

National Human Rights Institutions and Access to Justice: The Role and Practice of the Human Rights Commission of Ethiopia in Advancing Access to Justice

Introduction

National human rights institutions (NHRIs) are quasi-judicial bodies set up specifically for the purpose of promoting and protecting human rights. Among their core functions included are the sensitization of and research and debate on human rights, and investigation of complaints involving human rights issues.

As part of their mandate, NHRIs should promote and facilitate complainant's access to rights and remedies, including the ones offered by themselves and remedies that exist elsewhere, such as courts of law. Provision of free legal assistance and dissemination of information on human rights by NHRIs helps the poor to access justice, removing financial and information obstacles hampering them from doing so.

Set up in 2000 pursuant to the FDRE Constitution, the Human Rights Commission of Ethiopia has been trying to promote and protect human rights. One of its modest achievements is its attempt to promote human rights through sensitization campaigns and to reach out to the poor via legal aid centres so that such people could access justice. In that regard, the Commission has been undertaking various training and education activities. Also, it has been providing legal counsel and aid to poor litigants despite the fact that the enabling statute makes no explicit mention of such scheme. In the protection realm, the Commission has been investigating complaints lodged to it, helping citizens to get remedies in rather limited cases.

In this piece attempt is made to review the Commission's endeavour in promoting and protecting human rights and thereby cast light on its contribution in advancing access to justice. It examines the Commission's practice based on promotional as well as protection activities undertaken by the institution since it commenced discharging its function in 2005.

Among questions to be investigated in the study included are the following. In the face of the bulk of population that are unaware of the existence and/or the nature of laws and the means to vindicate them and given the fact that there are few effective methods to create and build awareness, or to provide legal services, what measures have been taken by the Commission, as a complementary body, to fill the void? Given the wide-spread problems facing vulnerable groups to access justice in the nation, has the institution tried to reach out to such group? Does it manage to put in place effective strategies that streamline vulnerable group in its operational procedures?

The examination of these questions relies on the review of the Commission's promotional strategies and tools and documents produced for such purpose, investigation of enabling legislation, relevant literature, and interview. Before delving into examining the Commission's role to enhance access to justice, it is important to offer background

information on the establishment process, structure, mandate, and enforcement powers of the institution.

1. Political Context of and Process involved in Establishing the Commission

NHRIs usually are set up following constitutional reform and/or chaotic situation ending with peace accord¹. Regarding mode of setting up, they can be established in three ways: by constitution (or amendment of constitution), by act of parliament, and by presidential decree². The setting up of NHRIs stipulated in constitutional text, which represents the most powerful option as it guarantees the permanence of the institutions, is found in countries that have recently undergone constitutional reforms and marked by grave human rights violations in the past³.

Coming to Ethiopia, the evolution of the discourse on democracy, human rights, and democratic institutions in the country took place at a time of significant legal and political change. After a protracted armed struggle, the current ruling party, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) ousted the former military regime from power in 1991, a period coinciding with the fall of the Socialist Camp and the resulting wave of democratization. Issues of democratic governance, human rights, rule of laws, and decentralization emerged as central ones after the demise of the military regime⁴. To address them, the then transitional government undertook major transformative measures overhauling the political landscape, orientation, civil service, and economic policy of the nation⁵.

Faced with the lofty task of creating a foundation for democratic system, those involved in crafting a new *constitution* looked to providing a rights-based constitution anchored in the rule of law and limited government. A set of provisions with human rights orientation was believed to play a central role in this regard. This explicates the due regard the Constitution of the Federal Democratic Republic of Ethiopia (FDRE Constitution) bestows to fundamental rights and freedoms⁶.

¹ B. Lindsnaes and L. Lindholt, 'National Human Rights Institutions-Standard Setting and Achievements', in B. Lindsnaes, L. Lindholt and C. Yigen, eds., *National Human Rights Institutions: Articles and Working Papers*, the Danish Centre for Human Rights, 2001, pp. 14-15; see Rachel Murray, 'The Role of NHRIs at the International and Regional Levels: The Experience of Africa', *Human Rights Law in Perspective*, Vol. 11, Oxford and Portland, Hart Publishing, 2007, p. 3; see also International Council on Human Rights Policy, *Performance and Legitimacy: National Human Rights Institutions*, Versoix, Switzerland, 2000, pp. 58-62 (hereinafter referred to as 'International Council on Human Rights Policy')

² Lindsnaes and Lindholt, *op.cit.*

³ Ibid, pp. 14-15

⁴ Mohammed Abdo, 'The Ethiopian Human Rights Commission: Challenges Confronting Its Effective Functioning', *Chinese Year Book of Human Rights*, Vol. 4, 2006, pp. 27-28

⁵ The measures undertaken by the then Interim government aimed at redressing past injustices, atrocities and dire economic conditions amid high public expectations to usher in new era. They include include, *inter alia*, political pluralism as opposed to one party system, the framing of new *constitution* with liberal features, inception of federal arrangement and decentralization based on ethno-linguistic factors, structural adjustment, and adoption of market-oriented economic policy.

⁶ The 'Preamble' of the Constitution declares that its objective is to build a political community based on the rule of law for the purpose of ensuring lasting peace and guaranteeing a democratic order. Protection of human right and fundamental freedoms is a key to achieve this commitment. At least a third of 106

Appreciating that the existing courts cannot alone shoulder the protection of human rights, the framers of the *Constitution* agreed on the need for democratic institutions that would advance democratic governance⁷. The Commission was thus created as one of the rights-protective mechanisms as a response to a history of authoritarian rule in general and a notorious military dictatorship in particular that caused immense carnage⁸. While a constitutional foundation does not *ipso facto* guarantee its better functioning, it provides a more secure basis than an executive decree or order, which is prone to change easily.

It was largely domestic impulse that sparked off the need for the establishment of democratic institutions during the transition period. Increased international factors also opened room for conditions favouring human rights regime in general and democratic institutions in particular in the new democratic process set in motion. Arguably, the global upsurge in the number of NHRIs, dating back to the early 1990s, has thus affected Ethiopia as well⁹. Issues of human rights, argues Welch, entered Ethiopian political vocabulary in part through external influences at the time of transition¹⁰. It is suffice to mention the policy impact of the USA, which emerged as a major supporter and donor of the incumbent party following the collapse of the former regime. In the mid 1991, the Bush (Sr.) Administration adopted a new policy toward Africa, which judges governments by their stability and effective governance in order to secure U.S.A.'s economic assistance¹¹. This American policy, which centred on democracy and human rights, found one of its first applications in Ethiopia¹².

A myriad of international factors propelling the wave of establishment of NHRIs in the early 1990s is not unique to Ethiopia. Koo and Ramier have offered an insightful theoretical perspective as to how international factors underpin the growing establishment of NHRIs in different parts of the world since 1990s¹³.

Provisions of the FDRE Constitution are on human rights. Its Chapter Three contains a Bill of Rights. Article 13(1) makes it incumbent on all government organs at all level to respect and enforce the Constitution.

⁷ Sub-articles 14 and 15 of Article 55 of the FDRE Constitution stipulate the establishment of the Human Rights Commission and the Ombudsman Institute respectively. The setting up of the Auditor General and the National Election Board are envisaged under Articles 101 and 102 of the Constitution respectively.

⁸ This is implicit from and reflected in the document prepared, in Amharic, by the *Legal Standing Committee* of the *House of People's Representatives* to elaborate draft laws to establish the Commission and the Ombudsman, 1999, p. 1

⁹ Abdo, *supra* note 4, p. 24

¹⁰ The post Cold-War attachment of provision of financial and technical support of donor governments to human rights issues, the active role of the UN in promoting the idea of establishment NHRIs and the wave of democratization engulfing countries in transition following the collapse of the former USSR in early 1990s have also contributed, to some extent, towards considering the establishment of the democratic institutions in the new political and constitutional order set in motion in Ethiopia in the early 1990s. See Claude E. Welch, *Protecting Human Rights in Africa: Strategies and Roles of Non-Governmental Organizations*, University of Pennsylvania Press, 1995, p. 11.

¹¹ *Ibid*, p. 12

¹² *Ibid*

¹³ See Jeong-Woo Koo and Francisco O, Ramirez, 'National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions, 1966-2004', *Social Forces*, Vol. 87, No. 3, 2009

Compared to other legislation, the process of enacting the enabling statute of the Commission and the Ombudsman Institute is unprecedented considering a wide range of public and expert participation amid heightened public expectation¹⁴. Specifically, it involved an input of international experts and practitioners of NHRIs, public discussion throughout the country on draft legislation and workshop of local experts on it¹⁵. Drawing on this, Parliament eventually enacted the enabling legislation of the Commission, Proclamation No. 210/2000, in 2000(Proclamation). However, the nomination of Chief Commissioner took place only in July 2004 and of the other two Commissioners a year later. The delay in the enactment of the legislation and appointment of officials was attributed to the Ethio-Eritrean War (1998-2000) that diverted the attention of the government to issues of maintaining national security¹⁶. On top of the war, the process was stalled by political and bureaucratic procedures¹⁷.

Although the Commission's enabling legislation involved a broad-based consultation of the general public and experts, both local and international human rights NGOs were excluded from the consultation, triggering criticism¹⁸. Despite this, the setting up of the Commission was accepted as important development in attempts to promote and protect human rights within the nation. In general, it can be regarded as willingness on the part of the government to change complex human rights situation in the country¹⁹. Because an

¹⁴ Ethiopia chose to have two separate institutions-one for administrative oversight and the other for human rights issues. Gravity of both human rights abuses and administrative malpractices along with the sheer size of the country are among the major rationale for setting up two distinct institutions. This is inferred from the document prepared by Parliament to elaborate the enabling statutes of the two institutions indicate this impliedly. See supra note 8, p. 1

¹⁵ The Government arranged an international conference in 1997 that managed to bring together about 68 well-known experts, jurists, and activists, officials of national human rights institutions of many states and other officials and representatives. The Conference was organized with a view to drawing on the experience elsewhere as the national democratic institutions were a new phenomenon in Ethiopia. The Conference and the deliberations on papers presented therein contributed significantly to the concept paper developed by parliament for the public discussions in order to eventually draft legislation for the two institutions. The concept paper contains options to be chosen by the public after public discussion regarding issues such as the structure, mandate, operational powers, leadership, and accessibility of the Commission. National discussions on the concept paper were held at the capital cities of the nine units of the Federation, as well as Addis Ababa and Ambo. Ethiopian experts made deliberations on the outcome of the discussion held on the concept paper and the choice made by the public regarding the would-be normative content of the legislation. They submitted their findings to the parliament. Building on this, the parliament made a *draft Act* and presented it to the public deliberation. See Abdo, supra note 4., p. 27; See also Mohammed Abdo, 'Challenges Facing the New Ethiopian Ombudsman Institution', *International Ombudsman Yearbook*, Vol. 6, 2002, p. 78; see also supra note 8, pp. 1-2

¹⁶ Ethiopian Human Rights Commission, 'Strategic Plan for the Ethiopian Human Rights Commission 2006-2011', the *Office of the Team of International Consultants* and the *Justice for All and Prison Fellowship Ethiopia*, 2006, p. 47

¹⁷ World Bank, Ethiopia: *Legal and Judicial Sector Assessment*, 2004, p. 32

¹⁸ The Human Rights Watch criticized the exclusion of local and international NGOs from the whole process and described the act as a worrying matter from the early inception of the Commission. See Human Rights Watch, *Protectors or Pretenders?: Government Human Rights Commissions in Africa*, 2001, p. 60

¹⁹ Sarah Vaughan and Kjelit Tronvoll, *The Culture of Power in Contemporary Ethiopian Political Life*, SIDA Studies No. 10, 2005, p. 57

apparent lack of appropriate social and political action and determination to condemn and sanction social norms abusive of human rights have been of concern in the country for a long time²⁰.

2. Structure and Composition of the Commission

Both a statutory and constitutional body, the Commission is an independent autonomous institution accountable to Parliament (the House of People's Representatives). Compared to NHRIs elsewhere, it is relatively a small Commission, composed of a Chief Commissioner, a Deputy Chief Commissioner and a Commissioner for Children and Women, and other commissioners as may be deemed necessary, and the necessary personnel²¹. Its small size would ensure, under normal assumption, a more efficient decision-making process but at the expense of pluralism of its composition in the face of ethnic and religious diversity in the country. A larger one would have promoted pluralism at the cost of resources and decision-making process. The drafters of the enabling legislation seem to have given much weight to the financial and human resource constraints and opted for a smaller one²². Given the large number of ethnic groups in the country, coupled with limited posts for officials, one may not obviously expect the Commission to replicate such diversity at a time.

Increasing its outreach, the Commission, in 2011, set up branch offices in different parts of the country, with most of them in the Capital cities of different States²³. Apart from advancing the promotion and protection of human rights at the local level, the decentralization has enhanced the Commission's staff diversity and pluralism as local staff and local vernaculars are used to conduct their respective activities²⁴. While regional offices mean better access, physical access remains a barrier for much of the rural population.

The Proclamation provides a number of rules guaranteeing the institutional independence of the Commission in terms of allocation of funding, and appointment and dismissal of

²⁰ Ibid

²¹The Australian Human Rights Commission has 6 commissioners, including the President. The South African Human Rights Commission has at least five Commissioners. Compared to its size and population, Ghana is a small country by the Ghanaian Human Rights and Administrative Justice Commission has three Commissioners.

²² The Concept paper prepared by Parliament for discussion on the would-be content of draft legislation for the Commission as well as the Ombudsman, hints out this fact. See Supra note 8, pp. 1-4

²³Hawassa, Bahr Dar, Mekele, Gambella and Jijiga and another town, Jimma are where the branch offices were set up in 2011. Parliament approved the proposed establishment of these branch offices in December 2010. Seven more branch offices will be established in the fiscal year 2011/2012. See Ethiopian Human Rights Commission, Bulletin, Vol. 1, No. 05, 2011, p. 2. The decision to set up branch offices supports the view that the Commission is not under the instruction of Parliament as to how to go about doing so. The initiative to set the branches was made by the Commission itself and prior discussion with Parliament made it possible for securing funding for branch offices.

²⁴ Training activities used to be handled by the Head Office is nowadays run by the branch offices and complaints are also being entertained by the same. See the UNDP, Democratic Institutions Program, Annual Report, 2011, p. 18

and immunity to its officials²⁵. Other guarantees of independence in the form of its authority to recruit, and employ staff and to adopt working rules and procedures are provided under the legislation²⁶.

Generally, the Proclamation meets, at least theoretically, the requirement of the Paris Principles regarding the independence of NHRIs. The issue is, however, whether the officials appointed to run the institution are, in practice, truly independent of party politics and the executive while discharging their functions. This is significant given the fact that the country did not, to a large extent, have institutions that were and are capable of functioning independently of the government of the day²⁷. That apparently is why scepticism was raised, at the very inception of the Commission, as regards the independence of the first officials that assumed office²⁸.

Taking the existing procedure and practice as backdrop, the appointment of party members or affiliates is inevitable in a country where the government of the day exercises effective control over all public institutions. Especially, the appointment of the Chief Commissioner, who usually leads the Commission, may ultimately depend on the will of the political party in power²⁹. Be that as it may, the most important thing is whether they are independent in their actual work.

Although apparently in full compliance with the Paris Principles, the Commission is not accredited as yet. Its attempt to get accredited commenced in 2010. It was supposed to submit its application along with requisite documents for accreditation purpose but failed

²⁵ It provides that the budget of the Commission is to be drawn and submitted to the parliament by itself (Article 19(2)). The executive agencies do not have a say in this regard, which helps to avoid financial manipulation by them and secures the independence of the institution. To ensure the independent appointment of officials, the law sets up an independent Committee, the 'Nomination Committee' (Article 11 of the Proclamation).

²⁶ Article 35 of the enabling act of the Commission provides that the Commissioners may not be held civilly or criminally liable for any act done or omitted, observations made or opinions issued, in good faith and in the exercise of their functions. This immunity protects the independence of the members to carry out their functions without fear of prosecution. Article 19 of the legislation also indicates that institution is entitled to hire its staff and come up with its operational rules and procedures.

²⁷ Abdo, *supra* note 4, p. 34

²⁸ The Observatory for the Protection of Human Rights, 'Ethiopia: Human Rights Defenders under Pressure: Report: International Fact-Finding Mission', 2005, p. 18

²⁹ It is important to note that although all the Commissioners are appointed by Parliament, it is only the Chief Commissioner who is directly accountable to Parliament. The other Commissioners are accountable to the Chief Commissioner. See Article 13(2) of the Proclamation. All commissioners are to be appointed for a fixed term of five years of office, with the possibility of one reappointment. See Article 14(2) of the Proclamation.

To highlight the potential influence of the ruling Party on the leadership of the Commission, two of the incumbent officials were actually members of the ruling party made of a coalition of four parties- one is from Tigray People's Liberation Front (Berhane Woldekiros, Deputy Chief Commissioner), and the other from Amhara People's Democratic Party (Asmaru Berhanu, Commissioner for Women and Children), enough to doubt the true independence of the Commission. Once they assume office, they are normally supposed to resign from party. No information is available on their relation with the Party since they assumed office. Although not clearly identified as party member, the Chief Commissioner, Tiruneh Zena, is thought to be affiliated to the ruling party. Interview with many experts of the Commission underscores this fact.

to act within a schedule fixed by the International Coordination Committee of National Human Rights Institutions (ICC)³⁰. Its second application was scheduled for scrutiny by ICC in November 2012 but has been deferred for one year, after which it was accredited with “B” status³¹.

3. Mandate and Power of the Commission

NHRIs are usually commissioned to carry out, among others, promotion, information, documentation, education, research on human rights, and protection³². As provided under Article 6 of the Proclamation, the Commission has a very broad mandate to promote and protect human rights. It is mandated to educate the public about human rights with a view to raising awareness and fostering the tradition of respect for human rights, to provide consultancy service on human rights, and to provide opinion on Government reports submitted to international human rights bodies³³. It also is authorized to investigate, upon complaint or *suo moto*, human rights violations and to propose revision, enactment of laws and formulation of policies relating to human rights³⁴. In addition, it is empowered to ensure that laws, decisions and practices of the government are in harmony with human rights enshrined under the Constitution and to also make sure that human rights are respected by government as well as other entities³⁵.

³⁰ The ICC was set by NHRIs themselves for the accreditation purpose. To facilitate accreditation it set up a sub-committee entirely devoted to accreditation. The ICC is not a UN agency; it is rather a global association of NHRIs that coordinates the relationship between NHRIs and the UN human rights system. It is composed of 16 members from each of four regions, American, Africa, Asia Pacific, and Europe in order to ensure fair representation of each region. The ICC liaisons with the UN human rights bodies and encourage coordination among institutions. The National Institution Unit under the Office of the UN Office of the High Commissioner for Human Rights acts as a permanent secretariat to the ICC and assist it in, among others, organizing its meetings and its accreditation process. The ICC generally meets during the annual sessions of the Human Rights Council and holds biennial international conferences. The accreditation status is reviewed at least every five years. Accreditation increases NHRI's national and international legitimacy and also entitles participation rights in diverse UN forums depending on their ranking.

The Commission's application for accreditation was supposed to be reviewed by the Sub-Committee on the Accreditation in a schedule fixed for accreditation purpose, which was 11-15 October 2010. See the schedule of the Sub-Committee on Accreditation of the International Coordination Committee of National Human Rights Institutions, 2009 (Available at: <http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>)

³¹ Official date for considering the Commission's application for accreditation is set for 18-22 November 2013. See the website of the ICC sub-committee on Accreditation (SAC). nhri.ohchr.org/EN/AboutUS/ICCAccreditation/Page/NextSession.aspx. See also nhri.ohchr.org/EN/AboutAccreditation/Documents/SCA%20Report%20November%202012%20%28Engl%20ish%29.pdf. The Commission was given 'B' status after review of its application for first accreditation in the schedule fixed (November 2013). See ohchr.org/Documents/Countries/NHRI/Chart_Status_Nis.pdf (Accessed on 20 March 2014). It means that the Commission is not fully in compliance with the Paris Principles or has not yet submitted sufficient documents to make that determination.

³² Lindsnaes and Lindholt, in *Working Papers and Articles*, supra note 1, p. 25

³³ Sub-articles 3, 6 and 7 of Article 6 and Article 19(2)(d) of the Proclamation

³⁴ Article 6(4 and 5) of the Proclamation

³⁵ Article 6(1 and 2) of the Proclamation

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Apart from government authorities, the Commission's reach extends to individuals and non-state entities. Accompanied by an umbrella clause, which entitles it to perform such other functions as it may consider necessary for achieving its functions, the Commission thus not only has all the functions the Paris Principles prescribe but also a potentially wider mandate³⁶. It is an all inclusive institution unlike the case of, for instance, the Human Rights Commission of South Africa where some human rights issues are given to other entities³⁷. The fact that the Ombudsman's mandate is confined to maladministration issues only, making it a prototype of a classical ombudsman, signifies the inclusiveness of the Commission's mandate on human rights issues³⁸.

Such inclusive mandate is advantageous. On top of scarcity of resources, it allows for the application of an integrated and consistent human rights approach to different human rights issues. In other words, it is cost-effective than dispersing the fiscal resources across several new human rights bodies, especially for a poor country like Ethiopia.

Although bestowed broad mandate, the Commission's reach is not without limitation. It does not have the power to scrutinize alleged human rights violations pending before the House of People's Representatives, the House of Federation, or courts of law at any level³⁹. Hence, all other government institutions other than the exceptions are not off-limit to the Commission's investigation. It is remarkable that the statute subjected the military, security, and police forces that are closely associated with human rights abuses in the past to its power⁴⁰. In this respect, the Commission is different from the Ombudsman in that the latter does not have the power to investigate matters related to national security and defence forces⁴¹.

4. Investigation and Enforcement Power

NHRIs should be given ample powers in their legal framework at investigatory process, at the implementation stage, and in the other roles that the institutions undertake⁴². The

³⁶ Article 6(11) of the Proclamation

³⁷ The South African Human Rights Commission's actual mandate is not as broad as it appears at first sight. It is competent to deal with human rights issues as far as they do not fall within the remit of other independent democratic institutions. For instance, it is not empowered to deal with issues of gender equality and the rights of minorities as these powers are given to two separate democratic institutions set up exclusively for each of such issue.

³⁸ It is implicit from Article 6 of the enabling legislation of the Ombudsman Institute that it is a classical Ombudsman. See The Ombudsman Institute Establishment Proclamation No. 211/2000.

³⁹ Article 7 of the Proclamation

⁴⁰ Abdo, *supra* note 4, p. 37

⁴¹ See Article 7 of the Proclamation that set up the Ombudsman Institute, Proclamation No. 211/2000. However, in reporting on matters related to national security, the Commission is obliged to take caution with a view to not endangering national security and the same applies to secret matters related to the well-being or to protecting individual lives (Article 39(3)).

⁴² The United Nations Centre For Human Rights, *Professional Training Series No. 4, National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights*, New York and Geneva: United Nations, 1995, p. 13(hereinafter referred to as 'UN Professional Training Series No 4').

Commission is empowered to investigate complaints, upon individual complaints or *suo moto*⁴³. The rules on filing a complaint to the Commission make it easy for complainants to access it as the Commission can be moved to take action by a complainant in person or by someone on his/her behalf in any language and format⁴⁴. The simplicity of a rule to bring a complaint to the attention of the Commission is meant to supplement the formality of procedures that could limit access to courts.

The Commission is given a range of powers to investigate a complaint submitted to it, including the investigative power of subpoena, giving it theoretically adequate powers necessary for the examination of a complaint⁴⁵. Any person asked to appear for the purpose of furnishing information or production of document or record should cooperate with the Commission. Failure to act accordingly constitutes offence and punishable by sentence and/or fine⁴⁶.

The Commission is, a matter of general rule, supposed to settle complaints through an amicable means, seeking an agreement between the parties (Article 26(1)). A limited number of cases may not be subject to such means⁴⁷. Emphasis on amicable means of settlement reflects the reality regarding dispute resolution in the country. The fact that more than 84% of the population lives in rural areas where the traditional system has a strong authority on individual as well as communal matters makes the reflection of such system in the Commission's power significant.

As is the case with most NHRIs, the Commission is not authorized to set aside, revoke or modify decisions of agencies. Made in an advisor capacity, its recommendations are not legally binding. It is not explicitly authorized to initiate court proceedings either in its own name or on behalf of an aggrieved party either⁴⁸. However, it is under obligation to notify the concerned organs of the crimes or administrative faults committed, if it believes that such occurred in due course of or after its investigation⁴⁹.

The enforcement mechanisms it uses to ensure compliance are to publicize, be it in annual or special report as may be necessary, and to finally report to the parliament on its

⁴³ See Articles 6 and 24 of the Proclamation

⁴⁴ A Complaint may be instituted by a person who alleges that his/her right is violated or by his/her spouse, or family member or representative or a third party (Article 22(1)). The Commission may also receive anonymous complaint (Article 22(3)). A complaint may be lodged, free of charge, in writing, orally or in any other means and may be in the working language of the Commission, which is Amharic, or in any other language. See Articles 23(1 and 3).

⁴⁵ The Commission is empowered to compel the attendance of witness to give testimony, or force the production of evidence by those in possession of them (Article 25 of the Proclamation)

⁴⁶ See Article 41 of the establishment Proclamation.

⁴⁷ The Commission's Complaint Handling Manual is apparently silent on this matter. According to the interview with one of the experts in the investigation department of the Commission such cases include allegation of torture, forced disappearance, violence against women (Interview with Terefe Wondimu, Senior Investigator, Investigation Directorate, Human Rights Commission of Ethiopia, 15 September 2011, Addis Ababa).

⁴⁸ Ibid

⁴⁹ Article 28 of the Proclamation

recommendations in particular and on its overall activities in general⁵⁰. Another instrument of enforcement is a criminal sanction. A penalty is prescribed if there is failure to apply the recommendations issued by the Commission or if there is failure to provide reasons within three months for not applying the recommendation, placing person(s) subject to the recommendation of the Commission to behave in some way⁵¹. Serving to strengthen its enforcement powers, such sanction is an incentive to the Commission's autonomy. As additional enforcement tools, the Commission may collaborate with other organs, for instance, media and NGOs, to mount pressure on government authorities to heed its opinions.

The Commission possesses only persuasive powers to issue recommendation or initiate negotiation or mediation in order to resolve grievances. While this may, at first glance, appear to relegate the Commission to a back-seat role in promoting and protecting human rights abuses and also access to it, it might bring with it freedom of movement and action in investigation of complaints and promotion of human rights. Particularly, promotional work may not be considered, from government point of view, biting and spur them, at least, not to interfere with, or to support the work of the Commission's efforts at best.

5. The Commission and Access to Justice

Respect for and protection of human rights at the national level can only be guaranteed with the availability of effective remedies. Indeed, the ideals of human rights are only met if they can be asserted. Fundamental to realizing this is access to justice.

Constituting a core fundamental right and a central concept in the broader field of justice, access to justice may be defined as the process of ensuring that all individuals have access to the legal services and to legal processes in order to defend and enforce their rights as well as to seek or obtain a legal remedy. While it typically is construed to having a case heard in a court of law, it can more broadly encompass mechanisms such as NHRIs, including human rights commissions, equality bodies and ombudsman institutions.

Effective access to justice hinges not only on the existence of adequate institutions but also on capacity of citizens to assert their rights. Effective access to justice thus presupposes, among others, legal awareness and legal aid and counsel. NHRIs play crucial role in the provision of legal counsel and aid and to raise human rights awareness. The activities of the Commission in relation to provision of legal counsel and raising awareness-raising initiatives are highlighted below.

⁵⁰ Article 39 of the Proclamation

⁵¹ If a person without good cause fails to comply with a recommendation issued by the Commission or fails to offer a reasoned justification for not doing so within three months from receipt of the recommendation, he/she commits a criminal offence and is liable to punishment if found guilty. The person could face imprisonment from three to five years or a fine from 6000-10000 Ethiopian Birr or both. See Article 41(2) of the Proclamation.

At the out-set it however is important to note that the Commission's mandate is specifically not defined in terms of access to justice. Despite this, the Commission's functions such as the provision of legal counsel, awareness-raising initiatives, and investigation of complaints advance, directly or indirectly, access to justice.

6. Legal Aid and Counsel

Provision of free legal assistance by NHRIs helps the poor to access justice, removing financial and information obstacles hampering them from doing so. NHRIs should thus promote and facilitate complainant's access to their rights and remedies, including the ones offered by themselves and remedies that exist elsewhere, such as courts of law. They have a duty not only to inform complainants of their rights and potential remedies but also to help them through the process as they are meant to serve the interest of those who may have experienced human rights abuses⁵². Such service is particularly important for the vulnerable groups who are likely to live in poverty. After all one of the effectiveness parameters of NHRIs is their ability to meet the needs of groups in society who are at risk of human rights violations⁵³.

Although the FDRE *Constitution* guarantees access to justice as one of the fundamental rights, free legal aid is limited to criminal cases⁵⁴. The Civil Procedure Code talks of pauperism whereby indigent applicants may be relieved of payment of court fee, which does not constitute legal aid. Realizing the acute shortage of legal aid, the bar law obliges advocates to offer *pro bono* service for a specified time within a year⁵⁵. By the same token, some local NGOs and students at public law schools offer free legal services on voluntary basis. Although commendable, all these efforts are barely enough in the face of the enormity of the poor people who seek such service. Public defender and legal aid services are thus very limited and quite weak, constraining the right of access to court, especially of such people who could not afford to pay for the service of advocates⁵⁶. The role of the Commission in the provision of free legal counsel and aid could help fill in the void in this regard.

The Commission has been providing legal counsel and aid to poor litigants despite lack of explicit reference to it by the enabling statute. However, such power is implied from its general mandate and the definition given to 'human rights' under the establishment legislation⁵⁷. In order to realize the provision of *pro bono* services, the Commission has

⁵² Office of the United Nations High Commissioner for Human Rights, 'National Human Rights Institutions: History, Principles, Roles and Responsibilities', Professional Training Series No. 4(Rev.1), 2011, p. 82(hereinafter referred to as 'Professional Training Series No. 4(Rev.1)').

⁵³ Mohammad-Mahamoud Mohamedou, 'The Effectiveness of National Human Rights Institutions', in B. Lindsnaes, L. Lindholt and K. Yigen eds., *Articles and Working Paper*, supra note 1, p. 50

⁵⁴ See Article 20 of the FDRE Constitution

⁵⁵ Advocates are obliged to provide, at least, 50 hrs of free legal service per annum. See Article 49 of the Federal Courts Advocates' Code of Conduct Regulation No. 57/1999.

⁵⁶ World Bank, supra note 17, p. 30

⁵⁷ The FDRE constitution guarantees access to justice as human rights in and of itself (See Article 37). The enabling Proclamation of the Commission defines human rights as those guaranteed by the Constitution and international human rights instruments. So, assisting the needy to access justice falls within the mandate of the Commission

teamed up with local NGOs and universities in different parts of the country and provided financial support to more than 112 centres established in different parts of the country for such purpose⁵⁸.

Apart from expanding accessibility, the major objective of establishing these centres is to help, particularly, the vulnerable groups of the society- women, children, persons with disability, the destitute, the elderly, and people living with HIV/AIDS gain access to free legal aid services⁵⁹. With the help of such Centres the Commission has provided information on legal and institutional solutions to complainants and also actually assisted the victims in receiving effective remedies from courts. In 2012, a total of 7872 indigent people (60% women and 40% men) and in 2013, a total of 13867 of them (of which 6208 were women) have benefited from the services of the legal aid centres across the country⁶⁰. Most of the cases submitted to the legal aid centres relate to family (maintenance and divorce cases), labour and land use issues and the services provided include writing of statement of claim, defence and appeal, legal counselling and representation in courts⁶¹.

It is important to note that the number of women who benefited from *pro bono* service exceeds that of men, reducing the gender gap in accessing the Commission. As the services are basically meant for vulnerable group, especially such as women, it is likely that women will remain accounting for the largest part of the beneficiaries.

The Commission has started monitoring the centres by making an on-site visit where it holds discussion with the organs running them in order to sort out problems encountering the centres and to find ways to strengthen and widen the services offered by them⁶². Fostering their services, the Commission has initiated attempt to create a network among them with a view to putting in place uniformity in their work⁶³.

Aside from providing legal counsel, the centres also serve as points for funnelling complaints to the Commission, improving its accessibility. This is in the sense that it helps complaints to reach the Commission given its limited outreach activity at the local level.

Constituting one of the milestones of the Commission, the provision of free legal assistance to the underserved is a remarkable move. Large segments of the population are completely unaware of the existence or the nature of laws, legal rights, the official legal system (including courts as well as the Commission itself), and there are few

⁵⁸ The Commission has increased the legal aid centre from 60 in 2010 to 112 in 2011. 67 centers in collaboration with 16 sixteen Universities, and 45 in collaboration with Civil Society Organizations, including Ethiopian Women Lawyers Association, and Ethiopian Christian Lawyers Fellowships, See Ethiopian Human Rights Commission, Annual Report 2011/2012, p. 4; Annual Report 2010/2011, p. 2, 15, & p. 70

⁵⁹ Annual Report 2011/2012, p. 4; see also Annual Report 2010/2011, p. 15

⁶⁰ Annual Report 2011/2012, p. 4., see also Annual Report 2012/2013, p. 8

⁶¹ Ibid; see also Annual Report, 2010/2011., pp. 16-17

⁶² Annual Report 2011/2012, p. 5

⁶³ Ibid

effective methods to create and build awareness, or provide legal services or advice⁶⁴. The Centres will help increase access of the general public, to the Commission, especially the disadvantaged strata of the society. It enhances not only the access to justice for the most disadvantaged strata in society but also simultaneously develops the capacities of future legal practitioners who are studying law and also serve in the Centres⁶⁵.

Although a commendable initiative, the fate of those Centres is at stake as they are considerably dependent on donors' funding that ended last year⁶⁶. Given its meagre resources, the Commission is not likely to retain most of them. The recent desperate measure undertaken by the Commission to finance the Centres following the end of the DIP project hints the difficulty that lies ahead to keep them running⁶⁷. The Commission has to strive to find ways and means to increase the number of Centres in order to reach out to more people in rural areas that by and large have no access to justice. The specific measures to be taken to sustain the Centres and the ones to be set up in the near future include the use of pro bono lawyers, the participation of bar associations, cost-sharing with the universities hosting the Centres, and linkage with donors that could finance them.

7. Legal Awareness

Legal awareness is the foundation for fighting injustice. The poor and other disadvantaged people cannot seek remedies for injustice when they do not know what their rights and entitlements are under the law. It is here that the necessity of legal awareness raising endeavor comes into play.

Strategies to promote legal awareness should be undertaken by both government and non-government actors. Among government bodies, NHRIs, as institutions entrusted with the specific task of promoting and protecting human rights, are best-suited to promote legal awareness, relating particularly to human rights issues. In their role as promoter of human rights, NHRIs are responsible for spreading awareness of human rights with a view to inculcating a culture of human rights and bring about social change in this respect.

The list of powers of the Commission includes both promotional and protection functions, with the accent being on the former one⁶⁸. The hitherto practice of the

⁶⁴ World Bank, *supra* note 17, p. 30

⁶⁵ Most of the Centers are run by law school students at different universities in the Country, who voluntarily offer legal services.

⁶⁶ The Democratic Institution Program (DIP) under the auspice of the UNDP that has been crucial in capacity building of the Commission ended in 2012. The Program aims at building the capacity of the democratic institutions such as the Commission the Ombudsman Institute, the Anti-Corruption Commission, and the Election Board

⁶⁷ The Commission scrambled to finance the Centers after the end of the donor funding. See Annual Report 2011/2012, p. 5

⁶⁸ Most of the functions and powers laid down under Article 6 of the Proclamation relate essentially to promotional functions except sub-article 6(1, 4 and 5), which talks of its investigation power, directly or indirectly.

Commission is consistent with the spirit of the enabling legislation, which accords due emphasis to promotional activities compared to protection ones. In other words, the Commission has, since it became fully operational, given preference to the promotional functions, especially in relation to investigation of human rights violations, rather than protection aspects. This is a pragmatic approach consistent with the reality in the country. The authoritarian tradition in the country nurtured unchecked and blanket use of governmental powers, moulding factors that constrain a human rights culture from emerging. Such settings demand more of promotional and sensitization works than protection in order to bring about a gradual and long-lasting impact in nurturing a human rights culture.

Before reviewing the practice of the Commission as regards promotional works that ultimately aims at enhancing access to justice, it is good to see a dilemma facing NHRIs in non-democratic and/or countries at the early stage of democratization to strike a balance between protection and promotion functions in order to put its promotional work in perspective. Besides, scrutinizing factors that stymied democratic tradition and a human rights culture from taking root in Ethiopia is important to envisage the importance of making equilibrium between the promotional works on the one hand and protection on the other and the need to give weight to the former.

The extent of the democratic nature of the State not only brings into play question of effectiveness of NHRIs but also raises issues as to the focus of their functions. Where a State is democratizing rather than democratic, promoting rather than protecting human rights will take centre stage, as the practice of human rights rests on the socialization of human rights norms and perspectives⁶⁹. Additionally, countries that have experienced long periods of violence and upheavals are unlikely to have developed a strong human rights culture and the institutions may thus consider general human rights awareness training to be a priority⁷⁰.

For a great deal of its history, Ethiopia was a highly centralized state ruled by Monarchy who claimed to have descended from King Solomon. Following a popular uprising in the early 1970s a highly centralized last Monarch was uprooted by a coup staged by the Military. The Military junta that assumed power in the 1974 adopted a socialist orientation, carrying out a widely supported land reform program and nationalization of property and enterprises of elites associated with the old system. As the Military gradually consolidated its power and failed to heed call for a broad-based government, some parties, accusing the Military of hijacking the revolution, resorted to armed struggle against it. Weakened by civil war and lack of public support the regime could not resist the mounting military pressure staged against it by the incumbent ruling Party, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF). Following the capture of the Capital in May 1991, the military rule crumbled, paving the way for a new chapter in

⁶⁹ See Li-ann Thio, *Implementing Human Rights in ASEAN Countries: "Promises to Keep and Miles to Go before I Sleep,"* Yale Law Human Rights and Development Journal, Vol. II, 1999, p. 1; see also Sonia Cardenas, 'Emerging Global Actors: The United Nations and National Human Rights Institutions', *Global Governance*, Vol. 9, 2003, p. 38

⁷⁰ Professional Training Series No. 4(Rev.1), supra note 52, p. 144

the country's history. The incumbent Party spearheaded attempt at democratization, decentralization and inception of a federal arrangement, in a stark contrast to the past political landscape.

Authoritarianism is the hallmark of governance in the country. The different rulers assumed extensive powers and relied on iron fist to rule its subjects. The transgression of human rights was considered their prerogatives, manifested in the exercise of unquestionable political authority⁷¹. To stay in power, violation of human dignity was thus taken to an unprecedented degree⁷². Concerns for the institutionalization of human rights promotion and protection are therefore of recent phenomenon in Ethiopian political and legal discourse as such issues were hardly possible prior to the early 1990s⁷³. Democracy and human rights are thus far from the Ethiopian collective consciousness.

In a nutshell, a rampant exercise of governmental powers, widespread ignorance of human rights and means of their vindication, entrenched cultural attitudes towards the government, a deeply-rooted tradition of impunity in the country make promotional task of special exigency.

Protection heavily focuses on investigation, which is, by its very nature, retrospective and aims mainly at redressing a particular complaint. There is a danger that it may not address systemic and entrenched policies, practices, traditions and behaviour. Promotion is however forward looking and could vie with embedded practices and traditions without necessarily implicating specific government institutions. It also is less a matter of enforcement and more of putting latent pressure to highlight human rights problems and the need to address them in the long-run. The Government is more receptive to such works than protection and reporting of specific human rights abuses that tends to directly or indirectly implicate specific institution(s) and/official(s), something which usually touches their nerve and could engender hostile reaction. This is self-evident from the reaction of the government to reports issued by relatively independent and critical human rights NGOs, both local and international, outlining human rights abuses allegedly attributable to government authorities and their agents⁷⁴. A somewhat politicized perception of human rights issues in the nation is to blame for such reaction. This makes it difficult, if not impossible, for the Commission to do its protection work, especially cases relating to politically sensitive matters, without encountering serious political opposition. A sustained promotional activity will bring about a deeper and longer-term impact on human rights awareness, societal capacity to assert and protect human rights, and capacity to seek redress under the law, contributing to countering impunity and fostering accountability in the country.

⁷¹ Lencho Lata, *The Ethiopian State at the Crossroads: De-Colonization and Democratization or Disintegration?* Red Sea Press, Asmara, 1999, p. 7

⁷² Ibid

⁷³ Abdo, supra note 4, p. 29

⁷⁴ The Ethiopian government usually reacts angrily to reports documenting human rights abuses and vehemently rejects such reports as baseless and accuse organizations issuing such reports of harbouring nefarious intention against the Government. This is what usually happens when the US State Department, Human Rights Watch, Amnesty International and the Ethiopian Human Rights Council issue reports of human rights situation and abuses in the Country.

7.1. Promotion of Human Rights Literacy and Awareness

The first task the Commission launched, following the first Chief Commissioner's appointment in 2004, was the promotion of the institution itself. At the very inception, the promotional work carried out focused on introducing the institution to the public through, among others, the media and by distributing its enabling statute and pamphlets on its mandate⁷⁵. As institution new Ethiopian political and legal landscape, it was incumbent on the Commission to define itself from the very inception and publicly promote its scope of mandate as statutory body charged with the sole task of promoting human rights. It is likely that would-be complainants would be confused, particularly at the beginning, to identify the difference of its function from the existing complaint-hearing bodies. This necessitates consistent promotion of the institution itself important right from the start.

To just give an overview, a major promotional work carried out by the Commission at the inception was related to election, distributing a 70-page pamphlet titled 'election and human rights' in three major languages⁷⁶. The promotion of election has to do with the election enthusiasm that engulfed the nation in the first year of the Commission's operation⁷⁷. Since then the Commission has gradually been expanding its promotional activities in others areas of human rights.

Broadly categorised, trainings and campaigning activities of the Commission focus on three entities: government bodies, associations, and other entities playing roles in the promotion of human rights, such as the media. It uses a variety of strategies including organizing seminars, roundtables, workshops, and training course, with the aim to raise awareness of human rights.

The Commission has worked to sensitize government authorities to human rights issues. Sensitization activities targeting government organs – the executive, parliament and the judiciary – at both the Federal and State levels, are carried out primarily through training programs and organising seminars and workshops. For instance, the Commission, in 2011, concluded the first round of training for Councils, both at the Federal and State levels. The focus of each session is to introduce the notion of human rights, on the role Parliament could play in enforcing human rights in general and the rights of vulnerable groups such as women, children and people with disabilities, the drawbacks encountered by respective bodies in their bid to enforce human rights and the roles expected of each of

⁷⁵ The Ethiopian Human Rights Commission, 'Its Establishment and Activities over the Period 2005-2006, 2006, p. 5(referred to as 'Annual Report 2005/2006').

⁷⁶ Ibid. The pamphlets were distributed in Amharic, Tigrigna, and Oromifa; see also the Ethiopian Human Rights Commission, Consolidated Five Year Report, 2011, pp. 2-3(hereinafter referred to as 'Consolidated Five Year Report').

⁷⁷ The 2005 general election coincided with the inception of the Commission. The Commission promoted election issues probably to indicate its operation and visibility at a time when the whole nation was captivated by the election fervor.

them to ameliorate the setbacks.⁷⁸ Such session aims to underscore that state behaviour must be tuned to human rights, focusing on the role of Councils in this regard. It has not necessarily brought about a dramatic change in legislations enacted by Parliament not has it reduced human rights abuses in the country. It marks a redefinition of what the appropriate role of Parliament ought to be as far as human rights are concerned.

The Commission has started a second round of training for councils, both at the Federal and State levels. It is remarkable that the training manuals and sessions have been conducted in the respective working language of the States, ensuring diversity and making the discussion to have local flavour⁷⁹. In a way, it promotes local language, which forms one of the core pillars of the current federal arrangement.

The most preventive strategy for human rights violations would comprise the introduction of human rights education in primary and secondary education as well as targeted education for professional groups, including lawyers, judges, police and civil servants in key positions⁸⁰.

Within government, a particularly important target for training is the judiciary. A campaign of education and awareness for judges is one of the most important steps an NHRI can take to enhance its own effectiveness⁸¹. The judiciary is instrumental in the enforcement of human rights and judges need to be made fully aware of their responsibilities in this regard. This is particularly important in Ethiopia where there remains little concern for and/or limited application of international human rights standards by the judiciary, even of treaties which the nation has ratified. Judges tend to avoid invoking and applying human rights provisions of the Constitution and international human rights norms.

One area where the Commission has been effective is in offering training and education, which consumes the bulk of its attention and budget. It organized various educational programs as part of its effort to promote human rights. For instance, one of the workshops organised by the Commission on the role of the judiciary is related to the application of international human rights at the domestic level.

The Commission conducted a consultation workshop on the status of international human rights treaties under Ethiopian legal system and the role of the judiciary in enforcing

⁷⁸ The Ethiopian Human Rights Commission, Inaugural Report, 2011, p. 58; see also Ethiopian Human Rights Commission, Annual Report 2006/2007, 6-8

⁷⁹ Annual Report 2011/2012, p. 8; see the Ethiopian Human Rights Commission, Bulletin, Vol. 2, No. 04/04, 2012, pp. 5-6 (hereinafter referred to as 'Bulletin No. 04/04'). The first round the discussions as well as manuals were prepared in the working language of the Federal Government and translations were used, consuming time and at times lack of professional translators hindered the adequate transmission of messages.

⁸⁰ Morten Kjaerum, 'The Experience of European National Human Rights Institutions', in B. Lindsnaes, L. Lindholt and K. Yigen eds., *Articles and Working Paper*, supra note 1, p. 120

⁸¹ International Council on Human Rights Policy, supra note 1, p. 81; see also the 'Nairobi Declaration' adopted at the end of the 9th Conference of NHRIs for the Promotion and Protection of Human Rights, Nairobi, Kenya, 2008, p. 5

international human rights treaties ratified by the country.⁸² The aim of the consultation was to sort out loopholes and find out ways for the application of human rights instruments in the administration of justice sector in general and the judiciary in particular⁸³. It was a remarkable meeting as it was attended by those directly concerned with the enforcement of human rights and others who play a crucial role in this regards- the attendees include the President of the High Court and other senior judges, public prosecutors, legal experts drawn from government agencies, academic institutions and civil society organizations⁸⁴.

Such forum could generate discussion, raise the awareness of lawyers and judges regarding international human rights standards and their application at domestic level, and direct the focus of courts in overcoming difficulties in the application of human rights norms at the domestic level.

Following the workshop, the Commission took a concrete step to facilitate the actual implementation of treaties by the judiciary. It teamed up with a local NGO, Action Professionals' Association for the People (APAP), to help parliament ratify international treaties in such a way that they could easily be applied by the judiciary and thereby rectified a longstanding obstacle in law-making procedure that has impeded their application by the judiciary.⁸⁵ (So, what is the achievement? Has the parliament been able to publish the full body of the text of the human rights treaties in the Fed. Neg. Gazeta? Can you cite an example?) All international human rights instruments ratified by the country are supposed to go through a proper national law-making procedure to overcome such constraints in implementing them at the national level. This will assist in the invoking of international treaties by courts as it helps to rectify constraints in domesticating international human rights instruments⁸⁶. Put differently, it helps to break

⁸² The Workshop was on 'The Implementation of International and Regional Human Rights in Ethiopian Courts'. See the Ethiopian Human Rights Commission, Bulletin, 1, No. 05/03, 2011, pp. 5-6(hereinafter referred to as 'Bulletin 05/03').

⁸³ Ibid

⁸⁴ 76 participants representing Judges from Federal and Regional Courts, Prime Minister Office, Heads of Justice Bureau and Prosecutors from Federal and Regional Offices, Ministry of Foreign Affairs, Justice Sector Training Institute, Justice and Legal Sector Research Institutes, Civil Society and participants from Law Schools of Universities.

⁸⁵ See Ethiopian Human Rights Commission, Annual Report 2007/2008, pp. 10-11; Annual Report 2006/2007, p. 5; see also Inaugural Report, supra note 78, p. 77. Non-publication of the full text of ratified international treaties in the local language in the national law reporter is frequently raised as one of the obstacles hampering the application of international treaties by the judiciary. See Ethiopia's Report submitted to the Human Rights Committee on 28 July 2009, which was considered by the Committee on 22 October 2009, UN, CCPR/C/ETH/1, 2009, p. 6; Canadian International Development Agency, 'Independence, Transparency and Accountability in the Judiciary of Ethiopia', National Judicial Institute, Canada, 2008, pp. 120-122; see also Rakeb Messele, 'Enforcement of Human Rights in Ethiopia', Research Report, APAP, Addis Ababa, 2003, pp. 38-41. The endeavor of the Commission in collaboration with the NGO to rectify such problem, has so far not been put into practice.

⁸⁶ The invocation of the provisions of international human rights treaties in general to settle disputes is rare, although there are some signs that there is a change in this regard. On the few cases in which international human rights are invoked, see UN International Human Rights Instruments, Core Document Forming the Initial Part of the Report of States Parties: Ethiopia, HRI/CORE/ETH/2008, 2009, p. 40; see also Takele

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down institutional resistance to the application of international human rights instruments, assisting in the effective implementation of the instruments and provision of remedies at the domestic level. In the end, this will help complainants to get remedies prescribed by international human rights norms, offering opportunity for better protection of human rights.

The Commission has also been making sensitization campaigns targeting the general public and/or groups structures in society. For instance, in trainings offered to youth and women associations, the focus is on human rights in general and the rights of women, children and persons with disabilities in particular, and the roles of the associations in raising the awareness of their members and the general public regarding the issues.⁸⁷ Specific issues raised include discrimination against women and persons with disabilities in employment and access to public services.

Realizing the sway of religious and community elders in communities, the Commission has also targeted religious and community leaders for sensitization purpose. For instance, it offered training to religious leaders and clan elders drawn from Somali National Regional State where such figures hold not only a significant authority in community matters but also in political decision-making process in the State⁸⁸. A sustained advocacy campaign targeting such figures would help raise awareness as regards particularly gender issues and other customary practices impeding the rights of women.

Work in the formal education sector is an important long-term investment but media campaigns, posters and other public awareness tools may be more immediately effective in promoting human rights⁸⁹. Audio, visual and print media are powerful tools in reaching out to the public. TV and Radio spots and presentations, talk show, and print media have been used by the Commission for promotional activities, considering them to be key mechanism for raising public awareness⁹⁰.

With the support of media, the Commission embarked on public education campaigns with a view to increasing public knowledge and understanding of human rights and scope of its mandate and thereby improve its visibility⁹¹. Some of the promotional activities aired on the National TV and Radio involve aspects of social and economic rights. For instance, discussion was held on Radio Fana on the rights of children.⁹² A 90-second TV presentation in 24 different parts was aired on Ethiopian National TV (ETV), focusing on the role and mandate of Commission, the rights of children, women and people with

Seboka, 'The Monist-Dualist Divide and the Supremacy Clause: Revisiting the Status of Human Rights Treaties in Ethiopia', *Journal of Ethiopian Laws*, Vol. 23, No. 1, 2009, p. 149

⁸⁷ Annual report 2010/2011, p. 61; see also the Annual Report 2006/2007, pp 10-11; see also Annual Report 2011/2012., pp. 31-49

⁸⁸ Annual Report 2011/2012, p. 13; see also Consolidated Five Year Report, *supra* note 76, p. 25

⁸⁹ *Ibid*, p. 80

⁹⁰ Inaugural Report, *supra* note 78, pp. 72-76

⁹¹ Their themes include the rights of children, discrimination against female children and women in education, property ownership and employment, and the need to address them through the concerted efforts of family, society, government organs and other players to alleviate the problem.

⁹² Annual Report 2006/2007, p. 12

disabilities, the notion of equality, and the rights of vulnerable groups and affirmative action to be taken to address their problems.⁹³ The thrust of the series was on discrimination against female children, women and persons with disabilities entrenched in family relations, schools and public services, and on the need to tackle the problems facing these groups through a collaborative effort of the government, the general public and other concerned organs.

The Commission has increasingly been using local languages in its advocacy campaigns. Recently, it sponsored the broadcasting of 40 programs for each Afar and Somali languages⁹⁴. The usage of local languages in promoting the Commission and human rights is likely to expand its reach to the people who may not speak the working language of the Federal Government institutions including the Commission, helping the audience to internalize the message.

The Commission seems to step up its public education and sensitization effort towards entrenching a culture of respect for human rights and dignity. In that regard, its overall promotional endeavour is guided by strategic plan, which specifies different activities for such purpose for a period of five years, 2011-2016. Apart from providing strategic direction for the Commission, the Plan will ensure that the institution is better poised to maintain and improve the quality of its expanding promotional works. A systematic and sustained campaign to promote human rights will over the years help individuals and/or groups to assert their rights, paving the way for and increasing access to justice.

The Commission has published various materials for public consumption in line with its mandate to promote human rights. Apart from providing information on mandate and competence of the Commission regards, they disseminate information to ordinary citizens on their rights, the obligations of the state in terms of these rights, the remedies available for human rights violations and how these remedies can be accessed and/or made available. However, a lack of public awareness of human rights as well as the Commission in rural areas is still affecting accessibility of the Commission to the largest section of the public, a problem acknowledged by many documents of the Commission. Inevitably, it demands a consistent and extensive campaign targeting the public⁹⁵.

7.2. Sensitization of the Rights of Vulnerable Groups

Another significant undertaking of success story (Seriously? Can we speak as such? Does the Commission has achievements that qualify as success story?) of the Commission lies in its promotion of rights, particularly of vulnerable groups. It has given due regard to efforts to promote the notion of human rights in general and those of women in particular, keeping them in public discourse gradually. This is a commendable move given the widespread ignorance of human rights and of gender equity in the country. Such endeavour to enhance knowledge and awareness of human rights has a

⁹³ Ibid, 17; see also the Annual Report 2007/2008, p. 4

⁹⁴ Annual Report 2011/2012, supra note 22, p. 14

⁹⁵ See for instance, Inaugural Report, supra note 78, pp. 113-114; see Consolidated Five Year Report, supra note 76, p. 55; see also Strategic Plan 2011-2016, supra note 16, p. 25

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positive effect not only on the better protection of human rights but also on the process of political liberalisation in the medium to long term⁹⁶. Particularly, a vigorous campaign to change an entrenched attitude and practice, both in the general public and governmental institutions, is important to gradually change the human rights situation in the country especially that of women in matters such as employment, education and property.

In most training sessions, discussion on the rights of vulnerable groups (women, children, and people with disability) has become standard practice. For instance, almost all trainings given to Councils, both at the Federal and State levels, contain distinct topic for such group, with one training manual devoted to it. They touch on historical account of international instruments guaranteeing their rights, the gravity of the problem in Ethiopian context, particularly the prejudice and discrimination against them in both public and private sectors as well as in social life.

Many workshops involving various stakeholders are frequently organized on issues of vulnerable group⁹⁷. The fact that the latest annual report unusually gives detailed description of promotional works targeting such group is testament to due attention given to them⁹⁸.

Media release also focuses on tackling a deeply-ingrained discrimination in social and family interactions against vulnerable groups. For instance, a brief presentation featured in media (especially National TV and Radio) highlights, in simple language, how parents give preference to boys than girls, and forces the latter to assist the family with taking care of household activities while allowing the former to study and play with friends in their spare time. It tries to emphasize that discrimination starts at home, reinforcing its embedment in society without being perceived as discrimination, and calls upon parents to change the course of things by themselves. For instance, the Commission struck agreement with the National TV and Radio and aired a 24-part spot for three times per week for about 9 months. The spots contained different aspects of human rights with the focus on the right of vulnerable groups⁹⁹. The experts of the Commission frequently single out such media features as bringing significant awareness as regards gender equality¹⁰⁰.

Issues of vulnerable groups are also raised in specialist training that may not necessarily be arranged by the Commission. For instance, the Commission was invited to take part in a training organized by the Ministry of Justice to enhance journalists' knowledge of

⁹⁶ Vaughan and Tronvoll, *supra* note 19, p. 70

⁹⁷ See also Annual Report 2011/2012, p 13, p. 25 & pp. 31-34; see also Annual Report 2007/2008, p. 11

⁹⁸ See Annual Report 2011/2012 that gives at least 29 no. of pages to vulnerable groups out of a 54-page document.

⁹⁹ See Annual Report 2006/2007, p. 4; see also Annual Report 2011/2012, p. 14

¹⁰⁰ The experts of the Commission usually invoke how awareness of human rights has been getting to the people garnered from their reaction. Parents have admitted that they have been exercising discrimination without realizing that such acts constitute discrimination in its proper sense, that such practices contribute to the wider discrimination in society and that the fight against it should start from each family.

human rights issues. The Commission's presentation focused on the role of journalist in enhancing awareness about the rights of vulnerable groups¹⁰¹.

In relation to women, issues usually addressed include discrimination, domestic violence, rape and sexual harassment, and trafficking¹⁰². Domestic violence, rape and sexual harassment are rampant problems in the country. Incidents of brutal acid attack, deadly violence and rape have frequently been reported in the media, both private and public. As a result of the realization that violence against women and children has reached alarming heights, the Commission appears to sense that the time has come to address such abuse and find ways to combat it. Admittedly, while sexual harassment and violence against women are by no means new, increasing reporting of such incidents portray them as emerging issues that demand attention.

The Commission has been undertaking attempts to tackling such problem by making public campaigns and organizing panel discussion, bringing together stakeholders, and holding events. For instance, the Commission organized a consultation forum on such problems with officials drawn from justice sector and the police. The participants entrusted the Commission with the task of leading discussion on these matters and called for consistent deliberations in order to shape a holistic approach involving all stakeholder to tackle the problems¹⁰³.

The Commission also has been trying to raise awareness about sexual harassment and violence against women by holding special events. For example, it organized a '16-day of Activism against Sexual Harassment Campaign' targeting such acts committed in higher academic institutions. The Campaign was conducted at 22 public and private universities and involved different activities, including, trainings, entertainment, and distribution of leaflets and pamphlets on the problem, which were aired on the National Radio and TV¹⁰⁴.

The problem of trafficking in women is an issue of serious concern over the years. The Commission has involved itself in endeavour to wrestle with the trafficking of women. This is a commendable move given the fact that Ethiopia has become one of the main source countries of many women exposed to trafficking, grabbing headlines, both locally and internationally, in the last couple of years. Each year thousands of Ethiopian women and girls have been trafficked mainly to the Middle East countries primarily for labour purpose but some end up in sexual exploitation. While the root cause of trafficking can be traceable to, among others, poverty and lack of opportunities, traffickers have exploited the dire conditions of women. Under the guise of better life, the trafficking is nowadays instigated and facilitated by traffickers who have an extensive network throughout the country and operate in collaboration with front firms engaged in travel arrangement business.

¹⁰¹ See Annual Report 2006/2007, p. 4

¹⁰² Annual Report 2011/2012, p. 47; see also Annual Report 2007/2008, p. 11

¹⁰³ See Annual Report 2007/2008, p. 11, see also Annual Report 2006/2007, p. 11

¹⁰⁴ Annual Report 2011/2012, p. 34

The Commission has been carrying different activities to heighten public awareness of the evils of trafficking of women, ranging from public campaigns to cooperation with other entities working on the same area. For instance, it has forged agreement with women associations operating in four States, which have been combating trafficking of women and customary practices trampling on women's rights, to expand its reach in tackling trafficking¹⁰⁵. It provided financial assistance to these associations to strengthen their endeavour. As the associations have been active at grassroots level and have widespread out-reach activities, the support of the Commission would help strengthen their effort¹⁰⁶. To reinforce the work of similar associations operating in other States, the Commission has launched an inquiry into the capacity of such associations in Somali, Gambela and Benishangul States so that it could render financial and technical support to them¹⁰⁷.

To buttress its work on trafficking of women, the Commission planned to conduct an inquiry into how selected Federal authorities have been coping with the problem. Once the inquiry is completed, the Commission intends to issue recommendations on measures to be undertaken to rectify the predicament¹⁰⁸. Although both the Federal Constitution and Criminal Code outlaws exploitation and explicitly prohibit the trafficking of human beings, slavery and serfdom and forced labour, there is no distinct law on human trafficking in Ethiopia unlike in other jurisdiction. There is also no comprehensive policy in place that addresses the problem either. Given the fact that there has been piecemeal and uncoordinated effort in the country to address the trafficking of women, the attempt by the Commission to come up with a comprehensive recommendation is praiseworthy.

The Commission has given priority to the protection of the rights of children. Regarding children, issues that frequently surface are problems facing street children and children without parents. The Commission has been striving, along with other bodies, to come up with policy and administrative measures to offer support and care to such children by arranging deliberations that involved members of Councils, relevant Federal and State authorities and NGOs¹⁰⁹. A concept paper developed by the Commission on such children was used as a starting point for discussion, following which the Commission hammered out agreement with NGOs to conduct a treatise study on the matter and then make appropriate policy, legal, and administrative measures to wrestle with the problem¹¹⁰. The Commission is expected to assume a leading role in the implementation of the would-be findings, using, among others, its public education and monitoring mechanisms.

¹⁰⁵ The Associations are operating in Amhara, Tigray, Oromiya and South States. See the Bulletin No. 04/04, supra note 79, p. 1

¹⁰⁶ Among others, the associations have been raising awareness of human rights in general of women's rights in particular by engaging local elders and government institutions and by establishing clubs in schools.

¹⁰⁷ See the Bulletin No. 04/04, supra note 79, p. 6

¹⁰⁸ See Annual Report 2011/2012, p. 47

¹⁰⁹ See Annual Report 2011/2012, p. 13; see Annual Report 2007/2008, p. 11; see also Annual Report 2006/2007, p. 12

¹¹⁰ See Annual Report 2007/2008, p. 11

A variety of means are used to promote the right of children, one of which is holding a special event. For instance, on the day marking African Children, the Commission, in collaboration with the National TV, hosted a three-day program on the rights of children where ‘children court’ was also set up¹¹¹.

The Commission has also been promoting the rights of persons with disability. Among others, it translated international human rights instruments relating to their rights into Braille and finally distributed them to 30 libraries throughout the country¹¹². It has recently completed the translation of the Convention on the Rights of Persons with Disabilities into three languages, which would be distributed soon¹¹³. Also, most of the trainings offered to Council at both the Federal and State levels incorporate specific topic on the rights of persons with disability. In addition, it has been offering to associations of persons with disability to raise their awareness about their rights where other stakeholders also took part¹¹⁴.

Although giving attention to vulnerable groups is laudable, the Commission fails to pay equal attention to the people living with HIV, given the gravity of the problem facing them and the rampant discrimination against them. Compared to other vulnerable groups, it paid little attention to them although it believes that they form part of vulnerable group¹¹⁵. Occasionally, the Commissions promoted their rights, however¹¹⁶.

The impact of the sensitization of the right of vulnerable group is not obviously an immediate one. It would in the long-run facilitate such group to assert their rights. To realize this, the Commission ought to sustain its endeavour to promote the rights of such group.

The promotional activities undertaken by the Commission since its inception indicates that it has been striving to create general awareness about human rights and the institution itself. As regards substance, they lack focus on specific types of rights and on groups that need primary attention, such as people with HIV¹¹⁷. They also lack diversity as they give due attention to a historical development of these rights and the role of Parliament in human rights, the rights of women, children and elderly.

Another problem with the overall sensitization and awareness initiatives of the Commission is that the promotional works, particularly in training session, use complex

¹¹¹ See Annual Report 2006/2007, p. 12

¹¹² See Annual Report 2011/2012, p. 16

¹¹³ Ibid

¹¹⁴ Ibid, pp.35-36

¹¹⁵ Strategic Plan 2011-2016, supra note 16, p. 44

¹¹⁶ For instance, it arranged workshop for Association of People with HIV on theme (AIDS and Human Rights); see Annual Report 2011/2012, p. 10

¹¹⁷ The Commission moves from one issue to another and appears to lack a consistent approach. For instance, it raises issues regarding violence against women and switches to the trafficking of or discrimination against women. This may be because the Commission is too ambitious to address all issues related to women at the same time. In its Strategic plan, the Commission conceded that its promotional activities did not take into account the rights of vulnerable groups, especially the rights of people living with HIV. See Strategic Plan, supra note 16, p. 26

jargons that may not easily be grasped by the audience, especially for non-lawyers¹¹⁸. Also, the training materials vary in size, format and also the approach used in delivering training varies from trainer to trainer. It appears that the Commission leaves discretion to trainers to determine a format for the training manuals and to conduct the very training sessions. Nonetheless, this problem is likely to gradually dissipate following measures undertaken to build the Commission's capacity. The Commission used to reply on outside experts to run most of its promotional works, including education and training and research on human rights. However, a significant progress is achieved in building the capacity of human resources of the Commission for such purposes¹¹⁹. As a result, most training nowadays is provided by the Commission's own experts and research works are carried out by the same. The reliance on in-house experts will rectify the defects with training materials and mode of their delivery.

In its promotional endeavours, particularly the ones targeting the general public, information on human rights, the means to vindicate them and on the available remedies upon their violations must be intelligible to the public and knowledge provided to them must serve their practical purposes.

8. Adjudication of Complaints involving Vulnerable Groups

Adjudication involves the process of determining the most appropriate type of remedy or compensation. Adjudication mechanisms include judicial and quasi-judicial processes, including NHRIs.

On top of promotion, the Commission is mandated to protect human rights using its quasi-judicial competence. The enabling legislation empowers the Commission to inquire into alleged human rights infringement upon receiving a complaint from an aggrieved person or on its own motion.

The process at the intake of complaints is fairly easy. If a complainant appears in person, he/she has to first appear before the Registrar of the Commission who would invite him/her to narrate the matter orally and then decide if it falls within the competence of the Commission. A case may be admitted at times on condition that a complainant produces further evidence. After a case is admitted the respondent is notified of the matter and given an opportunity to present his/her version. Or information will be gathered from correspondence with the respondent and, if deemed necessary in some cases, through on-site visits. If a case is found to be outside the jurisdiction of the Commission, it provides advice to the would-be complainants as to a competent institution to deal with such case or refer the matter to the proper institution¹²⁰. If the

¹¹⁸ Mohammed Abdo, 'National Human Rights Institution and Economic, Social and Cultural Rights: An Examination of the Mandate and Practice of the Ethiopian Human Rights Commission', in Eva Brems, Gauthier de Beco and Wouter Vandenhoele eds., *National Human Rights Institutions and Economic, Social and Cultural Rights*, Intersentia, 2013, p. 137

¹¹⁹ Interview with Paulos Amega, Head of the overall promotional function department at the Commission, 18 November 2013, Addis Ababa, Ethiopia

¹²⁰ Referral may be direct or indirect. A direct referral is one where the Commission passes on the complaint to the relevant body and advises the complainant of this action. An indirect referral is one in

Commission believes that available remedies have not been exhausted, it may reject a case. A would-be complainant whose case is rejected by ~~the decision of~~ the Registrar is entitled to file petition against such decision to the next official in an appeal from hierarchy within the institution – such decision (Appeal to?) (Article 27 of the Proclamation).

The Commission does not appear to observe strict rules of standing, but allows anyone to make a complaint to it, either as victim or on behalf of one. This is important for the would-be complainants, particularly vulnerable group, as it makes it easily for them to access the Commission.

There is a steady growth in the number of cases submitted to the Commission over the years following the Commission's promotion campaigns to raise awareness about itself and human rights¹²¹. However, the number of cases submitted to the Commission annually since its inception is rather small given the sheer size of the country and its poor human rights records¹²². The exact number of complaints submitted to the Commission in general and of social and economic rights is difficult to come by. This is attributable to the poor file management and recording of cases prior to 2010, before the Commission reformed its business process¹²³.

The recent statistics indicates a marked increase in the number of cases submitted to the Commission. More than 1427 complaints submitted to the Commission in 2012/2013, even before the end of the Ethiopian fiscal year, represent an even greater increase over the 65 cases received in its first year of operation¹²⁴.

which the Commission provides relevant contact details to the complainant, so that they may pursue the alternative avenue themselves. If it appears that the complainant is capable of doing this, an indirect referral will generally be appropriate. See the Ethiopian Human Rights Commission, Complaints Handling Manual, 2011, p. 29.

¹²¹ Inaugural Report, *supra* note 78, p. 91; see also the Ethiopian Human Rights Commission, Annual Report 2009/2010, pp. 14-15.

¹²² Ethiopia is a vast country with over 85 million people. The poor human rights records of the country is well-documented by human rights NGOs, both local and international. Reports issued by, among others, the US State Department, Amnesty International, Human Rights Watch and the Ethiopian Human Rights Council attest to this fact. Based on its own documents, the Commission received about or more than 4563 complaints since its inception. The rather low number of complaints has to do with the sheer size of the country accompanied by a lack of branch offices until recently or the inadequacy of promotion works by the Commission and/or a lack of awareness regarding the Commission's function or lack of interest in the Commission as it lacks executive powers. Among others, a sustained promotion by the Commission about itself and the newly opened branches offices and the likely increase in the number of such offices in the near future will possibly increase the number of complaints coming to the Commission.

¹²³ Owing to the lack of Registrar prior to April 2010 cases end up in the hands of individual investigators as there was no practice of a centralized system of recording and admitting cases. The reform was launched in 2009 and completed it in 2010, culminating in changing its organizational structure. It resulted in, among others, rearranging the original departments and also created new sections and posts, one of which is the Registrar at the Investigation Directorate. One can observe an improvement in the delivery of services in general and file management in particular after the Registrar went operational. See Inaugural Report, *supra* note 78, pp. 55-56; see also Annual Report 2010/2011, p. 8

¹²⁴ See Annual Report 2012/2013.

Among cases coming to the Commission one finds many cases relating to vulnerable groups. The Commission adopted a fast-track procedure for cases designated as priority and urgent ones, which, in essence, guard vulnerable groups¹²⁵.

Bearing consistency with its operational procedures, when a complaint of discrimination based on disability or HIV is lodged by an individual complainant, the Commission appears to seize and investigate it immediately. To just mention some, in a complaint, a person with HIV alleged discrimination based on his status and the Commission took prompt action to investigate the matter and finally issued recommendation. Similarly, in another case, a person with disability also claimed that he was denied employment opportunity based on his condition, constituting discrimination. The Commission instantly investigated it and issued recommendation.

Giving priority to and speedy investigation of complaints relating to vulnerable groups signifies the attention the Commission pays to the need to protect their rights.

Although relatively low, the gradual increase in the volume of complaints indicates that the Commission's prolonged campaign to promote itself and human rights and its expanding outreach have enabled people to steadily access the office¹²⁶. Given the sheer size of the nation and the wide-spread ignorance of the existence and function of the Commission, access to and of the Commission to the vast expanse of the rural population is still a problem to reckon with.

9. Assessment of the Commission's Practice in Enhancing Access to Justice

The value and benefit of the Commission remain largely untested because of the intransigence of the dominant autocratic political culture as well as the deficiencies of the Commission itself. A challenging setting means that the task of the Commission is more demanding and challenging than its counter-part in established democracies that operate in favourable condition. It, as a result, is likely that the Commission's contribution to build a human rights culture in the nation is scuttled by a variety of factors.

Although its mandate is specifically not defined in terms of access to justice, the Commission, as part of national human rights framework, plays important role in advancing access to justice. Its role and contribution to enhancing access to justice is rather modest, undercut by a combination of, among others, lack of effective strategies in discharging promotional functions, financial constraints, limited visibility at local levels

¹²⁵ Such cases include cases relating to violence against women, cases relating to children's rights, gender equality and women's rights, persons with HIV, people with disability. See Complaints Handling Manual, supra note 120, p. 31

¹²⁶ Paulos Amega, head of the overall promotional function department, is of the opinion that the promotional activity is to be credited with increasing the number of cases appearing to the Commission annually, Interview with him on 18 November 2013, Addis Ababa, Ethiopia. Other experts working (and/or who worked) at the Commission also share the same view. For instance, observation from exchange of views with Ahmed Hussen, Investigator, Department of Investigation and Mebrahatu Woldu, former expert at the department of education and training at different times indicate this.

and interaction with NGOs, limited transparency on the part of institution, and problems associated with establishing institutional credibility.

Marking its achievement, the Commission's milestone is the provision of legal aid to the poor and its focus on promoting the rights of vulnerable groups. The Commission needs to deepen its linkage with NGOs, higher academic institutions and other stakeholders to keep the legal aid service running and to expand it.

The Commission has been experiencing a steady growth in the number of cases from year to year. However, the volume of the complaints received annually is low given the sheer size and population and the complex human rights problems in the nation and poor track-record in protecting them. As a complementary body, the Commission has to devise strategies to increase the number of complaints through, for instance, a credible handling of cases, efficiency in dealing with them, publicity of its concrete outcome upon investigation of complaints disposed, and through a sustained campaign of dissemination of information on its mandate and jurisdiction. Measures taken to improve the efficiency and transparency of the institution could spur would-be complainants to seek its service. Put differently, such measures could impel individuals to have recourse to a complementary mechanism of protecting human rights other than the existing tribunals, increasing access to justice.

Improving complaint-handling system, publishing selected recommendations of the Commission in annual report and/or special report on regular basis, both online and in print form, particularly those where its recommendations have been complied with, are among the measures that could help foster the efficiency and transparency of the Commission.

Of course, the Commission appears to have realized that digital online presence is an essential component of promotion and communication. To that effect, it has been trying to put in place system to provide its service through digital and electronic communication scheme. Accordingly, it has introduced a free-toll number through which interested parties could get service free of charge. Such system could open the possibility to get service without appearance in person before the institution. Also, it has designed and developed content for its website, which provides basic information on its mandate as well as its activities. Introducing online presence in general and online and digital complaint systems in particular forms part of encouraging actions taken by the Commission to foster accessibility. However, most annual reports have not been put online and no information on complaints and their outcomes are accessible online. The Commission needs to be forthcoming in putting more information online as regards its past, existing and planned activities, particularly investigation of complaints, to spur potential complainants who have access to such system to make use of it.

As accessibility presupposes that people know of the institution and its function and that they are able physically to make contact with it, the Commission thus needs to undertake more outreach activities and decentralization. Unfortunately, the Commission could not realize its plan to open five more branches, which was supposed to take place 2012. The

Commission has to strive to open the proposed branch offices and to even establish more offices in other areas.

Apart from efficiency and transparency, the Commission has to demonstrate its independent functioning in investigation of complaints, particularly those that are considered politically sensitive. No significant case confronting Government policy and laws have ever been publicly released, highlighting its intent to avoid upsetting the government and raising scepticism as to its independence. Unless the Commission shows that it has been challenging government authorities when circumstances justify it, the Commission would lose the trust of the public, affecting the appetite of potential beneficiaries of its service.

The Commission's complaint handling manual does not define what a high profile case or sensitive case is. The operational manual (i.e. complaint handling manual) should articulate clear procedure on considering sensitive and high profile cases to avoid selectivity in launching investigation on matters, particularly those making headlines.

In connection with independence and credibility, the officials that assume the office of the Commission have to be politically neutral, courageous, and are committed to the defence of human rights. Independent-minded and intrepid officials can breathe life into the Commission and mould it into become an effective monitoring body. The onus of realizing this falls on appointment process-it has to be transparent, competitive and participatory. Save the existing practice of inviting the public to summit candidates they deem fit to run the institution, the incumbent recruitment process of the leadership of the Commission does not seem to be transparent, competitive and also fails to involve diverse segment of the society¹²⁷.

In a nut-shell, the Commission ought to go great length to foster a culture of human rights and access to justice. Be that as it may, its works, especially promotional ones and legal counsel, represent important first step in achieving this, constituting part of stepping-stone to a greater mechanism for protecting human rights in the country.

¹²⁷ The absence of clear set of procedures on short-listing candidates and lack of meaningful public consultation on nominees characterize the selection of the first as well as the incumbent batch of Commissioners. It was not clear as to how they were selected from among the proposed candidates. The Nomination Committee does not include NGOs proper, failing to include NGOs working on human rights and, particularly those critical of the government. The Committee is composed of four members from each faith group (Islam, Orthodox, Protestant and Catholic), Speakers of the two Chambers of Parliament (the House of Federation and the House of People's Representatives), seven members from the House of People's Representatives, the President of the Federal Supreme Court, and two members from among opposition parties that have seats in Parliament (See Article 11 of the Proclamation establishing the Commission).. It is not clear how the opposition group is represented in the last nomination of the Commissioners as there is only one seat of the opposition party in Parliament. The ruling party won 99.6 of the seats, losing only two seats of a 547- member House (one seat went to the opposition party and the other to an independent candidate who openly affiliates himself to the policies of the ruling party).

Concluding Remarks

The Commission was set up as part of constitution reform to user in new era in the nation following the overthrow of the brutal Military regime in the early 1990s. Since it embarked on discharging its functions in 2004, it has been making endeavors to promote and protect human rights.

The launching of legal aid centres, in collaboration with stakeholders, for vulnerable groups is one of the main milestones of the Commission. The Centres have been benefiting increasing number of indigent complainants to access justice and thereby defend their rights. Given the fact that many Ethiopians could not seek justice owing to financial impediments, complex legal procedures of formal courts and illiteracy, the move to set up such centres is significant in helping to overcome lack of access to justice.

Legal aid schemes are usually expensive. To overcome such problem, particular attention should be paid to finding ways to ensure financial sustainability and cost effectiveness. Examples include the use of pro bono lawyers, the participation of bar associations, cost-sharing with the universities hosting the Centers, and linkage with donors that could finance them.

Information on human rights, the means to vindicate them and on the available remedies upon their violations must be intelligible to the public and knowledge provided to them must serve their practical purposes. Promotional activity to raise human rights awareness needs to thus be audience-friendly and also refer to as many real-life situations as possible. Also, the Commission needs to focus on specific training and education works that focus on enhancing the skill to assert human rights unlike the existing promotional activities aiming at parting general awareness of human rights.

With the help of donors, the Commission built staff capacity and put in place operational procedures. This will help enhance its initiative to help vulnerable group. However, the Commission is ~~thus~~ not the panacea for all existing human rights problems, including problems of access to justice. Networking with community figures and NGOs working at local level is important given the limited visibility of the institution throughout the country.

To enhance access to such justice, the Commission ought to consider establishing a reasonable number of branch offices to reach out to the rural population or conduct regular field visits to render services and increase its visibility.

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