

Country: Ethiopia

The Special Prosecution Process in Ethiopia by the Office of the Special Prosecutor 1993-1994 (14 months)

Instituted by the transitional government of 1992, this particular investigation focused on the special prosecution process of war criminals and human rights violators in Ethiopia.

Time frame of violations: 1974-1990s

Background

1. Legal basis

Proclamation No. 22/1992

2. Terms of Reference

In May 1991, rebels led by the Ethiopian People's Revolutionary Democratic Front (EPRDF) overthrew the Mengistu regime. The Office of the Special Prosecutor was created by the Transitional Government in 1992.

The Office of the Special Prosecutor's mandate was to 1) establish for public knowledge and for posterity a historical record of the abuses of the mangiest regime 2) To bring those criminally responsible for human rights violations and/or corruption to justice.

3. Applicable law

The commission relied on already applicable laws concerning criminal investigations and institution of proceedings as well as the laws applicable to ordinary prosecutors. However provisions concerning submission of charges, evidence and pleading to charges shall not be applicable to proceedings instituted by this office. The Ethiopian Penal Code.

Commission of Enquiry (CoI)

General

1. Powers of CoI

The powers of the commission included to investigate and institute proceedings in respect of any person having committed or responsible for the commission of an offence by abusing his position in the party, the government of mass organization under the Dergue- WPR regime.

2. Independence

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3. Impartiality

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4. Transparency

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5. Invocation of ubuntu/related concept

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6. Gender mainstreaming

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7. Interrelationship with other accountability mechanisms

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8. International representation

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9. Adequate staffing

According to the government, the Office of the Special Prosecutor hired more than four hundred individuals, including foreign advisors in the mid-1990s.

Process

1. Standard of proof

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2. Method of case selection

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3. Data collection

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4. Witness participation and protection

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5. Special protection and participation measures

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6. Financial resources

The Office operated with a total budget amounting to more than \$200,000 USD.

7. Location of hearings

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Findings

1. Norms relied on (re legitimate killing)

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2. Challenges

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3. Findings

1) The summary of the special prosecutor's first year of operation stated that Mengistu Haile Mariam presided over every major policy decision made from 1974 to 1991. 2) Crimes including summary executions, forced disappearances, and torture were carried out systematically on a large scale as a matter of state policy. 3) According to the summary, "the Office has ten times more evidence than needed to successfully prosecute several of the detained and many of the exiles for serious criminal offenses.

4. Recommendations

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4. Politics of memory

One of the victims, Hirut Abebe-Jiri, seeks to preserve the historical records in cooperation with the University of North Dakota in the United States.

5. Incorporation of local justice mechanisms

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Report

1. Availability

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2. Impact

1) In 1995, a new constitution entered into force, setting up a federal system, and guaranteeing equal rights to all citizens. Article 20 of the new constitution provided for the establishment of the suggested Public Defender Office. In 2000, there were 13 public defenders at the federal level and additional regional public defenders' offices. 2) Prosecutions of crimes committed under the Mengitsu regime are ongoing within the National Court system of Ethiopia. More than 1,569 decisions have been handed down, with at least a thousand resulting in convictions. 3) Mengistu Haile Mariam was found guilty of acts of genocide and given a life sentence (in absentia) in an Ethiopian court in December 2006. The Ethiopian Supreme Court changed his sentence to death in May 2008. Mengitsu is living in Zimbabwe, however, where the government refuses to extradite him. 4) In one case, three Ethiopian women who were tortured were awarded \$500,000 USD each in the United States federal court in Atlanta in August 1993. The defendant, Kelbesse Negewo, was granted political asylum in the United States in 1987, but then he was extradited to Ethiopia in 2006 to serve a life sentence for murder.

Implementation and consequences

1. Institutional framework for implementation

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2. Fulfilment of Mandate

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3. Government response

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4. Civil society response

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5. CSO galvanisation

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