popular accountability none of those reports that EHRC submitted to the parliament have been publicized till this time. According to human rights violation victims who filed a complaint to the Commission, publicizing what the Commission has been doing and realizing information on the cases it solved will help the Commission increase the public's trust and that it is there to help those sections of the society that are most vulnerable to human rights violations⁵⁶.

Commissioner Ambassador Tiruneh Zena said that it is only the government and those concerned who knew about what the Commission is doing. He however said that the Commission sometimes puts its reports and findings on its website although the wider public is not aware and tends to criticize the Commission saying it is doing nothing and is irrelevant. He added that "EHRC works silently and does not use the method of shaming and naming and the problem is from our communication strategy which we should work on more"⁵⁷.

⁵⁶ Interview with Roman Assefa, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 21/4/2014, Interview with Meskerem Bekele, Human Right Violation Victim Who Filed a Complaint to the Commission, held on 22/4/2014.

⁵⁷ Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commission Commissioner, 12/3/2014.

Chapter Four

Effectiveness of Ethiopian Human Rights Commission

4.1 Effectiveness of Ethiopian Human Rights Commission in Light of the Paris Principles

With the data presented in the above section this chapter makes analysis of the data and forward conclusion and recommendations based on the analysis made. To begin with, since, NHRIs must be independent from the executive functions of government and that its founding charter should reflect this, it is essential therefore that Ethiopian Human Rights Commission is established by law as it is not easier to abolish, or to limit powers which are necessary to its effective functioning. However the consultation process should have been transparent, adequate, effective and properly resourced to ensure proper consultation and the method of selection and appointment of the members of the Commission should have been fair and transparent, so as to afford all necessary guarantees of independence.

According to the Paris Principles, broad representation is also important, and steps should be taken to guarantee this, for example by allowing members of civil society to nominate possible candidates for membership of the NHRI. But, as said earlier the consultation process on and about the establishment of EHRC was discriminatory and excluded representatives of civil society, such as human rights organizations, human rights defenders, lawyers, journalists, academics, the trade unionists, and nongovernmental organizations generally.

The Paris principles acknowledged the importance of national institutions to have cooperation with different international organizations, governmental and nongovernmental organizations, as between themselves domestically or with other countries for the successful accomplishment of their goal and the same concept is also incorporated under the Ethiopian law. Accordingly, the Commission has communication with different governmental entities, international organizations and national institutions with other countries. Similarly, it had good relations with human rights NGOs, but as can be noted from the above discussions, such a relation is affected due to the restrictive law on human rights CSOs.

The other main concern of Paris principles is the mandate and independence of NHRIs. The principles clearly put the “mandate to be as broad as possible” should be accorded to these institutions, Ethiopian law, however, limited the mandate of EHRC only to constitutionally guaranteed rights and ratified human rights instruments. Moreover, EHRC does not give much attention to the protection of economic, social and cultural rights ESCR. The mandate should have made the Commission truly independent in action, to promote and protect human rights in whatever manner is most appropriate and that should have included all types of rights at risk of violation.

Since, the adoption of human rights laws is not sufficient to guarantee its protection; the Commission works on the promotion of human rights through awareness creation. It in this regard applies different mechanisms to increase people familiarity about human rights matter and to this effect it works with the media and press. The problem of the Commission is that it uses only limited languages when it is a multi-linguistic country.

In Ethiopia where illiteracy is high and where newspapers are hard to obtain, the Commission preferring to use local fm radio broadcasts seems the most effective way to reach as many people as possible. Giving human rights trainings targeting at people who may have to consider and apply human rights issues in their work like law makers, administrative decision makers, judges, lawyers, teachers, prison and police officers, and the armed forces and encouraging them to promote human rights standards among their colleagues is the other remarkable task that the Commission has been carrying out.

In addition to the promotional task, national institutions devote their time on the protection of human rights. Monitoring is one of the mechanisms applied by them to attain their objective. In this role, national institutions should control the compliance of laws with human rights instruments and in Ethiopia, the constitutionally guaranteed rights and ratified human rights instruments. They also have the duty to supervise the proper implementation of these laws. Though it is one of the important tasks of Ethiopian Human Rights Commission, less work has been done on the area due to lack of professionals and high affiliation of appointees with the government.

The Commission isn't seen making recommendations for changes in law, for instance, the anti terrorism proclamation which mostly is criticized to open the space for violation of citizens human rights. The Commission making recommendations is especially important regarding internal security laws, administrative detention laws, and police detention and interrogation procedures, which often are believed to facilitate human rights violations, or where enabling legislation implementing international standards does not implement the international obligations effectively.

Besides not giving timely solutions for complaints regarding investigations as stated earlier, the Commission cannot investigate cases pending before the court, decision of the parliament, decision of the security force and defense force. However, Ombudsman can entertain administration matters within the court, defense force and security force. Nonetheless, the overlapping of jurisdiction between Ethiopian Human Rights Commission and Ombudsman is the other challenge due to the law failure to clearly separate their jurisdiction, and many people institute a case before both institutions.

Where prosecutions are pending, it is stated that Ethiopian Human Rights Commission should not consider the substance of the criminal charge, but instead of that it could look at additional matters relating to the human rights of the accused person but the Commission mostly is accused of being ignorant of such alternative options. In some jurisdictions, the Commission is not permitted to receive complaints from a person who has been charged with an offence or who is otherwise under judicial supervision; therefore if the judiciary is not taking appropriate steps to protect the accused person from human rights violations such as torture and ill-treatment in custody, then that person is without recourse to protect their rights.

Although it is important to emphasize the universal applicability of human rights standards to all persons, even in cases where the Commission undertake visits to places of detention, it is criticized for not visiting particular categories of places of detention where access is denied and does not to talk to detainees who are held under security or the antiterrorist legislation.

The Commission being required to seek permission or give long notice of its visit to prisons and the duration and frequency of visits being restricted to every two years does not make it be able to make a true assessment of the conditions of the prisons. It should be able to visit any place, at

any time without prior authorization. Additionally, the Commission is accused for not undertaking investigations into human rights violations, when those responsible include politicians or other powerful officials in the government.

The Commission not being authorized to investigate the conduct of the police and the security forces throughout the country seems a major cause of frustration and cynicism towards the Commission from victims and the general population within the country, as well as NGOs, especially when the actions of major violators of human rights have not been addressed in a satisfactory way.

To make legislation review, upon its initiation, Ethiopian Human Rights Commission accordingly made a lot of research in collaboration with higher institutions. This helps it to identify the inadequate part of a law. Looking at Ethiopian law however, disclose that the Commission is allowed to review existed laws, and propose the formulation of new laws and policies and cannot review draft legislation, which is easy to amend, or cannot take part during the drafting of new legislations.

National institutions play the role of advising government and Ethiopian Human Rights Commission, for instance, advised the government on women rights, children rights and rights of disabled people and played a major role in assisting the government comes up with a Human Rights Plan of Action. Moreover, as it also has the power to give recommendation following investigation, monitoring or legislative review, an instance has been mentioned where the Commission intervened and improved the displacement situation in Benishangul. However, there is an accusation that the Commission condemn government actions and that many entities are not ready to correct their mistakes based on the recommendations given by the Commission.

In cases where the government fails to respond, or refuses to respond or implement recommendations, the Commission could continue to take all possible measures to press the government, for example, through pressure by the media, through parliament, and through international pressure of opinion and bringing the case to the attention of the international human rights bodies, such as the treaty monitoring bodies and the special mechanisms. But, these have never been practiced by the Commission till present time.

Additional roles are also played by Ethiopian Human Rights Commission in compliance with the Paris Principles. The Commission particularly participates in different international meetings regarding human rights; it gives consultancy service to victims; it gives opinion as an input to the country report on human rights. Though all these roles are played by the Commission, there are core challenges faced by the Commission. The first one relates with the concept of independence. In line with this regarding funding, high reliance on government fund could impede the Commission from criticizing the wrongful act of government officials. The Commission being an autonomous body that has distinct legal personality, it needs to have operational autonomy to decide on its internal affairs. And since, financial autonomy is the other means to secure independence of the Commission; Ethiopian law allows the Commission to draw its fund from government subsidy and other sources.

Practically however, it is highly dependent on government budget and hence, it cannot criticize the government to the extent needed as it also puts its operational autonomy at stake. Though CSOs could be high source of fund for the Commission, their relation is affected due to the restrictive law on CSOs. If the law was not a challenge, the Commission by developing guidelines to ensure that any such fundraising does not compromise its independence and impartiality could have used a lot from the organizations support.

Having a transparent and politically neutral appointment procedure is the other way to secure independence of NHRIs. However, practically Ethiopian Human Rights Commission is criticized for just recruiting people of its interest through recommendations. Further there is an accusation that the nominating committee is composed of members highly affiliated to politics. Therefore it could be concluded that the appointees are not politically neutral. For the effective functioning of the Commission, as frequently the actions of the senior leadership of the organization sets the tone for the activities of the Commission as a whole, it was of primary importance that the highest profile candidates, with proven expertise of practical human rights work, were appointed instead of their political stand.

Accessibility is the other factor that contributes to the effective functioning of NHRIs. This issue should be seen from awareness of people about the institution and physical accessibility. Since, national institutions should use media and press to enhance people familiarity with the

institutions, the same task has been carried out by Ethiopian Human Rights Commission. The increasing number of cases from time to time reveals that this task is successful. Additionally, national institutions should be physically accessible to the broader community and to this effect since, the Paris Principles recommend the establishment of local or regional offices the Commission so far has opened eight regional offices. But, still this is not enough when seen from the total number of the country's population and effective coordination and communication between the central and all local offices should be ensured.

Additionally lack of physical accessibility is the main problem in Ethiopia as the country is a large country where many people are living in a remote area. As a result, it is difficult to reach to those isolated parts of the society and the absence of effective cooperation with NGOs has exacerbated the existed problem. Moreover, although the head office is facing the problem of operational inefficiency due to lack of professionals, adequate fund and sufficient office equipment, the Commission preparing short and long term trainings and forum to exchange experience with other countries so that to successfully alleviate the problem of inexperience and executive incapacity should be admired. However still, what has been done so far is not enough that the problem is present.

Finally, since, existence of accountability is also necessary for effectiveness of national institutions Ethiopian Human Rights Commission is accountable to the parliament that it submits reports to the parliament every year. Additionally it is required that it should be accountable to the public to enhance its transparency and ascertain its independence to the public. And for the purpose of popular accountability, it is required to publicize its annual reports and results of its investigations. Publicity, however, is not common in the Commissions activity. Annual reports cannot be easily accessed by the public and the results of investigations are not disclosed to the people.

4.2 Conclusion

The Concept of human rights is a burning issue throughout the world. Many governmental, intergovernmental and nongovernmental organizations touch the matter. Similarly, National Human Rights Institutions NHRIs are developed primarily to promote and protect human rights at a domestic level. Though many tried to define NHRIs, there is no uniformly accepted definition. However, an institution to be considered as NHRIs should be established either by the constitution or legislative act, it should be independent from the government and it should be established domestically to deal with the promotion and protection of human rights.

The concept of NHRIs was not widely known in Ethiopia before 1991. The 1995 constitution successfully lay down a landmark for the foundation of NHRIs. It gave power for the House of Peoples Representatives to establish the institutions using legislative acts. Accordingly, the house adopted proclamation no 210/2000 and 211/2000 for the establishment of Ethiopian Human Rights Commission EHRC and Ombudsman respectively and these institutions are accountable directly to the parliament. It is essential therefore that the Ethiopian Human Rights Commission is established by law.

However, the consultation process undergone should have been transparent, adequate, effective and properly resourced to ensure proper consultation. In line with this its members and leadership should have been selected on the basis of proven expertise, knowledge and experience in the promotion and protection of human rights. The method of selection and appointment of the members of the Commission should have been fair and transparent, so as to afford all necessary guarantees of independence.

Since broad representation is also important, steps should have been taken to guarantee this, for example, by allowing members of civil society to nominate possible candidates for membership of the Commission which it failed to do so. Regarding as broad mandate as possible, the mandate of the Commission should make the Commission truly independent in action, to promote and protect human rights in whatever manner is most appropriate. It should not be set up as a purely advisory body to advise the government; rather it should listen to victims of human rights violations practically, and have their concerns at the heart of its work.

The Commission should also thoroughly work to promote a culture of respect for human rights through education and raising of awareness of human rights issues. The Commission should report publicly on its activities and be held accountable for its results to the parliamentary body, as an ineffective Commission which does not address human rights violations actively can be an instrument of impunity, rather than a tool to promote and protect human rights. The Commission should also examine bills and proposals for new legislation put forward by the government or parliament to assess its conformity with international human rights standards and to ensure the country's compliance with international human rights standards which it failed to do so while the anti terrorism proclamation was adopted.

While educating the population on human rights issues general human rights education should be undertaken in a practical, illustrative way if possible using media broadcasts rather than producing promotional material which simply sets out general principles. It is also vital to ensure that material is disseminated to suitable target audiences. The Commission should also publicize its role as an institution independent from the executive part of the government, and its policies regarding confidentiality and security.

Regarding physical accessibility the Commission's offices must be stationed in appropriate places and additional regional offices should also be setup as the existing ones are not enough when compared to the country's total population number. In line with this the government must provide the Commission with adequate funding and resources in order to be able to fully carry out, and without restrictions and limitations, the aims and functions set out within the mandate, and particularly, to address the demands of the caseload that has been brought to its attention.

Additionally in all its contacts with NGOs and other organs of civil society the Commission must take steps to protect its independence and impartiality and the funding should be secured with a long term perspective to enable the Commission to plan and develop its activities with confidence about being able to fulfill them.

4.3 Recommendations

After closely examining the critical problems faced by Ethiopian Human Rights Commission, the researcher recommends the following solutions to alleviate the challenges and ensure compliance with the Paris Principles.

Recommendations

- The Commission should accommodate as many languages as possible while carrying its professional task and public accountability.
- The Commission should start to use public shame and submission of special report to the parliament to pressurize the compliance of entities to its decision.
- Regional or local offices should be expanded to cover remote areas of the country.
- The Commission should increase its public accountability and transparency by publicizing its work to the public using proper means.
- The Commission should work hard to drive funds from other sources and more trainings and exchange forums should be organized to avert lack of experience and executive incapacity.
- The government should also amend the law on CSOs establishment cognizant of their great role for the success of the Commission.

Finally, the Commission instead of focusing almost exclusively on human rights education or promotion or implementation of those rights which involve less criticism of the government should be able to set clear priorities for its work in accordance with the seriousness of the violations reported to it, specifically including alleged violations of the right to life and security of the person, as well as to the right not to be arbitrarily arrested or detained not to lose credibility within the people by failing to engage with such issues directly.

References

Journal Articles and Papers

- Adem, Kassie, Abebe, (2011), “Human Rights under the Ethiopian Constitution: A Descriptive Overview”, *Mizan Law Review*, Vol. 5 No.1.
- Carole, J. Petersen, (2011), “Bridging the Gap?: The Role of Regional and National Human Rights Institutions in the Asia Pacific Region”, *Asian-Pacific Law & Policy Journal*, Vol. 13:1.
- Chi Mgbako, Sarah Braasch, Aron Degol, Melisa Morgan, Felice Segura, and Teramed Tezera, (2008), “Silencing the Ethiopian Courts: Non-Judicial Constitutional Review and its Impact on Human Rights”, *Fordham International Law Journal*, Vol. 32, Issue 1, Article 15, Berkeley Electronic Press.
- C. Raj Kumar, (2003), “National Human Rights Institutions: Good Governance Perspectives on Institutionalization of Human Rights”, *American University International Law Review*, Vol. 19, No. 2.
- Eva, Brems, (2007), “Ethiopia Before the United Nations Treaty Monitoring Bodies”, *Afrika Focus*, Vol. 20, No. 1-2, Ghent University, Belgium.
- Fasil, Nahom, (1997), “Constitution for a National of Nation the Ethiopian Prospect”, Asmara: the Red Sea Press.
- Frances, Olsen, (2009), “Critical Evaluation of Human Rights Strategies: A Case Study of CEDAW and Women’s NGOs in Ethiopia”, *Proceedings of the 16th International Conference of Ethiopian Studies*, Trondheim.
- Gebreamlak, Gebregiorgis, (2009), “The Incorporation and Status of International Human Rights under the Federal Democratic Republic of Ethiopia Constitution”, *Ethiopian Human Rights Law Series*, Vol. 2.
- Getachew, Haile, (1997), “Violation of Human Rights of Ethiopians by the Tigray People's Liberation Front, Unraveling Human Rights Abuses in Ethiopia: Ways and Means of Alleviating the Problem”, *Proceedings of a Human Rights Week Observance and Electronic Mail Conference*, Medford, MA.
- Girma Asfaw, (1998), *Paper Presented to the International Conference on the Establishment of the Ethiopian Human Rights Commission*, Addis Ababa, Ethiopia.
- Jon, Abbink, (1997), “Ethnicity and Constitutionalism in Ethiopia”, Leiden: African Student Center.
- Leonardo, Arriola, (2011), “Countries at the Crossroads: Ethiopia”, University of California, Berkeley.
- Linda, C. Reif, (2000), “Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection”, *Harvard Human Rights Journal*, Vol.13.
- Makau, Mutua, (1995), “Democracy Rule of Law and Human Rights in Ethiopia”, Addis Ababa: the Ethiopian Human Rights Council.
- Mark, Fowler, (1987), “Thinking about Human Rights contending approaches to Human Rights”, Vol.VI, Beverly Hills:Sage.
- Minasse, Haile, (1996), “The New Ethiopian Constitution - Its impact upon Unity”, *Human Rights and Development Research Paper*, University of Addis Ababa, Ethiopia.

- Paulo Sergio Pinheiro and David Carlos Baluarte, (2000), “National Strategies: Human Rights Commissions, Ombudsmen, and National Action Plans: The Role of National Human Rights Institutions in State Strategies”, *Human Development Report 2000 Background Paper*.
- Rachel Hayman, Thomas Lawo, Angela Crack, Tiina Kontinen, Joan Okitoi and Brian Pratt, (2013), “Legal Frameworks and Political Space for Non-Governmental Organizations: An Overview of Six Countries”, *European Association of Development Research and Training Institutes*, Bonn, Germany.
- Rakeb, Messele, (2002), “Enforcement of Human Rights in Ethiopia”, Action Professionals’ Association for the People (APAP).
- Sisay, Gebregziabher, (2002), “The Role of Civil Society Organizations in Democratization Process in Ethiopia”, *Paper Presented at the Fifth International Conference of the International Society for the Third-Sector Research (ISTR) “Transforming Civil Society, Citizenship and Governance: The Third Sector in an Era of Global Disorder”*, University Of Cape Town Cape Town, South Africa.
- Tsegaye, Regassa, (2009), “Making Legal Sense of Human Rights: The Judicial Role in Protecting Human Rights in Ethiopia”, *Mizan Law Review*, Vol. 3 No.2.
- Tsegaye, Regassa, (2010), “The Making and Legitimacy of the Ethiopian Constitution: Towards Bridging the Gap between Constitutional Design and Constitutional Practice”, *Afrika focus*, Vol. 23, No .1, Institute of Federalism and Legal Studies, Ethiopian Civil Service College, Addis Ababa, Ethiopia.
- Yacob, Hailemariam, (1999), “The Quest for Justice and Reconciliation: The International Criminal Tribunal for Rwanda and the Ethiopian High Court”, *Heinonline Comparative Law Review*, Vol. 22.

Books

- Andrew, Moravcsi, (2000), *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*, The IO Foundation and the Massachusetts Institute of Technology.
- Anna-Elina, Pohjolainen, (2006), *The Evolution of National Human Rights Institutions: The Role of the United Nations*, The Danish Institute for Human Rights, Denmark.
- Birgit Lindsnaes and Lone Lindholt, (2000), *National Human Rights Institutions: Standard Setting and Achievements*, Human Rights and Development Yearbook, Nordic Human Rights Centres.
- Calpham Caroline and Paul Joe, (1967), *Ethiopian Constitution Development*, Oxford University press.
- David, Fisher, (2006), *Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates*, The Brookings Institution, University of Bern.
- Habib, Muhammad and Abdulkader Yusuf, eds, (2011), *The Ethiopian Federal System: The Formative Stage*, Friedrich-Ebert-Stiftung, Addis Ababa.
- International Council on Human Rights Policy, (2005), *Assessing the Effectiveness of National Human Rights Institutions*, Geneva.
- John, Spencer, (1993), *Ethiopian at Bay*, Commercial Printing Press, Addis Ababa.
- Mohammad, Mahmoud Mohamedou, (2000), *The Effectiveness of National Human Rights Institutions*, Human Rights and Development Yearbook, Nordic Human Rights Centres.

- Morten, Kjaerum, (2003), *National Human Rights Institutions Implementing Human Rights*, Danish Institute for Human Rights.
- Richard, Claude and Burns Weston, eds, (1992), *Human Right in World Community, Issue and Actions*, 2nd Edition, Martinus Nijhoff Publisher, Hague.
- Theodore, Vestal, (1999), *Ethiopia A Post-Cold War African State*, Praeger Publishers, USA.
- Valentin, Aichele, (2010), *National Human Rights Institutions: An Introduction*, German Institute for Human Rights.

Domestic Laws and Legislations

- The Constitution of the Federal Democratic Republic of Ethiopia, (1995), Negarit Gazeta, 21st year, No.1, August 1995, Berhanenna Selam printing press, Addis Ababa.
- Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000, Berhanenna Selam Printing Press, Addis Ababa.
- Transition Period Charter of Ethiopia, (1991), Negarit Gazeta, 50th Year, No. I, 1991, Berhanenna Selam Printing Press, Addis Ababa.

International Laws, Resolutions and General Comments

- International Workshop on National Institutions for the Promotion and Protection of Human Rights, Paris, 7-9 October 1991 (E/CN.4/1992/43 of 16 December 1991) (Paris Principles).
- UN, General Assembly (1993a), Vienna Declaration and Programme of Action, A/CONF.157/23, 12 July 1993.
- UN, General Assembly (1993b), The Principles relating to the status and functioning of national institutions for protection and promotion of human rights (The Paris Principles), Resolution A/RES/48/134, 20 December 1993.
- UN, Office of the High Commissioner for Human Rights (1995), Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights, United Nations Professional Training Series No.4, New York and Geneva, 1995.
- United Nations Office of the High Commissioner for Human Rights, Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights.
- UN, (ECOSOC) (1946), Resolution 2/9, 21 June 1946.
- UN, General Assembly (1978), Resolution A/RES/33/46, 14 December 1978.
- UN, General Assembly (1988), Resolution A/RES/88/72, 18 December 1988.
- UN, General Assembly (1989), Resolution A/RES/89/52, 16 December 1989.
- UN, General Assembly (1991), Resolution A/RES/91/27, 17 December 1991.
- UN, General Assembly (1998), Resolution 1998/55, 1998.
- UN General Assembly (2002), Resolution A/57/387, 2000.
- United Nations Secretary-General Reports, E/CN.4/1998/47, A/36/440 (1981), A/38/416 (1983).

Reports

- Amnesty International, (2001), *Recommendations on Effective Protection and Promotion of Human Rights*.

- Amnesty International, (2012), *Stifling Human Rights Work: The Impact of Civil Society Legislation in Ethiopia*.
- Ethiopian Human Rights Commission, (2011), *Annual Performance Report*, June 2010-July 2011, AM Printing and Packaging plc, Addis Ababa, Ethiopia.
- Ethiopian Human Rights Commission, (2011), *Five Year Strategic Plan 2012-2016*, Addis Ababa, Ethiopia.
- Ethiopian Human Rights Commission, (2011), *Inaugural Report of the Ethiopian Human Rights Commission*, Addis Ababa.
- Ethiopian Human Rights Commission, (2011), *Report on Final Monitoring and Observation*, Addis Ababa.
- FDRE Combined Report, (2008), *Initial and Four Periodic Reports to the African Commission on Human and Peoples' Rights: Implementation of the African Charter on Human and Peoples' Rights*.
- Herbert, Sian, (2013), *Aid to national human rights institutions*, GSDRC Helpdesk Research Report 928, University of Birmingham.
- Human Rights Council, (2010), *The State of Human Rights in Ethiopia: 34th Regular Report*.
- Human Rights Watch, (2003), *Ethiopia Lessons in Repression: Violations of Academic Freedom in Ethiopia*, Vol. 15, No. 2 (A).
- Human Rights Watch, (1994), *Ethiopia: Reckoning under the Law*, New York.
- Human Rights Watch, (1997), *Human Rights Curtailed in Ethiopia*, New York.
- Human Rights Watch, (1992), *Indivisible Human Rights; The Relationship of Political and Civil Rights to Survival, Subsistence and Poverty*, New York.
- Human Rights Watch, (2013), *Country Report: Ethiopia*, New York.
- Human Rights Watch, (2013), *They Want a Confession: Torture and Ill-Treatment in Ethiopia's Maekelawi Police Station*, New York.
- Human Rights Watch, (2011), *World Report: Ethiopia*.
- Human Rights Watch, (2009), *Africa: Human Rights Commissions Have Little Effect*, New York.
- International Committee of the Red Cross, (1998), *Annual Report*.
- Julia Littmann, Arnold Tsunga and Carole Berrih, (2005), *Ethiopia: Human rights Defenders under Pressure*, Report International Fact-Finding Mission, The Observatory for the Protection of Human Rights Defenders, Paris.
- Norwegian Refugee Council Internal Displacement Monitoring Center, (2009), *Ethiopia: Human Rights Violations and Conflicts continue to Cause Displacement*, Geneva, Switzerland.
- Oskar, Thomas and James Ron, (2006), *Do Human Rights Violations Cause Internal Conflict?*, Canadian International Development Agency CIDA.
- U.S. Department of State, (1998), *Ethiopia Country Report on Human Rights Practices for 1997*, Washington, DC.
- US State Department, (2012), *Ethiopia: Human Rights Report*, Washington DC.

Interviews

- Interview with Ambassador Tiruneh Zena, Ethiopian Human Rights Commissioner, held in his office on March 12/3/2014.

- Interview with Birtukan Haregewoin, Ethiopian Radio and Television Agency ERTA's News Department Deputy Editor in Chief, held in her residence on 13/3/2014.
- Interview with Dan Yirga, Human Rights Council HRCO's Human Rights High Officer, held in his office on 13/3/2014.
- Interview with Dr. Merera Gudina, Chairman of Medrek, held in his office on 25/2/2014.
- Interview with Engineer Yilkal Getnet, Chairman of Blue Party, held in his office on 25/2/2014.
- Interview with Habtamu Ayalew, Public Relations Head of Unity for Democracy and Justice Party, held in his office on 27/2/2014.
- Interview with Reday Halefom, EPRDF's Public Relations Department Head, held in his office on 13/3/2014.
- Interview with Temesgen Desalegn, Former Fith Newspaper Chief Editor, Fact Magazine Columnist and Activist, held in his office on 15/3/2014.
- Interview with Zenaye Tadesse, Ethiopian Women Lawyers Association EWLA's Executive Director, held in her office on 11/3/2014.
- Interview with Etsegenet Kebede, Human Right Violation Victim Who Filed a Complaint to the Commission, held at a café on 21/4/2014.
- Interview with Roman Assefa, Human Right Violation Victim Who Filed a Complaint to the Commission, held at a café on 21/4/2014.
- Interview with Meskerem Bekele, Human Right Violation Victim Who Filed a Complaint to the Commission, held at a café on 22/4/2014.

Others

- Carl Milofsky, (2010), Suppression of civil society in Ethiopia. Retrieved from: <http://gaptoday.wordpress.com/2010/05/19/suppression-of-civil-society-in-ethiopia/>.
- "More Journalists Jailed, but Fewer Are Killed", *New York Times*, 15 March 1996.

Appendix 1: Interview Questions for Representatives of EPRDF and Opposition Party Leaders, Civil Society Organizations (HRCO and EWLA), Journalists from both Government Medias and the Free Press.

- 1 Since human rights are better promoted and protected at a state level and one of the mechanisms being national human rights institutions how do you see the relevance of Ethiopian Human Rights Commission in this regard?
- 2 Taking a look at the composition and the nomination process do you think political affiliation affects the independence of the Commission and in line with this how do you evaluate the perceived public legitimacy of the Commission?
- 3 Since the government is the main source of the Commission's funding do you think it is independent to carry out its activities without government influence; officials not setting its priorities and if it is in a position to criticize the practices of government?
- 4 Does the country's political and democratic experience allow the Commission to perform its mandates independently and in line with this how do you see EHRC's ability to distinguish between human rights concerns and opposition politics?
- 5 How do you see the Commission's visibility in terms of awareness of its existence and functions and how do you rate its capacity with respect to the total number of population?
- 6 How do you see the Commission's collaboration with the civil society and since in a geographically large country like Ethiopia where few branch offices are available do you think the CSO law affects their collaboration?
- 7 Generally, how do you assess the Commission's role in promoting and protecting human rights?

Appendix 2: Interview Questions for Representatives of Ethiopian Human Rights Commissioner

- 1 Since human rights are better promoted and protected at a state level and one of the mechanisms being national human rights institutions how do you see the relevance of Ethiopian Human Rights Commission in this regard?
- 2 How do you see the Commission's capacity to respond to the needs of those sections of society at risk of human rights violations and how do you rate its capacity with respect to the total number of population?
- 3 What have you done to increase the public's awareness of the Commission?
- 4 What has the Commission achieved so far in human rights monitoring and complaint investigation?
- 5 Which list of human rights did you frequently receive complaints on so far?
- 6 What seems the situation of human rights protection in the prisons and correctional camps and how frequently do you visit such facilities?
- 7 On what grounds do you work together with the civil society and since in a geographically large country like Ethiopia where few branch offices are available how does the CSO law affect the level of your collaboration?
- 8 Taking a look at the composition and the nomination process is the Commission not politically affiliated and in line with this do you think you have earned the public's trust?
- 9 Since the government is the main source of the Commission's funding it is independent to carry out its activities without government influence; officials not setting its priorities and if it is in a position to criticize the government?
- 10 Does the country's political and democratic culture allow the Commission to perform its mandates independently and how do you see the Commission's ability to distinguish between human rights concerns and opposition politics?
- 11 What are the factors that hindered the Commission not to perform to the expected level?
- 12 Generally, what is your view on EHRC's role in promoting and protecting human rights vis-à-vis allegations of human rights violations in Ethiopia

Appendix 3: Interview Questions for Human Rights Violation Victims Who Filed a Complaint to the Commission.

1. Since human rights are better promoted and protected at a state level and one of the mechanisms being national human rights institutions do you think Ethiopian Human Rights Commission is relevant in this regard?
2. What was your knowledge about the Commission before you file a complaint and how did you come to know about the Commission?
3. How long does it take for the Commission to solve your case?
4. Are you satisfied with what the Commission did for you?
5. What problems did you observe in the Commission's activity while handling your case?
6. How do you see the Public's awareness of existence and functions of the Commission?
7. How do you see the Commission's physical accessibility?
8. Do you think the Commission has earned the public's trust?
9. Since the government is the main source of the Commission's funding do you agree that it is independent to carry out its activities without government influence; officials not setting its priorities and if it is in a position to criticize the practices of the government?
10. Generally in which of the Commission's area of activities do you think better performance is registered?

Appendix 4: Focus group profile

Focus Group Discussion Participants of Group One- Assistant Lecturers Group

A total of seven participants took part in the focus group discussion, two female and five male. Their age ranges from 25 to 30. Six of them are Assistant Lecturers at different higher institutions of the country currently studying for their Masters Degree at Addis Ababa University and one working for a local NGO.

Focus Group Discussion Participants of Group Two- Journalists Group

A total of five participants took place in the focus group discussion, two female and three male. Their age ranges from 28 to 35. All being Journalists, two of them are currently working for Fana Broadcasting corporate and the rest for Ethiopian Radio and Television Agency.

Interview script

Introduction

In October 1991, guidelines were agreed in the wake of an International Workshop on National Institutions for the Promotion and Protection of Human Rights held in Paris. The outcome of this workshop was a set of principles called Paris Principles guiding the work and structure of national institutions. Accordingly, the Paris Principles are the principal source of normative standards for National Human Rights Institutions. Independence; defined jurisdiction and adequate powers; accessibility; cooperation; operational efficiency and accountability are the important elements that are included in the Paris Principles.

The Ethiopian Human Rights Commission (EHRC) is considered to be the national human rights institution which is established in compliance with the Paris principles besides the Office of the Ombudsman.

Therefore, the objective of this focus group discussion is to collect data to assess the effectiveness of Ethiopian Human Rights Commission in light of some selected elements of the 1991 Paris Principles. The research finding will be used for the partial fulfillment of master degree in International Relations at the Addis Ababa University.

Discussion Questions

Q1. Since human rights are better promoted and protected at a state level and one of the mechanisms being national human rights institutions do you think Ethiopian Human Rights Commission is relevant in this regard?

Q2. When does it come to your knowledge that there is Ethiopian HRC and how did you come to know about the Commission?

Q4. How do you rate your knowledge about the Commission?

Q5. How do you see the Commission's capacity with respect to the number of population and how do you rate the Public's awareness of existence and functions of the Commission?

Q7. How do you evaluate the Commission's physical accessibility?

Q8. How do you rate the Commission's collaboration with the civil society?

Q9. In a geographically large country like Ethiopia where few branch offices of the Commission are available do you think the civil society organization law affects the level of their collaboration?

Q10. Taking a look at the composition and the nomination process do you think the Commission is politically affiliated and in line with this do you think the Commission has earned the public's trust?

Q12. Since the government is the main source of the Commission's funding do you agree that it is independent to carry out its activities without government influence; officials not setting its priorities and if it is in a position to criticize the practices of the government?

Q13. Do you think the country's political and democratic experience allow the Commission to perform its mandates independently?

Q15. Generally in which of the Commission's area of activities do you think better performance is registered and how do you put Ethiopia's human rights record?

Thank you for taking a time and participate in the discussion!

Declaration

I, the undersigned, declare that this thesis is my original work and has not been presented for a degree in any other university and that all sources of material used for the thesis have been duly acknowledged.

Helina Azeze

Signature

Confirmation

Advisor

Signature