



## International Covenant on Civil and Political Rights

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### Human Rights Committee

102nd session

#### Summary record of the 2804th meeting

Held at the Palais Wilson, Geneva, on Monday, 11 July 2011, at 3 p.m.

*Chairperson:* Ms. Majodina

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**

*Initial report of Ethiopia (CCPR/C/ETH/1; CCPR/C/ETH/Q/1 and Add.1; HRI/CORE/ETH/2008)*

1. *At the invitation of the Chairperson, the delegation of Ethiopia took places at the Committee table.*
2. **Mr. Yimer Aboye** (Ethiopia) said that Ethiopia's delay in submitting its initial report was due to the limited technical and financial resources available to the Government; in no way did it signal a lack of political will. Since the adoption of its Federal Constitution in 1995, Ethiopia had taken steps for the promotion and protection of human rights. Close cooperation had been established between the Government and the Office of the United Nations High Commissioner for Human Rights (OHCHR), in particular its Regional Office for East Africa, which had provided invaluable assistance for the preparation of outstanding reports to various treaty bodies. In 2009, Ethiopia had undergone the universal periodic review process, which had provided the opportunity for fruitful exchanges with United Nations mechanisms. The Government had accepted many of the recommendations contained in the outcome report, the application of which would have a positive bearing on the implementation of the Covenant.
3. Participants in the preparation of the report under consideration had included not only the competent federal and regional organs but also the Ethiopian Human Rights Commission, civil-society organizations and academic institutions. An inter-ministerial expert committee had been established for the purposes of the process and various consultations with all those concerned had been held prior to the finalization of the report. The report should be read in conjunction with Ethiopia's common core document (HRI/CORE/ETH/2008), which described the constitutional and institutional framework in place at the federal and regional levels.
4. The adoption of the new Constitution had enabled the country to make a comeback from a repressive past characterized by human rights abuses on a massive scale. Comprising nine autonomous regions with the aim of recognizing and guaranteeing respect for the cultural and linguistic diversity of the Ethiopian people, the federal system had been the cornerstone of this change. The Constitution recognized the supremacy of international instruments to which Ethiopia was a party as sources for the interpretation of constitutional provisions relevant to human rights. It prohibited all forms of discrimination and directly and indirectly guaranteed the rights stipulated in the Covenant.
5. Various measures had been undertaken to ensure the compatibility of domestic laws with the Constitution and the provisions of the Covenant. The Criminal Code had been revised in 2004 and several additional instruments regulating the conduct of police, prison administrators and prosecutors had been issued. The new Code comprehensively defined torture and punished acts constituting cruel, inhuman or degrading treatment. It also criminalized harmful traditional practices, such as female genital mutilation and child marriage. The death penalty was still in force but in a manner that could be considered as a de facto moratorium insofar as it was only very rarely implemented.
6. The treatment of prisoners was governed by two sets of regulations adopted by the Council of Ministers in 2007. Prisoners enjoyed access to their family, lawyers and religious counsellors. They were provided with sufficient food, medication, sanitation and other services. They were free to practise their religion. Mechanisms for complaint and remedy existed in the event that those rights were violated.

7. A process of strengthening and reforming national law enforcement institutions was under way. In that context, the House of Peoples' Representatives had recently authorized the Ethiopian Human Rights Commission to open nine regional offices in order to ensure that it had a presence throughout the country. Professionalization programmes had also been established, together with monitoring and assessment mechanisms, in order to guarantee compliance by law enforcement officers with the rules in force. Various sanctions had already been imposed on members of the police. The African Commission on Human and Peoples' Rights, the Ethiopian Human Rights Commission and various civil-society organizations were empowered to conduct visits to places of detention.

8. Independent inquiries had been opened to shed light on incidents that had occurred at the time of demonstrations by students at Addis Ababa University during the conflict in the Gambella region in 2002 and following the elections in May 2005. With respect to the student activities in Addis Ababa and the post-election violence in May 2005, law enforcement officers had been cleared of any wrongdoing. By contrast, the inquiry into the Gambella conflict had established that members of defence forces had been responsible for committing a number of breaches; six of them had received convictions.

9. As the international community, the Ethiopian Human Rights Commission and several civil-society organizations had been able to see for themselves as a result of the access provided by the Government, the allegations of torture and abuse in the regions of Oromia and Somalia were frivolous and unsubstantiated. In 2007, the Human Rights Council had moreover dismissed a confidential communication brought against the Ethiopian Government in which it was alleged that breaches, including torture, had occurred in Ogaden (Somali region).

10. As in the case of numerous other countries, Ethiopia had to cope with the threat of terrorism. Several terrorist acts had been committed in different parts of the country. The Government, which intended to take all lawful measures to protect the safety of citizens, ensured that its counter-terrorism efforts were in compliance with international norms. On that score, the provisions of the Anti-Terrorism Proclamation 652/2009 were not inconsistent with the provisions of the Covenant. The arrest and detention of persons suspected of terrorism were conducted in a manner that respected their rights and dignity at all stages of the process.

11. In his report of 2007 on his mission to Ethiopia, the independent expert on minority issues had acknowledged that Ethiopia's human rights education programme was exemplary. Indeed, the civil and ethical education programme was an integral component of the education curricular from the primary to tertiary levels. With an enrolment rate of 90 per cent in primary schools, its impact could not be underestimated.

12. Under the Constitution, religious institutions, traditional mechanisms and children's institutions were responsible for protecting vulnerable groups from harmful traditional practices and corporal punishment. In addition to the legislative measures adopted in that sphere, a national coordination mechanism had been established to promote the eradication of such practices. It worked both with educational institutions and with the traditional mechanisms.

13. Training for police officers, prison personnel, members of defence and security forces, prosecutors and judges was also essential to the implementation of the Covenant. The Federal Judicial Training Institute taught future judges and prosecutors about human rights and fundamental freedoms. The Ministry of Defence had an excellent tradition of training in international human rights law and international humanitarian law, including through cooperation programmes with the International Committee of the Red Cross. Through work with the Ethiopian Human Rights Commission, higher education institutions and civil-society organizations, training at several levels involving key institutions had been

undertaken. Despite the Government's efforts, however, the country undeniably continued to face numerous challenges that impeded the full realization of the rights and freedoms enshrined in the Covenant. The lack of qualified personnel and technical resources were significant hurdles. Educational and capacity-building efforts would continue with a view to meeting those challenges, to which end all-round assistance and cooperation were indispensable.

14. **Mr. O'Flaherty** said that the submission of an initial report was always a key stage in the establishment of dialogue with a State party and commended the quality of the information provided by Ethiopia in its report and in its common core document, which he hoped to see regularly updated. It was regrettable, on the other hand, that the written replies to the list of issues to be taken up had not been more clearly presented by addressing the Committee's questions one by one.

15. With respect to the institutional and legal framework within which the Covenant was implemented, he wished to know whether the full text of the Covenant was to be published in the *Federal Official Gazette* in that its publication would prevent confusion among law practitioners concerning the status of the Covenant in domestic legislation. He also requested specific details of the measures taken to strengthen the National Human Rights Commission, bearing in mind the reservations expressed by various civil-society organizations on the subject of its independence. On that score, he wondered why the Commission had not obtained status A accreditation with United Nations organizations.

16. Concerning non-discrimination, he asked the delegation to indicate the concrete measures taken at the regional level to criminalize violence against women and harmful traditional practices and to clarify the figures given in the written replies on the practice of female genital mutilation, as they did not correspond to those reported by the United Nations Country Team as part of the universal periodic review.

17. With regard to the Committee's question as to whether there were any plans to repeal the provision in the Criminal Code criminalizing homosexuality, the State party had responded in the negative and stated that homosexuality was contrary to the norms of Ethiopian culture and society and in conflict with public morals. The jurisprudence of the Committee clearly established that the criminalization of homosexuality was incompatible with articles 2, 17 and 26 of the Covenant and that the decriminalization of homosexuality was an obligation under the Covenant. Experience also showed that the criminalization of homosexuality encouraged the stigmatization of homosexuals and violence against them, sometimes to the point of violating the right to life. According to the AIDS Resource Center in Addis Ababa, Ethiopian homosexuals suffered great psychological distress that could prompt some of them to attempt suicide. He asked the delegation to respond to his comments and explain how reasons relating to morals, cultural traditions or social norms could justify a situation in which individuals were driven to suicide, stigmatized and victims of violence.

18. The State party had not replied to the question asking whether any progress had been achieved in adopting a comprehensive national policy on internally displaced persons (IDPs) and which government department had been officially designated for the protection and assistance of IDPs (question 9). According to the universal periodic review report prepared in 2009 by the United Nations Country Team in Ethiopia, there was no State organ responsible for assistance to and protection of IDPs. They were left to fend for themselves, lived in permanent insecurity, had no access to drinking water or sanitation services and were often housed in makeshift shelters that offered no protection. The report of the United States Department of State on Ethiopia, however, stated that the protection of IDPs was the responsibility of the Federal Disaster Risk Management and Food Security Sector, under the authority of the Ministry of Agriculture, but that there was no coordination mechanism and no government policy dedicated to that sphere. The delegation

could perhaps indicate what the situation was exactly and what measures had been taken to ensure the protection of refugees in the country.

19. **Sir Nigel Rodley** said that the detailed information provided by the State party on the subject of the Anti-Terrorism Proclamation was welcome but that it did not reassure the Committee concerning the extremely broad definitions of terrorism and of incitement to terrorism that it contained, which could give rise to fears that those provisions would be misapplied. Those fears were confirmed by reports that journalists had been arrested for breaching the Anti-Terrorism Proclamation while attempting to visit the Ogaden region or, more recently, because they participated in blogs that were critical of the Government and discussed its potential responsibility for the country's present drought. Mentioned in paragraph 14 of the written replies, the provision under the Anti-Terrorism Proclamation requiring individuals to communicate to the police any information or evidence that could assist in the prevention or investigation of acts of terrorism was so vaguely worded as to risk casting an extremely heavy liability burden on persons who in fact had no connection whatsoever with terrorism. Furthermore, according to paragraph 17 of the State party's written replies, the Anti-Terrorism Proclamation provided that any person arrested must be brought before a court within 48 hours of his arrest. Did that rule apply, however, in all the circumstances of detention prescribed by law and, in the event that a conviction was handed down by a judge, did the person concerned remain in police custody or was he transferred to another place of detention? He would like to hear what the delegation had to say on those particular points.

20. The lack of reply to question 6 of the list of issues, in which the Committee asked whether the State party planned to abolish polygamy, including by revising regional legislation such as the Family Law of the Tigray Region, was regrettable. Neither had any reply been provided to question 10 concerning steps taken by the State party to ensure that refugees may legally take up employment and that refugee children had access to public schools. The delegation would undoubtedly be able to fill in the gaps. He asked whether it was true that refugee children born in Ethiopia had no right to Ethiopian nationality, nor to a birth certificate, and, if so, what the consequences were for those families and their children. The policy of the State party towards Eritrean refugees, who were allowed to leave the refugee camps, mix with the population and seek employment in order to provide for their own needs was an excellent initiative; the idea was perhaps to extend it to other groups of refugees. He nonetheless recognized that the massive influx of refugees into its territory created a very difficult situation for Ethiopia.

21. The independent commission of inquiry charged with shedding light on the use of lethal force during the post-election violence in 2005 (question 15) had concluded that the use of force at the time of those events had been in keeping with the principles of proportionality and necessity. Its conclusion was hard to believe, however, given that 193 civilians and 6 police officers had been killed.

22. **Ms. Waterval** noted that in its written replies (para. 4) the State party undertook to exert maximum efforts to implement the recommendations made as part of the universal periodic review, including ratification of the First Optional Protocol to the Covenant. She therefore wished to know what concrete measures had been taken to that end.

23. **Mr. Rivas Posada** said that the clear establishment of the principle of the equal rights of men and women in the Constitution was not enough to guarantee such equality in practice. It was essential to adopt laws but also and above all to change mindsets and break the stereotypes that perpetuated inequalities, for example, through sensitization campaigns. Information on measures taken to that end would be useful. It would also be interesting to know what legislative and other measures had been taken to encourage women's participation in politics, where they were virtually non-existent at the present time.

24. **Mr. Thelin** sought confirmation of his understanding that there were no exceptions to the rule that a person under arrest must be brought before a judge within 48 hours, including within the framework of the Anti-Terrorism Proclamation. He asked the delegation to comment on the case of two Swedish journalists who, according to the media, had been arrested 11 days earlier by the armed forces on the ground of belonging to a group regarded as terrorist by the Ethiopian authorities and who were still in detention at the time of speaking. In particular, he would like to know the specific reasons for the detention of the two journalists and in what way it was compatible with the 48-hour rule prescribed by law. The fact that it involved journalists also raised concerns in the light of article 19 of the Covenant.

25. **Mr. Salvioli** welcomed the training provided for judges in human rights and in international instruments but expressed surprise that no examples of implementation of the Covenant by the courts had been given. Had any court rulings already been based on the provisions of the Covenant? If not, questions should perhaps be asked about the efficacy of the training for judges and the means to be employed for ensuring the effective implementation of international instruments, in particular the Covenant, by courts.

26. **Ms. Chanet** requested details about the hierarchy of the norms in place in the State party, in particular with respect to the status of the Covenant in the domestic legal order. She in turn raised the same concerns as Mr. O'Flaherty with respect to the functioning of the Ethiopian Human Rights Commission.

27. In response to the Committee's questions concerning discrimination and violence against women, the State party had listed a number of education and awareness measures, which was an inadequate reply. The Committee would await further information concerning the measures effectively established to counter such practices, given that the State party did not appear resolved to adopt legislation criminalizing female genital mutilation. The State party had not given a clear reply to the question asking whether it planned to abolish polygamy. Recalling that polygamy was contrary to article 3 of the Covenant, she hoped that the delegation could be more specific about the State party's position on that score. The protection of morals used by the State party to justify its refusal to decriminalize homosexuality was an unacceptable argument, not least because article 17 of the Covenant did not provide for restriction of the right to respect for privacy on moral grounds. More importantly, the criminalization of homosexuality could lead to the violation of other rights guaranteed by the Covenant, because in stigmatizing homosexuals it allowed them to be named and shamed and sanctioned all manner of discrimination, maltreatment and violence, including even perhaps attempts on lives.

28. The definition of terrorism provided in the Anti-Terrorism Proclamation was extremely vague. Numerous acts that were not true, acts of terrorism could therefore fall within the scope of that law. All the more perturbing was the fact that the antiterrorism law permitted the application of provisions creating exceptions, such as lack of judicial control, the extension of police powers of arrest and the detention of suspects for long periods, which could result in violations of articles 7, 9 and 14 of the Covenant. The rules governing evidence prescribed by law, which allowed the use of anonymous testimony and confessions, were particularly problematic.

29. **Mr. Amor** said that polygamy and genital mutilation were an offence against the dignity of women and constituted clear violations of the Covenant and, in turn, of the obligations undertaken by the State party thereunder. Such arguments as tradition or social pressure could not justify those practices. That the State party had to deal with the reality was understandable, but it should impose the necessary changes by force of law.

30. Under international law, in the event of conflict with domestic legislation, the provisions of international human rights instruments prevailed and domestic legislation

must be interpreted and applied in the light of the State's international human rights commitments. He wished to know whether those principles were duly observed in the State party.

31. **Mr. Bouzid** noted that the Ethiopian Human Rights Commission had made an undertaking to review national legislation in order to bring it into harmony with its obligations under the international human rights instruments ratified by Ethiopia and asked whether the Commission was competent to table draft legislation directly before Parliament.

32. **Mr. Iwasawa** said that the status of the Covenant in domestic law remained unclear. According to the core document, all international agreements ratified by Ethiopia were an integral part of domestic law, which therefore presumably applied in the case of the Covenant. It appeared, however, that the Proclamation (decree of ratification) concerning the Covenant did not explicitly enact its provisions and that the text of the Covenant had not been published. The Ethiopian delegation might wish to clarify the situation. Lastly, when did the Ethiopian authorities intend to have the Covenant translated into Amharic and publish it in the *Federal Official Gazette*?

*The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.*

33. **Mr. Korcho** (Ethiopia) said with respect to the status of the Covenant in domestic law and its publication in the *Federal Official Gazette*, that pursuant to article 9.4 of the Federal Constitution, all international agreements ratified by Ethiopia were an integral part of domestic legislation. Newly ratified international instruments were simply mentioned in the *Federal Official Gazette*; the text itself was not published. Once the relevant proclamation had appeared in the *Federal Official Gazette*, judges were able directly to apply the provisions of the instrument concerned or to base their interpretations of domestic law on those provisions. All key international human rights instruments and other international agreements had already been translated into Amharic by the Ministry of Justice, and the Ethiopian Human Rights Commission had translated the core document into Amharic, Oromo and Tigrinya.

34. With regard to training in international human rights law, a project had been successfully implemented at the federal and regional levels from 2003 to 2008 and enabled over 4,500 judges, prosecutors and senior police officers to become acquainted with the relevant instruments. The key human rights instruments had been widely disseminated to all law enforcement officers and, where necessary and appropriate, their provisions could be invoked before courts of justice, tribunals and other administrative bodies, as had notably already happened on two occasions in the case of the Cassation Bench of the Federal Supreme Court. An international instrument that was an integral part of domestic legislation took precedence over all laws subordinate to the Federal Constitution. As the supreme law, however, the Constitution prevailed over international instruments.

35. **Mr. Molla** (Ethiopia), responding to the questions concerning equal access for women to education, employment, property, land and credit, said that the Government had taken various measures designed to ensure the full implementation of existing laws and promote reforms aimed at filling the gaps in gender equality. In particular, those measures had improved women's representation in positions of responsibility, where they now accounted for 36 per cent of personnel. Women were also on a par with men in middle positions. Gender equality in access to employment was guaranteed by law and official statistics showed that women amounted to over 64 per cent of workers employed in the formal sector and roughly 51 per cent of workers in the informal sector.

36. In the field of education, the Ministry of Education had established strategies aimed at reducing the school dropout rate among girls, which had been 10 per cent higher than among boys in the academic year 2009/10. More generally, the authorities were committed

to fighting female illiteracy and encouraging girls' education at all levels, including higher education. Remedial measures had been taken in order to address inequalities, in particular the adoption of quotas for training teachers in the public school system, pursuant to which 30 per cent of schoolteachers had to be women. The aim was to achieve parity between men and women.

37. With respect to property rights, the equality of men and women was guaranteed and the system of land distribution accorded priority to women, persons with disabilities and orphans. The fact that a deed of land ownership was issued to both spouses enabled women to assert their property rights in the event of dispute. Concerning women's participation in political life, the delegation would make the data available to the Committee by the time of the next meeting.

38. The authorities had formulated a strategy and various projects to combat violence against women, which were soon to be adopted by a national coordinating committee comprising representatives from 18 ministries and other public bodies. The Ministry of Women's Affairs had also prepared an action plan to combat harmful traditional practices and violence against women, in particular genital mutilation. It had adopted numerous measures to counter stereotypes and promote behavioural changes in order to end practices of which women were victims, in particular by encouraging the establishment of women's associations that cooperated with governmental and non-governmental organizations (NGOs). As a result, women's associations were working in different provinces to promote the realization of women's rights through a range of measures and their activities were particularly important insofar as the authorities believed that associations were best placed to sensitize the population to the need to end violence against women. Another measure for combating harmful traditional practices was the Women's Development Package, the application of which helped to advance the cause of women in general. Religious leaders also played an important role in the fight against female genital mutilation and more generally in the promotion of women's participation in the country's political, social and cultural life. For their part, the State authorities were working to establish the legal framework required for such participation. In that context, legislation had been adopted with the aim of eradicating harmful traditional practices, increasing women's participation in political and social life and guaranteeing their physical and mental well-being. Measures to that end had also been taken in cooperation with NGOs and international organizations. All in all, harmful traditional practices were on the verge of eradication in Ethiopia. As to the questions on polygamy, the Criminal Code clearly criminalized the practice, together with violence against women, and it was applied in all regional states.

39. The Federal Constitution provided that any person arrested must be brought before a judge within 48 hours, beyond which the judge could decide to continue his detention or to release him on bail. That time limit did not take into account the reasonable period of time needed to refer the case to the judge. For the purposes of investigation, in the event that the judge had ordered the release of a suspect, a new detention order could be issued at the request of the police to hold the suspect for an additional maximum of 14 days in the case of an ordinary offence. For terrorist offences, the detention period for suspects was a minimum of 28 days but it could not extend beyond 4 months.

40. **Mr. Getahun** (Ethiopia) said that the question of the translation of the Covenant into Amharic and its publication in the *Federal Official Gazette* had been debated in the country, particularly in the context of preparing the initial report. Two national conferences comprising representatives of civil society and of regional and federal authorities had considered the matter but without reaching any conclusion. In the view of some participants, Parliament should publish the Covenant in the *Federal Official Journal* and a proposal to that end should therefore be presented to Parliament. Others believed that the National Human Rights Commission was the authority competent to translate and

disseminate the Covenant. The point had also been made that, in the event of a decision to translate and publish the Covenant in the *Official Gazette*, the same must apply to all international instruments ratified by Ethiopia. It was consequently difficult to come to a decision, not for material reasons but because of the ensuing legal implications.

41. Concerning displaced persons, it was important to bear in mind that responsibilities were shared among different ministries and that no one governmental institution was tasked with providing protection for and assistance to displaced persons. However, as part of the process of ratifying the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the executive and legislative powers would undoubtedly take up the matter and seek to improve the situation.

42. The Ethiopian delegation was unaware of any proceedings having been brought for homosexuality. The fact remained, however, that the Criminal Code criminalized sexual relations between persons of the same sex, that repeal of the relevant provisions was not currently a subject of public debate and that Ethiopian society was not progressing towards the decriminalization of homosexuality.

43. Antiterrorism legislation had been adopted following a rigorous process aimed at ensuring compliance with Ethiopia's international obligations but also at learning from the experience of other countries facing similar situations. Ethiopia was substantially affected by terrorism and it was imperative to establish a legal framework to counter the phenomenon. The Criminal Code was largely inadequate and national consultations on antiterrorism measures had therefore been held with legal experts and other stakeholders. It was also important to bear in mind that Ethiopia had international obligations on that score arising in particular out of Security Council resolution 1373 (2001) and relevant African conventions. Moreover, the Ethiopian authorities were eager to learn from best international practices in the fight against terrorism, as duly reflected in the legislation that had been adopted.

44. Specific legislation on refugees had been in place since 2004. It provided for the equal treatment of refugees with other aliens in the field of employment and services. Refugees were permitted to own businesses and to invest in the country. Generally speaking, access to employment for refugees in urban areas posed no problems.

45. The new "non-camp" policy had been adopted to take account of the special needs of Eritrean refugees in particular, who were crammed into overcrowded camps. Most were young people, who had often fled forced recruitment, and the Ethiopian authorities were aware of the need to ensure that they resumed their schooling. One solution was to arrange for them to go to other countries where they could study; a very small percentage of those refugees had furthermore left Ethiopia for that reason. The authorities were seeking to integrate the remainder into Ethiopian society and almost 300 refugees were enrolled in the country's universities. Ethiopia nonetheless had 200,000 refugees and their numbers continued to rise. In June, Ethiopia had taken in 2,000 Somali refugees daily and the situation was therefore difficult. The "non-camp" programme was not a model to be replicated but simply an attempt to remedy an acute problem. The hosting of refugees was both a tradition in Ethiopia and an international obligation for the State and the authorities were thus compelled to act. In particular, refugee children had access to primary education and secondary and higher education were ensured on a case-by-case basis, as far as possible.

46. International human rights law was not as well known in Ethiopia as the authorities would wish, which explained the fact that the Covenant was insufficiently applied by judges. While training was available in university faculties of law and specific measures had been put in place for judges, much remained to be done in that area. Another possible explanation was that most provisions of the Federal Constitution and other laws reproduced

the wording of the provisions of the Covenant and judges perhaps believed it not always necessary to invoke the Covenant itself. In any event, they had never reported any problems on that score. International instruments could be directly applied by tribunals, as had already happened, notably in the case of the Convention on the Rights of the Child.

47. Lastly, the delegation wished to assure the Committee that the Ethiopian authorities took very seriously the question of female genital mutilation, which constituted a grave violation of women's rights.

48. **Mr. Yimer Aboye** (Ethiopia) said that his Government could not give the Committee an assurance that it would become a signatory to the Optional Protocol to the Covenant. He recalled, however, that Ethiopia had ratified the Convention on the Rights of Persons with Disabilities and signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, as had been recommended to it as part of the universal periodic review, although they were not yet binding on it.

49. **Mr. Getahun** (Ethiopia) explained that the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was soon to be ratified. The Swedish journalists who had been arrested while illegally crossing the border between Somalia and Ethiopia had been in the company of a faction of the Ogaden National Liberation Front (ONLF), a terrorist group that aimed to overthrow the Ethiopian Government. They had been brought before a judge. It was for the court to determine why those individuals had entered Ethiopia illegally through the border with Somalia and what links they had with the terrorist group they were with.

50. Ethiopia had no quota system designed to promote women's participation in politics. In the last elections, however, some political parties, in particular the ruling parties, had established their own quotas for promoting women's candidatures and encouraged other parties to do the same. The National Electoral Board afforded certain advantages, such as subsidies for election campaigns, to parties presenting female candidates. Ethiopian legislation contained provisions to the effect that women had the right to participate in the country's political life on an equal footing with men, which should help to remedy certain injustices. Pursuant to the Federal Civil Service Proclamation No. 515/2007, priority was given to the recruitment of women and persons with disabilities in the administration, provided that they had the required skills. The legislation also contained provisions aimed at increasing women's opportunities for access to education, particularly higher education.

51. **Mr. Yimer Aboye** (Ethiopia) said with respect to the questions asked by Committee members about the activities of the Ethiopian Human Rights Commission that, insofar as the Commission was an independent parliamentary body that was not part of the executive, it was preferable for one of its representatives present at the meeting to reply. The delegation would give him a few minutes to speak.

52. **Mr. Lallah**, speaking on a point of order, said that the consideration of the State party's report implied a dialogue between the Government and the Committee. It was the Government that would, or would not, follow any recommendations to be made by the Committee concerning the functioning of the Commission; representatives of the Government could not therefore not deal with questions relating to the Commission. He would like to hear the views of the other Committee members on the subject.

53. **Mr. O'Flaherty** said that a similar situation had arisen during the consideration of Kenya's second periodic report, on 1 March 2009; the chairperson of Kenya's National Commission on Human Rights, who had been present, had taken the floor, with the consent of the Chairperson, to explain the functioning of the Commission, stating that he was speaking in an independent capacity.

54. **Sir Nigel Rodley** said that he shared the reservations expressed by Mr. Lallah. While he would listen with great interest to the representative of the Ethiopian Human Rights Commission, he disagreed with the notion that questions relating to the Commission did not concern the Government, which was responsible for what the Commission could and could not do. The Committee must hear the delegation in order to assess the extent of the Commission's independence.

55. **Mr. Lallah** said that he reserved the right to question the delegation on what the representative of the Commission was to say to the Committee.

56. **Mr. Liyew** (Ethiopian Human Rights Commission) said that, in accordance with its mandate, the Commission had translated into Amharic, Afan-Oromo and Tigrinya and disseminated the international instruments ratified by Ethiopia. It also planned to have them translated into Somali. The Commission was not qualified to adopt laws. Its mandate was to make recommendations concerning the revision of existing laws, the adoption of new laws and policymaking. It provided technical assistance to the Government in the context of developing a national action plan on human rights. In partnership with 15 universities and with civil-society organizations, it had also opened 6 regional offices and 106 legal advice centres, which had dealt with over 1,600 cases in the past three months. It had monitored the general elections of 2010, inspected all of the country's prisons and provided training for armed forces' personnel. The information stating that the Commission was inactive and ineffective was therefore unfounded. In August 2011, in collaboration with OHCHR, the Commission would mandate an international consultant to assess its capacities with a view to submitting a request for accreditation to the Sub-Committee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. The Commission provided technical and financial assistance to various civil-society organizations, in particular the Ethiopian Women Lawyers' Association, the Ethiopian Lawyers' Association and the Association for the War-wounded. Following a workshop that it had organized in December 2010 for all civil-society organizations countrywide, it had developed a draft strategy for partnership with those organizations, which was set to be adopted in the near future.

57. **The Chairperson** invited Committee members to ask additional questions concerning items 1 to 10 on the list of issues. She reminded the delegation that it could transmit in writing any replies to questions concerning which it did not have the necessary information to hand.

58. **Mr. Thelin** asked on what date exactly the two Swedish journalists arrested by the Ethiopian authorities had been brought before the courts and on what charges. Was it also possible to be assured that the maximum remand period prescribed by law for terrorism-related matters and mentioned in paragraph 17 of the written replies would be respected? He would appreciate it if the delegation were to communicate to the Committee any information that it might have on that subject.

59. **Mr. Salvioli** said that all States ratifying the Covenant undertook to implement it effectively on their territory and must ensure that all bodies, including the judiciary, complied with that obligation. Despite all the measures taken by the State party to guarantee the equality of men and women, its Constitution still contained a provision to the effect that all matters relating to the family and marriage were the responsibility of the sharia courts. Did those courts apply the Covenant as it should be applied? The State party had affirmed that the practice of female genital mutilation had been virtually eradicated, which was good news, but had individuals been prosecuted and convicted for having carried out those acts prohibited by law?

60. **Mr. O'Flaherty** said that some NGOs and the United Nations Country Team had reported a lack of coordination and lack of a single global policy on assistance to displaced

persons, of whom there were between 300,000 and 350,000 in Ethiopia. Did the Government plan to put in place a global political framework for those persons and was the disaster risk management system for displaced persons applicable not only to persons displaced by a natural disaster but also to persons displaced by conflict?

61. It was disappointing that the Ethiopian Government was not planning to amend the legislative provisions on sexual relations between persons of the same sex. The fact that no legal proceedings were brought against such persons in practice did not eliminate the question. In *Toonen v. Australia*, the Committee had considered that, even if the law criminalizing homosexuality was not actively applied, the deterrent effect that the very existence of that law might have constituted in itself a violation of the Covenant. Information was available to indicate that homosexuals in Ethiopia were aware of the need to keep a low profile and that they were the victims of prejudice, which testified to the effect that the law itself had without it being actively applied. It was essential to know what the State party could do, if it was not a question of amending the law, to protect persons who were particularly vulnerable in that context.

62. He thanked the head of the delegation for having invited the representative of the Ethiopian Human Rights Commission to take the floor. Without querying the practices of the Commission, he wondered whether its actual structure hampered its independence. The delegation could perhaps indicate what structural changes might be planned in order to guarantee the Commission's full independence. Lastly, he noted that the Ethiopian Government, as part of the universal periodic review, had agreed to take the necessary measures to bring the Ethiopian Human Rights Commission into conformity with the Paris Principles. He would like to hear the delegation's comments on that subject.

63. **Sir Nigel Rodley** asked whether there were circumstances in which it was legal to hold a person in custody for over 48 hours before bringing him before a judge, excluding a reasonable allowance for the time needed to convey the person to court. Concerning the Swedish journalists, he had understood that some 11 days had elapsed between their arrest and their appearance in court. Was that due to the fact that it had taken nine days to travel the distance between the place where they had been arrested and the court? According to Amnesty International, thousands of persons were in detention for being a member of, or supporting, the Omoro Liberation Front (OLF), a number were held incommunicado and many were detained arbitrarily for an indefinite period, without charge. Did the law therefore limit custody to 48 hours, excluding the time needed to reach the court and, if so, what were the reasons for the apparent non-compliance with the law? Or did the delegation believe that the allegations were false and that there was full compliance with the law? In the event of non-compliance, the delegation might indicate what measures the Ethiopian authorities intended to take against those responsible for arbitrary detention. Bearing in mind the information provided by the Government concerning the possibility, with regard to terrorism-related matters, of extending custody for successive 48-hour periods up to a total of 4 months, were individuals returned to police stations once they had appeared before a judge or were they sent to some other facility? The delegation could also perhaps indicate at what stage of the procedure access to a lawyer was permitted: was it as soon as a person was first detained, was it at the time of his appearance before the judge or was it at some other time? It should be emphasized that several States employed antiterrorism practices that could be labelled "bad", in particular a definition of terrorism that was too vague. Various Security Council resolutions clearly indicated that State legislation in that area must be compatible with international human rights law, international refugee law, international humanitarian law and international criminal law.

64. He was pleased to learn that the Ethiopian Criminal Code criminalized polygamy, but given that it was a traditional practice, was the legislation in certain regions, such as the Family Law of the Tigray Region, still in force or had it been repealed? What was the legal

status of families in which polygamy was practised and did polygamous marriage constitute a criminal offence?

65. **Mr. Getahun** (Ethiopia) said that the delegation would elaborate on various aspects of the question of polygamy at the next meeting. Concerning persons of a different sexual orientation and their security of the person, the delegation had simply described the situation in the country, which was not to imply the adoption of any position whatsoever.

*The meeting rose at 6 p.m.*