



International Covenant on Civil and Political Rights

Distr.: General
19 July 2011

Original: English

Human Rights Committee 102nd session

Summary record of the 2805th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 12 July 2011, at 10 a.m.

Chairperson: Ms. Majodina

Contents

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

Initial report of Ethiopia (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Ethiopia (continued) (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. Flinterman** asked whether the judiciary, the legislature or the executive was responsible for deciding whether domestic legislation was compatible with the provisions of the Covenant. It would be useful to have details of any judicial decisions, especially by the Supreme Court, that had ruled against the application of a particular law or annulled a decision of the executive on the grounds of incompatibility with the provisions of the Constitution.
3. He wished to know whether the State party planned to adopt specific legislation on gender equality and, if so, what it would contain. In particular, he asked if it would include provision for temporary special measures and a mandate for the Ethiopian Human Rights Commission on gender issues.
4. Given that all the regional states within Ethiopia had their own constitutions, the Committee would welcome information on what mechanisms were in place to monitor compliance with the provisions of the Covenant throughout the national territory.
5. **Mr. Lallah** commended the State party for examining best practice abroad when developing its antiterrorism legislation. He asked if it had also referred to the resolutions the United Nations Security Council had passed to ensure that its resolution 1373 (2001) was not used as a pretext to derogate from obligations that States parties assumed when ratifying international instruments, inter alia on the protection of human rights. He recommended that the Government should examine the Committee's concluding observations concerning other States parties on the issue of terrorism. He invited it to include in its second periodic report detailed statistics on the number of people who had been prosecuted or detained under its antiterrorism legislation, and the outcome of those cases.
6. The Committee would appreciate additional details of the sharia laws that were applied in the State party concerning marriage, divorce, devolution of property and the enjoyment of equal rights by spouses during marriage and divorce. Drawing attention to article 2, paragraph 2, and article 5 of the Covenant, he emphasized that no individual could be obliged to accept a level of human rights protection less than that provided for in the Covenant. He suggested that the State party indicate in its second periodic report any areas in which women were compelled to accept sharia law.
7. He welcomed the State party's assurances that it was still considering ratifying the Optional Protocol to the Covenant. As an additional incentive, he drew the delegation's attention to the fact that the Committee examined States parties' laws and their implementation with regard to the exigencies of the Covenant. The Committee would benefit from learning about the thinking of Ethiopian judges, as indeed they might find the thinking of the Committee useful in their work to protect human rights under the Covenant.
8. **The Chairperson** invited the delegation of Ethiopia to reply to those questions and those asked by Committee members at the previous meeting.
9. **Mr. Molla** (Ethiopia) said that the definition of terrorist acts in the Anti-Terrorism Proclamation was not in the least vague and did not conflict with any General Assembly

resolutions or regional or international instruments concerning terrorism. As detailed in paragraphs 5 and 6 of the written replies, the definition was consistent with Security Council resolutions urging States to enact antiterrorism legislation. It had been designed not to derogate from or violate any human rights, but rather to prevent and combat terrorism. Administrative and legal sanctions were imposed on any law enforcement officials who wrongly applied the antiterrorism legislation. As explained in paragraph 14 of the written replies, all individuals had a duty to communicate to the police any information they had that might be helpful in preventing or investigating terrorism cases, unless there was a reasonable cause for not doing so.

10. **Mr. Assefa** (Ethiopia) added that the Constitution, which incorporated the Universal Declaration of Human Rights, took precedence over all other legislation. That should allay the fears some Committee members had expressed that the antiterrorism legislation could be used or interpreted to allow the State to take action at variance with the Covenant.

11. **Mr. Molla** (Ethiopia) said that, under the provisions of the Constitution and the Criminal Procedure Code, suspects could not under any circumstances be detained for more than 48 hours before appearing before a court. As indicated in paragraph 80 of the initial report, the courts were responsible for ensuring that investigations were conducted in a timely manner and guaranteeing detainees' right to a speedy trial. Suspects could be held in recognized police stations or in prisons, where they were segregated from convicted prisoners.

12. Paragraph 45 of the written replies provided information on the jurisdiction of sharia courts in his country. Substantively they applied sharia law, and procedurally the Civil Procedure Code was implemented when they were mandated to try civil cases only. Cases were heard by sharia courts only when the full consent of both parties, whether they were women or men, had been submitted to the court in writing. Sharia courts were not obliged to apply the provisions of the Covenant since they applied sharia law.

13. Thanks to the Government's efforts, the practice of female genital mutilation (FGM) had decreased from about 74 per cent in 1997 to some 38 per cent in 2009–2010. While the perpetrators of harmful traditional practices, including FGM, were widely prosecuted in accordance with the law, no data were available on the number of prosecutions that had taken place. The Government had focused on raising public awareness of all harmful practices in order to change stereotypical views, particularly on FGM and early and polygamous marriage.

14. The Constitution provided for the enactment of laws to recognize marriages that were conducted under systems of religious or customary practices. The Criminal Court had in principle treated polygamy as an offence but had made an exception in accordance with that constitutional provision. The Revised Family Code prohibited polygamous marriage, and all the regional states except Afar and Somali had enacted family codes that were compatible with that revised federal law. In answer to a question from the Committee, he confirmed that the family codes in Tigray and Oromia regional states clearly prohibited polygamy.

15. Ethiopia recognized the crucial role women had to play in development and strengthening democracy. It had been one of the first countries to ratify the African Charter on Democracy, Elections and Governance, thus agreeing to create the necessary conditions for the full and active participation of women in the decision-making processes and structures at all levels and in the electoral process, and to ensure gender parity in representation at all levels. Women's representation in the House of People's Representatives had increased from 2.3 per cent in 1995 to 27.9 per cent in 2009–2010, a shift which had also been reflected at the regional level, as in Tigray, where over 40 per cent of the members of the state council were women.

16. **Mr. Getahun** (Ethiopia) said that his country had followed the precedents set by other countries, as well as Security Council resolution 1373 (2001), when drafting the new Anti-Terrorism Proclamation (No. 652/2009). As far as he knew, there had been only one conviction under the new law. The information provided by his Government was intended to demonstrate that it had created a framework for the prevention and prosecution of terrorism while still respecting its human rights obligations.

17. On the question of compatibility of domestic legislation with the Constitution, he said that the House of Federation reviewed doubtful cases, taking the advice of the Council of Constitutional Inquiry, and had the power to overturn the judgements of lower courts. His Government would provide examples in its next periodic report.

18. Concerning sharia law, he said that there were three levels of sharia court: the Federal First Instance Court of Sharia, the Federal High Court of Sharia and the Federal Supreme Court of Sharia. A case being heard under sharia law, which required the express consent of the parties involved, would stay within the sharia system unless there was an allegation of an error in law, which would be ruled upon by the regular court system, up to and including the House of Federation and Council of Constitutional Inquiry. The Government would provide examples of the application of sharia law and the substantive law applied by the courts in its next periodic report.

19. Replying to a question about the independence of the national human rights institution, the Ethiopian Human Rights Commission, he said that the best guarantee of the Commission's independence was its status as a body directly mandated by the Constitution. The Commission submitted its budget and an annual report for review by the House of People's Representatives. The Commission was entirely free to criticize — or, indeed, commend — the Government's actions. Commissioners were elected by the House of People's Representatives in a process which was open to public scrutiny.

20. As to the two Swedish journalists who had been arrested in Ethiopia a few days before, he said that they had been brought before a court in Jijiga within 48 hours of their arrest and been allowed visits from Swedish consular representatives. He had told the Committee the little he knew about the case as a courtesy, since members were clearly concerned, but his delegation was in Geneva to discuss the initial report rather than individual cases.

21. Humanitarian issues relating to internally displaced persons were handled by the Ministry of Agriculture, but otherwise resettlement and any other matters were the responsibility of the regional administrations. His delegation was aware of a group of 7,000 internally displaced persons in Harer region, whom the Ministry of Federal Affairs hoped to return to their homes within a few months, but otherwise, regrettably, he had no information.

22. Under Ethiopian law, a child took the nationality of one of his/her parents. Special rules applied to a child of stateless parents. However, there was no provision for dual citizenship.

23. **Mr. Molla** (Ethiopia), replying to members' questions about gender equality, said that the legal framework guaranteeing gender equality was entirely adequate and no further specific laws were needed. The challenge lay in changing stereotyped attitudes and undesirable practices.

24. **Mr. Yimer Aboye** (Ethiopia) said that he did not want to spend more of the short time available in discussing the case of the detained Swedish journalists. He appreciated that members were concerned, but his delegation was not well informed about the case and its purpose in coming to Geneva had been to discuss his country's report.

25. **Mr. Getahun** (Ethiopia) said, to clarify his earlier remarks, that his country understood clearly that both the judiciary and the executive had a duty to ensure that the Covenant was applied in legal judgements. He had merely been speculating about possible reasons why it was not cited more often by judges.

26. **Mr. Thelin** said that he was interested in the case of the Swedish journalists not merely because they were his compatriots. The case was an example of the way in which Ethiopian legislation was applied in practice. According to the information in his possession, the journalists had not yet been brought before a court. If they had, as the delegation had just told the Committee, when had they appeared in court, had they been charged under ordinary or antiterrorist legislation, and what charges did they face?

27. **Sir Nigel Rodley** said that the Committee did not wish to discuss the merits of the case in question. It was merely endeavouring to determine how the legislation on arrest and detention or the legislation designed to combat terrorism was applied in a specific case. That was the Committee's normal practice, and delegations usually found it easier to respond if the Committee asked about a specific example. He would be asking similar questions about two other detainees, Woubishet Taye and Reyot Alemu, who had been detained in June 2011.

28. **Mr. Yimer Aboye** (Ethiopia) said that his delegation had already provided all the information it could on the case of the Swedish journalists and did not wish to spend any more time on it. The persons concerned would receive a fair and public trial. The delegation would provide any information it could about the other two cases mentioned by Sir Nigel Rodley.

29. **Ms. Waterval** asked for more information about the situation in the Somali region (question 11 of the list of issues, CCPR/C/ETH/Q/1). The International Committee of the Red Cross (ICRC) had not been permitted to operate in the area, and Ethiopia had not followed the recommendation in its universal periodic review (UPR) that it should undertake credible and independent investigations of alleged human rights violations (see document A/HRC/13/17, p. 24).

30. The delegation had already answered questions about the situation in the Gambella region (question 12), but she asked for an explanation of the discrepancy between the State party's replies to the list of issues, which said that three persons had been convicted for offences connected with the unrest in that region (see document CCPR/C/ETH/Q/1/Add.1, para. 27), and the delegation's statement the day before, which had put the number at six.

31. Finally, in view of reports that few trafficking cases were reported and prosecuted and that sentences for traffickers were generally lenient (question 20), she asked how the State party intended to collect reliable statistical data, strengthen the investigation and prosecution skills of police and immigration officers, and review its sentencing policy in trafficking cases. Did the State party intend to adopt a comprehensive national plan of action to combat trafficking in human beings?

32. **Mr. Rivas Posada** said that, while the Covenant did not explicitly prohibit the death penalty, the Committee's jurisprudence made it clear that the death penalty should be imposed for only the most serious crimes and, in particular, not for political offences. He was concerned to see that five death penalties imposed by the Federal High Court (question 13 of the list of issues) had all been imposed on members of the opposition party for "conspiring to undermine the Constitution and violently overthrow the Government". Had those persons been charged under ordinary criminal legislation or the antiterrorist legislation? He called upon the State party to ensure that the necessary guarantees were provided for defendants in criminal proceedings. He also sought clarification of the statement in the replies to the list of issues (CCPR/C/ETH/Q/1/Add.1, para. 28) that the reluctance of the Ethiopian courts to hand down death sentences amounted to a de facto

moratorium on the death penalty. In that case, what steps would the State party need to take in order to ban the death penalty altogether?

33. The State party had provided some explanations about the deaths of the persons listed in question 14 (see document CCPR/C/ETH/Q/1/Add.1, para. 29). However, he was concerned that the deaths, all involving members of opposition parties, had been attributed to personal vendettas or other acts by individuals. He asked what implications that assumption might have for the further investigation of the cases and any subsequent follow-up action. The information given by the State party was not consistent with other information in the Committee's possession: he would welcome any further clarification the delegation might provide.

34. **Sir Nigel Rodley** asked for further information on the conclusions of the independent commission of inquiry into the post-election violence of 2005 (question 15). The incident had led to the deaths of 6 police officers and 193 civilians, which caused him to doubt the commission's conclusion that the security forces had used proportionate force. Was the commission's report available in any of the Committee's working languages? Could the delegation provide any statistics relating to measures taken against law enforcement or security forces personnel found guilty of disproportionate force or unlawful killing, particularly in political cases? He asked for statistics and specific examples of the prosecution of such personnel for arbitrary arrest or torture (question 16). What sentences had been imposed on those found guilty?

35. **Ms. Motoc** asked how minorities were defined in the State party's Constitution, whether schooling was provided in the country's many languages and whether persons belonging to ethnic groups enjoyed the status of minorities or of indigenous peoples. She would also welcome information on the extent of marginalization of minorities in Ethiopia, as it seemed that minorities were discriminated against and had lower incomes than the rest of the population.

36. **Mr. O'Flaherty** said that while the question raised on the detention of opposition leader Birtukan Mideksa (question 17), was moot since Ms. Mideksa was now in the United States and outside Ethiopia's jurisdiction, he wished to know whether she was free to return to Ethiopia at any time without threat of imprisonment, and free to engage in political activity. He also asked whether the State party had implemented the recommendation made by the Committee against Torture in paragraph 10 of its concluding observations (CAT/C/ETH/CO/1) urging the State party "to take immediate and effective measures to investigate, prosecute and punish all acts of torture and to ensure that torture is not used by law enforcement personnel, including by unambiguously reaffirming the absolute prohibition of torture and publicly condemning practices of torture, especially by the police, prison officers and members of the Ethiopian National Defense Force". That recommendation was relevant to the Human Rights Committee, too, since it related to article 7 of the Covenant.

37. He would also welcome an update on ICRC operations in the Ogaden region, as mentioned by Ms. Waterval.

38. **Ms. Chanet** endorsed the question from Mr. Rivas Posada concerning the death penalty, as Ethiopian legislation did not seem to be in line with the provisions of article 6 of the Covenant or the Committee's jurisprudence, especially when dealing with crimes deemed political in nature.

39. She wished to know whether persons who were convicted in absentia could be represented by counsel, and whether persons who returned to the country after such convictions were subject to retrial. She also asked for more information on which courts were competent to hand down death penalties, whether lawyers were present during such

proceedings and whether persons under a death sentence had the right to appeal their sentence.

40. **Mr. Amor** asked the State party how many persons had been sentenced to death in the past three years and when the most recent death penalty had been carried out. He wished to know whether there were separate cells for death row prisoners, and whether ordinary law applied. He also wondered whether persons sentenced in absentia for serious crimes could be represented by counsel of their own choice, and whether counsel could defend them in their absence.

The meeting was suspended at 11.35 a.m. and resumed at 11.50 a.m.

41. **Mr. Yimer Aboye** (Ethiopia), replying to the question about the death penalty imposed on members of Ginbot 7 (question 13 of the list of issues), said that article 15 of his country's Constitution provided for respect for the right to life in line with article 6 (2) of the Covenant. Under the Criminal Code, the death penalty could only apply in the event that a serious crime — with intent to kill and resulting in death — had been committed. That penalty applied only as a last resort and with the approval of the President.

42. Members of the Ginbot 7 movement had been sentenced to death for committing the most serious crimes under the Criminal Code, involving armed uprising or civil war, breach of the Constitution and constitutional order, conspiring to violently overthrow the Constitution and the legitimate Government, organizing subversive acts, jeopardizing the national defence force, and provocation. The sentences had been handed down on the basis of evidence beyond reasonable doubt and the defendants had not rebutted the charges, even though they had been given ample opportunity to do so in accordance with due process of law. The death penalty applied in their situation in view of the seriousness of the crimes under article 247 (c) of the Criminal Code. The defendants had been charged with impairing the State's power to defend its citizens by publicly inciting members of the armed forces to refuse to serve, and encouraging mutiny or desertion. Moreover, they had committed serious crimes in the past, a fact considered as an aggravating circumstance.

43. The defendants had been brought before the nearest court within 48 hours of their arrest, had been charged within a reasonable time, had been informed of the charges against them in a language they understood, had been presumed innocent until proven guilty, had not been forced to testify against themselves, had been able to examine evidence against them, including through cross-examination, had been given ample opportunity to produce witnesses and evidence in their defence, and had exercised the right to be represented by Government-provided counsel or their own counsel, all in accordance with various articles of the Constitution and Covenant. Although there were provisions in the Constitution and the Criminal Procedure Code for the trials of the accused to be conducted in their presence, article 161 (2) (a) of that Code provided that if the crime committed carried a penalty of more than 12 years' rigorous imprisonment, then the trial could be conducted in absentia. In fact, four of the defendants who had received a death penalty in absentia had initially been summoned through the appropriate legal mechanisms, but had never appeared. Thus, the trial procedure for the Ginbot 7 members had been conducted in accordance with due process of law and in line with the provisions of the Covenant.

44. **Mr. Assefa** (Ethiopia) replying to questions on minorities, said that the Somali region could not be described as a conflict area since much of it was in fact peaceful and had been developed, including through the building of schools and provision of health-care facilities. Nevertheless, the State party recognized that there were conflicts and faced the challenges of dealing with insurgency groups within the Ogaden National Liberation Front, which engaged in terrorist activities and targeted civilians. In response, the local militia, with support from national forces, had been deployed to restore peace in the region, and although some mistakes might have been made, the aim of his Government had been to do

its utmost to ensure the protection of the civilian population. The country's defence forces had a meticulous record, were of impeccable integrity and had been commended for their peacekeeping actions in Africa, which was clear testimony of their respect for the norms governing armed conflict. The accusations that the defence forces had committed gross human rights violations were fabrications intended to mislead the international community. The insurgency groups were in fact responsible for the very crimes they accused the Government of committing.

45. As to the UPR, the Government had conducted its own investigations into allegations of violations and made its findings public. It would continue to monitor the situation in order to prevent violations and ensure peace and stability in the region.

46. On the issue of minorities, under the Constitution all linguistic groups and minorities had the right to self-determination and to use their own language in their institutions and administrative matters. The Government was responsible for the equitable distribution of resources to ensure that each linguistic group could develop its own culture and had endeavoured to empower minorities and ensure they could give full expression to the development of their economic, social and cultural aspirations.

47. **Mr. Tesfaye** (Ethiopia) said that ongoing capacity-building, awareness-raising and other human rights-related training was provided to law enforcement personnel at all levels, with particular emphasis on building up the capacity and standards of the police force, on constitutional principles and other relevant provisions relating to human rights in criminal investigation activities, and on the prohibition of torture and inhuman treatment. Police training involved practical and theoretical training, including on human rights and ethics at degree and certification levels, in addition to ad hoc courses. Both regional and federal police forces ensured respect for the right to life in all their activities and used peaceful means in the first instance, resorting to force only when strictly necessary and to the extent required for the performance of their duties. Police officers who infringed the law were held accountable and disciplinary penalties were applied.

48. The allegations of arbitrary arrest and detention using violence and torture were unfounded. The police had a duty to take reasonable and appropriate measures to protect persons whose lives had been threatened. They had legally arrested terrorists, including persons involved in terrorist activities who had received instructions from abroad to attack infrastructure. Those arrested and detained were treated humanely and in accordance with the relevant legal provisions.

49. The allegation of the arbitrary arrest of members of political parties was false; arrests had been based not on political reasons but on reasonable suspicion of involvement in activities that endangered the life and security of the public. Investigations were conducted in accordance with the law. Police maintained public order in a way that ensured the enjoyment of human rights for all citizens.

50. **Mr. Ayehu** (Ethiopia) said that the Federal Government had taken prompt measures following the incidents that had occurred in the Gambella region in 2003. In March 2004 it had set up an independent commission of inquiry, chaired by the President of the Supreme Court, to investigate the disorder and ensuing violence. The commission's final report contained an accurate description of the incidents and concluded that certain individuals had been involved in killing members of the Anuak community. His delegation had referred in its opening statement to the trial and conviction of six members of the defence forces in that connection. In addition, reference was made in the State party's written replies to three individual perpetrators of crimes against civilians in Gambella. The federal police had also taken resolute action to identify the perpetrators and the relevant courts had sentenced those found guilty in legal proceedings. Regional officials in Gambella had taken steps to hold regional police personnel accountable for their role in the killings. Thirty-two officers and

other staff members had been dismissed. The former head of the regional police force had been convicted in early 2005 and a further eight officers had been convicted following a second inquiry.

51. An independent commission had also been established to investigate the violence that had occurred after the May 2005 general election. Street violence in June, October and November 2005 had led to considerable loss of life and destruction of property in Addis Ababa and elsewhere. The riots were ultimately aimed at dismantling the constitutional order. In view of the seriousness of the situation and the imminent threat to public order and territorial integrity, the measures taken by the Government to maintain peace and stability were legitimate, proportionate and necessary. The independent commission had unequivocally confirmed their proportionality in its final report.

52. **Mr. Teklemariam** (Ethiopia) said that prisoners were divided into three categories according to the length of their sentence: less than 3 years; between 4 and 10 years; and more than 10 years. Prisoners sentenced to death were held in separate cells.

53. **Mr. Getahun** (Ethiopia), replying to a question about ICRC access to Somali Regional State, said that the authorities' relations with the ICRC should not be discussed in public for reasons of confidentiality. Details of the cases in question should not be divulged.

54. Ms. Birtukan Mideksa had been pardoned and released and was living in Ethiopia. He therefore failed to understand why the question had been raised.

55. The most recent death sentence had been carried out about four years previously. A number of officials of the former military regime had had their death penalty commuted by the President. Further details of the number of death sentences handed down over the past 20 years could be provided to the Committee in due course if necessary. As very few had been carried out during the past 15 years, the situation could be characterized as a de facto moratorium. However, no final decision had been taken on the abolition of capital punishment and it was still an option available to the courts.

56. **Mr. Ayehu** (Ethiopia) said that the rule of the former military regime had been known as the period of "Red Terror". Twenty-three former members of the regime, including former leader Mengistu Haile Mariam, who had been in exile in Zimbabwe since 1991, had been convicted and sentenced to death. A few weeks previously those who were still in Ethiopia had applied for a pardon and their death sentences had been commuted to life imprisonment. It had been a difficult decision for the Government to take because many of their victims considered that they deserved the maximum penalty. They could now be released on parole after serving 20 years of their sentence.

57. **Mr. Rivas Posada** said that in its written replies the State party had commented in considerable detail on the prison system, the treatment of prisoners and prisoners' rights. It was unclear, however, whether the circumstances described constituted aspirations, expectations or programmes, or whether they actually reflected the current situation in the prison system. There was a huge discrepancy, for instance, between the description of prisoners' access to food, health and study opportunities and reports submitted to the Committee regarding ill-treatment of prisoners and overcrowding.

58. The Committee had asked whether prisoners had access to independent mechanisms that would examine complaints concerning the conduct of prison and police officers (question 19 of the list of issues). The State party had replied that prisoners could present their grievances to the different levels of the prison administration. However, such mechanisms could not really be regarded as independent. The State party also mentioned visits by members of parliament, representatives of the Ethiopian Human Rights Commission and other authorities. He asked whether such visits formed part of a systematic

process or were conducted on an ad hoc basis. Lastly, he wished to know whether the ICRC was given the opportunity to visit places of detention.

59. **Sir Nigel Rodley** asked whether the State party had sought the extradition of Mengistu Haile Mariam from Zimbabwe so that he could be brought to justice for the appalling crimes committed under his regime.

60. If the report of the commission of inquiry on street violence after the 2005 general election was available in English, the Committee would appreciate receiving a copy. The delegation had focused on the criteria of necessity and proportionality, referring to public order and attempts to overthrow the Constitution. Such language was irrelevant in the context of compliance with the Covenant. The Committee was guided instead by the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, which incorporated tests of necessity and proportionality. In particular, proportionality meant that the level of force used should not be disproportionate to the threat posed to life and limb. Potentially lethal force was justifiable only when it was necessary to protect life. That criterion should be applied in assessing the lawfulness of the lethal use of force in a context of law enforcement. He wondered what test had led the commission of inquiry to conclude that 193 people had been necessarily and proportionately killed. A threat to property was not, of course, a relevant ground.

61. He was disappointed with the delegation's response to the Committee's questions regarding the issue of torture. It had simply denied that torture occurred and described the allegations as a tissue of lies. The Committee had been informed by respectable organizations that torture was widespread in Ethiopia. For instance, Amnesty International reported that torture was frequently used at the Federal Police Crime Investigation and Forensic Department at Maikelawi in Addis Ababa. Moreover, paragraph 53 of the State party's report mentioned that in some regional states such as Oromia, the justice bureau of the state government had been providing considerable assistance to victims of torture. He therefore reiterated his request for statistics concerning prosecutions, convictions, sentences and compensation to victims.

62. With regard to allegations of arbitrary arrest in the State party's legal system, he had enquired earlier about the point at which a detainee was guaranteed access to a lawyer. Was it upon arrest, within 48 hours of arrest, or before or after appearing before a court? He also understood that a judge could order the extension of detention in police custody beyond 48 hours. Could the period be extended for up to four months under the counter-terrorism legislation?

63. Turning to the cases of Reyot Alemu and Woubishet Taye, he enquired about the dates on which they had been arrested, brought before a court and given access to a lawyer. What charges had been brought against them and under which law? He did not wish to draw any conclusions about their guilt or innocence but simply to understand how the State party's laws and theoretically sound guarantees operated in practice.

64. **Mr. O'Flaherty** joined Sir Nigel Rodley in expressing dismay at the State party's claim that torture did not exist in Ethiopia. He reiterated his query regarding the action taken by the State party to implement the recommendation contained in paragraph 10 of the concluding observations of the Committee against Torture (CAT/C/ETH/CO/1). The Committee had received compelling information from various sources on instances of torture. He had been particularly impressed by the rigour of one NGO report concerning interviews with 53 refugees in Kenya in September 2010.

65. He had enquired about Birtukan Mideksa because she had been rearrested after her previous pardon. He hoped that her latest pardon was irrevocable.

66. He assured the delegation that he was aware of the sensitivity of the State party's negotiations with the ICRC. However, in early 2011 the President of the ICRC had stated publicly that his organization had been prevented from undertaking operations in the Ogaden. He invited the delegation to comment on that statement.

67. **Ms. Waterval** enquired about measures to protect civilians in the Somali region. Had any offenders been arrested and convicted?

68. She would also appreciate more detailed information regarding the sentences handed down in cases concerning the events in Gambella in 2003. For instance, had any of the persons found guilty been sentenced to death?

69. She had not received a reply to her question about trafficking in human beings.

70. **Mr. Amor** requested the delegation to provide the Committee with accurate statistics concerning the number of death sentences handed down in the past three years and the number of existing death sentences that had not been commuted to life imprisonment.

71. **Mr. Yimer Aboye** (Ethiopia) said that Ethiopia had formally requested the extradition of Mengistu Haile Mariam but the Government of Zimbabwe had rejected the request because the two countries had not concluded a bilateral extradition treaty. The former leader had therefore been tried in absentia.

The meeting rose at 1 p.m.