

## Federalism and Security: The Special Police in Ethiopia

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#### Abstract

Ensuring security is one of the defining characteristics and central claims of a state. In federal countries there is a possibility for two or more actors at different levels to have some mandate over security. In the case of federal Ethiopia the security sector remains complicated. The constituent units have established special police in addition to the regular police, and its role and status remains contested. What is the constitutional basis of the special police? Do regional states have a mandate to establish such a police? Is it a force for stability or instability? How should it be regulated?

These are the main questions that this article aims to investigate based on qualitative method, relevant comparative study, and empirical investigation into this rather complex sector. The findings show that the special police resemble more an army than a police force. It has also taken over the mandate of the army, which is a federal mandate. Lately, its size has increased significantly and retired army generals have begun to join it, hinting that the army is being drained.

The fact that the impact of the army is depleting owing to the ongoing civil war in the country and the constituent unit special police is slowly taking over mandate implies the center is losing control and the country is slowly falling apart along ethno-national fault lines. The article further explains the race behind the special police and proposes options on how to regulate it.

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#### Keywords

Special police Ethiopia, ethno federation, peace and security, regional police

## 1. Introduction

One of the defining characteristics and central claims of the state is to have monopoly over the use of force and ensure law and order in its territory (Weber, 1921). Whether federal or unitary, it is one of the essential roles of the state (Hobbes, 2010). Public security is a foundation for other higher goals such as democracy, development and good governance (Leuprecht, 2010). As part of the social contract, the state enjoys autonomy and monopoly to act in return for ensuring public safety and basic freedoms to the citizen. The issue of balancing the mandate of the government to act and ensure security on one hand, and the need to protect rights and freedoms as well as the rule of law on the other hand, is one of the thorny issues that continue to be debated. Nevertheless, both are critically needed: the balance is what is debated (Barak, 2006).

Compared to the army, which is responsible for external defense and ensuring the sovereignty of the country, the main role of the police is prevention and detection of crime, combatting and investigating crime, the maintenance of public order, enforcement of the law, and providing protection to citizens.<sup>1</sup>

In September 2020, the Ministry of Peace of Ethiopia issued a ‘Police Doctrine.’ The document states that ‘the Police as an institution should be demilitarized, depoliticized, democratized and provide decentralized services.’<sup>2</sup> The idea of civilian control over the police and the army has been there since the adoption of the 1995 constitution but the concept of police doctrine seems a new element. The concept of demilitarized police implies that the police is a civilian institution, not an army. Depoliticization of the police implies that the police as an institution should be free from the control of a political party. It is assumed to be an impartial body that serves society regardless of changes in political party through elections. Democratic policing is a much more complicated concept, and the document does not clearly define it. Bonner (2020:1046) defines the concept as follows:

‘democratic policing can be understood as when *elected political leaders* (italics by the author) are able to effectively use police to uphold the rule of law (implied to refer to both crime control and protest policing) and that the police, as public servants, respond to citizen complaints, are *accountable*, use a minimal level of *coercion*, and *respect human rights* and notions of justice and equality.’

Democratic policing is thus a rich concept that aims to reduce the violent potential within police by making it subject to a democratic system founded on the rule of law, systems of accountability, and more importantly, respect for human rights. It assumes therefore that

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1 The Ethiopian Federal Police Commission Establishment Proclamation No. 720/2011, Article 6(5)(c).

2 Federal Democratic Republic of Ethiopia (FDRE) Police Doctrine (2020) P.15.

the regime itself is primarily democratic – this is where the problem begins. If it is not, then the police becomes an instrument of repression and violates human rights. Democratic policing turns to *regime* policing with little accountability and respect for human rights while promoting partisan interests.

The ideal, however, is that the police has the duty to respect the rights of citizens and as a branch of the executive is bound by the rule of law. The police as an institution is assumed to be a civil institution of the government, separate from the army, but as several studies indicate, the influence of politics on the police is particularly visible in Ethiopia (Gebeyehu, 2016). The laws regulating the police, the process of appointment of the heads of the police, and the fact that its mission is set by a hegemonic ruling party makes the police prone to political manipulations. Indeed Ethiopia has never had a neutral/de-politicised police force. Under the current context, there is a problem of security pluralism in which policing/security authority is vested in several institutions such as regional (regular) police, regional special police, regional militia, irregular armed groups with a political agenda partly supported by regional or federal authorities (like the Fanno), and federal police. As will be shown later, the various entities may on occasion work at odds with each other leading to vertical and horizontal conflicts. Whatever the motives are, the new ruling elite that assumed power in 2018 has literally deinstitutionalized the security sector and is slowly losing monopoly over the use of force.

As a result of the above security context, tensions emerge between those who hold power and influence the police and the rule of law that requires that power itself is regulated by law and limits the whims of the rulers. The rule of law and human rights aim at limiting the violent potential within the executive in general and the police in particular. Political institutions such as parliament use the rule of law and human rights as a framework to exercise oversight over the police. Both are key tools for ensuring accountability to the police. Yet as this study later demonstrates, there are dilemmas and contradictions between promises and reality. The police (in particular the special police) is becoming militarized – not demilitarized as claimed in the policy document – so much so that one finds difficulty in distinguishing it from the army. Ethiopia has a distinct institution called special police (*Liyu Police* in Amharic) whose constitutional mandate and role remains contested. The fact that the impact of the army is depleting owing to the ongoing civil war in the country and constituent unit special police is slowly taking over mandate implies the center is losing control and the country is slowly falling apart along the ethno national fault lines. The article demonstrates this state of fact and calls for a political dialogue to address the political issues and regulate the special police.

There are many published materials on the federal system in Ethiopia (Markakis et al, 2021; Fiseha, 2012; Kefale, 2009; Habtu, 2005; Turton, 2006) but it is hardly possible to

find any published source on the special police despite its increasing role. The study fills this gap and sheds some light into this institution.

Whether it is possible to ensure democracy, stability, peace and social cohesion in countries with deep societal divisions and the appropriate institutional arrangements is one of the central political issues of our time (Stepan *et al*, 2011). This is particularly so in many diverse countries that host deeply divided cleavages. Politically mobilized cleavages continue to threaten the centralized nation state (Kymlicka, 2007: 62). Following the end of the Cold War, such cleavages caused what Arend Lijphart dubs a ‘wave of ethnic conflicts,’ (Lijphart, 2002:37) instead of the promised ‘third wave of democracy’ (Huntington, 1991). Mobilized ethno-national minorities are ‘regionally concentrated ethnic groups who once enjoyed or aim to enjoy political autonomy and have become part of states in which they constitute an ethnic minority through conquest, annexation, colonization or incorporation during the coercive process of nation building’ (Gurr, 1993, p.19). They mobilize politically around assertions of national identity and self-determination. The goal of such mobilization is to recover the extensive self-government they claim to have enjoyed historically or they aspire to have now. The degree of self-government they seek ranges from autonomy, to national self-government, to independent statehood, which may include secession. Countries that have politically mobilized ethno-national groups cannot assume to have stable territory. As is the case in Ethiopia, the demands of such groups are framed and entrenched in relation to a particular territory, and the very existence of the unity and territorial integrity of the state is put to test (Anderson and Choudhry, 2019:374).

According to Horowitz (2002), deeply divided society refers to cases in which identity-based politics have a high degree of salience exceeding that accorded to alternative forms of political mobilization such as ideology, class, and gender, and the relationship between groups is affected by deep levels of mistrust and antagonism, making it less cooperative. As argued by Sujit Choudhry (2008:5) ‘a divided society is not merely a society which is ethnically, linguistically, religiously or culturally diverse... it is hard to imagine a state today that is not diverse.’ What makes a society divided is when the differences are politically salient and an identity-based distinct group uses it as a basis for political mobilization. As such, identity becomes the prime source of political mobilization around which political claims for recognition, resource control, accommodation, and self-government are framed, political parties formed, elections contested and governments composed (Anderson and Choudhry, 2019:374).

Following the end of the Cold War, realizing that the centralized nation state has failed to deliver peace, many African countries have adopted federalism and devolution as a means to manage conflicts. For some it became a means to ‘domesticate the Leviathan’ (Steytler, 2016: 272) by transferring power from the all-powerful center to subunits, diffusing power

into many centers. In others, federalism and devolution go beyond diffusing power and aim to manage territorially based and politically mobilized cleavages. Four main African countries (Nigeria, Ethiopia, South Africa and Kenya) have used federalism and devolution to achieve either or both of the above objectives. Within the African continent, Ethiopia remains very distinct as it hosts countless ‘national liberation fronts’, a record in the region, that despite five decades of central onslaught have not only challenged the centralised system in Ethiopia but were able to defeat the military junta (the Derg 1974–1991) in 1991. Ethiopia lost Eritrea and the threat of secession is still a problem as it harbours many national liberation movements such as the Oromo, the Ogaden/Somali, and the Tigray among others. Some ten ethno national groups that used to administer themselves at local government level in the South have, following the winds of change in 2018, demanded a constituent unit status, and two of them – the Sidama and South West – have formally become Ethiopia’s tenth and eleventh states. The war between the federal government and Tigray, although having multiple causes, is very much related to Tigray’s age-old demand for genuine self-government<sup>3</sup> and fair representation in federal institutions. Ethno-national groups are thus demanding more, not less, even after two and half decades of federal practise. Ethno-national forces remained partly dominant until 2018, but with the emergence of a new ruling elite in 2018 and a new narrative that considers the post 1991 federal Ethiopia as a disruption to the centralized nation building, the cleavages have once

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3 The claim on the part of the federal government is that TPLF has ‘attacked the Ethiopian army base (the Northern Command) that was based in Tigray’ on 4 November, 2020 and took what it calls ‘law enforcement operation’ to bring culprits to justice. At its core however is ideological crisis and lack of competent leadership within the ruling party. Ethiopian People’s Revolutionary Democratic Front (EPRDF) was dissolved prematurely and rebranded as Prosperity Party (PP) without creating enough consultation and consensus. The Tigray People Liberation Front (TPLF) saw that as a step towards centralization that will lead to dissolving the federal system and withdrew from it as the process dissolved the members of the coalition. The federal government continued to target the TPLF, accusing it of human rights violations, while the TPLF responded accusing PP as a centrist regime. On 3 November 2020, a mutually destructive war began between the federal government and Tigray regional state. This was a consequence of years of misunderstandings between the two governments. Tigray claimed genuine self-government while the federal government, imposing a puppet government in the region, accused the TPLF of attacking the Northern military division. A national election that was planned for August 2020 was postponed by the federal government using rubber stamp institutions and COVID-19 as pretext while Tigray accused the federal government of ‘rule without mandate,’ contesting the constitutionality of such an extension of term. What is tragic is foreign forces are involved in the war and it is slowly turning into a major crisis with implications to the Horn. Marks, Simon; Walsh, Declan (28 December 2020) ‘Refugees Come Under Fire as Old Foes Fight in Concert in Ethiopia’ *The New York Times*. <https://www.nytimes.com/2020/12/28/world/africa/Ethiopia-Eritrea-Tigray.html>; 28 December, 2020. The government’s narrative is also contested by other credible sources. See the African Union press release at <https://inquiry.achpr.org/elementor-536/> as accessed on 23 June 2021; The New York Times also wrote, ‘Mr. Coons, a Democrat warned Abiy about dangers of war in Tigray way before 4 November 2020. Mr. Abiy was undeterred. “He was confident it would be over in six weeks,” Mr. Coons said. Days later, on the evening of the American presidential election, fighting erupted in Tigray.’ Declan Walsh, *From Nobel Hero to Driver of War, Ethiopia’s Leader Faces Voters* *The New York Times* <https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html>

again began to threaten the center.<sup>4</sup> The new leadership has declared several command posts as a means to centralize power and control the periphery, but the war and tension between the center and the periphery has reached a new stage.

Federalism as defined by Daniel Elazar (1987: 12), combining shared rule and self-rule in which political, financial and judicial powers are divided between the federal government and constituent units, and each level enjoying constitutionally enshrined autonomy, was often articulated as alternative to end conflicts and as a peace making instrument in the early 1990s. Through its combination of constitutionally entrenched division of power as well as the principles of shared rule and self-rule, it allows mobilized groups to enjoy political autonomy at subunit level while ensuring representation at federal level. Through the institutions of shared rule and representation in federal institutions, ethno-nationalist groups are given the opportunity to influence decision-making at the center. The logic of this form of federalism is that ethno-nationalist groups can only respect the institutions of governance and thus contribute to stable federation when they are granted a satisfactory combination of *influence* at the center and *meaningful autonomy* at the sub state level with regard to their own affairs (Lijphart, 1979:500).

A brief exploration of the theories of federalism demonstrates that it has two major origins: one in the United States (1787) and the other from continental Europe. Karmis and Norman (2005:25) wrote ‘theories of federation were formulated in response to the rise of centralized modern states and to the theory of sovereignty that came to support them.’ Older and loose empires in Europe were weakening, leading to centralized and absolute monarchs. Jean Bodin and Thomas Hobbes provided the theory of centralized sovereignty in the sixteenth and early seventeenth centuries. The theories of absolute state sovereignty were however challenged by other experts that theorized on a shared federative sovereignty based on ongoing political experiments like the Swiss and Dutch confederations. German jurist Johannes Althusius (*Politica* 1603, politics as the art of associating) and German philosopher Samuel Pufendorf (*The Law of Nature and Nations* 1672) were among the pioneers of this alternative federalist approach. Both authors articulated the foundations for what later came to be known as *confederations*. This is the first and original conception of federalism (in today’s vocabulary – confederation) as evolved in Europe.

It should be born in mind that the concepts confederation and federation were interchangeably used and articulated as an alternative to centralized nation states until the establishment of the US federation in 1787, where the federal system emerged as distinct form of political organization separate from a confederation. The Articles of Confederation (1781) were found to be inadequate by the founding fathers, and following a series of debates

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4 Daniel Kibret, an advisor to Abiy Ahmed said ‘we will continue to implement Menliks nation building project that was disrupted by the EPRDF in 1991.’ See at <https://www.youtube.com/watch?v=WZzcxrHngV4&t=1759s>



in Philadelphia they dropped it and designed the first modern federation. The authors of the *Federalist Papers* (Alexander Hamilton, John Jay, and James Madison – known by their pen name *Publius*) highlighted how the new entity they designed is different from its predecessor – the Articles of Confederation. This came to be known as the American model that influenced several other federal systems so much so that K. C. Wheare (1963), the first known author on Comparative federalism, considers the American system as a model against which others are compared and analyzed. Federalism (in its original sense as in the EU or other loose global cooperation schemes) is also adopted to accommodate politically mobilized groups.

There are thus two major intellectual origins to the idea of federalism. Karmis and Norman (2005:7) rightly wrote ‘From the late 1780s on, the federal tradition evolved into two very different – and often opposed – schools or traditions of political thought: one dominated by the evolving American model; and the other continuing the older, and increasingly neglected, confederalist (European) tradition.’ It is thus vital to note that there are differences in the intellectual origins of federalism. Americans focus on the federal *union* created following the collapse of the confederation, while Europeans focus on *the parties* that establish the federation as articulated by John Althusius, which is communitarian and confederal with the EU being one of its modern manifestations (Requejo, 2012:57). This distinction remains critical in addressing one of the most complex issues of our time: how to manage diversity in deeply divided societies with politically mobilized cleavages. The American tradition advocates for integration – a more centralized federal design while the European approach focuses on accommodation where more power is devolved to constituent units designed to empower politically mobilized cleavages with a more consociational power sharing scheme at the center. This distinction also remains relevant in regulating the security sector, a major focus of this article. While integration would insist on having one national security system, the confederal approach treats security as in other power that has to devolve to constituent units.

In federal systems, there is a possibility for two or more actors at different levels to have either separate or shared mandates over security (Watts, 2008; Wheare, 1963). Thus in addition to the thorny issue of balancing the coercive mandate of the state in ensuring security against right of citizens that emerges in any state, federalism brings further dimensions to it. How does one allocate competences on security among the different levels of governments and at the same time ensure smooth coordination among different actors while avoiding anarchy and fragmentation? What is the constitutional base of the special police? Do regional states have a mandate to establish such a police and is it contributing to stability or instability? How should it be regulated? These are the main questions that this article aims to investigate.



This article contains five sections. Section one has presented the introduction and the research questions. Section two explains the genesis of the special police, showing its origin and how it evolved across time. Section three analyses the constitutional basis of the special police. There has been a continuous debate on whether the special police has any legal basis, and this section addresses that core issue. This section also explains the race behind the special police and the debate between the political elite in Ethiopia. Although the special police has existed since 2007, its size and level of engagement has increased significantly following the crisis and rupture within the ruling party since 2015. One could consider this moment as a watershed in terms of understanding the special police. Section four discusses comparative insight from some federal systems as to how security is divided between federal and sub unit governments. The last section provides the conclusion and recommendations.

The study is based on i) in-depth interviews with key informants, including members of the special police, former and retired army generals who served as either heads or trainers of the regional special police, and members of the Federal Police who work closely with the regional special police; ii) a focus group discussion (FGD) with academics, a regional state police commission, and militia; iii) review of federal and regional legal sources and policy documents; iv) and review of secondary sources. The report has primarily looked at the special police in Oromia and Amhara, which have the most sizeable special police forces in Ethiopia, although trends are similar in other regions of Ethiopia. It has also analyzed information from the Somali region, where the special police emerged, and Tigray, despite the current difficulties in accessing information from the region. With a view to draw relevant experiences from other federal systems, a review of comparative and relevant literature of other federal countries is used as a framework. The primary and secondary sources have been systematically analyzed and interpreted in the different sections of the article.

## **2. The rise of the Special Police**

Established first in Ethiopia's Somali region in 2007 to conduct counter-insurgency operations and riot control, special police quickly spread to all other regions of Ethiopia.<sup>5</sup> Later it was a main actor in interregional state conflicts. Currently many of the regional states argue that they continue to lose faith in federal institutions, including the army as it continues to serve partisan and factional interests, and thus they are using the special police as a means to defend themselves from what they call 'undue interference from

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5 Interview with member of the federal police 5 June 2021, Addis Ababa.

federal government or other regional states.<sup>6</sup> A retired army general and former head of special police said ‘in a divided society like Ethiopia, it is hardly possible to have impartial federal institutions such as the army. They have fallen into the hands of factional leaders that continue to serve or defend the interest of a section of society. As a result, regional states resort to their special police to defend their interests.’<sup>7</sup>

## 2.1 Its origin

Coming back to its origin, the special police was established in the Somali regional state in response to the insurgent Ogaden National Liberation Front (ONLF), a group fighting for the self-determination of the Somali region (Hajmann, 2020). The ONLF was accused of summary execution of dozens of Chinese and Ethiopian civilians in the context of its April 2007 attack on the oil installation in the region. It was also accused of indiscriminate mining of roads used by government convoys.<sup>8</sup> Given that the ONLF was operating in the region for some time and causing rising security concern both for the country and the Somali region, the federal government and the then president of the regional state Abdi Mohamed Omar “Iley”,<sup>9</sup> who is the regional state’s longest serving president from 2010–2018 (now in jail), established the Somali region special force (Hajmann, 2020) as a means to counter the ONLF. The regional state special police was initially estimated to be 10,000 but later estimates show a number as high as 45,000.<sup>10</sup> It was deliberately drawn from the Ogaden clan, the same clan the ONLF claims to represent, although at later stages it absorbed recruits from other Somali region clans. With the federal army unable to understand local dynamics in the region owing to language and geographic barriers, Iley and the federal government found a way to deal with the ONLF insurgency using a force from its own clan, well versed in the local dynamics. Some of the members of the special police were indeed former members of the ONLF.

The special police was also reportedly engaged in offensive operations, at times crossing the border and entering into Somalia to attack al-Shabaab Islamic militants – a role that shows a takeover of the federal government’s mandate.<sup>11</sup>

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6 Interview with former head of a regional state special police and retired army general, 26 May 2021.

7 Interview with former head of a regional state special police and retired army general, 26 May 2021.

8 See Ethnic Somali rebels kill 74 at Chinese oilfield in Ethiopia Ethnic Somali rebels kill 74 at Chinese oilfield in Ethiopia | World news | The Guardian as accessed on 05 May 2021.

9 Abdi Iley was security head of the Somali region and he was facing the ONLF way before he, along with the federal government, agreed to establish the special police. Query response Ethiopia: The special police (Liyu Police) in the Somali Regional State *LandInfo* 3 June 2016.

10 Query response Ethiopia: The special police (Liyu Police) in the Somali Regional State *LandInfo* 3 June 2016; Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> *REPORTER* as accessed on 3 May 2021.

11 Query response Ethiopia: The special police (Liyu Police) in the Somali Regional State *LandInfo* 3 June 2016.

It should be noted that dealing with terrorism (al-Shabaab and ONLF were designated as such) is a mandate of the Federal Police.<sup>12</sup> While the special police may have played a role in ensuring relative peace and stability in the Somali region, the same force was accused of committing extra-judicial killings, torture and gross human rights violations in the region.<sup>13</sup> Tobias Hagmann (2020) concludes that the Iley era was a ‘decade of fear and terror in Ethiopia’s Somali region.’ Human Rights Watch has also issued several reports accusing the Special Police and the regional state president of ‘extrajudicial killings, torture and violence against people in the Somali region.’<sup>14</sup> At the height of the Oromia-Somali region conflict in 2017, the Oromia region accused Iley and the special police of triggering the conflict between the two regional states and displacement of hundreds of thousands from the border areas of the two regional states.<sup>15</sup> The special police from both regional states was accused of these massive atrocities.

The border between Oromia and the Somali region has never been clearly drawn, and there are claims and counter claims between the two regional states. In 2004, the House of Federation (HoF) organized a referendum of over 420 *Kebeles* (*sub districts*) and the process was supposed to bring an end to such claims. The result of the referendum was however never implemented, and there has been a lot of manipulation from both sides. Traditional conflicts were often managed through elders, but with the engagement of the regional state political elite from both sides and given that the disputed areas coincided with the administrative boundaries between regional governments the conflicts transformed from localized disputes to what appears to be a war between two regional states (Kefale, 2004).<sup>16</sup> According to Yesuf (2019:9) the conflicts between the two regional states ‘were partly a culmination of the power struggle between the special forces, the political elite and militias of the two regions.’ Each side mobilizes its population and special police against the other. The special police carry modern weapons and the impact is thus massive. The federal institutions such as the HoF, defense force, and federal police intervene often late or take sides and aggravate the crisis. When Prime Minister Abiy Ahmed assumed his power, it was no surprise when he deposed Iley from his power and sent him to jail, replacing the regional state presidency with Mustafe Umer (a victim who lost his brother to the special police led by Iley and who was in exile in Kenya) who still remains in office.

In the last three years, interregional state conflicts have become a recurring problem.

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- 12 The Ethiopian Federal Police Commission Establishment Proclamation No. 720/2011, Art 6(5) c.  
13 See detailed report of *Human Rights Watch* Ethiopia: Special Police Execute 10, <https://www.hrw.org/news/2012/05/28/ethiopia-special-police-execute-10>, 28 May 2012.  
14 See Ethiopia: Probe Years of Abuse in Somali Region, Redress and Accountability Needed for Crimes *Human Rights Watch* 20 August, 2018.  
15 See Harry Verhoeven ‘An eastern problem for Ethiopia’s new leader’ at <https://www.aljazeera.com/indepth/opinion/eastern-problem-ethiopia-leader-180408103243499.html> as accessed on 10 April, 2018.  
16 Asnake Kefale, ‘Federalism: Some Trends of Ethnic Conflicts and their Management in Ethiopia’, in A.G. Nhema (ed.) *The Quest for Peace in Africa*, (2004).

The Amhara- Benishangul Gumuz, Amhara-Oromia,<sup>17</sup> Amhara-Tigray,<sup>18</sup> and Afar-Somali conflicts have caused death and displacement of millions of people.<sup>19</sup> Most of these conflicts relate to claims and counter claims related to land and rights of minorities in regional states. In all these conflicts the regional state special police is the main actor, as the federal government often fails to provide a political solution before violence erupts.

Despite the establishment of the special police in 2007, its dramatic increase in size and active engagement in interregional conflicts is linked with the crisis in the ruling party that took special shape in 2015. There is an emerging consensus among experts that shows the strong link between the massive proliferation of the regional state police both in terms of size, weapons and frequency, and the split, rupture and mistrust within the Ethiopian People's Revolutionary Democratic Front (EPRDF)<sup>20</sup> that also coincides with the protests that began in 2015.<sup>21</sup> Rene Lefort (2021) wrote 'the regional states have pursued militarization ... when rifts inside the EPRDF moved the country into the unknown.'<sup>22</sup> The rupture within EPRDF, internal power struggle, and the widespread protests can be taken as watershed in this regard. The rupture and mistrust within EPRDF led to claims and counter claims among regional states and tension between the federal government (or whatever interest it promotes) and regional states.

It is also vital to see its links with the ideological fragmentation of EPRDF. EPRDF was a coalition of four ethno-national based parties – i.e. an ethnic coalition in form, however, at the same time it showed strong ideological and class features manifested in the form of revolutionary democracy, democratic centralism and state led development (Aalen, 2000; Clapham, 2017). It was an ethnic coalition but had class (peasant-based) and ideology content. Gradually the class and ideological component withered away with a lack of competent leadership and militant ethno-nationalism took center stage. As one political observer stated, 'the current ruling party (PP) is politically and ideologically orphaned

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17 Zecharias Zelalem Worsening violence in western Ethiopia forcing civilians to flee <https://www.aljazeera.com/news/2021/3/20/worsening-violence-western-ethiopia-forcing-civilians-to-flee> 20 March 2021.

18 Kjetil Tronvoll, Ethiopia: Tigray, Sudan, Amhara... The multiple crises of Abiy Ahmed, *the Africa report* <https://www.theafricareport.com/77505/ethiopia-tigray-sudan-amhara-the-multiple-crises-of-abiy-ahmed/> 5 April 2021.

19 Tom Gardner, All Is Not Quiet on Ethiopia's Western Front, *Foreign Policy* <https://foreignpolicy.com/2021/01/06/ethiopia-benishangul-gumuz-violence-gerd-western-front/> 6 January 2021.

20 EPRDF was a coalition of four ethno national based parties. A perception of marginalization, corruption, and maladministration in the political system led to widespread protests in 2015–2018 that led to resignation of former Prime Minister Haile Mariam Desalegn and the coming to power of Prime Minister Abiy Ahmed. The new leader dissolved the EPRDF and established prosperity party (PP) after one of its coalitions the Tigray Peoples Liberation Front (TPLF) declined to join PP.

21 Interview with a member of the federal police who had links with regional state police, Addis Ababa 5 June 2021. See also Harry Verhoeven, *supra*.

22 Rene Lefort, 'Ethiopia's war in Tigray is 'but the tip of the iceberg when it comes to conflicts ravaging the country' the Africa report <https://www.theafricareport.com/84350/ethiopias-war-in-tigray-is-but-the-tip-of-the-iceberg-when-it-comes-to-conflicts-ravaging-the-country/> 30 April 2021.

EPRDF minus the TPLF.<sup>23</sup> Thus frequent and recurring tensions emerge between Oromia and Somali, Afar and Somali, Oromia and Amahara, Amhara and Tigray, Amhara and Benishangul. The late Brigadier General Asaminew Tsige's inflammatory statement is epic in this regard, but similar speeches exist everywhere. He said, 'The Amahara people are facing an existential threat much worse than what happened to them under Ahmed Gragn and the Oromo expansion some 500 years ago.'<sup>24</sup> The consequence and the message is clear: despite some differences across regional states, the special police force (in the case of Tigray, Tigray Defense Force, TDF) is considered as a safeguard of the regional state's dominant elite's interests.<sup>25</sup>

As the above discussion shows, the basic function of the special police of the Somali region was not limited to maintaining peace and order in the region as defined in the federal and regional state constitutions. As will be shown in the next section, special police of Amhara and the South (Habtetsion, 2017:189) have also been engaged in tasks which fall within the exclusive mandate of the federal government and the national defense army. Protecting and defending the sovereignty and territorial integrity of the country is the mandate of the defense forces, not regional state special police forces. Addressing interregional state conflicts is also a mandate of federal institutions such as HoF, although disputing regional states are also expected to resolve the conflict.

## 2.2 Objective and mandate controversy

Whether it is federal or regional state police, police as an institution according to Roche (2011:4) is 'tasked with maintaining internal public security and order. In democracies, police forces are often tasked with protecting human rights... Police forces are distinct from armed forces in that they are exclusively assigned with the mission of maintaining *internal* public law and order.'

It is critical to note that while the federal police force and national defense have country-wide jurisdiction (although they have to find legal ways to intervene in the affairs of regional states as the grounds of intervention are stipulated under Arts 93–94 of the federal constitution), regional state police and special police have limited jurisdiction. They can only operate *within the state* that has established them.<sup>26</sup> While this sounds simple and clear in the federal constitution, in reality one finds an anomaly that is causing havoc. At

23 Interview Addis Ababa 20 May 2021.

24 His speech at <https://www.youtube.com/watch?v=mhKT2EbcaKc> also <https://www.youtube.com/watch?v=vyQT9clD5Qs>

25 Bereket Tsegay, regional police threat to peace and security in Ethiopia <https://theglobalobservatory.org/2021/02/regional-special-forces-pose-threat-to-peace-and-security-ethiopia/> as accessed on 3 May 2021.

26 See Article 52 of the federal constitution.

the height of the confrontation between the federal government and Tigray regional state (2020–2021), Prime Minister Abiy while reporting to parliament in 2021 when asked what the Amhara region special police is doing in Tigray, responded ‘I can deploy the Amhara region special police to Tigray, the Somali region or any other place for that matter.’<sup>27</sup> The engagement of regional state special police outside of the regional state that has established it remains contested and unconstitutional. The current trend creates a new precedent on the role of the special police further complicating its role. It has been deployed with the order of the federal government outside of the particular regional state that established it.

Ensuring the sovereignty of the country is a prime function of the federal government, and in particular of the defense forces (Article 87-3 of the Ethiopian constitution). The army may have difficulties understanding local conflict dynamics and thus may need to work closely with the regional state and their security apparatus, but to delegate such a crucial mandate to a special police seen in hindsight is an abdication of major constitutional responsibility and may have already created *a wrong precedent* on the role of the special police. The mandate of any regional state including the controversial special police is *limited within the territory* of the regional state. If the territory shares an international border, as is the case in the Somali region, the very region that established the special police, as well as the Amhara region that now faces incursions from the Sudan, it then becomes a mandate of the federal government and has to take full responsibility to deal with it both politically (through diplomacy, peace deals, treaties) or if that fails defend the country from aggression. Using regional state special police for cross-border conflicts is not only unconstitutional but complicates the role of the special police and induces it to think as if it is a regional state defense force with a much bigger ambition that overlaps or even substitutes for the role of federal defense forces. This confusion in the mandate and role of the special police is a major source of the chaos the country is currently in. The regional state special police is now everywhere in the regions and has assumed a much more complicated role. It has now taken over the role of the defense force.

Tigray regional state, which shares a long border with Eritrea, brings a much more complicated reality. The war between the federal government and Tigray is a major anomaly. When the war broke out in early November 2020, the Eritrean government joined the Ethiopian defense force and entered Tigray, crossing an international boundary and causing the worst form of human rights abuses, as widely reported by credible human rights institutions and the international media.<sup>28</sup> The Ethiopian government invited a

27 His speech is available at <https://www.youtube.com/watch?v=b-2cN-3KK0A> , as accessed on 23 September 2022.

28 Human Rights Watch Ethiopia: Eritrean Forces Massacre Tigray Civilians, UN Should Urgently Investigate Atrocities by all Parties <https://www.hrw.org/news/2021/03/05/ethiopia-eritrean-forces-massacre-tigray-civilians> 5 March 2021; Ethiopia’s Tigray conflict: World powers condemn ‘human rights abuses’ <https://www.bbc.com/news/world-africa-56613940#:~:text=The%20G7%20group%20of%20leading,Ethiopia’s%20conflict%20hit%20Tigray%20region.&text=Both%20countries’%20troops%20have%20been,and%20the%20abuse%20of%20refugees.> 2 April, 2021.



foreign army to its own internal problem instead of defending the territorial integrity of the country.<sup>29</sup> As if this is not enough source of trouble, the federal government also brought Amhara regional state special police to Tigray<sup>30</sup> and has been accused of ‘ethnic cleansing.’<sup>31</sup> The Ethiopian government initially denied the involvement of the Eritrean army, but in the end both the Ethiopian and Eritrean government admitted their massive involvement when international human rights institutions and the media came up with mounting evidence.<sup>32</sup> As far as its mandate is concerned, the federal army has the right to intervene in the regional state, although ideally this is done through a political settlement, not force. Yet, in the opinion of Getachew Reda, a member of the senior leadership of the TPLF ‘the involvement of the Eritrean forces in Tigray is not only a strange anomaly but constitutes treason of the highest level in any country that has a constitutional order.’<sup>33</sup> The involvement of the Amhara region special police remains contrary to the mandate clearly stipulated in the constitution that states that their role is limited within the territory of the (Amhara) regional state.

Whatever the mandate controversy and the original plan for establishing the special police was, it has now become clear that it is engaged in interregional state conflict and securing international borders with or without the federal government’s role. This development blurs the distinction between the armed forces and police. To this, one should add that members of the defense force that for one reason or another have left the institution continue to join the regional state special police, at times becoming its leaders.<sup>34</sup> The late Brigadier General Asaminew Tsige was formerly an army general of the defense force who was accused of coup and sent to jail in 2009. After Prime Minister Abiy came to power he was released and the Amhara region appointed him as head of the police. Brigadier

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29 Michael Fitzpatrick Ethiopia: Eritrea to Withdraw Troops From Ethiopia’s Ravaged Tigray Region Radio France Internationale <https://allafrica.com/stories/202103260778.html> ; <https://www.youtube.com/watch?v=9rsGo8FSsKA> .

30 There are claims and counter claims over the territories in the western and southern part of Tigray between Amhara and Tigray regional states. See Russel (1833).

31 Declan Walsh, Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says <https://www.nytimes.com/2021/02/26/world/middleeast/ethiopia-tigray-ethnic-cleansing.html> 23 May 2021; Servet Gunergok, Ethnic cleansing being Committed in Tigray: Report <https://www.aa.com.tr/en/americas/ethnic-cleansing-being-committed-in-tigray-report/2158784> 23 May 2021.

32 See Amnesty International Report, Ethiopia: The Massacre in Axum <https://www.amnesty.org/en/documents/afr25/3730/2021/en/> 26 February 2021; Ethiopia: Persistent, credible reports of grave violations in Tigray underscore urgent need for human rights access – Bachelet <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26838&LangID=E>; <https://www.aljazeera.com/news/2021/4/17/eritrea-confirms-its-troops-are-fighting-ethiopia-tigray> 17 April 2021.

33 Getachew Reda’s interview (TPLF executive member) on Tigray Media House (TMH) <https://www.youtube.com/watch?v=PufIoemmgU0&t=234s> <https://www.youtube.com/watch?v=PufIoemmgU0> 27 May 2021

34 See Ethiopia A general defects <https://www.economist.com/middle-east-and-africa/2006/08/17/a-general-defects>; Nizar Maneh, ‘Abiy Ahmed’s Reforms have Unleashed Forces he can no longer control’ *Foreign Policy* 4 July, 2019.



General Kemal Gelchu was a member of the defense force who abandoned the army and escaped to Eritrea in 2006 and joined the Oromo Liberation Front (OLF). When the Ethiopian government declared amnesty to rebel forces in exile, he returned to Ethiopia and was appointed as head of Oromia security office until his dismissal in 2019. Brigadier General Tefera Mamo who was once in jail accused of an attempted coup also joined the Amhara security apparatus, becoming its head upon his release from jail on amnesty. Similar developments exist in Tigray. In a recent interview, Ethiopia's former chief of the army Lieutenant General Tsadkan Gebretensai stated 'in response to the all-out war against Tigray that began early November 2020, senior Tigrayan generals and colonels have taken over the task of training new recruits to TDF.'<sup>35</sup>

According to some sources Oromia and Amhara regions have each close to 100,000 special police.<sup>36</sup> In a report to army generals in Mekelle in December 2020, Prime Minister Abiy stated there is an estimated special force of 80,000 in Tigray, while the Crisis Group estimates that it numbers in the hundreds of thousands.<sup>37</sup> Other regional states have smaller forces than the three regional states.<sup>38</sup> Other sources estimate the size of the special police to be higher than the above figures, and with the effect of the ongoing war between the federal government and Tigray regional state the size of the defense force may have reduced from three years ago, with the size of the special force massively increasing in nearly all regional states.<sup>39</sup>

At the time of writing a large part of Ethiopia's territory on the west is under the control of Sudan.<sup>40</sup> In the normal course of things, ensuring the territorial integrity of the country against foreign aggression is an exclusive mandate of the federal government. The federal government has done little in this respect except the official denouncement of such incursion and the call for peaceful resolution of the matter. Left alone, the Amhara regional state has deployed its own special police in defense of its territory. One can imagine the size and nature of weapons used by the Amhara region special police as it is confronting the Sudanese defense force. As a result, some estimate the size of the Amhara region's special force can only be in the hundreds of thousands.

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35 Dimsti Weyane Interview with Lieutenant General Tsadkan Gebretensai <https://www.youtube.com/watch?v=McgqxJfVecY> 29 May 2021.

36 Interview with member of the federal police 26 May 2021 Addis Ababa.

37 See his Speech at <https://www.youtube.com/watch?v=goJobQ1p3-c>. International Crisis Group quoted in Reuters <https://www.reuters.com/article/us-ethiopia-conflict-military-factbox-idUSKBN27T14J> as accessed on 3 September 2021

38 Rene Lefort, *Ethiopia's vicious deadlock* <https://www.ethiopia-insight.com/2021/04/27/ethiopias-vicious-deadlock/> 27 April, 2021.

39 Interview with a member of the federal police who also works with regional state police 5 June 2021. Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> REPORTER as accessed on 3 May, 2021.

40 See Alex de Waal, Viewpoint: Why Ethiopia and Sudan have fallen out over al-Fashaga <https://www.bbc.com/news/world-africa-55476831>

The war that broke out between the federal government and Tigray regional state has been going on for nine months nonstop. Several media sources have reported the involvement of Eritrean forces and regional state special forces from Amhara, Afar, and other regional states on the side of the Ethiopian defense force. One can thus imagine the size of the army on the side of the federal government. The Tigray regional state special police, now renamed Tigray Defense Force (TDF), is a force that has resisted all the above forces for this long and cannot be small by any means.<sup>41</sup> Lieutenant General Tadesse Werede stated ‘Tigray had 9,000 regional state special police when the war broke out in November 2020.’<sup>42</sup> Yet as the war continued for months, its size must have increased significantly. All the same, the weapons carried by all sides of the conflict are not any different from those carried by the Ethiopian defense force.

The above developments make the distinction between defense force and special police blurred and complicated. More importantly, according to a key informant from Oromia,<sup>43</sup> the defense and federal security apparatus is slowly losing its capable people as they continue to join the regional state special police. This brings two important consequences: not only do regional state special police increasingly resemble Ethiopia’s national defense force, but this also leads to the gradual weakening and perhaps even *liquidation* of the defense force.

### 3. The constitutional and legal challenge to the Special Police

Ethiopia has been a federal country since 1995, with two levels of government: one federal government and ten regional states. The constitution allocates mandates between the two levels of governments. One of the mandates jointly allocated for both levels of governments is the security sector. The defense is an exclusive mandate of the federal government, while police belongs to both levels of governments (Articles 51 and 52 of the constitution). The Constitution states that the federal government is empowered to defend and protect the Constitution and administer and organize national defense, public security, and federal police forces (55–7). Article 51(21) also empowers the federal government to enact laws regulating the possession and bearing of arms. The states are empowered to establish and

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41 Lieutenant General Tsadkan Gebretensai in an interview held in May 2021 talks about the TDF being organized in several divisions without indicating figures. Dimsti Weyane Interview with Lieutenant General Tsadkan Gebretensai <https://www.youtube.com/watch?v=McgqxJfVecY> 29 May 2021; Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> *REPORTER* as accessed on 3 May 2021.

42 See his interview with Lieutenant General Tadesse Werede at <https://www.youtube.com/watch?v=mrOE75iL5k4> (no longer available).

43 Interview with a special police force commander of the State of Oromia, interview conducted on 4 June 2021 at the Police Commission of the State of Oromia, Finfine.

administer *a state police force*, and to maintain *public order and peace within the state* (Arts. 51 and 52(2 g) of the Constitution).<sup>44</sup> What constitutes a state police force and who ensures public order and peace within the regional state is however far from clear.

A closer look at relevant regional state constitutions and laws shows that they simply replicate the ambiguity at the federal level. Each regional state has its police force establishment proclamation. However, be it in the regional state constitutions or in the regional state police establishment legal norms, there is no specific provision that deals with the special police force.<sup>45</sup> None of these laws provide details or mention the special police by name<sup>46</sup> as a separate regional security apparatus.

The federal constitution and relevant regional state laws provide only for a regional state police force and it is not clear whether such a force also includes the special police (*Liyu Police* as it is called in Amharic), the constitutional status of which remains vague, if not contested. On one hand, it bears the name police albeit with the adjective *special* police and thus on appearance resembles the regular police of the regional states. On the other hand, as will be shown later, its mandate as it has evolved across time makes it look more of an army than a police force. Thus people ask, is it a police force or a member of the army? Is it a regional state army, if so can regional states have such an army?

### 3.1 The debates concerning the Special Police

Since its establishment, there has been an ongoing debate about the status and role of the regional state special police. The section that follows highlights the ambiguity concerning the mandate of the special police. It also presents the emerging narratives by different elite groups with respect to the mandate controversy and the reasons for the race behind the special police in regional states.

#### 3.1.1 The centrist elite's perspective

The role of the special police in the current state of political and security affairs in Ethiopia can be understood in the context of the political contestation between ethno-national elites that are looking for a more open political space with substantial autonomy in regional states and the centrist elite. The centrist elite (that often champions a more centralized federal

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44 Regional state constitutions Article 47, 2(f) of Oromia, the South, Amhara and Sidama revised constitutions.

45 Reference to all regional state constitution shows that special police is not mentioned in any of the texts.

46 See for example the 2001 revised Amhara region constitution, Amhara region Police Commission re-establishment Proclamation No. 216/2014 and The Revised Amahara region Police Officers' Administration, Council of Regional State Regulation No. 175/2018.

government, or if possible a decentralized unitary state) is tempted to use central power (both national defense, federal police, and even regional state special police) to achieve that mission. The centrist elite and those that are currently pushing the agenda of tearing apart ‘ethnic federalism’<sup>47</sup> argue that regional state special police are *unconstitutional*,<sup>48</sup> a threat to peace, stability, unity and the integrity of Ethiopia, and thus should be banned or dissolved (Endeshaw, 2020).<sup>49</sup> While regional states have the mandate to establish police to maintain peace and security, the argument goes that the mission of the special police as it operates now has taken over the mandate of the National Defense Force. Such a mission overlaps with the mandate of the army that contravenes the federal constitution. This seems to be the direction the federal government is pushing at the moment. A recent policy document of the federal government shows it has proposed to dissolve the regional state police, alleging that it is heavily militarized, it is against its mission, and is becoming a threat to peace, security, and the country.<sup>50</sup> The document further states that the special police is loyal to factional interests in regional states and is becoming a tool for extremist ethnic and religious groups.<sup>51</sup> The document centralizes the recruitment process of regional state police by subjecting it to federal control.<sup>52</sup> Regional state police, according to this document, are made *accountable*<sup>53</sup> to the Federal Police while reserving the administrative accountability to the regional states.<sup>54</sup> Reversing previous trends and violating the regional state mandate, it subjects the promotion and appointment of deputy commissioners and the commissioner of regional states to be made by the federal government (Ministry of Peace).<sup>55</sup> The document aims to limit the role of regional state police to routine law enforcement operation (crime prevention and control) within the regional state, and strictly limits the carrying of weapons by the same force.

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47 Dawit wrote ‘ethnic politics that has been institutionalized by the ruling party, for the last 28 years was the single cause...’ Dawit Woldegiorgis, ‘Ethiopia: on the Brinks’ <https://borkena.com/2019/04/10/ethiopia-a-country-on-the-brinks-by-dawit-woldegiorgis/> 10 April, 2019.

48 The Minister of the Ministry of Peace of the FDRE, Muferiat Kamil, while presenting her Ministry’s three months’ performance report to the House of Peoples’ Representatives (HPR) required the HPR to come up with a legal framework regulating regional special police forces, invoking that their establishment is ‘*unconstitutional*’. See for further details, Brook Abdu, Regional Special Forces: Threats or Safeties, the Reporter, Published 2 January 2021<<https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties>> accessed on 06 June 2021.

49 See Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document p.67.

50 See Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document pp. 78–61. Interview with expert involved with in the preparation of the document, Ministry of Peace 15 May 2021 Addis Ababa.

51 See Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document p.58.

52 See Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document P. 71

53 The policy document states that while the federal police is headed by Federal Police Commissioner General, the regional state police will be headed by Commissioner *whose status is one step lower* than the federal Commissioner General. See Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document.

54 Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document p.67.

55 Police Standard in the FDRE, December 2020, Addis Ababa, Policy Document p.47.

If one understands the context on the ground, however, it is not difficult to observe conflicting interests and trends. Even if the federal government was to regulate the matter in detail, as it did in this new federal policy document, it is unlikely that regional states will comply with it, and it could have consequences if implemented without creating broader consensus among major stake holders. A federal government effort to dissolve the regional state special police at the height of the protests (2017–2018) was objected to by the Oromia, Amhara and Somali regions. Another effort to do so in 2019 was objected by Tigray regional state.<sup>56</sup> Even after the federal government issued the policy, according to a key informant, ‘Oromia, Amhara, and Somali regional states have continued the recruitment and training of a special police force in their respective regional states.’<sup>57</sup> At the moment, the federal government also lacks the capacity and stature to enforce it. The Prosperity Party is not as cohesive as its predecessor the EPRDF that enforced its decisions through democratic centralism using its top-down party machinery. That explains the divergence between intention (issuing a law to regulate firearms) and the reality on the ground – regional states with heavily armed special police that could potentially threaten the federal government.

There are also indications that show the federal government itself is divided on the matter.<sup>58</sup> Some sources indicate the defense force does not want the special police to be dissolved or disarmed. The defense force knows its limits and the risk associated with its increased engagement in local conflicts, and thus is not necessarily against the deployment of special police in local conflicts. What the defense force wants is a ‘limited role of special police both in terms of weapons and size.’<sup>59</sup> The centrist elite and the Federal Police are however interested to dissolve and disarm the special police. Yet even within these elites, there is some divergence.

The Amhara elite used to condemn the special police, stating that this is a force that is destabilizing the country. Lately, however, they seem to be happy with the increased role of the regional state special police and have openly began promoting it.<sup>60</sup> The Federal Police seems generally against the regional state special police, but there is nothing it can do alone given the fragmented interest in the federal government.<sup>61</sup> Most other regional states seem to be happy to have their special police and it is not surprising to see the public announcement of successful completion of several rounds of trainings accompanied by

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56 Interview with a member of the Federal Police who has attended both events, Addis Ababa 26 May 2021.

57 Interview with a member of the Federal Police that has links with regional state police, Addis Ababa 5 June 2021.

58 Interview with former security head Addis Ababa 15 May 2021.

59 Interview with security expert based in Addis Ababa, 26 May 2021.

60 Former Amhara region head of the regional state police Abere Adamu is quoted in *The Reporter* as saying, the mandate of special police has no contradictions with the federal constitution. Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> *REPORTER* as accessed on 3 May 2021.

61 See public relations officer of the federal police interview with the Reporter

military displays in much the same way when armed forces complete routine military trainings.

### *3.1.2 The ethno-national groups' perspective*

From the focus group discussions and interviews, the claim on the part of regional states goes like this: as per the federal constitution, regional states have the mandate to establish and administer a state police force, and to maintain public order and peace within the state. Regional state special police are presented as an integral part of the right to self-government that logically follows from the provisions of the federal constitution (Articles 8, 39, 46 and 47) that guarantee political autonomy.

Ethiopia is a federation of nations and nationalities established in response to an age-old demand for self-government. Self-government in a federation is a broad mandate that empowers regional states with political, economic, social and security powers.<sup>62</sup> Besides, the Ethiopian constitution leaves reserve power to regional states (Article 52(1)). The argument is that a constitution that has allowed self-government and the right to secede (Article 39) cannot prohibit regional states from establishing special police. All added up, they argue that regional states have the mandate to establish regional state special police as a means to ensure self-government, peace and security within their territory.<sup>63</sup> The special police should therefore be treated as members of the regional state police force, which is expressly mentioned in the regional state constitutions and further elaborated in the regional state laws establishing the police commission.<sup>64</sup> Thus, the claim goes, the power emanates from the federal constitution itself.

While regional states have the mandate to establish police to maintain peace and security, the previous sections have shown clearly that the role and mission of the special police is not limited to maintaining the peace and security of the region. It has been engaged in mandates that compete with the mandates of the National Defense Force and the Federal Police. With increasing tension and at times open confrontation between the federal government and some regional states on one hand, and between regional states (horizontally), understanding the role of this force becomes critical in order to ensure the safety and security of citizens and its implications for the peace and security of the country.

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62 During the debate on the constitutionality of regional state elections in Tigray held in September 2020, Getachew Reda, TPLF senior leader said the regional state mandate to self-government includes the mandate to organize regional state elections, more so when the federal level Election Board is not willing to conduct the elections. Self-government and political autonomy includes the right to elect one's leaders and ensure security within its territory.

63 Interviews held with trainers and heads of special police in regional states in May 2021 show 'special police' should be treated as regular police for the sake of settling the legal controversy related to its mandate.

64 Interviews with independent experts and heads of police commissions in Amhara and Oromia regional states lead to this assertion.



In deeply divided societies like Ethiopia, where there is little trust within the political elite and the federation is composed of minority ethno-national groups without a clear demographic majority, self-government remains the means to ensure such minorities to become a majority at the constituent unit level. Accordingly, such groups have a ‘right of self-protection’ against central institutions that can become an instrument of tyranny that may be tempted to use force for factional interests (Tocqueville, 1990).

As indicated in the previous section, although later misused, special police in the Somali region were established to address a peculiar security concern in which the federal army faced difficulty understanding *local conflict dynamics*. Established by regional states, special police can effectively handle local security concerns as they better understand the local political and security context much better than the distantly located federal army and federal police. In a federation, regional states are considered laboratories<sup>65</sup> for trying new initiatives and policies that fit local contexts.

Lack of trust in federal security institutions and association with abuse of human rights and taking sides in local conflict, instead of trying to mediate and provide political solutions to emerging issues, is also major reason for the wide use of regional state special police. At the height of the protests (2015–2018), the federal army and the federal police were accused by Amhara and Oromia regional state activists as *Agazi*<sup>66</sup> – implying that they are a predominantly TPLF force. In the ongoing war between Tigray and the federal government, Tigrayan activists accuse the federal army as ‘the Derg in a new mask’. The Amhara special police in Tigray is equated with the notorious Hutu militia that triggered the Rwanda Genocide in 1994.<sup>67</sup> Debretsion Gebremichael, president of Tigray regional state recently stated:

‘The Tigray army is also non-negotiable. We were asked, ‘you say the constitution has to be affirmed and yet you go against it by keeping an army’. We have given an answer to it. We have been forced into it. We were massacred. The Ethiopian army – the one that is supposed to guard us from getting massacred – was itself engaged in massacring us. The one which massacres us

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65 In a dissenting Supreme Court decision Justice Louis Brandeis of the United States in *New State Ice Co. v. Liebmann* argued ‘It is one of the happy accidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country.’ *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932).

66 See debate about the *Agazi* at <https://hornaffairs.com/2016/02/08/jawar-mohammed-ethiopian-military-agazi/>

67 Tigray Media House (TMH), the only media outlet that presents details about the on-going war in Tigray from Tigrayans’ perspective, issued several evidences equating the role of Hutu militia and the Amhara region special police in western Tigray. See also Declan Walsh, *Ethiopia’s War Leads to Ethnic Cleansing in Tigray Region, U.S. Report Says* <https://www.nytimes.com/2021/02/26/world/middleeast/ethiopia-tigray-ethnic-cleansing.html> 23 May 2021; Servet Gunergok, *Ethnic cleansing being Committed in Tigray: Report* <https://www.aa.com.tr/en/americas/ethnic-cleansing-being-committed-in-tigray-report/2158784> 23 May 2021.



can't be our protector. We have to have an army in order to exist. All this was done to us because we were condemned to be annihilated. Our guarantee for survival is our [military] force. They have to accept it'.<sup>68</sup>

A retired army General who was head of special police in the Amhara regional state stated, 'regional states have lost trust in federal institutions including the army. The army has been extremely weakened as a result of the war in Tigray. Regional states can only *count* on their own special police.'<sup>69</sup>

The situation with federal institutions in particular is worrisome. The shared-rule principle (Elazar, 1987:6) in a federation assumes that federal institutions are inclusive of all states and citizens. If not, they are seen as aliens by states and citizens that are not represented in these institutions. Equally important as institutions with a country-wide mandate, they are required to serve each state and the citizen on an equal basis and impartially. Federal institutions taking sides and failing to mediate local or intergovernmental conflicts means that they have lost their credibility and impartiality. They are seen as instruments of factional interests, and the deployment of security forces and the army is seen as an 'invading force' that has to be expelled by all means.<sup>70</sup> Evidences related to the crisis in Oromia and Amhara (2015–2018) or the devastating and ongoing war in Tigray (2020–2021) show that is largely the narrative from the local side.<sup>71</sup> Federal institutions are supposed to mediate impartially in disputes between regional states. Amhara and Tigray regional states have claims and counter claims over a disputed territory. Recently Prime Minister Abiy said, 'Wolkayit and Tselemti (the disputed territories) have always been part of Begemidir (the old name of Gondar).' The federal army is thus given a green light to side with the Amhara region and is thereby reduced to an agent of the Amhara elite, no longer an impartial Ethiopian defense force.<sup>72</sup>

Lastly, the federal government, including Prime Minister Abiy, has been publicly complaining that the federal army has not been able to enroll new recruits, not even 1,000 from two large regional states (Oromia and Amhara combined).<sup>73</sup> He was thus induced to call for all military aged males to join the army.<sup>74</sup> One senior political observer said:

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68 Tigray TV, <https://youtu.be/IKIUCxCK6-k> 15 June 2022. Thanks are due to the anonymous reviewer who brought this to my attention.

69 Interview 26 May 2021.

70 See Getachew Reda's interview (TPLF executive member) on TMH <https://www.youtube.com/watch?v=PufIoemmgU0&t=234s> <https://www.youtube.com/watch?v=PufIoemmgU0> 27 May 2021.

71 'Ethiopia out of Oromia' was Jawar Mohamed's remark at a public demonstration in USA at the start of the Oromo protests see [https://www.youtube.com/watch?v=uXah\\_qtW8sg](https://www.youtube.com/watch?v=uXah_qtW8sg) 'Eritrea-Ethiopia out of Tigray,' 'Amhara forces out of Tigray' 'Stop Genocide in Tigray' are the mottos of the Tigrayan activists at the moment.

72 See his speech on 1 July 2021 at <https://www.youtube.com/watch?v=sJPw2EwNhx4>.

73 See Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> *The Reporter* as accessed on 3 May 2021.

74 See at <https://www.aljazeera.com/news/2021/8/10/ethiopia-calls-on-civilians-to-join-army-to-fight-tigray-rebels>, as accessed on 23 September 2022.

regional special forces appear to have a growing influence on security while the once-vaunted ENDF is a shadow of its former self, hollowed out by the loss of the Northern Command, the removal of the Tigrayan officer corps and battlefield reverses in Tigray.<sup>75</sup>

On the contrary, regional states seem to face little problem in recruiting members to the special police force. In Tigray, young men and women are allegedly joining the TDF every day in hundreds.<sup>76</sup> The damage inflicted on civilians and civilian institutions under the pretext of ‘law enforcement operation’ has triggered the Tigrayan youth to rally behind the TDF more than any time before.<sup>77</sup> The Oromo Liberation Army (OLA) claims the same.<sup>78</sup> Lately, the Amhara region too is recruiting youngsters to its special police. Why young men and women are interested to join regional state special police and not the federal army is an issue beyond the scope of this study, but it does hint that regional state police are perceived as more legitimate than the federal army/federal institutions. During 1995–2018, true or not the federal government was perceived as dominated by the TPLF, thus wide spread protests in two of the bigger regional states – Oromia and Amhara. OPDO and ANDM were increasingly perceived as puppet parties that did not genuinely represent the Amhara and Oromo interests in the federal government. The current federal institutions have little or no representatives from Tigray. The House of Peoples’ Representatives and the HoF have no representative from Tigray. The federal army and federal police have officially expelled nearly all members from Tigray. As a result of the above examples, federal institutions run under *thin* legitimacy.<sup>79</sup> Regional states on the other hand are perceived as legitimate representative of a particular ethno national group, and win better trust compared to federal institutions. In other words, while federal institutions are less inclusive and less legitimate, regional state institutions including special police have a ‘legitimate owner,’ the particular ethno national group/elite. According to a former army general and head of special police in one of the regional states, ‘one of the reasons for

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75 Report by senior EU Diplomat 30 May 2021, Addis Ababa.

76 Dimsti Weyane Interview with Lieutenant General Tsadkan Gebretensai <https://www.youtube.com/watch?v=McgqxJfVecY> 29 May 2021.

77 ‘It is at the same time a civil war, revenge, interethnic, territorial and international.’ Rene Lefort Rene Lefort, *Le Monde Afrique, Ethiopie* : « Les Tigréens sont mis à genoux et dépossédés des moyens de se relever » [https://www.lemonde.fr/afrique/article/2021/06/03/ethiopie-les-tigreens-sont-mis-a-genoux-et-depossedes-des-moyens-de-se-relever\\_6082718\\_3212.html](https://www.lemonde.fr/afrique/article/2021/06/03/ethiopie-les-tigreens-sont-mis-a-genoux-et-depossedes-des-moyens-de-se-relever_6082718_3212.html) 03 June 2021; Ethiopia’s Tigray at serious risk of famine warns UN Official Ethiopia’s Tigray at ‘serious risk’ of famine, warns UN official | Food News | Al Jazeera 2 June 2021.

78 Rene Lefort, *Le Monde Afrique, Ethiopie* : « Les Tigréens sont mis à genoux et dépossédés des moyens de se relever » [https://www.lemonde.fr/afrique/article/2021/06/03/ethiopie-les-tigreens-sont-mis-a-genoux-et-depossedes-des-moyens-de-se-relever\\_6082718\\_3212.html](https://www.lemonde.fr/afrique/article/2021/06/03/ethiopie-les-tigreens-sont-mis-a-genoux-et-depossedes-des-moyens-de-se-relever_6082718_3212.html) 03 juin 2021; <https://ethioheadlines.com/abiys-administration-is-in-full-crisis-internal-fighting-is-intensifying/> 17 May 2021.

79 Ann M. Fitz-Gerald, *Ethiopia’s Security Dilemmas* at <https://rusi.org/commentary/ethiopias-security-dilemmas> 18 July 2019 as accessed on 3 May 2021.

the proliferation of the special police is loss of trust in federal institutions including the army.<sup>80</sup> At the height of the mass killings in Benishangul Gumuz (2020), the then head of the Amhara region special police stated in public that if the federal government is not able to stop the killings he would order his police to intervene, stop the killings, and ensure law and order in Benishangul Gumuz state.<sup>81</sup> The Special Police then becomes the means for self-defense and resembles more of regional state defense and less of a police force.

One needs to understand the driving factors behind the competition over Special Police in Ethiopia. Federalism and devolution as a means to manage diversity and conflict assumes effective institutions for the day-to-day operation of political business, such as intergovernmental platforms for bargain and negotiation and impartial institutions such as Supreme Court or constitutional court to mediate intergovernmental disputes. Disagreements are expected to be resolved through compromise and dialogue using the existing political institutions such as legislative bodies, intergovernmental platforms in addition to party level negotiations and if that fails using legal means, i.e. the supreme court/constitutional court that serves as the ultimate guardian of the constitution. Constitutionalism and the rule of law require that ultimately the political institutions submit to the guardian of the constitution. Ethiopia failed to build these institutions and the EPRDF, now rebranded as Prosperity Party (PP, after the TPLF declined to join) relied on its own party machinery and this worked to some extent: at least partly because of democratic centralism, combined with elitist leaders such as Meles Zenawi (1991–2012) (Aalen, 2000; Clpaham, 2017). In the absence of such leaders and with the weakening or fragmentation of the party system, there is literally nothing that can serve as a platform to sort out normal political business. Failing public institutions, the different actors thus race over the special police and informal forces as a means to safeguard their interests.<sup>82</sup> One clear example in this regard is disagreements over regional state boundaries (Oromia-Somali; Afar-Somali; Amhara-Oromia, Amhara-Tigray to mention some) that have often been managed by sending either federal police or the army, while regional states often resorted to using their special police. Federal-regional state disagreements as in the case of the Sidama referendum or fragmentation in the South (Wolayta demands for self-government) and the most devastating one – the war in Tigray – demonstrate the death of political institutions.

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80 Interview 26 May 2021.

81 Brook Abdu, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> REPORTER as accessed on 3 May 2021.

82 Rene Lefort, 'Ethiopia's war in Tigray is 'but the tip of the iceberg when it comes to conflicts ravaging the country' the Africa report <https://www.theafricareport.com/84350/ethiopias-war-in-tigray-is-but-the-tip-of-the-iceberg-when-it-comes-to-conflicts-ravaging-the-country/> 30 April 2021.

In all the above cases, the federal government sent its army (a so-called command post) and imposed martial law to deal with political questions.<sup>83</sup> Force and coercion becomes the only means of communication and the order of the day. In other words, force and coercion is the means to fundamentally alter the political order and thus control over the army and security institutions becomes critical target (Taylor, 2007:421). It is politics by other means now taken to the black market from the normal political market: the institutions of federalism have become dysfunctional and tools for promoting factional interests thereby lose their legitimacy. Control over force, in the absence of functioning institutions or weak institutions controlled by factional interests, is thus a survival issue for those that have lost faith and trust in federal institutions. All the more, those promoting factional interests aim to control force to dominate or eliminate others and the survival issue becomes an existential question. What this implies is that politics has been militarized in Ethiopia. It also shifts the role of the army and security that is primarily designed to ensure the territorial integrity of the country against external aggression.

The military and the security apparatus has become a tool for domestic politics as it is hijacked by factional interests in violation of basic constitutional principles. For example, Article 87(4) of the Ethiopian constitution states ‘The armed forces shall carry out their functions free of any partisanship to any political organization.’ The moment the army is deployed in domestic affairs when the leadership fails to provide a political solution to emerging issues and imposes factional interests it loses its impartiality and complicates domestic politics. Thus, politics has to be returned back to the political table through dialogue and political settlement if anyone is to reduce/control the proliferation of command posts, and the use of special police and other informal forces. A perception of partiality against federal institutions means that one of the conflicting parties will resort to self-defense, anticipating that there is no impartial solution to the conflict.<sup>84</sup> Thus, a failure to provide an impartial political solution to local conflicts by federal institutions fuels the engagement of the Special Police. At the root of the crisis is thus the lack of a political solution to local conflicts by relevant institutions. Parties to conflict as a result resort to violence as a means to achieve their goal, and the consequence is grave human rights violations and close to four million internally displaced people<sup>85</sup> as a result of ethnic

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83 See Simon Marks, Ethiopia Declares Emergency After Attack on Federal Military Base 04 November 2020 <https://www.voanews.com/africa/ethiopia-declares-emergency-after-attack-federal-military-base>; Ethiopia federal forces take over security in protest-hit region: Fana <https://www.reuters.com/article/us-ethiopia-politics-idUSKCN1UI29Z>.

84 Ann M. Fitz-Gerald, *Ethiopia's Security Dilemmas* at <https://rusi.org/commentary/ethiopias-security-dilemmas> 18 July 2019 as accessed on 3 May 2021.

85 Ethiopia National Displacement Report 7, Round 24: December 2020 – January 2021 <https://reliefweb.int/report/ethiopia/ethiopia-national-displacement-report-7-round-24-december-2020-january-2021#:~:text=Ethiopia%20faces%20significant%20internal%20displacement,ethnic%20and%20border%2Dbased%20disputes>

conflicts and a possible fragmentation of the country.

The overall point is that regional state Special Police cannot be seen in isolation. It is part and parcel of the ongoing political debate and the federal system in the country, and unless the debate is sorted out through some kind of dialogue and political settlement, the role of the Special Police will remain contested depending on which side dominates the political scene at one time or another.

From the centrist elite's perspective, greedy political ambitions and extremism aside, maintaining the unity of the country, social cohesion and country-wide protection of citizenship rights remain a top priority. This is understandable. The Amhara elite, accompanied by the Guraghe and a section of the Oromo, were key players starting from Menlik's project of nation building all the way through the last century. Liberal clauses of the constitution and enforcement of such basic rights and freedoms using an independent judiciary, along with a constitutional court that serves as a guardian of the constitution, can address such concerns. Ethno-national forces crave for genuine self-government free from interference of the federal government (be it party channels or otherwise) and inclusion at the federal level. They suspect whomever controls the center often tends to centralize power and resources. Equal or proportional representation of regional states in federal institutions, consensus based decision making on key political and economic issues, and genuine autonomy to regional states will go a long way in addressing such concerns. The interests of both camps are not necessarily incompatible and can be subject to negotiation. The revision of the constitution could thus be made once a dialogue addresses the outstanding issues. Political agreements are formalized through a constitutional pact which all actors agree to abide by. Free and fair elections will then follow as a means to hand over power to an elected government.

#### **4. Police power in federations: Some comparative insights**

Comparative studies on some federal systems show four alternatives in dividing police power. Some federal and devolved systems like Nigeria and South Africa opt for a unitary arrangement in which the respective constitutions organize a unitary national police assuming a country-wide mandate with little or no sub-unit based police.<sup>86</sup> Nigerian constitution Article 214(1) for example states 'There shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section *no other police force* (italics by the author) shall be established for the Federation or any part thereof.' The constitution envisages the possibility of opening branches in the states, but even then it is not a state police but the national Nigerian police force opening

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<sup>86</sup> See [www.cleen.org/policing.%20driver%20of%20change.pdf](http://www.cleen.org/policing.%20driver%20of%20change.pdf)

branches in the states.

The South African constitution also provides for a single police system. The constitution Article 199(1) stipulates ‘The security services of the Republic consist of a single defence force, *a single police service* and any intelligence services established in terms of the Constitution.’ Article 205 provides more elaborate sections about the national police system. It states ‘The national police service must be structured to function in *the national, provincial and, where appropriate, local spheres* (italics by the author) of government. National legislation must establish the powers and functions of the police service and must enable the police service to discharge its responsibilities effectively, taking into account the requirements of the provinces.’ Thus in South Africa, institutions concerned with public safety are mainly located at the national level. The key institution is the South African Police Service.

This unitary approach is simple and straightforward and does not give rise to complication. It is also very economical, as there is only one system operating throughout the country with little or no duplication of resources. This approach of organizing the police is a consequence of the overall federal design that aims to integrate the sub units and focuses more on national unity than on empowering the sub units. The major ethno-national groups in both countries are, for example, divided into several states to make sure they do not become a nation that may in the end threaten the country. The focus is thus more on unity and national integration, not on accommodation and empowering the sub units.<sup>87</sup> In the comparative literature (Choudhry, 2008), on federalism they are called integrationist federations.

The second alternative is what we can refer to as executive federalism, where the federal level of government has just about all the constitutional powers to make security legislation, but the administration and enforcement of that legislation tends to fall under the purview of the constituent units. Under this arrangement, the federal government tends to have only very limited enforcement abilities, including a federal criminal police, a border police, an immigration police and a security police dealing specifically with threats against the state (Leuprecht, 2012). This is the case in Germany, where the states largely administer and enforce both federal and state law. India also resembles the German system, in which police power is divided between the union and state governments, and yet both levels are integrated through several mechanisms. In principle there are union and state police, but senior level police positions in the states are filled in by appointments made through the union government. The recruitment and training process of such senior police positions is also made by the union government to ensure standards and uniformity in the police system (Indian Constitution Art 355 and seventh schedule).

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<sup>87</sup> These types of federations are called integration or centripetal federations. See Choudhry (2008).



Summarizing the Indian Police system, Taylor (2007:427) wrote:

India has a system in which police power is largely a state matter. However, several important safeguards are in place to reduce the threat of complete local capture of the police. Analogous to the Indian Administrative Service, the Indian Police Service (IPS) provides a steel frame for the maintenance of India's centralized federalism. The IPS recruits and trains officers throughout the country, and then appoints them to state governments. The goal is to bring a national perspective to the administration of a country riven by centrifugal and divisive tendencies. Furthermore, the central government maintains several substantial paramilitary forces that can be called upon by state governments or, if necessary, imposed by the federal government. Often the Indian state has pursued a carrots and sticks approach in relations with recalcitrant regions, in which bargaining is combined with the intervention of the security forces against armed militant.

Public security in India is thus a task divided between the union government and the states, but with plenty of overlapping and conflicting responsibilities. Despite a division of power, the constitution authorizes the union government to intervene in public security and declare emergency, a power most frequently used during the 1970s as a means to remove elected provincial leaders from the opposition during the once dominant Congress era, but which has now been effectively regulated by the Supreme Court. In a famous decision in 1994, the Supreme Court declared a Union government emergency unconstitutional, and in several other decisions the same court entrenched the federalism principle into the constitution, setting a limit to its mandate.<sup>88</sup>

The third approach is when there is clear division of mandates between the federal government and the constituent units, also called the dual model, as in Ethiopia, but as explained with significant overlapping mandates. The logic of the dual model is however very clear: in as much as legislative, executive and judicial powers are divided between the federal and state governments, by the same logic, police power is also divided between the two levels of governments but again with some overlaps. The emergence of special police in addition to the regular police in regional states and their resemblance to the defense force (an exclusively federal power in nearly all federations) rather than police power brings its own controversy.

The fourth approach refers to federations that allocate wide police power to states with only limited powers reserved to the federal government. In the United States of America, the federal police power is limited, most of it is being left for states. Furthermore, federal police power is distributed in several special agents. Federal law enforcement focuses

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88 *S. R. Bommai v. Union of India* ([1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994) 3 SCC1) .



mostly on interstate and international crime. The U.S. Department of Justice regulates different federal law enforcement agencies such as the Immigration and Naturalization Services, the Federal Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Marshals Services.<sup>89</sup>

As Bermeo (2002) stated, the United States is a ‘coming together’ federation where semi-autonomous states decided to establish a new federal government following the near collapse of the confederation. The states have thus retained substantial power, as they were not sure how the new federal government would behave. They have also retained the residual power. The 10th Amendment of the U.S. Constitution provides that, “The powers not delegated to the United States by the constitution nor prohibited by it to the states, are reserved to the states respectively, or to the people.” Thus, states have the jurisdictional authority to enact criminal law statutes, which are enforced by state and local government. Although significant variations exist among states, state police are in charge of enforcing state laws. In response to the 9/11 threats of terrorism and increased crimes, the Home Land Security Act of 2002 has designed a system for interaction between federal and state law enforcement agencies, but that does not change the system altogether.

As can be seen, owing to the variations of the experiences of federations, the nature and historical origin of the polities, no generalized theoretical framework can be made on the allocation of competencies on police power between the different spheres of governments. Some have adopted a unitary model, others an integrated approach, and on the extreme end are those federations that leave substantial police power to states. Ethiopia has adopted a dual system for the allocation of police power, but the assessment indicates a much more complicated reality owing to the distinct nature of the special police. The distinct nature of the federation, its political elite, and the political contestations, has given rise to a peculiar challenge.

## 5. Conclusion and recommendations

An investigation into the federal constitution and regional state laws shows both levels of government are empowered to establish their own respective police force. The states are empowered to establish and administer *a state police force*, and to maintain *public order and peace within the state*; however, what constitutes a state police force, and whether that includes special police, is contested. Each regional state has its police force establishment proclamation, but neither regional state constitutions nor regional state police establishment laws contain specific provisions that deal with a special police force.

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89 No author, *Policing in Federal Countries*, a Publication of the Forum of Federations pp. 13–19.

Confronted with a special police force that has a contested legal mandate, yet is a very real institution in Ethiopia, it seems that dialogue and political settlement are the way out of the current stalemate. Controversies revolving around the special police are part of the broader political disagreement about the nature of the Ethiopian state, its system of governance and the nature of the political elite that controls power. Ethiopia is deeply divided. Territorially based cleavages that have survived more than five decades of central onslaught continue to demand more, not less autonomy. On the other hand, the centrist elite continues to manipulate federal institutions to centralize power. This in turn reinforces ethno national forces. As the discussion and analysis in different sections show, at the moment there is little distinction between the defense force proper and regional state special police. Its mandate and level of engagement show it resembles the army more than the regular police. It has been engaged in interregional state conflicts and securing international borders. Retired army generals are joining the regional state special police, blurring the distinction between defense force and special police. The fact that the impact of the army is depleting owing to the ongoing civil war in the country, and the constituent unit special police is slowly taking over the army's mandate, implies the center is losing control and the country is slowly falling apart along ethno national fault lines.

To reduce the threat of fragmentation, the interests of both camps – centrists and ethno-nationalists – that are not necessarily incompatible, can be subject to an all-inclusive negotiation. Equal or proportional representation of regional states in federal institutions, consensus-based decision making on key political and economic issues, and genuine autonomy to regional states will go a long way in addressing such concerns. Once trust is built, the fate of the special police can be negotiated – whether it should be retained, integrated to the regular police or the army, or dissolved altogether.

There are several options available to regulate the special police. The first option, proposed by the centrist elite, is integrating the regional special police into either the national defense forces or federal police, along the unitary security model. The recent “Police Standard” aims to do this by making the special police accountable to the federal police (while reserving the administrative accountability to the regional states) and centralizing the appointments.

This approach however works well in countries that are not deeply divided and where there is harmony between the two levels of government. Such harmony is nonexistent in Ethiopia at the moment. Given the high degree of political mobilization of ethno-national groups and the polarization and fragmentation within the political elite, attempts to dissolve the regional state special police could well add fuel to fire.

The second option is to adopt the framework model. Under this arrangement, the federal government has the constitutional powers to make framework security legislation, but

the administration and enforcement of that legislation tends to fall under the purview of the constituent units. A federal framework law would set the guiding principles and standards for the special police forces, such as the nature of their training, mandate, level of engagement, and weapons it is allowed to carry, but it would leave the details for regional states to regulate. A forum of intergovernmental relations between the two levels of governments would coordinate, monitor, and supervise based on the framework law and sort out any disagreements based on the principles of intergovernmental relations.

This option remains ideal but would require building of trust between the federal government and regional states currently missing in Ethiopia. It also requires good faith and commitment to the federal principle from both sides. Otherwise the federal government may exhaust the entire security field in the name of framework legislation and leave nothing to states and turn the system to effectively a unitary state. Ethiopia's political elite that controls central power has shown that this is a very high possibility.

The third proposal would be to formalize a clear division of mandates between the federal and regional governments. As legislative, executive and judicial powers are divided between the federal and state governments, police power too would be divided. It would limit regional special police engagement within the territory of the regional state and prevent its involvement in interregional conflicts and border security. However, the emergence of special police in Ethiopia and its resemblance to the Ethiopian National Defense Force (ENDF), as well as the heavy weapons it carries and its involvement in interregional conflicts, cast doubt on the feasibility of this model. The biggest challenge in this respect is building trust between federal and regional state governments actors. We have indicated that dialogue and political settlement is critical in sorting out the political issues that triggered the rise of the special police. Once trust is improved through this process, the special police of regional state could be integrated into the ENDF and assume country wide mandate. We noted already the size of the army has been depleted as a result of the war in Tigray and integrating the special police to ENDF could fill the gap and reduce any risk that may come with dissolving the special police. Regional states will then have regular police only whose role is limited to ensuring peace and order and prevention and detection of crimes within each regional state. As depicted in the interview by the President of Tigray regional state, this option however is unlikely to be adopted in the short run.

The last option is linked to the concept of politically mobilized cleavages introduced in the first section and how to manage them. We noted already a loose confederal system that transfers power to constituent units and a consensus-based decision making at the center balances the claim by such groups for exit on one hand and those that claim to maintain unity on the other. If this proposal is pushed to its logical end, this would mean constituent units not only retain much of the political power but also their special police as the federal

army and federal police has been accused of falling into partisan and factional interests. Federal institutions have also failed to mediate conflicts impartially. Devolving power and security to the states could then lower the stakes at the center. In particular, this seems the only sensible option to address Tigray's security concern short of secession.

Whichever approach Ethiopia adopts, enhancing the system of political and judicial control, as well as ensuring accountability, remains critical. Special police are associated with widespread abuses; their rapid growth, increased militarization, and involvement in a variety of conflicts in Ethiopia are highly concerning. The devastating impact from fighting between special police forces, currently on display in Amhara and Tigray, Afar-Somali, Amhara-Beni Shangul, Oromia-Somali are causing havoc to the country. If left unchecked, regional special police forces could be an existential threat to Ethiopia.

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- Proclamation No. 720/2011, a Proclamation to Provide for the Establishment of the Ethiopian Federal Police Commission, *Federal Negarit Gazeta* 18<sup>th</sup> year No. 2, Addis Ababa 28<sup>th</sup> November 2011
- Proclamation No. 46/2001, Enforcement Proclamation of the Revised Constitution of 2001 of the Oromia Region, *Megeleta Oromia*, Finfine, July 12<sup>th</sup> 2000.
- Proclamation No. 35/ 2001, A Proclamation to Ratify the Revised Constitution, 2001, of the Southern Nations, Nationalities and Peoples Regional State, 12<sup>th</sup> Day of November 2001.
- Proclamation No. 59/2001-The Revised Constitution of the Amhara National Regional State Approval Proclamation, *Zikre Hig*, 7<sup>th</sup> Year No. 2 Bahir Dar 5<sup>th</sup> November 2001.
- Proclamation No. 216/2014, The Amhara region Police Commission re-establishment Proclamation *Zikre Hig* Bahr Dar, 2014
- Regulation No. 175/2018, The Revised Amahara region Police Officers' Administration, Council of Regional State Regulation, *Zikre Hig*, Bahr Dar 2018
- Regulation No. 175/2018, The Revised Amahara region Police Officers' Administration, Council of Regional State, *Zikre Hig*, Bahr Dar, 2018