

To the People of Ethiopia

To Members of the International Community who Stand in Support of the Struggle for Human Rights and Democracy

We members of the leadership of the Coalition for Unity and Democracy Party (CUDP) and the independent press, currently incarcerated on trumped up charges in connection with the crisis that followed the May 2005 election in Ethiopia, have reached the decision not to engage in the litigation process in the charges collectively brought against us as one case, "Hailu Shawul et al.", as the charges are pure fabrications that have no legal merit. On January 4, 2006 our attempt to address our decision to the Second Circuit of the Federal High Court, which is responsible for hearing this case, failed as the Court, denied us the opportunity.

We therefore are making available the entire content of our statement to the people of Ethiopia and to all people who support the struggle for human rights, and democracy.

Date: January 4, 2006

To The Second Circuit Federal High Court

Addis Ababa:

Subject: Statement on our decision not to participate in the Court's proceedings:

It is to be recalled that we, members of the leadership of the CUDP and the independent press are currently held in custody, having been accused on seven charges compiled as one case, "Hailu Shawul et. al".

After seriously examining the charges brought against us, the judicial process on the case since our incarceration and the quality of the judicial system in our country, while considering the paramount importance of the need for lasting peace and democracy in our country, we hereby present our rebuttal to the charges brought against us as follows.

1. On The Charges Being Politically Motivated:

The charges brought against us by the prosecutor emanate from the political crisis that followed the May 15 National Election which was marred by serious irregularities and fraud. The crisis is essentially caused by the refusal of the government to hold good faith negotiations with the opposition regarding the resolution of conflicting views that surround the results of the election. The

opposition and the government have on several occasions met in an attempt to resolve this impasse. However, the ruling party's absolute refusal to demonstrate respect for the democratic process, and its intense and stubborn determination to use sheer force to trample upon and quell outstanding political issues and human rights concerns have resulted in this crisis.

The charges brought against us are basically attempts to use the court as a tool to remove the independent press and the political opponents from the political scene. There has been no criminal activity for which there can be judicial resolution and therefore no reason to present this to a court of law. The following points justify these assertions.

- 1.1. There have been repeated interaction and dialogue between the CUDP and the government since November 1, 2005. CUDP has issued numerous press releases concerning the contentions with respect to the people's vote and also its strategies to get justice and redress against government transgressions. Both the independent press and government run media have disseminated the information contained in the press releases and communications.

The methods of struggle that the CUDP employed to achieve its goals from the government are established methods known well to the world as measures of civilized struggle, embraced in the entire civilized world, for working in pursuit of democratic goals and ideals.

The 8 point preconditions submitted by CUDP to the government are basically rights enshrined in the constitution, each one being fundamental to the establishment of a democratic society and recognized as such by international standards. Contrary to the Prosecutor's assertion, these are not elements that can be utilized for dismantling the constitutional order.

The CUDP is facing these trumped up charges only because it stands for democracy and refused to yield to intimidations and threats of the use of force by the EPRDF. The determination and perseverance of the CUDP is perceived as a threat to the prevailing lawlessness of the system. Therefore, these charges against us are fabricated with the intention of punishing us for our determination and insistence on the respect of the rule of law as the only way to resolve the impasse.

Long before our incarceration and the false charges were brought against us, Prime Minister Meles Zenawi has on various occasions and in public statements has told us that if we did not join Parliament, we would be facing four choices. He told us unequivocally that our choices are 1) to go

into exile 2) to pick up arms and engage in armed struggle 3) to submit and live quietly or 4) to languish in detention for the rest of our lives. The Prime Minister has already given the verdict long before our unjust incarceration. That if we did not enter Parliament, we would be charged with a criminal offense punishable by life in prison, that we would be denied bail and that we would indeed languish in detention are decisions that had already been passed by the Prime Minister.

In other words, the Prime Minister is the prosecutor, the witness and the judge and has publicly given the verdict long before our incarceration. Therefore, it was obvious right from the outset that the charges against us are politically motivated and the prosecutor is only executing an order given to him by the Prime Minister. This is the reason why the Prosecutor, who made the choice to betray his own profession and risk facing the judgment of history and future generations has completely forgone the procedure for drawing up of legal charges while compiling the fabricated charges against us.

Our resolve not to leave our country and go into exile or engage in violent armed struggle, and once they realized we will not live without liberty and freedom and submit to their will they resorted to the brazenly tyrannical dictatorship and threw us to jail.

- 1.2. The CUD has made all its organizational decisions as a unitary organization and a single political entity. The attempt to falsely charge one part of the leadership while leaving out the other is a deliberate ploy used to politically divide and weaken our party. This attempt is a clear illustration of the politically motivated attempt to weaken and attack our party rather than achieve any political resolution to this problem that has no legal basis.
- 1.3. Some of us among the charged have been approached after the crisis in October 2005 in an attempt to persuade us and for us to persuade other MP elects to join the parliament. Since we have not agreed to comply, and since we have continued to pursue our party's demands of justice, democracy and good governance, we now stand accused. That we have been given the alternative to comply, or face imprisonment together with our compatriots, that we have subsequently held fast to our principle and therefore been met with this consequence is further demonstration of the political motivation of the charges.
- 1.4. Some among us are charged because of our refusal to be false witnesses against our colleagues. This is evidence that our accusers are engaged in a massive and coordinated process of recruiting and coaching false witnesses against us.

- 1.5. Those of us who were arrested from East Gojjam are charged with inciting the disturbances of November 1, 2005 and November 2, 2005 in spite of the fact that we had already been in custody since September 22, 2005. This is only because of our refusal to accept the various bribes, or succumb to the threats by the government and to work against the CUD and cease our activism in the organization.
- 1.6. Those of us in the independent press who are collectively charged as a result of press products. Basically, all press products are forums for freely expressing thought and therefore have no criminal content.

Even if one were to say that crimes have been committed, charges should have been brought in accordance with the relevant press laws of the country. The charges of treason and genocide brought against members of the independent press have no legal merit. Moreover, even if one is to argue that a crime is committed through the publication of news or a report on a newspaper, the person to be charged would be the individual who published the report or the news item. The incarceration of the entire staff of a newspaper company including the proprietors, publishers, editors, deputy editors and reporters is a gross violation of the basic tenets of the law.

This proves beyond doubt the fact that the charges brought against members of the free press is politically motivated and aimed purely at stifling and muzzling free expression of ideas and the rights of the public to know.

2. That no charges worthy of criminal prosecution have been lodged
 - 2.1. These charges were basically associated with the stealing of votes and the subsequent problems that marred the May 2005 elections. These false accusations are basically aimed at liquidating political opposition and the stifling free expression of ideas while weakening and destroying the independent press and forcing members of the press and of the opposition to languish in custody. The procedural rules by which criminal charges can be brought against a defendant are clearly stipulated in the Criminal Code Nos.111, 112 and 113. None of the charges brought against us fulfils these stipulations and is simply designed to please the ruling party.

The charges presented as criminal offenses do not legally constitute a criminal offense. They do not fulfill the requirements for **legal ingredients**

and **material ingredients**. They do not demonstrate the established cause and effect relationship. They do not unequivocally state the time and place of the crime. They simply accuse all of the charged wholesale with no regard for the basic stipulations in the Criminal Code. The charges do not describe each individual's **criminal participation**, and do not describe who, how, when, and where a crime was committed. **None of these exist**. These are charges that are written to please the rulers who then want to arrest and incarcerate

- 2.2. Documents that are presented as evidence such as the charters of formation of the Party, bylaws of the Party, election manifestoes and documents relating to debating points during the election campaign are submitted in a manner contrary to the stipulations of the Criminal Code.

Members of the police and security officials have entered our residences and offices and were able to plant all kinds of bogus evidence. A clear evidence of this is the case of detainees who have been apprehended in East Gojjam. Upon their apprehension, the detainees were forced to have their pictures and video taken next to a pile of guns and bullets brought out of a warehouse and placed in front of them to make it look like the ammunition belongs to the defendants.

Our offices were also treated as facilities of an enemy occupied after a battle. Like enemy property they were broken into and were brought under the control of the army and the security forces. Properties and documents of our organizations were collected and removed like war booty. We have no idea as to how and under what circumstances these materials and documents can be used as evidence to prove our guilt. We believe, for example, that documents saved in our computers can be altered in ways that help the prosecution prove his false charges.

3. ON the Utilization of the Judicial Process as a Tool by the Ruling Party.

We have been repeatedly brought before the court since our apprehension; initially for bail hearings, and currently on substantive matters. The universal standard of the law is that in the court of law both the accuser and the accused have equal rights. Yet, in this court, this standard is violated in favor of the accuser so that the accused can be victimized. Rather than hearing us, the Court, in concert with the Prosecutor, has been instrumental in consistently violating our rights. The court has failed to follow up and/or examine the police's refusal to carry out its orders. Rather than enforce them, the Court has revoked prior orders in order to accommodate the Prosecutor's and the Police's belligerence.

This Court, rather than being the protector of the accused, has chosen on the contrary, to become an instrument of further oppression.

This Court is the instrument by which bail can be denied, the opponents of the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) and those independent papers that have refused to conform can be destroyed under legal cover.

Had we been given opportunity in front of an impartial Court as we should be, we would have been able to find a legal forum to promote our struggle and to expose the crimes of the ruling party. Our experience of this court, both as observers and first hand victims of injustice, has shown us that we are not going to get justice.

Although we believe that the Election Board and the Courts are not independent, we have always respected the rule of law. The CUD, out of respect for the rule of law, has tried to bring cases of election fraud to the court. For example, the court has once ruled to stop the illegal announcement of "provisional" election results through the media in accordance with CUD's request.

On the other hand, a CUD appeal for the repeal of the Prime Minister's emergency declaration and suspension of civil rights on Election Day was summarily dismissed without so much as a summons either to the complainant (CUD) or to the defendant (the Prime Minister)

All these decisions are clear indications that the courts in Ethiopia are instruments of the Executive rather than the administrators of justice based on facts and evidence.

We the accused have therefore resolved not to be a part of a judicial process that stands as the extension of the unjust rule of the Executive using the Courts, law enforcement and the Prosecution as its personal instrument of oppression and rule the country through terror and mass killing. To engage in this process in this Court is tantamount to being accomplices with the oppressor in a grand mockery of justice. We have therefore concluded that the current proceedings are totally meaningless as matters of the law and have decided not to participate in the process.

Fellow Ethiopian Citizens who are Living Both Inside and Outside Ethiopia:

Political and Civic Organizations Who Believe Ethiopia's Case is a Test of the Principles for Which You Stand:

Members of the International Community and Individuals Who Support Ethiopia's Quest for Good Governance, Democracy and the Rule of Law as well as the Freedom of the Press:

We thank you all who stood with us in these critical times in our history and call on you once again to stand with us until the burning questions of the Ethiopian people are answered in full.

We also call to the ruling EPRDF to stop its repression and rule by terror motivated by blind hatred and arrogance, killing and terrorizing people en masse,. We implore the ruling party realize that these methods of rule are counterproductive even for itself, and once again extend our call for it to return to the table to engage in dialogue to resolve the current impasse.

We extend our call to all peace loving members of the EPRDF who do not choose to sell out the sense of purpose and the sacrifice you and your compatriots have made in return for a short lived power. As we believe that you are a part of the struggle for democracy, we implore you to have the courage and step forward so that you may demonstrate that you are not party to the effort of the leaders of your organization to throw the country into total chaos. This crisis being pushed by your leaders is anathema to both the ideals of democracy we all pursue as good citizens as well as the country we leave for our children.

Fellow Ethiopians!!

We the leaders, members and supporters of CUDP both inside and outside of prison will continue our peaceful struggle . Therefore, we respectfully call on you to stand with us and continue mobilizing for the peaceful, legal struggle both within and outside of the country until the ruling party comes to the table in search of a negotiated resolution of all outstanding issues that led up to the current crisis.