

**On the Importance of the Rule of Law:
Commentary on Seye Abraha's Post-Release Interview¹
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On Crime and Punishment

Ato Seye Abraha, was formerly a defense minister in Zenawi's regime. He was "convicted" on "corruption charges" in 2002, along with other officials. Informed sources say his "conviction" had the usual fabrication stamp all over it: "Made in Kangaroo² Kourt".

In the interview he gave to the Voice of America (VOA) Amharic program immediately following his release from prison, Ato Seye categorically denied the corruption charges, which originally included 13 separate allegations each carrying a penalty of 3-15 years. He said he was released on bail by the highly respected judge Birtukan Midekssa when he was first charged. But before he could make bail, new legislation was rammed through the so-called parliament to deny bail to defendants in his legal position. His case was then removed to a different "court" where he was "convicted" on a single charge of corruption.

Ato Seye allegedly tried to pressure bank officials to give loans to his family members, and on another occasion tried to get a discount in the purchase of some trucks. He said no witnesses ever came to testify against him, and no documentary evidence was introduced at his "trial". It is widely believed that he was railroaded to prison for 6 years not because he committed any crimes, but because he posed a serious challenge to Zenawi.³

On Redemption and Salvation

What is extraordinary about Ato Seye is not only the fact that he showed no outward signs of bitterness towards his persecutors who caused his unjust 6-year incarceration, but also his magnanimity and the graceful manner in which he rose above his personal

¹ A note to the reader: As I was preparing to write this commentary, I spoke to a number of people who had heard Ato Seye's 7-minute interview on the Voice of America Amharic program, and other who claim to have familiarity with the allegations and kangaroo court proceedings. Some suggested that commenting on Ato Seye's interview may cause negative reaction in certain quarters because of his controversial past. I believe the idea that one should avoid commenting on a controversial person or topic is absurd. In any case, I offer my comments adhering to Ghandi's instruction that "in matters of conscience, the law of the majority (or the minority, I would add) has no place."

² Many people have asked me to explain the origin of the phrase "kangaroo court". Generally, kangaroo courts are sham and scripted proceedings in which the outcome is already predetermined, usually a conviction. There is no due process or any real interest in finding the truth. Procedures are manipulated and defendants denied basic trial rights. The phrase probably originated in the mid-1800s in the American West where frontier Judges dispensed justice from their back pockets, reinforced by a six-shooter. Kangaroo-style courts are the preferred "judicial" methods of tyrants throughout history. The Nazis used a similar process called Schauprozess (show trial) to persecute their opponents. Stalin used it against people he called "enemies of the people" when he unleashed his "Great Purge". And now, the Great Kangaroo Kourt in Ethiopia chugs right along....

³ In any case, if Judge Birtukan was prepared to let him out on bail while facing 13 charges of corruption, that is convincing enough proof for me to believe that there was probably insufficient evidence to prove any of the allegations beyond a reasonable doubt. I also call to the attention of the reader that one of the individuals for whom Dr. Berhanu Nega dedicated his book *Ye Netsanet Goh Siked* is Ato Seye Abraha. In the dedication Dr. Berhanu calls Ato Seye a "living witness to the suffering inflicted by those in power".

misfortunes to make an unequivocal public affirmation of faith and commitment to the rule of law, preservation of individual rights and civil liberties, and judicial independence. He protested his innocence as any innocent person would, and showed gentlemanly generosity to his uncharitable persecutors. He suggested that his years of unjust incarceration have helped him realize the importance of the supremacy of law. Without the rule of law and an independent judiciary, he said, there could be no peace, and no trust between the people and their rulers. He gave examples of courageous and independent judges who did their jobs with professional integrity despite the extraordinary political pressures exerted upon them, and mentioned Birtukan Mideksa, Woldemicahe Meshesah and Frehiwot Samuel.

Remarkably, Ato Seye declared his commitment to the rule of law by reflecting on the original purposes of his former political party. He said the struggle waged by his former party members was not merely to overthrow the Derg; he implied that the real aim was to build a just and fair society. His former party has missed that mark; and he now looks forward to join his people (Ke Ethiopiawuyane Wegenoche Gar) “God willing”, and do what needs to be done to build a better society. In his concluding comment, he poignantly pointed out that though he is no longer a party member and has effectively been ostracized by the powers that be, he feels he probably has a better understanding of the ideas, fears, hopes and anxieties of those in and out of power. This knowledge and empathy, he implied, could help him work effectively with all groups.

Ato Seye’s story may be one of self-redemption through suffering. During 6 years of imprisonment, he seems to have come to a different realization of the realities in Ethiopia. His public statements reaffirm our basic faith that all of us have the capacity to change and do good, even though we may have been wayward at some point in our lives. Christ, Gandhi, Martin King, Nelson Mandela and many others have taught us the power of self-redemption through suffering. Ghandi has taught us that “As human beings, our greatness lies not so much in being able to remake the world, as in being able to remake ourselves.” Dr. Berhanu Nega dedicated his book *Ye Netsanet Goh Siked* to Ato Seye Abraha, among others calling him a “living witness to the suffering inflicted by those in power”.

By his bold declarations right out of the prison gates, and compelled by his own harrowing experiences in prison, Ato Seye seems to have taken the first steps towards remaking himself from a partisan and factional politician to a man who is struggling to see beyond the politics of ethnicity and self-aggrandizement, and begin to work with his fellow Ethiopians on the basis of trust. Gandhi said, “A man is but the product of his thoughts; what he thinks, he becomes.” Ato Seye’s thoughts now appear to be focused on the importance of the rule of law, the transcendental importance of respecting the rights of citizens and the need for collective action to create a fair and just society.

Ato Seye also seems to be telling us that in 6 years of imprisonment he has struggled with what he has done, failed to do and could have done to institute the rule of law and build a democratic society while he was in power. Now he can see clearly that the

problems of Ethiopia are not related to ethnicity, ideology, language, regionalism or some other similar issue. The problems are lack of freedom and justice. He has taken a correct and principled position, and we should all applaud him for that. In the final analysis, action must follow the words, and one hopes Ato Seye will follow with deeds that will prove the true meaning of the words he said. Out of prison, he will have ample opportunity to put his thoughts into action.

I have no reason to believe Ato Seye is not sincere about the statements he made concerning the rule of law and the importance of an independent judiciary. I am sure there are many cynics who would rather condemn him for his past acts and omissions, and just as soon ignore his manifest transformation and commitment to do the right thing. As Martin Luther King said, "Change does not roll in on the wheels of inevitability, but comes through continuous struggle." When a person struggles to do the right thing, we have a moral imperative to help him do it.

On the Rule of Law

The issue of the rule of law is very important to me because I just can't stand dictators and tyrants! They offend my basic moral and philosophical sensibilities because they make a mockery of justice and the rule of law. But what is the "rule of law"? Why is it important? Why is an independent judiciary necessary to ensure the rule of law is applied and preserved?

There is really nothing mysterious about the whole idea of the "rule of law". At the political level, it means simply a government of laws, and not of men. Those who govern must operate and function within the framework of the constitution or the supreme law of their land, and other duly enacted laws of the society. It means ALL public officials are accountable under the law for their acts and omissions, for their decisions and policies. No one branch of government can render another branch completely subservient to it; and certainly, the judicial branch always remains as a counter-check to overreaching by the legislative and/or executive branches of government. The courts help ensure that lawless public officials are held accountable, and use the law of the land to prevent an over-concentration of state power in the hands of a single strongman or in a small clique who rule by force and intimidation.

At the social level, the rule of law requires a commitment to openness and truthfulness, which are central to political accountability. When the rule of law is instituted in a society, those in government become afraid of the people who have the ultimate power of sovereignty. But the people are never afraid of their government in a society where the rule of law reigns. Important institutions such as the press function without censorship or restraint and serve as watchdogs in a society governed by the rule of law.

At the individual level, the rule of law means the due process of law. No person can be arrested without a lawful warrant, imprisoned without charges, kidnapped in the streets,

interrogated without a lawyer present, held indefinitely in detention without being informed of the charges, tortured or be denied the means by which to challenge the legality of their detention.

There can be no rule of law without a strong judiciary, a point Ato Seye makes very clear. The courts play a pivotal role in the relationship between the branches of government, and citizens and public officials. They serve as referees ensuring that public officials operate within the scope of their proper authorities, respect the civil liberties of citizens, and uphold the laws of the society. They make sure that no individual is deprived of life, liberty or property without due process of law.

As President Eisenhower once said: “The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law.”

Today in Ethiopia, there is no rule of law, only the rule of one man. People are arrested without cause, imprisoned and tortured. Just read the horrific human rights abuses in any of the international human rights reports. The independence of the judiciary has been eroded by a massive assault on its institutional vitality and integrity. Judges are mere deck hands who can be hired and fired at will. The regime rules not only without the informed consent of the governed, but by imprisoning those who have been given the mandate to govern. Judges have been forced to become hired courtroom bouncers helping in the dispossession of the human rights of the people. In short, in Ethiopia today, one man rules by flouting the law and treating the judiciary with contempt, and evading at every turn attempts to hold him judicially accountable.

Rule of Law in Action

Since Ato Seye’s imprisonment 6 years ago, there has been a growing struggle for democracy, human rights, freedom, peace and justice in and out of Ethiopia. The same injustices that caused his imprisonment continue to cause the imprisonment of thousands of other political prisoners throughout the country. Democracy was won by the people in May, 2005, and immediately stolen from them. Opposition leaders, journalists, civic and human rights leaders continue to languish in jail.

There is no question Ethiopians want to live in a land where there is supremacy of law. In other words, they want to live without fear of Zenawi’s regime. They want freedom of expression, but the exercise of free expression is a capital offense under Zenawi’s dictatorship. There are tens of thousands of political prisoners in Ethiopia today, who committed no crime but dared to express their views, ideas, disagreements and grievances. Many thousands more have died trying. Ethiopians want their human rights protected, and those who have violated them to be brought to justice. They want peace now from Zenawi’s war against them; and as Ato Seye seems to suggest, a peace that can be measured not only in terms of the absence of conflict, but rather peace measured in terms of the presence of justice and supremacy of the rule of law. Ultimately, Ethiopians, like all

people in the world want to live with human dignity. I hope Mr. Seye shares our belief that in the absence of the rule of law people lose NOT only their dignity, integrity, morality, decency, identity and self-confidence, but also their essence of humanity.

If Ato Seye's message is he has learned that killing and jailing the opposition is no solution to the country's problems, violating the human rights of citizens will not make the country free and that open dialogue, negotiation and compromise are necessary to deal with the country's growing problems, no reasonable person could possibly disagree with him. The uncompromising posture of Zenawi today is energizing a political storm on the horizon that seems to be blowing ominously all over the country. If Ato Seye wants to join the rest of us in changing this political storm into a freedom breeze, he should be encouraged to do so. We all know that the solution to Ethiopia's problem will not come from outside but from inside through the unity and collective efforts of the peoples of Ethiopia.

I embrace Dr. King's declaration that "We shall overcome some day!" I believe as we enter the New Millennium we shall overcome the legacy of hate with the precious gift of human rights, ethnic antagonism by national reconciliation and harmony, and the rule of one man with the rule of law. Everyone who makes a covenant to uphold these principles should be welcome on the freedom train, including Ato Seye!