

**HUMAN RIGHTS  
AND  
GOVERNMENT WRONGS IN ETHIOPIA  
Alemayehu G. Mariam**

*(Text of speech given at the Carr Center for Human Rights Policy, Kennedy School of Government, Harvard University on February 8, 2007.)*

Thank you very much. Good evening, and thank you all for coming to this event.

Before I make my presentation, I would first like to thank the sponsors of this event.

First, I would like to thank the Carr Center for Human Rights Policy at the Kennedy School of Government.

The Carr Center was established to provide a balanced and critical perspective on the policies and actions of national governments and others that affect the realization of human rights with the ultimate aim of improving human rights advocacy strategies, monitoring practices, and response mechanisms.

Thank you the Carr Center for co-sponsoring this event.

Amnesty International and Amnesty International USA are the premier human rights organization in the world.

AI and AI USA have made enormous contributions in preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination in every part of the world.

I am especially grateful to Amnesty International USA for doggedly investigating and monitoring human rights abuses in Ethiopia over the past two decades, and for championing the cause of Prof. Mesfin Wolde Mariam, the 76 year-old prisoner of conscience and founder and president of the Ethiopian Human Rights Council, and many other victims of human rights abuses in Ethiopia.

Thank you AI and AI USA for co-sponsoring this event.

I am also thankful to Qaliti Qal Kidan for working collaboratively with the Carr Center and Amnesty International USA to make this event possible. The name Qaliti Qal Kidan itself signifies a solemn covenant and a commitment to foster the development of a free society based on the rule of law in Ethiopia. Qalitiy Qal Kidan, thank you for organizing this event.

**Human Rights and Government Wrongs**

Ladies and gentlemen, I will be talking this evening about human rights and government wrongs in Ethiopia.

I shall speak of *human rights* because Ethiopians are protected by the “Universal Declaration of Human Rights and other international human rights covenants and conventions ratified by Ethiopia.” This guarantee is unequivocally affirmed in Article 13 of the Constitution of Ethiopia.

So, what exactly are these human rights?

Well, there are quite a few of them. A partial listing includes a bundle of basic liberties such as the rights to free expression, association, peaceable assembly, petition for redress of grievances, and freedom of the press.

There are also privacy rights protecting Ethiopians from unreasonable government searches and seizures.

There are due process guarantees to those accused of criminal violations, including the right to be presumed innocent until proved guilty and proof beyond a reasonable doubt for criminal convictions, the right to be informed of criminal charges and the right against self incrimination, the right to prompt judicial review upon arrest and the right to habeas corpus proceedings to challenge unlawful detentions, the right to be released on bail and the right to a speedy trial once charged with a crime, the right to inspect any evidence brought against the accused and the right of confrontation of the accuser. This is just a partial list.

I shall also speak of *government wrongs*.

And what are these wrongs?

Over the past decade and half, the regime of Meles Zenawi has engaged in serious human rights violations in Ethiopia. And the brutality and inhumanity of Zenawi’s regime was bared to the world in the aftermath of the May 2005 parliamentary elections.

There is little disagreement among fair-minded people about the outcome of that election.

The coalition of opposition parties delivered a decisive defeat to Zenawi’s party. Kinijit, or the Coalition for Unity and Democracy as it is known in English, swept out Zenawi’s party from Addis Abeba’s mayor’s office and city council, and achieved similar decisive victories in nearly every part of the country.

But before the votes were fully counted, Zenawi declared victory.

Massive demonstrations in protest of the stolen elections followed in various parts of the country between June and November of 2005. Zenawi's regime reacted violently against the protesters, and his security forces fired indiscriminately on unarmed protesters causing countless deaths and life-threatening injuries.

Under international pressure, Zenawi and his parliament established an Inquiry Commission to investigate the civil disturbances and the use of deadly force by the regime's security forces. We have just heard from the Chairman of that Commission, Judge Frehiwot Samuel, and a member, Ato Mitiku Teshome.

The Commission determined that government security forces used excessive force in causing the deaths of 193 persons, and wounding of 763 over a period of 14 days in June and November of 2005.

Now, no one should be misled into believing that only 193 persons were killed by government security forces after the elections. There is no doubt the actual figure is much higher, perhaps in the tens of thousands. But the Inquiry Commission did not have jurisdiction to investigate any other incidents.

In November, 2005, Zenawi imprisoned the opposition leaders who refused to join parliament in protest of the stolen elections, along with numerous journalists, human rights defenders and civic leaders. These prisoners are informally and collectively referred to as the Kality prisoners of conscience, named after the town where the decrepit prison facility is located.

In demanding the release of these political and civic leaders, Amnesty International USA in its February, 2006 report stated:

These people are prisoners of conscience, imprisoned solely on account of their non-violent opinions and activities....We demand their immediate and unconditional release and a halt to this attempt by the Ethiopian government to criminalize freedom of expression and prevent legitimate political and human rights activity.

So, my friends, this is the tip of the iceberg in the egregious government wrongs that have been, and continue to be committed in Ethiopia today.

And to borrow Jefferson's words from the Declaration of Independence, the killing of innocent civilians and persecution of opposition and civic society leaders is part of "a long train of abuses and usurpations, pursuing invariably the same object of absolute despotism."

So this evening, I hope to demonstrate to you ONLY, ONLY the wrongs that have been committed against the Kality prisoners of conscience.

## **Who are the Kality Prisoners of Conscience?**

Now, who are the Kality prisoners of conscience? Let me introduce some of the prominent members of this group to you.

We have highly respected and accomplished scholars and academics such as Professor Mesfin Woldemariam, who also served as President of the Ethiopian Human Rights Council (ERCHO), the premier independent human rights organization in Ethiopia.

We have Dr. Berhanu Negga, the outstanding mayor-elect of Addis Abeba and the author of the smashing 600-page Amharic bestseller, *Dawn of Democracy in Ethiopia*.

We have the indomitable Engineer Hailu Shawuel, the Chariman of Kinijit, or the Coalition for Unity and Democracy.

Then there is Dr. Yakob Haile Mariam, the respected former UN genocide prosecutor at the Rwanda tribunal and former UN Special Envoy in the Cameroon/Nigeria border dispute.

We also have one of the prominent women judges, Birtukan Midekssa, and Serkalem Fasil, a woman journalist, in detention.

## **Trumped-up Charges**

In the narrow context of the prisoners of conscience, Zenawi's regime committed its first wrong by filing trumped up charges against them.

It is interesting to note that long before these prisoners were charged with any crime, Zenawi was openly telegraphing his intentions.

On May 6, 2005, 9 days before the elections and seven months before the November demonstrations and the arrest of the prisoners of conscience, Reuters quoted Zenawi accusing opposition leaders of trying to cause a "Rwanda-type genocide" by spreading ethnic hatred and strife, organizing a violent uprising aimed at overthrowing the government, and treason.

These comments anticipated three of the seven "criminal" charges -- high treason, armed uprising or civil war, and genocide -- that were leveled against the prisoners of conscience in November, 2005.

It is clear Zenawi had laid his plans to use the legal process to incapacitate the opposition long before any of the alleged crimes had been committed.

The charges against the prisoners of conscience originate from a section of the Ethiopian Criminal Code designated “Crimes Against the State”.

These “crimes” are not crimes in the ordinary sense of the word. Rather, they are prohibitions which aim to discourage dissent and stamp out opposition political activity, and criminalize the free exercise of human rights guaranteed under the Universal Declaration of Human Rights and other related conventions.

The most preposterous of these so-called “crimes against the state” charged against the prisoners is genocide, later amended to attempted genocide, under Article 269 of the Ethiopian Criminal Code. The prisoners are alleged to have attempted to kill or inflict serious bodily harm with the intent to destroy a nation, nationality, ethnic, racial, religious or political group.

They are also accused of committing such exotic crimes as “outrages against the Constitution, obstruction of the exercise of constitutional powers, armed rising or civil war, attack on the political or territorial integrity of the state and impairing the defensive power of the state.

### **The “Evidence”**

The chief prosecutor sought to prove attempted genocide with evidence of beatings causing bodily injury to individuals of a certain ethnic group, or causing fear to such persons.

At “trial”, the prosecutor piled on perjured testimony of victims of attempted genocide who claimed they were psychologically “traumatized” by ethnic insults and epithets, police officers who testified that they suffered mental anguish from seeing rioters flipping their middle fingers (the bird) at them, and suffering the outrage of being called God-awful names.

### **The Problem With “Crimes Against the State”**

The problem with the so-called crimes against the state charges is that they are manifestly absurd and untenable. Charging a 76 year old retired university professor, a former UN genocide prosecutor at the Rwanda tribunal and former UN Special Envoy in the Cameroon/Nigeria border dispute, one of the most distinguished women judges in Ethiopia and a whole bunch of academics and newspaper reporters and editors with genocide just does not make sense.

At least not in a world governed by reason, due process and the supremacy of the rule of law.

## **Denial of Due Process**

There in lies the second egregious government wrong.

Let me say point blank that to any fair-minded person or court, the outcome in the case against the prisoners of conscience should be a “no brainer”. The prosecution’s case is based entirely on lies, deceit, falsehoods, distortions, fraud libel and slander.

In its December, 2006 International Mission of Judicial Observation report on Ethiopia, the Observatory for the Protection of Human Rights Defenders concluded:

In view of its findings, the Observatory considers the charges to be arbitrary and disproportionate to the nature of the events that occurred in the aftermath of the 2005 elections. The Observatory expresses its deepest concern about the fairness of the trial, as it believes it to be a way to silence any political criticism of the current regime.

But due process violations can be demonstrated in each of the seven charges leveled against the prisoners of conscience.

Let’s just take one of those charges, the charge of “outrage against the constitution.” This offense involves the use of “violence, threats, conspiracy or other unlawful acts” with intent to “overthrow, modify or suspend the federal or state constitution.

The prosecution’s evidence against the Kality journalist-defendants for the commission of the crime of outrage against the constitution consists of published interviews with opposition leaders, and criticism of the government and the ruling party during the election process.

But the journalists are prosecuted for doing precisely what they are guaranteed under art. 29 (4) of the Constitution of Ethiopia, which states: “the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions.”

## **Due Process Violations Documented by Trial Observers**

The whole range of due process violations in the so-called trial of the Kality prisoner’s of conscience have been documented by international observers who monitored the proceedings, including representatives of various non-governmental organizations, officials of foreign embassies; and the U.S. States Department and the European Commission who submitted confidential reports on the deficiencies trial to regime leader Zenawi.

The Observatory for Protection of Human Rights Defenders, among others, has summarized the observations of the trial observers. Among the major breaches of due process include arrests without a court warrant, use of repeated dilatory tactics which has resulted in delays in court proceedings and denial of speedy trial rights, excessive delays in court rulings on motions, introduction of new evidence not previously provided in discovery to the defense or outright refusal to provide discovery to the defense, introduction of extraneous and irrelevant evidence, distortion of evidence by the prosecution in “extremely prejudicial manner”, prosecutorial tampering with the evidence, among others.

### **Zenawi’s Kangaroo Court**

So we have a classic kangaroo court passing judgment over the Kality prisoner’s of conscience.

Article 79 of the Constitution of Ethiopia talks about an independent judiciary composed of jurists unaffiliated with any political organizations or causes, and insulated from political pressure and external influences.

But the reality is Ethiopian judges, particularly in high profile cases, are mere political puppets stage managed by the political authorities.

The judges assigned to preside over the Kality matter were hand selected by the political authorities for their loyalty to the regime and its policies, and trustworthiness to deliver a guilty verdict.

So, the outcome of the so-called trial is pre-determined, and the so-called judges -- more accurately, political hacks in robes-- will bend the rules to deliver the preferred verdict of the ruling regime: Guilty on All Counts.

### **Zenawi’s Problems on February 19**

On February 19, 2007, in eleven days, the kangaroo court is expected to rule, pursuant to art. 141 of the Ethiopian Criminal Procedure, on the sufficiency of the prosecution’s evidence “which, if un rebutted would warrant conviction.” Simply stated, the three judges will rule to acquit the prisoners (dismiss charges) if they believed the prosecution has not met its burden of proving its case beyond a reasonable doubt.

### **Partial Acquittal**

But could they acquit, even partially?

I don’t think so, but would love to be proved wrong on this issue.

An acquittal would mean the government did not have a case from the beginning, and that the whole thing was politically motivated. An acquittal would confirm the prisoners' claim that the whole "trial" is merely one manifestation of the regime's systematic program of persecution and suppression of regime opponents.

Also, I would argue that Zenawi has learned a hard lesson from his experiences with the Inquiry Commission. He will not allow another humiliating embarrassment to himself or his regime.

But he could direct his judges to acquit the prisoners on some of the charges while sustaining the prosecution's case on the other charges; and order the defense to present its case on the remaining counts. This would allow him to claim that he has a real court instead of a real kangaroo court.

### **Withdraw All charges**

Art. 122 of the Ethiopian Criminal Procedure allows the prosecutor to withdraw charges before judgment at any stage of the proceeding with the permission of the court. This can be done on the prosecutor's own motion or at the "instructions of the government". Zenawi could direct Kamal to withdraw or suspend the charges during the pendency of the supposed negotiations between regime officials and the prisoners of conscience. But I doubt it.

### **Dismiss All Charges**

Could all of the charges against the prisoner's of conscience be dismissed? If the judges were to acquit on all charges, it would mean, first and foremost, a new day for Ethiopian justice.

It would mean the birth of an independent judiciary against all odds.

It would mean the end of political prosecutions in Ethiopia; and the end of perjury and suborners of perjury in the Ethiopian justice system.

It would be a New Millennium for the Ethiopian judicial system.

But, it is also very, very unlikely.

### **The \$64K Question**

The big question now is whether the prisoners of conscience should defend or in any way participate in the proceedings of the kangaroo court after February 19.

The fact of the matter is Zenawi and the world know that the Kality trial is a "tale full of sound and fury signifying nothing."

Zenawi is the object of condemnation and scorn by the whole world -- Ethiopians in Ethiopia and the Diaspora, international donors and human rights organizations and groups, the European Union, the U.N., the U.S. Congress and others.

Major international organizations and governments have condemned or criticized the so-called trial of the prisoners of conscience, and demanded their release.

But, the prisoners of conscience have already won.

They have won the hearts and minds of the vast majority of their countrymen and women. They have won their cause for human rights and democracy in the court of world opinion.

The European Parliament has passed two resolutions demanding the release of the political prisoners, as has the African Commission for Human and Peoples' Rights.

But they can't win in Zenawi's kangaroo court. And they don't need to win in Zenawi's kangaroo court.

Zenawi just needs to let them go! Zenawi, let my people go!!!

### **What Now?**

What now?

Another incontrovertible fact is that Zenawi has thumbed his nose at the Universal Declaration of Human Rights and all of the other human rights covenants.

He has shown his utter contempt for the rule of law and the mandates of his own constitution.

He has become an outlaw!

Indeed, he continues to brutally suppress opposition and dissent, and has assumed dictatorial powers.

We in the international human rights community must go beyond mere moral condemnation and demand compliance with international human rights law.

We must not let Zenawi kill, torture and imprison his way out of democracy.

So, I ask you today, to support H.R. 5680, also known as the Ethiopia Freedom, Democracy and Human Rights Act.

This bill, as its title suggests, aims to promote freedom, democracy and human rights by providing a system of incentives to Zenawi's government.

The bill demands first and foremost the release of the political prisoners.

It also provides for a comprehensive scheme to advance democracy and human rights in Ethiopia.

The bill provides \$20 million to the Ethiopian regime to undertake institutional capacity building, including technical assistance to train election workers, technical support for regional legislative bodies, assistance to develop an independent judiciary and professionalize the prosecutorial agencies, facilitate the growth of independent private journalism and privatization of the electronic media so that the government will no longer have a monopoly on radio, television and the internet, and allow the free operation of human rights defenders and organizations, among other things.

This past October, the bill passed the 50-member House International Relations Committee with a unanimous vote, only to be sabotaged from getting to the floor by none other than Dennis Hastert, the former Speaker of the House.

I am confident that H.R. 5680 will be reintroduced under a different bill number in Congress in the current session. I should like to think we have a much better chance of getting it passed this time around.

So, finally there is something we can all do to bring accountability to all of those who flagrantly violate the human rights of their people and thumb their noses at international law.

I respectfully ask you and the international human rights community to join those of us in the Ethiopian human rights community in advancing freedom, democracy and human rights in Ethiopia.

Thank you.