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# *Italian Fascist War Crimes in Ethiopia: A History of Their Discussion, from the League of Nations to the United Nations (1936–1949)*

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## ***Introduction***

The 1935–36 Italian fascist invasion and subsequent occupation of Ethiopia were accompanied by numerous atrocities: the use of mustard gas, the bombing of Red Cross hospitals and ambulances, the execution of captured prisoners without trial, the Graziani massacre, the killings at Däbrä Libanos monastery, and the shooting of “witch-doctors” accused of prophesying the end of fascist rule. These acts are historically interesting, not only in themselves, but also in that they were brought to the international community’s attention on two separate occasions: to the League of Nations, when they were committed, and later, to the United Nations.

Fascist atrocities, though widely condemned by individuals and organizations, passed officially unnoticed by the League of Nations and were the subject of judicial consideration only after Italy’s entry into the European World War in 1940. The question of these crimes was then reopened, in the newly established UN War Crimes Commission. Though based on power politics and political opportunism, the founding of this body reflected a shift in international thinking and re-shaping of international law.

The present article, which throws incidental light on changing international attitudes to Ethiopia, attempts to trace the tortuous history of these war-crimes discussions, and to examine why the efforts of the Ethiopian government to have war-criminals tried were less successful than those of other Allies.

## ***The League of Nations: Initial Reports***

The Ethiopian Minister of Foreign Affairs supplied the League of Nations with irrefutable information on Fascist war crimes, including the use of poison gas and the bombing of Red Cross hospitals and ambulances, from within a few hours of the Italian invasion on 3 October 1935 to 10 April of the following year.<sup>1</sup> Further charges were made by Emperor Haylä Sellasé, to the League's General Assembly on 30 June.<sup>2</sup> Later, on 17 March 1937, he requested the League's Secretary-General to appoint an Inquiry Commission to investigate crimes committed in Ethiopia.<sup>3</sup> Such appeals made a deep public impression, but the League took no official action on the matter.

## ***The European War: Growing Interest in War Crimes***

The September 1939 outbreak of the European war was followed, in June 1940, by Fascist Italy's entry into the conflict. Continental Europe was soon occupied by the Axis powers, Germany and Italy, which reportedly committed many atrocities. The shocked Allies developed a keener interest in "war crimes" than when these had been perpetrated in far-off Ethiopia.

The "war crimes" question was first raised by the European refugee governments, established in Britain, who spoke on behalf of nine countries: France, Belgium, Holland, Luxembourg, Norway, Poland, Czechoslovakia, Yugoslavia, and Greece. Ethiopia, it should be noted, had by then been liberated, but was under British occupation. The representatives of these countries participated at a London meeting, on 13 January 1942, and condemned Nazi Germany's "regime of terror," resolving that those responsible be brought to justice.<sup>4</sup> This declaration was accepted by the United States, which had entered the war a month earlier. President Franklin Roosevelt declared on 21 August that those "committing barbaric crimes" should, at the end of the war, be "subjected to due process of law."<sup>5</sup> On 7 October, he announced that the United States would "co-operate . . . in establishing a United Nations Commission for the investigation of war crimes," and promised that "just and sure punishment" would be meted out to those "responsible for the organized murder of thousands of innocent persons" and "the commission of atrocities violating every tenet of Christian faith."<sup>6</sup>

The war crimes issue came further to the fore as evidence of Nazi atrocities against the Jews filtered out of occupied Europe. On 17 December 1942, a declaration was read out in the British House of Commons, stating that Britain, the USA, the USSR, and the nine émigré governments affirmed their “solemn resolution” that those responsible for crimes should “not escape retribution.”<sup>7</sup>

This declaration applied only to crimes committed by the Germans in Europe. The latter were outside Allied jurisdiction, but statements condemning them were important in Allied war propaganda. Virtually nothing was said about Fascist Italy, either about atrocities it was committing in Europe, or those it had earlier carried out in Ethiopia.

### ***Changing Allied Positions: Mussolini and Badoglio***

Allied thinking on war crimes underwent an important shift, in the summer of 1943. After the Anglo-American landings in Sicily on 10 July, it became apparent that Italy might soon fall. This led the Allies to reconsider their attitude to Mussolini, and to the leaders who might succeed him. The American and British leaders took the view that the veteran Italian commander, Marshal Pietro Badoglio, was a man with whom they should collaborate. Though he had used poison gas in Ethiopia, they did not consider him a war criminal, but as a force for European stability. One of those supporting him was Carlton-Hayes, the American Ambassador in Spain, who told his British counterpart, Sir Samuel Hoare on 20 July, that he favoured a Regency in Italy, with Badoglio as “the strong man.”<sup>8</sup>

### ***Mussolini’s Fall and Badoglio’s Appointment***

Speculations on Italy’s future were suddenly cut short when the fascist Grand Council voted on 24 July for Mussolini’s dismissal. On the following day King Vittorio Emanuele appointed Badoglio Prime Minister.

The dictator’s fall, and the new Premier’s appointment had dramatic consequences—which were to have a major bearing on the question of Italy’s war crimes in Ethiopia. In the United States, Roosevelt at once took the lead. On the following day he proclaimed that the Duce was a war criminal. He telegraphed to Prime Minister Winston Churchill that Mussolini, and his principal supporters,

should be immediately arrested. Speaking of the Duce, he declared, “the Head Devil should be surrendered together with his chief partners in crime.”<sup>9</sup>

The British War Cabinet on 26 July, heard Foreign Secretary Anthony Eden argue that it would be “greatly to our advantage” not to administer Italy directly, but to have it “run for us, as far as possible,” by an Italian government. His colleagues agreed.<sup>10</sup> Nothing was specifically said about war criminals. Cabinet members, however, had before them a Secret Memorandum, from Churchill, paragraph 12 of which alluded to Roosevelt’s reference to Mussolini, the “Head Devil,” and commented:

The surrender of, to quote the President, “the head devil” together with his partners in crime must be considered an eminent object and one for which we should strive by all the means in our power. . . . Should they fall into our hands, we ought now to decide in consultation with the United States and after agreement with them with the USSR what treatment should be meted out to them.

As for Allied policy, Churchill continued, with a brutality he had never previously displayed in relation to Mussolini:

Some may prefer prompt execution without trial. . . . Others may prefer that they be kept in confinement till the end of the war in Europe, and their fate decided together with that of other war criminals. Personally I am fairly indifferent on this matter, provided always that no solid military advantages are sacrificed for the sake of immediate vengeance.<sup>11</sup>

### ***Italy’s Surrender, and Proposed Allied Demand for War Criminals***

That same day, 26 July, the British government finalized a first Draft Instrument for the Italian Surrender. Article 30 declared:

All persons suspected of having committed war crimes or analogous offenses, whose names appear on lists to be communicated by the United Nations, will forthwith be apprehended and surrendered into the hands

of the United Nations. Any instructions given by the United Nations for this purpose will be complied with.

Roosevelt meanwhile continued to press for the Duce's prosecution. On 28 July, he declared that Mussolini and "his Fascist gang" should be "brought to book and punished for their crimes against humanity," adding that "no criminal will be allowed to escape."<sup>12</sup>

Despite these strong words, he almost immediately had second thoughts. Continuing to urge the need for an Italian surrender, he nevertheless declared it expedient to abandon any formal reference to war crimes. On the terms to be offered by the Allied commander, Dwight Eisenhower, he telegraphed Churchill on 30 July: "It is my opinion that the question of war criminals should not be brought up by General Eisenhower in a statement of his aims for an armistice." Elaborating on this, he continued:

It is our opinion that an effort to seize the "head devil" in the early future would prejudice our primary objective, which is to get Italy out of the war. We can secure the person of the 'head devil' and his assistants in due time, and then determine their individual degrees of guilt for which the punishment should fit the crime. . . .

The war criminal problem can be taken up later, and I believe that all demands by the Allied Nations that are not essential to the present time should be postponed with the purpose of getting Italy out of the war at the earliest possible date.<sup>13</sup>

This sudden U.S. policy change created some surprise in the British Foreign Office, which nevertheless willingly accepted it. On 31 July, a staff member, Pierson Dixon, noted that: "In pressing for our full instrument of surrender, we have told the Prime Minister that we could agree to the omission from the text of the clause concerning war criminals." Noting the significance of this, as far as Mussolini was concerned, he continued:

If nothing is to be said about war criminals in general . . . , I suppose it follows that nothing should be said about Mussolini specifically. This must, I think be the President's idea, since it was he himself who, at an earlier stage, said he thought that "the head devil should be surrendered, together with his chief partners in crime."

Dixon commented that it was “far from clear” what the President’s message meant “when translated into action,” but concluded that Roosevelt seemed to assume that Italy’s surrender would be effected in two separate stages,” i.e. “short term” ones, followed by “discussion of our future requirements.” Mussolini’s surrender was not “provided for” in the former, but would be in the latter.<sup>14</sup>

### ***House of Commons Questions on Badoglio and Mussolini***

Fascist Italy’s collapse had a profound world-wide impact. In Britain, Leslie Carruthers, a correspondent of the pro-Ethiopian publication *New Times and Ethiopia News*, appealed to British Foreign Secretary Eden, on 25 July, for an assurance that the Government would “have no official dealings with Marshal Badoglio,” but would “exact his extradition to Ethiopia, to be tried for his violation of the International Gas Convention.”<sup>15</sup>

The situation in Italy also led to Parliamentary Questions in the House of Commons. The first, on 3 August, was by a Unionist MP, Major Vyvyan Adams, a member of the London-based Abyssinia Association. Fearing a possible British deal with Badoglio, and possibly “back sliding” in relation to the Duce, he put down two questions for the Foreign Secretary.

The first concerned Badoglio, who, Adams was well aware, had been responsible for the use of poison-gas in Ethiopia. The marshal, who had just been appointed Italian Prime Minister, was then actively collaborating with the Germans. The Major asked Eden “whether he would bring the behaviour of Marshal Badoglio in Ethiopia to the attention of the United Nations Tribunal for the trial of War Criminals.”

This question, which, according to Parliamentary practice, was put down in advance, embarrassed the Foreign Office, for four main reasons:

1. It anticipated that Badoglio was about to sue for peace, and might be discouraged if personally indicted as a war criminal.
2. It wanted Italy in the Western camp and favored a right-wing ruler, to curtail anarchist or revolutionary tendencies.
3. It had recognized the Italian fascist “conquest” of Ethiopia in 1938 and opposed discussion of the war crimes which had preceded, and led to, that event.

4. Being colonially minded, and/or racially prejudiced, it considered Ethiopia outside the confines of European statesmanship. This view had earlier been expounded by the Foreign Under-Secretary, Sir Orme Sargent, who, on 22 August 1942, wrote that he felt “doubts” about “admitting Abyssinia into the sacred circle of the Allied Nations with all that implies both during the war and at the peace settlement.”<sup>16</sup>

The Foreign Office was bitterly opposed to the trial of Italians for war crimes in Ethiopia, but was in a predicament. It was difficult to argue that crimes committed there in 1935–36 should be excluded from consideration on the grounds that they had occurred prior to outbreak of the European war, in September 1939. China, a powerful ally, had insisted on trying Japanese war criminals for the entire period of the Japanese invasion, starting in the late 1920s or early 1930s, i.e. half a decade or so earlier. Major Adams’ question was therefore not appreciated by the Foreign Office, but it had to be answered.

The difficulty in doing so was explained to Eden by a Foreign Office official, William Allen, in a departmental minute, of 2 August. Proposing an answer for the Minister, he observed:

The answer is, I think, that the United Nations Commission for the Investigation of War Criminals will deal only with war crimes committed during the present war against nationals of the United Nations. But we must be a little careful in replying on these lines since we know, for instance, that the Chinese are going to press for all crimes committed by the Japanese in China since 1931 to be brought within the Commission’s scope.

Another official, the legal adviser, Gerald Fitzmaurice, also took up a defensive position. Referring to Adams’s “petition,” he noted on the following day that the major’s question as to whether the Government would send Badoglio for trial deserved an unqualified “No.” Elaborating on this, and by implication attacking Adams’s good faith, he observed, not without some truth, that the major’s object was “more to create prejudice against Marshal Badoglio in view of the present situation than anything genuinely to do with War Crimes.”<sup>17</sup>

Guided by his officials, and particularly by the warning that the Chinese wanted trials going back well before 1935, Eden answered in the vaguest terms



on 4 August. Avoiding any mention of the delicate matter as to the date from which the British Government wanted war crimes to be considered, he took refuge in the contention that the War Crimes Commission was an Allied rather than a British responsibility, and that Britain could interest itself only in crimes related to Britons or committed on British territory. He did not mention that it was the British Government which had selected the commission's membership and had framed its terms of reference.

Eden's 4 August reply was thus intentionally brief. It declared that "the scope of the [Allied War Crimes] Commission was a matter for decision by all the Allied Governments concerned. It will not be for Her Majesty's Government to submit to the Commission evidence of war crimes committed neither in British territory nor against British subjects." Though the question had been about Badoglio, he was not mentioned in the reply.

Adams, however, did not easily accept such evasion. He rose at once to pose a Supplementary Question, about Badoglio, "Would not one of the purposes for which we are fighting be frustrated," he asked, "if we allowed to go untried a man with such an infamous record of cruelty?" Eden, a politician long practiced in Parliamentary evasion, chose to leave this question unanswered. The British Government clearly had no wish to see Badoglio tried.

The major's question about Mussolini, which followed immediately, received very different treatment. Adams asked Eden "whether he will state the agreement of His Majesty's Government to President Roosevelt's undertaking that Benito Mussolini will not be allowed to escape." To this the Foreign Secretary, Eden, triumphantly replied:

His Majesty's Government recently consulted the United States and Soviet Governments with a view to issuing a warning to certain neutral governments against providing shelter or protection to Mussolini, prominent Fascists and other war criminals who might try to seek asylum in neutral territory. As a result of these consultations, His Majesty's representatives at Angorra, Berne, Buonos Ayres, Lisbon, Madrid, Stockholm, and the Vatican were instructed to make a communication in the following terms . . . :

In view of developments in Italy and the possibility that Mussolini and other prominent Fascists and persons guilty of war crimes may attempt to take refuge in neutral territory His Majesty's Government in the United

Kingdom feel obliged to call all neutral countries to refuse asylum to any such persons, and to declare that they will regard shelter, assistance or protection given to such persons as a violation of the principles for which the United Nations are fighting . . . .<sup>18</sup>

This was the first official British statement accepting that Mussolini and his collaborators were “war criminals”—though it did not specify where their “war crimes” had been committed.

### ***Italy’s Surrender and Badoglio’s Continuation in Power***

Meanwhile in Italy, Mussolini’s fall was followed by the collapse of fascism. The country’s future seemed to the British alarmingly uncertain. A Foreign Office memorandum of 7 August reported Communist demonstrations in Turin and Milan, which “had to be put down by armed force,” and added “If the King were overthrown there would be a blood bath.” A memorandum of 18 August spoke of “revolts . . . which could quite possibly terminate in revolution and anarchy.”<sup>19</sup>

Badoglio meanwhile was preparing to abandon the Germans and to negotiate peace. He sent secret envoys to the Allies who, however, rejected his first approaches. The British Government officially insisted instead on “unconditional surrender.” This position, however, was soon qualified. Churchill told Eden, on 10 August, that though the Italians had to make a “formal act of submission,” Britain should “treat them with consideration so far as military exigencies allow. Merely harping on ‘unconditional surrender’ with no prospect of mercy held out even as an act of grace may well lead to no surrender at all.” He therefore declared, following Roosevelt, that “unconditional surrender” should be taken to mean “honourable capitulation.”<sup>20</sup>

This was duly accepted by the British Cabinet. On 11 August, Eden declared that “the Italian Government should place themselves in the hands of the Allied Governments,” who would “then state their terms of peace.” These, however, “would not be vindictive,” for Italy should “in due course. . . . occupy a respected place in the New Europe.”<sup>21</sup>

Though prepared to modify their earlier public insistence on “unconditional surrender,” the Allies continued to press for the surrender of some fascist “war

criminals.” This principle was embodied in Article 29 of the final surrender terms, which declared:

Benito Mussolini, his chief Fascist associates and all persons suspected of having committed war crimes or analogous offenses whose names appear on lists to be communicated by the United Nations will forthwith be apprehended and surrendered into the hands of the United Nations. Any instructions given by the United Nations for this purpose will be complied with.

To meet Italian susceptibilities this article—which later provided the basis for Ethiopia’s attempt to try Italian war criminals—was not, however, published for many weeks.<sup>22</sup>

Italy’s alliance with Nazi Germany came to an end on 8 September. That day Badoglio, doubtless pleased by British acceptance of the principle of “honourable capitulation,” declared it was impossible to continue the “unequal struggle” and agreed to “unconditional surrender.” Allied landings on the Italian peninsula followed immediately. The Times commented: “The Italy which has surrendered is the Italy which has been defeated on every battlefield, a people left helpless and confused, with few arms, united only in the desire for peace.”<sup>23</sup>

### ***The UN War Crimes Commission: Creech Jones’s Parliamentary Question on Ethiopia’s Exclusion***

Within a few weeks of Badoglio’s switch of allegiance it became apparent that Ethiopia had been excluded from the seventeen-country UN War Crimes Commission, set up by Britain, on 20 October 1943. Ten days later a banner headline in *New Times and Ethiopia News* read: “Why is Ethiopia Excluded?”

British friends of Ethiopia found this exclusion disturbing. Towards the end of the month, a Labour MP, Creech Jones, put down a Parliamentary Question. Learning that Ethiopia was virtually the only Allied state not represented on the commission, he asked the Foreign Secretary whether it was “proposed to invite Ethiopia to serve with members of the United Nations on the commission . . . ?”

This question was as embarrassing to the Foreign Office as Major Adams’s one about Badoglio. This was because the British Government had decided to

exclude Ethiopia, but did not relish explaining its reasons. Allen was obliged to draw up a further lengthy Foreign Office memorandum, on 31 October.

He began by discussing the commission's origins. "The proposal for the United Nations Commission for War Crimes arose," he noted, "from the initiative of the Allied Governments of the occupied countries of Europe. It was decided from the beginning," he continued, "that our discussions should be limited to those Governments and to the three other major Powers [i.e., the United States, the Soviet Union, and China] and the Dominion Governments." Membership thus consisted, besides Britain, of (1) exiled European Governments under Axis domination; (2) the three other Great Powers; and (3) the British Dominions. Ethiopia was not mentioned by name, but did not fall within any of these fairly arbitrary categories.

Elaborating on the criteria chosen for membership he added: "Apart from reasons of practical convenience we were influenced in maintaining this attitude by the views of the Soviet Government, which informed us that they felt that there were two necessary qualifications for membership of any country, namely, that such country should be actively fighting the Axis Powers and should have 'suffered' at the hands of the enemy." Allen's implication was that Ethiopia, by then liberated, was no longer "actively fighting." (The British Government had rejected an Ethiopian offer of troops).<sup>24</sup> Whether the country had "suffered" sufficiently was left unstated. Though using the Soviets to justify Ethiopia's exclusion, he explained that they had later also been excluded. "Difficulties" over representation of their constituent Republics, he stated, had caused the commission to be established "without the Soviet Government's participation."

Coming finally to the question of Ethiopia's exclusion, and to the commission's competence to consider crimes prior to 1939, he argued (a) that Ethiopia should not be a commission member, and (b) that Italian crimes committed in Ethiopia prior to Italy's entry into the European war should not be considered. He thus declared:

As far as Ethiopia is concerned there can I think be no question of her being admitted to the Commission itself. Nor, according to our present proposals, will the Commission be prepared to consider war crimes committed in Abyssinia by the Italians before the outbreak of the present war.

He made, however, one small concession, declaring that “if the Ethiopian Government are able to bring before the Commission any information regarding war crimes committed against their nationals during the present war, there will probably be nothing to prevent them from doing so.” This proviso applied, it will be perceived, only to a time when there were virtually no recorded Italian war crimes, rather than the period of the invasion and early occupation when there were many. Yet he circumscribed even that concession, observing that whether Ethiopia would actually be entitled to offer information would be “a matter for decision by all Governments represented upon the Commission and not by H.M. Government alone.”

This remark prompted the legal official, Sir Herbert Malkin, to raise two further points, in a minute of 1 November, which illustrate Foreign Office thinking. Commenting on Allen’s remark that Ethiopia might be permitted to provide information on crimes “during the present war,” he observed:

This rather assumes that the Governments whose representatives compose the Commission have all recognised the independence of Ethiopia, but perhaps we need not trouble ourselves about this point. This also applies perhaps to the question of any war crimes committed against Ethiopians during the present war, but before we had recognized Ethiopian independence.<sup>25</sup>

This latter proviso, if taken literally, would have negated Ethiopia’s right to submit any evidence. Britain did not recognise Ethiopia’s independence until after the termination of hostilities in East Africa. By then fighting had ended, and there could be, by definition, no war crimes.

Creech Jones’s Question, which had led to this exchange of Foreign Office notes, was answered on 2 November 1943. The reply was given by the Foreign Under-Secretary, George Hall, in written form, thus preventing Jones from making any Supplementary Question or back-chat.

Hall’s answer, drafted by Allen, justified Ethiopia’s exclusion on the ground that the commission had been established “some time” earlier, and that additional members, by implication, were not desired. The reply also incorporated Allen’s earlier “concession” that Ethiopia could submit evidence about crimes

committed “during the present war.” The reply, doubtless to appear conciliatory, began with this “concession” and declared:

The commission will no doubt be prepared to consider any information which the Ethiopian Government or any other United Nations Government may wish to submit to it regarding crimes committed against their nationals by our common enemies during the course of the present war. It is not, however, the intention to invite Governments not hitherto associated with discussions on war crimes, which have been proceeding for some time past, to serve on the Commission.<sup>26</sup>

The question of war crimes was meanwhile gaining increased international attention. A Moscow Declaration, signed by Churchill, Roosevelt, and the Soviet leader Stalin, on 1 November, stated their determination to pursue war criminals “to the uttermost ends of the earth,” and to “deliver them to their accusers in order that justice may be done.”<sup>27</sup>

### ***A Further Parliamentary Question and Mini-Parliamentary Debate***

The question of Ethiopia’s exclusion was again raised in the House of Commons on 3 November, when a Labour MP, Ben Riley, lobbied by Sylvia Pankhurst, put down a further Parliamentary Question. He asked the Foreign Secretary “whether Ethiopia is to be included among the United Nations which have already been announced as a Commission to decide about the treatment of war criminals.”

The Government’s reply was given by another spokesman for Foreign Affairs, Richard Law. Hoping to slide out of the issue by referring to the previous day’s answer, he replied: “I would refer the hon. Member to the written reply to the hon. Member for Shipley [i.e., Creech Jones] by my friend the Under-Secretary.”

Riley, who had seen such Parliamentary evasion practiced previously, was not silenced. Reverting to the main issue, Ethiopia’s exclusion, he declared: “I have not seen the reply, but may I ask whether it is not a fact that all the Allied nations are entitled to be represented on that Commission except Ethiopia, and why is Ethiopia excluded?”

Law was obliged to say something. Acting on the earlier Foreign Office brief, he lamely began by following the line pursued by Eden and Hall, and declared: "Generally speaking, the policy of the United Nations in this matter is only that those nations which were associated with this matter at the beginning should be members of the Commission." Then, doubtless realizing the inadequacy of this answer, he improvised. Seeking, like Hall, to make it appear that the British Government had no wish to exclude Ethiopia, he added, disarmingly, "I can assure the hon. Member . . . that the Ethiopian Government were informed at the time these negotiations began and that they offered no comment on them." Both observations were untrue, but since no one in the House knew this, Law's "inexactitudes" passed uncorrected.

Law's reply nevertheless created disquiet on the Opposition benches. Emanuel Shinwell, a prominent Labour member, and committed anti-fascist, had not forgotten the use of poison-gas in Ethiopia. He jumped up to ask the Supplementary question:

In view of the use of poison-gas by the Italians against the Abyssinians, would it not be an act of justice to hand over Italian war criminals to the Ethiopians?

Law tried to stifle this question with four brief words: "That was another war."

This attempt to discourage discussion provoked a Conservative MP, Kenneth Pickthorn, to ask, reflectively, "Is it part of the war for democracy that the elaboration of this new technique about trying war criminals should be completely accepted without discussion in this House or any effective discussion in this country?"

Law turned this question to his advantage, declaring with exaggeration: "There has been a good deal of discussion at Question time at any rate."

That was not, however, the end of the story. Two further MPs intervened. The first, Sir Herbert Williams, a Conservative, defended the Government's position, by questioning the right of Ethiopia to commission membership. He asked, sarcastically, "Can the right hon. Gentleman say on what fronts Ethiopian troops are now engaged in capturing any of these prisoners?" Reginald Sorensen, a pacifist Labour member, then spoke more philosophically. "In view of the obvious difficulties and embarrassments which this and similar

questions are causing,” he demanded, “could we not have some clearer definition as to what exactly a war criminal is and to what extent that should cover not only this campaign but others?”

To these interventions, the Government spokesman vouchsafed no reply.<sup>28</sup>

### ***Foreign Office Reaction to Law’s Parliamentary “Inexactitudes”***

The above Parliamentary exchanges were carefully followed at the Foreign Office. Its officials, better informed than MPs, were somewhat concerned about Law’s Parliamentary “inexactitude,” even though it furthered their overall object of stifling discussion on the sensitive issue of Ethiopia’s exclusion. They knew only too well that the Ethiopian Government had not been “informed” on the original negotiations concerning the commission, and that it was equally untrue that it had “offered no comment on them.”

Allen, who had drafted Law’s bungled reply, was particularly peeved. On the following day, he wrote a minute on “Mr Law’s supplementary assurance that the Ethiopian Government were informed at the time negotiations for the establishment of the War Crimes Commission began and that they offered no comment on them,” and bluntly commented “I am afraid that this is not the case.”

Referring to his earlier minute, prepared for reply to Creech Jones, he recalled that it had, on the contrary, been “decided from the beginning that our discussions should be limited to the exiled European Governments, the three other major powers, and the Dominion Governments.” As for Law’s error, he added: “The Ethiopian Government were informed in advance of the Looting declaration issued last December, but they have never been told anything about the War Crimes Commission.”

Allen’s statement was in itself bizarre. What he termed the “Looting declaration,” of December 1942, was the Allied declaration incorporated in Eden’s statement of 17 December 1942. It had scarcely any connection with “looting,” but merely enunciated the “solemn resolution of all freedom-loving peoples to overthrow the barbarous Hitler tyranny” in Europe, and to ensure that those responsible for “war crimes” should “not escape retribution.”<sup>29</sup> This declaration, which was allegedly brought to the Ethiopian Government’s attention, was of no direct relevance to Ethiopia, whereas the War Crimes Commission,



from which it was excluded, was crucially important, as far as the trying of Italian war criminals was concerned.

Turning to Ethiopia's continued exclusion, Allen concluded, with some irritation, that the position would "presumably have to be explained" to the newly appointed British Minister in Addis Ababa, Robert Howe. "A word," he suggested, should also be said to the Ethiopian Minister in London, Blatta Ayalä Gäbré, who (though this had been ignored in Mr Law's reply) had "already asked for information about the Commission and the possibility of Ethiopian representation upon it."

Allen was not alone in his disquiet about Law's error. Another official, Frank Roberts, wrote in a minute the next day: "I do not know how Mr Law received the impression that the Ethiopian Government had ever been approached in this matter. It is of course not the case. . . ."

The mystery was solved on the following day. Gilbert MacKereth, an expert on Ethiopia in the Egyptian Department, confessed:

I am sorry to say that the fault is entirely mine, for Mr Law asked me on November 3rd. whether the Ethiopian Govt. had been informed about the commission and I told him that they had right at the beginning, though not subsequently, and had raised no questions. I was labouring, as was the Ethiopian Minister when he came to see me on the subject, under the misapprehension that the war crimes commission was an outcome of the looting declaration which had been communicated to the Ethiopian Govt. last December.

Turning to the Minister's inquiry, to which Roberts had earlier referred, he recalled: "he did not ask for representation on the commission, but for information." He had not been instructed, but had seen perhaps in the Press about the formation of a commission.

The above minutes were duly seen by poor Law. That day, 5 November, he wrote a note of his own, in the relevant file. "I am sorry," he declared, "And so is Mr MacKereth. I hope that between us we haven't caused too much trouble."<sup>30</sup> Despite this apology, he took no steps to explain his error to the House of Commons he had misled.

## ***Correspondence from the British Public: Maude Royden's Letter, and Foreign Office Reactions***

The question of Ethiopia's exclusion meanwhile continued to disturb British friends of Ethiopia. At least three despatched letters to the Government. The former suffragette Maude Royden wrote to Eden; Sylvia Pankhurst to the Opposition Chief Whip in the Lords, Lord Strobolgi; and a Liberal MP, Wilfred Roberts, to Law.

Maude Royden's letter led to considerable discussion in the Foreign Office. Writing to Eden, on 29 October 1943, she observed:

May I urge that Ethiopia be allowed a representative on the commission . . . appointed to frame the procedure and indictment against war criminals after the war. Surely Ethiopia has suffered enough to justify her claiming a place?

Turning to the position of Badoglio, then still Prime Minister of Italy, and of Emperor Haylä Sellasé, she disarmingly continued:

I understand that it was Badoglio who actually ordered the use of poison-gas and therefore I can see the delicacy of the situation; on the other hand the Emperor of Ethiopia is in a no less delicate position with his own people. His prestige should be enhanced in every possible way, since he is having a hard row to hoe and doing such a splendid best. We ought not to allow it to appear that we consider that Ethiopia is so completely under our tutelage that the Emperor requires no representation on the commission. On the other hand, that position would certainly enhance his prestige if an Ethiopian representative, in a case that touches her so nearly, were appointed and received on exactly the same footing as the representatives of other injured nations.

The Foreign Office, realising that it was under strong, orchestrated, criticism, responded immediately by sending Miss Royden a brief acknowledgment. Written on 4 November, the day after Law's Parliamentary "inexactitude," it stated that Eden was absent, but that her letter would be "shown to him on his return."

This communication constituted no more than a “holding operation.” The Foreign Office was aware that it had to formulate a substantive reply, as well as to fend off pressure from other supporters of Ethiopia, and doubtless before long, also from the Ethiopian Government itself. Allen and his colleagues therefore again formulated their thoughts on Ethiopia’s exclusion, and their justification thereof.

Allen wrote a further lengthy minute, on 10 November. He noted that supporters of Ethiopian representation “urged that Ethiopia was one of the first sufferers at the hands of the Axis nations and that many atrocities” had been “committed against the Ethiopians and on Ethiopian territory by the Italians.” However, he argued, there were still “strong arguments” against Ethiopian membership. The “chief” of them were that it was 1) “at present proposed to limit the investigations of the Commission to crimes committed during the present war”; 2) “it might be difficult to secure the appointment to the Commission of other members”; and 3) it was “unlikely that an Ethiopian representative would be in a position to contribute much to the Commission’s proceedings.”

These objections, he claimed, “outweigh[ed]” the case for representation. The British Government should therefore, he urged, maintain its original line, based on two contentions. Firstly, “the question would be one for decision by all the Allied Governments represented on the Commission,” rather than Britain alone; secondly, that “the consensus of opinion” (whatever that meant) was “undoubtedly against Ethiopian representation.”

Allen’s observations were accepted by another official, Geoffrey Harrison, who that day wrote a minute in which he more artfully declared: “I agree with Mr Allen, except that, in view of the great popularity of Ethiopia in certain circles in this country, I should have thought it preferable that we should leave the onus for a decision with the Allied Govts. collectively and should be chary of taking much of a lead ourselves.”

MacKereth, of the Egyptian Department, however, took a different view. On the following day, he pointed to what he considered the immorality of Ethiopia’s exclusion from the Commission, and wrote, with some force:

While I appreciate the inconvenience of having an Ethiopian representative on the Commission I consider that the moral disadvantage of excluding Ethiopia outweighs that inconvenience. It seems to me that we create

a fissure in our case by making a distinction as invidious as this on the hypothesis (none too sound) that an Ethiopian representative might not contribute anything useful to the proceedings. The argument that only war crimes committed since September 1939 (present war) would be more substantial were China not a party to the commission and had we not brought Ethiopia into the 'looting' Declaration. The way out suggested by Harrison, i.e. throwing the onus of exclusion on the honoured 17 already invited seems to me likely to affect our own prestige for we should thereby let down an ally who, although no use to us now militarily, was once of considerable assistance when it came to defeating an Italian army in our rear in North Africa and since then has done more in the way of providing supplies than some of the other United Nations.

I am sure that we needlessly put ourselves in the wrong by not asking Ethiopia to send a representative (we might easily suggest that owing to the complicated issues involved an 'international lawyer' should be nominated, as was done when the Abyssinian case came before the League on Nations in 1935/6). I cannot see on what decent grounds the other members of the commission could object.

These observations prompted Sir Herbert Malkin that day to write a legalistic minute. In it he declared:

The objection to Ethiopian membership which strikes me as important is as follows. I do not know whether the Italians committed any 'war crimes' against Ethiopians during the recent reconquest of Ethiopia, but I imagine that their [i.e. the Ethiopians'] object in being represented would be to bring before the Commission the crimes which the Italians undoubtedly committed during the original conquest of the country. This, however, is surely out of the question for several reasons, one of which is that probably the first name on the Ethiopian list would be Marshal Badoglio.

The Marshal was still Italian Prime Minister, and the British Government was unwilling to break with him.

"The case of Ethiopia," Malkin continued, with some casuistry, was "quite different . . . from that of China." In the latter case "the only question" was "how far back to go as regards crimes committed in hostilities which have been

continually proceeding since the earliest date which it would be possible to take.” Ignoring the Ethiopian Patriots, who had fought throughout the entire occupation period, he claimed that “in the case of Ethiopia . . . the crimes were committed in the course of a quite different war,” which had been “followed by a period in which Ethiopia did not exist internationally at all.” He therefore concluded, that, if during the period prior to September 1939, the Italians committed crimes against Ethiopia, he did “not see how they could be regarded as ‘war crimes.’”<sup>31</sup>

After reading the above minutes Roberts drew up a further paper, on 16 November. Summing up the Government position, and repeating arguments of the above officials, he observed:

Since the announcement was made of the establishment of the United Nations Commission for the Investigation of War Crimes, the question of Ethiopian representation upon it has been raised both in questions in the House of Commons and in letters from Members of Parliament and from well-known sympathisers of Ethiopia, such as Miss Pankhurst and Miss Maude Royden. Fortunately, no actual request has been received from the Ethiopian Government, and we have therefore some time to decide our attitude.

The alternatives seemed to him to be:

1. to invite Ethiopia to serve on the Commission;
2. to make it clear that H.M.G. at least do not regard Ethiopia as being qualified.
3. to maintain the reserved attitude set out in Mr Hall’s statement in the House of Commons on November 2nd, while clearing our minds regarding our future attitude if pressure increases.

Considering the case for membership, which was supported by the Foreign Office’s Egyptian Department, i.e., by Mr MacKereth, he wrote:

It is suggested that Ethiopia was one of the first sufferers at the hands of the Axis nations, that many atrocities were committed against Ethiopia and on Ethiopian territory by the Italians, and that the inclusion of an

Ethiopian representative would enhance Ethiopia's prestige and have a useful educative effect. Egyptian Department feel that we needlessly put ourselves in the wrong by not inviting an Ethiopian representative to participate. They argue that we thereby lay ourselves open to the charge of letting down an ally who, although of no use to us now militarily, was once of considerable assistance in helping to bring about the defeat of an Italian army in our rear in N. Africa, and has since played her part in providing supplies. They further point out that, although the Ethiopian Government have not been brought into our earlier discussions on war crimes, they were informed at the time of the declaration on looting published last December and invited to associate themselves with the principles enunciated in it. Finally, they point out that, while the Commission will in general confine itself to the examination of war crimes committed since September 1939, sympathetic consideration has been given to a request from China that examination should be made of war crimes committed by the Japanese before that date. This, they feel, might provide a precedent for a similar extension to cover atrocities committed during the Abyssinian war.

Despite the strength of such contentions Roberts emphasized what he termed the "strong arguments" against membership. Explaining that this might entail an Ethiopian demand for the trial of Badoglio (which, though not so stated, was anathema to the British Government), he declared that, if the Ethiopians were represented,

their chief object no doubt would be to bring before the Commission the crimes which the Italians undoubtedly committed during their original conquest of the country. This probably would mean that the first name on the Ethiopian list would be Marshal Badoglio.

Like Malkin he saw no need to say more.

Turning to the "parallel with China," he declared that in that case the "only question" was:

how far back to go as regards crimes committed in hostilities which have been continually in progress, while in the case of Ethiopia the crimes were followed by a period in which Ethiopia ceased to exist from the

international point of view. Crimes committed by the Italians during that period could not properly be regarded as 'war crimes.' An additional argument against Ethiopian representation is that the Governments concerned, and in particular the Soviet Government, have always attached importance to limiting discussions on war crimes to the Allied Governments most directly concerned with the question. If Ethiopia were admitted, it might be difficult to refuse requests for admission from other members of the United Nations. Finally, there is the consideration that an Ethiopian representative would probably not be able to contribute much to the Commission's proceedings, although this might be got over by the appointment of a non-Ethiopian international lawyer to represent them, as was done in the Abyssinian case that came before the League of Nations in 1935/6.

He then came down firmly in favour of the option of maintaining exclusion, without either saying so, or explaining why:

It is I think clear that no advantage and considerable embarrassment would result from including Ethiopia on the Commission and that we should certainly experience considerable difficulty in persuading many other members of the Commission to accept her. It is quite logical to rule out from consideration war crimes committed in the Italian conquest. As regards the Ethiopian campaign of 1940–41, I have not seen any suggestion that war crimes were committed by the Italians. In fact, probably the Italians were the victims more often than the perpetrators of atrocities during this campaign. In any case the position in regard to this is set out by the first sentence of Mr Hall's statement of November 2nd.

Hall observed that the commission might be prepared to consider information submitted by the Ethiopian Government "regarding crimes committed against their nationals by our common enemies during the course of the present war."

Roberts accordingly recommended that the Government should state, "in reply to inquiries, that 'all questions relating to the constitution and functions of the United Nations Commission are matters for all the Allied Governments represented thereon, and not for H[is] M[ajesty's] G[overnment] alone to decide.'"

The argument that Ethiopian membership was a matter for the Allied Governments as a whole, rather than for the British Government alone, was to be repeated by the Foreign Office on many occasions. There is, however, no evidence that the British ever attempted to consult those governments, let alone that they ever proposed their acceptance of Ethiopian representation.

The exclusion of Ethiopia did not, however, go entirely unchallenged in the Foreign Office. Sir Orme Sarjent questioned the whole case on 19 November in a minute declaring:

I wonder whether it is really advisable to continue to adopt the attitude that Ethiopia is not to be included in the Commission. Having agreed, as I understand, that the Government of every Allied country which has been occupied by the enemy is entitled to be represented on the Committee, I cannot see how we can exclude Ethiopia. It is really no answer to say that if they were to be included the Ethiopian representative would be inadequate or that he would bring up cases which were not covered by the Commission's terms of reference. Obviously if he did his cases would be ruled out. Nor do I see how we can base our refusal on the argument that we do not think that the Italians committed any war crimes during the 1940/41 campaign. It is surely for the Commission to judge of that in the light of the evidence, if any, which is submitted to it.

Notwithstanding this dissent he added a "PS," declaring that he supposed: "we must continue for the present the line we have adopted up till now."<sup>32</sup>

Roberts accordingly despatched a letter to Miss Royden, on 24 November. Referring to inquiry about the appointment of an Ethiopian representative, he declared:

As you will be aware this question has recently been raised in the House of Commons. The position is as stated in the reply given by the Parliamentary Secretary for Foreign Affairs to Mr Creech Jones on the 2nd November, of which a copy is enclosed. You will of course realize that questions relating to the constitution and functions of the United Nations Commission are matters for all the Allied Governments represented thereon and not for His Majesty's Government alone to decide.<sup>33</sup>



The Foreign Office thus at last openly committed itself to Ethiopia's exclusion. The issue of Italian war crimes in Ethiopia could not, however, be so easily suppressed.

### ***First Talks in Addis Ababa***

The question of Italian war crimes was raised six weeks later in a brief conversation, in mid-January 1944, between Robert Howe, the British Minister in Addis Ababa, and the Ethiopian Vice-Minister of Foreign Affairs, Ato Ambay Wäldä Maryam. No minutes of the conversation seem extant, but their differences were so great that the matter was "allowed to drop."<sup>34</sup>

### ***The Fall of Badoglio***

British opposition to Ethiopian membership of the commission owed much, as we have seen, to fear that the Ethiopian Government would bring charges against Badoglio, whom the British Government desired to retain as Italian Prime Minister. This consideration lost much of its weight in the summer of 1944, as a result of events in Italy itself. On 4 June, Rome fell to the British and Americans, and Badoglio, whose influence had been decreasing, resigned five days later. He was replaced by Ivanoe Bonomi, an elderly socialist.

Despite the fall of Badoglio, the British continued to afford him unreserved support. When it seemed for example that the Bonomi Government was to arrest him, Prime Minister Churchill despatched a "Personal and Top Secret" telegram, on 8 December 1944, to Sir Noel Charles, the British Ambassador in Rome. It declared:

You are responsible for the Marshal's safety and sanctuary in the British Embassy or in some equally safe place to which he can be removed. It must be remembered that he has signed a treaty with General Eisenhower and also documents with Admiral Cunningham which involve the honour of the British Government. A man who has signed such documents could only be brought to trial by the conquered Italians with the approval of the United States and United Kingdom Governments . . . you are not to let him go into any danger or pass out of our safeguarding hands until we have given full directions on the matter . . . military honour is also involved on

account of the high Generals and Admirals with whom he has dealt so faithfully. I repeat you are responsible for his honourable security.<sup>35</sup>

This letter leads us to suppose that the British Government, which sought to protect Badoglio from his own Government, would not allow him to be tried for crimes committed, half a decade earlier, in far-off Ethiopia.

### ***Revelations in the New York Times***

Interest in Italian war crimes was minimal throughout 1944. Britain and its European allies, primarily interested in the question of German war crimes, awaited the successful termination of the conflict in Europe, in 1945, before instituting trials. The Ethiopian Government, under strict British control imposed by the Anglo-Ethiopian Treaty of 31 January 1942, was necessarily also fairly inactive. The country did not regain freedom of action until the second Anglo-Ethiopian agreement, on 19 December 1944.

Though unable to take much action while under British control, some members of the Ethiopian Government were seething with anger over the war crimes issue. This found expression in an article, in the *New York Times*, on 31 January 1945. Its author, Sydney Gruson, had apparently been in contact with the Ethiopian Legation in London. He reported that the Ethiopian authorities were complaining of “British refusal to hand over Italians and others guilty of war-crimes,” and referred specifically to Mussolini, Badoglio, and the Emperor’s collaborationist son-in-law Haylä Sellasé Gugsa.<sup>36</sup>

Gruson’s article, which seemed likely to interest America’s pro-Ethiopian Black community, was considered so sensitive by the British Embassy in Washington that the ambassador, the Earl of Halifax, that day sent a “Secret” telegram to the Foreign Office. After summarising Gruson’s charges, he wrote: “Could you please supply me as rapidly as possible with the facts.”<sup>37</sup>

The Foreign Office, replying on 6 February, reverted to its old arguments. It contended that the commission’s terms of reference were “confined to crimes committed by our enemies during the present war.” It nevertheless added, for Halifax’s “own information,” i.e., not for disclosure to the Americans, the delicate matter that the commission’s responsibility might be extended “in the case of China to the beginning of hostilities against Japan.”

Outlining Foreign Office policy, designed to exclude Ethiopia, the letter continued:

Representation on the Commission has . . . , for practical purposes, been confined to the Four Major Allies, the Dominions and European exiled governments, though this of course would not prevent its considering any information within its terms of reference which any United Nations Government, including Ethiopia, might wish to submit to it. There is, however, no logical ground for extension of activities of this United Nations body to investigation of crimes committed during the Italo-Abyssinian war or subsequent period down to the outbreak of the present war. Such extension would seem to involve consideration by the Commission of crimes committed during all previous warlike operations by our enemies, which is clearly inadmissible.

The Foreign Office concluded by arguing that any extension of the period covered by the commission would “require consent, not only of His Majesty’s Government, but also of all the other Governments represented on the Commission, who would not in fact be likely to agree.”<sup>38</sup>

### ***The Pamphlet Italy’s War Crimes in Ethiopia***

The question of Italian atrocities acquired new focus two months later, in mid-April, when *New Times and Ethiopia News* in London published the pamphlet *Italy’s War Crimes in Ethiopia*. It contained excerpts from reports of the Graziani massacre, and photographs of executions, taken by the fascists themselves, found in Ethiopia after the Liberation. The pamphlet was widely circulated, to British MPs and others, and was almost immediately reprinted.<sup>39</sup>

### ***The London Agreement, Ethiopian Accession thereto, and the Ethiopian War Crimes Commission***

With the end of World War II, in the summer of 1945, interest in war crimes came at last to the fore. On 20 June, the Foreign Office, though still trying to shield Badoglio and opposing the trial of Italians for crimes in Ethiopia, drew up a revealing “Biography of Graziani.” It noted that in the Addis Ababa massacre

associated with his name “several thousand Abyssinians, men, women, and children, were slaughtered,” and added: “Blackshirts armed with rifles, pistols, bombs and flame-throwers, were turned loose on the natives and an appalling massacre was carried out for three days.”<sup>40</sup>

Two months later, on 8 August, Britain and the principal Allies signed the London Agreement, for the Prosecution and Punishment of the Major War Criminals of the European Axis. As a result of this agreement an International Military Tribunal was set up for trial and punishment of suspected war criminals.<sup>41</sup>

News of this soon reached Addis Ababa. Less than two months later, on 3 October, the Ethiopian Government announced its adherence to the agreement, the eighth country to do so. Not long after this, on 20 May 1946, an Ethiopian War Crimes Commission was appointed, by Ethiopian Imperial Order No. 1784.<sup>42</sup>

### ***Negotiations for an Italian Peace Treaty, 1946***

The ending of the European war had meanwhile hastened the need for a Peace Treaty between Italy and the United Nations, and for resolution of the war crimes issue. The Foreign Ministers of the Four Great Powers, the UK, France, the USSR, and the USA, started preliminary discussions on the matter, in Paris, in the early summer of 1946.

Ethiopia, like other Allies, was allowed to make recommendations for inclusion in the Treaty. Acting on the advice of its American adviser, Professor John H. Spencer, and displaying considerable ability, the Ethiopian delegation pressed the Council to agree to two important points. Firstly, that the war had begun, for Ethiopia, on 3 October 1935, i.e., the date of the fascist invasion; secondly, to accept the principle of postlimitium, i.e., the thesis that the Ethiopian government exercised jurisdiction for the period after the 1935 invasion, as well as before it. This principle holds that once an enemy occupation is terminated a state may treat its existence as having survived without interruption.<sup>43</sup> Spencer, explaining his thinking, in a letter to the present writer, observes:

My reasons were the fact that both the United Kingdom and France had recognized the Italian “conquest” of Ethiopia. France had entered into important agreements with Italy during the period of the occupation and

in particular on the Franco-Ethiopian railway. The United Kingdom had entered into the important 27 January 1937 agreement with Italy on migratory tribes moving between British Somaliland and Ethiopia. Both had, in principle, accepted by their recognitions the numerous confiscations, regulations and controls from which Ethiopia had to be freed. These confiscations led me to insist that Ethiopia call upon the Council of Ministers to insist on the date of 3 October, 1935.

The Council, on 25 June 1946, accepted the 1935 date, which was incorporated in three separate articles of the draft treaty. The first, Article 29, was designed to revoke Italian confiscations, and stated: "Italy recognises the legality of all measures which the Government of Ethiopia has taken or may take in order to annul Italian measures respecting Ethiopia taken after October 3, 1935 and the effects of such measures." The second, Article 37, declared: "Italy will restore all Ethiopian works of art, religious objects and objects of historical value removed from Ethiopia to Italy since October 3, 1935." The third, Article 38, declared: "The date from which the provisions of the present Treaty shall become applicable as regards all measures and acts of any kind whatsoever entailing the responsibility of Italy and of Italian nationals toward Ethiopia shall be held to be October 3, 1935."

The Draft Treaty, however, dealt with war crimes only generally without any specific reference to Ethiopia, or any other country. Article 45, declared:

1. Italy shall take all necessary steps to ensure the apprehension and surrender for trial of:
  - (a) Persons accused of having committed, ordered or abetted war crimes and crimes against peace or humanity.
  - (b) Nationals of any Allied or Associated Power accused of having violated their national law by treason or collaboration with the enemy during the war.
2. At the request of the United Nations Governments concerned, Italy shall likewise make available as witnesses persons within its jurisdiction whose evidence is required for the trial of persons referred to in paragraph 1 of this Article.

3. Any disagreement concerning the application of paragraphs 1 and 2 of this Article shall be referred by any of the Governments concerned to the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, who will reach agreement with regard to the difficulty.

The role of the Four Ambassadors, which was later of particular relevance to the question of war crimes in Ethiopia, was also defined in Article 86, which, envisaging the possibility of dispute between one or more UN members and the Italian Government, declared:

For a period not to exceed eighteen months from the coming into force of the present Treaty, the Ambassadors in Rome of the Soviet Union, of the United Kingdom, of the United States of America, and of France, acting in concert, will represent the Allies and Associated Powers in all matters concerning the execution and interpretation of the present Treaty.

The Four Ambassadors will give the Italian Government such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in the letter and the spirit.

The Italian Government shall afford the said Four Ambassadors all necessary information and any assistance which they may require in the fulfillment of the tasks devolving on them under the present Treaty.<sup>44</sup>

The Draft Treaty thus established three important principles: 1) that Italy was obliged to surrender war criminals for trial; 2) that Italian responsibilities vis-à-vis Ethiopia (contrary to the Foreign Office argument) dated back to the beginning of the fascist invasion, in 1935; and, 3) that the interests of all United Nations member states would be entrusted to the Ambassadors in Rome of the Four Great Powers.

### ***Discussions in the House of Commons***

Renewed awareness of fascist war-crimes in Ethiopia, as revealed in the *New Times and Ethiopia News* pamphlet, and realisation that the Foreign Office had treated the country ungenerously by excluding it from the commission,

prompted a Labour MP, Emrys Hughes, lobbied by Sylvia Pankhurst, to raise the matter in the House of Commons on 10 July 1946. He asked Philip Noel-Baker, the new Labour Government's Foreign Secretary, "Which Italian generals are to be tried as war criminals for atrocities committed under their orders in Abyssinia?"

The Minister, an old supporter of the League of Nations, had long been considered a "friend of Ethiopia," but like his Conservative predecessors followed a Foreign Office brief. Instead of stating, as requested, which Italian generals were to be tried, he spoke of the activities, and, more particularly, the reported non-activities, of the Ethiopian Government. He replied:

I understand that three months ago a representative of the Ethiopian Government saw the Secretary-General of the United Nations War Crimes Commission and that he was given the appropriate forms for submitting evidence. So far, I understand, no cases have been submitted either to the War Crimes Commission or to anyone else.

Hughes, a seasoned politician not put off by such evasion, then, biting, asked:

Is the Minister aware that the Moscow declaration of 6<sup>th</sup> November, 1943,<sup>45</sup> stated that persons accused of war crimes would be tried on the spot where the alleged crimes had been committed; and will he say whether this does not apply to Africa as well as to Europe?.

Noel-Baker, who doubtless knew that the Foreign Office had no intention of applying the principle "to Africa as well as to Europe," found the question embarrassing. He accordingly avoided the issue, declaring:

That is rather a different question, and one of which I should require notice. I have given the hon. Gentleman the information I have in reply to the Question he put down.

Hughes, not shaken off by this answer, returned to the main point of his question, and asked:

Would not my right hon. Friend agree that it is in the public interest that these people [Italian fascists] should be brought to trial at the earliest possible moment and immediate steps taken to that end?

The Minister once more took refuge in evasion. Reflecting earlier Foreign Office arguments, he suggested that the Commission might be unwilling to consider crimes committed prior to 1939. This observation was remarkable in that the Italian Draft Peace Treaty, approved by his Government a fortnight earlier, had accepted the principle that the war for Ethiopia had begun on 3 October 1935. He thus replied:

I do not want now to debate the point put by my hon. and learned friend. I understand that there is some doubt whether the United Nations War Crimes Commission would feel that they had jurisdiction over acts committed before 1939.<sup>46</sup>

Despite the advent of a Labour Government, several of whose Parliamentary supporters had clamored on Ethiopia's behalf, and its acceptance of the Draft Peace Treaty specifying that the war, for Ethiopia, began in 1935, the Foreign Office had ensured that British policy was still opposed to Ethiopia's inclusion on the commission.

### ***The Ethiopian Government's 22 July 1946 Initiative***

A week or so after that Parliamentary exchange, and less than a month after the Foreign Ministers' acceptance of the 1935 date for the beginning of the war for Ethiopia, the Ethiopian Government took its first diplomatic initiative on the war crimes question. On 22 July 1946 Ato Ambay despatched three almost identical letters, addressed respectively to the UN Secretary-General, in New York, the International Military Tribunal, in Berlin, and the British Legation, in Addis Ababa.

These letters began by recalling that the Ethiopian Government had established a War Crimes Commission, on 20 May, with "full authority for and charged with the functions of assembling evidence of war crimes in Ethiopia and of bringing and instituting charges and criminal proceedings against Italian individuals who have committed major war crimes against Ethiopia and the Ethiopian people."

The letters then drew attention to the London Agreement, of 8 August 1945, and to the Charter of the International Military Tribunal, to which Ethiopia had adhered. Ambay stated that Ethiopia accordingly reserved "the right to



institute legal proceedings” against Italians, for war crimes committed in Ethiopia, as from 3 October 1935. The letters concluded by requesting the recipients “to take cognizance” of Ethiopia’s claim “to institute at the appropriate time and before the appropriate tribunal criminal proceedings against the aforesaid persons.”<sup>47</sup>

These were strong and well-reasoned letters, which neither the UN, the War Crimes Commission, nor the British Government could ignore.

### ***The Emperor and the Draft Peace***

Discussions on the finalization of the Italian Peace Treaty meanwhile continued in Paris. A final draft, embodying the points agreed by the Ministers, was drawn up by the British Government, for discussion at a meeting of the Great Powers, opening in Paris, on 29 July 1946.

A copy of the draft was sent to the Emperor for study. His reaction much interested the British Minister in Addis Ababa, Harold Farquhar, who despatched a Confidential Telegram to the Foreign Office on 31 July 1946. It reported that the Ethiopian ruler had “just finished” its perusal, and “his first reaction was that it was a fair and just document.”

The Minister, who seems to have suffered from megalomania, considered this news so important that he had a note affixed to his telegram stating it was of “particular secrecy and should be retained by the authorised recipient and not passed on.”<sup>48</sup>

### ***Sir Robert Craigie, and Ethiopia’s Continued Exclusion from the War Crimes Commission***

The Ethiopian Ministry of Foreign Affairs’ letter claiming the right to try Italian war criminals duly reached the UN War Crimes Commission, towards the end of July 1946. It was discussed in the commission’s committee no. 3, on 31 July, and met, as expected, with strong Foreign Office opposition. This was difficult to justify in that the Britain had by then agreed that the commission could try cases of Japanese war crimes committed as early as 1928, while the Foreign Ministers of the Four Great Powers had already accepted 3 October 1935 as the date for the beginning of the war, as far as Ethiopia was concerned.

The commission's British representative, Sir Robert Craigie, nevertheless reflected continued Foreign Office resistance to Ethiopia's inclusion. One of the commission's most influential members, he steered discussion in the direction the British Government wanted. This was embodied in a resolution, which he drafted, and was approved by the commission as a whole. It declared:

The UNWCC. [i.e., United Nations War Crimes Commission] has, up to the present, only dealt with war crimes (including crimes against peace and crimes against humanity) committed during or contracted within the present war. The Committee can find no evidence that it is the wish of member Governments that the Committee should deal with crimes committed in any other war.

The Committee are not in a possession of any evidence to show that it is the opinion of the Governments that any connection exists between the Italo-Abyssinian war and the present war.

Sir Robert reported to the Foreign Office, on 31 July, that he phrased the resolution "in this somewhat negative way (a) in order not to clash with the decision that the Tokyo trial should go back to Normanhan (1928), and (b) in case member States may subsequently wish any earlier series of crimes to be considered by the Commission." By "member States" he of course meant "member States" other than Ethiopia.<sup>49</sup>

### *The Foreign Office and the Commission*

The Foreign Office, which had consistently opposed Ethiopia's inclusion and the trial of Italian crimes committed during the 1935–36 invasion, was far from pleased with the Ethiopian Government's initiative of 22 July 1946. One official, Frederick Garner, complained, in a minute of 1 August, that "the Ethiopians" apparently considered their "adherence to the London agreement" gave them the "right to try Italian major war criminals." This, he argued, was "a misconception." Ethiopian adherence, as he conceived it, "simply meant that the Ethiopian Government gave their moral support to the proceedings instituted by the big four powers against German major war criminals." (Adherence, that is to say, did not mean that the Ethiopians had any right to say whom they themselves considered should be tried).

Garner then recalled that it had been decided, as early as 1943, that it would be “undesirable” for Ethiopia to join the commission. The Ethiopian Government, since then, had not pressed the matter that, he claimed, had fallen into “abeyance.” He advised his colleagues not to change this state of affairs, and declared: “we should do our best to keep out of this matter that would certainly be difficult and controversial.” By this he meant that involvement would involve “difficult” relations with the Italian government.

Realizing, however, that in view of the Italian Peace Treaty it might no longer be possible to oppose the prosecution of Italians accused of war crimes in Ethiopia, he offered an entirely new policy option, which had by then become possible, as a result of Italy’s return to the international community. He wrote: “if the matter is pressed we should take the line that the Ethiopians must take the question up with the Italians.”<sup>50</sup>

Ethiopia, as a result of the termination of hostilities, was thus no longer to be considered by Britain as an Ally, but was instead to be left to fend for herself.

### ***Conclusion of the Italian Peace Treaty***

Britain’s opposition to Ethiopia’s inclusion, and the argument that consideration of war crimes committed prior to the opening of hostilities in Europe would be unacceptable to other Governments, now ran into difficulties. The British position was undermined by events in Paris, where the Conference on the Italian Peace Treaty re-convened on 29 July. The gathering opened with extensive Great Power wrangling, after which it decided that decisions should be reached by a two-thirds majority. This decision, Professor Spencer explains, put the West in a difficult position. “Any neophyte in diplomacy,” he observes, “would have instantly perceived that by picking up one vote, the six Communist bloc delegations (U.S.S.R., Byelo-Russia, Ukraine, Czechoslovakia, Poland, and Yugoslavia) had a blocking veto of one-third of the votes.”

The result, the Ethiopians discovered to their surprise, was that they possessed a “swing vote.” Instead of being spurned, as they had been for so long by the Foreign Office, they found themselves treated with unaccustomed respect. Moreover, since votes were by roll-call, taken in alphabetical order, once Ethiopia had voted it was clear whether any item would obtain the necessary two-thirds approval.<sup>51</sup>

In this situation the Paris Conference found no difficulty in accepting the Council of Ministers' provision that World War II had started, for Ethiopia, on 3 October 1935. Article 38 of the final treaty, adopted at the conference's closing session, on 15 October, thus stated:

The date from which the provisions of the present Treaty shall become applicable as regards all measures and acts of any kind whatsoever entailing the responsibility of Italy or Italian nationals towards Ethiopia, shall be held to be October 3rd, 1935.

This article, it should be emphasized, applied to the war crimes issue. This was covered in Article 45, which laid down the Italian Government's responsibility for the apprehension and surrender of alleged war criminals. Ethiopia's position seemed further strengthened by Article 56, which stated that the Ambassadors of the Four Great Powers in Rome, "acting in concert," would "represent the Allies and Associated Powers in all matters concerning the execution and interpretation of the present Treaty."

### ***Post-Peace Treaty Foreign Office Thinking***

The formulation of the Peace Treaty, with Article Number 38, stating that the war for Ethiopia had begun on 3 October 1935, and Article 45, providing for the trial of Italians accused of committing war crimes, disturbed the Foreign Office. Realizing that it could no longer oppose the trial of Italians accused of committing war crimes in Ethiopia, it developed a new line of obstruction. It argued, on the lines of Garner's minute, that the prosecution of Italians for crimes in Ethiopia was a matter of concern only to the two countries, and that Britain should not be involved.

This argument was developed by a Foreign Office official, Derek Riches, in a minute of 13 August. In it he observed: "If Italy and Ethiopia sign the peace treaty Italy will have engaged herself to ensure the apprehension & surrender for trial of persons accused by Ethiopia of 'having committed, ordered or abetted war crimes & crimes against peace or humanity.'" The British Government, he argued, would only "come into the matter in the shape of H.M. Amb[assador] at Rome who w'd [would] be a member of the cttee.[committee] of Ambassadors charged with resolving disagreements."<sup>52</sup> Another official,

James Fawcett, took a similar line. In a minute, of 22 August, he observed: "I agree."<sup>53</sup>

Foreign Office opinion having thus been formulated, Garner wrote a lengthy explanation, on 3 September 1946, to Harold Farquhar in Addis Ababa. He began by rejecting what he considered the Ethiopian Government's false claim to be able to try war criminals on the basis of adherence to the London Agreement of 8 August 1945. "Any Ethiopian right to demand the surrender of war criminals for trial," he argued, "would devolve not from the agreement of the 8th August, 1945, but from the Peace Treaty with Italy."

As for that Treaty, should Italy and Ethiopia sign it as drafted, Italy, under Article 38, he contended, would have undertaken to "take the necessary steps" for "the apprehending and surrender" of persons accused of war crimes. It would then be "for the Ethiopian Government to present the Italian Government any requests for Italian war criminals."

Garner, who was strongly opposed to the trial of Italians for crimes prior to 1939, even though this was permissible in accordance with Article 38 of the Draft Peace Treaty, claimed that the Ethiopian declaration, had "not made it clear" whether it was intended to refer to "war crimes of the Ethiopian war of 1935–6, as well as to the 1939–45 war," but thought this "presumably likely." Should the Italian Government refuse to hand over the wanted persons, whether on the grounds that the treaty obligation was "only meant to refer to those who committed war crimes during the 1939–1945 war, or for any other reason," the matter "would under the same article of the Treaty be referred to the Ambassadors in Rome of the Union of Soviet Socialist Republics, the United Kingdom, the United States and France for a decision."

As for British involvement he argued that there was "little doubt" that "any attempt by Ethiopia to try Italian war criminals especially if related to the war 1935–6" would "give rise to acute controversy, in which it would be most undesirable for Her Majesty's Government to be involved." To avoid the necessity of any involvement he declared that he would be "grateful" if Farquhar would confine his reply to the Ethiopian Government "to an acknowledgment of the receipt of their communication," stating merely that its contents had been noted."<sup>54</sup>

Garner thus avoided any reference to the Draft Peace Treaty's Article 38, according to which its war crimes provisions, in the case of Ethiopia, were

applicable as of October 1935. Farquher was left with the understanding that the Foreign Office wanted him to keep out of the issue as far as he could.

### ***Ethiopian Approach to the UN War Crimes Commission***

The Ethiopian War Crimes Commission meanwhile had begun preliminary researches. Ato Ambay reported this to the UN War Crimes Commission, on 31 December 1946. He stated that there were “apparently no difficulties at all” in obtaining sufficient evidence to justify the trial of Badoglio, for his “violations of the Laws of War, especially the intensive use of poison-gas,” and of Graziani, for “crimes against humanity, especially the great Graziani massacre in February 1937.” As regard other Italian officials, the investigation and recording of evidence could be “considered as complete,” and their cases would be presented to the UN Commission, as soon as the necessary translations were made.<sup>55</sup>

### ***The UN Commission’s Reaction to Ethiopian Action***

Ambay’s letter served to highlight a major policy contradiction which had by now developed. This was that the Italian Peace Treaty, then about to be signed, provided for the trial by the Ethiopian Government of Italians guilty of war crimes, from 3 October 1935, while the UN Commission, under British influence, had defined such trials as outside its competence.

This contradiction prompted Dr J. Litowski, the commission’s Legal Officer, a Pole, to circulate a note, on 20 January 1947, apparently designed to resist Ethiopian prosecutions of Italian war criminals on the basis of the Italian Peace Treaty. Litowski recalled the commission’s original British-inspired resolution, of 31 July 1946, which had stated that the commission could “find no evidence” that it was “the wish of member Governments that the Committee should deal with crimes committed in any other war,” and that the said governments were “not in a possession of any evidence” of “any connection” between “the Italo-Abyssinian war and the present war.”

Litowski, apparently reluctant to accept the principles embodied in the Italian Draft Treaty, commented on 20 January 1947 that should the commission’s resolution “remain in force”—and he seems to have assumed, and hoped, that it would - the decision should be “brought to the attention of the Ethiopian

Government as it would not be advisable to encourage that Government to submit cases arising out of the 1935 War, only to inform them upon receipt of such cases that nothing can be done by this Commission.”<sup>56</sup>

### ***Foreign Office Reaction to the Peace Treaty***

The Foreign Office meanwhile continued to oppose the prosecution of Italians for crimes in Ethiopia. Instead of accepting the implications of the Peace Treaty, it sought to perpetuate the earlier UN Commission resolution. The British position was formulated by Garner, who wrote on 29 January 1947, that the “safest line” for Britain “would be to say that we consider that the UNWCC was set up to deal with war crimes arising out of the present war and that it was not contemplated that it would deal with other war crimes.” Shifting the earlier Foreign Office position that there was no relationship between the invasion of Ethiopia and the post-September 1939 war, he now declared: “The question whether there is any connection between this war [i.e., the one which had begun in 1939] and any other war is not therefore considered material and the Commission does not wish to express any opinion on that point.”

He therefore concluded by arguing: “If the Ethiopian Govt. consider that they have the right under the Peace Treaty to call the Italian Govt. to surrender war criminals,” it would be “for the Ethiopian Govt. to make the necessary representations to the Italian Govt. direct” (i.e., without involving the British Government). Riches, another Foreign Office official, accepted this thesis, in a minute of 29 January, but could not avoid adding the following most pertinent observation: “I agree; but if the Commission are going to examine the provisions of the peace treaty relating to Ethiopia and their bearing on their resolution they will presumably have to consider the Article 38.” He added, almost brutally, that he considered this “an additional argument for keeping the Ethiopians away from the UNWCC.” These views won Foreign Office approval. Another official, Archibald Ross, added the following observation:

The Ethiopian Govt. certainly can, & must, approach the Italian Govt. direct, once the Peace Treaty comes into force, and I suppose it is open to them to claim, as war criminals, persons who committed crimes (of the nature of war crimes) between Oct. 3 1935 & the outbreak of the war

(whenever that was). If any dispute arises on such a claim, it will go before the 4 Ambassadors. I don't think UNWCC comes into the picture at all. I suppose it could theoretically take the line that crimes (of the nature of war crimes) committed by the Italians subsequent to Oct. 3 1935 were equivalent to war crimes and that would help the Ethiopian Govt. to the extent that the moral authority of the UNWCCs opinion behind them. But, as Article 45 is drafted, they [i.e. the Ethiopian Government] don't need any backing at all.

Another official, William Beckett, noted, on 31 January: "I agree. We want the UNWCC to be wound up now & not take a new section of work."<sup>57</sup> Beckett's words indicate that the Foreign Office now envisaged the imminent termination of the commission. It was evident that the British Government, long opposed to Ethiopian participation, would scarcely be willing to have proceedings prolonged to accommodate the hearing of new cases from Ethiopia.

### ***The 1947 Italian Peace Treaty***

The Italian Peace Treaty was finally signed in Paris, on 10 February 1947. The text, as far as Ethiopia was concerned, was identical to that in the earlier version. Article 38 thus specified that articles relating to Ethiopia applied to the period from Fascist Italy's invasion, on 3 October 1935, while Article 45 established the Italian Government's responsibility for the apprehension and surrender of persons accused of having committed, ordered, or abetted war crimes and crimes against peace or humanity.

### ***The Commission's Tardy Reaction to the Peace Treaty***

The signing of the Peace Treaty was important for the UN Commission. Its members could no longer abide by their earlier, British-inspired, resolution of 31 July 1946, that there was no evidence of "any connection" between the "Italo-Abyssinian war" and that later waged in Europe, or that member States did not wish the Committee to "deal with crimes committed in any other war." The Treaty, signed by all the UN member states, had established, on the contrary, that the war, for Ethiopia, had begun on 3 October 1935, and thus formed part and parcel of the conflict as a whole.



The Commission was remarkably slow to react to the Treaty. It was not until 29 October 1947, over nine months after its signing, that the commission finally agreed to consider cases relating to war crimes committed in Ethiopia, as from 3 October 1935. The commission, most conveniently for the British, had by then nearly reached the end of its originally envisaged work. This was scheduled to terminate a few months later, on 31 March 1948, and the Foreign Office, as Beckett had suggested, was unwilling to extend proceedings on Ethiopia's account.

The Ethiopian Government, because of British intransigence and the commission's sloth, thus had only five months to submit its cases, whereas the major powers had received almost as many years to prepare theirs. This discrepancy was the more serious, for Ethiopia, for two reasons:

- 1) Most Italian war crimes had been committed when the pre-war Ethiopian state was collapsing, or had fallen, rendering it difficult for the restored Ethiopian Government to collect legal testimony.
- 2) The Ethiopian state had been restored only in 1941, and was therefore acutely short of trained personnel.

Ethiopia was thus not well-equipped to rush forward with a major trial in the short time afforded it by its more fortunate allies.

### ***A Limited Number of Charges***

The Ethiopian Government, in this difficult situation, proposed a compromise. It was forwarded to the UN commission by the Ethiopian Advocate-General, Baron Eric Leijonhufvud,<sup>58</sup> a Swede, on 29 October 1947. He stated that Ethiopia would be prepared to limit itself to submitting only ten charges. He declared also that Ethiopia, to allay fears of possible bias from Ethiopian judges, agreed that the accused, if surrendered by Italy, would be tried by a court to include a majority of European judges.<sup>59</sup>

### ***The Ethiopian Commission's Difficulties, and Achievements***

The Ethiopian commission's difficulties in drawing up charges in the short time required, were mentioned at the time by Baron Leijonhufvud,

who noted that there was “a shortage of personnel in every field of Ethiopian administration.”

The problem was compounded by the fact that Leijonhufvud, at a critical moment towards the end of 1947, fell ill with a severe attack of hepatitis, and returned home to Sweden. On 17 November he wrote from Stockholm to Colonel G. A. Ledingham, the secretary-general of the UN commission, that he would be unable to return to Addis Ababa until “at least the beginning” of following month. The Ethiopian commission, which otherwise would easily have met the UN deadline, would therefore find this “difficult.”

Turning to specifics he stated that charge sheets against Badoglio, Graziani, and Lessona, the ex-Italian Minister of Italian Africa, could be ready in “less than one week” after his return to Addis Ababa. It might, however, be necessary to lay the task of preparing the charges in the form prescribed by the UNWCC upon another lawyer, who might require “some time” to familiarize himself with the matter. He accordingly requested the commission’s legal section chief to select reports, memoranda and forms, which might be useful to the Addis Ababa committee.<sup>60</sup>

Despite these difficulties the Ethiopian committee, in the ensuing weeks, succeeded in drawing up charges against fifty suspected war criminals, from which the nominal ten were selected for actual trial. Those so chosen were:

1. Marshal Pietro Badoglio, Commander-in-Chief of Italian forces in East Africa, at the time of the invasion.
2. Marshal Rodolfo Graziani, Commander of Italian forces in Somalia, and later Governor-General of Italian East Africa, and Viceroy of Ethiopia.
3. Alessandro Lessona, Italian Secretary of State for the Colonies, for much of the occupation period.
4. Guidi Cortese, Federal Secretary of the National Fascist Party in Addis Ababa, at the time of the Graziani massacre.
5. General Guglielmo Nasi, sometime Italian Governor of Harar.
6. General Alessandro Pirzio Biroli, sometime Italian Governor of Amhara.
7. General Carlo Geloso, sometime Italian Governor of Galla-Sidamo.
8. General Sebastiano Gallina.
9. General Ruggero Tracchia.

10. Enrico Cerulli, sometime Chief of the Political Office for East Africa in the Italian Ministry of Foreign Affairs, Director-General of Political Affairs, and Vice-Governor-General of Italian East Africa.<sup>61</sup>

### ***“La Civilisation de l’Italie Fasciste”***

Ethiopian Government concern with the war crimes issue led to the publication, in 1948, by its Ministry of the Press, of a two-volume compilation *La civilisation de l’Italie fasciste*. It contained texts, and French translations, of Fascist telegrams ordering war crimes: the use of poison-gas, the mass execution of prisoners of war, the shooting of “witch doctors” and “sooth-sayers,” and the killing of the monks of Däbrä Libanos. The publication also contained photographs of Ethiopians selected for execution.

### ***Ethiopian Commission’s Charges Considered by the UN Commission***

The Ethiopian commission’s ten charges reached the UN commission only in time for its last meeting,<sup>62</sup> and were considered in its committee number 1, on 4 March 1948.

The proceedings were opened by the British representative, Sir Robert Craigie. Despite his earlier persistent opposition to Ethiopia’s claim to try Italian war crimes committed prior to 1939, he welcomed Baron Leijonhufvud cordially, and, “expressed appreciation of the fact that the cases submitted by the Ethiopian Government had been so very well prepared and documented.”

Mr. Kintner, of the United States, spoke next. He recalled his country’s earlier abstention on the discussion on the question of cases arising from the 1935–36 Italo-Ethiopian war, and claimed that, in the shortness of time available, he had not received any instructions from his government. He was therefore obliged to abstain on the Ethiopian cases, but stated that this “did not arise from any lack of sympathy or respect for the Ethiopian nation.” The Committee then turned to the Ethiopian cases, one by one.

### ***Badoglio***

The first case concerned Badoglio, who was accused of responsibility for the bombing of Red Cross installations<sup>63</sup> and use of poison-gas. Sir Robert sought

to defend the Marshal (as we have seen, a British protégé), on both counts. He doubted whether Fascist bombing of the Red Cross was “committed upon the instructions or the knowledge of the accused so as to implicate him as personally responsible.” As for poison-gas, he sought to shift the responsibility from Badoglio, by declaring that “it appeared to him” that “practically the whole” Italian policy in Ethiopia had been “planned between Mussolini and Graziani.” Continuing this argument, he added: “Technically, Badoglio must be held responsible for everything Graziani did, but the situation being as it was at the time . . . there was no doubt that the leader in the field—Graziani—was the one who was primarily responsible.” He recalled that the Japanese commander Yamashito had been held responsible for all the acts of his inferiors, and inquired whether Badoglio could likewise be considered “responsible at least for negligence.” To this he replied that the Italian case was different, as “it was questionable whether Badoglio was, in fact, in a position to control Graziani.” This defense of Badoglio was highly disingenuous: Gas had in fact been used mainly on Ethiopia’s northern front, under the direct command of Badoglio, and Graziani, the commander of the southern front, had no responsibility for operations in the north.

The next to speak was the commission’s chairman, Lord Wright, who represented Australia. By implication rejecting Sir Robert’s contention, he declared that the Ethiopian charges concerned “not merely individual offenses,” but “a continuous policy, in which case it would appear difficult to see how a man in Badoglio’s position—as commander-in-chief—could free himself from complicity, or want of foresight, or control.”

Dr. Aars Rynning, of Norway, took a similar view. He “felt quite certain that Badoglio as chief in command and responsible for carrying out the whole campaign, must in some way have been implicated in the decision to use poison-gas, since it was a decision which must have been taken at a very high level.”

Dr. Zeman, of Czechoslovakia, supported Rynning’s statement. He believed that “the whole policy of the subjugation of Ethiopia must have been worked out in advance, and since all equipment etc. must have been assembled in Eritrea from where the attack was to take place, it was difficult to believe that Badoglio did not take part in those plans and preparations.”

Faced with these strongly argued statements, Sir Robert moved to the defensive. He observed that he was “prepared to list Badoglio as a Suspect, but was

not satisfied that there was sufficient evidence to justify listing him as a war criminal.”

Baron Leijonhufvud, representing Ethiopia, then intervened. He explained that “during the actual campaign leading up to the conquest of Addis Ababa, Graziani was the commander of the southern front, while Badoglio, who was commander-in-chief, was in command of the whole of the northern front. When Badoglio took up the command in November 1935, he had directions given to him from Mussolini, but within their limits he had ‘liberty of action, independence and initiative necessary to a commander of high rank, who has the responsibility for a war that is fought at such a distance from the mother country.’” This, he explained, was clearly stated in Badoglio’s own book *La guerra d’Etiopia*.

Dr. Rynning then drew attention to one of Mussolini’s telegrams, in which the use of poison-gas was authorized. From this he argued that Badoglio “must have been acquainted with all that was taking place.”

Lord Wright shared this view. He argued “that bombing with poison-gas involved the most elaborate preparations of every kind.” Sir Robert, who had thus taken a severe hammering, thereupon naively asked “whether there was any direct evidence of atrocities committed by Badoglio in his sector while he was commander-in-chief here.” Leijonhufvud replied by pointing out that the Ethiopian charges clearly indicated where the alleged crimes had been committed. Those on the southern front were indicated with the letter “S,” while the remainder had taken place on the northern sector, under Badoglio’s direct command. In view of the numerous incidents reported for the northern front, Sir Robert finally agreed to list Badoglio for the use of poison-gas, but continued to oppose charging him for other bombing.

Sir Robert’s position was then challenged by Dr Rynning. He declared that there was “no doubt that there was no justifiable reason” for “Italian bombing of the Red Cross ambulances etc.,” and that “it was very likely that Badoglio must have had some responsibility.” He concluded that there was “sufficient evidence to list Badoglio as a Suspect on this count.”

Leijonhufvud commented that this was “the first time in history” that Red Cross units were “continuously persecuted,” and that such “repeated bombardments” could not have been other than “intentional,” and “must have been part of a policy.”

Sir Robert thereupon conceded that Badoglio, as commander on the front where the alleged crimes were committed, was more likely to be responsible than a distant commander, i.e., Graziani. Withdrawing his earlier opposition he stated that he was “agreeable” to listing Badoglio for the bombing of Red Cross hospitals and ambulances, as well as for the use of poison-gas.

Discussion then turned to the Ethiopian charge that Badoglio had been responsible for the bombing of “undefended places,” i.e., attacks on the civilian population. Leijonhufvud argued that such attacks resembled those on Red Cross units and were “repeated all over the country behind the Ethiopian armies.” He cited the book *Voli sulle ambe* by Mussolini’s son, Vittorio, describing his pleasure in bombing Ethiopian huts. Several members of the commission, however, argued that, because of the war’s guerrilla character, civilians might be presumed to have given support to combatants, and that responsibility for criminal action in this area would be difficult to establish.<sup>64</sup> The committee, however, agreed to list Badoglio as a potential war criminal “for the use of poisonous gases and for the bombardment of Red Cross hospitals and ambulances.”

### ***Graziani, Lessona, and Cerulli***

Discussion then turned to the case of Graziani, which Leijonhufvud described as “the key to all the other cases,” except that of Badoglio. A “close study” of the Graziani case, he declared, “gave an explanation of the whole Italian policy of systematic terrorism.” In support of this he produced evidence of Graziani’s self-admitted “intention to execute all Amharas,” and cited a telegram from Graziani to General Nasi, in which he had written, “Keep in mind also that I have already aimed at the total destruction of Abyssinian chiefs and notables and that this should be carried out completely in your territories.”

Members of the committee then discussed whether the accused should be considered as potentially guilty of genocide, but concluded that the charge of mass murder was more appropriate.

Leijonhufvud then asked the committee to list Graziani for pillage, on account of the systematic plundering of Addis Ababa, during the Graziani Massacre of February 1937, and subsequently of Däbrä Libanos monastery, and the deliberate bombing of Red Cross units. To this the committee, after discussion, agreed.

The committee next examined the case of Lessona, case no. 459, who had been fascist Minister of the Colonies while most of the alleged crimes had been committed. In reply to questions from Sir Robert, Leijonhufvud explained that Lessona was the recipient of many of Graziani's telegrams reporting acts of repression, and had raised no objection to them. He had therefore "participated in the policy of systematic terrorism." The committee, however, felt that he had not actually himself participated in war crimes, and should be listed only as a witness, "for complicity in systematic terrorism."

The case of the other civilian, Enrico Cerulli, was then discussed. Attention was drawn to a curious report, which later proved false, that he was then employed in the UN Secretariat, and that, prior to his engagement, "extensive inquiries" as to his past record must have been made. The committee, acting largely on this erroneous report, decided that he should be listed as a witness, rather than a criminal.<sup>65</sup>

The committee then took up the Ethiopian cases against Guido Cortese, case no. 128, the former Addis Ababa Fascist Party chief, and the five generals, Guglielmo Nasi, Alessandro Pirzio Biroli, Carlo Geleso, Sebastiano Gallina, and Ruggero Tracchia. The charges against all were accepted.<sup>66</sup>

### ***Foreign Office Reaction***

The Foreign Office was not pleased by the commission's above verdicts. A member of the staff, Alan Pemberton-Pigott, noted, on 28 April 1948, that since the commission had "found a prima facie case against Graziani and Badoglio and put them on their list of war criminals," it would be "difficult" for Britain "to refuse their surrender if the Ethiopian demand should come up before the Four Ambassadors in Rome." As for the British position, he declared, "We have no direct interest in Graziani," but frankly added that a request for Badoglio "might well cause embarrassment."<sup>67</sup>

### ***The Ethiopian Government Restriction of Charges to Badoglio and Graziani***

Despite its moral victory in convincing the UN commission to accept prima facie war crimes charges against eight of the ten accused, including Badoglio and

Graziani, and to list the two remaining as witnesses, the Ethiopian Government had still to face the problem of mounting proceedings against them. The proposed prosecution faced the difficulty that Ethiopia exercised no control over the accused, and could not make any statutory demand for their extradition from Italy as it had no diplomatic relations with that country. It was moreover apparent that co-operation with the Italian Government would not be easy, for the latter showed little desire to disassociate itself from its fascist and/or colonial past.

Faced with these difficulties the Ethiopian Government decided once again to waive most of its charges, and to limit itself to the prosecution of only two persons, albeit the most important: Badoglio and Graziani. It appealed to the British Government, the only member of the Four Great Powers with which it had signed a treaty, and asked that extradition be carried out through the machinery of their Ambassadors in Rome, in accordance with Article 86 of the Peace Treaty.

The Ethiopian London Legation accordingly wrote to the Foreign Office, on 23 November 1948. It stated that, though the UN commission had accepted the cases submitted by the Ethiopian Government, the latter, "as a contribution to the early re-establishment of peaceful and friendly relations," had decided to bring to trial only two individuals, Badoglio and Graziani, "the persons most responsible for the policy of systematic terrorism." The letter continued:

In accordance with the established international practice for the trial of major war criminals, the Imperial Ethiopian Government will constitute an international tribunal consisting of a majority of non-Ethiopian judges. The principles of law and procedure to be followed by the Court will be in accordance with those of the Charter of the International Military Tribunal at Nuremberg.

It is considered that the obligations of the Italian Government under the provisions of the Treaty of Peace included such measures of custody or preventive detention as will assure their surrender to the Ethiopian authorities.

The Imperial Ethiopian Government accordingly invokes their treaty rights to the surrender of these accused and, under Article 86, paragraph 1 of the Treaty of Peace, requests the Ambassadors of the Four Powers in Rome to represent Ethiopia in this matter and demand of the Italian Government that they apprehend and surrender to officers of the Imperial



Ethiopian Government Marshal Badoglio and Marshal Graziani. It is further requested that the Imperial Ethiopian Legation in London may be advised as to the results of the representations made by the Ambassadors to the Italian Government. <sup>68</sup>

### ***Foreign Office Reaction***

The British Government had, as we have seen, no wish to help Ethiopia, and thereby incur Italian wrath, quite the contrary. A Foreign Office official, Francis Brown, stated frankly, in a minute of 30 November 1948, that the Legation's letter raised "two main questions": Firstly, "whether we should, as requested, pass on the Ethiopian request to the Italian Government"; and, secondly, "whether we should do anything more to persuade the Ethiopian Government not to demand the surrender of Marshals Badoglio and Graziani."

As regards the first question it was "clear," he declared, that "we have taken the line that this question is one to be settled by the Ethiopian and Italian Governments direct." Noting that the Ethiopian Government was "not in diplomatic relations with the Italian Government," he continued:

I understand that we have in the past, in minor matters, acted as a channel between the two Governments. In the present case, however, I think that it would be extremely unwise to act as a channel, since the Italians would inevitably feel that we were to some extent at least, backing the Ethiopians' request, and that this would come at a particularly unfavourable juncture when the question of the disposal of Eritrea is already embittering Anglo-Italian relations.

As regards the second question, whether to dissuade the Ethiopians, Brown felt that the British Government should leave the matter alone, "and not bring pressure to bear, even if we could, on the Ethiopian Government." He conceded that the latter had "a perfect right" to "demand the hand-over" of the two marshals, under Article 45 of the Peace Treaty, but argued that if it succeeded in communicating with the Italian Government, and the latter refused to hand over the accused, thereby creating a "dispute in terms of the Treaty," the matter would come to the four Ambassadors in Rome. In such an event the Foreign Office would have to make up its mind "what line to adopt."<sup>69</sup>

Brown's opposition to meeting the Ethiopian Legation's request was shared by other Foreign Office officials. John Twaites noted, on 1 December, that "all the action we need to take for the present is to tell the Ethiopian Legation very politely that this is not a matter in which we feel we can act as an intermediary." George Clutton, who had previously sought to dissuade the Ethiopian Government, through its London Legation, from taking any action, noted on the following day: "I tried my best during the summer to dissuade the Ethiopians from this folly and they have now committed it at about the most inappropriate moment that they could have chosen." This was presumably a reference to discussions on the future of Eritrea, at the United Nations.

Brown, reading the above comments, commented:

I agree entirely . . . The procedure suggested by the Ethiopians for bringing this request is wrong and I see no objection to our telling them that we will not act as an intermediary in this matter. We can also impress upon them the folly of their ways.

He proposed that Britain should, however, act in this matter in concert with the French and Americans, who, he believed, had also been approached by the Ethiopian Government in this matter.<sup>70</sup>

This decision was further underscored in a minute of 6 December from the Foreign Office's Western Department, which stated: "We propose to tell the Ethiopian legation very politely that it is not a matter in which we feel that we can act as an intermediary."<sup>71</sup>

The Foreign Office view was summarized, on 26 January 1949, by Pemberton-Pigott. He recalled that his colleagues had "made several attempts to dissuade the Ethiopians from their war crimes demands," which, he argued, "came at a particularly unfortunate time," since they could "only exacerbate Italian bitterness over Eritrea," i.e., the loss of that colony. He nevertheless added: "the Ethiopians have a clear right under the Treaty to demand the surrender of war criminals and if they are determined on this course we cannot prevent them. But we see no reason why we should help them in their approach to the Italians."<sup>72</sup>

The British position was apparently shared by the French. The latter's opinion, according to a Foreign Office minute, of 7 January 1949, was that the question

was “not a matter for the four Ambassadors to take up with the Italian govt.,” and that “if they [i.e., the Ethiopians] want the two Marshal’s handed over that they should ask for them direct, or through Sweden, who acted as intermediary between the Ethiopian and Italian Governments before the war.”<sup>73</sup>

### ***Ernest Bevin’s Letter***

The British position, thus expounded in Foreign Office minutes, was finally formulated in a letter from the British Foreign Secretary, the Labour politician Ernest Bevin, to the Ethiopian Legation of 31 January 1949. It stated that the “procedure regarding claims for the surrender of Italian war criminals” was “governed by Article 45 of the Peace Treaty with Italy, under which the Ambassadors of the Four Powers only act should a disagreement arise.” He added that “claims under that Article” were “normally submitted direct to the Italian Government by the claimant Government.” Under these circumstances, the communication patronisingly concluded, “Mr Bevin regrets that he cannot see his way to instruct H.M. Ambassador in Rome to make the communication to the Italian Government which is requested by the Imperial Ethiopian Government.”<sup>74</sup> This letter left Ethiopia with virtually only one option: a direct approach to the Italian Government.

### ***Italian Press Opposition***

Ethiopian efforts on the war crimes issue were by then running into strong opposition, not only from the British, but also from the Italians. Reports towards the end of 1948 that the Ethiopian Government wanted to bring the two marshals to trial were greeted with indignation in the Italian chauvinist press. The *Rome Libertà*, of 23 December, called the proposed prosecution “amusing.” The *Messaggero*, of 28 December, carried an article, by Mario Delli Santi, which claimed that Italy had spent milliards of lire in Ethiopia, and that, when the Italians returned to their colonies, they would find that “the natives of Eritrea and Somalia” knew “by experience the advantages which they would derive from the return of Italian rule.”<sup>75</sup>

## ***Opening of an Italian Government Prosecution of Graziani***

The Italian Government, though unsympathetic to Ethiopian attempts to try Italians for war crimes in Africa in the 1930s, now decided to prosecute Graziani for collaboration with the Germans, in Italy, from 8 September 1943 to the end of hostilities. A trial of the marshal, which had no connections whatsoever with Ethiopia, was initiated on 4 January 1949, but was soon adjourned, to be resumed in the following year.<sup>76</sup>

## ***Demarche by the Ethiopian Minister in London***

Despite Italian press opposition, and the absence of diplomatic relations with Italy, the Ethiopian Government made one last effort to bring the two marshals to trial. On 6 September 1949 the Ethiopian Minister in London, Ato Abebe Retta, called on the Italian Ambassador in Britain, Duke Gallarti-Scotti, with an aide-memoire in which the Ethiopian Government demanded the surrender of Graziani and Badoglio, as war criminals. The Duke bluntly refused to receive it.<sup>77</sup>

This diplomatic incident caught the notice of *The Times*, which noted, on 8 September: "Where no diplomatic relations exist between two countries, it is sometimes usual for one Government to approach another through the representatives of the two countries in the capital of a third. The Government approached is, however, within its rights in refusing to accept any such *démarche*."<sup>78</sup>

The implications of the incident were not lost on Pemberton-Pigott. He noted, on 13 September:

It is possible that the Ethiopian Government may now ask His Majesty's Government to refer their request for the surrender of Graziani and Badoglio to the four Ambassadors in Rome.

Should they do so it is submitted that another attempt should be made to persuade them that it is very undesirable to press this demand. Apart from the effect on the debate on the future of Eritrea which is about to take place and on relations generally between Italy and Ethiopia, it is most unlikely that either Graziani or Badoglio are now medically fit to stand

trial. The trial of Graziani was broken off last autumn on medical grounds, and Badoglio is 78 years old and feeble.<sup>79</sup>

If, however, the Ethiopian Government should insist on making this approach we should have no alternative but to accept it, and, providing agreement were reached between the four ambassadors, to transmit it to the four ambassadors.

Pemberton-Pigott concluded by noting that the Italian press had accused the British Government of “being behind the earlier Ethiopian approach to the Italian Ambassador, but action was being taken in Rome to try to counteract such reports.”<sup>80</sup>

Four days later, on 17 September, the Ethiopian Minister called on the Foreign Office. After referring to the Italian Ambassador’s refusal to accept the *démarche*, he asked its advice as to what should be his Government’s next step. He was told, according to a Foreign Office minute, that “while we did not question the merits of the Ethiopian case we considered their original request to the Italian Government was most inopportune coming as it did immediately before the discussion on the future of Eritrea at the [United Nations] General Assembly, and that since he now asked our advice we could only say that we thought that the Ethiopian Government would do well not to press the question.”<sup>81</sup>

The Ethiopian Government was apparently more interested in the future of the ex-colony than in a war crimes trial, the success of which was far from certain. In any event, Ethiopian initiatives on the issue then came to an abrupt end.

## ***The Historical Record***

Though the possibility of prosecuting Italian war criminals was then remote, the Ethiopian Ministry of Justice issued one last, albeit valuable, memorandum on the subject. Published, “by command” of the Emperor, it was entitled *Documents on Italian War Crimes submitted to the United Nations War Crimes Commission*, and appeared in two volumes, in 1949 and 1950.

The first volume reproduced telegrams between Mussolini and the Minister of the Colonies on the one hand, and Graziani and subordinate officials on the other, as well as Italian circulars and orders relating to “pacification.” These materials were given in the original Italian, with English translations. The second

volume consisted of affidavits sworn by Ethiopians, who had witnessed atrocities, or suffered torture or confinement in concentration camps.

### ***The Italian Trial of Graziani***

The Italian trial of Graziani, for his collaboration with the Germans, was resumed in 1950. He was eventually found guilty, and sentenced, on 2 May, to 19 years' imprisonment, but was released in the following year, to become the leader of a short-lived neo-fascist organisation. He died, peacefully, on 11 January 1955.<sup>82</sup>

### ***Summary and Conclusions***

The question of Fascist Italy's war crimes in Ethiopia was unusual in that it was raised, by the Ethiopian Government, on two separate occasions, in very different circumstances. It was first raised in the League of Nations, while the atrocities were still being committed. It came to the fore again, half a decade later, in the UN War Crimes Commission, which had been established by the Allies as a result of the European war and Axis terror in Europe.

Neither Ethiopian initiative was successful. The League, whose principal members, Britain and France, sought to "appease" the Italian dictator Mussolini, were not prepared to condemn the atrocities which his forces committed. These acts were apparently regarded by the international community of the time as an acceptable feature of modern warfare.

The later UN War Crimes Commission, which had been set up to try "war crimes," reflected new international values, but was scarcely more interested than the League in Italian war crimes in Ethiopia. This was because the British, who had limited interest in crimes committed against non-Europeans, had recognised Mussolini's "conquest" of Ethiopia and were unwilling to consider how it had been achieved. They were moreover opposed to trying Badoglio, whom they knew the Ethiopians regarded as the principal Italian war criminal. Though responsible for the use of poison-gas in Ethiopia, he was favoured by the British, and Americans; for, after fighting on the German side, he had later connived at Italy's surrender and was considered a leader who would keep Italy safely in the Western fold.

British and other Allied opposition to the trial of Italians accused of war crimes in Ethiopia was based on the repeated Foreign Office argument that the Italo-Ethiopian war of 1935–36, though accompanied by many fascist atrocities, had “no relation” to the European war, which had begun in September 1939, and for which the UN commission had been established. Under British pressure, the commission accepted this contention and used it to exclude Ethiopia from membership, and hence from raising the issue of Badoglio in its deliberations. Ethiopia’s exclusion was, however, inconsistent, in that the British and other Allies accepted Chinese demands for the trial of Japanese accused of having committed crimes in China several years before Mussolini’s invasion of Ethiopia: Ethiopia lacked the “political clout” wielded by the Chinese.

Despite this weakness, the Ethiopian Government eventually succeeded, with some skill, in persuading the UN, when drafting the Italian Peace Treaty of 1947, to accept the principle that it should apply, as far as Ethiopia was concerned, to the period from the beginning of invasion, on 3 October 1935. The UN commission was obliged to concur with this date and, though not expanding its membership to include Ethiopia, agreed that the Ethiopian Government could submit a short nominal list of war criminals for trial. Though acutely short of jurists and other trained personnel, the Ethiopian authorities, by then gravely short of time too, succeeded in drawing up a case, backed up with documentary evidence and certified affidavits, which the commission accepted, against ten persons. The UN commission agreed that there was a *prima facie* case against eight, and that the remaining two were needed as witnesses.

Logistical and other difficulties, however, obliged the Ethiopian Government to waive its charge against all but two of the accused, albeit the most important, Badoglio and Graziani. Their automatic extradition was, however, prevented by the fact that Ethiopia and Italy had not yet established diplomatic relations. The Ethiopian Government attempted to overcome this impasse by having its ambassador in Britain submit a memorandum to the Italian ambassador, but the latter refused to accept it. Ethiopia, citing provision in the Italian Peace Treaty, then attempted to use the good offices of the British ambassador in Rome, but the British Government, anxious to avoid alienating a more powerful state, refused to comply. Ethiopian efforts to bring to justice those guilty of war crimes were thus frustrated by intransigence, by both Italy and Britain, and

were finally abandoned, under pressure from the Foreign Office, whose support the Ethiopian Government considered essential for its claim to Eritrea.

Ethiopia's diplomatic and legal initiative in respect of Italian war crimes had continued for almost a decade, from the liberation in 1941 to the abandonment of prosecution efforts in 1949. Failure was not due to weakness in the case against the accused, or to inability to marshal evidence and affidavits, but to dogged Italian opposition, as well as to the prejudices of Ethiopia's allies.

Post-war Italy was unwilling to face the fact that war crimes had been committed by its nationals in Ethiopia. It was symptomatic that General Guglielmo Nasi, who had been listed as a war criminal, was nominated by the then Italian Government as governor of the Italian Trust territory of Somalia in February 1950, and that this appointment was only withdrawn as a result of international complaint. It was no less symptomatic that it was not until 1996, 60 years after the event, that the Italian Ministry of Defence was finally brought to admit that the Italian Royal Air Force had used poison-gas in Ethiopia.<sup>83</sup>

The European leaders of the post-World War II international community, for their part, were likewise unprepared to see fellow Europeans punished for crimes against non-Europeans half a decade earlier, and preferred a miscarriage of justice.

## Notes

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2. E.Ullendorff, *The Autobiography of Emperor Haile Sellassie I: "My Life and Ethiopia's Progress," 1892–1937*, (Oxford, 1976), pp. 301–2.
3. UNWCC, *History of the United Nations War Crimes Commission and the Development of the Laws of War* (London 1948), pp. 189–90.
4. UNWCC, *History*, pp.89–90.
5. *The Times*, 22 August 1942.
6. *The Times*, 8 October 1942.
7. *The Times*, 18 December 1942.
8. FO 371/ 37307, R666, S. Hoare to FO, 20 July 1943.
9. FO 371/ 37307, quoted in FO memo of 26 July 1943.
10. CAB, Vol 39, minutes of 103<sup>rd</sup> meeting, 26 July 1943.
11. FO 371/ 6774, R666, W. Churchill, "Thoughts on the Fall of Mussolini," 26 July 1943.
12. *The Times*, 29 July 1943.



13. PREM 3/249/2, F. Roosevelt to W. Churchill, 30 July 1943.
14. FO 371/ 37307 R6785G, L. Carruthers to FO, 25 July 1943.
15. FO 371/37307, R 67654, L. Carruthers to FO, 25 July 1943
16. FO 371/ 30858, C7140, memo by O. Sargent, 22 October 1942.
17. FO 371/ 34370, C 8905, memos by W.Allen and G.Fitzmaurice, 2 August 1943.
18. [Hansard] Parliamentary Debates, Vol. 391, p. 2267.
19. PREM 3/249/3A, FO to Moscow, 7 August 1943; Ronald Campbell to FO, 18 August 1943.
20. PREM 3/249/3A, W. Churchill to A. Eden, 10 August 1943.
21. CAB/39,Vol. 39, minutes of the 103<sup>rd</sup> meeting, 11 August 1943.
22. PREM 3/ 250/ 5, Surrender Terms, 25 August 1943.
23. *The Times*, 9 September 1943.
24. On the Ethiopian offer of troops, see FO, 1942, J141/973/1.
25. FO 371/34378, memo by H. Malkin, 1 November 1943.
26. [Hansard], Parliamentary Debates, Vol. 393, p.542.
27. UNWCC, *History*, pp.107–8.
28. [Hansard], Parliamentary Debates, Vol. 393, p. 631.
29. UNWCC, *History*, p. 106.
30. FO 371/ 34378, C 13133, memos by W. Allen, F.Roberts, G. MacKereth, and R. Law, 3–5 November 1943.
31. FO 371/ 34378, C13140, memos by W. Allen, G. MacKereth, and H. Malkin, 10–11 November 1943.
32. FO 371/ 34378, C13140, memos by F. Roberts and O. Sargent, 16 November 1943.
33. FO 371/34378, C13140, F. Roberts to M. Royden, 24 November 1943.
34. FO 371/38990, C836, Howe to FO, 19 January 1944.
35. FO T 2291/4, FO to Rome Embassy, 8 December 1944.
36. *New York Times*, 31 January 1945.
37. FO371/51011, U761, Lord Halifax to FO, 31 January 1945.
38. FO 371/ 51011, U. 761, FO to Lord Halifax, 6 February 1945.
39. *New Times and Ethiopia News*, 21 April 1945.
40. FO 371/51045, U. 5009, Biography of Graziani, 20 June 1945.
41. Great Britain Command Paper No. 6668, of 1945.
42. FO 372/4385, T. 19415. Also mentioned in FO 371/57556, Ethiopian Vice-Minister of Foreign Affairs to British Legation, 22 July 1946.
43. J.H. Spencer, *Ethiopia at Bay: A Personal Account of the Haile Sellassie Years*, (New York, 1984), pp. 96, 99, 181; see also L.F. Oppenheim, *International Law; a Treatise* (London, 1948), II, 619.
44. House of Commons, Command Paper 7481; US Department of State, Paris Peace Conference 1946, Selected Documents, Document 2868, pp. 92–3.
45. The Moscow declaration, as noted above, had actually been made on 1 November 1943.
46. [Hansard], Parliamentary Debates, Vol. 425, pp. 363–4.
47. FO 371/57556, U6562, Ato Ambaye Wolde Mariam to British Legation, 22 July 1946; 371/66571, Ato Ambaye to UNWCC, same date.

48. FO 371/60714, ZM2633, H. Farquhar to FO, 31 July 1946.
49. FO 371/57556, U6560, F. Craigie to FO, 31 July 1946.
50. FO 371/57556, U6562, memo by F. Garner, 1 August 1946.
51. Spencer, *Ethiopia at Bay*, pp. 179–81. On the Peace Treaty see also J. Byrnes, *Speaking Frankly* (London, 1947), pp. 75, 91, 94, 142 et passim..
52. FO 371/57556, U6562, memo by F. Garner, 1 August 1946.
53. FO 371/57556, U6562, memo by J.E. Fawcett, 22 August 1946.
54. FO 371/57556, U6562, F. Garner to H. Farquhar, 3 September 1946.
55. FO 371/ 66571, U162, Ambaye Wäldä Maryam to UNWCC, 31 December 1946.
56. FO 371/ 66571, U162, memo by J. Litowski, 20 January 1947.
57. FO 371/ 66571/ U162, memos by F. Garner, D. Riches, A. Ross, and W. Beckett, 29–31 January 1947.
58. For Leijonhufvud's memoirs see his book *Kejaren och hans hövdingar* (Stockholm, 1948), which contains a reproduction of a painting of the massacre of the monks of Däbrä Libanos, opposite p. 161.
59. UNWCC, *History*, p. 149.
60. FO 371/63171, J5671, Leijonhufvud to Ledingham, 17 November 1947.
61. FO 371/63171, J5671, Leijonhufvud to Ledingham, 17 November 1947.
62. UNWCC, *History*, p. 149.
63. On Red Cross bombing see R. Pankhurst. "Il bombardamento fascista sulla Croce Rossa durante l'invasione dell'Etiopia (1935–1936)," *Studi Piacentini* (1997), XXI, 129–52.
64. V. Mussolini, *Voli sulle ambe* (Firenze, 1937).
65. Cerulli's case was later discussed by Francis Brown of the Foreign Office. Noting that there was talk of Cerulli coming to Britain as adviser to the Italian Government, he observed, on 8 March of that year, "we want to avoid a row with the Italians; at the same time I think Cerulli is such a poisonous character that it would be no bad thing if we had some definite grounds on which to say to the Italians that he is a bad man to choose as their Colonial adviser. His being placed on the list of witnesses might well provide such grounds." FO 371/ 73180, Z2054, memo by F. Brown, 8 March 1948.
66. For Summary Minutes of the United Nations War Crimes Commission meeting of 4 March 1948 see FO 371/73181, Z2900.
67. FO 73180/Z2900, memo by A. Pemberton-Pigot, 28 April 1948.
68. FO 371/ 73182, Z9550 Imperial Ethiopian Legation to Foreign Office 23 November 1948; reprinted in Ethiopia, Ministry of Justice, *Documents on Italian War Crimes submitted to the United Nations War Crimes Commission* (Addis Ababa, 1949–50), II, 3–4.
69. FO 371/ 73182, Z2742, memo by F. Brown, 30 November 1948.
70. FO 371/ 73182, Z9550, memos by J. Thwaites, and F. Brown, 1 December 1948.
71. FO 371/ 73182, Z9550, memo by FO Western Department, 6 December 1948.
72. FO 371/79515, Z694, memo by A. Pemberton-Pigott, 26 January 1949.
73. FO 371/79515/1662, Z196, O. Harvey to FO, 7 January 1949.
74. FO 371/79515, Z694, Bevin to Ethiopian Legation, 31 January 1949.

75. FO 371/79515, Z1552, file containing Italian press cuttings.
76. *Processo Graziani* (Roma, 1948).
77. FO 371/79515, Z6111, report on Ato Abebe Retta's move, and Italian reactions thereto.
78. *The Times*, 8 September 1949.
79. Badoglio died in 1956. On his life see inter alia S. Cilibrizzi, *Pietro Badoglio rispetto a Mussolini e di fronte alla storia* (Napoli, nd); V. Valiati, *Badoglio risponde* (Milano, 1958); C. de Biase, *Badoglio duca di Caporetto* (Milano, 1965).
80. FO 371/79515, Z6111, memo by A. Pemberton-Pigott, 13 September 1949.
81. FO 371/79515, Z6218, FO minute, 17 September 1949.
82. *Processo Graziani*, III, 1425. On the life of Graziani, who died in 1955, see inter alia E. Canevari, *Graziani mi ha detto* (Roma, 1947); G.P. Augenti, G. Martino del Rio and E. Cannelutti, *Il drama di Graziani* (Bologna, 1952), and T. Madià and E. Faldella, *Rodolfo Graziani* (Roma, 1955).
83. A. Del Boca, *I gas di Mussolini: Il fascismo e la guerra d'Etiopia* (Rome, 1996), pp.17–48.