

111TH CONGRESS
2D SESSION

S. 3757

To reaffirm United States objectives in Ethiopia and encourage critical democratic and humanitarian principles and practices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

Mr. FEINGOLD (for himself and Mr. LEAHY) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To reaffirm United States objectives in Ethiopia and encourage critical democratic and humanitarian principles and practices, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Support for Democracy
5 and Human Rights in Ethiopia Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Despite progress and an estimated annual
9 growth rate of nearly 10 percent, Ethiopia remains
10 one of the poorest and most hunger-prone countries

1 in the world, with more than half of the population
 2 of 78,000,000 living on less than \$1 per day.

3 (2) Since the collapse of the Derg and over-
 4 throw of the Mengistu regime in 1991, the Ethio-
 5 pian Peoples' Revolutionary Democratic Front-led
 6 government has overseen the introduction of a
 7 multiparty system and the adoption of a new con-
 8 stitution that guarantees economic, social, and cul-
 9 tural rights and states that "human and democratic
 10 rights of peoples and citizens shall be protected."

11 (3) Ethiopia and Eritrea fought a bloody border
 12 war between 1998 and 2000, and, despite the Al-
 13 giers Accord ending the conflict and the agreement
 14 to abide by the final and binding Ethiopia-Eritrea
 15 Border Commission (EEBC) arbitration, the Gov-
 16 ernment of Ethiopia has refused to comply with the
 17 final physical demarcation of the border and the
 18 Government of Eritrea has expelled the United Na-
 19 tions peacekeeping force, causing regional instability
 20 and keeping alive the possibility of a renewed border
 21 war.

22 (4) According to the March 2010 report by the
 23 United Nations Monitoring Group on Somalia,
 24 "Since the cessation of hostilities between the [Ethi-
 25 opia and Eritrea] in 2000, Asmara has sought to

1 counter Ethiopian influence in the region and sup-
2 ported armed groups within Ethiopia who oppose the
3 current government. Since 2006, and possibly ear-
4 lier, Eritrea has supported opposition to the Transi-
5 tional Federal Government, which it perceives as a
6 proxy for the Government of Ethiopia.”

7 (5) Sporadic fighting has continued between
8 Ethiopian National Defense Forces (ENDF) and
9 armed opposition Ogaden National Liberation Front
10 (ONLF) in the Somali Region of Ethiopia. Stringent
11 restrictions continue to be placed on media and aid
12 workers, making it difficult for independent observ-
13 ers and aid workers to monitor or respond to the hu-
14 manitarian and human rights situation, including
15 the behavior of the Ethiopian National Defense
16 Forces, allied militia forces, and the Ogaden Na-
17 tional Liberation Front.

18 (6) Credible sources indicate there are ongoing
19 and serious human rights abuses against civilians in
20 the Somali Region, including arbitrary arrests and
21 detentions by military, police and paramilitary
22 forces; allegations of torture in military and police
23 custody, including sexual violence against women
24 and girls; and diversion of food aid intended for ci-
25 vilian communities.

1 (7) In the run up to the 2010 elections, the
 2 Ethiopian Parliament passed a number of new laws,
 3 including the Charities and Societies Proclamation
 4 and the Anti-Terrorism Proclamation, which severely
 5 restrict freedom of expression, freedom of associa-
 6 tion, peaceful assembly, and the right to a fair trial,
 7 while broadening the definition of terrorism.

8 (8) The Department of State’s 2009 Country
 9 Reports on Human Rights Practices states that “al-
 10 though the constitution and law prohibit the use of
 11 torture and mistreatment . . . [o]pposition political
 12 party leaders reported frequent and systematic
 13 abuse and intimidation of their supporters by police
 14 and regional militias” and that “opposition UDJ
 15 party president Birtukan Mideksa, whose pardon
 16 was revoked and life sentence reinstate in December
 17 2008, remain in prison throughout the year. She
 18 was held in solitary confinement . . . despite a court
 19 ruling that indicate it was a violation of her con-
 20 stitutional rights”.

21 (9) In its 2010 Freedom in the World report,
 22 Freedom House noted that, in the run up to elec-
 23 tions, Ethiopia saw a “narrowing of political activity
 24 . . .” and that “the government cracked down on

1 operations of nongovernmental organizations and
2 . . . a series of arrests of opposition figures”.

3 (10) The European Union Election Observer
4 Mission noted in its preliminary statement on the
5 May 23, 2010 elections, “The National Electoral
6 Board of Ethiopia administered the electoral process
7 in an efficient and competent manner, but failed to
8 dispel opposition parties’ lack of trust in its inde-
9 pendence. While several positive improvements have
10 been introduced, the electoral process fell short of
11 certain international commitments, notably regard-
12 ing the transparency of the process and the lack of
13 a level playing field for all contesting parties.”

14 (11) In testimony before the Subcommittee on
15 Africa and Global Health of the Committee on For-
16 eign Affairs of the House of Representatives, Assist-
17 ant Secretary of State for African Affairs Johnnie
18 Carson stated that “[w]hile the [Ethiopian] elections
19 were calm and peaceful and largely without any kind
20 of violence we note with some degree of remorse that
21 the elections there were not up to international
22 standards,” and that “[i]t is important that Ethi-
23 opia move forward in strengthening its democratic
24 institutions and when elections are held that it level

1 the playing field to give everyone a free opportunity
 2 to participate without fear or favor”.

3 (12) On May 25th, 2010, the National Security
 4 Council’s spokesman Mike Hammer, released a
 5 statement which noted with concern that “The limi-
 6 tation of independent observation and the harass-
 7 ment of independent media representatives [in Ethi-
 8 opia] are deeply troubling . . . [and that an] envi-
 9 ronment conducive to free and fair elections was not
 10 in place even before Election Day.” The statement
 11 also noted that “[i]n recent years, the Ethiopian
 12 government has taken steps to restrict political
 13 space for the opposition through intimidation and
 14 harassment, tighten its control over civil society, and
 15 curtail the activities of independent media. We are
 16 concerned that these actions have restricted freedom
 17 of expression and association and are inconsistent
 18 with the Ethiopian government’s human rights obli-
 19 gations.”

20 **SEC. 3. STATEMENT OF POLICY.**

21 It is the policy of the United States—

22 (1) to support and encourage efforts by the
 23 people and Government of Ethiopia—

24 (A) to achieve a participatory multiparty
 25 democracy, an active and unhindered civil soci-

1 ety, rule of law and accountability, judicial ca-
2 pacity and independence, freedom of the press,
3 respect for human rights, and economic devel-
4 opment; and

5 (B) to develop a comprehensive strategy to
6 combat extremism and terrorism in a manner
7 consistent with international law;

8 (2) to promote peace and stability, equal access
9 to humanitarian assistance regardless of gender, eth-
10 nicity, religion, or political views, and good govern-
11 ance, transparency, and accountability;

12 (3) to seek the unconditional release of all polit-
13 ical prisoners and prisoners of conscience in Ethi-
14 opia, and the repeal of laws that enable politically
15 motivated arrests without due process;

16 (4) to prohibit funding to any unit of the Ethio-
17 pian security forces if the Secretary of State has
18 credible information that such unit has committed a
19 gross violation of human rights, unless the Secretary
20 certifies to the appropriate congressional committees
21 that the Government of Ethiopia is taking effective
22 measures to bring the responsible members of the
23 security forces unit to justice; and

24 (5) to seek a resolution of the ongoing dispute
25 between the Government of Ethiopia and the Gov-

1 ernment of Eritrea consistent with the Ethiopia-Eri-
2 trea Border Commission arbitration decisions on
3 border demarcation, to press the Government of Eri-
4 trea to cease all support for armed opposition groups
5 in Ethiopia and the region, and to urge both Gov-
6 ernments to contribute constructively to stability
7 throughout the Horn of Africa, especially in Soma-
8 lia.

9 **SEC. 4. SENSE OF CONGRESS.**

10 It is the sense of Congress that the United States
11 Government should—

12 (1) build on successful diplomatic efforts that
13 contributed to the October 2007 release of political
14 prisoners in Addis Ababa, and press the Ethiopian
15 government to release Birtukan Mideksa, as well as
16 other political prisoners;

17 (2) urge the Government of Ethiopia to repeal
18 or at a minimum amend the Civil Society Proclama-
19 tion, the Anti-Terrorism Proclamation, and the Mass
20 Media and Freedom of Information Proclamation in
21 order to genuinely protect the constitutional rights
22 and freedoms of all Ethiopian citizens;

23 (3) press the Government of Ethiopia to allow
24 human rights and humanitarian groups, as well as

1 the media, to have unfettered access to areas of con-
2 cern throughout the country;

3 (4) encourage and assist the United Nations
4 and other independent organizations and the media
5 to investigate credible reports of gross violations of
6 human rights or international humanitarian law in
7 the Somali region of Ethiopia, to publish any infor-
8 mation of serious abuse, and send consistent mes-
9 sages to the Government of Ethiopia that the con-
10 tinuation of such violations or impunity in this re-
11 gion, or Ethiopia more generally, has consequences
12 for relations between the United States and Ethi-
13 opia; and

14 (5) encourage the Governments of both Ethi-
15 opia and Eritrea to immediately take steps to lessen
16 tensions, physically demarcate the border in accord
17 with the Ethiopia-Eritrea Border Commission deci-
18 sion, and promote normalization of relations between
19 the two countries.

20 **SEC. 5. RESTRICTIONS ON ASSISTANCE.**

21 (a) CONDITIONS.—

22 (1) PROHIBITION OF FUNDS.—Notwithstanding
23 any other provision of law, assistance may not be
24 provided to the Government of Ethiopia unless the

1 Secretary of State certifies annually that the Gov-
2 ernment of Ethiopia has taken demonstrable steps—

3 (A) to ensure the autonomy and funda-
4 mental freedoms of civil society organizations to
5 pursue work on civic education, democratiza-
6 tion, good governance, accountability, human
7 rights, and conflict resolution, without excessive
8 government intervention or intimidation;

9 (B) to respect the rights of and permit
10 non-violent political parties to operate free from
11 intimidation and harassment, including releas-
12 ing opposition political leaders currently impris-
13 oned;

14 (C) to strengthen the independence of its
15 judiciary, including developing the capacity of
16 the judiciary at the national, regional, and local
17 levels;

18 (D) to allow Voice of America and other
19 independent media to operate and broadcast
20 without interference in Ethiopia;

21 (E) to promote respect for human rights
22 and accountability within its security forces, in-
23 cluding undertaking credible investigations into
24 any allegations of abuse and ensuring appro-
25 priate punishment; and

1 (F) to ensure that humanitarian and devel-
2 opment entities, including those of the United
3 Nations, have unfettered access to all regions of
4 the country without prejudice to the political
5 views of recipients.

6 (2) WAIVER.—The prohibition included in para-
7 graph (1) shall not apply if the Secretary of State
8 certifies in writing to Congress that waiving such a
9 prohibition is in the national security interest of the
10 United States.

11 (b) EXCEPTIONS.—The prohibitions in paragraph (1)
12 shall not apply to—

13 (1) health and HIV/AIDS assistance;

14 (2) humanitarian assistance; or

15 (3) emergency food aid.

16 (c) REPORT.—Not later than 120 days after exer-
17 cising a waiver pursuant to subsection (a)(2), and every
18 90 days thereafter, the Secretary of State shall submit a
19 report to the appropriate congressional committees assess-
20 ing progress made by the Government of Ethiopia in the
21 areas set forth in subparagraphs (A) through (F) of sub-
22 section (a)(2).

23 **SEC. 6. DEFINITIONS.**

24 In this Act the term “appropriate congressional com-
25 mittees” means—

1 (1) the Committee on Foreign Relations and
2 the Committee on Appropriations of the Senate; and

3 (2) the Committee on Foreign Affairs and the
4 Committee on Appropriations of the House of Rep-
5 resentatives.

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