

**Territorial Autonomy as a Constitutional Mechanism to Address
Diversity-Driven Conflicts: An Ethiopian Case Study**

Tesfaye Ayalew Mekonen

Journal of Autonomy and Security Studies,
5(2) 2021, 52–77

Abstract

Ethiopia is the oldest independent, and the second most populous, country in Africa. It is the home of over eighty ethnolinguistic communities, also known as ‘nations, nationalities and peoples’. None of them represents 50 percent of the total population. The constitution adopted following the regime change in 1991 has introduced a federal state structure that bestows territorial autonomy, including the unconditional right to secession, to all the ethnolinguistic communities equally and irrespective of their demographic size and settlement pattern. The framers and advocates of the constitution consider this model of territorial autonomy as an approach to deal with diversity and respond to identity-related questions. Others contend that the constitution is an instrument for the ethnicization of administrative provinces that heightens and proliferates intercommunal conflicts in the country, rather than resolving the longstanding political turmoil associated with identity-related questions. I analyze the historical discourse that led to the formation of the federation, the interplay between the central/federal government and sub-state governments, the protection of diffused minorities, the issue of boundary demarcation between sub-states, and the status and role of the sub-states’ security apparatuses. Though much was token about its successes, I argue that the constitution is defective in its design, and if it has not aggravated the underlying causes of persistent political crisis across the country it has certainly not addressed them. After about three decades of the inauguration of the federation, the unsettled identity-related questions that have manifested in outspread interethnic clashes and tension between sub-states due to land claims and/or identity questions prove the deficiency of the constitutional mechanism, notably the multi-level territorial autonomy model, to resolve such protracted and complex issues which have unprecedentedly riddled the country. Thus, reconsideration of the constitution through a stable and comprehensive transitional justice process is necessary to address outstanding issues and re-legitimize and consolidate the Ethiopian polity.

Keywords

Ethnolinguistic community, federalism, polity, territorial autonomy

About the author

Tesfaye Ayalew Mekonen is a lecturer in law at the College of Law, Debre Berhan University. Currently, he is on study leave. He holds bachelor’s degree in Laws (LL. B), Master of Law (LL.M), and Master of Peace and Conflict Studies (MPCS).

Acknowledgement

I would like to thank Professor Sia Spiliopoulou Åkermark and Petra Granholm for their helpful comments and suggestions on the initial draft of the manuscript. I am also grateful to the two anonymous reviewers for similar reasons.

1. Background

Ethiopia is the oldest independent, and the second most populous, country in Africa, with an estimated population of over 116 million and a total land area of 1.104 million km square.¹ Globally, it is the twelfth most populous country. A Horn of African country with no access to the sea, it shares borders with Eritrea, Djibouti, Somalia, Kenya, South Sudan and Sudan. More than eighty ethnolinguistic communities inhabit the country. The Oromo and Amhara ethnolinguistic communities constitute approximately 34.4 percent and 27 percent of the total population, respectively.² Each of the other ethnolinguistic communities has a portion of less than 7 percent. These include the Somali (6.2 percent), Tigre (6.1 percent), Sidama (4 percent), Gurage (2.5 percent), Welayta (2.3 percent), Afar (1.7 percent), Hadiya (1.7 percent) and Gamo (1.5 percent).³ Whilst all languages have equal statutory recognition, Amharic is the working language of the federal government and is widely spoken throughout the country. The other major languages are Afaan Oromo (the official working language in the Regional State of Oromiya), Somali (the official working language of the Regional State of Somali) and Tigrigna (the official working language of the Regional State of Tigray).

The two Abrahamic religions reached Ethiopia before they spread across the Middle East. Christianity was a state religion from the 4th century until 1974.⁴ The first converts to Islam during the period of Prophet Mohammed “outside of his close circle” were Ethiopians following the first Hijra (to Ethiopia) in 615.⁵ According to the 2007 National Census, 43.5 percent of the total population believe in Orthodox Christianity, while 34 percent are Muslims. The remaining have different religious beliefs, such as Protestant (18.5 percent), traditional (2.7 percent), Catholic (0.7 percent) and others (0.6 percent).⁶ Except for the three autonomous sub-states predominantly inhabited by Muslims, the Somali, Afar and Harari Regional States, Ethiopians’ ethnolinguistic and religious diversity is cross-sectional. Because of this, some describe Ethiopia as a mosaic of nationalities.⁷ On the other hand, violent protest, intercommunal conflict and civil war owing to contradictory claims and narratives on the question of identity have become a common phenomenon in

1 World Population Review, “Ethiopia Population 2020 (Live)”, accessed on December 15, 2020, <https://worldpopulationreview.com/countries/ethiopia-population>

2 World Bank Group, “Population, total – Ethiopia”, accessed on December 20, 2020, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=ET>

3 World Population Review.

4 Assefa Tolera, “Interrogating Religious Plurality and Separation of State and Religion in Ethiopia”, *Eastern Africa Social Science Research Review* 33(1) (2017): 39–72.

5 Jon Abbink, “An historical-anthropological approach to Islam in Ethiopia: issues of identity and politics”, *Journal of African Cultural Studies* 11(2) (1998): 109–124, 111.

6 Federal Democratic Republic of Ethiopia Population Census Commission, *Summary and Statistical Report of the 2007 Population and Housing Census*, (Addis Ababa: 2008), 17.

7 Sisay Gebre-Egziabher, “What Role Should Civil Society Organizations Play to Address Ethnic Conflicts in Ethiopia?” *International Conference on African Development Archives* (106) (2007), 4.

most parts of the country. Since 2020, the security situation has deteriorated following the bifurcation of the Tigray regional state government from the central (federal) government.

This paper explores the underlying factors for the longstanding and pervasive political turmoil in Ethiopia and the attempted constitutional mechanism to address the crisis. It is a socio-legal desk study focusing on the constitutional setup of the federation and the actual situation in the country. The paper is divided into five sections. This first section briefly presents the ethnolinguistic and religious composition of Ethiopia. The second section portrays how the political turmoil and antagonism throughout the country are protracted and complex. The contradictory narratives about the formation of Ethiopia as a distinct sovereign state are recounted with their impact in shaping the current state structure and political system. Under the third section, multi-level territorial autonomy as a constitutional mechanism to resolve issues related to the question of identity is analysed. The fourth section illustrates the shortcomings of the constitutional mechanism. It also outlines the conflict situation in the country as an epitome of constitutional failure to maintain peace and order. The fifth section presents concluding remarks on the importance of constitutional reconsideration and amendment through a transitional justice process.

2. Contradictory interpretation of history

Historians trace the origin of Ethiopian statehood to the *Daamat* kingdom, which is believed to have existed from 1000 to 300 BC.⁸ Epigraphic and archaeological evidence indicates that “a state arose in the Ethiopian highlands during the mid-1st millennium B.C.”⁹ The *Daamat* was succeeded by the Axumite kingdom, alias Axumite Empire – a powerful kingdom and symbol of civilization located in northern Ethiopia and Eritrea from 100 to 940.¹⁰ The monarchial system in Ethiopia continued until 1974. The basis of legitimacy for the emperors during such a long period was their lineage to Menelik I, the first king of Ethiopia, who was born to Queen Sheba of Ethiopia and King Solomon of Jerusalem.¹¹ Applauded by the teachings of the Orthodox Christian church and propagated by the monarchial rules and regulations, this well-established mythology maintained such a functional and longstanding Solomonic dynasty.

In 1889, Menelik II came to the throne and became the strongest king of the period. He

-
- 8 Rodolfo Fattovich and Kathryn A. Bard, “The Proto-Aksumite Period: An Overview”, *Annales d’Ethiopie* 17 (2001): 3–24, 3–4; A. Catherine D’Andrea et al, “The Pre-Aksumite and Aksumite Settlement of NE Tigray, Ethiopia”, *Journal of Field Archaeology* 33(2) (2008): 151–176, 151.
- 9 A. Catherine D’Andrea et al, “The Pre-Aksumite and Aksumite Settlement of NE Tigray, Ethiopia”, 153.
- 10 ER Services, “World Civilization – Kingdom of Aksum”, accessed on December 27, 2020, <https://courses.lumenlearning.com/suny-hccc-worldcivilization/chapter/kingdom-of-aksum/>
- 11 Merera Gudina, *Competing Ethnic Nationalisms and the Quest for Democracy, 1960–2000*, (Düren: Shaker Publishing, 2003), 57.

marched to the south, east and west of Shewa, the center of his administration, and could bring various kingdoms, chieftains and Islamic sultanates under his dominion. Some of the self-administered territories, such as Kumsa Moroda of Leqa Naqamte and Abba Jifar II of Jimma, acceded to his emperorship threatened by his military might, whereas others were conquered after attempting strong resistance and faced huge losses.¹² Menelik II incorporated the emirate of Harar, the sheikdoms of Bela Shangul (Beni Shangul), Aqoldi (Asosa), Khomosha and Arsi, and the Kingdoms of Walayta and Kafa into his empire upon defeating the local rulers in a series of bloody wars.¹³ Alarmed by the expansion of the European colonial powers in neighboring countries (such as Sudan, Kenya and Somalia), Menelik II sent letters to the colonizers to let them be aware of and refrain from “what he considered to be the legitimate boundaries of the country [i.e., Ethiopia].”¹⁴ Between 1896 and 1906, Ethiopia assumed its present shape and size. Menelik II was successful in doubling the size of his empire and legalizing the border through skillful negotiations and by signing binding agreements with neighboring colonial powers.¹⁵ His military success was not limited only to the geographical expansion of his empire towards the south, east and west, but he also praiseworthy defended the sovereignty and independence of Ethiopia by defeating Italy, which repeatedly tried to colonize Ethiopia, at the historic battle of Adwa in 1896.

Menelik II has been considered as the founder of modern Ethiopia. Besides initiating the construction of the Addis Ababa-Djibouti railway and several bridges and roads in various parts of the country, he introduced electricity, the telegraph, the postal system and vaccinations.¹⁶ The first modern hospital and school were built during his reign. He abolished slavery and inaugurated the first national currency. Emphasizing the achievements of Menelik II, Ahmed Hassen noted that “the life of Menelik and above all his long reign has revealed different qualities: tolerance, wisdom, intelligence, skillful diplomacy and military leadership recording a victory against the Italian colonial attempt in Ethiopia.”¹⁷ His successors continued, though they were not as effective, applying more or less the same form of kingship and system of public administration.

This historical background of today’s Ethiopia has been interpreted in different ways.

12 Bahru Zewde, *A History of Modern Ethiopia, 1855–1991*, (Addis Ababa: Addis Ababa University Press, 2002), 62–66.

13 Bahru Zewde, *A History of Modern Ethiopia, 1855–1991*.

14 Bahru Zewde, *A History of Modern Ethiopia, 1855–1991*, 61.

15 Ahmed Hassen, “Revisiting Emperor Menelik: A Historical Essay in Reinterpretation, ca.1855–1906”, *Journal of Ethiopian Studies* 49 (2016): 79–97, 90.

16 Erving E. Beauregard, “Menelik II: Another Look”, *Transafrican Journal of History* 5(2) (1976): 21–31, 23.

17 Ahmed Hassen, “Revisiting Emperor Menelik: A Historical Essay in Reinterpretation, ca.1855–1906”, *Journal of Ethiopian Studies* 49 (2016): 79–97, 94.

According to Messay Kebede, there are three contradictory interpretations of Ethiopian history: the colonial thesis, the reunification thesis, and the expansion thesis.¹⁸ The expansion thesis lies between the colonial thesis and the reunification thesis. Although academically it looks like a distinct discourse, it aligns with either of the two extreme theses in the practical political arena. The Ethiopian political landscape has been controlled and shaken by polarised views. The colonial and reunification theses have dominated the mainstream political discourse and impacted the formation and operation of the federal system. I thus focus on these contrasting theses.

Advocates of the colonial thesis note that Ethiopia is the creation of Menelik II by conquest, subjugation and suppression. For them, before the “invasion” of Menelik II, the southern, eastern and western territories of present-day Ethiopia were independent and sovereign states. For example, Asefa Jalata, a prominent Oromo intellectual, claims that “Oromia is an Oromo country that almost occupies three-fourths of the Ethiopian Empire.”¹⁹ Academics, activists and politicians in this group inculcate the monarchical system of not only dismantling their social fabric and replacing their cultural and linguistic identity with alien culture and language, but also of subjecting them to forfeit their entitlement to land and other natural resources. In Assefa’s words, “the Oromo and other colonised peoples were targeted to provide raw materials for local and European markets...”, he continued, “the colonial settlers [referring to Menelik’s war lords, appointees and their families] built garrisons as their political centres for practicing colonial domination through the monopoly of the means of compulsion, wealth and capital accumulation, and cultural dissemination.”²⁰ As an outspoken advocate of the colonial thesis, Assefa expounds that “Ethiopian colonialism reduced some Oromos and others to slaves and semi-slaves ... the conquered or raided captives who were enslaved by Ethiopians either served as domestic slaves or were exported as commodities.”²¹

Exponents of the colonial thesis believe that there are similarities between “Ethiopian colonialism” and the European colonialism in terms of motive and methods. They argue, like the Europeans, Ethiopian emperors considered indigenous peoples in “the occupied territories” as backwards and propagated that it is their mission to enlighten their subjects by baptizing/Christianising and teaching the Amharic language.²² As Christian Scherrer

18 Messay Kebede, “Menelik and Southern Ethiopia: Colonialization, Reunification, or Expansion?” *Borkena.com* April 16, 2015. Accessed on January 9, 2021, <https://borkena.com/2015/04/17/menelik-and-southern-ethiopia-colonialization-reunification-or-expansion-messay-kebede-phd/>

19 Asefa Jalata, “Sociocultural Origins of the Oromo National Movement in Ethiopia”, *Journal of Political and Military Sociology*, 21 (1993): 267–286, 268.

20 Asefa Jalata, “Sociocultural Origins of the Oromo National Movement in Ethiopia”, 269.

21 Asefa Jalata, “Sociocultural Origins of the Oromo National Movement in Ethiopia”, 270.

22 Mekuria Bulcha, “Walelign Mekonnen, the Question of Nationalities and Ethiopia’s Persistent Crisis”, *Kichuu info* June 10, 2018. Accessed on January 9, 2021, https://kichuu.com/walelign-mekonnen-the-question-of-nationalities-and-ethiopias-persistent-crisis/#_edn12

emphasises: “European and Abyssinian colonialism occurred simultaneously, pursued similar interests, albeit from differing socio-economic bases, and this was reinforced by comparable colonial ideologies of the idea of empire and notion of ‘civilizing mission’ and the exploitation of the subjugated peoples.”²³ Abyssinia is the former nomenclature of Ethiopia. As per the colonial thesis, Menelik II and his successors were deemed as colonisers and enslavers who exploited and subjugated the peoples of southern, western and eastern Ethiopia. This group does not give recognition for the role of Menelik II in protecting the ethnolinguistic communities within contemporary Ethiopia from European colonial aggression, maintaining each one of them intact, and preserving their respective language and culture.

The colonial thesis calls for the decolonization of the southern, eastern and western provinces of Ethiopia in the manner in which other British and French colonies were liberated.²⁴ Under this thesis, the legitimate and logical solution for diversity-driven problems is in effect the disintegration of Ethiopia and the (re)formation of (new) sovereign and independent states. Eritrea has become independent using the colonial thesis as a legitimizing ideology and mobilising factor.²⁵ The Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF) have boldly incorporated the colonial thesis in their political programs and mission statements.²⁶ It is not dubious to infer from the wording of their documents that their claim for self-determination includes the creation of independent states. Recently, Getachew Reda, member of the Central Committee and spokesperson of the Tigray People’s Liberation Front (TPLF), evinced his party’s commitment “to go to hell and back to disintegrate Ethiopia.”²⁷ Chopping the country into pieces and establishing small states is therefore the ultimate goal, or at least plan B, of these liberation fronts and their affiliates. In the latter scenario, plan A for these groups is the reconfiguration of the country’s governance structure such that it bestows them hegemonic ascendancy, including political, economic and cultural dominance. After the TPLF ruled Ethiopia for twenty-seven years, it is on the basis of

23 Christian Scherrer, “Analysis and Background to the Refugee Crisis: The Unsolved Oromo Question”, in *War Against the Oromo and the Mass Exodus from Ethiopia: Voices of Refugees in Kenya and Sudan*, eds. Mekuria Bulcha and Christian Scherrer (Frankfurt: IFEK-IRECOR, 2003): 27, quoted in Mekuria Bulcha, Walelign Mekonnen, *the Question of Nationalities and Ethiopia’s Persistent Crisis*

24 Messay Kebede, 2015.

25 John Sorenson, “History and Identity in the Horn of Africa”, *Dialectical Anthropology* 17(3) (1992): 227–251.

26 Oromo Liberation Front (OLF), Mission, accessed on September 18, 2021. <https://oromoliberationfront.org/english/mission/>; Ogaden National Liberation Front (ONLF), *Political Programme*, accessed on September 18, 2021. http://onlf.org/?page_id=16

27 *Capital*, “Swimming Against the Current of Weaponized Humanitarianism: Politicization of Humanitarian Concerns in Ethiopia’s Tigray Conflict”, August 16, 2021. Accessed on September 20, 2021. <https://www.capitalethiopia.com/society/swimming-against-the-current-of-weaponized-humanitarianism-politicization-of-humanitarian-concerns-in-ethiopia-tigray-conflict/>

prioritising plans that it has declared its determination to form the state of Tigray on the demise of Ethiopia.

On the other side, advocates of the reunification thesis categorically reject the colonial thesis. Assefa Mehretu, professor emeritus of geography, states that “unfortunately, unlike anywhere in Africa, modern Ethiopia was faced with retrogressive tribalist intellectuals who thrashed Ethiopianism by divisive counternarratives and pushed the country backwards into primordial neo-ethnic centrifuge.”²⁸ Relegating the champions of the colonial thesis as “invidious malwares”, Assefa expounds his discontent as follows:

the legendary Ethiopia that was known for millennia as one of the few civilized countries on earth became a recent invention; an exemplar in Africa for its interethnic harmony, Ethiopia became a prison of nationalities; the Ethiopian national territory that was demarcated by standard norms of incorporative contiguity, as any country in Europe, Africa, or elsewhere, became an empire state ruled by Abyssinian colonialists, and a government reputed in all of Africa for its multiethnic character became a tribal cabal of the Amhara/Tigre ruling class [because of those who promote the colonial thesis].²⁹

For the proponents of the reunification thesis, Menelik II is a symbol of national unity, pioneer of modernity, and saviour of all Ethiopians from European colonialism. Under this thesis, Ethiopia is an ancient country that has preserved its statehood and independence uninterrupted for over 2,000 years.³⁰ Though conventionally nationalism is traced to Western Europe, Donald N. Levine asserts that “markers of nationalism used by most scholars are attested by evidence of Ethiopia’s nationhood as early as sixth century C.E.”³¹ Furthermore, the movement of the Oromo people towards northern Ethiopia since the 13th century, and the expansion of the Muslim sultanate of Harar to northern Ethiopia in the 16th century, at the very least witness that the process of creating the collective identity and territorial integrity of today’s Ethiopia predated the reign of Menelik II.³² The linguistic and cultural communities of Ethiopia have coexisted and shared common history and values for such a long period. The Oromo and all the peoples in the south, west and east have been integral administrative units of historic Ethiopia. The objective of Menelik’s expansion towards the south, east and west in the last decades of the 19th century was therefore to reunify and reintegrate the disconnected territories of greater Ethiopia. Those

28 Assefa Mehretu, “Delegitimization of the Collective Identity of Ethiopianism”, *International Journal of Ethiopian Studies* 11(1 & 2) (2017): 45–70, 46.

29 Assefa Mehretu, “Delegitimization of the Collective Identity of Ethiopianism”

30 Minasse Haile, “The New Ethiopian Constitution: Its Impact upon Unity, Human Rights and Development”, *Suffolk Transnational Law Review* 20(1) (1996): 1–84, 22.

31 Donald N. Levine, “Ethiopia’s nationhood reconsidered”, *Analise Social* 46(199) (2011): 311–327, 311.

32 Ayele Tariku, “The Annole Monument and Negus Menelik’s Expedition towards Arsi: A Bibliographic Essay”, *Ethiopian journal of Social Sciences* 4(1) (2018): 1–22, 5.

who believe in the reunification thesis contend that Menelik II has simply restored and consolidated Ethiopia as his predecessors had held it intact for generations. The foundation of the reunification thesis is rooted in the thoughts of Menelik II himself. In his letter to the Europeans, Menelik II mentioned,

while tracing today the actual boundaries of my empire, I shall endeavor, if God gives me the strength, to reestablish the ancient frontiers of Ethiopia up to Khartoum [the capital of present-day Sudan], and as far as Lake Nyamza with all the Gallas and the Arussi country up to the limits of the Somalis, including the Province of Ogaden.³³

Referring to the Europeans' plan to partition Africa following the Berlin conference (1884–1885), Menelik II gave forewarning, saying “if powers at a distance come forward to partition Africa between themselves, I do not intend to be an indifferent spectator.”³⁴ According to his admirers, this message portrays how he was a dedicated Emperor “to defend African territories against European powers.”³⁵ In general, those who advocate the reunification thesis, though they emphasise the triumph of Menelik II, flatly glorify the monarchical regime which ended in 1974. They even sometimes argue that blaming the emperors for whatsoever legitimate or substantial cause is analogous to a treacherous act. In effect, their determination to maintain the imperial hegemony overwhelmed by the Orthodox Christian tradition and dominance has re-emerged after the collapse of the two successive dictatorial regimes, i.e., the Derg (the military clique who ruled Ethiopia for 17 years), and the TPLF/EPRDF leaderships. For them, anyone who claims recognition for and prefers to practice specific cultural, linguistic or religious attributes is a narrow nationalist, tribalist, and an ignorant person who risks the integrity and unity of the country. They are devoted to ensuring the sustainability of the mainstream culture and tradition wherein they can find themselves.

These are the two extreme narratives or interpretations of Ethiopian history that have dominated the ideological orientation of the constitution and the Ethiopian state structure. The political landscape is deluged with these radically schismatic views. In the worst instances, politicians, activists, journalists, YouTubers and facebookers from every corner of society – for example, school dropouts, professors, deacons, bishops, Ustazs, pastors and businesspersons – have unwittingly and recklessly intensified polarization. By overplaying historical legacies on one hand and nurturing a sense of victimhood on the other, they trigger intercommunal conflicts and political instability. Besides countless Facebook pages

33 Messay Kebede, 2015.

34 Guluma Gameda, “Dr. Abiy Ahmed’s Speeches, Menilek II and the Problem of National Integration in Ethiopia”, *Ayyaantuu News*, May 16, 2018. Accessed on January 9, 2021, <https://ayyaantuu.org/odaa-post/abiy-ahmed-speeches-menilek-problem-national-integration/>

35 Guluma Gameda, “Dr. Abiy Ahmed’s Speeches, Menilek II and the Problem of National Integration

and YouTube channels run by individuals, there are plenty of institutionalised satellite and YouTube (media) channels that espouse both theses, and spread hatred, narcissism and sectarianism. To mention some, those that align with the colonial discourse are Kello Media, Oromia News Network (ONN), Oromo TV, Tigray Media House (TMH), Tigray Media Network, and Oromia Media Network (OMN). On the other hand, the channels voicing the reunification thesis include Mereja TV, Amara Media Center, Ethio Beteseb Media, Adebabay Media, and Menelik Television. As their names/titles signify, these channels have their own ethnolinguistic and religious constituencies.

Only inconsequential space is left for moderate views and opinions in the country's socio-political landscape. The advocates of these theses do not have even the smallest temptation to recognise each other's causes and feelings.³⁶ As a direct reflection of this tension, there are currently 51 active political parties, of which 18 are countrywide (across ethnolinguistic communities) and 33 exist at sub-state level (in the name of ethnolinguistic communities), registered by the National Election Board of Ethiopia.³⁷ The political programmes and strategies of these political parties have lined up with, in different levels and versions, either the colonial thesis or the reunification thesis. Pervasive denial, blaming and rapaciousness have become the cardinal elements of the current Ethiopian socio-political landscape.

3. Constitutional framework for the formation of sub-state autonomies

Following successive mass uprisings, student movements, and serious resistance from the Muslim community, some members of the national army – known as the Derg - orchestrated a successful coup d'état in 1974. The military junta immediately replaced Haileselassie I, the last emperor of the perennial monarchical system. Among the major reforms introduced by the military government were the abolition of monarchical rule, the distribution of land for all farmers irrespective of their social status or lineage, and the declaration of equality of religions – i.e., separation of state and religion. However, the new administration overlooked the question of ethnolinguistic communities and decided to sustain the imperial legacy with a motto – *Ethiopia Tikdem* (meaning Ethiopia first).³⁸

36 Shimelis mulugeta Kene and Solen Feyissa, *The Pitfalls of the Ethiopian Elites' War of Narratives: Part I* (Montreal: McGill Center for Human Rights & Legal Pluralism, 2020), accessed on May 27, 2021. <https://www.mcgill.ca/humanrights/article/inclusive-citizenship-and-deliberative-democracy/pitfalls-ethiopian-elites-war-narratives-part-i>; Shimelis mulugeta Kene and Solen Feyissa, *The Pitfalls of the Ethiopian Elites' War of Narratives: Part II* (Montreal: McGill Center for Human Rights & Legal Pluralism, 2021), accessed on May 27, 2021. <https://www.mcgill.ca/humanrights/article/inclusive-citizenship-and-deliberative-democracy/pitfalls-ethiopian-elites-war-narratives-part-ii>

37 National Election Board of Ethiopia, *List of Political Parties* (Addis Ababa: NEBE, 2021), accessed on May 27, 2021. <https://www.nebe.org.et/>

38 Merera Gudina, "Ethnicity, Democratization and Decentralization in Ethiopia: the case of Oromia", *EASSRR* 20(2) (2004): 11.

Despite the meager leeway available in the socio-political landscape to pursue or advocate ethnolinguistic rights, such as the right to self-rule and to develop cultural, linguistic and religious attributes, in the 1960s and 1970s political groupings based on ethnolinguistic affiliation emerged in an unprecedented manner. The Eritrean Liberation Front (ELF) was established in 1961, and the Oromo Liberation Front (OLF) and Tigrayan People's Liberation Front (TPLF) were launched in 1973 and 1975, respectively.³⁹ The goal of these ethno-nationalist guerrilla bands has been, since their inception, the formation of new states for the peoples they purport to represent. For example, OLF's website portrays that its mission is "to lead the national liberation struggle of the Oromo people against the Abyssinian colonial rule."⁴⁰ Though Aregawi, one of the founders of TPLF who left the front in the mid-1980s, argues that the objective of TPLF was "to secure the self-determination of Tigray within the Ethiopian polity", the current conflict between the TPLF and the central government divulges that their true intention was not what he noted.⁴¹

In May 1991, ethno-nationalist belligerents – the Eritrean People's Liberation Front (EPLF) and those that came under the umbrella of the Ethiopian People's Revolutionary Democratic Front (EPRDF) – were able to overthrow the military regime. Subsequently, while Eritrea became an independent state under the rule of EPLF, EPRDF established a transitional government. Although EPRDF was overwhelmingly dominated by the TPLF, it was an alliance between the Amhara National Democratic Movement (ANDM), the Southern Ethiopian People's Democratic Movement (SEPDM), the Oromo People Democratic Organization (OPDO), and TPLF. The transitional government had two main organs, a multinational parliament and a multinational cabinet, constituted based on a charter that epitomised the aspirations of ethno-nationalist movements and fronts.⁴²

The charter seems to endorse the colonial interpretation of Ethiopian history, as is evident in the opening of the preamble of the charter:

whereas the military dictatorship was, in essence, a continuation of the previous regimes and its demise marks the end of an era of subjugation and oppression thus starting a new chapter in Ethiopian history in which freedom, equal rights and self-determination of all the peoples shall be the governing principles of political, economic and social life and thereby contributing to the welfare of the Ethiopian Peoples and rescuing them from centuries of subjugation and backwardness.⁴³

39 Martin Plaut, "The Origins of the Eritrean Liberation Front", *Eritrea Focus*, April 15, 2018. Accessed on January 12, 2021, <https://eritrea-focus.org/the-origins-of-the-eritrea-liberation-front/>; Oromo Liberation Front – OLF, website, accessed on January 12, 2021, <http://oromoliberationfront.org/english/mission/>; Aregawi Berhe, "The Origins of the Tigray People's Liberation Front", *African Affairs* 103(413) (2004): 569–592, 569.

40 Oromo Liberation Front – OLF, website.

41 Aregawi Berhe, "The Origins of the Tigray People's Liberation Front", 569.

42 Kifle Abraham, *Ethiopia from the Bullets to the Ballot Box: The Bumpy Road to Democracy and the Political Economy of Transition* (New Jersey: Red Sea Press, 1994), 4.

43 The Transitional Government of Ethiopia, "Transitional Period Charter of Ethiopia", *Negarit Gazeta*, Proclamation No. 1 (1991), preamble.

The proclamation, based on which national/regional self-governments were setup (hereinafter ‘the proclamation’), accentuates the success of “nations, nationalities and peoples” of Ethiopia in their “struggle against the political suppression, economic exploitations and cultural oppressions” by the past regimes.⁴⁴ The charter unequivocally entitles nations, nationalities and peoples of Ethiopia the freedom to self-determination, including the right to “preserve its identity and have it respected, promote its culture and history, and use and develop its language...; administer its own affairs within its own defined territory and effectively participate in the central government...; and exercise its rights to self-determination of independence”.⁴⁵ In the Amharic version, the notion of ‘rights to self-determination of independence’ is articulated more clearly to mean separation and formation of new states. The proclamation establishes fourteen national/regional self-governments for sixty-four ethnolinguistic communities or nations, nationalities, and peoples.⁴⁶ However, each of the ethnolinguistic communities has the right to form autonomous self-administration within the national/regional self-governments. The charter, cumulatively with the proclamation, transformed Ethiopia into a federation, though neither of the legal instruments use the term ‘federation’.

In 1995, the constitution of the Federal Democratic Republic of Ethiopia (hereinafter the constitution) came into force. Asseverating that the doer, subjects and beneficiaries of the constitution are primarily nations, nationalities and peoples, like its predecessor, i.e., the transitional period charter, the preamble of the constitution begins with the phrase “we the nations, nationalities and peoples of Ethiopia”.⁴⁷ The preamble also expounds that the main objectives or goals of the constitution are to “guarantee a democratic order for the nation, nationalities and peoples of Ethiopia.” In other words, it is the nations, nationalities and peoples of Ethiopia who adopt and own the constitution.

Under article 39 (5) of the constitution, a “nation, nationality and people” is defined as “a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.” That is, common culture, custom, language, believe in common identity, common psychological make-up, and contiguous territory are the prerequisites that a group of people must satisfy to acquire the status of nation, nationality, and people under the constitution. These elements in one way or another refer to an ethno-linguistic community. That is why in this essay both ‘nations, nationalities and peoples’ and ‘ethnolinguistic communities’

44 The Transitional Government of Ethiopia, “A proclamation to Provide for the Establishment of National/ Regional Self-Governments”, *Negarit Gazeta*, Proclamation No. 7 (1992), preamble.

45 The Transitional Government of Ethiopia, Art. 2.

46 The Transitional Government of Ethiopia, Art. 3.

47 Ethiopia, “The Constitution of Federal Democratic Republic of Ethiopia”, *Federal Negarit Gazeta*, Proclamation No.1, (1995), preamble.

are used interchangeably. The constitution does not, however, make a distinction between nation, nationality and people in terms of their definition and their entitlement/privilege.

The constitution confers prime rights to nations, nationalities and peoples, such as the right to unconditional self-determination including secession, the right to a full measure of self-government, the right to common ownership of land, the right to development, the right to develop, express and promote its own language and culture, and the right to preserve its history. Any nation, nationality and people within the nine sub-states named in the constitution has the right to set up an autonomous local administration within the sub-states, has the right to establish a separate sub-state whenever it deems it necessary, and has the right to separate from the federation and form its own sovereign state. According to article 46(2), sub-states shall be delimited based on the settlement patterns, language, identity, and consent of the people concerned. Regardless of demographic disparity and difference in terms of territorial size and resources, all sub-states “have equal rights and powers.”⁴⁸ This constitutional guarantee is intended to reinforce equality between ethnolinguistic communities. So, potentially, there may be as many sub-states as the number of ethnolinguistic communities. Parallel with the federal government, sub-state governments have their respective legislative, judicial and executive branches to exercise the power and mandate allocated to them by the constitution and their respective constitutions. All these bring out how issues related to nations, nationalities and peoples – ethnolinguistic communities – control the constitutional/political discourse in Ethiopia.

Pursuant to Maria Ackrén, territorial autonomy is “a geographically defined area which differs from other sub-regions (like municipalities, federal states, etc.) in a specific country and has received special status with legislative and/or regulatory (administrative) powers.”⁴⁹ However, what matters is the scope of autonomy conferred upon the sub-states within their respective geographical jurisdiction, not the difference between sub-regions in terms of both geographic and demographic size, entitlement or resource. Territorial autonomy is therefore appropriately defined as a constitutional arrangement whereby ethnolinguistic or cultural communities “can express ...[their] distinct identity and run ...[their] own affairs in certain spheres.”⁵⁰ Under this conception, each of the federating units of the Ethiopian federation could be deemed as territorial autonomies endowed with unqualified authority to self-administration, including secession. It is thus reasonable to conclude that territorial autonomy is the fundamental constitutional mechanism used to resolve identity-related political issues and the ensuing crisis in Ethiopia.

48 Ethiopia, “Constitution of Federal Democratic Republic of Ethiopia, Art. 47(4).

49 Maria Ackrén, *Conditions for Different Autonomy Regimes in the World – A Fuzzy-Set Application* (Åbo: Åbo Akademi University Press, 2009), 20.

50 Maria Ackrén, *Conditions for Different Autonomy Regimes in the World*, 19.

4. Key features of the current Ethiopian polity

Hereunder, I present the key constitutional arrangements of the Ethiopian polity, focusing on the formation and operationalization of territorial autonomous administrations. The pitfalls of each of these arrangements are also explained.

4.1 The formation of sub-states and the state

The constitution apportions powers and responsibilities to the central/federal government and sub-state governments. A residual or undesignated power is reserved to sub-states. The central government must respect the powers and responsibilities of sub-state governments and vice versa. However, when it deems it necessary, the central government is free to delegate part of its power and function to sub-state governments. The constitution underscores that intervention of the central government in sub-state governments is prohibited unless in a few exceptional circumstances. Constitutionally recognised circumstances that justify intervention of the central government in sub-states are: first, when any of the sub-states endanger the constitutional order and if the intervention is initiated by the House of the Federation; second, when the central government is invited by a sub-state to control a security situation within the sub-state's territory; third, when a state of emergency is declared according to article 93 of the constitution; and fourth, when a sub-state is unable to stop violations of human rights occurred within its territory and if the intervention is approved by a joint session of the House of Federation and the House of Peoples Representatives, i.e., the two federal houses.⁵¹ These four circumstances are practically associated with gross violence and abnormal situations that apparently warrant security measures to be taken by the central government. Apart from these, the constitution does not provide a robust and binding mechanism or network of cooperation between the central and sub-state governments, or horizontally between sub-state governments, to jointly deal with structural problems across the sub-states, such as matters related to governance, justice, unemployment, accessibility of the bureaucracy, sustainable use and preservation of resources, and environmental protection.

Under article 9 of the constitution, nations, nationalities and peoples are endowed with sovereign power and the constitution is referred to as a supreme legal instrument whereby their sovereignty is expressed. Based on these premises, sub-states which are demarcated based on ethnolinguistic affiliation are sovereign administrations. This status of the sub-states is reiterated by article 2 of the constitution, which reads “the territorial jurisdiction

51 Ethiopia, “Constitution of Federal Democratic Republic of Ethiopia, Arts. 62(9), 51(14), Art. 93, 55(8) & 55(16).

of Ethiopia shall comprise the territory of the members of the Federation...” That is, Ethiopian statehood is constitutionally demoted as just a collection of sub-states, while, in particular, mono-ethnolinguistic sub-states acquire indivisible sovereignty. To recap with Minasse’s words, “the constitution can be said to have juridically extinguished Ethiopia as a sovereign entity and created nine sovereign tribal entities in its place in the same territory.”⁵²

Since the introduction of a federal system that has created autonomous territorial sub-states, EPRDF ruled the country, both the centre and all the sub-states, using sheer force, divide and rule strategy, and political gambling. Almost all the sub-state governments were satellites of the central government. In 2015, the Oromo youth – known as *qeerroo* – launched a well thought out and organised anti-government movement throughout Oromia, the largest sub-state in terms of population size and geographical breadth. In parallel fashion, the Amhara youth (*fanno*) started anti-government demonstrations across the Amhara sub-state. It was also not uncommon in other sub-states to see protests, particularly in urban areas. Between 2017 and 2018, about 264 violent anti-government protests were recorded in Oromia alone.⁵³ After several unsuccessful attempts to suppress these youth-led movements, Prime Minister Hailemariam Desalegn resigned in 2018. Since then, Abiy Ahmed has assumed the premiership position.

As part of his reform enterprise, Abiy maneuvered the dissolution of EPRDF and its members (except the TPLF). A new political party, known as the Prosperity Party (PP), which is in essence designed as a national (statewide) party with offices in all the sub-states, was created in December 2019.⁵⁴ PP, as the successor of EPRDF, has taken up government power at the center and in all the sub-states, except Tigray. EPRDF’s ‘revolutionary democracy’, entrenched for about three decades, has come to an end.

The leaders of TPLF refused to dissolve TPLF and take part in PP. While they blame PP for inclining to the reunification narrative and neoliberalism, PP accused TPLF of being stubborn and resistant to change and transformation. Amid such tension between the central government and the Tigray sub-state government, due to the Covid-19 pandemic, the central government postponed the parliamentary and sub-state council election scheduled for 29 August 2020.⁵⁵ Though this decision by the central government was legally not contentious, it was loudly criticized and rejected by TPLF leaders and some other minor opposition

52 Minasse Haile, “The New Ethiopian Constitution: Its Impact upon Unity”, 21–22.

53 Mulualem Daba, “Qeerroo Fi Qarree’: The Engine of Current Transition in Ethiopian Politics”, *International Journal of Scientific and Research Publications* 9(5) (2019): 534–543, 540.

54 *Borkena*, “Ethiopia’s Prosperity Party officially formed in the capital Addis Ababa”, December 1, 2019, accessed on January 9, 2021, <https://borkena.com/2019/12/01/ethiopias-prosperity-party-officially-formed-in-the-capital-addis-ababa/>

55 Kurt Davis Jr., “Ethiopia delays elections: Is COVID a valid excuse?” *theafricareport*, August 18, 2020, accessed on January 10, 2021, <https://www.theafricareport.com/37721/ethiopia-and-cote-divoire-delay-elections-is-covid-a-valid-excuse/>

political parties. Debretsion Gebremichael, the then governor of Tigray and chairperson of TPLF, reasserted their position, saying, “we will never back down for anyone who is intending to suppress our hard-won right to self-determination and self-rule.”⁵⁶ Unveiling their readiness to defend their sub-state, he also said “we have prepared our army, our militia and our special force. Our preparation is aimed at averting war, but if we are to fight, we are ready to win.”⁵⁷ TPLF then established its sub-state election coordinating organ and conducted the election on 9 September 2020 whereby it won 98.5 percent of the 190 seats of the Tigray council.⁵⁸ Upon establishing their new sub-state government, TPLF leaders rendered the Abiy administration unconstitutional and illegitimate on the ground that it had overstayed its term. For them, Covid-19 is not a sufficient reason for postponing elections. On the other hand, the Abiy administration levelled the Tigray election null and void and decided to freeze the federal budget that would have been directly allocated to the Tigray government.⁵⁹ In an interview with the state media, Abiy compared the newly established Tigray government to “squatters illegally building a shanty house on land they didn’t own.”⁶⁰ After provocatively blaming each other for illegally holding government power, the tension between the central government and Tigray leadership reached at its climax and a war broke out when TPLF forces attacked the Northern command of the National Defense Force of Ethiopia in November 2020.

Thus, this war, taken as a law enforcement operation by the central government, is concerning not only because of its comprehensive causalities but also it is a signal about the future. The installation of a functional constitutional mechanism is fundamental to cool down tensions that may come forth between the central government and sub-state governments, and between sub-state governments themselves. Otherwise, the future may be even worse than the current situation whenever the central government and sub-state administrations are presided over by adversarial parties. An integrated and principled relationship between the center and the sub-states is also a guarantee to sustain the autonomy of sub-states.

56 Desta Gebremedhin, “Tigray crisis: Why there are fears of civil war in Ethiopia”, BBC, November 13, 2020, accessed on January 10, 2021, <https://www.bbc.com/news/world-africa-54826875>

57 Desta Gebremedhin, “Tigray crisis: Why there are fears of civil war in Ethiopia”,

58 Samuel Getachew, “A controversial regional election win in Ethiopia has raised the stakes for its federal system”, *Quartz Africa*, September 13, 2020, accessed on January 9, 2021, <https://qz.com/africa/1902614/ethiopia-tigray-tplf-party-wins-controversial-election/>

59 Samuel Getachew, 2020.

60 Samuel Getachew, 2020.

4.2 Protection of minorities

Under the constitution, there is no mention of differential recognition or assigning of rights and privileges to minority ethnolinguistic communities. All ethnolinguistic communities are equally endowed with the unqualified right to self-administration in any manner they prefer, irrespective of their population size. However, the mismatch between the constitutional guarantees and the practice is evident.

In the Ethiopian context, there are two types of minority ethnolinguistic communities: indigenous minorities and dispersed minorities. For example, ‘X’ ethnolinguistic community may be native to a certain sub-state territory, but it is a minority vis-a-vis other indigenous groups in the territory. Second, ‘Y’ ethnolinguistic community may be a minority in a specific sub-state territory and, though arguably, a latecomer to that sub-state perhaps because it spreads across territorial jurisdictions. While in the first context ‘X’ is described as an indigenous minority, in the second, ‘Y’ is known as dispersed minority.⁶¹ The following paragraphs examine how and to what extent these two types of minorities enjoy and practice their comprehensive constitutional right to self-rule/administration.

Indigenous minorities

There are over eighty ethnolinguistic communities in Ethiopia, but the number of sub-states (territorial autonomies) are so far only eleven (the constitution has named nine sub-states, the Sidama sub-state and the Southwest Ethiopia Peoples sub-state were established in June 2020 and November 2021, respectively)⁶². It is therefore clear that the delimitation of these sub-states does not in any way ensure ethnolinguistic homogeneity within the territorial jurisdiction of the sub-states. Dozens of ethnolinguistic communities inhabit the Southern Nations, Nationalities and Peoples (SNNP) sub-state alone.⁶³ Critics have further argued that the constitution’s recognition of the unconditional right to self-administration based on territorial autonomy is inherently flawed and infeasible.⁶⁴

Inspired, and somehow offended, by the separation of Sidama from the SNNP sub-state, currently about ten of the majority ethnolinguistic communities indigenous to the SNNP sub-state, including Wolaita, Gurage, Gamo and Goffa, ferociously claim separate sub-state autonomy.⁶⁵ Within the SNNP sub-state, there are two levels of semi-autonomous local

61 Beza Dessalegn, “Experimenting with Non-Territorial Autonomy: Indigenous Councils in Ethiopia”, *Journal on Ethnopolitics and Minority Issues in Europe* 18(2) (2019): 3–23, 7–8.

62 *Ethiopian Government portal*, “Sidama Regional State”, accessed on November 23, 2021, <https://www.ethiopia.gov.et/regional-states/sidama-regional-state/>; *Ethiopian News Agency*, “South West Ethiopia Peoples Region Officially Established”, November 23, 2021, accessed on November 16, 2021, <https://www.ena.et/en/?p=30764>

63 Beza Dessalegn, “The Quest for Identity and Self-Determination in the SNNP Region of Ethiopia”, *Mizan Law Review* 13(1) (2019): 63–91, 64.

64 Minasse Haile, “The New Ethiopian Constitution: Its Impact upon Unity”, 11–12 & 20–23.

65 Elias Gebreselassie, “Hope, uncertainty as Ethiopia’s Sidama gear up for statehood vote”, *Aljazeera*, November 19, 2019, accessed on January 12, 2021, <https://www.aljazeera.com/news/2019/11/19/hope-uncertainty-as-ethiopia-sidama-gear-up-for-statehood-vote>

administrations: *Zone* administration and *Werda* administration. While an ethnolinguistic community that has a relatively large population size has a *Zone* administration, one with a relatively lesser population size establishes a *Wereda* administration. Those ethnolinguistic communities that cannot independently form *Wereda* administrations constitute a cluster under a *Wereda* administration, and these *Wereda* administrations are clustered under the umbrella of a *Zone* administration. This arrangement based on population size of ethnolinguistic communities and their territorial breadth affirms that the unconditional promise of self-rule is more rhetorical than practical.

An ethnolinguistic community clustered under a *Wereda* administration claims a separate *Wereda* administration, an ethnolinguistic community which has a separate *Wereda* administration demands a *Zone* administration, and the ethnolinguistic community under a *Zone* administration requests a sub-state autonomy. The driving factors for such endless claims include the growth of a hyperbolic sense of victimhood, obsession with self-identification and distinct identity, and a desire to get more resources, power and political space. As the relative minority and majority ethnolinguistic communities do not practically exercise an equal level of autonomy/self-administration, the quest for greater autonomy/self-administration, sometimes backed by violence and political conspiracy, inevitably perpetuates itself and plagues the security and socio-economic situation of the country. In 2019 alone, violent protesters, aggrieved by government's reluctance to approve their claim to set up a sub-state, killed more than thirty-five people, vandalized private and public properties (such as houses, vehicles, hotels and factories), and caused hundreds to flee.⁶⁶ The Sidama ethnolinguistic community's claim for a sub-state autonomy was as old as the constitution. But it has been recognized recently after a series of demands and violent protests that overshadowed other socioeconomic and political aspects of the Sidama people became a habitual phenomenon. Currently, there is a tendency that ethnolinguistic communities grouped in a sub-state have been requesting sub-state status in the same manner as the Sidama. In early 2020, over 34 people were killed, and hundreds injured in a clash between protesters from the Wolaita community and government forces.⁶⁷

Dispersed minorities

The constitution stipulates an equal right to self-rule for all ethnolinguistic communities. However, this right is qualified and narrowed by sub-state constitutions. Article 2 of the Beneshangul Gumuz sub-state constitution states that, though it recognizes the inhabitation

66 *Addisstandard*, "News: Death Toll Rises to 'More Than 35' In Sidama Zone, Hundreds Displaced After Losing Properties", July 22, 2019. Accessed on January 12, 2021, <https://addisstandard.com/news-death-toll-rises-to-more-than-35-in-sidama-zone-hundreds-displaced-after-losing-properties/>

67 Elias Meseret, "At least 17 killed in political unrest in southern Ethiopia", *AP News*, August 14, 2020. Accessed on January 12, 2021, <https://apnews.com/article/africa-arrests-ethiopia-abi-ahmed-11f27003ca7eaaa74e087597eb73ded9>

of other ethnolinguistic communities within the sub-state, the owners of the sub-state are the Berta, Gumuz, Shinasha, Ma`o and Komo ethnolinguistic communities. With similar orientation, article 8 of the Oromia sub-state constitution reads: “sovereign power in the region resides in the people of the Oromo nation [i.e., the Oromo ethnolinguistic community] and the sovereignty of the people is exercised through their elected representatives and direct democratic participation.”⁶⁸ That is, the non-Oromo ethnolinguistic communities in the Oromia sub-state do not have equal rights with the Oromo. Besides, this provision of the constitution impliedly denies the non-Oromo ethnolinguistic communities the right to elect and the right to be elected in the Oromia sub-state. The ethnolinguistic composition of the Harari sub-state is Oromo 52.3%, Amhara 32.6%, Harari 7.1%, and Guragies 3.2%.⁶⁹ Nevertheless, the sub-state /territorial autonomy belongs to the Harari ethnolinguistic community. Most of the sub-states that are inhabited by various ethnolinguistic communities have adopted only one or two official languages. Even though they do not go far to constitutionally marginalize ethnolinguistic communities that are not considered as native, their bureaucracy and justice system, including the security apparatus, are unaccommodating and hostile.

Sometimes, members of dispersed communities might not associate themselves with any ethnolinguistic community, or may find themselves in two or more ethnolinguistic communities and do not want to be confined in one community. These individuals are much more vulnerable to exclusion by the sub-state bureaucracy as they are regarded as anti-constitutional. In general, dispersed minorities are susceptible not only to bureaucratic mistreatment but also to mob attacks. In September 2018, the Oromo youth (‘Qeerroo’) ruthlessly killed 65 non-Oromos by beating them with sticks and rocks in Burayu – on the western outskirts of Addis Ababa, but within the sub-state territorial jurisdiction of Oromia.⁷⁰ Many more were wounded, and private properties were looted. On another occasion, during two days of violent protests across Oromia following a post on Facebook by Jawar Mohammed, a prominent Oromo activist and politician who is now in custody, alleging that police encircle his home during the night and try to withdraw his government security detail, 67 innocent civilians, the majority of them ethnic-Amhara, were killed. Many others sustained heavy injuries, and houses and vehicles were vandalized.⁷¹ In the aftermath of the assassination of Hachalu Hundessa on 29 June 2020, a famous Oromo

68 Oromia, “The Revised Constitution of Oromia Region”, *Megeleta Oromia*, Proclamation No.46, (2001), Art. 8.

69 Ethiopian Government Portal, “The Harari People’s National Regional State”, accessed on January 11, 2021, <http://www.ethiopia.gov.et/harari-regional-state>

70 *France 24*, “Toll from Ethiopia bloodshed at least 58: rights group, source”, September 19, 2018. Accessed on January 8, 2021, <https://www.france24.com/en/20180919-toll-ethiopia-bloodshed-least-58-rights-group-source>

71 *Reuters*, “Violence during Ethiopian protests was ethnically tinged, say eyewitnesses”, October 27, 2019. Accessed on January 8, 2021, <https://www.reuters.com/article/us-ethiopia-politics-idUSKBN1X50BC>

singer identified by his revolutionary songs, violent protests that shook the Oromia sub-state caused the deaths of 215 civilians, 9 police officers, and 5 members of the militia.⁷² Hotels, factories, private schools, supermarkets, private houses, vehicles and other properties were either looted or burnt, to a total value of over Birr 4.6 billion (over USD 153 million).⁷³ In all of these situations, the primary targets were non-Oromos residing in the Oromia sub-state. Since 2019, the killing of dozens of individuals, mainly identified as Amharas who live in the Beneshangul Gumuz sub-state, has become weekly news. Just to mention a few instances, on January 12, 2021, over 80 individuals and, on December 23, 2020, over 100 individuals, mainly from the Amhara ethnolinguistic community, were killed in cold blood.⁷⁴

4.3 Sub-state security apparatus

Under article 52(2)(g) of the constitution, sub-state governments have the power to establish a “police force, and to maintain public order and peace within the state [i.e., sub-state].” This is the constitutional green light for sub-state governments to recruit soldiers and organize their respective armies. Sub-state governments have organized two types of police forces: regular police forces and special police forces. While the regular police force focuses on crime investigation and prevention, mostly through community policing, the special police force is mandated to crackdown on protests and ensure peace and order. After the Tigray special police force – TPLF’s leadership and its supporters later called it the Tigray Defense Force (TDF) – attacked the Northern Command of the Ethiopian National Defense Force (ENDF) on November 4, 2020, and the subsequent conflict expanded in the northern parts of the country, the legality/constitutionality, status vis-à-vis ENDF and other federal security agencies, appropriateness and importance of sub-state special forces have become more debatable than ever before.

72 Elias Meseret, “Ethiopia’s week of unrest sees 239 dead, 3,500 arrested”, *The Washington Post*, July 8, 2020. Accessed on January 8, 2021, https://www.washingtonpost.com/world/africa/ethiopias-week-of-unrest-sees-239-dead-3500-arrested/2020/07/08/8eb30952-c100-11ea-8908-68a2b9eae9e0_story.html

73 *Fana Broadcasting Corporate*, “Federal, Oromia Attorney Generals Bring Criminal Charges Against 5, 728 Individuals”, September 26, 2020. Accessed on January 8, 2021, <https://www.fanabc.com/english/federal-oromia-attorney-bring-criminal-charges-against-5-728-individuals/>

74 *Reuters*, “Over 80 killed in attack in Ethiopian border region with Sudan – state rights commission”, January 14, 2021. Accessed on January 14, 2021, <https://www.reuters.com/article/uk-ethiopia-violence/over-80-killed-in-attack-in-ethiopian-border-region-with-sudan-state-rights-commission-idUSKBN29I2QA>; ALJAZEERA, “Gunmen kill dozens in Ethiopia’s Benishangul-Gumuz: Rights body”, December 23, 2020. Accessed on January 14, 2021, <https://www.aljazeera.com/news/2020/12/23/gunmen-kill-dozens-in-ethiopias-benishangul-gumuz-rights-body>

In general, sub-state special police forces are viewed as threats to national unity and security. When Muferyat Kamil, former Minister of Peace, presented her ministry's quarterly report to the parliament, she underscored that the parliament "should prepare a legal framework" to regulate sub-state special police forces for they are unconstitutional in their current status.⁷⁵ Jaylan Abdi, the Spokesperson of the Federal Police Commission, enounces how these forces might risk the integrity of the state if one day they become servants to sectarian politics.⁷⁶ According to Jaylan, the level of their training, types of armaments they are equipped with, their actual numbers, specific mandates/tasks and accountability are not known by the federal government. According to reports, the Tigray sub-state government had recruited as many as 250,000 soldiers under their special police force department.⁷⁷ If the Tigray sub-state government could recruit as many soldiers as this out of its 6 percent of the national population, one can easily imagine how many the Oromo and Amhara sub-states could mobilize from their 34 percent and 27 percent, respectively, of the 116 million Ethiopians. Given that tensions are mounting between sub-states because of the ever-increasing attack on dispersed communities and the problems related to sub-states border delimitation and identity questions, the argument that sub-states special police forces have become threats to national unity and harmony is sound and timely.

4.4 Demarcation between sub-states

According to article 46(2) of the constitution, borders between sub-states should be demarcated based on "settlement patterns, language, identity and consent of the people [i.e., the ethnolinguistic community] concerned." Furthermore, article 39(3) of the constitution states that every ethnolinguistic community "has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits." Here, demarcating boundary and determining territorial jurisdiction of the sub-state seems only a concern that may arise when a certain ethnolinguistic community exercises its right to form an autonomous self-administration. On the other hand, as per article 39(5), for a certain group of people to be considered as an ethnolinguistic community entitled with sovereign power and an unconditional right to self-administration, including secession, it shall "inhabit an identifiable, predominantly contiguous territory", besides meeting other requirements. This is to mean that 'identifiable and predominantly contiguous

75 Brook Abdu, "Regional Special Forces: threats or safeties?" *The Reporter*, January 2, 2021. Accessed on January 12, 2021, <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties>

76 Brook Abdu, "Regional Special Forces: threats or safeties?"

77 Brook Abdu, "Regional Special Forces: threats or safeties?"

territory' is an intrinsic and defining element of an ethnolinguistic community – known as nations, nationalities and peoples. From this provision, it can be deduced that the issue of border demarcation between sub-states is a question of identity. For a group of people to claim the status and entitlements recognized to nations, nationalities and peoples, they have to demonstrate that they have permanently occupied a particular territory. Hence, issues related to borders between sub-states should be dealt with in such a manner that the question of identity and determination of indigeneity is addressed. As in the case of any other identity-related questions, the claim for redrawing border between sub-states or other semi-autonomous administrations is to be raised by the concerned group of people (i.e., ethnolinguistic community), and thus such matters of boundary demarcation should be addressed by determining the indigenous ethnolinguistic community over the territory/province at issue. Nevertheless, depoliticization of the issue must be the first step to enable the constitutional mechanism to function judiciously.

Under article 48 of the constitution, border disputes between sub-states “shall be settled by agreement of the concerned [sub-]state.” If the sub-states are unable to resolve the dispute, the House of Federation, the upper house of the parliament which is occupied by representatives of ethnolinguistic communities, shall decide on the dispute based on “settlement patterns and the wishes of the peoples concerned.” The first solution, i.e., agreement of the sub-states, may be interpreted broadly to the extent that it includes all types of dispute resolution methods and the involvement of third parties. This way of addressing the conflict helps to take into consideration extra border issues that are essential to ease off the border disputes. The second strategy designed to resolve border disputes between sub-states needs the exploration and redefinition of ethnolinguistic communities that are parties to the border dispute. Yet, whether the ‘settlement patterns and the wishes of the peoples concerned’ criteria based on which the House of Federation decides necessitates the determination of indigeneity, or just reckoning the present demographic composition of the ethnolinguistic communities, is dubious and imprecise. Furthermore, whether the ‘wishes of the people concerned’ does mean referendum or any other form of public participation is not clear.

In the Ethiopian federation, there are border issues between almost all neighboring sub-states. Particularly, the border disputes between Somali and Oromia sub-states, Oromia and SNNP sub-states, Somali and Afar sub-states, and Amhara and Tigray sub-states, have so far claimed hundreds of lives and displaced millions. In April 2021, over 100 people were killed in a border dispute between the Somali and Afar sub-states.⁷⁸ The conflict along the border of the Guji Oromo (Oromia sub-state) and the Gedeo of the SNNP sub-state in 2018

78 *Aljazeera*, “Over 100 killed in clashes in Ethiopia’s Afar, Somali regions”, April 7, 2021. Accessed on November 21, 2021, https://www.aljazeera.com/amp/news/2021/4/7/dozens-killed-in-clashes-in-ethiopia-s-afar-somali-regions?__twitter_impression=true

caused the displacement of close to one million people, the death of many, and destruction of properties.⁷⁹ In 2018, concerned by this predominant issue, the Federal government has established an independent advisory organ, called ‘Administrative Boundary and Identity Issues Commission’. The objective of the Commission is to investigate boundary disputes between sub-states and issues related to identity and self-rule, and to provide recommendations on how to resolve such disputes and issues to “the public, the House of Federation, the House of People’s Representatives and the Executive Organ.”⁸⁰ Besides its other activities, for example dealing with sub-state governments, the commission has launched a 20 million Birr (the equivalent of USD 655, 730) project to assess boundary disputes, identity questions, and issues of self-governance in Ethiopia, and to come up with solutions.⁸¹ Seventy researchers from different universities have taken part in the project. So far, neither the constitutional arrangement nor recommendations of the commission has resolved the ongoing border conflicts between sub-states and other self-administrations within the sub-states.

4.5 Political turmoil and conflicts

Politically induced conflicts proliferate across the country. Asnake recaps the situation by saying, “ethnic federalism/autonomy not only reifies and consolidates ethnic identity but also provides incentives for ethnic entrepreneurs to engage in a politics of division (sectarianism) and magnification of grievances leading to recurrent violence.”⁸² Widespread hypocritical views concerning ethnolinguistic identity have created a volatile situation conducive for intercommunal violence and political instability. In particular, powerbrokers and ethnolinguistic narcissists have intensified extreme political narratives by diverting and misusing identity-related claims. Ethiopia ranks 11th out of 179 countries in the 2021 Fund For Peace (FFP) Fragile States Index (FSI).⁸³ Among the indicators, ‘group grievance’ and ‘fractionalized elites’ (both cohesion indicators) respectively represent 9.5 and 9.2 –

79 United Nations, Office for the Coordination of Humanitarian Affairs, *Ethiopia: Escalating inter-communal violence displaces close to 1M people*, June 27, 2018. Accessed on November 20, 2021, <https://www.unocha.org/story/ethiopia-escalating-inter-communal-violence-displaces-close-1m-people>; *Ethiopian Current Affairs Discussion Forum (ECADF)*, “Ethiopia: West Guji – Gedeo Conflict Displacement”, May 10, 2018. Accessed on November 21, 2021, <https://ecadforum.com/2018/05/10/ethiopia-west-guji-gedeo-conflict-displacement/>

80 Federal Democratic Republic of Ethiopia, “Administrative Boundary and Identity Issues Commission Establishment Proclamation”, *Federal Negarit Gazeta*, Proclamation No.1101 (2018), Art. 4.

81 *ENA*, “Commission Conducting Assessment to Identify Problems of Administrative Boundary, Identity Matters”, accessed on January 12, 2021, <https://www.ena.et/en/?p=17994>

82 Asnake Kefale, “Ethnic Decentralization and the Challenges of Inclusive Governance in Multiethnic Cities: the case of Dire Dawa, Ethiopia”, *Regional and Federal Studies* 24(5) (2014): 589–605, 591.

83 Fund For Peace (FFP), “Fragile States Index: Global data”, accessed on November 20, 2021, <https://fragilestatesindex.org/global-data/>

which are the first and third highest scores. Though there are critical arguments regarding the appropriateness and validity of this assessment of state fragility, its role in gesturing the general trend of a state's security situation and political (in)stability is undeniable.

Ethiopia Peace Observatory (EPO), a project of the Armed Conflict Location and Event Data (ACLED), reported 2,244 incidents of organized political violence, 851 incidents of violence targeting civilians, and 735 demonstrations that occurred between April 2018 and November 2021.⁸⁴ In particular, non-Oromos in the Oromia sub-state and “non-indigenous” peoples in the Benishangul-Gumuz sub-state are being persecuted – over three hundred killed and hundreds of thousands displaced – by regional armed groups. ‘Shene’ – an armed group in Western Oromia, which is allegedly responsible for the killing of hundreds and displacement of many – and TPLF – which undertakes guerrilla warfare – have recently been labelled as terrorist entities by the federal legislature.⁸⁵ Intercommunal tension and sometimes disputes have become a common phenomenon. All the atrocities and largescale national security threats are, one way or the other, the manifestations of the deficiency of the constitutional system, and symptoms for the need to consider nonterritorial autonomy as a complementary approach to address identity-related questions.

5. Conclusion and way forward

The Ethiopian federation, which has introduced territorial autonomy/sub-states as an approach to deal with diversity and the question of identity, is the result of ethnolinguistic-nationalist movements. It is the reflection of the colonial thesis on the interpretation of Ethiopia's past. Nonetheless, after 26 years of the adoption of the constitution and the introduction of territorial autonomy, identity-based claims, protection of minorities, delimitation of territorial jurisdictions of sub-states, and issues related to the security apparatus of sub-states are still the epicenter of political debate across the country. The stiff competition, polarization and activism not only cause and fuel inter-communal tensions, but also obstruct the justice system that would have protected the rights of individuals as citizens as well as members of ethnolinguistic communities. The surge of inter-communal conflicts, myriad of identity-related questions, and sharp rise in sectional irredentism throughout the country have proved the failure of the constitutional model, i.e., territorial autonomy, to maintain peace and rule of law by resolving the chronic historical backlogs. However, it does not mean, as alleged by many, that the constitution is as such the cause of conflict.

84 Ethiopia Peace Observatory (EPO), “Ethiopia”, accessed on November 24, 2021, <https://epo.acleddata.com/dashboard/>

85 Tizita Mengistu, “Designating TPLF and Shene as terrorists capacitates law of enforcement – Attorney General”, *Walta Media and Communication*, May 11, 2021. Accessed on May 25, 2021, <https://waltainfo.com/ag-says-designating-tplf-shene-as-terrorists-aimed-at-stopping-terroristic-activities/>

The two extreme narratives about Ethiopia's past make political compromise almost impossible. Apart from pursuing their respective version of Ethiopia, the champions of these dispositions mock and revile each other in the name of the ethnolinguistic communities they claim to represent. This heightens inter-communal animosity that ultimately subjects, not least, members of dispersed ethnolinguistic communities to persecution. Even though there is no way to undo whatever happened in the past, these narratives curiously predominate in the contemporary political discourse in Ethiopia as if there are no other issues that need to be addressed. Any claim to refashion the lopsided monarchial hegemony in the status quo is not only unapologetic hypocrisy, but also a serious threat to the security and unity of Ethiopia. Similarly, any attempt to create an exclusionary hegemonic regime based on retrospective narratives is a glaring arrogance that should never be tolerated in the 21st century.

To resolve this deep-rooted conundrum located in the formation of its statehood, Ethiopia must go through a comprehensive and genuine transitional justice process focused on the application of reconciliation, truth finding, amnesty, prosecution, reparation, and state building. Re-legitimising and consolidating the state must be the principal objective of the transitional justice process that should ultimately culminate in constitutional, legal and policy reconsiderations and revision. Neither should the process be taken just as an elite bargaining strategy for power sharing, nor should it be exclusively used for political settlement and propitiation among the elite groups. To undertake an effective transitional justice process that could achieve sustainable peace, efficient governance, and an intercommunal harmonious relationship in the Ethiopian context, the following five guidelines are recommended. First, a functional independent institution must be established with a clear mandate to facilitate, coordinate, and administer the transitional justice process. Second, to grapple comprehensively with past injustices, competing narratives and outstanding socio-cultural and political issues by employing the different components of transitional justice, the process should be scrupulous and unhurried, and may be extended for years. To run a faddish, hasty and unthoughtful negotiation cannot resolve the country's protracted and complex problem, if not exacerbate it. Third, a stable and peaceful environment is a prerequisite for an effective transitional justice process. The incumbent government must therefore be allowed to exercise a monopoly of power and ensure law and order across the country. Fourth, utmost caution must be taken throughout the process to circumvent the influence of spoilers. Fifth, though conducting transitional justice is a costly process, there should not be international interference in the process except for technical or logistics support that may be provided upon invitation.

In the current situation where intergroup hostility and sectoral militarization have proliferated, any other step to subvert the existing government, both at the center and

sub-states, may mean risking anarchy and a massive humanitarian crisis that would claim hundreds of thousands of lives, if not millions. Thus, unconditional commitment to refrain from any act of violence and outright compliance with the constitution, the laws and institutions of the country must be an eligibility requirement to take part in the transitional justice process.