

# Proving Genocide in Ethiopia: The *Dolus Specialis* of Intent to Destroy a Group

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"As soon as I have power, I shall have gallows after gallows erected...then the Jews will be hanged one after another...until Germany is cleansed of the last Jew" (Adolf Hitler quoted in John Toland, 1977, 116).<sup>1</sup>

"I believe that the nation, as such, must be completely exterminated. Or else, if that were not possible by tactical measures, there should be an operation to expel them from the country and to take further specific measures" (Lothar von Trota quoted in Jurgen Simmerer and Joachim Zeller, 2010, 135).<sup>2</sup>

## Abstract

This paper explains the intent to destroy a people, the factor which separates genocide from crimes against humanity that exists in Ethiopia, and shows how to understand and find those genocidal aspects in the ruling culture. Based on primary and secondary data, the authors show that there are two exclusionary ideologies which create a miasma of hatred against the Oromo people and the peoples of the south in Ethiopia. The paper also presents a comparative analysis of similar cases elsewhere in order to illustrate that domestic and international courts who determine the difference between genocide and crimes against humanity may be too biased to accurately decide cases for which the revelation of truth would have serious political repercussions for perpetrators and complicit actors. The authors conclude by asking donor countries to withdraw funding that fuels genocidal atrocities.

**Key words:** dolus specialis, genocidal intent, Ethiopia, Oromo, genocide by attrition, exclusionary ideology, Horn of Africa

## **Introduction**

The Genocide Convention, as written on December 9, 1948, defines genocide as a criminal act “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such...”<sup>3</sup> The crime consists not only of the deed, the *actus reus*, but in the case of genocide the crime must also include a mental element, the intent to destroy a targeted group. For example, the International Criminal Tribunal for Rwanda specified : “Genocide is distinct from other crimes because it requires a 'dolus specialis', a special intent....The '*dolus specialis*' is a key element of an intentional offence, which offence is characterized by a psychological nexus between the physical result and the mental state of the perpetrator.”<sup>4</sup> This stringent definition is used in order to differentiate all crime from the crime of genocide, and because some bias always exists in the judgment, the ‘dolus specialis’ of intent to destroy the targeted defined group must be absolutely recognizable.

Although Germans freely documented their intent to destroy targeted groups, such documentation is unusual. In a relevant court, without a confession of intent to destroy a group, the definition of genocide may not be met and the crime may not rise to genocide. In the case of Ethiopia, there is no confession of intent to destroy and the denial of guilt for any kind of atrocity by the ruling elites against Oromo people or any of the peoples of the south is so intense as to erase even criminal acts from the sight of strangers, much less the ‘dolus specialis’ of intent to destroy a group. This denial did not begin after the passage of the Genocide Convention because of the creation of a new, embarrassing global crime, but several generations in the past, when the minority elite rulers realized that they needed aid from Europeans who eschewed the publicity of barbaric behavior.

The presence of intent to destroy a group in Ethiopia is difficult to prove in part because of the constant denial by ruling elites. Social scientists who study the culture might see the criminal acts concurrent with an enormous amount of hatred, but they are loathe to report details because they would lose government approved acceptance and access to rural areas. Genocide scholars who might immediately recognize that the existence of hatred could be part of an intent to destroy are limited by the presence of multiple indigenous languages and by the almost complete control of information flow by the ruling elites. It would be difficult for them to recognize the intent to destroy a group that exists deep within the Abyssinian culture.

A factor that contributes to the misreading by foreigners of the Abyssinian nature is the “wax and gold” tradition, wax being a cover-up and gold being second hidden layer of meaning. Truth is mutable. Ambiguity is usually present. A false surface hides a different aspect of inner reality. According to Mohammed Girma, “dissimulation and ambiguity are as natural as breathing...”<sup>5</sup> in northern Ethiopian culture. In other words, lying is endemic and truthful communication with Abyssinian elites is problematic.

Nevertheless, it is important that indigenous civilians receive global recognition of genocide. A spotlight would be turned onto destructive acts against the populace. Also, Ethiopian elites have, from early in the 19<sup>th</sup> century, used donor aid almost exclusively to fund their genocidal policies. That foreign aid is misnamed and we call for its withdrawal. Aid is in fact complicity in genocide and must be eliminated in order to limit genocidal atrocities.

‘Dolus specialis’ can be found in patterns of government policy leading to poor outcomes and mass death, such as the ubiquitous presence of famine in the targeted communities and the mass deaths which occur during forced deportations. It is not always possible to show and prove intent because intent is mental and difficult to access cross-culturally. But if there is a lack of confession, there are ways of finding the truth. According to the International Tribunal for Rwanda, one could discern a pattern from within in the general context of the offence that would create a vision of intent. Factors would include, “The scale of atrocities committed, their general nature, a local region or country, or furthermore, the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups...”<sup>6</sup>

What if the court is biased? How much proof is required? And what happens if the genocidaire is aided by the passage of time, rural isolation, cultural barriers and the obstacle of the indigenous language? If genocide scholars cannot agree on a definition of genocide or on a scholarly decision of guilt, why would a court bother to take the very difficult political step and remove the protective bias that permits a continuation of blindness to facts? A “reform” of the Convention, a “wider interpretation or clearer guidelines” is required, writes Olaf Jensen, in order to alleviate the “different and sometimes conflicting interpretations of genocidal intent” that one may observe at this time in international law.<sup>7</sup>

When used outside of a court system, however, the element of intent to destroy is not the limiting factor in the definition. Journalists and other individuals are not bound by the legalities of law, and one can often hear and read of genocide, such as in the Darfur region of Sudan, where there has not yet been any legal finding of genocide, but where there has been mass murder and horrific atrocities. People with little knowledge of international law who lack understanding of the political repercussions that would result from such a verdict can respond without bias to the horror of mass killings of civilians, including women and children. As another example, genocide is widely assumed by almost all people to have occurred in Cambodia, but that is technically not yet the truth, as no one has yet been found guilty of the crime of crimes.

Our desire here is not to beg journalists and others to create a genocide where there was none, but to accept the fact that bias on an international level tends to aid denial of genocide by the perpetrators. In Ethiopia, ruling elites have perpetrated mass death by the use of government policies which created famine, from government policies of forced deportations, and from police and army attacks on a disarmed populace, among other methods. The rulers smile and apologize for their errors and promise reform while preventing global media from reporting the scale of atrocity and carnage or aid workers from delivering assistance in the places where assistance is required.

The patterns of human destruction in Ethiopia that could and should be used as evidence of a *dolus specialis* will never be sufficient to create even a hint of genocide in the minds of those who dress in clean clothing when they awake, eat their breakfast and expect a safe day ahead. In this paper, we attempt show the *dolus specialis* within the Abyssinian mindset rather than the patterns of destruction they have created in their path. In this way, perhaps it would be possible to maximize acceptance by jurists and genocide scholars of patterns of destruction and death within a targeted area of a country as evidence of the presence of intent to destroy a group. By detailing the existing mental state of the ruling elite, we hope to make the resulting patterns more acceptable as evidence of Ethiopian rulers' intent to destroy their people.

As the definition states, we will show the mental state of the rulers and their intent to destroy, in whole or in part, the group known as the Oromo people so that the rulers' criminal acts rise to the definition of genocide.

Although Oromo and other peoples of the south of Ethiopia are more numerous now than they were when genocidal massacres began in the 1840s, it can be said, as Kai Ambos writes, that the "genocidaire may intend more than he is realistically able to accomplish."<sup>8</sup> In the case of the Oromo nation, because we were so much more numerous than our well-armed genocidaires, we were difficult to totally destroy. However, it is evident that the Oromo are among the most poverty-stricken in the world despite living atop vast wealth of natural resources, and according to Bulcha, "the long-term effects of the assault perpetrated on them by the two emperors were socio-politically disastrous."<sup>9</sup>

## **Establishing Intent in Ethiopia**

### **Motive as Intent**

According to the Elements of Crimes, the special mental element of genocide, "will need to be decided by the Court on a case- by- case basis"<sup>10</sup> and that introduces the many variables of political and cultural bias and intentional confusion with the truth.

Yet, intent of Ethiopian rulers to destroy other groups can be shown in such measure that would be difficult to ignore in the relevant court of law, even if there are several factors that could be misinterpreted by decision-makers as motive, rather than intent. Intent means that you desire to commit an act.

Motive is the reason why you desire to commit the act, and it does not *appear* to be included in the definition of the Genocide Convention. If the totality of factors is to be limited to motive, then it is our position that in the case of Ethiopia, motive and intent are so intertwined that they cannot be separated and that intent must be found to be present. However, that may not be necessary.

William Schabas shows us that there is great latitude when defining genocidal intent. He explains that the words “as such” were included in the definition of genocide in order to include motive without being specific about motive.<sup>11</sup>

Schabas continues, “...Evidence of a hateful motive will constitute an integral part of the proof of existence of a genocidal policy, and therefore of a genocidal intent.”<sup>12</sup> Thus, “it should be necessary for the prosecution to establish that genocide, taken in its collective dimension, was committed 'on the grounds of nationality, race, ethnicity, or religion'. The crime must, in other words, be motivated by hatred of the group.”<sup>13</sup>

It may be difficult to explain to a court the great extent of Abyssinian hatred of the Oromo as a defined group when one compares the German’s frequent, and open, communications of their hatred of the Jews and the Herero with the constant denial of criminal acts by Abyssinian elites. Nevertheless, the Oromo national group can show that sufficient ancient hatred existed and still exists today, so that the pattern of crimes against Oromo can easily rise to the definition of genocide. Centuries of racism, religious hatred, ethnic differences and fear of Oromo superiority, should be sufficient evidence, along with proof of the genocidal acts, to show the existence of the crime of genocide. The difficulty arises from the esoteric nature of the effect of Abyssinian religion, when combined with racial attitudes, upon the Abyssinian people which they maintain in relative secrecy. Few outsiders understand the extent of the hatred and suspicion Abyssinians harbor.

One of the current authors,<sup>14</sup> recognizes that as a child coming of age in Oromia, Ethiopia, he was exposed to many crimes against humanity that rose to the crime of genocide. He, and his family and friends suffered from numerous undocumented abuses ranging from a merely oppressive lifestyle to torture, dismemberment and deaths. We were bathed in the hatred of our Abyssinian teachers and their literature. Their police and army let us know that they hated us and that we would be killed because we were Oromo by ethno-national origin and that were different from them. The tormenters were relentless. How many were killed? Some years few, some years, many. The data is scarce, fragmented and estimated by non- scientific means. Enough to be genocide? Yes.

The Oromo alone knew of their plight because their contacts with the outside world were strongly controlled by the government. The limitations of illiteracy and/or the difficulties of a language little known outside the country and the barriers of limited transportation and physical distance can obstruct the process of changing crimes against humanity (just as heinous indeed) to genocide, but not nearly as shocking as is the term 'genocide' to the global public. Genocide scholars do not hear radio broadcasts in the Amharic language exhorting people to hate and kill Oromo 'insects', describing them as subhuman cockroaches or herds of animals who devastate the environment and bleed the rest of the people dry. Nor do they read Amharic newspaper editorials spewing hatred. Those expressions of hatred are not meant for foreigners to know about. The tyrants of Ethiopia learned from Germans who casually documented their intent to destroy a group that such documentation might at this time in history lead to an uncomfortable global response.

### **Religious Hatred Based on History as the First of Two Exclusionary Ideologies**

Abyssinians, both Amhara and Tigray, assert that their descent from the Queen of Sheba gave them leave to conquer and bring their version of Christian civilization to "inferior" peoples, a manifest destiny of conquest that gave them permission to commit all manner of atrocities against "inferior" peoples. They use the Kibre Negest, the cultural epic of Abyssinians, to document their descent from the oldest son of King Solomon and the Queen and to so become the most favored of all God's people. That son, Menilek, became King of Ethiopia and within months, because of ancient enmity, "laid waste the district of Zawa...and blotted out the people..."<sup>15</sup>

Levine explains that the Moses covenant expects that Jews must faithfully abide by God's rules, lest they suffer God's wrath, but the Kibre Negest which informs the behavior of the Abyssinian people is the covenant of Abraham, Noah and King David and does not limit their actions. This covenant offers aid from God but requires no obligations of the "superior" Abyssinian people. Levine suggests, "Such a conception would surely boost the morale of the Solomonid rulers and energize their quest for dominion."<sup>16</sup> And according to John Sorenson, the Amhara believe that their mission is to civilize the conquered nations of Ethiopia.<sup>17</sup> Sorenson continues, "The Oromo have been conceived as radically other...the antithesis of Amhara culture."<sup>18</sup> So without the moral restraint of the covenant of Moses, the Amhara to this day believe that they are exempt from the laws of man and God and may "blot out" whom they choose.

This historical myth of superiority led to centuries of religious hatred, not only especially against Islam, but also against followers of Waaqeffannaa<sup>19</sup> and various non-Orthodox denominations of Christianity. Historian Mohammed Hassen wrote of the situation of Oromo who followed Islam during the sixteenth and future centuries: "The Oromo were generally described simply as 'the enemies of the Amhara' and what was written about them by the

Christian chroniclers mainly expressed the intense prejudice which was deeply rooted in Abyssinian society.”<sup>20</sup> Hassen continues, “unsubstantiated myths and untruths were created and the Oromo were arbitrarily degraded to a lower stage of material culture, as people who needed the 'civilizing mission' of their Abyssinian neighbors.”<sup>21</sup> De Salviac relates the Abyssinian description: “If the first time, they say, the people are not crushed, they rebel, and that must be followed by a great expedition *to civilize* them entirely.” (*italics in original*)<sup>22</sup> In the 19<sup>th</sup> century, there is a well-documented pattern of this hatred- motivated violence committed by the ruling elites against the Oromo in order to 'civilize' them that manifests as a series of genocides, beginning with Sahela Selassie. It is well known that Selassie recognized the value of then-modern firearms and managed to obtain them from the Europeans.

What is described here is a situation of 'exclusionary ideology' based on religion. As Jason Campbell says, “The purpose, then, of an exclusionary ideology is to serve as a means of justifying state endorsed genocide.”<sup>23</sup>

According to Barbara Harff, “Episodes of genocide and politicide become more likely when the leaders of regimes and revolutionary movements articulate an exclusionary ideology, a belief system that identifies some overriding purpose or principle that justifies efforts to restrict, persecute, or eliminate certain categories of people.”<sup>24</sup> Harff finds that countries “in which the ruling elite adhered to an exclusionary ideology were two and a half times as likely to have state failures leading to genocide/politicide as those with no such ideology.”<sup>25</sup> Harff uses this factor to predict genocidal behavior of governments in the present time. Yet, Harff does not recognize the presence of this form of exclusionary ideology in Ethiopia, and so she does not use it as a factor when quantifying genocidal risk in Ethiopia.

Harff suggested other factors that create higher risk of genocide. The amount of perceived threat<sup>26</sup>, the narrowness of the ethnic base of the rulers<sup>27</sup> and the degree of isolation that would prevent international repercussions<sup>28</sup> are all factors that exist in Ethiopia, along with exclusionary ideology.

In the case of Ethiopia where exclusionary ideology has been present for centuries, it should also be a good indicator of the presence of genocide in the past. In addition, it should also be a marker, in Ethiopia, for the slow genocide of the present. One should expect that this centuries old doctrine of superiority has become deeply embedded within Abyssinian society and is accepted as an immutable fact. As a present day example, one witness told me of an incident in which a beggar asking for food was told to wait a moment for the meal. When he discovered that he was at the door of an Oromo home, he left without the food.

## **The Second Exclusionary Ideology: Nationalism**

In Ethiopia, today, there exists a second exclusionary ideology of nationalism which combines with the religious exclusionary ideology and permeates the 20<sup>th</sup> century with religious/ethnic division. Margery Perham wrote<sup>29</sup>, “It might be more true to say that the church itself was part of the very essence of Ethiopian nationalism.”

With the creation of the empire by Menelik II to its present borders, any dissent from the subjugated peoples was treated as a threat to the nation. According to Jason Campbell there existed in Ethiopia an ideology of “absolute national unity.” And, he said, “political dissidents are converted into enemies of the state.”<sup>30</sup> Campbell explains, “when the idea of nationalism includes an ideology of exclusion, all efforts to defend nationalism result in an exclusion of portions of the population...The problem lies not in the idea of nationalism but in the acceptance of an exclusionary ideology as proof of one's nationalism”<sup>31</sup> That is, subjects of the state who cannot, or do not, completely conform to the ideology of the state become enemies. Any differing characteristic of subjects are interpreted by the ruling elites as dangerous to the existence of the state and must be eliminated. Thus, “this ability to convert members of the population into enemies of the states initiates the process of extermination.”<sup>32</sup> Trevor Trueman examined this nationalistic feature of exclusionary ideology as it manifests in the present. He writes, “Oromo nationalism is perceived as the greatest threat to the ruling government party.”<sup>33</sup> The ruling party journal, *Hizbaawi Adera* stated that: 'to defeat narrow nationalism...must be part of our struggle....In order to have a lasting solution to our problem...we have to break narrow nationalistic tendencies in Oromia...we have to fight narrow nationalism to the bitter end...to smash it in a very decisive manner ....fighting the higher intellectual and bourgeoisie classes in a very extensive and resolute manner....The standard bearers of narrow nationalism are the educated elite and the bourgeoisie. We must be in a position to eradicate all narrow nationalists.’<sup>34</sup>

One who reads these exhortations will find a path to violence and onset of genocide. Yet the pattern of constant human rights abuse against Oromo and other peoples of the south of Ethiopia tells us that threats have been enforced not just against the Oromo intelligentsia, but also against multitudes of ordinary civilians. An Abyssinian would immediately understand that random violence against an Oromo would be acceptable and excusable. An Oromo would immediately fear for himself and his family. A genocide scholar should not be diverted from the reality because the word 'genocide' was never used.

There is a polluting miasma of hatred that has grown and is present even as of this writing and it is composed from many factors. It cannot be understood by foreigners or by scholars who study genocide. Unarmed, peacefully demonstrating students from the town of Ambo were killed by the Ethiopian army shooting live ammunition into the demonstrators.



Massacre of Oromo students is merely another example of the slow but persistent genocide perpetrated by Abyssinian elites.<sup>35</sup> The violence is characterized to global media outlets as rebellion. But is it really rebellion when distraught parents are shot when attempting to retrieve the bodies of their children, or is it a manifestation of hatred by leaders who order the shooting of the parents?

The government of Ethiopia characterizes the violence as stemming from “students confused by deliberately misleading rumors” and states that “The situation in the universities is now stabilized through the collaborative effort of federal and regional state security forces.”<sup>36</sup> Yet, this is merely misdirection and denial so that funding for police and armed forces that underlies these atrocities will not soon cease.

## **Racism**

Racism in Ethiopia is an expression of hate and is present in abundance at all levels of society. This brand of racism involves self-hatred and hatred against ethnic others. Abyssinian elites hate and deny their race. Early church fathers associated being ‘black’ with ‘sinfulness’. Levine relates that “Gregory of Nyasa went so far as to say that Christ came into the world to make blacks white, and that in the Kingdom of Heaven Ethiopians become white.” Yet, as of 2014, this lightening of skin color has not yet come to pass. It remains an empty promise in Christ's name. Imagine gazing at once-African- appearing family and friends. Imagine the self-hatred and fanaticism arising from such denial. John Sorenson<sup>37</sup> discusses the self-classification of the Abyssinian elite as non-African people who are prejudiced against anyone who are darker and who feel superior to both black and white people.<sup>38</sup> Sorenson also said, “in Ethiopia, the Amhara ruling elite sometimes have classified themselves as white, but always as superior to the darker skinned people of the south.”<sup>39</sup> Emperor Menelik II stated “I am not a Negro at all; I am a Caucasian.”<sup>40</sup> Emperor Haile Sellassie also denied African status for himself and all Abyssinians.<sup>41</sup> Asafa Jalata and Harwood Schaffer explained the logic. “One is Semitic if one could claim one drop of Solomonic blood,” they write, despite the darkness of the skin color.<sup>42</sup>

## **Ethnicity**

Ethnicity describes a shared culture and a common language. In such an emotionally charged country, with the kind of personality types involved, one expects that there would also be ethnic hatred between the Amhara and the Tigray, who do not speak the same language. This exists, in part, because Tigrayans are closer to the original myth of Abyssinian origin. John Young describes Tigrayan “purity and continuity in Ethiopian culture “and describes Abyssinians, particularly Tigrayans of “secretive, evasive, and distrustful behavior.”<sup>43</sup>

There are language differences and the groups vie for power against each other. So not only is there ethnic division between the Abyssinian elites versus the southern peoples, but also between Amhara and Tigray. This is of interest because the violent wars of these elites between themselves often confuse observers and covers the genocidal acts against the conquered people.

## **Fear**

Also, let us not forget to include as a factor in genocidal intent to destroy a group the fear of the Oromo nation by Abyssinian people that is contiguous with Abyssinian hatred. Prior to the accumulation of modern European weapons, on an equal battlefield, the Oromo emerged as victors. They simply fought better. Except for the Amhara's accumulation of weapons, De Salviac writes, "With princes so courageous and skillful, with captains so celebrated, the Oromo could have asserted themselves in perpetuity on the imperial throne."<sup>44</sup> And Bulatovich agreed that a united Oromo nation could represent a danger to the Amhara.<sup>45</sup> Also, because the Oromo culture encourages mass adoption of other peoples, and despite the depredations on their total population, they are more numerous. According to Bulcha, "fears of Islam and of the Oromo have dominated the political consciousness of the Amhara ruling elite."<sup>46</sup>

The Abyssinian victories were only possible with arms and aid from First World allies, and if that aid were to be withdrawn and the balance of power were to change and equalize, the Ethiopian 'center' might not hold for long. If those allies understood the magnitude and depth of barbaric acts committed with aid given for beneficent purposes, political embarrassment might not be the only outcome.

The minority Abyssinians understand that Ethiopia as it has been created, would, if the Oromo were to secede, cease to exist. In the words of PT Baxter, they 'would then be forced back to their barren and remote hills.'<sup>47</sup>

This Abyssinian fear of domination by a more numerous group stems from their own social norm of easily switched loyalties. Although an Abyssinian may swear total fealty to a superior, that loyalty holds only for the moment and may dissolve when that superior is most in need. This fleeting, but culturally accepted, relationship is standard within the Amhara social system, even within families. Donald Levine elaborates, "The essential ingredients of such bonds are the needs of a client and the present or prospective capacity of a potential patron to fulfill them,"<sup>48</sup> That is, Abyssinians cannot ever trust in lasting friendship or faithfulness from their families or their subjects, and cannot ever find a pathway to a democratic society, lest they themselves become relegated, as are the people of the southern nations, to the castoffs of society. In effect, in today's term, they are historically created, born and bred 'control freaks'.

## **The Presence of Court Bias: Comparative Analyses**

German leaders openly stated and documented their intent to eradicate to the extent possible their subject peoples. The amount of documentation they left behind is truly astounding and suggests that the depths of degradation to which mankind can fall needs to be fully assessed and dealt with prior to any major new project which the planet may require. But few genocidaires are as willing to admit to the crime by documenting their intent to destroy. They have learned to cover their acts even as they commit the defined crime of genocide.

International courts and genocide scholars understand that the term 'genocidaire' confers shame upon the perpetrators even as those people who are survivors of genocidal behavior, or who are at this time undergoing genocide, can be morally and even physically assisted by the appellation of the title of 'genocide victim'.

The International Criminal Court's Elements of Crimes indicates very specifically that the difference between the crime of genocide and crimes against humanity or war crimes is the presence of proof that the perpetrator "intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such."<sup>49</sup> That is, the proof of intent is the boundary between genocide and other human crimes, even crimes of atrocity and mass death. Yet despite masses of information at hand, this mental element of the crime remains open to wide interpretation. And interpretation, or misinterpretation of the word 'intent' is being used, not to determine the category of the crime, but to deal with the politics that the presence of the Genocide Convention has created.

We would like to explain this bias further in order to help show intent of the Abyssinian rulers to destroy the peoples of the Horn of Africa; although their multiple attempts at full genocide have failed, those attempts have led to a depth of poverty for which Ethiopia is well known, a diaspora formation especially of the Oromo leadership class and a global media blackout on information. Josef Kunz writes, "It has been said that this specific criminal intent makes the Convention useless; that governments, less stupid than that of National Socialist Germany, will never admit the intent to destroy a group as such, but will tell the world that they are acting against traitors and so on."<sup>50</sup> In fact, agrees Daniel Feierstein, that is exactly what has occurred. Desperate resistance from those under constant threat of death has become anti state rebellion. Those responsible, Fieirstein says: "have also become capable of exploiting the legal definitions of international criminal law in order to punish entirely different practices: offences committed by non-state forces of a rebellious nature."<sup>51</sup> And, we must add, many of those rebellions result from the need of civilians to protect their families and communities from persecution and from continuing state violence. Where can one find a man with chubby thriving children who is willing to join a rebellion?

Yet even with the presence of intent clearly in view, it is not always possible to be certain of unbiased conclusions of a court tasked with deciding guilt or innocence. How much depravity and genocide is our species capable of committing before we can name it? How can we deal with the knowledge of the commonality of genocide? Does refusing to use the name help to reduce the deluge of damaged humanity and the embarrassment of genocide?

Political ramifications of the presence of genocide or the lack of genocide create a bias that is almost impossible to overcome, because if there is genocide, then there is complicity in genocide. As genocide must be punished, then those who are complicit must also be punished. That could lead to a chaotic global outcome no judge will want to accept.

With western countries supporting the Ethiopian military controlled by Tigrean military leaders, what possibility is there of transforming ongoing atrocities that occasionally make it to global media into outright genocide? The UN Committee of the Elimination of Racial Discrimination “is alarmed at information according to which military and police forces have been systematically targeting certain ethnic groups, in particular the Anuak and the Oromo peoples, and reports of summary executions, rape of women and girls, arbitrary detention, torture, humiliations and destruction of property and crops of members of those communities.”<sup>52</sup> What if the committee report was able to truthfully report the amount of death in the Empire and the intensity of the hatred that spurs the almost continuous violence? Would the crimes committed by the army and police become genocidal acts and who would be complicit?

### **Sri Lanka, a ‘Non-Genocide’**

The non-genocide in Sri Lanka illuminates the problem. When the Tamil people lost a decades-long rebellion against the oppressive Sri Lankan government, ruling elites attempted to conceal their attempt to destroy as many civilians as they could while floating the story that they were mopping up insurgent Tamil Tigers. The BBC became aware of the lethal conditions in refugee camps and was able to publicize the situation.

Using the example of Sri Lanka, Daniel Feierstein, as a member of the panel of the People's Tribunal on Sri Lanka which investigated charges that security forces were guilty of violating the Geneva Convention, and of crimes against humanity wrote: “The Sri Lankan Government has always vehemently denied all wrongdoing on the part of its forces and has dismissed all accusations as attacks on Sri Lanka's sovereignty. It has steadfastly refused to permit the media and other organizations, both national and international, including UN bodies, to enter and ascertain the facts...”<sup>53</sup>

Of course, all of this has as a backdrop of the inevitable definition of victims as terrorists since the Liberation Tigers of Tamil Eelam (LTTE), the fighting arm of Tamils, was placed on several country's terrorist lists. With global media banned from the scene, it became easy for the Sri Lankan government to claim to be killing terrorists rather than civilians.

However, it is not only genocidaires who fear the appellation of genocide, there is also reluctance to act in order to prevent or halt genocide on the part of those states who have friendly relations with the genocidal state or may even be complicit in the violence – and so the decision to accept or deny the existence of the act itself, much less the element of intent to destroy, remains more than a little variable. A nation whose elites claim that their actions are not as they seem to be and yet who refuse to admit outside observers or bring aid to the suffering civilians should not be believed, yet will still have the benefit of the doubt. The outside world knew that needless deaths were occurring and yet the sovereign government of Sri Lanka continued their activities without restraint.

An informal, unofficial people's court of justice, the Peoples' Tribunal on Sri Lanka, decided in December 2013, in Bremen, Germany, that Sri Lanka was guilty of the crime of genocide and that the United States and the United Kingdom were found guilty of complicity, Article IIIe of the Convention, because they knowingly provided aid and weapons to the genocidaires. A formally constituted court could never come to that astounding decision because of the political global repercussions that would ensue if some global authority were to attempt to punish leaders of these northern states as per Article VI of the Convention.<sup>54</sup> In this particular case, the Tribunal enjoyed the freedom to accept the truth; in a formal court of law, truth would be unacceptable and so the definitions need to have a great deal of flexibility in order for judges to be able to come to a decision that would seem to be somewhat believable. That some people remain above the law is a very uncomfortable truth.

Much has been written about the exact meaning of special intent to destroy a group because it would seem that the survivor's ability to gather sufficient data to prove that the perpetrator acted with a *dolus specialis* depends more on the attitudes of judges than on the quality of the data. It appears that there is a desire to avoid any semblance of the crime of genocide, if at all possible, lest most of the globe would be found to have been guilty at some time. And that negative decision made by jurists and global leaders falls most heavily on those who may not even understand the choice made for them by foreigner elites – a decision which may affect their lives. Nevertheless, although crimes have already been defined and decisions must be made based on existing definitions, those decisions must be made in an unbiased manner. But that is not happening. We agree with Colin Tatz, who states, “I join with Dadrian in suggesting that genocide studies reveal an embodiment of the concept of 'worthy and unworthy victims'”<sup>55</sup> Are some humans unworthy of a truthful verdict? Are they unworthy of human rights embodied within those UN treaties designed to protect them? Where did our global society get lost?

## Darfur: a 'Non-Genocide'

This situation becomes obvious when examining the determination with which the UN refuses to acknowledge the existence of a genocide in Darfur, based on their inability to find proof of intent. The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, an assessment of whether genocide occurred, appears to be written by fools, until one realizes that the political single-mindedness of the UN Secretary General decided the outcome prior to the Commission's research on the genocidal intent of the Government of Sudan. The Fur, Zaghawa, Massalit, Jebel, Aranga and other groups will not be permitted to have suffered genocide if it is at all possible to create any reason to deny that the multiple acts of murder were not accompanied by intent to destroy a defined group. Because "the populations surviving attacks on villages are not killed outright, so as to eradicate the group, "the Commission does not accept that a genocide was intended."<sup>56</sup> The Commission observes that the Government of Sudan has not committed genocide because the element of intent by the government "appears to be missing". Willfully blinded by UN policy, they write, "Generally speaking the policy of attacking, killing, and forcibly displacing members of some tribes does not evince a specific intent to annihilate, in whole or in part, a group based on racial, ethnic or religious grounds."<sup>57</sup> The paragraph concludes that the violence occurred because of "counter-insurgency warfare."

The politics of the situation, that is, the need to fail to find genocidal intent by the Sudanese government, and therefore the act of genocide, but still have the appearance of dealing with truth can be seen in para 520 of the report. "One should not rule out the possibility that in some instances *single individuals*, including government officials, may entertain a genocidal intent, or in other words, attacking the victims with specific intent of annihilating, in part, a group perceived as a hostile ethnic group. If any single individual, including Government officials, has such intent, it would be for a competent court to make such a determination on a case by case basis. Should the competent court determine that in some instances certain individuals pursued the genocidal intent, the question would arise of establishing any possible criminal responsibility of senior officials either for complicity in genocide or for failure to investigate, or repress and punish such possible acts of genocide."<sup>58</sup>

Klaus Kress expresses some discontent with the Darfur inquiry in his discussion of the report. He says, "The situation of Darfur constitutes a dramatic illustration of the intricacies of the definition of genocide in general and of the vexing problem of genocidal intent in particular."<sup>59</sup> Loewenstein and Kostas discuss differences in the treatment of the situation in Bosnia and Herzegovina, a European country, by the International Court of Justice (ICJ).

The ICJ found that a genocide of over 7,000 men and boys was perpetrated at Srebrenica in 1995, and that even though Serbia was not guilty of that offence, it was guilty of ignoring its obligation to prevent the act of genocide and punish the guilty.<sup>60</sup> One may also note that, aside from the location of the genocide in Europe, the Dutch assiduously documented every detail of the event and made that information public.

Many global civilians disagree with the position of the UN to deny the genocide in Darfur, which has received much media attention. Amnesty International documented the murders of women and children, and “the failure of the Sudanese government to make accountable the militia and its own soldiers who are killing in the name of “counter-insurgency.”<sup>61</sup> And the Congress of the United States adopted unanimously suggested that what was occurring was a genocide. The US Congress demanded access for humanitarian aid to survivors.<sup>62</sup> Statistics show massive a death count of about 200,000 to 400,000 persons in a population of 6 million. About 3,300,000 were displaced. And, Darfur was, in 2009, the largest humanitarian operation, receiving \$1.3 billion in aid, but only when permitted by the government of Sudan.<sup>63</sup> If any further documentation of the intent of the Sudanese government is required, one need only look to the violence it has continued to orchestrate, both in Darfur and the Nuba Mountains and its continued refusal to permit aid to reach its suffering population.<sup>64</sup> In July, 2008, Luis Moreno-Ocampo, prosecutor of the International Criminal Court sought an arrest warrant for President Omar al-Bashir for genocide and crimes against humanity. In March, 2009, the Pre-Trial chamber issued a warrant that did not include charges of genocide at that time. The Pre-Trial Chamber found that inference from the pattern of acts was insufficient to determine that special intent was present and that more specific proof of intent to destroy was required.<sup>65</sup> Dov Jacobs explained the difficulty of finding *dolus specialis* from patterns of acts rather than from statements of guilt by the alleged perpetrator. He wrote, “...the judges were faced with a situation whereby the Prosecution was relying not on direct evidence of intent, but on indirect inference, which is considerably more ambiguous. This sort of evidence is of course highly relevant, and is often the only kind available, in circumstances where the Prosecution is faced with an absence of cooperation from State authorities and does not have direct access to key government documents that would allow for a more solid evidentiary basis for the charges.”<sup>66</sup>

## **Denial or Justice**

Daniel Feierstein states: “Disagreements over definitions led scholars to develop a rich variety of concepts based on alternative definitions of genocide...there is no consensus...The disagreements have been reflected in the wide disparity between scholars in regards to which cases of mass killing merit the label genocide.”<sup>67</sup> Nevertheless, facts are still facts and genocide is still genocide to the survivors and the dead, even if courts and scholars are biased.

William Schabas writes, “It becomes apparent that there are undesirable consequences to enlarging or diluting the definition of genocide.... For the victims, it may seem appalling to be told that, while these crimes are serious, others are still more serious.”<sup>68</sup> And Barbara Harff writes, “the threshold between massacres and an episode of genocide/politicide is one of uncertainty.”<sup>69</sup> This unfair creation of unworthy victims has become part of the definition of the Oromo people. The Oromo have been little known to the outside world or to European genocide scholars. But Ethiopian elites have insinuated themselves into the fabric of global leadership. Few will agree that the investment by nations in friendship with Ethiopian ruling elites is worth disturbing because of action that would be triggered by a determination of genocidal crime. If a global court would label the ruling elites as genocidaires, how would the UN and the rest of the globe handle a situation in which a President of the United States is found guilty of complicity of genocide because of knowingly supplying arms and munitions that were used against Ethiopian citizens?

## **Conclusion: The Present**

Please do not be deceived by the lack of a confession, or lack of visual evidence because government refuses to allow media into certain areas. Genocidal activities are present in Oromia and south in Ethiopia at this moment.

The historically based exclusionary ideology of religious and racial superiority of the Abyssinian people joined with the 20<sup>th</sup> century exclusionary ideology that Ethiopia is indeed an empire whose existence was beneficial to all and where any dissent would be dangerous to the preservation of the empire. Any person who was not totally dedicated to the government and to the Abyssinian rulers was and still is considered to be a dangerous rebel.<sup>70</sup> This sense of hatred pervades society. The desire to destroy Oromo on behalf of exclusive nationalism is ubiquitous. Getachew Haile, Regents Professor Emeritas of Medieval Studies, and Curator, Ethiopian Study Center at the College of Saint Benedict and Saint John's University, is a prolific writer. He explains that unity is required and that the Oromo “underclass” represent danger to those who accept Abyssinian superiority and rule.

He is not considered to be an extreme or fringe wacko by the Amhara elites. Yet, he explained to his readers on EthioMedia.com that unless Ethiopian people were 100% unified, poverty would continue to exist. He wrote, “Today, the entire bodies of Ethiopia are not entirely for Ethiopians....had we spoken one language, followed one religion and cherished one culture, we would not have stagnated in backwardness for centuries.” And furthermore, he blamed the Oromo. He continued, “the Oromos came and wrecked everything.”<sup>71</sup> In 2012 he wrote, “consider the mere presence of Oromo as a danger and as threatening as a tsunami.”<sup>72</sup> The ruling elite claim that if there was any dissent at all, it was the right of the government as a sovereign, to enforce peace and unity.



Yet this charade belies the sub-surface hatred of the Abyssinians that permits the easy slide from mere oppression to human rights violations to occasional outright fits of genocide and to the slow genocide which Ethiopia is now undergoing especially in the Omo region in the south of the country and in the areas surrounding Addis Ababa, the capital city. The attempts of the Oromo to resist oppression become transformed by the Abyssinian mind into greater hatred and fear of the Oromo. Yet the continuous denial by the elites of the basic elements of even subsistence survival leave no choice to the Oromo and other oppressed peoples of the south except to become the very people those elites fear.

If a global spotlight were to highlight genocidal activities and if foreign aid were to cease, the ruling Abyssinian elites would have no choice but to control their anger, hatred and violent behavior.

## References

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<sup>1</sup> John Toland, *Adolf Hitler* (London: Book Club Associates, 1977), 116).

<sup>2</sup> Letter by Lieutenant-General Lothar von Trotha, Oct.2, 1904, about the Herero people. Quoted from Jurgen Zimmerer and Joachim Zeller, *Genocide in German South-West Africa* (Wales: Merlin Press, Wales, 2010) 135.

<sup>3</sup> UNGA, *Convention on the Prevention and Punishment of the Crime of Genocide* (UNGA, December 9, 1948).

<sup>4</sup> International Criminal Tribunal for Rwanda, case no. ICTR-96-13-A, 27 January 2000 Judgment and Sentence, paragraphs 164-166.

<sup>5</sup> Mohammed Girma, "Whose Meaning? The Wax and Gold Tradition as a Philosophical Foundation for an Ethiopian Hermeneutic" *Sophia* (2011) 50:175-187. Available from <http://citations.springer.com/item?doi=10.1007/s11841-010-0201-9> (accessed 07/01/2013). See also Donald Levine, *Wax and Gold: Tradition and Innovation in Ethiopian Culture* (Chicago: University of Chicago Press, 1965).

<sup>6</sup>International Criminal Tribunal for Rwanda, Case no. ICTR-96-4-T Judgement Decision of 2 Sept 1998 para 523.

<sup>7</sup> Olaf Jensen, 'Evaluating Genocidal Intent: the Inconsistent Perpetrator and the Dynamics of Killing,' *Journal of Genocide Research* 15 (1) (February 2013), 1-19.

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<sup>8</sup> Kai Ambos, “What Does ‘intent to destroy’ in Genocide Mean?” *International Review of the Red Cross* 91 (876) (December 2009), 835.

<sup>9</sup> Mekuria Bulcha, “Genocidal Violence in the Making of Nation and State in Ethiopia,” *African Sociological Review* 9 (2) (2005): 1-54.

<sup>10</sup> The International Criminal Court, *Elements of Crime*, article 6 Introduction c.

<sup>11</sup> William A. Schabas, *Genocide in International Law: The Crime of Crimes* 2<sup>nd</sup> Ed. (New York: Cambridge University Press, 2009) 294-306. Ibid. “...the casual reader will be excused for failing to guess that the words ‘as such’ are meant to express the concept (of motive).” Schabas explains, “Interpreters of Article II of the Convention cannot simply ignore the words ‘as such’, which were inserted as a compromise to take account of views favoring recognition of a motive component” (ibid page 305).

<sup>12</sup> Schabas (2009: 305).

<sup>13</sup> Schabas (2009, 306).

<sup>14</sup> Testimony of one of the authors of the current paper, Habtamu Dugo.

<sup>15</sup> Kibre Negest, Chapter 54 quoted in Donald Levine, *Greater Ethiopia* 2<sup>nd</sup> Edition (Chicago: University of Chicago Press, 1974, 2000): 107.

<sup>16</sup> Levine (2000, 151).

<sup>17</sup> John Sorenson, *Imagining Ethiopia*, (Rutgers University Press, 1993), 12.

<sup>18</sup> Sorenson (1993:69).

<sup>19</sup> Oromo Press, “Theorizing Waaqeffaanaa: Oromia’s Indigenous African Religion and Its Capacity and Potential in Peacemaking.” Waaqeffaanaa is one of the oldest monotheistic religions followed by the Oromo people before they accepted Christianity and Islam and afterward.

<sup>20</sup> Mohammed Hassen, *The Oromo of Ethiopia A History 1570-1860*. (The Red Sea Press, 1994), 1.

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<sup>21</sup> Ibid., p.2.

<sup>22</sup> *de Salviac ibid at 349.*

<sup>23</sup> Jason Campbell, “On the Nature of Genocidal Intent. (Lanham: Lexington Books, 2013), 92.

<sup>24</sup> Barbara Harff, “No Lessons Learned From the Holocaust?” *The American Political Science Review* 91 (1 (2003):62-63).

<sup>25</sup> Barbara Harff (2003:66).

<sup>26</sup> Ibid., p. 61.

<sup>27</sup> Ibid., P. 64.

<sup>28</sup> Ibid., p. 65.

<sup>29</sup> Campbell, 2013: 370.

<sup>30</sup> Campbell (2013: 74).

<sup>31</sup> Campbell (2013: 92-93)

<sup>32</sup> Campbell (2013: 74).

<sup>33</sup> The EPRDF, an umbrella party, led and dominated by TPLF.

<sup>34</sup> Trevor Trueman, “Genocide against the Oromo People.” In *Arrested Development in Ethiopia* ED Seyoum Hameso and Mohammed Hassen. (Red Sea Press, 2006): 133-134). Trueman cites Hizbaawi *Adera* 4 (7) (December 1996-February 1997).

<sup>35</sup> BBC News Africa, “Ethiopia protest: Ambo students killed in Oromia state,” 2 May 2014.

<sup>36</sup> Government Communication Affairs Office. “Violence Causes Damage in Oromia Regional State.” Addis Ababa May 01 2014.

<sup>37</sup> Sorenson (1993:27-30). John Sorenson, *Imagining Ethiopia*, (Rutgers University Press, 1993), 12.

<sup>38</sup> Sorensen (1993: 104).

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- <sup>39</sup> John Sorensen (1993: 12).
- <sup>40</sup> John Spencer, "Ethiopia at Bay" (Reference Publications, 1987), 306.
- <sup>41</sup> John Spencer (1987:306).
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- <sup>44</sup> De Salviac (1901: 347).
- <sup>45</sup> De Salviac (1901: 69).
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<sup>54</sup> The Peoples' Tribunal on Sri Lanka, Session II 7<sup>th</sup> -10<sup>th</sup> December 2013 Bremen Germany.

<sup>55</sup> Colin Tatz, *With Intent to Destroy*, Verso 2003, at 157.

<sup>56</sup> Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Geneva, 25 January 2005. at para 515.

<sup>57</sup> *Ibid.*, para 518.

<sup>58</sup> *Ibid.*, para 520.

<sup>59</sup> Claus Kress , “The Darfur Report and Genocidal Intent.” *Journal of International Criminal Justice*, (2005), 562-578.

<sup>60</sup> Andrew Loewenstein and Stephen Kostas, “Divergent Approaches to Determining Responsibility for Genocide.” *Journal of International Criminal Justice* (2007), 839-857.

<sup>61</sup> Amnesty International, *Sudan: Darfur: Too Many People Killed For No Reason*. (3 February,2004), 8.

<sup>62</sup> BBC, “US House calls Darfur 'genocide'” 2004/07/23.

<sup>63</sup> Darfur Australia Network, *Darfur: The Statistics*.

<sup>64</sup> UN Watch, “UN Watch Action on Darfur”.

<sup>65</sup> Dov Jacobs, “The Hague Justice Portal: The Al Bashir Appeals Chamber Judgment on Genocide: A Critical Appraisal in Law and in Context” 08 March 2010.

<sup>66</sup> *Ibid.*

<sup>67</sup> Daniel Feierstein, “Leaving the Parental Home: An Overview of the Current State of Genocide Studies”, *Genocide Studies and Prevention* 6 (3) (December, 2011), 258.

<sup>68</sup> William Schabas, *Genocide in International Law*, 2<sup>nd</sup> Ed. (New York: Cambridge University Press, 2009), 10.

<sup>69</sup> Barbara Harff, “Recognizing Genocides and Politicides.” In *Genocide Watch*, Helen Fein, editor. (Yale University Press 1992), 31

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<sup>70</sup> And, unpleasantly, those who are neither Amharic nor Tigray, no matter how they speak, worship or are dedicated to the Empire, are, nevertheless, also still considered enemies.

<sup>71</sup> Getachew Haile, “Peace and Reconciliation as Life Flavors” translated by Girma Gutema on gaada.com February 25 2014.

<sup>72</sup> Getachew Haile, translated from Amharic by Habtamu Dugo.