

Proclamation No. 210/2000 Ethiopian Human Rights Commission Establishment Proclamation

Version 2: <http://goalgoole.com/proclamation-no-2102000-ethiopian-human-rights-commission-establishment-proclamation/>

FEDERAL NEGARIT GAZETA OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA 6th Year No. 40 Addis Ababa – 4th July, 2000

PROCLAMATION No. 210/2000 A PROCLAMATION TO PROVIDE FOR THE ESTABLISHMENT OF THE HUMAN RIGHTS COMMISSION

WHEREAS, the goal to jointly build one political community founded on the rule of law, as one of the basic objectives of the nations/nationalities and peoples of Ethiopia, is to be achieved by guaranteeing respect for the fundamental rights and freedoms of the individual and of nations/nationalities and peoples;

WHEREAS, the immense sacrifices paid by the people of Ethiopia, in the protracted struggle they waged with a view to bringing about a democratic order and to enhancing their socio-economic development, calls for paving the way for the unfettered protection of human rights;

WHEREAS, the Constitution of the Federal Democratic Republic of Ethiopian guarantees respect for peoples' right and freedoms and provides that Federal and Regional Government organs, at all levels, and their respective officials shall have the responsibility and duty to respect and enforce said rights and freedoms;

WHEREAS, it is found necessary to establish a Human Rights Commission, as one of the organs that play a major role in enforcing such rights and freedoms, and to determine its powers and functions, by law, in conformity with the provisions of the Constitution;

NOW, THEREFORE, in accordance with Sub-Articles (1) and (14) of Article 55 of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE GENERAL PROVISIONS

1. Short Title

This Proclamation may be cited as the “Ethiopian Human Rights Commission Establishment Proclamation No. 210/2000.”

2. Definitions

Unless the context requires otherwise, in this Proclamation;

1. “Appointee” means the Chief Commission for Human Rights, the Deputy Chief Commissioner or Commissioner heading the children and women affairs, and commissioners at the level of branch offices, appointed by the House, in accordance with this Proclamation;
2. “Staff” includes department heads, professionals and other support staff of the Commission;
3. “Family Member” means a person of relation by consanguinity or affinity, in accordance with the Civil Code of Ethiopia;
4. “House” means the House of Peoples’ Representatives of the Federal Democratic Republic of Ethiopia and those enshrined in the international agreement ratified by the country;
5. “Human Rights” means includes fundamental rights and freedoms recognized under the Constitution of the Federal Democratic Republic of Ethiopia and those enshrined in the international agreement ratified by the country;
6. “Person” means any natural or juridical person;
7. “Region” means any of those specified under Article 47 (1) of the Constitution of the Federal Democratic Republic of Ethiopia and, for the purposes of this Proclamation, includes the Addis Ababa City Administration and the Dire Dawa Administration;
8. ”Government” means the Federal, or a Regional Government;
9. “Third Party” means a deputy, an association or a non-governmental organization representing an individual or a group;
10. “Investigator” means a staff assigned, by the Chief Commissioner, to conduct investigation.

3. Establishment

1. The Human Rights Commission of Ethiopia (hereinafter referred to as “the Commission”) is hereby established as an autonomous organ of the Federal Government having its own juridical personality.
2. The Commission shall be accountable to the House.

4. Scope

1. This Proclamation shall also apply to violation of human rights committed in any Region.
2. Provisions of this Proclamation set out in the masculine gender shall also apply to the feminine gender.

5. Objective

The objective of the Commission shall be to educate the public be aware of human rights see to it that human rights are protected, respected and fully enforced as well as to have the necessary measure taken where they are found to have been violated.

6. Powers and Duties

The Commission shall have the powers and duties to:

1. Ensure that the human rights and freedoms provided for under the Constitution of the Federal Democratic Republic of Ethiopia are respected by all citizens, organs of state, political organization and other associations as well as by their respective officials;
2. Ensure that laws, regulations and directives as well as government decisions and orders do not contravene the human rights of citizens guaranteed by the Constitution;
3. Educate the public, using the mass media and other means, with a view to enhancing its tradition of respect for, and demand for enforcement of, rights upon acquiring sufficient

awareness regarding human rights;

4. Undertake investigation, upon complaint or its own initiation, in respect of human rights violations;
5. Make recommendations for the revisions of existing laws, enactment of new laws and formulation of policies.
6. Provide consultancy services on matters of human rights;
7. Forward its opinion on human rights reports to be submitted to international organs;
8. Translate into local vernaculars, international human rights instruments adopted by Ethiopia and disperse same;
9. Participate in international human rights meeting, conferences or symposia;
10. Own property, enter into contracts, sue and be sued in its own name;
11. Perform such other activities as may be necessary to attain its objective.

7. Limitation of Power

The Commission shall have full powers to receive and investigate all complaints on human rights violations made against any person, save cases brought before the House, the House of the Federation, Regional Council or before the courts of law, at any level.

8. Organization of the Commission

The Commission shall have:

1. A Council of Commissioners;
2. (a) a Chief Commissioner;
- (b) a Deputy Chief Commissioner;
- (c) a Commissioner heading the Children and Women affairs,
- (d) Others Commissioners and
- (e) the necessary staff.

9. Head Office

The Commission shall have its Head Office in Addis Ababa and it may have branch offices at any place as may be determined by the House.

10. Appointment

1. The chief Commissioner, the Deputy Chief Commissioner and other Commissioners shall be appointed by the House.
2. The appointment of the Chief Commissioner, the Deputy Chief Commissioner and of other Commissioners shall be made as under the following selection procedure;
 - a) The appointees shall be recruited by a Nomination Committee to be formed pursuant to Article 11 hereunder;
 - b) The nominees shall have to receive the support of a two-thirds vote of the members of the Committee;
 - c) The list of nominees shall be presented to the House, by the Speaker, for it to vote upon;
 - d) The nominees shall be appointed upon receipt of the support of a two-thirds vote of the House.

11. Composition of the Nomination Committee

The Nomination Committee shall have the following members;

- | | |
|--|-------------|
| 1. The Speaker of the House | Chairperson |
| 2. The Speaker of the House of the Federation | Member(s) |
| 3. Seven members to be elected from among members of the House of Federation | Member |
| 4. Two members of the House to be elected by joint agreement of opposition parties having seats in the House | Member |
| 5. The President of the Federal Supreme Court | Member |
| 6. A representative of the Ethiopian Orthodox Church | Member |
| 7. A representative of the Ethiopian Islamic Council | Member |
| 8. A representative of the Ethiopian Evangelical Church | Member |
| 9. A representative of the Ethiopian Catholic Church | Member |

12. Criteria for Appointment

Any person who:

1. Is loyal to the constitution of the Federal Democratic Republic of Ethiopia;
 2. Upholds respect for human rights;
 3. Is trained in law or other relevant discipline or has acquired extensive knowledge through experience;
 4. Is required for his diligence, honesty and good conducts;
 5. Has not been convicted for a criminal offence;
 6. Is an Ethiopian national;
 7. Is of enough good health to assume the post;
 8. Is above thirty-five years of age
- may be an appointee.

13. Accountability

1. The Chief Commissioner shall be accountable to the House.
2. The Deputy Chief Commissioner and other Commissioners shall be accountable to the Chief Commissioner.

14. Term of the Office

1. The term of office of an appointee shall be five years.
2. Upon expiry of the term of office specified under Sub-Article (1) of this Article, the appointee may be re-appointed.
3. A person discharged from responsibility or removed from office, as under Article 15, shall not, unless reappointed, assume a post in legislative, executive and judicial organs for about six months thereafter.

15. Grounds for Removal of an Appointee

1. An appointee may be removed from office or discharged from responsibility upon the following circumstances:
 - a) Upon resignation, subject to a three-month prior written notice;
 - b) Where it is ascertained that he is incapable of properly discharging his duties, due to illness;
 - c) Where he is found to have committed an act of human rights violation;
 - d) Where he is found to be corrupt or to have committed other unlawful act;
 - e) Where it is ascertained that he is of manifest incompetence;
 - f) Upon termination of his term of office.

2. Within six months of the removal or discharge of an appointee, as under Sub-Article (1) of this Article, another appointee shall be made to replace him.

16. Procedure for Removal of an Appointee

1. An appointee shall be removed from office, upon the grounds specified under Article 15(1) (b-e) hereof, subsequent to investigation of the matter by a Special Inquiry Tribunal to be formed pursuant to Article 17.

2. An appointee shall be removed from office, where the House finds that the recommendation submitted to it, as supported by the majority vote of the Special Inquiry Tribunal, is correct and where it upholds same by a two-thirds majority vote.

17. Composition of the Special Inquiry Tribunal

The Special Inquiry Tribunal shall have the following members:

1. The Deputy Speaker of the House Chairperson
2. The Deputy Speaker of the House of the Federation Member(s)
3. Three members to be elected by the House Member
4. A member of the House to be elected by joint agreement of opposition parties having seats in the House Member
5. The Vice-President of the Federal Supreme Court Member

18. Prohibition to Engage in Other Employment

1. An appointee shall not be allowed to engage in other gainful, public or private employment during his term of office.

2. Notwithstanding the provisions of Sub-Article (1) of this Article, the House may allow otherwise in consideration of the particular profession in which the appointee is required to make contribution.

PART TWO

POWERS AND DUTIES OF APPOINTEES

19. Powers and Duties of the Chief Commissioner

1. The Chief Commissioner shall be the top executive of the commission and, as such, shall exercise the powers and duties of the commission provided for herein.

2. Without prejudice to the generality stated under Sub-Article (1) of this Article, the Chief Commissioner shall:

- a) Employ and administer the staff, in accordance with directive to be adopted by the Council of Commissioners.
- b) Prepare and submit to the House, the budget of the Commission dealt upon by the council of Commissioners; and implement same upon approval;
- c) Transfer a case where he has sufficient grounds, from one investigation section or investigator to another; or investigate, himself, a case of human right violation committed anywhere;
- d) Undertake study of recurrent cases of human right violations and forward together with remedial proposals to the House;
- e) Give his opinion on reports prepared by the Federal Government in respect of human rights protection;
- f) Prepare, and submit to the House, draft legislation on human rights; give his opinion on

those prepared otherwise;

g) Submit a report, to the House, on matters of human rights and on the activities of the Commission;

h) Take part in meetings by way of representing the Commission, establish working relations with Federal and Regional government organs as well as with non-governmental organizations;

i) Organize, Coordinate and follow up branch offices;

j) Perform such other activities as may be assigned to him by the House.

3. The Chief Commissioner may, to the extent necessary for the efficient performance of the Commission, delegate part of his powers and duties, other than those specified under Sub-Article 2(b), (f) and (g) of this Article and Article 35(2), to Commissioners or other officials of the Commission.

20. Powers and Duties of the Deputy

Chief Commissioner

The Deputy Chief Commissioner shall:

1. Assist the Chief Commissioner in planning, organizing, directing and coordinating the activities of the head office of the Commission;

2. Undertake the activities of the Chief Commissioner, in the absence of the latter;

3. Carry out such other activities as may be assigned to him by the Chief Commissioner.

21. Powers and Duties of the Commissioners of Branch Offices

In addition to exercising, within the local jurisdiction of a branch office, the powers and duties vested in the Commission, other than those specified under Sub-Articles (7) and (9) of Article 6 of this Proclamation; the Commissioner shall, as the superior head of a branch office, have the following powers and duties:

1. To transfer a case from one investigation section or investigator to another or to conduct investigation himself, where it has a good cause;

2. To submit, to the Chief Commissioner, a detailed report on matters of human rights;

3. To direct and organize the branch office as well to administer its professionals and support staff, in accordance with directive issued by the Commission;

4. To effect payments in accordance with the budget allocated to the branch office;

5. To establish working relations, as a representative of the branch office, with Regional government organs and non-governmental organizations operating within the Region;

6. To perform such other activities as may be assigned to him by the Chief Commissioner.

PART THREE

RULES OF PROCEDURE OF THE COMMISSION

22. The Right to Lodge Complaints

1. A complaint may be lodged by a person claiming that his rights are violated or, by his spouse, family member, representative or by a third party.

2. The Commission may, in consideration of the gravity of the human right violation committed, receive anonymous complaints.

3. Without prejudice to provisions of Article 7 of this proclamation, the right to lodge complaints, as under this Proclamation, shall be not bar to the institution of criminal or civil

proceedings over the same case.

4. The Commission shall receive and investigate complaints, free of any charge.

23. Lodging Complaints

1. A Complaint may be lodged, with the Commission orally, in writing or in any other manner.
2. Complaints shall, to be extent possible, be submitted together with supporting evidence.
3. Complaints may be made in Amharic or in the working language of a Region.

24. Investigation

1. The Commission may conduct investigation on the basis of complaints submitted to it.
2. The Commission shall have the power to conduct investigation, on its own initiation, where it so finds necessary.

25. Ordering the Production of Evidence

In order to undertake necessary examination, within a reasonable time, the Commission may order that:

1. Those complained against appear, for questioning or that they submit their defence.
2. Witness appear, and give their testimony;
3. Any person in possession of evidence, relevant to the case, procedure same,

26. Remedies

1. The Commission shall make all the effort it can summon to settle, amicably, a complaint brought before it.
2. It shall notify, in writing, the findings of its investigation, and its opinion thereon, to the superior head of the concerned organ and to the complainant.
3. The remedy proposed by the Commission, pursuant to this Article, shall expressly state that the act having caused the grievance be discontinued, that the directive having caused the grievance be rendered inapplicable and that the injustice committed be redressed or that any other appropriate measure be taken.
4. Complaints submitted to the Commission shall be accorded with due response, within a short period of time.

27. The Right to Object

1. Any complainant or accused shall have the right to object to the official, next in hierarchy, where he is aggrieved by a remedy proposed by a subordinate appointee or official of the Commission, within one month from the time he is notified, in writing, of such proposed remedy.
2. An appointee or official who receives an objection, pursuant to Sub-Article (1) of this Article, may modify, stay the execution of, reverse or confirm the remedy having been proposed.
3. The decision to be rendered by the chief commissioner shall be final.

28. Duty to Notify of Fault

Where the Commission, in the process of conducting investigations, believes that a crime or an administrative fault is committed, it shall have the duty to, forth with, notify in writing immediately to the concerned organ or official.

29. Overlap of Jurisdiction

1. Where cases falling both under the jurisdiction of the commission and of the Institution of the Ombudsman materialize, the question of which of them would investigate shall be determined upon their mutual consultation.
2. Failing determination of the matter, as under Sub-Article (1) of this Article, the organ before which the case is lodged shall undertake the investigation.

PART FOUR

ADMINISTRATION OF THE COUNCIL OF COMMISSIONERS AND STAFF OF THE COMMISSION

30. Council of the Commissioners

1. Council of the Commissioners (hereinafter referred to a “the Council”) is hereby established.
2. The Council shall have the following members:
 - a) The Chief Commissioner Chairperson
 - b) The Deputy Chief Commissioner Deputy Chairperson
 - c) Other Commissioners Members
3. The Council shall elect its secretary from among its members.
4. The Council may draw-up its own rules of procedure.

31. Powers and Duties of the Council

The Council shall have the following powers and duties:

1. To adopt directives and by-laws necessary for the implementation of this Proclamation;
2. To discuss on the draft budget of the Commission;
3. To adopt staff regulations in conformity with the basic principles of federal civil service laws;
4. To appoint department heads of the Commission and branch offices of same;
5. To examine, and decide on, cases, petitions or complaints submitted to it in relation to staff administration, within short period of time;
6. To appoint heads, at the level of branch offices, of the children and women affairs department;
7. To hear disciplinary cases, relating to department heads.

32. The Right to Appeal

1. Any department head of the Commission aggrieved by administrative decisions rendered by the Council may appeal to the Speaker of the House within one month from the date such decision has been made.
2. The decision rendered pursuant to Sub-Article (1) of this Article shall be final.

33. Utilization of Outside Professionals

The Commission may utilize, for a specific task and for a definite duration, outside professionals necessary for its functions, subject to making appropriate remunerations.

34. Observance of Secrecy

Unless ordered by a court of otherwise permitted by the Chief Commissioner, any appointee or staff of the Commission or any professional employed pursuant to Article 33 of this

Proclamation, shall have the obligation not to disclose, at all times, any secrets known to him in connection with his duty.

35. Immunity

No:

1. Appointee, or
2. Investigator

Of the Commission may be arrested without the permission of the House or the Chief Commissioner, respectively except when caught in *Flagrante delicto*, for a serious offence.

PART FIVE MISCELLANEOUS PROVISIONS

36. Budget

1. The budget of the Commission shall be drawn from the following sources:
 - a) Budgetary subsidy to be allocated by the government;
 - b) Assistance, grant and any other source.
2. Of the monies obtained from the sources mentioned under Sub-Article (1) of this Article, an amount equivalent to a quarterly portion, shall, in advance, be deposited at the National Bank of Ethiopia, or at another bank designated by the Bank, and shall be utilized, in accordance with financial regulations of the government, for purposes of implementing the objectives of the Commission.

37. Books of Accounts

1. The Commission shall keep complete and accurate books of accounts.
2. The accounts of the Commission shall be audited, annually, by an organ to be designated by the House.

38. Duty to Cooperate

Any person shall provide the necessary assistance, with a view to helping the Commission exercise its powers and duties.

39. Reporting

1. The Commission shall issue an official report, as may be necessary.
2. The Commission shall exercise transparency in respect of its mode of operation, including issuance of regular reports.
3. Notwithstanding the provisions of Sub-Article (2) of this Article, the commission shall have the duty to exercise caution in respect of matters to be kept secret, with a view to not endangering national security and well-being or to protecting individual lives.

40. Non-Answerability for Defamation

1. No complaint lodged pursuant to this Proclamation, shall, entail liability for defamation,
2. No report of the Commission submitted to the House, on the findings of an investigation under-taken, nor any other correspondence of the Commission, relating to its activities, shall entail liability for defamation.

41. Penalty

1. Any person who, having received summons from the Commission, or been called upon by it otherwise, does not appear or respond, without good cause, within the time fixed or is not willing to produce a document or to have same examined, shall be punishable with imprisonment from one month to six months or with a fine from two hundred to one thousand Birr or with both.

2. Any person who causes harm to witnesses before the Commission or to persons having produced a document before it or who, without good cause, fails to take measures within three months from receipt of reports, recommendations and suggestions of the Commission or does not state the reasons for such failure shall be punishable with imprisonment from three to five years or with imprisonment from three to five years or with a fine from six thousand to ten thousand Birr or with both; unless punishable with more severe penalty under the penal law.

42. Transitory Provisions

Complaints on violation of human rights that are under investigation by the House, prior to the enactment of this Proclamation, shall be investigated by the Commission.

43. Inapplicable Laws

No law or practice, inconsistent with this proclamation, shall be applicable in respect of matters provided for in this Proclamation.

44. Effective Date

This Proclamation shall enter into force as of the 4th day of July, 2000.

Done at Addis Ababa this 4th day of July, 2000.

NEGASO GIDADA (DR.)
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA