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CERD



**International
Convention on
the
Elimination of
all Forms of
Racial
Discrimination**

Distr.

GENERAL

CERD/C/SR.1958

25 August 2009

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-fifth session

SUMMARY RECORD OF THE 1958th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 19 August 2009, at 3 p.m.

Chairperson: Ms. DAH

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Seventh to sixteenth periodic reports of Ethiopia

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Seventh to sixteenth periodic reports of Ethiopia (CERD/C/ETH/7-16; CERD/C/ETH/Q/7/16; HRI/CORE/ETH/2008)

At the invitation of the Chairperson, the members of the delegation of Ethiopia took places at the Committee table.

Mr. YIMER (Ethiopia) attributed the very long delay in submitting Ethiopia's periodic report (CERD/C/ETH/7-16) to lack of technical capacity and resources, a situation which the State party had actively sought to remedy through international cooperation. It was particularly grateful for the assistance of the East Africa Regional Office of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Thanks to the constructive partnership between the Government and OHCHR, the country had met its reporting obligations not only to a number of United Nations treaty bodies but also under the African Charter on Human and Peoples' Rights.

A document without a symbol containing the State party's replies to some of the questions raised in the Committee's list of issues (CERD/C/ETH/Q/7-16) had just been distributed to Committee members. He apologized for the delay and undertook to address some of the remaining issues in his opening remarks.

A wide spectrum of actors had been involved in the preparation of the report, including representatives of the Federal Government, regional governments, national human rights institutions, NGOs and academic institutions. OHCHR had offered support for a number of the meetings. In addition, an expert committee had been set up to assist in drafting all reports on compliance with human rights instruments. Every effort had been made to comply with the Committee's reporting guidelines.

Ethiopia's last periodic report had been submitted when the country was run by a military dictatorship and was in the throes of a civil war. The military regime had been overthrown in 1991 and the subsequent constitutional and political reforms had played a pivotal role in settling political disputes and reversing discriminatory policies that had fuelled the political crisis. People-centred movements had sought to create a cohesive economic union based on equality and recognition of cultural diversity. Democratic elections had been held. The country had acceded to a large number of international and regional human rights instruments and taken steps to incorporate their provisions in domestic legislation. Numerous political parties were actively participating in the democratization process. Officials of the previous regime had been placed on trial for egregious human rights violations, including the crime of genocide. The Ethiopian Human Rights Commission and the institution of the Ombudsman had been established. Previously neglected religious and ethnic groups were now fully protected.

The Constitution had instituted a federal system that enabled Ethiopia's diverse ethnic communities to promote their culture, exercise self-governance and engage in people-centred economic development. Constitutional principles, including the recognition of socio-economic rights, were applicable in both the private and the public sphere. The Constitution avoided creating any conceptual or legal hierarchy among "nations", "nationalities" or "peoples". Individuals were allowed to choose their own ethnic identity.

The House of Federation was constitutionally mandated to promote equality and understanding among groups in federal institutions, the judiciary, the defence forces, the police and other entities. All regions now used their own languages for public administration and in schools. Special zones and *weredas* (local administrative divisions) had been set up within each region so that minority groups also enjoyed such cultural entitlements. However, regional states with less developed infrastructure and fewer resources remained in need of federal support. In line with the Government's poverty reduction policies, a national board supervised the granting of subsidies to regions in need. Decentralization programmes had been undertaken in all regions so that minorities could benefit fully from the constitutional entitlement to self-governance. Special policies and programmes had been designed to protect the rights of pastoralists and other vulnerable groups, including the right of access to land and protection from eviction. Pastoralist areas were provided with mobile health posts and educational facilities.

The federal cultural policy recognized the rights of all groups and communities to the preservation of their culture and heritage. The Constitution and enabling legislation permitted religious and traditional groups to apply their own laws in adjudicating family disputes, provided that international and constitutional human rights norms were respected. The country's educational policy required federal and regional curricula and teaching aids to be sensitive to cultural diversity.

The Criminal Code promulgated in 2005 defined the offence of racial discrimination and criminalized harmful traditional practices such as female genital mutilation and child marriage. The Labour Code and the Federal Civil Servants Proclamation had been amended to ensure greater protection for workers and civil servants. Public employees such as teachers and health workers were now authorized to establish professional associations.

The military was effectively and institutionally under civilian control. Members of the Ethiopian National Defence Force (ENDF) and the police received training in human rights and international humanitarian law, with the assistance of the International Committee of the Red Cross.

Human rights courses were taught at all levels of education. Higher education institutions were required to implement affirmative action programmes to allow greater representation of students from less developed regions of the country. Special boarding schools had also been established for such students. Affirmative action had also been taken with respect to political appointments to government offices and to civil service institutions with a view to enhancing the participation of individuals from neglected and marginalized areas.

A Ministry of Women's Affairs was coordinating programmes to address female genital mutilation, child marriage, forced marriage and other harmful traditional practices. Women were guaranteed equal protection under federal family legislation, which recognized the pre-eminence of human rights standards over discriminatory religious or customary practices or laws. Over 30 per cent of seats in the House of Peoples' Representatives were occupied by women. Significant improvements had also been recorded in women's participation in the judiciary, the education sector and the civil service. Women accounted for over 90 per cent of the health extension work force, which had helped to bring about significant reductions in the child and maternal mortality rates.

Various normative and institutional standards had been put in place to protect vulnerable groups such as children, the elderly and people living with HIV/AIDS or various types of disabilities.

Ethiopia's new press and broadcasting legislation sought to tap the positive potential of the media in promoting tolerance. There were now more than 100 free media outlets.

The House of Federation and the Ministry of Federal Affairs and other government offices were involved in conflict prevention and resolution, for instance in addressing the conflict in the Gambella Regional State in 2003 and in the Somali Regional State. Constitutional recognition of the role of religious and traditional institutions in such circumstances had helped to make them part of the solution rather than a source of racial or ethnic tensions. The Government had also established commissions of inquiry and other bodies to identify the causes of conflicts and to combat impunity.

The Pillar Strategies of the Five-Year Development Plan were designed to achieve fast economic recovery and to assist the country in achieving the Millennium Development Goals. The economy had grown by an average of 10 per cent over the past five years and was one of Africa's best-performing economies in 2009. The growth was spurred by massive public investment in infrastructure, health, education and other critical sectors. Access by rural communities to roads, health services and educational facilities was continuously improving. Federal and regional government housing projects, focusing on the needs of the poorest segment of Ethiopia's population, had led to a construction boom in urban centres.

All major development initiatives were preceded by an evaluation of their potential negative impact on local people. Under the

Constitution and other legislation, persons who incurred loss or damage as a result of public development projects were entitled to compensation.

The country had recently revised its disaster and recovery policy. The food security strategy, which provided for resettlement of populations into fertile areas, was strictly implemented in an intraregional context and on a voluntary basis to prevent abuse. People were protected from resettlement in an area in which they were unable to exercise their cultural rights to the full. Beneficiaries of foreign food aid were encouraged under Government-run safety net programmes to engage in public works.

By the end of 2010 the country would have 31 universities. They were distributed in such a way as to ensure fair and balanced access to higher education.

Foreign groups continued to arm and train so-called rebel groups in Ethiopia in order to create divisions and instability. The claim that such groups had taken up arms to combat racial or other forms of discrimination was belied by the facts. The extremist and unconstitutional agenda pursued by groups such as the Oromo Liberation Front and the Ogaden National Liberation Front was opposed by Oromos and Somalis themselves, who were fully exercising their right of self-determination. Members of the illegal groups who were in custody or on trial were treated without any form of discrimination. Malicious allegations to the contrary had been exposed as baseless and rejected, inter alia, by the United Nations Human Rights Council and the African Commission on Human and Peoples' Rights.

The political and security situation in neighbouring countries had encouraged a flow of Eritrean and Somali refugees into Ethiopia, especially during the past year. The Administration of Refugees and Returnees Affairs had been working closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other partners in providing protection and assistance to such groups. The Government had recently issued a directive allowing Eritreans who had been expelled during the 1998-2000 war with Eritrea and who were not a threat to national security to return and reclaim their property, which had never been confiscated or expropriated.

Mr. MULUGETA (Ethiopia) introduced his country's written replies to the Committee's list of issues (document without a symbol, English only). Replying to question 1 of the list of issues, he said that a definition of "nations, nationalities and peoples" was contained in the Federal Constitution. Ethnicity, on the other hand, was a complex social reality that defied definition. Group rights were protected and there was no hierarchy between different ethnic groups.

Turning to the legal prohibition of discrimination (question 2), he said that, while there was no specific legislation on discrimination, the principles of equality and non-discrimination were enshrined in the Constitution. Information on other domestic legal instruments containing anti-discrimination provisions was contained in the periodic report (paras. 24-28).

Allegations of dismissal of teachers on the basis of their ethnic origin (question 3) were untrue. No person had ever been dismissed on such grounds. The allegations were related to the introduction by the Government of primary education in local languages, in implementation of the 1995 constitutional provisions and Ethiopia's obligations under international human rights instruments. Most teachers had not been negatively affected by those changes, as they were fluent in the local languages. However, teachers who did not speak the local language had been encouraged to relocate or seek alternative employment. The Ministry of Education had provided assistance with relocation.

With reference to question 4 of the list of issues, he said that the recommendations made by the Joint International Labour Organization (ILO)/United Nations Educational, Scientific and Cultural Organization (UNESCO) Committee of Experts on the Application of the Recommendations concerning Teaching Personnel related to allegations presented by the World Confederation of Organizations of the Teaching Profession and the Ethiopian Teachers' Association on matters pertaining to the ILO Convention concerning Freedom of Association and Protection of the Right to Organise (No. 87), not racial discrimination. Steps had been taken in the meantime to address the issue, including through the formal registration of the associations in question.

Turning to the prevention of discrimination in customary and religious law (question 5), he said that the Constitution provided for the application of customary or religious laws, so long as they did not infringe on the human rights enshrined in domestic or international instruments. Legislation governing sharia courts, for example, stipulated that women had to give express consent to having their case heard in a sharia court. By giving consent, the women did not forfeit the right to come before a civil court should they consider the sharia proceedings discriminatory.

Harmful traditional practices (question 6), including early marriage, abduction and female genital mutilation, were serious problems in Ethiopia. The Government was taking a two-pronged approach to eradicating those practices that consisted of awareness-raising and criminalization. Human rights education had been incorporated into all educational curricula, and criminal legislation had been amended to prohibit underage marriages and female genital mutilation.

The poverty reduction strategy (question 7) took account, in particular, of the challenges facing vulnerable groups such as pastoralists, women and disabled persons. Mobile health and education units had been set up in order to increase access for pastoralist communities.

As to minority representation (question 8), all nations, nationalities and peoples were represented in the House of Federation and the House of Peoples' Representatives. The Constitution provided that at least 20 seats were reserved for minority groups numbering fewer than 140,000 and thus unable to form an electoral district.

Ethiopia's national cohesion (question 9) derived primarily from its status as an economic union. The country's sense of nationhood was not built on a myth, but rather on economic development for all, including the roads, schools and hospitals the Government was building, and the pride children felt from speaking their mother tongue.

With regard to question 10 of the list of issues, he clarified that political parties were not necessarily divided along ethnic lines. Some of the most active political opposition parties did not self-identify as belonging to any specific ethnic group.

Supplementing information provided in response to question 11 of the list of issues, he said that the independent inquiry commission established to investigate incidents that had occurred during the 2003 conflict in the Gambella Regional State had found no institutional human rights violations committed by the police or the ENDF. However, individual members of the police and the military and the regional administration had been arrested in relation to such violations and brought to justice. Sentences handed down ranged from 2 to 12 years' imprisonment.

Following the 2003 crisis (question 12), the Government had implemented projects covering repatriation, the construction of homes for internally displaced persons and the reintegration of former combatants in cooperation with donors and NGOs.

Action taken to enhance food security in the Somali Regional State (question 13) included the establishment of food stock systems to expedite food distribution and prevent corruption, and the implementation of programmes aimed at increasing the self-sufficiency of pastoralists.

The representation of ethnic groups in the civil service (question 14) was guaranteed through the Federal Civil Servants Proclamation, which prohibited discrimination on grounds including ethnic origin. However, uneven development resulted in considerable differences in education levels between regions. As a result, people from less developed regions were underrepresented in the civil service. Measures taken to remedy the situation included the introduction of boarding schools for children from less developed regions to enhance their access to quality education.

Mr. PETER (Country Rapporteur) gave an overview of Ethiopia's history, its ethnic, cultural and religious composition and its political relevance within the African continent. He also paid tribute to the late Haile Selassie as a defining figure in African history and described in detail some of the political, geographic and climatic challenges facing the country.

He commended the State party for its domestic legal regime, which drew extensively on the Convention. In addition, articles 25 and 37 of the Federal Constitution established the rights to equality and access to justice. Unfortunately, Ethiopia had not made a declaration under article 14 of the Convention. While he was pleased to learn that international treaties were automatically incorporated into the domestic legal system, he pointed out that international provisions were not always directly applicable without enactment of relevant domestic legislation. Furthermore, the fact that the Convention had not been translated into the local languages meant that, in practice, victims of discrimination had no recourse to its provisions. For the same reason, the Convention could not be invoked directly in domestic court proceedings. He called on the State party to ensure the translation of the Convention into Amharic, at the very least, and to enact legislation that would facilitate the domestic application of its provisions. He further called on Ethiopia to sign and ratify outstanding international human rights instruments.

While foreigners enjoyed most of the same rights as nationals, and refugees did not require entry visas or residence permits to enter and live in the State party, there had been reports of harassment, arrest and detention of foreigners, mostly Eritreans. He would appreciate the delegation's comments on those reports.

The State party was a country of origin and a host country for refugees, and had a number of internally displaced persons as a result of armed conflicts and natural disasters. It had ratified the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol and was a party to the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. However, the lack of specific domestic legislation governing the treatment of refugees was of concern, particularly as the relevant international instruments were not available in languages that local peoples and refugees would necessarily understand. He urged the State party to enact relevant domestic legislation, and to make it and the international instruments concerning refugees available and accessible to local people and refugees, possibly with assistance from UNHCR.

Turning to article 2 of the Convention, he took note of the measures the State party had put in place to prohibit racial discrimination. He had unfortunately been unable to access the constitutions of the regions in order to verify their conformity with the relevant provisions of the Federal Constitution. The State party might wish to consider enacting a specific anti-discrimination law to act as an overall guide to specific sectors on the issue of discrimination and to consolidate the relevant provisions of the Constitution.

As for article 3 of the Convention, the periodic report indicated that the State party's commitment to abolishing apartheid and racial segregation worldwide was illustrated by the fact that it had been a party to the South West Africa case brought before the International Court of Justice (para. 49). However, reports of caste-like racial discrimination in parts of the State party indicated that members of occupational minorities, mostly artisan communities, were systematically disadvantaged and faced stigmatization, segregation and discrimination. Members of lower and higher castes were unable to marry, and there were restrictions on contact and social mobility. The Manjas of Dawro, for instance, were apparently unable to eat with the Malas, who were considered a higher caste. There was discrimination in greetings, seating arrangements in public places, and the associations different groups could join. He requested additional information on those patterns of behaviour and any steps being taken to abolish what amounted to a violation of both the Constitution and many of the international instruments ratified by the State party. He asked whether lessons could be learned from the positive elements of the "Land to the Tiller" programme, which had taken land from landowners to distribute it among peasants during the military rule of the Derg.

Concerning article 4 of the Convention, racist propaganda and racial discrimination was criminalized under several instruments of domestic legislation, and efforts were clearly being made to prevent them. He encouraged the State party to continue in that direction. In relation to freedom of association, he failed to understand the rationale behind the 2008 Proclamation for the Registration and Regulation of Charities and Societies, which stated that Ethiopian charities or societies formed under Ethiopian law, with an entirely Ethiopian membership, could not receive more than 10 per cent of their funds from foreign sources, including international agencies and Ethiopians living abroad. Only that category of charity or society could work in areas pertaining to good governance, such as human rights and promoting gender equality. The Proclamation established an agency which had wide-ranging discretionary powers

to license and register charities, the decisions of which could not be appealed in court. He asked whether the Government would consider removing that law from the statute book, as it violated the Constitution and many international instruments to which the State was a party. He took note of the delegation's statement concerning the measures the State party was taking to prevent the use of customary law to facilitate early marriage, forced marriage and the practice of female genital mutilation, and urged the Government to continue those efforts.

Turning to article 5 of the Convention, he requested clarification on the rights of minorities. In the State party, the nine federal regions had been established entirely on the basis of ethnicity, each one supposedly having an ethnic group that was native to it. Each region had its own constitution, which attributed many privileges to the native groups, including access to resources and political, educational and judicial rights. Other people living in the regions were regarded as foreigners and minorities, despite the fact that they in fact constituted the majority in many cases. They were marginalized, had no constitutional protection and could not participate in regional politics. He would welcome additional information on any measures the State party planned to take to ensure equal treatment of all Ethiopians, regardless of their ethnicity and the region in which they lived.

As for article 6 of the Convention, he requested clarification of the powers of domestic courts, particularly given that politicians, not the courts, had the right to interpret the Constitution. There was little public awareness of the right to justice, and in lower courts in the regions, people could not address the courts in their native language. He wished to know whether the State party would consider establishing a unit of the Ethiopian Human Rights Commission to handle cases of racial discrimination, and setting up regional offices to ensure accessibility for the entire population. He also urged the Commission to take steps to raise public awareness of its mandate, and of the remedies it could provide for violations of citizens' rights.

Lastly, on article 7 of the Convention, he encouraged the State party to consider evaluating the effect of the existing constitutional arrangement, which provided a solid basis for ethnic discrimination, on areas such as education, culture and the dissemination of information. The Government should take steps to improve that situation for its own development and that of the people.

The State party had great potential and a rich history, and was the object of much pride in the areas of African unity and the economic liberation of the continent. In spite of the challenges it faced, it continued to inspire many in Africa and worldwide. Given the political will, the State party could bring its legislation and practice into line with the provisions of the Convention.

Mr. AVTONOMOV requested clarification of the statement in paragraph 18 of the periodic report that foreigners were not covered under the government pension scheme unless bilateral or multilateral agreements provided otherwise.

While all languages had equal State recognition under the Constitution, according to paragraph 38 of the report, it would appear that people could not address the authorities in all languages, or be taught in all languages. He therefore asked for additional information on the practical application of the constitutional provision for the equal status of languages.

He also requested further information on the customary law systems referred to in paragraph 47 of the periodic report and on the Mala and Manja caste groups, which had ceased to be legally recognized in 1974 but still existed. He asked how regional constitutions and anti-discrimination legislation guaranteed equality and equal access to public services for all population groups. Was there room for improvement? How did regional provisions compare to those in the country's national legislation?

Mr. PROSPER said that the periodic report contained insufficient statistical information on the distribution of ethnic groups within Ethiopia. He enquired about the State party's understanding of the concept of ethnicity, given that the definitions in the Constitution referred instead to nations, nationalities and peoples. Self-identification was provided for, but did the Government effectively recognize and protect ethnic groups? Although the opposition Coalition for Unity and Democracy (CUD) did not identify itself as an ethnic group, was it primarily composed of people of the same ethnic origin? If so, did they belong to a different ethnic group from that of the governing party? He also asked to what extent ethnicity had played a role in the prominent case of CUD officials tried and convicted for crimes including attempted genocide.

Mr. de GOUTTES enquired about the outcome of trials for war crimes and crimes against humanity of members of the Derg military junta. He welcomed the frank admission in the periodic report that attitudes of racial discrimination were deeply entrenched in Ethiopian society, that changing them was an arduous task, and that racially motivated violence had occurred, and he recognized that positive steps were being taken, particularly in terms of legislative provisions, to remedy the situation. The next periodic report should include information on the number of complaints of racism brought before the courts, rather than just those submitted to the Ethiopian Human Rights Commission.

With reference to paragraph 77 of the periodic report, he asked how the Government managed the large number of refugees in the country. What difficulties were encountered in applying the various international instruments on refugees that Ethiopia had ratified, given the absence of specific national legislation on the issue? Paragraph 96 of the report referred to the right of nations, nationalities and peoples to secession. To what extent could the Government accept that right? He requested further information on the early warning system for ethnic conflicts being developed with the assistance of the United Nations Development Programme. Lastly, he asked for additional information on the progress made towards eradicating the persistent practice of female genital mutilation.

Mr. MURILLO MARTÍNEZ requested further details on the role of ethnic groups and NGOs in preparing the State party's core document and periodic report. He also sought more information on the right to self-determination referred to in paragraph 96 of the periodic report, as Ethiopia's experience could provide valuable lessons and allay the concerns of other States parties. He enquired about the results of the studies on causes of ethnic conflicts and possible solutions referred to in paragraph 107. With regard to female genital mutilation, he asked how progress in eradicating the practice had been measured, given the reluctance of many to discuss such a private subject.

Mr. AMIR, underlining the fact that the Convention promoted not simply equal rights but equal enjoyment of rights, stressed the need for legislation to be effectively implemented if rights were to be enjoyed. Nevertheless, the State party had made progress towards

eliminating discrimination even by recognizing that the problem existed. The role of the Government was now to arbitrate between the country's various ethnic groups in order to avoid conflicts, despite the problems Ethiopia had faced in the course of its history.

Mr. EWOMSAN, underlining the difference between the Constitution of Ethiopia, which recognized the right of nations, nationalities and peoples to self-determination, and those of most other African countries, which emphasized national unity, wondered why the country experienced so much ethnic conflict even so. The legal situation was evidently not being translated into reality, and he sought the delegation's views on the issue. What measures were envisaged to eliminate discriminatory practices and eradicate ethnic conflict?

The meeting rose at 5.55 p.m.