



# OPERATIONAL GUIDANCE NOTE

## ETHIOPIA

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#### 1. **Introduction**

- 1.1 This document summarises the general, political and human rights situation in Ethiopia and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with the RDS - COI Service Ethiopia Country of Origin Information Report of October 2005 at:

[http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)

- 1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim  
 API on Humanitarian Protection  
 API on Discretionary Leave  
 API on the European Convention on Human Rights

- 1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

#### **Source documents**

- 1.4 A full list of source documents cited in footnotes is at the end of this note.

## **2. Country assessment**

- 2.1** The Provisional Military Administrative Council (known as the Derg) which had ruled Ethiopia since the 1974 revolution was overthrown in May 1991 when rebels of the Ethiopian People's Revolutionary Democratic Front (EPRDF) led by Meles Zenawi captured Addis Ababa. After elections for a Transitional Government in 1992, he presided over the establishment of Ethiopia's current political structures. In a decisive break with Ethiopia's tradition of centralised rule, the new institutions are based on the principle of ethnic federalism, designed to provide self-determination and autonomy to Ethiopia's different ethnic groups.<sup>1</sup>
- 2.2** Ethiopia's current constitution was adopted in December 1994, with executive powers vested in the Prime Minister. Meles Zenawi has occupied this post since 1995. Elections in 1995 and 2000 gave the component parties of the EPRDF an overwhelming majority of seats in the national parliament. The region governments are similarly dominated by the EPRDF affiliated parties (ie the Tigray Peoples' Liberation Front (TPLF) in Tigray region, the Amhara National Democratic Movement (ANDM) in Amhara region, the Oromo People's Democratic Organisation (OPDO) in Oromia and the Southern Ethiopia People's Democratic Front (SEPDF) in Southern Nations) Dr Negasso Gidada became President in 1995. He was replaced by Girma Wolde Giorgis in October 2001.<sup>2</sup>
- 2.3** Prime Minister Meles is a founder member of the TPLF. Since 2001 he has moved to develop a new power base that draws more heavily on the non-Tigrayan parties within the EPRDF alliance. Ethiopia has a deeply authoritarian political tradition but there has been some opening up of political space and increased opposition participation in political life.<sup>3</sup>
- 2.4** However, opposition parties remain profoundly weak and divided over policy, identity and tactics. Two prominent coalitions dominate the scene - the United Ethiopian Democratic Forces (UEDF) formed in 2001 and the newer Coalition for Unity and Democracy (CUD) formed in 2004. Both coalitions query the principle of ethnic federalism and assert a national identity. They are made up of smaller parties, such as the Southern Ethiopian Peoples Democratic Coalition (SEPDC) and Oromo National Congress (ONC), that assert a regional identity outside the EPRDF fold. Other older political groups, such as the Oromo Liberation Front (OLF), are outlawed and remain locked in the logic of armed struggle.<sup>4</sup>
- 2.5** General elections held on 15 May 2005 revealed a sharp increase in public support for opposition parties. In the aftermath, the political atmosphere has deteriorated. A large number of electoral complaints were made and elections were re-run in some constituencies. International observers from the European Union and the Carter Centre expressed concerns about this stage of the process. The final results, announced in September, gave the EPRDF and its affiliates control of the 547 seat parliament. Opposition parties gained a tenfold increase, with over 170 seats. However, some opposition elements continue to contest the conduct of the elections and the CUD has not yet taken up its seats.<sup>5</sup> In early November 2005, 46 people died when the authorities suppressed violent anti-government protests by opposition parties and supporters who continued to dispute the conduct of the May 2005 election.<sup>6</sup>

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<sup>1</sup> Home Office COI Service Ethiopia Country of Origin Information Report October 2005 (paragraphs 4.01 – 4.05 & 5.07 – 5.09)

<sup>2</sup> COI Service Ethiopia Country Report (paras 4.06 – 4.11 & 5.08 – 5.09)

<sup>3</sup> COI Service Ethiopia Country Report (paras 4.37 – 4.49 & 5.07 – 5.15)

<sup>4</sup> COI Service Ethiopia Country Report (paras 4.37 – 4.49 & 5.07 – 5.62)

<sup>5</sup> COI Service Ethiopia Country Report (paras 4.21 – 4.36 & Annex B)

<sup>6</sup> BBC World News: Africa. 'Ethiopia Timeline' 2 November 2005 & 'Ethiopia PM regrets protest dead' 7 November 2005

- 2.6** Ethiopia agreed to grant independence to Eritrea after a UN supervised referendum in 2003. A dispute over the ill-defined border flared into military conflict in May 1998. There were an estimated 100,000 casualties. Hostilities concluded with the signing of the Algiers Peace Agreement of December 2000. This established a Boundary Commission to delimit and demarcate the border and established a 25km Temporary Security Zone (TSZ) between the two countries. A UN peacekeeping force (UNMEE) has been deployed along the TSZ since 2001. India, Jordan and Kenya are the major troop contributors to the 4000 strong force. Under the Peace Agreement, UNMEE is to remain in place until the delimitation and demarcation of the border had been completed.<sup>7</sup>
- 2.7** The Boundary Commission (BC) announced its decision on the border on 13 April 2002. Demarcation was due to follow in 2003. However, when it became clear that the town of Badme (where the hostilities started) had been awarded to Eritrea, Ethiopia challenged the BC's conclusions. In November 2004 Ethiopia announced its acceptance "in principle" of the BC ruling but progress on demarcation remains stalled. The international community continues its efforts to keep the peace process on track by underlining that the BC decision is final and binding and by urging both Governments to engage in political dialogue.<sup>8</sup>
- 2.8** The human rights situation in Ethiopia is poor. The security forces have been implicated in several major public order incidents, not all of which have been conclusively investigated. These include violent suppression of student demonstrations in Addis Ababa in 2001 and the killing of political protesters in incidents at Tepi and Awassa in the Southern Regional State in 2002. There was serious ethnic violence directed against the Anuak community in the Gambela region from December 2003 to May 2004 in which military personnel were individually implicated. Oromo student protests in Addis Ababa in January 2004 met a heavy handed response followed by unrest in educational establishments across Oromia region. In response to growing criticism the government appointed an Ombudsman and a Human Rights Commissioner in July 2004, since when there have been slight improvements.<sup>9</sup>
- 2.9** It was reported during 2004 that security forces committed a number of unlawful killings, including alleged political killings, and beat, tortured, and mistreated detainees while prison conditions remained poor. The Government continued to arrest and detain persons arbitrarily, particularly those suspected of sympathising with or being members of the OLF. Thousands of suspects remained in detention without charge, and lengthy pretrial detention continued to be a problem. The Government infringed on citizens' privacy rights, and the law regarding search warrants was often ignored.<sup>10</sup>
- 2.10** The Government restricted freedom of the press throughout 2004; however, compared with previous years, there were fewer reports that journalists were arrested, detained or punished for writing articles critical of the Government. Journalists continued to practice self censorship. The Government at times restricted freedom of assembly, particularly for members of opposition political parties; security forces at times used excessive force to disperse demonstrations. The Government limited freedom of association, but the nongovernmental organisation (NGO) registration process continued to improve. Local authorities infringed on freedom of religion. The Government eliminated the requirement for residents to obtain exit visas before leaving the country.<sup>11</sup>

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<sup>7</sup> Foreign and Commonwealth Office Country Profile: Ethiopia 21 October 2005 (FCO 2005)

<sup>8</sup> FCO Country Profile 2005

<sup>9</sup> COI Service Ethiopia Country Report (paras 5.36, 6.01 – 6.04, 6.44 – 6.46, 6.47 – 6.53, 6.89 – 6.94 & 6.106 – 6.114)

<sup>10</sup> COI Service Ethiopia Country Report (paras 6.01 – 6.04)

<sup>11</sup> COI Service Ethiopia Country Report (paras 6.5 – 6.70)

- 2.11** It was reported during 2004 that numerous internally displaced persons (IDPs) from internal ethnic conflicts remained in the country while violence and societal discrimination against women and abuse of children remained problems. The principal women's and children's rights issues are Female Genital Mutilation (FGM) and child marriages. Leadership efforts to curb FGM made some inroads during 2004. The exploitation of children for economic and sexual purposes remained problematic while trafficking in persons was also a serious problem.<sup>12</sup>
- 2.12** Societal discrimination against persons with disabilities and discrimination against religious and ethnic minorities continued and some interethnic clashes resulted in deaths. For example, a total of 65 people, 61 of which from the Anuak ethnic group, were killed and 75 injured in interethnic conflict with rival groups in the Gambela region in December 2003. Further tensions were reported in the region throughout 2004.<sup>13</sup>

### **3. Main categories of claims**

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ethiopia. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal flight are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

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<sup>12</sup> COI Service Ethiopia Country Report (paras 6.54 – 6.60, 6.72 – 6.86, 6.133 – 6.145, 6.147 – 6.157 & 6.185 – 6.191)

<sup>13</sup> COI Service Ethiopia Country Report (paras 6.72 – 6.86 & 6.89 – 6.118)

[http://www.ind.homeoffice.gov.uk/ind/en/home/laws\\_policy/policy\\_instructions/apis.html](http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html)

### 3.6 Members of the OLF, ONLF or IUP

**3.6.1** Most claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to membership of, involvement in or perceived involvement in one of the main armed opposition groups: the Oromo Liberation Front (OLF), the Ogaden National Liberation Front (ONLF) or al-Ittihad al-Islamia (Islamic Union Party).

**3.6.2 *Treatment.*** Clashes between members of the OLF and members of the OPDO (a member-party of the governing EPRDF coalition) during the run up to elections led to a final break with the EPRDF in 1992, after which the OLF went into armed opposition and in July 1996 signed a military co-operation agreement with the ONLF. The groups advocate self-determination for the Oromo People and the use of Oromo language and culture. The ONLF also receives support from the IUP, a Somali organisation which has been fighting for an Islamic state in Somalia.<sup>14</sup>

**3.6.3** According to Human Rights Watch World Report: Ethiopia (HRW), the US Department of State's Report on Human Rights Practices: Ethiopia (USSD) and Amnesty International's Annual Report (AI) covering events in 2004, occasional skirmishes between security forces and armed insurrectionary bands continue in many parts of the country. Security forces frequently arrest civilians, claiming they are members of the OLF in Oromia state or ONLF and IUP members in Somali state. Few of those arrested are brought to trial. Some are released; others are kept in arbitrary detention for prolonged periods, often without a hearing or cause shown, sometimes incommunicado. Frequent reports of extrajudicial executions and torture emerge from Somali region, but access to the region has been restricted by the military to such a degree that these reports are impossible to confirm.<sup>15</sup>

**3.6.4** AI reported that authorities accused the OLF of organising the Oromo student demonstrations in the first half of 2004 after which 25 persons were charged with armed conspiracy and membership of the OLF. HRW reported that in July 2004 the Ethiopian government revoked the license of the venerable Oromo self-help association Mecha Tulema for allegedly carrying out "political activities" in violation of its charter. The police subsequently arrested four of the organisation's leaders on charges of "terrorism" and providing support to the OLF. The four were released on bail in August but were arbitrarily arrested a week later. In August 2004, several dozen individuals were arrested in and around the town of Agaro in Oromia and imprisoned for allegedly supporting the outlawed OLF. Some prisoners reported mistreatment while in custody and police reportedly threatened family members wishing to visit detained relatives. As of October 2004, the prisoners remained in detention even though none had been charged with any crime.<sup>16</sup>

**3.6.5 *Sufficiency of protection.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

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<sup>14</sup> COI Service Ethiopia Country Report (paras 5.41 – 5.55, 6.47 – 6.53, 6.89 – 6.95 & 6.100 – 6.102 & Annex C)

<sup>15</sup> COI Service Ethiopia Country Report (paras 5.41 – 5.55, 6.47 – 6.53, 6.89 – 6.95 & 6.100 – 6.102 & Annex C)

<sup>16</sup> COI Service Ethiopia Country Report (paras 5.41 – 5.55, 6.47 – 6.53, 6.89 – 6.95 & 6.100 – 6.102 & Annex C)

**3.6.6 Internal relocation.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

**3.6.7 Caselaw.**

**IAT/AIT Determinations:** Birru (Ethiopia) [1997] 14775 promulgated 1 April 1997. The Tribunal found that merely being an Oromo will not put an individual at risk, nor is low level involvement with OLF ground for asylum.

Fuad Feki Abbanega (Ethiopia) [2002] UKIAT 02620 promulgated 15 July 2002. The Tribunal dismissed the appellant of Oromo ethnicity finding he does not face a real risk on return to Ethiopia because of his support for the OLF. The IAT found the "evidence as a whole does not support the view that anybody who is a supporter of the OLF faces a real risk for that reason alone. It does not even support the view that an OLF member is at a real risk simply because he is a member (para 14)".

HA (Ethiopia) [2005] UKAIT 00136 promulgated 6 October 2005. OLF members and sympathisers – risk. The Tribunal found a risk on return for an OLF sympathiser who had been detained on a previous occasion for OLF activities. Ethiopian authorities prioritise targetting known OLF members or sympathisers and those who have come to the previous attention of the authorities are likely to encounter a real risk of persecution by the authorities. Internal relocation is not a viable option.

**3.6.8 Conclusion.** Though OLF, ONLF and IUP are outlawed armed opposition groups that are known to carry out organised attacks against the state authorities, ordinary low-level non-combat members who have not previously come to the adverse attention of the authorities are unlikely to be at real risk of persecution. The grant of asylum in such cases is therefore unlikely to be appropriate.

**3.6.9** If it is accepted that the claimant has been involved in, or is suspected of involvement in non-combat activities on behalf of one of these groups and has previously come to the adverse attention of the authorities then they are likely to be at real risk of persecution by the state authorities. The grant of asylum in such cases is therefore likely to be appropriate.

**3.6.10** The OLF, ONLF and IUP have been involved in human rights abuses and armed campaigns that have in some cases amounted to war crimes. In cases where the claimants is accepted as a high profile member or combatant for one of these groups, caseworkers should consider whether one of the Exclusion causes applies and refer such cases to the Senior Caseworker.

**3.7 Oromos**

**3.7.1** Many claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to their membership of the Oromo ethnic group.

**3.7.2 Treatment.** In 2004, there were more than 80 ethnic groups living in the country. The Oromo were the largest single group, accounting for 40% of the population. Although many groups influenced the political and cultural life of the country, Amharas and Tigrayans from the northern highlands play a dominant role. The federal system has boundaries drawn roughly along major ethnic lines, and regional states have much greater control over their affairs. Most political parties and the military hierarchy are primarily ethnically based. There were unconfirmed reports that soldiers targeted Oromos for abuse in 2004. Those Oromos who come to the adverse attention of the

authorities are usually those who are known to be involved with, or suspected of being involved with the OLF (see 3.6 above).<sup>17</sup>

- 3.7.3** There were multiple clashes early in the 2004 between police forces and Oromo students at a number of schools and universities, including institutions in Addis Ababa (AAU), Ambo, Alemaya, Nazereth, Awassa, Dilla, Debre Zeit, Jimma, and Bahir Dar . The Government accused the OLF of organising the demonstrations. Protests were directed in part at the Government's decision to move the capital of the Oromo Region from Addis Ababa to Nazaret (Adama).<sup>18</sup>
- 3.7.4** Following protests by Oromo students at several schools and the expulsion from AAU of 330 students, there were several incidents that resulted in deaths and injuries. In Ambo, hand grenades exploded in a school, killing several students and injuring others. At Alemaya Agricultural College and Adama Technical College, riots between Oromo and Tigrayan students armed with knives and sticks resulted in some severe injuries. A number of reports indicated that some of the Oromo students expelled from their universities were arrested on return to their home areas. In April 2004, approximately 600 Oromo students fled across the border to Kenya. Violence decreased during the latter half of 2004, although tensions remained high. By the end of 2004, almost all of the students were reported to have returned.<sup>19</sup>
- 3.7.5** **Sufficiency of protection.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.7.6** **Internal relocation.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.7.7** **Caselaw.**

**IAT/AIT Determinations:** Birru (Ethiopia) [1997] 14775 promulgated 1 April 1997. The Tribunal found that merely being an Oromo will not put an individual at risk, nor is low level involvement with OLF ground for asylum.

Hassan (Ethiopia) [2000] ImmAR83 promulgated 30 June 2000. The Tribunal found no evidence that persons in Ethiopia would be persecuted because they were Oromos or because of a family connection.

- 3.7.8** **Conclusion.** While there is evidence that Oromos who are active in, or who are suspected of being active in the OLF are likely to come to the attention of the authorities (see 3.6 above), there is no evidence that the state authorities systematically harass, discriminate or persecute Oromo Ethiopians solely on account of their ethnic origin. Claimants who express a fear of ill-treatment amounting to persecution by the state authorities solely on the basis of their Oromo ethnic origin are therefore not likely to qualify for asylum.

## **3.8 Members of the AEUP**

- 3.8.1** Some claimants will apply for asylum based on ill treatment amounting to persecution at the hands of the state authorities due to membership of, involvement with or perceived

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<sup>17</sup> COI Service Ethiopia Country Report (paras 6.41 – 6.53 & 6.86 – 6.95)

<sup>18</sup> COI Service Ethiopia Country Report (paras 6.41 – 6.53 & 6.86 – 6.95)

<sup>19</sup> COI Service Ethiopia Country Report (paras 6.89 – 6.95)

involvement with the opposition All Ethiopian Unity Party (AEUP) formerly the All Amhara People's Organisation (AAPO) (renamed in August 2002).

- 3.8.2 Treatment.** The AAPO was established in 1991 to defend the rights of the Amhara people, which it believed were best served by a unitary Ethiopian state rather than the federation advocated by the EPRDF (and implemented in the 1995 constitution). The AAPO's then leader was jailed from 1994 to 1998, having been convicted of incitement to armed insurrection for making statements which he claimed were within the rights of free speech. The AAPO boycotted the 1995 federal elections but contested those of 2000 in order to retain its party registration (which would otherwise have been withdrawn). It fielded 17 candidates for the House of People's Representatives and won one seat in Addis Ababa. Members of the AAPO were arrested and detained following Government allegations of their involvement in student riots in 2001 and 2002. According to the USSD, AEUP supporters reported that attacks by government militia against them and instances where party meetings were prevented or obstructed escalated during 2004. Local officials often turned a blind eye to these attacks or were complicit in them.<sup>20</sup>
- 3.8.3** Registered political parties must receive permission from regional governments to open local offices. Opposition parties such as the AEUP reported that the pattern of widespread intimidation and violence directed against members of opposition political parties by local government officials continued throughout 2004. Hundreds of cases were reported by the AEUP and other parties or by the press. Such cases ranged from public insults of opposition party members by local officials at civic events to bombings, house burnings, property confiscation, and murder. In many of the cases reported, opposition members were allegedly told they must resign from or denounce their party membership if they wanted access to fertilizer, other agricultural benefits, health care, or other benefits controlled by the Government. Party meetings were often disrupted or unlawfully banned. The AEUP formed part of the Coalition for Unity and Democracy (CUD) formed in 2004 that competed in the parliamentary elections of May 2005.<sup>21</sup>
- 3.8.4 Sufficiency of protection.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.8.5 Internal relocation.** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.8.6 Caselaw.**
- IAT/AIT Determinations:** HB (Ethiopian) CG [2004] UKIAT 00235 promulgated 25 August 2004. State persecution of members of opposition political parties (EPD/UEPD). The Tribunal found no objective evidence to the effect that UEDP or EDP members are subject to routine persecution. These two parties are closely aligned to and partnered the AEUP to form the opposition CUD coalition that contested the parliamentary elections in May 2005.
- 3.8.7 Conclusion.** If it is accepted that the claimant is a prominent activist or high profile leader within the AEUP then it is likely that they will be able to demonstrate a real risk of ill-treatment amounting to persecution under the terms of the 1951 Convention. The grant of asylum is likely to be appropriate in such cases. Claimants who have adduced evidence of mid or low profile activism or association with the AEUP are unlikely to be at risk of ill treatment amounting to persecution. In such cases the grant of asylum is not likely to be appropriate.

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<sup>20</sup> COI Service Ethiopia Country Report (paras 5.28 – 5.32, 6.44 – 6.53 & Annex C)

<sup>21</sup> COI Service Ethiopia Country Report (paras 5.28 – 5.32, 6.44 – 6.53 & Annex C)

### 3.9 Persons of mixed Ethiopian / Eritrean origin

**3.9.1** Some claims will raise the issue of whether the claimant considers himself/herself to be Ethiopian or Eritrean, and the state authorities' treatment of those who consider themselves of mixed ethnicity. Though this will not usually be a main or sole basis for a claim, it will be crucial to establish the applicant's parentage, length of time spent in Eritrea and the location of the alleged persecution to substantively assess the wider claim.

**3.9.2 *Treatment.*** As a result of the 1998 to 2000 war with Eritrea, thousands of persons were displaced internally. Of the approximately 350,000 IDPs resulting from the border war, approximately 225,000 IDPs have been resettled. During 2003 1,579 cases of Eritrean civilians waiting to return to Eritrea in the country were pending with the International Red Cross (ICRC). There were several ICRC overseen returnee occasions during 2004.<sup>22</sup>

**3.9.3** Most Eritreans and Ethiopians of Eritrean origin are registered with the Government and held identity cards and 6 month residence permits that allowed them to gain access to hospitals and other public services. However, there were unsubstantiated anecdotal reports that indigent Eritreans were denied the right to seek free medical services by government officials at the local level. The law requiring citizens and residents to obtain an exit visa before departing the country was eliminated in July 2004. Eritreans and Ethiopians of Eritrean origin had their status regularised by the Government in 2004.<sup>23</sup>

**3.9.4 *Sufficiency of protection.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

**3.9.5 *Internal relocation.*** As this category of claimants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

#### **3.9.6 *Caselaw.***

**IAT/AIT Determinations:** MA and others (Ethiopia) [2004] UKIAT 00324 promulgated 22 December 2004. Ethiopia – Mixed ethnicity-dual nationality. The IAT heard 3 appeals together due to common features. All the claimants originated from Ethiopia but are partly or wholly of Eritrean ethnic background. The appeals all raised an issue of whether nationals or former nationals of Ethiopia face persecution as a result of their ethnicity arising from a risk of discriminatory withdrawal of their nationality and a risk of deportation to Eritrea. The appeals also raise the issue of whether entitlement to Eritrean nationality deprives a claimant of a right to protection under the 1951 Convention. The following assessments were made:

The risk arising from mixed ethnicity The Tribunal is not satisfied that the evidence shows that Ethiopians of Eritrean or part Eritrean ethnicity fall within a category, which on that basis alone establishes that they have a well-founded fear of persecution. An effective deprivation of citizenship does not by itself amount to persecution but the impact and consequences of that decision may be of such severity that it can be properly categorised as persecution. One such consequence may be that if returned to Ethiopia there would be a risk of deportation or repatriation to Eritrea. – The Tribunal is not satisfied that there is now a government policy of mass deportations and it must follow that there is now no real risk for persons of Eritrean descent generally of deportation on return. The Tribunal accepted that some Ethiopians of Eritrean descent remaining in Ethiopia may be at risk of persecution because of their ethnicity. This depends upon the individual facts of each case.

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<sup>22</sup> COI Service Ethiopia Country Report (paras 6.119 – 6.132, 6.185 & 6.191)

<sup>23</sup> COI Service Ethiopia Country Report (paras 6.119 – 6.132)

Entitlement to dual nationality The Tribunal then considered the issue of whether if the claimants that are at risk of persecution in Ethiopia, they do not qualify as refugees because they can look to Eritrea for protection. Starting point is Article 1(A)(2) of the Convention which provides that in the case of a person who has more than one nationality, shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well founded fear, he has not availed himself of the protection of one of the countries of which he is a national. In the present appeals the claimants assert that they have been effectively been deprived of their Ethiopian citizenship. The reason for this is their Eritrean background. If they qualify for Eritrean citizenship and there are no serious obstacles to their being able to apply for and obtain such citizenship, there is no reason in principle why they should not look to the Eritrean authorities for protection. It is not open to a claimant by doing nothing and by failing to make an application for citizenship to defeat the provisions of the Refugee Convention. The Tribunal is satisfied that if the evidence shows that a claimant is entitled to nationality of a country, the provisions of Article 1(A)(2) apply. He shall not be deemed to be lacking the protection of the country of his nationality if without any valid reason based on a well-founded fear he has not availed himself of the protection of that country. In most cases this will involve making an application for his/her nationality to be recognised. A claimant cannot decline to take up a nationality properly open to him without a good reason, which must be a valid reason based on a well founded fear. The protection offered by a state of second nationality must be "effective". It will be a question of fact in each case whether the claimant has a nationality, which will provide him with effective protection.

**3.9.7 Conclusion.** Since the end of forced repatriations in 2000/1 there has been no evidence that the Ethiopian authorities harass, discriminate or ill treat individuals who have spent time in Eritrea and/or consider themselves to be part Eritrean. Any claimant who cites mixed ethnicity as the sole or main reason for their asylum application will not be able to demonstrate treatment amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not appropriate.

### **3.10 Prison conditions**

**3.10.1** Claimants may claim that they cannot return to Ethiopia due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ethiopia are so poor as to amount to torture or inhuman treatment or punishment.

**3.10.2 Consideration.** Prison and pre-trial detention centre conditions in 2004 were very poor and overcrowding remained a serious problem. Prisoners often were allocated fewer than 21.5 square feet of sleeping space in a room that could contain up to 200 persons. Prison conditions were unsanitary, and access to medical care was not reliable. Prisoners typically were permitted daily access to prison yards, which often included working farms, mechanical shops, and rudimentary libraries. Prison letters must be written in Amharic, which made outside contact difficult for non Amharic speakers; however, this restriction generally was not enforced. Visitors generally were permitted; however, they were sometimes denied access to detainees.<sup>24</sup>

**3.10.3** Female prisoners were held separately from men; however, juveniles sometimes were incarcerated with adults. There was only 1 juvenile remand home for children under age 15, with the capacity to hold 150 children. Juveniles who could not be accommodated at the juvenile remand home were incarcerated with adults. Pretrial detainees were usually detained separately from convicted prisoners at local police stations or in the limited Central Investigation Division detention facility in Addis Ababa until they were charged. The law requires that prisoners be transferred to federal prisons upon conviction; however, this requirement sometimes was not enforced in practice.<sup>25</sup>

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<sup>24</sup> COI Service Ethiopia Country Report (para 5.92)

<sup>25</sup> COI Service Ethiopia Country Report (para 5.93)

- 3.10.4** There were some deaths in prison during 2004 due to illness and disease; however, no statistics on the number of deaths in prison were available at year's end. Prison officials were not forthcoming with reports of such deaths. In August 2004, the ICRC finished its nationwide training program for prison directors, and heads of security, health, and administration on proper treatment of prisoners, including respect for human dignity, treatment of women and children, and medical treatment of sick detainees. In November 2004 the ICRC began a second, more advanced training course nationwide.<sup>26</sup>
- 3.10.5** The Government permitted independent monitoring of prisons and police stations by the ICRC. Diplomatic missions were also granted access upon providing advance notification to prison officials. The ICRC generally had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country during 2004, and conducted hundreds of visits involving thousands of detainees. The ICRC was allowed to meet regularly with prisoners without third parties being present. The ICRC received government permission to visit military detention facilities where suspected OLF fighters were detained. The ICRC also continued to visit civilian Eritrean nationals and Ethiopians of Eritrean origin detained on national security grounds.<sup>27</sup>
- 3.10.6 *Conclusion.*** Whilst prison conditions in Ethiopia are poor with overcrowding medical facilities and sanitation being a particular problem conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Ethiopia a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health.

#### **4. Discretionary Leave**

- 4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)
- 4.2** With particular reference to Ethiopia the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.
- 4.3 **Minors claiming in their own right****
- 4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate care and support arrangements in place.
- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18<sup>th</sup> birthday, whichever is the shorter period.

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<sup>26</sup> COI Service Ethiopia Country Report (paras 5.94 & 5.98)

<sup>27</sup> COI Service Ethiopia Country Report (para 5.91)

#### **4.4 Medical treatment**

- 4.4.1** Claimants may claim they cannot return to Ethiopia due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.
- 4.4.2** Ethiopia's health care system is relatively basic and cannot currently provide satisfactory treatment for all medical conditions. Tuberculosis is now one of the leading causes of death in the country. All appropriate drugs for the treatment of Tuberculosis are available throughout the country. Treatment centres for heart and eye diseases have also opened in the past decade. There is very limited treatment for psychiatric problems. The cost of anti-retroviral treatment for HIV/AIDS has diminished considerably in the past five years with greatly improved availability country-wide.<sup>28</sup>
- 4.4.3** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

#### **5. Returns**

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Addis Ababa.
- 5.2** Ethiopian nationals may return voluntarily to any region of Ethiopia at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ethiopia. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ethiopian nationals wishing to avail themselves of this opportunity for assisted return to Ethiopia should be put in contact with the IOM offices in London on 020 7233 0001 or [www.iomlondon.org](http://www.iomlondon.org).

#### **6. List of source documents**

- UK Home Office COI Service Ethiopia Country of Origin Information Report October 2005 [http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)
- UK Foreign and Commonwealth Office (FCO) Ethiopia Country Profile 21 October 2005 <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1022070787685>
- British Broadcasting Corporation (BBC) World News Africa: Ethiopia Timeline 2 November 2005 at [http://news.bbc.co.uk/1/hi/world/africa/country\\_profiles/1072219.stm](http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1072219.stm)
- British Broadcasting Corporation (BBC) World News Africa: 'Ethiopia PM regrets protest dead' 7 November 2005 at: <http://news.bbc.co.uk/1/hi/world/africa/4413128.stm>

**Asylum and Appeals Policy Directorate  
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<sup>28</sup> COI Service Ethiopia Country Report (paras 5.105 – 5.131)