

**“If the differences between us the prisoners and EPRDF are in the ways
we stand for the wellbeing and interests of our country,
then such differences can be resolved easily.”**

**Yacob Haile-Mariam
Kaliti Prison, Addis Ababa, Ethiopia
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**English Summary of the Open Letter in Amharic
(Unauthorized Translation)**

**Open Letter to the People of Ethiopia and the Honorable Judges
By Dr. Yacob Haile-Mariam**

Under the Case File “Engineer Hailu Shawel and Others,” we have been charged with serious and heinous crimes by the prosecutor of the Ethiopian government. We could have used our own legal expertise and experiences, or could have appointed the best lawyers available in the country. But we chose instead not to defend ourselves against the fabricated and baseless allegations.

On the first day when the allegations were presented to the court, Professor Mesfin Wolde-Mariam, speaking on behalf of all the accused, had explained that the positions taken by the government and by the accused were political, and needed to be resolved through dialogue and mutual understanding, and not through court litigation. Similarly, national and international human rights advocates and many democratic governments had expressed the view that the case was a political matter, which should be resolved through negotiations. They had also appealed, and continue to appeal, for the unconditional release of the prisoners. Many prominent Ethiopians and civic organizations have also tried to convince the government to settle the matter amicably in the spirit of reconciliation. The response of the EPRDF government to all these appeals from Ethiopians and the international community has been a complete disregard.

Cognizant of the political nature of the situation and convinced about the absence of any legal basis for the allegations, we have decided not to defend ourselves in order to avoid any opening for our accusers to mislead the people of Ethiopia about the truth and our fundamental rights.

I am writing this open letter, just a few weeks before the court is expected to give its verdict, not because I want to give credence to the so-called arguments presented by the government prosecutor. Nor is it to plead with the court or with anybody else. The court is fully aware that in any criminal case, the closing arguments of the accused are not limited to final legal statements, analyses of legal articles and materials presented by the prosecutor. They go far beyond, and can cover a much wider territory.

In our country, cases were established at different times against many patriots who wanted to change the prevailing system; and sad verdicts were given. The arbitrary accusations and judgments against Belay Zeleke, Mengistu Neway, Tadesse Biru and Alemu Kitessa can illustrate this point.

The forthcoming verdict against us will be different and of a much bigger magnitude than all past political trials. It can have an unprecedented positive or negative impact on the judicial system, the economy, peace, development and democracy in the country. Hence, I have no doubt that the

people of Ethiopia and the whole world will be watching attentively the verdict that will be given by the court in Ethiopia in a few weeks.

Dear fellow Ethiopians:

Who are the accused under the Case File “Engineer Hailu Shawel and Others?” Is it really a case against Engineer Hailu Shawel? Or the renowned human rights advocate Professor Mesfin Wolde Mariam? Or Dr. Berhanu Nega? Or Judge Birtukan Mideksa? Or the rest of us? No, it is justice itself which is on trial under this File. It is democracy itself which is on trial. If the court passes a guilty verdict on us, and we are sentenced to prison or sent to death row, then it will be the peace and the faith that the people of Ethiopia have in the justice system that will be the real casualties. The court is in a serious dilemma, as it is on trial itself. Through its verdict either justice will prevail or tyranny can continue unabated. Hate or love will reign. Reconciliation and peace will be established or endless conflicts will continue.

The people of Ethiopia know very well our vision and commitments. Our aspiration has been to do our share in helping bring a genuine democratic system, lasting peace, and freedom from crushing poverty and underdevelopment to the well-deserving but hitherto deprived people of Ethiopia. We have no other purpose. If standing for justice, peace and democracy is considered a crime, we are prepared to accept the court’s verdict whether it is imprisonment or death penalty.

Our resolve to bring justice, peace, unity and democracy to our country will have no bounds. We will be guilty only when we betray our fellow citizens and give priority to our selfish interests against the interests of the country, or when we break our oath of commitment to the people of Ethiopia about justice, peace, democracy and development.

We, the accused members of the Coalition for Unity and Democracy Party (CUDP), particularly those of us who are older, did not join the Party to seek power and to acquire personal wealth as it is the case in some places. Most of us are accomplished professionals and have sufficient income for our livelihood. The younger members of the Party including the civic leaders who are imprisoned with us are also fully committed individuals ready to sacrifice the privileges of youth and pay a heavy price for the wellbeing and development of their country. The young journalists also imprisoned with us are the real democracy heroes who have advanced the people’s fundamental rights to free speech.

Here it is worthwhile to recall a statement made by General Mengistu Neway, (who attempted to overthrow the Haile Selassie government) during his court trial 46 years ago. When the General was asked to explain the reasons for his attempted coup d’état he replied: *“If I wanted, I could have changed cars on a daily basis. I could drink selected French Champagne everyday. When thousands of people would queue-up to enter the grounds of the Imperial Palace I had unfettered access to the Emperor. I chose to forfeit these privileges and opportunities and decided to free my people and country from darkness, poverty and underdevelopment. I had no other ambition.”*

Today we the imprisoned members of Kinijit (CUDP) are proud to echo the General’s words in the courtroom. However, there is a fundamental difference between the General and us. He wanted to change the government by force. We want to bring change legally through the ballot box, in a free, fair, transparent and peaceful democratic process. Those of us who are falsely accused of genocide and treason, envisioned to liberate our country from its grinding underdevelopment and pave the way for lasting peace, security, democracy and prosperity, by working hand-in-hand with the people of Ethiopia, including our jailers.

Life is always short, and is even shorter for those of us who are older. It is our burning desire to contribute to saving our peace-thirsty country from the man-made and natural disasters, and pave the way to peace, justice and democracy. We want to leave behind a peaceful, just, democratic and harmonious Ethiopia so that our children and the future generations can lead a better and more peaceful life. This is our commitment and only ambition.

Dear fellow Ethiopians and Honorable Judges:

We recall vividly the bloody political history of our country and the sacrifices paid by thousands of Ethiopians in the past. We know also that leaders like Emperor Yohannes, Emperor Tewodros, Lij Eyassu, Emperor Haile Selassie, Princess Zeweditu, Prime Minister Aklilu Habtewold, Prime Minister Endalkachew Mekonnen, Generals Aman Andom, and Teferi Benti, were not lucky enough to die a natural death. Their loved ones were denied the right to even grieve and honor them with proper burial. Emperor Menelik's death still remains a mystery. Colonel Mengistu Haile Mariam's fate is yet unknown. We are aware of the volatile and dangerous nature of Ethiopian politics. Nevertheless, we chose not to remain bystanders when the country was descending rapidly towards unprecedented and multifaceted dangers. Our objectives are straightforward and clear. They include the following:

- To reinforce the culture of respect for the authority of the people, and work towards national reconciliation and inclusiveness through popular participation
- To break the vicious cycle of transfer of power through brute force, and to institute genuine culture of democracy and good governance
- To change the ugly image of Ethiopia painted worldwide as a beggar nation; and to advance the country forward as a self-reliant and vibrant society by capitalizing on its rich potential
- To create educational and employment opportunities for young Ethiopians so that they will not be victims of the prevailing sufferings and humiliations as migrant workers, in foreign countries, in intolerable conditions. In this regard, an African observer once wrote that Ethiopia has become Africa's shame. We want to change this disgraceful situation, and make Ethiopia, once again, the pride of Africa and the world.
- To ensure that the atrocities committed in the past will never happen again in our country. We have seen too many state-sponsored crimes and arbitrary imprisonments and humiliations in the past. For example, during the "Red Terror" in the district of Cheha, Gurage Zone of Ethiopia, a desperate mother saw a crowd of helpless people stampeding on her son's headless body under the watch of government militias. We owe it to all Ethiopian mothers that their sons and daughters will never again become victims of tyranny and state crimes.
- To build a strong and peaceful Ethiopia that is capable of defending its sovereignty, national interests and territorial integrity while at the same time contributing significantly to regional and world peace, security and development.

Dear fellow Ethiopians and Honorable Judges:

In Third World countries, particularly in Africa, it is common practice for ruling parties to accuse opposition party leaders of treason on fabricated charges just to stay in power without any regard to justice and human rights. The pitiful and trumped up charges against us are no exception. What shocks and saddens me most is the totally baseless genocide charge labeled against us. I have no word to describe my anger and sorrow about this cruel and shameful charge. In my professional life, especially as prosecutor at the United Nations International Tribunal in Rwanda, I have witnessed what genocide really signifies. My recollections from that trial are too gruesome to

narrate. I will simply mention a few of the evidences to illustrate the gravity of the genocide charges against us by the government prosecutor:

- In a certain locality in Rwanda, Tutsi mothers were asked to bring their children to a public gathering and ordered to dig graves. Then they were forced to throw their children into the graves one by one and bury them alive. As the mothers were covering the live bodies, the children were screaming frantically and asking their mothers to rescue them. But the mothers continued to fill the graves with soil until there was dead silence. It was at this time that many of the mothers fainted. The poor mothers obeyed the orders of the criminals in the hope of saving the lives of their remaining children.
- Over twenty-five thousand Tutsis were told that they were Ethiopians and needed to go back to their country of origin. To start the “journey” they were thrown with their hands tied down into a river flowing northwards. Ironically, for some time the river was called Ethiopian Airlines. As a prosecutor, I had to present the video of the testimonies about this most horrible act to the Tribunal. In a locality called Murabi over three thousand Tutsi men, women and children were massacred with machetes. Their bodies were kept in a school as documentary evidence of history.
- In a matter of 90 days close to one million Tutsi elders and children were exterminated with machetes. A few lucky ones were able to pay the murderers to kill them with bullets, possibly with less pain.
- In Asia two million Cambodians were exterminated for their ethnic identity and political affiliation.
- Hitler exterminated six million Jews because of their ethnic identity and religious belief.
- Similarly the Turks are reported to have exterminated no less than one million Armenians.

The above are a few examples which illustrate the gravity of genocide charges. We, the accused in Ethiopia are charged of committing genocide as defined by the prosecutor of the Ethiopian government – a charge that has absolutely nothing to do with genocide.

When Ethiopians demonstrated to demand respect for their democratic rights and against vote rigging, incidents may have occurred including the partial burning of a resident’s house. To my understanding this happened not because of the person’s ethnic identity. Throughout their long history, Ethiopians have lived harmoniously together without any regard to ethnic, racial and religious differences.

We, the accused decided not to defend ourselves at the court hearings because we knew that we did not commit the fabricated and baseless crimes labeled against us by the government. Yet, the prosecutor pressed with the charges of treason and genocide. When we requested to be released on bail, he warned us to know that committing treason was the highest crime – worse than genocide. For us the motive was clear.

Genocide is the worst crime that can be committed anywhere and anytime. When six million Jews were exterminated there was no vocabulary to describe Hitler’s crime. The then Prime Minister of England, Winston Churchill, called it the *Nameless Crime*. It was at this time that a researcher named Lumpkin, a Jew who emigrated from Austria to USA, coined the Greek term ‘*Geno*’ which means race/ethnicity, and the Latin term ‘*Cide*’ which means mass killing. By combining the two words he created the word “*Genocide*.” In Amharic (Ethiopian language), it means “*Zer Matifat*.”

Since the meaning of genocide was not well understood at the time, even the Nazis were not accused of this crime. To date only three accusations of genocide have been established globally, two of which are in Ethiopia. The first one is on Mengistu Haile Mariam's regime; the second is on us under the Case File "Hailu Shawel and Others." The third is in Rwanda. Even Saddam Hussein who killed thousands of his citizens was not accused of genocide. A genocide crime is, by its very nature, a crime against humanity because when a group of people are exterminated on account of their ethnic identity or religious belief, their demise is a loss to humanity. As such, the criminals of such a heinous crime can be legally prosecuted in any country.

Dear fellow Ethiopians:

Yes, the democratic process we started with you has been obstructed and delayed. It is also true that the illegal imprisonment imposed on us troubles us immensely. What is most disturbing and painful, however, is the engraving of our names by the government in a genocide file. The government prosecutor has attempted to portray us as enemies of our beloved people who are from the northern part of Ethiopia. How can Ms Serkalem Fasil who was six months pregnant at the time of her arrest (and later delivered her baby while in prison), or the shy Ms Seble Tadesse, or Dawit Kebede (a Tigrian) would dare to exterminate his own Tigrian brothers and sisters? Did the prosecutor really see any merit in the case or was he ordered to file the charges? It is impossible to imagine the incalculable damage inflicted by the government prosecutor upon the name and long history of Ethiopia.

Those of us who are in the legal profession have the ethical obligation to uphold justice and to stand for the fundamental rights of Ethiopians and humanity at large. We have a professional responsibility to stand for the rights of our people. Maintaining the highest ethical standards for the legal profession cannot and must not be compromised. Legal professionals who are ethical would never sell their conscience to the highest bidder for money or power. Trying to establish a genocide case against "Hailu Shawel and Others" is a mockery of the massacres of the millions of Jews, Tutsis, Cambodians, and Armenians.

Throughout the court proceedings, the prosecutor has not been able to present an iota of tangible evidence against us, the accused. Although we are innocent until proven guilty, from day one we were labeled criminals by our accusers not only in the court but also in the media.

The prosecutor tried to use the same so-called material evidence presented against one defendant, and wanted it to apply equally to the rest of the accused. It seems that this strategy is based on the Nuremberg Charter which decreed that an accusation made against a Nazi Party member de facto made all party members criminals by association. During World War II the Nazi Party and other Nazi organizations were made illegal and criminal organizations. Members of these organizations were declared illegal just because of their membership. This nullifies the established legal doctrine which asserts that crime is individual and that no crime works retroactively. Precisely for these reasons the Nuremberg Charter has been totally rejected by international legal experts. Referring to our case, if Yacob Haile Mariam, a member of CUDP is criminal, then the evidence presented against him can be used to implicate other CUD members and supporters. As the majority of voting-age Ethiopians are members or supporters of CUD, the prosecutor may be accusing millions of Ethiopians of treason and genocide, by association. From the legal and common sense perspective this is totally incomprehensible.

The honorable judges are faced with an enormous responsibility. When a private army officer makes a mistake he is accountable to his commanding officer; and a civil servant is answerable to his supervisor. To whom is a judge accountable? First, he/she is accountable to his/her conscience

and must accept full responsibility for the actions. Then, he or she is answerable to his/her own conscience, children, the people of Ethiopia, the civilized world, and to history.

With the on-going trial for treason and genocide the peace-loving and law-abiding people of Ethiopia are also being tried. Would they be expected to feel unaffected if there is a miscarriage of justice? With the verdict the people will prove whether today there is justice in the country that they can respect and abide by. Throughout their history Ethiopians have attached the highest respect for law and order. They also understand fully the consequences of any miscarriage of justice, and arbitrary verdicts on innocent citizens for crimes they did not commit.

In commenting about the Nuremberg Trial, the famous prosecutor, Robert Jackson, was known to have said that the world yields no respect to courts that are merely organized to convict. This would also be the feeling of people in Ethiopia towards the legal system if courts are merely organized to convict.

Dear fellow Ethiopians and Honorable Judges:

As you very well know, our country is facing a myriad of unprecedented political, social and economic problems. The solution to these complex problems lies in our ability to negotiate and resolve our differences through dialogue and mutual understanding. There will be no winner when divisiveness prevails over unity and harmony. Without peaceful and amicable negotiations of existing major differences the biggest loser will be our Ethiopia. Therefore, it is of paramount importance that we all start afresh to work together as brothers and sisters under the protection of the law, and with justice for all. If the differences between us the prisoners and EPRDF are in the ways we stand for the wellbeing and interests of our country, then such differences can be resolved easily. Failing to address our differences wisely and urgently can only intensify and prolong our collective suffering.

Make no mistake about it. We, the accused are not worried about the type of sentencing that we will be receiving in the coming weeks. Our deepest concern is about the possible irreparable harm that can be inflicted on the justice system of our country, and the consequences on peace, security, democracy and development in Ethiopia and beyond.

We know very well that at least history will absolve us from the fabricated and baseless charges. When the future generations study this pending case against us they will either be proud or ashamed of it. The choice rests with the honorable judges.

As leaders of the Coalition for Unity and Democracy Party, and as responsible citizens, we have tried our best to reach a negotiated settlement with EPRDF in order to resolve the unprecedented political crisis facing our country. None of us has attempted to take the life of a single person leave alone exterminating an entire ethnic population in Ethiopia. The honorable judges, the prosecutor, EPRDF, the people of Ethiopia and the international community all know our innocence. If the government prosecutor still believes the contrary, then let him present his material evidence to an independent and impartial court of law. No one is above the law, neither the accused nor EPRDF.

Long live Ethiopia with flourishing justice, peace and democracy.

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