

THE UPR PROJECT AT BCU



BIRMINGHAM CITY
University
Centre for Human Rights



Submitted to:

Ethiopia's Universal Periodic Review: Fourth Cycle
47th Session of the UPR Working Group
Oct - Nov 2024

About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through world leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and in international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in providing support to the UPR Pre-sessions, capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations

are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights.

Our Partner:

For this submission the UPR Project at BCU partners with the Alliance for International Development, Education and Research (AIDER) Group based in Worcester, UK. The AIDER Group is an international consortium of specialists, providing consultancy services in law, international development, security advice and training, and infrastructural development. The Group has extensive experience working in West Africa particularly within the areas of education, law, business, and policy development. AIDER's founders and associates are senior professionals working in academia, NGOs, and the charity sector. AIDER Contact: Lamin Daffeh. Email: lamin@aider.org.uk. Address: Suite 147, 79 Friar Street, Worcester, WR1 2NT.

Compiled by:

Lead Author: Dr. Amna Nazir **Contributing Authors:** Lamin Daffeh, Dr. Alice Storey and Professor Jon Yorke. **Thank you to:** Lahore University of Management Sciences (Pakistan) externs, Faqiha Amjad, Saffa Mustafa and Musa Saeed, and BCU LLB students Jack Oakes and Danielle Williams for their research assistance.

Contact:

Dr. Alice Storey (Lead Academic of the UPR Project at BCU) Email: Alice.Storey@bcu.ac.uk
Address: Birmingham City University, School of Law, Curzon Building, 4 Cardigan Street, Birmingham, B4 7BD, UK.

INTRODUCTION

1. Ethiopia is party to seven of the nine core international human rights treaties for which it should be commended.¹ This includes the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR). In line with the protections afforded by these Covenants, this Stakeholder Report focuses upon (1) **child, early and forced marriage**; and (2) **capital punishment**.
2. We make recommendations to the Government of Ethiopia on these key issues, implementation of which would see Ethiopia move towards achieving Sustainable Development Goals 4, 5 and 16 which aim for ‘gender equality and empowering all women and girls’, ‘inclusive and equitable quality education and promote lifelong learning opportunities for all’, and ‘access to justice for all’.
3. In this submission, we encourage Ethiopia to commit to improving its human rights protection and promotion by engaging meaningfully with its fourth cycle of the UPR in 2024. This includes giving full and practical consideration to all recommendations made by Member States, effectively implementing the recommendations Ethiopia accepts, and actively engaging with civil society throughout the process.

CHILD, EARLY AND FORCED MARRIAGE

A. Ethiopia and International Law on Child, Early and Forced Marriage (CEFM)

4. Child and early marriage occurs before the age of 18 for one or both of the parties and it manifests in any formal or informal union. Forced marriage can occur at any age when one and/or both parties have not provided their full and free consent to the union. A child marriage is therefore considered to be a form of forced marriage, as one and/or both parties are unable to provide their full, free and informed consent.² There are various acronyms to describe this human rights issue, but in this submission we adopt ‘Child, Early and Forced Marriage’ (CEFM).
5. CEFM is a human rights violation which deprives children of their agency to make decisions about their lives and future. It increases their vulnerability to various ills such as violence, discrimination, abuse, ill-health including sexual and reproductive health problems, and prevents their full participation in the economic, political and social spheres.³ It can also hinder their right to undisruptive access to education.

6. Child marriage is prevalent in Ethiopia, with girls disproportionately affected. National data indicates 40% of girls are married before the age of 18 and 14% before the age of 15, whilst 5% of boys are married before the age of 18.⁴
7. Ethiopia's commitment to combating CEFM is enshrined in its legal framework. Article 34(2) of the Constitution of the Federal Democratic Republic of Ethiopia 1994 unequivocally asserts that “marriage shall be entered into only with the free and full consent of the intending spouses”.⁵ Furthermore, Article 35(4) mandates the State to “enforce the right of women to eliminate the influences of harmful customs”. CEFM, a harmful practice prevalent in many parts of Ethiopia, is directly addressed by this provision.
8. The legal landscape further reflects Ethiopia's efforts to address CEFM and other harmful practices. Article 7 of Ethiopia’s Revised Family Code 2000 establishes the minimum age of marriage at 18 years old for both women and men. It echoes the Constitution in that marriage must be consensual to be valid, even in customary and religious marriages.
9. Special provisions in the Criminal Code of 2005 criminalize CEFM. Article 648 imposes rigorous imprisonment of up to 3 years if the victim is 13 years or above and up to 7 years if the victim is below 13 years. However, Article 648 also provides an exception allowing marriage under 18 years if there are “circumstances permitted by relevant Family Code”.⁶
10. Article 7(2) of the Revised Family Code builds on this by permitting marriage at 16 years where there is a “serious cause”, subject to authorisation by the Minister of Justice upon application by the intending spouses or their parent(s)/guardian(s).⁷ There is no explicit definition of the phrase in the article.
11. The domestic legal framework on CEFM has been promoted and informed by Ethiopia’s ratification of relevant international instruments. Ethiopia has ratified several treaties which espouse protections against CEFM. Of particular relevance are Articles 1, 2, and 24 of CRC.⁸ Article 19(1) specifically provides that state parties must take appropriate measures to protect the child against all forms of abuse, negligent treatment, or sexual exploitation. Furthermore, Article 16(2) of CEDAW states the betrothal and marriage of a child is to have no legal effect and the minimum age of marriage must be specified as 18.⁹
12. Considerable effort has also been made to address CEFM in regional treaties and charters in Africa, which Ethiopia is party to. This includes Article 21 of the African Charter on the Rights and Welfare of the Child 1990,¹⁰ Article 6 of the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa 2003,¹¹ and the Commonwealth Kigali Declaration to prevent and eliminate child, early and forced marriage adopted in May 2015.¹²

B. Implementation of Recommendations from Cycle Three in 2019

13. Ethiopia received 327 recommendations in the Third Cycle of which 270 were accepted and 57 were noted.¹³ A total of 74 recommendations were issued on rights of the child of which 15 focused on child, early and forced marriage.¹⁴ These were all supported by Ethiopia, bar one, which is commendable and indicates its commitment to curb child marriage.

Recommendations concerning general efforts to eliminate CEFM

14. A number of States recommended Ethiopia undertake all measures to eliminate CEFM or similar. These included **Burundi** (para 163.173), **Cape Verdi** (para 163.174), **Cyprus** (para 163.16), **France** (para 163.129), **Italy** (para 163.164), **Namibia** (para 163.161), **Slovenia** (para 163.167), **Spain** (para 163.168), and **Uganda** (para 163.299).
15. Other states, such as **Hungary** (para 163.158), **Israel** (para 163.163), **Rwanda** (para 163.166), and **Zambia** (para 163.17) laid a particular emphasis on strengthening the implementation of legislation, policies, and strategies aimed at ending CEFM, alongside eliminating any loopholes that might undermine the protection of women and children's rights. **Burkina Faso** (para 163.172) recommended Ethiopia "step up awareness-raising initiatives to combat harmful traditional practices, such as female genital mutilation and early marriage". The recommendations **have been partially implemented**.
16. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad recommendations, whilst easy to accept, lack any impetus to bring about real change.¹⁵ It is recommended that States adopt a SMART approach to recommendations as recognised by UPRinfo.¹⁶ This would help Ethiopia initiate an incremental approach to the elimination of CEFM.
17. Nonetheless, efforts to combat child marriage have been made by Ethiopia. The National Strategy and Action Plan on harmful traditional practices (HTPs) against Women and Children in Ethiopia (2013), the UNCIEF-UNFPA Global Programme to Accelerate Actions to End Child Marriage (2016-2019), the Growth and Transformation Plan (GTP II) (2015/16–2019/20), and the Ministry of Women, Child and Youth GTP II Sectoral Plan (2015/16–2019/20) are some programmes and policies promulgated for the prevention of CEFM.
18. Since its last UPR, in 2019, the government launched the 'National Costed Roadmap to End Child Marriage and FGM/C 2020–2024'. The Roadmap sets forth strategies and targeted interventions geared towards meeting the government's goal of eliminating harmful traditional practices including CEFM.

19. The National Roadmap recognises five main strategies around which to coordinate efforts in order to eliminate CEFM and FGM: 1. Empowering adolescent girls and their families; 2. Community engagement (including faith and traditional leaders); 3. Enhancing systems, accountability and services across sectors; 4. Creating and strengthening an enabling environment; and 5. Increasing data and evidence generation, and use.¹⁷
20. However, the legal landscape of Ethiopia remains the same with respect to CEFM. Article 7(2) of the Revised Family Code of 2000 and Article 648 of the Criminal Code of 2005 remain in place, permitting exception to the minimum age of marriage. We urge the government of Ethiopia to amend these provisions and bring the law in conformity with international human rights law, namely Article 16(2) of CEDAW.

C. Further Points for Ethiopia to Consider

COVID-19 and the Increased Risk of CEFM

19. The UNFPA-UNICEF Global Programme to End Child Marriage (GPECM) was launched in 2016 and indicated 12 countries as high-prevalence or high-burden countries, this included Ethiopia.¹⁸ Phase I, aimed at “strengthening institutions and systems...to deliver quality services and opportunities for a significant number of adolescent girls”¹⁹ completed in 2019 and Phase II (2020-2023) of the project aimed to “accelerate actions to end child marriage”.²⁰
20. The vision for Phase III (2024-2030) is “for adolescent girls, especially the most marginalized, to fully enjoy their childhood free from the risk of child marriage, and experience healthier, safer and more empowered life transitions.”²¹
21. The GPECM has also identified the implications of CEFM in the COVID-19 pandemic.²²As a result of the pandemic, a further 10 million child marriages are projected globally before the end of the decade; unions that otherwise might have been prevented.²³ COVID-19 has exacerbated the risk of CEFM through five main routes:
 - (1) interrupted education;
 - (2) economic and food insecurity;
 - (3) disruptions to programmes and services;
 - (4) adolescent pregnancy; and,
 - (5) death of a parent or primary caretaker.
22. Furthermore, families tend to make decisions about education and marriage in parallel hence school closures and suspension of educational services increase vulnerability to discontinue education and promote marriage instead. The pandemic has widened educational inequalities for vulnerable children and adolescents living in poor and/or

remote rural areas as well as girls, refugees, those with disabilities, and those who are forcibly displaced.²⁴

23. Ethiopia, like many other countries, did not have a coordinated national child protection emergency and response plan in place when the pandemic hit. This severely affected its ability to provide services during the pandemic that are essential to preventing child marriage, such as adolescent sexual and reproductive health and rights information and resources. A dangerous vacuum has been created as a result of curtailing awareness campaigns and community dialogues on the negative consequences of CEFM.

Impact of COVID-19 on Adolescent Girls and Gender Equality

24. Humanitarian crises and the deleterious impact of COVID-19 amplify and compound gender norms that hinder girls' school attendance, risk of child marriage, early pregnancy, gender-based violence, sexual exploitation and child labour. A girl is at risk of encountering violence in every sphere, including in the classroom, no matter where she may live.
25. Global figures indicate that in comparison to boys their age, girls between 5 and 14 years old spend 40 per cent more time on unpaid household chores and care work, which compromises their education and learning. As a result of COVID-19 school closures, girls may have increased exposure to sexual activity, sexual violence and unwanted pregnancy as they may spend more time at home and unsupervised. The loss of school time may also lead families to view girls' education as a less worthwhile investment. Unfortunately, a disproportionate number of girls will simply not return to education.²⁵
26. Economic fragility, loss of livelihood and an increase in household poverty may limit the ability of families to provide for their children. Economic and food insecurity tend to produce two reactions: reducing expenditure (such as education costs) and reducing the household size. Both can lead to child marriage. In addition, child marriage can benefit a household's income where the groom's family has to pay a form of bride wealth (known as 'lobola' in Southern Africa) to the bride's family.²⁶
27. According to UNFPA-UNICEF,
"The impact of the pandemic is likely to be felt for at least another decade, also raising the risk of child marriage for girls who are now young. Because marriage fundamentally alters the course of a girl's life, the full effect of the pandemic on human development will play out over a generation."²⁷

The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals

28. Ethiopia should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government's commitment to promoting the Sustainable

Development Goals.²⁸ The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.

29. SDG 5 provides for “gender equality and empower[ing] all women and girls” but the practice of CEFM is inconsistent with this goal. Specifically, SDG Target 5.3 aims to eliminate all harmful practices such as child, early and forced marriages.²⁹
30. The Special Rapporteur on the sale and sexual exploitation of children has noted in her 2022 annual report that “child marriage is rooted in gender inequality and in the relatively low value accorded to girls, and is exacerbated by poverty, insecurity and conflict.”³⁰ CEFM is therefore antithetical to female empowerment, gender equality and the fostering of human dignity of the people of Ethiopia.

D. Recommendations

We recommend that, before the next cycle of review, the government of Ethiopia should:

- i. Adopt an implementation matrix for recommendations received during the fourth cycle of the UPR and effectively implement it.
- ii. Amend Article 7 of the Family Code 2000 and Article 648 of the Criminal Code so that the exception to the minimum age of marriage is removed.
- iii. Fully implement the National Costed Roadmap to End Child Marriage and FGM/C. This includes regular monitoring and tracking of progress against targets set under the Roadmap.
- iv. Empower girls and boys to be better able to prevent and respond to child marriage. For example, supporting existing adolescents’ groups to offer safe spaces to discuss sensitive issues.
- v. Expand legal workshops so that children have access to psychosocial and legal resources that they can utilise if faced with CEFM.
- vi. Conduct, in consultation with relevant stakeholders, awareness raising and education programmes aimed at addressing the negative implications of CEFM and how to effectively address the issue. These should be targeted at community and religious leaders.
- vii. Develop a strategy for the dissemination of knowledge on CEFM, including awareness-building and mechanisms for reporting and obtaining assistance, by utilising mass media, community radio, and social media platforms.

CAPITAL PUNISHMENT

E. Ethiopia and International Law on the Death Penalty

31. The basis for the death penalty can be found in the Ethiopian Constitution of 2004. Under Article 15, “[e]very person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offence determined by law”.³¹ Sentence of death cannot be executed unless the President approves it by denying pardon or amnesty, pursuant to Article 117 of the Criminal Code of 2005.³²
32. After the President approves the death sentence, it should be carried out immediately, unless legislation stipulates the postponement of execution due to full or partial irresponsibility, a serious illness, or the awaiting person's pregnancy.³³ However, no time limit is provided for the President to exercise his or her prerogative to sanction the enforcement of the death sentence. Further, there is nothing in the law that ensures the release or commutation of a death sentence where the President refuses to consent to execution.³⁴
33. Ethiopia maintains the death penalty as an eligible punishment for many crimes, including offenses that do not constitute “most serious crimes.” This includes non-violent crimes under The Prevention and Suppression of Terrorism Crimes Proclamation 1176/2020 (see Section F below) and the adoption of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation in 2015. The latter makes participation in any offence stipulated under Articles 3 and 5 that results in “severe bodily injury or death to the victim” punishable by death, even if it is “being a member, a leader or coordinator of an organized criminal group or where the crime is committed in large scale”.
34. Ethiopia currently has a *de facto* moratorium in place with the last known execution taking place in 2007. In 2007, Ethiopia executed a military officer, Major Tsehai Wolde Selassie, who was convicted of murdering the country’s former head of security and immigration. Prior to that, the last recorded execution in Ethiopia was in 1998, when an Eritrean businessman was executed for the shooting of an Ethiopian general.³⁵
35. We urge the State to make practical commitments in the fourth cycle of the UPR for the abolition of the punishment. As an initial step, we call for the government to make a positive commitment towards domestic *de jure* moratorium.

International Law Promoting the Restriction and Abolition of the Death Penalty

36. The United Nations’ framework for regulating the application of the death penalty comprises a corpus of international human rights law and jurisprudence. Of particular relevance are Articles 6, 7, and 14 ICCPR,³⁶ its Second Optional Protocol,³⁷ the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,³⁸ the

Secretary General's quinquennial reporting,³⁹ the Secretary General's Question on the Death Penalty,⁴⁰ and the Human Rights Committee decisions.⁴¹ Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment⁴² and the Convention on the Rights of the Child.⁴³

37. The General Comment on the Right to Life⁴⁴ provides an interpretive lens on the death penalty and concerning ICCPR Article 6(6), which states, '[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment,' it:

reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable [...] and necessary for the enhancement of human dignity and progressive development of human rights.⁴⁵

38. The growing international consensus against capital punishment is reflected in the UN General Assembly's biennial resolution to impose a global moratorium on the use of the death penalty. The ninth and most recent iteration of the resolution was passed on 15 December 2022. A total of 125 votes were recorded in favour with 37 votes against and 22 abstentions. Ethiopia has voted against all such resolutions.⁴⁶

39. Ethiopia's pro death penalty stance is solidified in its presence as a signatory to the Joint Permanent Missions' most recent *note verbale* of dissociation, which records a formal objection to the Secretary General of the United Nations on the attempt to create a global moratorium on the death penalty.⁴⁷ In fact, Ethiopia has been a signatory to all such *note verbales* to date.

F. Implementation of Recommendations from Cycle Three in 2019

40. Ethiopia received 327 recommendations in the Third Cycle of which 270 were accepted and 57 were noted.⁴⁸ A total of 14 recommendations focused on the death penalty, none of which enjoyed State support.⁴⁹

Recommendations concerning Adoption of International Law

41. A number of States recommended the ratification of the Optional Protocol to the ICCPR. This included **Spain** (para 163.18), **Ukraine** (para 163.21), **Montenegro** (para 163.22), **Croatia** (para 163.23); **Cyprus** (para 163.24), **Czechia** (para 163.25), **Luxembourg** (para 163.147), and **Portugal** (para 163.148). Ethiopia noted these recommendations and has not shown any commitment to ratify the treaty.

Recommendations concerning Implementation of a Moratorium and Abolition

42. **Italy** (para 163.146), **Rwanda** (para 163.149), and **Australia** (para 163.151) recommended Ethiopia establish a formal moratorium on the death penalty with a view to abolition. **Costa Rica** (para 163.152), **Portugal** (para 163.148), **Luxembourg** (para 163.147), and **Iceland** (para 163.145) recommended Ethiopia “abolish the death penalty” with **Sweden** (para 163.150) similarly recommending the State “formally abolish the death penalty by removing capital punishment from the Penal Code”. These were all noted by Ethiopia.
43. Although Ethiopia has maintained its *de facto* moratorium, there has been no commitment or willingness from the state to introduce a *de jure* moratorium with a view to abolition.
44. In 2020, Ethiopia introduced The Prevention and Suppression of Terrorism Crimes Proclamation 1176/2020 which further widened the scope for the application of the death penalty. The Proclamation categorises non-violent offences as capital crimes including “caus[ing] damage to property, natural resource or environment”⁵⁰ and “causing serious damage to historical or cultural heritages or infrastructure or property or natural resource environment.”⁵¹
45. We call upon the State to amend its legislation so as to make it strictly compliant with Article 6(2) of the ICCPR and restrict the crimes for which the death penalty may be imposed to the most serious crimes, which is interpreted to be crimes involving intentional killing only.

G. Further Points for Ethiopia to Consider

The Role of the National Human Rights Institution

46. Pursuant to its obligations under Article 55 of the Ethiopian Constitution, the House of Peoples' Representatives established the Ethiopian Human Rights Commission (EHRC) by Proclamation No. 210/2000 which came into effect on 4 July 2000.⁵² The objective of the Commission is to “educate the public, be aware of human rights, see to it that human rights are protected, respected and fully enforced as well as to have the necessary measure[s] taken where they are found to have been violated.”⁵³
47. In the context of capital punishment, the EHRC can undertake important work on pushing for the abolition of the death penalty from Ethiopia’s legal system, starting by limiting the types of crimes that attract the punishment. The NHRI could advise the government on the abolition process, provide public education on how capital punishment renders harmful effects upon society, and demonstrate its ineffectiveness as a penological policy on

deterrence. We call upon the government to provide the NHRI with a mandate to consider the question of the abolition of the death penalty.

Adopting the UPR Recommendations to Enable the People of Ethiopia to Benefit from Advances in Effective Penology

48. The right to benefit from scientific advancement should also apply to the progress in social science research on the death penalty. The Universal Declaration of Human Rights, Article 27, states, “[e]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,”⁵⁴ and the ICESCR article 15 (1)(b) recognises the right of everyone, “[t]o enjoy the benefits of scientific progress and its applications.”

49. Roger Hood and Carolyn Hoyle have produced the leading social science and criminological investigations into the death penalty worldwide and have concluded:

[t]hose who favour capital punishment ‘in principle’ have been faced with yet more convincing evidence of the abuses, discrimination, mistakes, and inhumanity that appear inevitably to accompany it in practice. Some of them have set out on the quest to find the key to a ‘perfect’ system in which no mistakes or injustices will occur. In our view, this quest is chimerical.⁵⁵

50. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,⁵⁶ it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.⁵⁷ Abolition in Ethiopia would enable the people of the country to benefit from the advancement of the leading social scientific research on punishment policies.

The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals

51. Ethiopia should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government’s commitment to promoting the Sustainable Development Goals.⁵⁸ The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.⁵⁹

52. SDG 16 provides for “Peace, Justice and Strong Institutions” but the application of the death penalty is inconsistent with this goal. Specifically, SDG 16.1 aims to reduce death rates, promote equal access to justice, and “protect fundamental freedoms,” and to further this, SDG 16.A.1 identifies the importance of relevant national institutions, for building capacity at all levels, to prevent violence and combat terrorism and crime.

53. The use of the death penalty does not signal legitimate strength in institutions, but renders counterproductive and inhumane consequences, including a brutalising effect upon society. This was affirmed in the Special Rapporteur’s report on ‘pay-back’ violence and killings.⁶⁰ The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Ethiopia.

H. Recommendations

We recommend that, before the next cycle of review, the government of Ethiopia should:

- i. Uphold and enforce its international obligations to safeguard the right to life, pursuant to Articles 6, 7 and 14 of the ICCPR.
- ii. Whilst it retains the death penalty, ensure it complies with the ‘most serious crimes’ principle under Article 6 ICCPR, restricting punishment to crimes of intentional killing only.
- iii. Repeal provisions of the Criminal Code 2005 and The Prevention and Suppression of Terrorism Crimes Proclamation 1176/2020 which categorise non-serious offences as capital crimes.
- iv. Ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
- v. Develop, in consultation with civil society and relevant regional bodies, a comprehensive action plan to work towards a *de jure* moratorium, with a view to abolition, within the next three years.
- vi. Annually publish data on the use of the death penalty. This should include the number of death sentences and executions, the nature of the offences and the reasoning behind convictions, identity of executed prisoners, and the number of death sentences commuted and pardoned.
- vii. Commute the death penalty imposed on persons on death row to life imprisonment.
- viii. Affirm its commitment to SDG 16 on access to justice and strong institutions through its support at the next biennial vote on the UNGA Resolution on the moratorium on the use of the death penalty.
- ix. Accept UPR recommendations on the abolition of the death penalty, as also signalling Ethiopia’s affirmation of commitments to SDG 16 on strong institutions.
- x. Provide its NHRI with a mandate on legislative abolition of the death penalty.

¹ See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=67&Lang=EN>.

² In this submission we adopt the definitions of ‘child marriage,’ ‘early marriage,’ and ‘forced marriage,’ as provided by the OHCHR which identifies that:

- “child marriage” is a marriage in which at least one of the parties is a child. According to the Convention on the Rights of the Child, a child is “every human being below the age of eighteen unless under the law applicable to the child, majority is attained earlier (CRC art 1).
- “early marriage” is often used interchangeably with “child marriage” and refers to marriages involving a person below 18 in countries where the age of majority is attained earlier or upon marriage. Early

marriage can also refer to marriages where both spouses are 18 or older but other factors make them unready to consent to marriage, such as their level of physical, emotional, sexual and psychosocial development, or a lack of information regarding the person's life options.

- “forced marriage” is any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure.

See, Preventing and eliminating child, early and forced marriage, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/26/22, 2 April 2014, paras. 4-6. See also, Child and forced marriage, including in humanitarian settings, OHCHR, Women's Rights and Gender Section, <www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx>.

³ Child and forced marriage, including in humanitarian settings, OHCHR, Women's Rights and Gender Section, <www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx>.

⁴ ‘Country Profile: Ethiopia <www.girlsnotbrides.org/learning-resources/child-marriage-atlas/atlas/ethiopia>.

⁵ See Ethiopian Constitution 1994 available at <www.constituteproject.org/constitution/Ethiopia_1994>.

⁶ Criminal Code 2005, Article 648: Whoever concludes marriage with a minor apart from circumstances permitted by relevant Family Code is punishable with: a) rigorous imprisonment not exceeding three years, where the age of the victim is thirteen years or above; or b) rigorous imprisonment not exceeding seven years, where the age of the victim is below thirteen years.

⁷ Family Code 2000, Article 7(2): Notwithstanding the provisions of Sub-Article (1) of this Article, the Minister of Justice may, on the application of the future spouses, or the parents or guardian of one of them for serious cause, grant dispensation of not more than two years.

⁸ Convention on the Rights of the Child (CRC), UNGA Res 44/25, 20 November 1989. Article 1: For the purposes of the present Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier. Article 2(1): States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Article 2(2): States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. Article 24(3): States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

⁹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UNGA Res 34/180, 18 December 1979, UN Doc A/RES/34/180. Article 16(2): The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

¹⁰ African Charter on the Rights and Welfare of the Child 1990, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999. Article 21(2): Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

¹¹ Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003, Adopted by the 2nd Ordinary Session of the Assembly of the Union, 11th July 2003, Entry into Force 25th November 2005. Article 6: States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that: a) No marriage shall take place without the free and full consent of both parties; b) The minimum age of marriage for women shall be 18 years.

¹² Kigali Declaration, Moving from aspiration to action to prevent and eliminate child, early and forced marriage in the Commonwealth, May 2015.

¹³ UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Ethiopia- Addendum’ (5 July 2019) UN Doc A/HRC/42/14/Add.1, paras 1-3.

¹⁴ See UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Ethiopia’ (5 July 2019) UN Doc A/HRC/42/14.

¹⁵ Amna Nazir, ‘The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan’ (2020) 4(1) RSIL Law Review 126, 153.

¹⁶ See UPRinfo, ‘For impact on the ground the UPR needs SMART recommendations’ <www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations> (21 October 2015).

¹⁷ Federal Democratic Republic of Ethiopia Ministry of Women, Children and Youth, ‘National Costed Roadmap to End Child Marriage and FGM/C 2020–2024’ (August 2019) available at <www.unicef.org/ethiopia/media/1781/file/National%20Roadmap%20to%20End%20Child%20Marriage%20and%20FGM.pdf>.

¹⁸ UNFPA–UNICEF Global Programme to End Child Marriage, Report, Phase I (2016–2019), <www.unicef.org/media/83516/file/Child-marriage-annual-report-2019.pdf> The target countries under Phase I were: Bangladesh, Burkina Faso, Ethiopia, Ghana, India, Mozambique, Nepal, Niger, Sierra Leone, Uganda, Yemen and Zambia.

¹⁹ UNFPA–UNICEF Global Programme to End Child Marriage, ‘Research Strategy for Phase II: The UNFPA–UNICEF Global Programme to End Child Marriage’ (5 November 2021) <<https://reliefweb.int/sites/reliefweb.int/files/resources/Child-marriage-research-strategy-2021.pdf>>.

²⁰ *ibid.*

²¹ UNFPA–UNICEF Global Programme to End Child Marriage, ‘Phase III Summary Narrative’ (August 2023) <www.unfpa.org/sites/default/files/resource-pdf/Phase-III-Summary.pdf> p. 6.

²² UNFPA–UNICEF Global Programme to End Child Marriage, ‘Act Now: Accelerating Gender Equality by Eliminating Child Marriage in a Pandemic - Annual Report’ (October 2020) p. 15. <www.unicef.org/media/108461/file/Act%20now.pdf>.

²³ *ibid.* 15.

²⁴ *ibid.*

²⁵ *ibid.* 16.

²⁶ *ibid.*

²⁷ *ibid.* 15.

²⁸ See the UN Sustainable Development Goals website, <<https://sustainabledevelopment.un.org/?menu=1300>>.

²⁹ *ibid.*

³⁰ Mama Fatima Singhateh, ‘A practical approach to addressing the sale and sexual exploitation of children’ (10 January 2022) UN Doc A/HRC/49/51, para 25.

³¹ See Ethiopian Constitution 1994 available at <www.constituteproject.org/constitution/Ethiopia_1994>.

³² Article 117(2) of the Ethiopian Criminal Code 2005 states: Death sentence shall not be carried out unless confirmed by the Head of State. It shall not be executed before ascertainment of its non-remission or non-commutation by pardon or amnesty. See Criminal Code available at <www.refworld.org/legal/legislation/natlegbod/2005/en/63782>.

³³ *ibid.*, article 119.

³⁴ Tadesse Simie Metekia, ‘Punishing Core Crimes in Ethiopia: Analysis of the Domestic Practice in Light of and in Comparison, with Sentencing Practices at the UNICTS and the ICC’ (2019) 19(1) International Criminal Law Review 160, 172.

³⁵ ‘Ethiopia carries out rare execution’ (*Reuters*, 9 August 2007) <www.reuters.com/article/idUSL06550887/> accessed 25 March 2024.

³⁶ International Covenant on Civil and Political Rights (1976) 999 UNTS 171, Article 6 (right to life); Article 7 (the prohibition against torture and inhuman or degrading treatment or punishment); and Article 14 (the right to a fair trial and the principle of equality of arms).

³⁷ The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, GA Res. 44/128, December 15, 1989.

³⁸ Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Economic and Social Council Resolution, 1984/50; Additions to the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic and Social Council Resolution 1989/64; and the Strengthening of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic Council Resolution 1996/15.

³⁹ See eg, ECOSOC Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty Report of the Secretary-General UN Doc E/2015/49 (13 April 2015).

⁴⁰ See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

⁴¹ For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

⁴² The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.

⁴³ Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.

⁴⁴ UN Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018.

⁴⁵ *ibid.* para 50.

⁴⁶ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 62/149, 18 December 2007 *adopted by 104 votes to 54, with 29 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 63/168 18 December 2008, *adopted by 106 votes to 46, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 65/206 21 December 2010 *adopted by 109 votes to 41, with 35 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 67/176 20 December 2012, *adopted by 111 votes to 41, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 69/186 18 December 2014 *adopted by 117 votes to 37, with 34 abstentions*; Resolution on

the Moratorium on the use of the death penalty, UNGA Res. 71/187, 19 December 2016 *adopted by 117 votes to 40, with 31 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 73/175, 17 December 2018 *adopted by 121 votes to 35, with 32 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 75/183, 16 December 2020 *adopted by 123 votes to 38, with 24 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 77/222, 15 December 2022 *adopted by 125 votes to 37, with 22 abstentions*.

⁴⁷ UNGA, ‘Note verbale dated 13 September 2019 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General’ (16 September 2019) UN Doc A/73/1004.

⁴⁸ UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Ethiopia- Addendum’ (5 July 2019) UN Doc A/HRC/42/14/Add.1, paras 1-3.

⁴⁹ See UNHRC, ‘Report of the Working Group on the Universal Periodic Review: Ethiopia’ (5 July 2019) UN Doc A/HRC/42/14.

⁵⁰ The Prevention and Suppression of Terrorism Crimes Proclamation 1176/2020, article 3(1) available at <www.lawethiopia.com/index.php/volume-3/6705-proclamation-no-1176-2020-prevention-and-suppression-of-terrorism-crimes>.

⁵¹ *ibid*, article 3(2).

⁵² Ethiopian Human Rights Commission, <<https://ehrc.org/who-we-are/>>.

⁵³ See Article 6: <www.cardeth.org/wp-content/uploads/2014/05/ethiopian-human-rights-commission-procl.pdf>.

⁵⁴ It is further recalled that the Human Rights Council determined that the basis of the Universal Periodic Review includes consideration of the Universal Declaration of Human Rights, see, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 18 June 2007.

⁵⁵ Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.

⁵⁶ John Rawls stated, “[a]t some point, the injustice of the outcomes of a legitimate democratic procedure corrupts its legitimacy,” in, *Political Liberalism* (Columbia University Press 2005) 248.

⁵⁷ Austin Sarat stated, “law cannot work its lethal will and ally itself with the killing state while remaining aloof and unstained by the deeds themselves,” in, *When the State Kills: Capital Punishment and the American Condition* (Princeton University Press 2001) 21.

⁵⁸ See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.

⁵⁹ The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SGGs, p. 2.

⁶⁰ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Papua New Guinea (3 to 14 March 2014), A/HRC/29/37/Add.1, 30 March 2015, para. 96, “...several interlocutors shared the opinion that the death penalty might actually lead to further killings... given the payback culture. While the Special Rapporteur condemns the existence of the payback culture, he acknowledges that payback-related killings might increase if the death penalty is carried out.