Of Lies, Promised Joy, "Shimagles", Pardons and Bananas¹ Alenayelu G. Mariam

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"If they will stop telling lies about us, I will stop telling the truth about them."

Note to the reader: The following analysis may appear be a bit long for the casual reader of internet literature. I am told that "people do not read long political analysis" (and perhaps even short ones as Prof. Ephraim Isaac has proven to us). But I have been overwhelmed, as many have been, by a systematic and clever disinformation campaign calculated to mislead and deceive us about recent events in Ethiopia. We must fight back lies with Truth, and I hope the reader will take the time to read and consider my defense of the Truth against an avalanche of lies and deception that have been unleashed against us recently.

Fall from Grace: From New Breed of African Leader to "Vicious Dictator"

Zenawi was once the darling of Tony Bliar and Bill Clinton. He was lionized as one of the "new breed of African leaders". There was boundless hope that Zenawi and a menagerie of other anointed African "new breeders" would lead the continent out of the darkness of authoritarian rule into the sunshine of freedom, democracy and human rights.

But something went terribly wrong with the Blair/Clinton "African Renaisance". In the poetic words of Robert Burns: "The best laid schemes of mice and men/Go often askew,/And leaves us nothing but grief and pain,/ For promised joy!"

The "promised joy" of democracy and freedom in Ethiopia in May, 2005 soon turned to "nothing but grief and pain". Like Gregor Samsa who changed from a man into a monstrous and repulsive insect in Kafka's <u>Metamorphosis</u>, Zenawi, the New Breed Leader had transformed from a "Benevolent" Democrat into a "Vicious Dictator"; and in the process spawned a new breed of evil in Ethiopia.

The story of Ethiopia today is a tragic tale of woe. Just in the past couple of weeks, some of the most influential world newspapers and leaders had this to say:

On July 18, 2007, a report in the Wall Street Journal concluded: "In just over a decade, Ethiopia went from military rule to a parliamentary system. But this democracy is on paper only."

In an editorial on July 21, the Washington Post described the embarrassing quandary of U.S. foreign policy in Ethiopia in terms of "the moral hazards of dealing with Ethiopia's Meles Zenawi."

¹ I dedicate this piece to the Kality prisoners of conscience, and all political prisoners in Ethiopia; and above all, to Truth, which has set some of them free, and no doubt, will set all political prisoners free in Ethiopia.

On July 22, the New York Times reported that Zenawi's regime was using "a starve-out-the-population strategy" to suppress rebellion in the Ogaden region. "If something isn't done on the diplomatic front soon, we're going to have a government-caused famine on our hands", the Times reported.

On August 5, The Guardian Unlimited, arguably the leading online newspaper in the world, reporting on Ethiopian intervention in Somalia stated:

"In less than two months, Ethiopia's military campaign has triggered a serious humanitarian crisis. Human Rights Watch has learned that dozens of civilians have been killed in what appears to be a deliberate effort to mete out collective punishment against a civilian population suspected of sympathizing with the rebels.... Now there are reliable reports that, as a result of Ethiopian military pressure inside Somalia, Somali insurgents including members the militant Islamist al-Shabaab have sought refuge in Ogaden where they could be regrouping. Thus instead of containing and calming the situation in Somalia, the actions of Ethiopia's forces there may well be exacerbating the conflict and regionalizing it."

On July 23, U.S. Congressman Christopher Smith who authored H.R. 4423 (Ethiopia Consolidation Act of 2005), and former Chariman of the House Subcommittee on Africa, in his mark-up statement on H.R. 2003 (Ethiopia Democracy and Accountability Act of 2007) described Zenawi as "a vicious dictator".

On August 2, 2007, 10 United States Senators sent a letter to Secretary Condoleeza Rice stating:

"For years, the State Department's own Human Rights Country Reports have cited unlawful killings and arbitrary detentions by Ethiopian security forces and police, most of which have never been investigated or resolved... We urge you to intensify pressure on the Ethiopian government to respect fundamental human rights norms even as it pursues critical security objectives."

Such has been the recent "life and times" of country that swelters under the rule of the most barbarous and monstrous regime in Africa in the past four decades.

Cranking up the International Propaganda Machine

Following the release of the Kality prisoners of conscience, Zenawi cranked up his propaganda machine in a desperate attempt to erase the shameful signature of his dictatorial regime -- the Kality prisoners of conscience -- and resurrect his battered international image, and reinvent himself. He has been doing everything he can to palm himself off as a consensus-seeker, compassionate peacemaker, upholder of the rule of law, a humble man who listens to the voices of the elders, and a crusader for peace and national

reconciliation. But a wolf in sheep's clothing is still a wolf; and the sheep can smell his stench from miles away.

In a statement on "Pardons Granted to Leaders of Violent Demonstrations", Zenawi's ambassador to the U.S., Samuel Assefa said:

"This decision [the release of the Kality prisoners] was the result of an independent process conducted in accordance with the democratic Constitution and laws of Ethiopia. It was carried out by Ethiopians, through our own national institutions, and without the need for international intervention."

Assefa also announced to a startled world an extraordinary discovery by his government: "This decision is an important opportunity for healing based on democratic values and the rule of law. It underscores the commitment of the Ethiopian government to human rights, the rule of law and the advancement of democracy." (Emphasis added.) Eureka! Gobez! Finally, after 16 years Zenawi's regime has discovered human rights, democratic values and the rule of law!

Of the Four Big Lies

There is a mystifying magic in boldly lying, that is telling the Big Lie, repeatedly and with a straight face, and with confidence and authority. One of history's greatest liars, Adolf Hitler, taught his commanders that the bigger the lie they tell the people, the more believable it became. "People will believe a big lie sooner than a little one; and if you repeat it frequently enough, people will sooner or later believe the big lie."

Following the release of the prisoners of conscience, Zenawi cranked up the propaganda machine and rolled out the Big Lies. For the past two weeks or so, it's been all about spin control:

"The prisoners were released in the interest of national reconciliation, consensus-building, dialogue and compromise. They admitted criminal wrongdoing and begged for pardon. The courts performed their judicial functions properly in the prosecution of the prisoners, and their conviction was just and according to law. We resolved our problems using 'our own national institutions, and without the need for international intervention.' The pardon was made possible by 'shimagles' (elders) who worked tirelessly in the interest of national reconciliation, and to put an end to the ongoing strife and instability in the country. H.R. 2003 is an effort by the United States to interfere in the internal affairs of Ethiopia, and 'enslave' and 'colonize' it."

It is really hard to listen to this crock of nonsense, to substitute for a better word! For the past 16 years, the same wise guy has been telling us that tyranny is democracy, oppression is freedom, falsehood is truth, innocence is guilt, injustice is fairness, immorality is righteousness, ignorance is enlightenment, villainy is goodness, and as we shall see below, "mistakes" are pardonable "crimes against the state".

And so Zenawi's spin in the international and local media about peace, reconciliation, harmony, "shimagles" and all of the other good stuff keeps on spinning, but unsurprisingly, it has managed to grab very little traction. Gandhi was right: "An error does not become truth by reason of multiplied propagation, nor does truth become error because nobody sees it." A lie does not become truth merely because it is repeated by an army of spin-meisters, or lobbyists, or a wolf in sheep's clothing. And all of us have a moral duty to shine the bright light of Truth on the Big Lies...

Big Lie #1:

The Kality Prisoners of Conscience Were Convicted of Crimes Against the State by a Competent Court of Law.

The "court" that "adjudicated" the case of the Kality prisoners of conscience is to courts what military music is to music. No one with an elementary appreciation of music would regard the street parade music of a military brass band as "real" music. By the same token, no one familiar with principles of elementary justice would regard the proceedings of the Kality "court" as anything but macabre dance and theatre in a Kangaroo Kourt.

As I have demonstrated in a previous analysis, the Kality prisoners of conscience were victims of an orchestrated low-tech legal lynching by a pseudo-court whose principal aim was to neutralize opposition leaders and stamp out all political opposition and dissent in Ethiopia. Zenawi used his judicial stooges as hatchet men to systematically and craftily cripple and gradually eliminate his opposition, and damn near succeed, but for the deafening crescendo of international condemnation and censure.

Zenawi would like to have us believe now that the release of the prisoners "was carried out by Ethiopians, through our own national institutions, and without the need for international intervention." Really? Why did he take members of the House Foreign Affairs Committee hostage and threatened to prolong the detention of the political prisoners if H.R. 2003 was marked-up? (Just curious: Why did it take the exalted "shimagles" (elders) 20 months to get the prisoners released? If it took them 20 months to get 38 prisoners released, how many centuries will it take for them to free 50,000 political prisoners?)

I will not dwell much on the obvious. The Kality prisoners of conscience committed no crimes against the state or anybody else. I invite my reader to check out my 32-page analysis of the ludicrous and asinine Kality Kangaroo Kourt proceedings at: http://almariamforthedefense.blogspot.com/2006/12/kestone-cops-prosecutors-and-judges-in.html http://www.addisvoice.com/article/keystone.pdf

Big Lie #2:

The Kality Prisoners of Conscience Were Pardoned After They Admitted Criminal Wrongdoing for Acts of Treason, Inciting Violence and Attempt to Overthrow the Government.

The assertion that the prisoners of conscience were pardoned after admitting criminal wrongdoing is <u>patently false</u>. They never admitted criminal wrongdoing for anything.

In their terse letter request to Zenawi, they: 1) acknowledged their attempt to change the constitutionally authorized governmental bodies was a mistake, 2) took individual and collective responsibility for those mistakes, 3) confirmed that they will not engage in similar (mistaken) activities in the future, 4) affirmed their acceptance of the lawful authority of governmental bodies, and 5) asked the forgiveness (ye-kirta [[[[[]]]]) of the government and people of Ethiopia for the mistakes they had committed. In the short letter, the word "mistake" (seh-tet [[[[[[[]]]]) is mentioned 4 times, obviously to underscore the fact that they were making no admissions of any criminal wrongdoing.

It should be underscored that for their mistakes (not crimes), they asked "forgiveness". They never asked for a pardon (meh-ret [[[[]]]). "Forgiveness" is an act of absolution, a way of excusing a mistake. "Pardon" is a political act that mitigates criminal culpability and abates the punishment.

There are a number of incontrovertible legal defects in the alleged admission of criminal wrongdoing. First, if the prisoners' letter request is deemed to be the equivalent of a confession of criminal culpability, as is suggested by Zenawi and company, then the admitted "mistakes" are the legal equivalents of crimes; and the prisoners were convicted and pardoned for making "mistakes". We can obtain this result from mere semantic analysis of Art. 229 (Pardons) of the Ethiopian Criminal Code, which authorizes pardons only for "criminals" and criminal wrongdoing, and not for making mistakes. (See discussion below.)

This presents an interesting legal questions: Whether Zenawi or his president could legally pardon a "mistake" (however egregious) under their law? And if they did pardon someone for a "mistake", whether that pardon has any legal effect or consequence? And if the answer to the preceding two questions is negative, whether they have indeed acted *ultra vires* (beyond the scope of their legal authority) and violated their own constitution. (I will leave these somewhat esoteric questions of law for other Ethiopian lawyers and legal scholars to sort out.)

Second, if we accept, for the sake of argument that "mistakes are crimes", then the Kality prisoners of conscience could never have voluntarily admitted these "mistakes-are-crimes" crimes because they are factually innocent. After a thorough and exhaustive investigation, the Inquiry Commission, established by Zenawi and his parliament, concluded that none of the killings or destruction of property in the post-2005 election was caused directly or indirectly by any acts or omissions of the prisoners of conscience.

As Commission Chair Judge Frehiwot Samuel stated in his Congressional presentation:

"[T]there was no property destroyed by the protestors. There was not a single protester who was armed with a gun or a hand grenade (as reported by the government-controlled media that some of the protesters were armed with guns and bombs). The Commission members agreed that the shots fired by government forces were not to disperse the crowd of protesters but to kill by targeting the head and chest of the protester. For this reason, it was clear that the law was violated, and government forces had used excessive force."

In light of the Commission's findings, is it possible to "pardon" persons who are factually innocent of criminal wrongdoing?

Third, assuming the prisoners of conscience were guilty of "mistakes-as-crimes", the letter statement they signed collectively could not possibly be competent proof of legal admission of criminal wrongdoing because it lacks any indicia of reliability. There is little doubt that they signed the letter under "oppression", a legal term which indicates the existence of various coercive circumstances at the time of the admission or signing of the incriminatory statement, such as "torture, inhuman or degrading treatment, intimidation, inducements, prolonged confinement, deprivation, the use of or threat of violence and burdensome and harsh exercise of authority".

No one can argue with a straight face that the prisoners signed the statement of admission (letter of "forgiveness" to Zenawi) of mistakes freely, voluntarily and without physical or mental duress. It was unquestionably an involuntary act on their part.

The preposterous nature of the this so-called admission of wrongdoing could best be understood in light of the universal rule of confessions in civilized justice systems, which requires the prosecution (government) to prove proving beyond a reasonable doubt that "oppressive" conditions did NOT exist at the time of the signing or admission of the incriminating statement by a suspect or defendant. Can Zenawi prove beyond a reasonable doubt that the letter admission signed by the 38 prisoners was without legal "oppression" or other heavy-handed means? Suffice it to say that Ato Hailu Shawul dismissed the whole charade shortly after he left the gates of Kality prison stating that there was no reason to apologize (or admit wrongdoing) for "normal political protest".

Fourth, there is a discrepancy in the application of the correct legal remedy. The issue of clemency for criminal offenses is addressed under two successive sections of the Ethiopian Criminal Code, namely Art. 229 (pardon) and 230 (amnesty). Assuming that the prisoners of conscience had genuinely admitted guilt for whatever offenses, the proper instrument of clemency should have been amnesty under Article 230, instead of pardon under Article 229. Simple semantic analysis of the code sections shows an article 229 pardon is appropriate in individual criminal cases, as clearly indicated in subsection (2). Amnesty under Article 230, subsection (1) is appropriate for "certain crimes or certain classes of criminals".

The Kality prisoners were allegedly a certain class of "political criminals" who had committed "certain (political) crimes" against the state. These "criminals" took individual and collective responsibility for their "crimes" on a single document. They should have been granted amnesty. But it appears neither Zenawi nor his lawyers seem to have the legal sophistication to discern the constructional differences between Articles 229 and 230. The foregoing obtains regardless of other superseding legislative acts.

On a technical point, the amnesty provision of Art. 230 would be meaningless and superfluously redundant if it meant exactly the same thing as Article 229. Simply stated, there is (ought to be) a legal distinction between pardon (Art. 229) and amnesty (Art. 230). This would be consistent with the principle of in *pari materia*, a basic canon of statutory construction in the laws of all civilized governments.

Fifth, since the legal basis for the pardon is the prisoners' admission of mistakes, as demonstrated above, then the entire set of charges, the 20-month prosecution and conviction are illegal and unconstitutional because there are no such crimes as "mistake to overthrow government, commit treason or incite violence" under the Criminal Code.

Sixth, and most importantly, the "evidence" of criminal wrongdoing presented in the Kangaroo Kourt against the prisoners of conscience consisted of perjured testimony, fabricated evidence, doctored audio and video tapes and documents. It can not be the basis for a just and lawful conviction, nor can that "evidence" be the basis for a legally valid confession and the factual predicate for the grant of "pardon". (See my previous analysis of the so-called evidence against the Kality defendants fabricated in the "EPDRF Dirty Tricks Department" at:

http://almariamforthedefense.blogspot.com/2006/12/kestone-cops-prosecutors-and-judges-in.html http://www.addisvoice.com/article/keystone.pdf

Big Lie #3: The Kality Prisoners of Conscience Were Released Because of Mediation and Intervention by Elders (shimagles), and Not International Pressure.

Shuttle "shimagle" diplomat extraordinaire and chairman of the "shimagle" committee, Prof. Ephraim Isaac, in an interview posted online stated, "when problems arise among people, the 'shimagles' of the community join up to resolve the problems." The magical intervention of the "shimagles" in the release of the prisoners presumably offers a classic example of the application of this traditional principle and practice.

Prof. Isaac's theory of elderly intervention in societal and political disputes in Ethiopia not-so-strangely echoes the nauseating "party line" incantation of Zenawi and his officialdom. (More on "shimagles" later.) But there is something fundamentally fallacious with the assertion that the release of the Kality prisoners was the handiwork of the "shimagles".

Anyone familiar with elementary principles of logic knows Aristotle's law of contradiction, which simply states that contradictory statements cannot both at the same time be true. In other words, the color red can not be red and blue simultaneously. Or a tree can not be a tree and be a tree at the same time.

There are two mutually exclusive propositions on the question of the release of the Kality prisoners: Proposition 1 articulated by Zenawi is that the Kality prisoners were lawfully convicted by a court, further admitted their guilt, and petitioned and received a pardon which resulted in their release.

Proposition 2 derives from Prof. Isaac's assertions that the release of the Kality prisoners was the result of the diligent and skilful negotiation by his "shimagle" group which employed traditional mediation methods and techniques to secure their release. Proposition 1 and proposition 2 can not be true at the same time.

Under proposition 1, the necessary and sufficient condition(s) for the release of the prisoners by executive clemency (pardon) is either 1) a return of a guilty verdict by the Kourt and imposition of sentence, and/or 2) a guilty verdict combined with an admission of guilt by the prisoners of conscience, and a pardon. Assuming for the sake of argument that either of the foregoing conditions is true, the release of the prisoners by pardon was purely an act of executive clemency motivated by a desire to serve the greater public good, and perhaps temper justice with mercy.

Zenawi explained in his press conference that the pardon should signify "there is no sense of revenge and vendetta on the part of the government as long as people recognize that the rules of the game are to be respected by everyone, [and] everyone is given a fair chance to participate". In other words, the pardon was an act of compassion and charity intended to overcome bitterness and discord, and serve as a signal of a return to a normal political process.

Curiously, however, he reported to his parliament a few weeks ago that the matter of the Kality prisoners was properly before the court, and the government could not interfere in the adjudicatory process out of respect for the independence of the judiciary. He unequivocally asserted that the prisoners' matter was not in the hands of mediators or outside intermeddlers, but the courts. He subsequently reinforced this view by affirming in public statements that the conviction of the prisoners was valid under the country's constitutions and laws. Anyway you look at it, if one follows Zenawi's argument and analysis, the "pardon" granted the prisoners was a mere exercise of constitutional and legal authority in the interest of the greater public good. Or is it?

Under proposition 2, Prof. Isaac claims that the release of the prisoners was the product of "shimagle" intervention. In his statement following the release of the Kality prisoners, he went to great lengths to describe how "shimagles" have traditionally resolved social and political problems. He pontificated greatly about the great Ethiopian traditions

of "respect, patience, tolerance, courtesy and love" which uniquely facilitate dispute resolution. He boldly implied the technologically advanced Western societies lacked these values (which in my view is pure blather, and malignantly demeaning of Western culture and tradition).

If the "shimagles" are indeed the emancipators of the prisoners, then the court process Zenawi clucked about to his parliamentarians and the world has no real meaning. It was all window-dressing. In other words, to use lawyers' lingo, the case was settled out of court. There is no need to pretend that a judicial process was used to determine guilt, grant pardon, release the prisoners and all of the other nonsense.

The prisoners of conscience were released because of intense American pressure (read between the diplomatic phraseology in Ambassador Yamamoto's public statements) and, undoubtedly, Congressional pressure emanating from H.R. 2003 and the intense work of Diaspora Ethiopians. There is absolutely no question about this fact! Of course, the indirect pressure applied by human rights organizations, the condemnation by European governments and exposés of gross human rights abuses by international media outlets played a critical role in the release the prisoners.

Big Lie#4: H.R. 2003 is intended to bring slavery and colonialism to Ethiopia, enable America to punish Ethiopia, create strife in the country that will set brother against brother.

Prof. Isaac stated in a radio interview: "I never read H.R. 2003, but I was told that it was intended to bring slavery and colonialism to Ethiopia, enable America to punish Ethiopia, create strife in the country that will set brother against brother." (VOA Interview, Amharic Program, 7/30/2007) Such a monumental stroke of ignorance could not be expected from a one-time Harvard professor. No reasonable person, and certainly not a respected professor, would characterize a piece of legislation in such outrageous terms unless he had carefully studied it and has proof to support the claim.

Incredibly, Prof. Isaac without reading the bill and familiarizing himself with its provisions was spearheading opposition to it in Congress. He had satisfied himself with official gossip, street rumor, idle talk and hearsay about the bill. In so doing, Prof. Isaac had become the archetype, the personification of Goethe's admonition that "There is nothing more frightful than ignorance in action."

To his credit, however, Prof. Isaac literally changed his mind overnight after reading the bill. He publicly admitted that the bill had "very many good ideas in it." He has my admiration for having the courage to freely admit his mistakes and speak the truth. Though one may find Prof. Isaac's comments on H.R. 2003 thoughtless, it echoes the official line of the regime. Without resorting to hyperbolic words like "slavery" and "colonialism", the regime representatives and sympathizers have argued the bill offensively encroaches upon Ethiopian sovereignty, and improperly interferes in its internal affairs.

This simple-minded and deceptive argument on sovereignty and the allegedly ruinous consequences of H.R. 2003 may have great appeal among those who have not read the bill, or are willfully ignorant of its provisions. But anyone who is marginally familiar with the bill knows the government's arguments are embarrassingly phony and laughable. No reasonable person could read the bill and come to that conclusion.

As the Coalition for H.R. 2003 has enumerated time and again, the aim of H.R. 2003 in Ethiopia is to:

- 1) facilitate the unconditional release of ALL political prisoners of conscience.
- 2) institute democratic reforms and accountability.
- 3) help restore the democratic rights of the people.
- 4) strengthen human rights and civic society organizations.
- 5) establish permanent human rights monitoring and reporting processes.
- 6) increase the independence of the judiciary.
- 7) create and support a judicial monitoring process, with special focus on unwarranted government intervention in strictly judicial matters.
- 8) prosecute human rights abusers, torturers and murderers, and bring to justice the killers of 193 innocent men, women and children and those who wounded 763 others in the post-2005 election period.
- 9) improve election procedures and insuring fraud free elections.
- 10) remove press censorship and ensure full freedom of the press.
- 11) repeal specific restrictive press laws.
- 12) establish a program to strengthen private media in Ethiopia.
- 13) offer training programs for democratic participation.
- 14) limit the use of U.S. security assistance to peacekeeping and counter-terrorism and NOT against the civilian population.
- 15) foster economic development.
- 16) help establish a program to provide legal support for political prisoners and prisoners of conscience.
- provide assistance to strengthen local, regional, and national parliaments and governments, political parties, and civil society groups.
- strengthen training for political parties in the areas of organization building and campaign management;
- 19) provide training for civil society groups in election monitoring.
- 20) promote dispute resolution by means of dialogue, negotiations and compromise, and
- professionalize the National Election Board to help it address certain issues, e.g. issues delimitation of constituencies, voter and candidate registration, political party registration, voting irregularities and challenges, etc.,

Critical Provision of H.R. 2003: Waiver and Certification

The one central fact about H.R. 2003 that needs to be underscored and understood by everyone is that the only time the law will apply to suspend U.S. aid to Ethiopia is if the regime fails to meet specific human rights provisions, or does not make adequate general progress in their pursuit and achievement (e.g. release of all political prisoners, establishment and operation of an independent judiciary, prosecution of human rights abusers, operation of media without censorship, establishment of an independent national elections board, free operation of human rights organizations, etc.,). The law is very lenient and accommodating. If the regime fails to comply, the President of the United States could waive application of the law completely, regardless of the human rights situation in the country, if he deems it appropriate in the national interest of the United States. In other words, the bill has built-in grace period for compliance with its provisions.

H.R. 2003 is a Mirror Image of the Ethiopian "Constitution"

H.R. 2003 in reality is a mirror image of the Ethiopian "constitution". Article 13, section 2 provides: "The fundamental rights and freedoms enumerated in this Chapter shall be interpreted in a manner consistent with the Universal Declaration of Human Rights, international human rights covenants and conventions ratified by Ethiopia." Articles 14-32 enumerate a panoply of constitutional rights and liberties.

The Universal Declaration of Human (UDHR) Rights provides, among other things, that "Everyone has the right to life, liberty and security of person." (Art. 3) "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. (Art. 5) All are equal before the law and are entitled without any discrimination to equal protection of the law. (Art. 7.) "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." (Art. 8.) "No one shall be subjected to arbitrary arrest, detention or exile." (Art. 9.) "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." (Art. 10) "Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense." (Art. 11.) No one shall be arbitrarily deprived of his property. (Art. 17.) If H.R. 2003 interferes with Ethiopia's sovereignty, then so do the UDHR and the Ethiopian "Constitution".

In all candor, if Zenawi's regime truly believes the bill is harmful to Ethiopia, it has a duty to come out in public and demonstrate how the harm specifically or generally. In fact, I challenge the regime to publish an official document that proves the outrageous and silly assertions that H.R. 2003 will bring "slavery" and "colonialism" to Ethiopia, or that it interferes with its sovereignty. I doubt they will accept the challenge because the bill is NOT harmful to Ethiopia in any way; indeed it is very helpful. No doubt, they will continue to throw up a lot of dust to confuse the public without ever producing proof that

could be publicly scrutinized. The bottom line on all of this "sovereignty", "slavery", "colonialism" issue is: "Put up, or shut up!"

Of Pardons

The letter request asking "forgiveness" (not pardon) was signed by 38 prisoners of conscience and sent to Zenawi. As shown above, (see Big Lie #2) the signatories make certain acknowledgements about "mistakes" they have made, and ask "forgiveness".

To understand the institution of "pardon" in a balanced context, it may be instructive to consider the American experience. In the U.S., the President has unlimited constitutionally-granted pardon powers over federal (not state) crimes (not civil judgments). Recently, for instance, President Bush pardoned Scooter Libby, Vice President Cheney's chief of staff, following his conviction for perjury and obstruction of justice. He explained, "I respect the jury's verdict. But I have concluded that the prison sentence given to Mr. Libby is excessive." In Libby's case, Bush sought to "temper justice with compassion".

Historically, American presidents have exercised clemency powers in various circumstances. President George Washington granted amnesty to those who participated in the Whiskey Rebellion (uprising of angry farmers resisting liquor tax) in 1794. Presidents Abraham Lincoln and Andrew Johnson issued amnesty to those involved with the Confederates (Southern rebels that sought to secede [break away] from the United States of America) during the American Civil War in the 1860s. President Gerald R. Ford granted amnesty to Vietnam-era draft resisters in the mid-1970s. But he pardoned President Richard Nixon, who resigned following the Watergate scandal, for all offenses he "has committed or may have committed" while in office. The American experience shows the distinctive application of pardons and amnesty.

Of Shimagles (Elders) and Snake Oil Salesmen

The idea of (shimagles) elders getting involved in conflict and dispute resolution impresses me as wholesome and desirable. Even in advanced societies, the trend today is increasingly away from hard-nosed litigation to mediation, arbitration and other forms of non-adversarial dispute resolution. Before we opt to take the "shimagle" road, we must know what it is and where it could possibly take us.

In my view, the current articulation of the "shimagle" institution by Prof. Isaac is incoherent, superficial and contemptuously exclusionary of non-Ethiopians (almost to the point of being xenophobic); at best, it is hopelessly romantic and anachronistic. He exaggerates the value of indigenous Ethiopian traditions and lifestyles and illegitimatizes Western culture and technology. He contrives an exotic morally superior Ethiopian tradition of dispute resolution, and condescendingly patronizes Western society and traditions.

His notions of the "shimagle" institution and process seem to be rather simplistic and folkloric. He appears to suggest that there is a body of conventional Ethiopian wisdom in the "shimagle" institution in which sagacious, judicious, insightful, prudent, tactful and understanding community figures angelically intervene to resolve disputes, which could not be resolved by modern constitutional, legal or other political means.

In one of his seminal pieces on the institution of the elders "Only An 'Elder's Council' Can Lead the Way," (Harvard African Law Association, February 11, 2006), Prof. Isaac wrote: "The road that could lead us to lasting peace and democracy is in our own hands, the Ethiopian peoples, not in the hands of mediators from outside. Outside mediators can be well-meaning but often add confusion to conflict in the process." He cited a prime example of the negative role of foreigners:

"Competing foreign negotiators from every corner of the world converged on the respective capitals of Ethiopia and Eritrea trying to solve what they said to be a border dispute [1998-2000]. What have they achieved?... The result was what amounted to an African World War... In the recent clash between the Ethiopian Government and the opposition groups, several international organizations such as the European Union and other foreign governments rushed in to solve the problems. The result has again been a dismal failure."

Prof. Isaac explained that "councils of trusted native elders" are "superior modes" to Western-style mediation because

"elders profoundly understand the human dimension or the psychology and history, not just the ideology, of the combatants or political party contestants. Elders feel personally the blood of their own kin on both sides that will flow if they fail. The warring peoples or political parties generally consider them venerable moral guides (Saint Kristos Samra would agree and witness the conciliation between the 19th century rulers Yohannes and Menelik.) When all things are considered, it is with the native local elders that in the end the warring parties have to live as fellow citizens/neighbors."

Many Ethiopians have conceptual and practical problems with Prof. Isaac's formulation and articulation of the "shimagle" institution, and his recent operation of the "shimgelena" process. While I bear no personal malice towards Prof. Isaac (as I have never met or spoken with him except for the radio interviews over the past week), it is undeniable that his role and intentions in the "shimgelena" process is viewed with considerable suspicion by many Ethiopians.

Here are some of the reasons for his lack of credibility: First, he is viewed as a snake oil salesman peddling the "shimagle" institution inside and outside Ethiopia as a special remedy for all kinds of political and social ills and conflicts. Regrettably, to many Ethiopians in the U.S., he conjures up the image of that old stock character in Western

movies who travels as a "doctor" from town to town selling some cure-all medicine (snake oil) with marketing hype and pseudo-scientific evidence to back up his claims.

Second, a great many Ethiopians who have followed the professor's efforts believe the whole "shimgelena" idea at this stage of the political debate smacks of "pulling a rabbit out of a hat". They feel Zenawi backed himself into a corner with the Kality prisoners of conscience and needed a graceful way out; so he pulled the "shimgelena" thing out of the hat and saddled Prof. Isaac with it. They doubt Zenawi's sincerity in the "shimagle" institution, and suspect that he is merely using it to deflect the enormous international pressure that has been exerted against him lately, and buy more time to pull out more tricks from his hat.

Third, neither Prof. Isaac nor the other "shimagles" are viewed as neutral, impartial and fair mediators. They are regarded, at best, as Zenawi's unwitting and hapless stooges who perform on the domestic and international stage like puppets on a string. They do and say what they are told. They have no institutional independence or integrity; and Prof. Isaac is viewed as Zenawi's lackey and "go-fetch-it guy".

Fourth, many Ethiopians believe the "shimgelena" efforts are disingenuous because there are more efficacious mechanisms readily available to resolve the political and legal disputes, if Zenawi is really interested in serious dispute resolution. For instance, they question why the country's "constitution" and criminal laws and procedure are not being applied fairly to resolve the issue of the prisoners before jumping on the "shimagle" bandwagon.

Fifth, there is a widely-shared belief that Zenawi is trying to use the "shimagle" institution to distract and disarm his opponents, and hoodwink the international community into thinking that there are special homespun mysterious remedies to the political and social problems of Ethiopians that Westerners do not know about. As Prof. Isaac stated, there are traditional Ethiopian methods that are "superior modes" of dispute resolution. (Of course, this pure nonsense. Ethiopians have no monopoly on some secret wisdom for dispute resolution that no other society has, least of all Westerners.)

Sixth, many Ethiopians believe that Zenawi is trying to hoodwink the people and opposition elements by outwardly trying to appear traditional and reasonable, and someone who listens and follows the voices of the elders. They believe he does not give a hoot about "shimagles" or peaceful resolution of disputes. Listen to every word he says in his public statements, they say. His lips drip with words of malice and scorn for his opposition, bravado for his followers and deceit and deception for the international community. He will clutch on to the "shimagle" business like a man holds to a branch in a flooding river, they say. It is ironic that not so long ago Zenawi rejected the "shimgelina" institution as applicable only to disputes between a husband and wife, and not fit for national dispute resolution.

Seventh, many Ethiopians believe the "shimagle" process as initiated and conducted by Prof. Isaac is doomed to failure because it is not genuine, and only a window-dressing version of the real "shimagle" institution. In a real "shimagle" process, they say, all parties get a fair hearing, are given opportunities to explain their grievances and positions, respond to and ask questions, come to terms on the basis of a clear understanding and agreement on the issues, ask forgiveness of each other and seek to formulate a balanced and even-handed resolution. Such is not the view shared of the "shimgelena" process undertaken and led by Prof. Isaac.

Real "Shimgelena" Has Its Place: Elected or Appointed "Shimagles"?

I do not claim to know much about the formal institution of "shimgelena" in the Ethiopian context. There does not appear to be much scholarship on the subject, at least I have not been able to identify any (and I would appreciate receiving a bibliography if anyone is willing to share). I have more experience in the hard-nosed adversarial system of the American legal system where lawyers battle in the courtroom before an impartial fact-finder and obtain desirable results for their clients. But I have had some experience in mediation and arbitration in various simple and complex civil matters. I suspect there are some basic similarities between the American mediation and Ethiopian "shimgelena" institutions.

Let me also add that I have had limited opportunities to observe the application of the "shimgelena" process at the family, neighborhood, church and community levels. I believe it could be an effective dispute resolution mechanism provided it operates on certain universal mediation principles such as neutrality, impartiality, nonpartisanship, independence, spirit of conciliation, honesty, fairness, directness, sincerity, integrity, truthfulness, even-handedness, balance, candor, equitableness, open-mindedness and so on.

I thought it was rather quaint and amusing for Prof. Isaac to roll out 19th Century Ethiopian kings to demonstrate his notions of the effectiveness of the "shimagle" institution. Ironically, not long ago, Ethiopian kings were vilified as oppressive, militaristic and feudal leaders who forcefully forged the modern Ethiopian state through successive wars. Today, they are being lionized as peacemakers in whose faint footsteps we are urged to walk. Yohannes, Menelik and Haile Selassie must be rolling in their graves!

In my view, a modernized version of the "shimagle" institution would reflect the broad diversity of the Ethiopian mosaic. For instance, I strongly believe that there is a vital need for a substantial number of women (instead of tokens) to be included among the "shimagles". The traditional "shimagle" institution that Prof. Isaac talks about is really a bastion of male chauvinism where women may be seen, but not heard. I do not recall any instances in the public statements of Prof. Isaac where women (queens or otherwise) have played a decisive "shimgelena" role in Ethiopian history.

In my experience, whether is in the family, the neighborhood or the larger community, women generally tend to be the peace-makers. They have a natural impulse for conciliation, harmony and peacemaking. At the risk of sounding sexist, when men act from "machismo", women reason from compassion and empathy. Right or wrong, as a generalization, I have a lot of confidence in the uncanny ability of women to peacefully resolve disputes. Suffice it to say that if women were represented in social institution proportional to their numbers in society, we would not be in the mess that we are in today. But we will leave that for another day.

The same argument can be made for increased participation of youth in any "shimagle" institution. Though the word "shimagle" indicates the attainment of "elderly" status, but I do not think the institution is necessarily reflective of chronological age as it is indicative of the wisdom of the ages. I have known many young people of wisdom, and learned a great deal from them. But there is a compelling case to be made for the increased representation of young people in such an institution.

First, young people have fresh ideas. This may come as a surprise to members of the older generation like myself, but the vast majority of the young Ethiopians I have been fortunate enough to interact with are dynamos bursting with ideas. Second, they have critical minds, unburdened by old and tired ideas. Third, they ask sharp and relevant questions, and will not accept evasive answers in "wax and gold." Fourth, they are direct in their approaches and cut to the chase. Their real wisdom comes from not accepting the opaque and even discredited wisdom of the older generation; and from rigorously applying logical analysis and critical thinking. They are resolute in rejecting the worn out dogmas of their elders. That is why I think young people can be excellent "shimagles". Let's include them, and in large numbers in future "shimagle" institutions.

Now, to the forgotten people of God. I don't see a lot of poor people (the wretched of the earth) among the "shimagles" that have been assembled by Prof. Isaac. Why is that? Have they no wisdom? Are the people with wisdom and understanding only college professors, lawyers, sports figures, businessmen and religious and political leaders? Have poor people nothing to contribute in resolving disputes in society.

In Psalms 37: 11-15 is written, "But the meek shall inherit the earth; and shall delight themselves in the abundance of peace...but the Lord laughs at the wicked, for he knows their day is coming. The wicked have drawn out the sword, and have bent their bow, to cast down the poor and needy, and to slay such as be of upright conversation. Their sword shall enter into their own heart, and their bows shall be broken."

It is hypocritical to talk about a "shimgelena" institution that does not include poor people. They must be represented equally in all "shimagle" forums.

So, what kind of a "shimagle" institution is needed? I am not really sure at this time. I am, however, very sure that "shimagles" should not be appointed or self-appointed. I am suspicious of "shimagles" who are tools for one side or another, or are guided by their own agenda and self-interests. Such "shimagles" have every incentive to distort the process to obtain politically convenient results, instead of pursuing the truth and seeking a lasting solution.

I venture to say that if we were to institutionalize a real "shimagle" institution" in Ethiopia, we might be able to make the most significant and qualitative improvement on the institution of democracy in 2500 years. Imagine a new form of democracy in Ethiopia based on the "shimagle" institution where women, young people and the poor participate equally in their self-government and actively participate to resolve disputes at the local, regional and national disputes! Wouldn't that be wonderful? Just imagine that!

"Go and Gather the Elders"

Prof. Isaac, a practicing Jew, and a man once obsessed with the potential consequences of H.R 2003 to usher "slavery" and "colonialism" in Ethiopia disserves us by not teaching us about the true message and tradition of the original elders appointed by God to help take the tribes of Israel out of slavery in Egypt.

In Exodus 3:16-17 is written:

"Go and gather the elders of Israel together and say to them, 'The Lord, the God of your fathers, the God of Abraham, of Isaac, and of Jacob, has appeared to me, saying, "I have observed you and what has been done to you in Egypt, and I promise that I will bring you up out of the affliction of Egypt to the land of the Canaanites, a land flowing with milk and honey."

In Numbers 11:16-17, the Lord said to Moses:

"Gather for me seventy men of the elders of Israel, whom you know to be the elders of the people and officers over them, and bring them to the tent of meeting, and let them take their stand there with you. And I will come down and talk with you there. And I will take some of the Spirit that is on you and put it on them, and they shall bear the burden of the people with you, so that you may not bear it yourself alone."

Prof. Ephriam should have taught us that the true calling of "shimagles" is to "bear the burden of the people" and to lead them to a "land flowing with milk and honey." Sadly, he has proven to us that the role of the elders is to be a messenger, an emissary, an errand boy and flag bearer for Pharaoh who holds the people in bondage.

Let the Elders of Ethiopia "bear the burden of the people". Like Moses and the "seventy men of the elders of Israel", let them take the Ethiopian people out of 16 years of darkness into a bright millennium overflowing with freedom, democracy and human rights.

"A Way Out!"

In December, 2006, in my piece "Keystone Cops, Judges and Prosecutors" (see citation above), I wrote the following on my conception of global elders as potential peacemakers in Ethiopia. I quote the entire text below:

Episode 9: "A Way Out! The New Ethiopian Century!"

One of the greatest political leaders of the 20th Century, Nelson (Madiba) Mandela, despite 27 years of imprisonment, was able to heal the deep wounds inflicted on South African society by the inhuman system of apartheid. In his inaugural speech in 1994, Madiba said:

The time for the healing of the wounds has come. The moment to bridge the chasms that divide us has come. The time to build is upon us..., we enter into a covenant that we shall build the society in which all South Africans, both black and white, will be able to walk tall, without any fear in their hearts, assured of their inalienable right to human dignity - a rainbow nation at peace with itself and the world.

No one knows more than the great Madiba what it means to be a political prisoner, or has more experience dealing with prison wardens. During the 1970s, Madiba refused the offer of a release from prison if he'd only recognize Transkei and live out his life there. In the 1980s, he rejected P.W. Botha's offer of freedom if he agreed to renounce violence. In his memorable words, he said "prisoners can not make contracts." He cautioned that while it is possible to begin negotiations when one party is in prison, it impossible to conclude an agreement when the very condition of release depends on the outcome of the negotiation. Only free people can agree to agree. But shortly after his release, on February 11, 1990, Madiba agreed to the suspension of armed struggle, a strategic principle that the African Congress had held for decades.

No one understands better than Madiba what is negotiable and what is not when the ruling regime has political prisoners under its thumb. But Madiba was able to reach an agreement with de Klerk as South Africa was seething with fear, political violence, and divisions within both the white and black communities. On the first day of free voting for all South Africans, Madiba said: "Today is like no other before it. Voting in our first free and fair election has begun. Today marks the dawn of our freedom."

May 15, 2005, was a day like no other in Ethiopia's 3000-year history. The Ethiopian people voted by the tens of millions -- 26 million to be sure -- and unambiguously resolved: "15 years is enough! We now choose the opposition." May 15, 2005, was a "day like no other before it". It was the dawn of freedom in Ethiopia; and yes, Dr. Berhanu was absolutely right in titling his fascinating and must-read book Dawn of Freedom in Ethiopia. The irony of history is that Mandela was able

to use democratic elections to free South Africa from decades of apartheid rule and the clutches of white supremacists. Zenawi was able to take May 15, 2005 -- a day like no other in Ethiopian history -- and plunge Ethiopia into an era of darkness and oppression.

At his presidential inauguration on May 10, 1994 (almost 11 years to the week of the May 2005 Ethiopian elections), Madiba pleaded for unity and reconciliation of his people: "We understand there is no easy road to freedom. We must therefore act together as a united people, for national reconciliation, for nation building, for the birth of a new world."

Zenawi, follow in Madiba's footpath. Instead of sending college professors, consular officials and politicians to talk to the Kality political prisoners, take the bold step of asking Nelson Mandela to mediate their release. He has the experience, the stature and moral authority to bring about an understanding between yourself and the prisoners. If he can bring black and white South Africans together after apartheid, he could help us all achieve national reconciliation in the new Ethiopian Millennium.

There is also Archbishop Desmond Tutu who could mediate. The Archbishop brought all South Africans together using his ubuntu (community and humaness) theology, which "seeks to restore the oppressor's humanity by releasing and enabling the oppressed to see their oppressors as peers under God." Archbishop Tutu has taught that human beings are defined not by their race, ethnicity, nationality, region, political affiliation, language, etc., but by their createdness in God's image (imago Die), which brings value and dignity to all people. He says, "we can be human only in ... community, in koinonia, in peace."

When the Archbishop delivered the Report of the Truth and Reconciliation Commission, he said: "We...have looked the beast in the eye. We.... have come to terms with our horrendous past and it will no longer keep us hostage. We will cast off its shackles and, holding hands together, black and white will stride into the future, the glorious future God holds out before us - we who are the Rainbow people of God - and looking at our past we will commit ourselves..." He reminded his people: "Dear fellow South Africans, accept this Report as a way, an indispensable way to healing. Let the waters of healing flow from Pretoria today as they flowed from the altar in Ezekiel's vision to cleanse our land, its people, and to bring unity and reconciliation." (Emphasis in bold added.)

A Genuine Model of Elders ("Shimagles"): Mandela's Elders and the Global Village

On July 19, 2007, Nelson Mandela (affectionately known as Madiba) on the occasion of his 89th birthday announced the formation of a global elderly body consisting of former heads of state, Nobel laureates, leading entrepreneurs and philanthropists who will "contribute their wisdom, independent leadership and integrity to tackle some of the world's toughest problems". Among them were Archbishop Desmond Tutu, philanthropist

Graca Machel, former United Nations chief Kofi Annan, former US President Jimmy Carter, former Irish Prime Minister Mary Robinson and Bangladeshi social banker (microlending pioneer) Muhammad Yunus. Madiba's ideas about mediatory Elders is based on the notion that we live in a burgeoning global village, but we have no global elders. It is an idea which blends the values and methods of traditional societies with the positivist (scientific) tradition of the West.

Madiba explained: "This group can speak freely and boldly, working both publicly and behind the scenes on whatever actions need to be taken. Together we will work to support courage where there is fear, foster agreement where there is conflict, and inspire hope where there is despair."

Global Elders Chair Tutu noted, "Despite all of the ghastliness that is around, human beings are made for goodness. The ones who ought to be held in high regard are not the ones who are militarily powerful, nor even economically prosperous. They are the ones who have a commitment to try and make the world a better place."

President Carter added, "I see The Elders as a small but independent group that may fill an existing void in the world community. Almost impervious to the consequences of outside criticism, the group will conduct unrestrained analyses of important and complex issues and share our ideas with the general public and with others who might take action to resolve problems." Machel expanded, "The Elders can play a role in amplifying the voices of the millions of citizens of the world."

I respectfully disagree with Prof. Isaac on the role of so-called outsiders to play a constructive peacemaking role in Ethiopia. Global village elders can play important mediatory roles, particularly as conceptualized by the Great Madiba himself. I still believe Madiba, or Archbishop Tutu or President Clinton, PM Robinson, Kofi Anan and the others could help us get out of the impasse and predicament we find ourselves in.

Of Bananas (and Coffee)

In his news conference on the release of the political prisoners, Zenawi said: "The Ethiopian government isn't willing and is unable to be run like a banana republic from Capitol Hill." Congressman Donald Payne aptly responded, "The U.S. Congress is not in the business of running banana republics. American taxpayers are providing hundreds of millions of dollars every year to help Ethiopia in education, health care, and humanitarian assistance." I think Payne is saying, "A dog should not bite the hand that feeds it."

But Zenawi's insolent and leaden attempt at sarcasm invites a more basic and rather droll question: Is Zenawi's Ethiopia a "Banana Republic"? To answer this question, we must understand what a "Banana Republic" is. The phrase was used originally coined to describe Honduras, and now applies generically to refer to the poorer economically backward Latin (Central) American countries (including Guatemala, Panama, Nicaragua,

El Salvador, etc.,) that rely on a single cash crop, namely bananas, and are ruled by corrupt governments.

"Banana Republics" share certain common characteristics. Politically, they are ruled by a small self-selected, wealthy and corrupt clique. The government is often dominated by a dictatorial military junta or civilians dictators supported by a brutal military. Human rights of citizens are grossly abused by civilian government and military officials with impunity. Arbitrary arrests of citizens, torture, imprisonment and disappearances of political opponents and dissidents are common. The civilian population is held in check by intimidation and fear, elections are rigged and stolen, independent press institutions are stamped out, corruption is the lifeblood of government, competing political parties are banned and their leaders killed, imprisoned or exiled, and U.S. military and security assistance is used to suppress the civilian population in the name of fighting communist insurgents (terrorists?), and kangaroo courts and prosecutors administer justice on behalf of the ruling class. Leaders of these "Banana Republics" have an exaggerated sense of self-importance and often try to project themselves as defenders of democracy and protectors of the rule of law.

Economically, "Banana Republics" have extraordinary income inequalities (poor people) with a tiny ruling class of extraordinary wealth sitting atop a large poor and uneducated peasant population squeezing out a bare survival on the land. They have an agrarian economy which wobbles on the price fluctuations of a single cash crop (bananas), and dismally poor infrastructure. They have low capital spending and rely on foreign aid to cover budget deficits and a weak currency. The most profitable sectors of the economy are in the hands of regime cronies, and government public contracts are siphoned off by the ruling elites and their parasitical supporters that are in bed with the regimes in power.

All "Banana Republics" receive the largest proportion of their economic and military aid from the United States, and rarely bite the hand that feeds them!

Now, back to the big question: Is Zenawi's Ethiopia a "Banana Republic"? Ok, Ok, let me rephrase the question: "Is Zenawi's Ethiopia a "Coffee Republic"?

Of Politicians, Diapers and Democracy

The old saying is true: "Politicians are like diapers. They both need changing regularly and for the same reason."

In olden times, kings were considered earthly gods accountable only to a higher god. Along came something called democracy and changed the divine formula. The essential meaning of Democracy was simplified for all humans to understand: "The voice of the people is the voice of God." (Vox populi, vox Dei.)

In May, 2005, these Voices of God in Ethiopia said, "We have chosen our own leaders. We have hired a brand new set of servants. We have given them a mandate to govern and lead us wisely, sustain and guide us through thick and thin. For 16 years, we have been sick and tired of corruption, mismanagement and gross abuses of our civil liberties and human rights. Today, we are just sick and tired of being sick and tired."

So the people of Ethiopia today want the simple things that all free people in the world want. They want to speak freely, elect their own leaders and hold them accountable. They want due process of law. They want judges who administer justice, not factional politicians in judicial robes. They want to live under the rule of law, not be by the will of one man. They want to have a government of the majority, not a minority government of the wealthy that rules the majority of poor people. They want leaders elected by the people, to serve ALL of the people, not dictators who rule like kings without publicly wearing a crown. Just the simple things all free people want!

Let me conclude by quoting Adlai Stevenson, "I offer my opponents a bargain: if they will stop telling lies about us, I will stop telling the truth about them." I offer Zenawi the same bargain!

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