

OPINION No. 29/2001 (ETHIOPIA)

Communication addressed to the Government on 27 August 2001

Concerning: Gebissa Lemessa Gelelcha

The State has ratified the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights which extended and clarified its mandate in resolution 1997/50 and reaffirmed it in resolution 2000/36. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government.

2. The Working Group expresses its appreciation to the Government for having promptly provided the information requested.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

- (i) When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);
- (ii) When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);
- (iii) When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).

4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group has transmitted the Government's reply to the source, who has not made any comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case in the light of the allegations made and the Government's reply.

5. Mr. Gebissa Lemessa Gelelcha, aged 59, a former accountant at the Ethiopian Office of the United Kingdom-based Save the Children Fund and a founder of the Human Rights League (HRL), was arrested on 13 November 1997 in Addis Ababa, together with other founder members of the League. They were taken to the Maikelawi Police Investigation Centre in Addis Ababa, although they were not initially charged with any offence. On 24 November 1997, the judge ordered that they should be allowed access to their relatives, lawyers and medical care.

6. According to the source, HRL was formed among the Oromo community in Addis Ababa in December 1996 with the stated objectives of enlightening citizens about human rights, reporting on human rights violations and providing legal aid to victims of human rights violations. It had applied for official registration and was about to hold a workshop in Addis Ababa on human rights standards when its board members were arrested. Its Secretary-General, Mr. Garoma Bekelle, who is also editor of *Urji*, Mr. Beyene Abdi, a former judge and parliamentarian, Mr. Beyene Belissa and Mr. Addisu Beyene, Secretary-General of the Oromo Relief Association, were among its board members.

7. It is alleged that these persons were arrested simply for taking a public stand against violations of the human rights of members of the Oromo ethnic group and for their peaceful community activities. For Mr. Lemessa, this was the third time he had been arrested: he had previously been arrested in 1976 and again in 1980, having been released in 1988.

8. Mr. Lemessa has been held in detention for four and a half years. He was reportedly charged with offences related to armed conspiracy with the Oromo Liberation Front. His trial, held in camera, has now entered its fourth year and no verdict has yet been issued. His relatives have been banned from attending the trial.

9. According to the source, Mr. Lemessa is being held in detention simply for his work in favour of promoting human rights and denouncing violations of the Universal Declaration of Human Rights. He was arrested shortly after HRL applied for registration. The Government refused to register it and confiscated its office records and equipment.

10. The Government replied that Mr. Lemessa and his accomplices, Mr. Garoma Bekelle, Mr. Beyene Abdi, Mr. Beyene Belissa and Mr. Addisu Beyene, are detained for their involvement in terrorist activities in different parts of the country. Their detention, therefore, has no bearing whatsoever on their human rights work, if any. They were brought before the appropriate court of law within 48 hours of their arrest and they have fully exercised their constitutional rights to be informed of the charges against them, to be represented by a legal counsel of their choice and to be visited by their spouses, relatives and others.

11. The Government further reported that, owing to the gravity and seriousness of the crime they allegedly committed, the court decided to remand the detainees in custody as per article 59, paragraphs (2) and (3), of the Criminal Procedure Code of Ethiopia, pending the completion of the investigation. As the investigation has now been completed, the defendants will soon be formally charged in accordance with the law.

12. The Working Group took due note of the Government's comments to the effect that Mr. Gebissa Lemessa's detention is apparently justified by his involvement in terrorist activities. It notes, however, that Mr. Lemessa has been imprisoned since October 1997 without having been charged or convicted, and that he had been arrested and detained on a number of occasions in the past for periods of up to eight years before being released without being charged or convicted.

13. These repeated periods of detention without charge or conviction lend credence to the version of events advanced by the source. Furthermore, regardless of the allegation that Mr. Lemessa has personally committed serious crimes, his prolonged detention without trial cannot be regarded as having any basis in law given that he has been denied the right to a fair trial. The Working Group further notes that, to date, the person concerned has not been given an opportunity to challenge the legality of his detention.

14. The Working Group believes that a violation of the individual's right to a fair hearing has occurred, and that this violation is of such gravity as to confer on the deprivation of liberty an arbitrary character.

15. In the light of the above, the Working Group renders the following opinion:

The deprivation of liberty of Mr. Gebissa Lemessa Gelelcha since October 1997 is arbitrary because it contravenes articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, and falls within category III of the principles applicable in the consideration of cases submitted to the Working Group.

16. Consequently, the Working Group requests the Government of Ethiopia to take the necessary steps to remedy the situation and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Adopted on 3 December 2001