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Tigray: A Nation in Search of Statehood?

Assefa Fiseha | ORCID: 0000-0003-0022-9924
PhD, Professor, Faculty of Law, College of Law and Governance Studies, Addis Ababa University, Addis Ababa, Ethiopia
assefafish@gmail.com

Abstract

A devastating war broke out between the federal government and Tigray regional state of Ethiopia in November 2020. What is its cause and how does it affect the dynamics in Tigray and in Ethiopia in general? The article demonstrates using clear indicators that an authoritarian centrist elite and its policy that came to power in 2018 pursued a very centralised decision making, removing regional state heads and imposed new polices that violate self-government and autonomy of states. It brought back imperial Ethiopia's polity building narrative accusing its predecessors and the post-1991 federal polity as disruption. Yet Tigrayan nationalism has also long pedigree. Its relative homogeneity and centuries of self-conscious experiment with autonomy has always been fundamental check against the centrist elite. Following the new developments, Tigray is reconsidering whether it is worth staying within Ethiopia or should secede and have its own state. Ideally there are menu of options that could provide a solution to both sides short of secession, but the new elite in power is pushing Tigray to the edges, abrogating its constitutional autonomy, putting under siege and denying all basic services for nearly two years and pursuing age old policy of surrender or perish, literally imposing secession to the region. The study is informed by theories of ethno national based conflicts, political autonomy and secession.

Keywords

ethno federation in Ethiopia – nationalism in Tigray – self-government – ethnic conflict – Autonomy

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1 Introduction

Tigray with an estimated seven million population of Ethiopia's one hundred ten million constituted core part of ancient Ethiopia. It hosts Axum- Ethiopia's center of ancient civilisation and world heritage site. The Obelisks, the ancient script – *Geez*, the number system, and the calendar as Axumite inventions and innovations are crucial values that defined the Ethiopian state until 1974.[1] Solomonic genealogy and the Orthodox Christian religion remained the two core bases of the legitimacy and unity of ancient Ethiopia up until 1974[2] have also their origins in Tigray. Tigrayans are thus cultural aristocrats of Ethiopia, at least of the central highland.[3]

In terms of ethnic composition, Tigray is more homogenous than other regional states of Ethiopia with the Tigrigna speaking Orthodox Christians constituting 95 percent of the total population of the region. Muslims constitute 4 percent, Catholics 0.4 percent and Protestants 0.1 percent. The relative homogeneity of Tigray, ancient civilisation and long history of own autonomy, history of resistance against centralisation[4] explain Tigray's cohesive social capital, a key factor in ethno national based political mobilisation.

A devastating war broke out between the federal government and Tigray regional state of Ethiopia in November 2020. What is its cause and how does it affect the dynamics in Tigray and in Ethiopia in general? The article shows that authoritarian centrist elite that came to power in 2018 and its policy has been the main driver of the conflict since 2018. While centralisation has always been Ethiopia's major source of political instability, the new regime's federalism is distinct in two respects. As witnessed in the devastating wars in Tigray, the South (Sidama and Wolyta) and Oromia, the regime's determination to use violence to crush political demands for self-government and inclusion is a record in Ethiopia's recent history. The regime has also shifted its narrative towards integrative federalism and as part of that liquidated former autonomous coalition and affiliate member parties turning the Prosperity Party (PP) to a single national party. Since then federal government and Tigray relations have gone from bad to worse leading to a destructive war, the regime trying to dislodge

1 Donald Levine, *Greater Ethiopia: The Evolution of a Multiethnic Society,* 2nd edn. Chicago: The University of Chicago Press, 2000).

2 John Markakis, *Anatomy of Traditional Polity* (Oxford: Clarendon press 1974).

3 Levine, *supra* p.2; John Young *Peasant Revolution in Ethiopia: The Tigray Peoples Revolutionary Front* (Cambridge: Cambridge University Press, 1997).

4 In the last century, Tigray was able to withstand both Haile Selassie and Derg's project of centralised nation building that in the end led to the post-1991 federal system. Abiy led centralisation since 2018 was fiercely resisted by Tigray that led to destructive war since November 3, 2020.

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the regional state and replace it by its own puppet while Tigray trying to ensure its self-rule. The result is a mutually assured destruction with a possible long-term effect for the country.

Tigrayan nationalism is challenging the centralisation drive. Its relative homogeneity and centuries of self-conscious experiment with autonomy has always been fundamental check against the centrist elite. Autonomy is in Tigrayan's DNA and manifests itself in many forms in response to policies pursued by the center. In the 1940s, it constituted a demand for local autonomy without challenging the unity of the country. With reluctance from the center to address such modest demands, self-determination emerged as a political vocabulary in the 1970s and took center stage in post-1991 Ethiopia. With the rise of authoritarian centrist elite to power in 2018 that is pushing Tigray to the edges, pursuing age old policy of surrender or starve, proving Walelign Mekonen's[5] epic characterisation of the country as 'prison house of nationalities,' Tigray is emerging as a nation in search of a statehood.[6] While asymmetric autonomy within multinational and federal Ethiopia or confederal arrangement still remain as options, such alternatives do not bode well with centrist authoritarian elite in power that is pursuing an age old policy of starve or surrender recycled in a new form: 'law enforcement operation.' In reaction, Tigray nationalism has transformed itself into a popular resistance articulating for a new nation state.

The article contains three main sections. Section one provides the socio-political context and the introduction that sets the theme. Section two explains the rise of the new authoritarian elite along with its manifestations that triggered the war and transformed Tigrayan nationalism. Section three discusses the push factors in detail and explains how it has been transformed itself across time. The internal power struggle and premature dissolution of the ruling party, Abiy's policies related to 'the law enforcement operation,' Tigray's isolation, and Tigray's reactions are outlined in detail. The last section contains an overall conclusion. The research is based on a field work conducted from February 15 to March 6, 2020, document and policy analysis and extensive review of secondary sources related to the matter.

1.1 *Cleavages and their Claims: Framework*

Despite the rhetoric of globalisation and regional integration that were hoped to facilitate integration of groups, there is an increase both in number and

5 Walleligne Mekonnen, 'On the Question of Nationalities in Ethiopia' *Struggle*, (Bulletin, 1969).

6 Gwynne Dyer, 'End of the Ethiopian Empire?' daily pioneer https://www.dailypioneer.com/2021/columnists/end-of-the-ethiopian-empire-.html 10 July, 2021.

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prominence of actors that call for self-government, autonomy, federation, secession and other non-centralised systems.[7] The claims of these actors vary but include recognition as distinct community separate from the dominant nation in power, autonomy within a unitary state, asymmetric arrangement within a federation that ensures a sub unit more autonomy compared to other states, representation and self-government within a federation, confederation and secession.[8] Back in 2011, Stephen Walt wrote 'nationalism is the most powerful force in the world.'[9] In 2019, he wrote, 'you cannot defeat nationalism, so stop trying.'[10] The idea that groups that share the same language, culture, history, shared narrative about the past and future destiny, occupy defined territory, feels that they constitute distinct identity and ought to govern themselves is largely an old concept that led to the collapse of several empires in Europe giving birth to many nation states.[11] It has a strong emancipatory role for those that aspire autonomy and independence from colonial and authoritarian rule. Yet as witnessed in the two world wars, in Rwanda and after the fall of the Berlin Wall, nationalism also has its ugly face.

The relationship between the nation and the state is very complex because many states are composed of diverse groups within their territory: there are many nations but a few states. The state has enormous resources at its disposal that employs it to ensure unity and territorial integrity while groups within the state that feel politically suffocated aspire to have autonomy or even their own state leading to tension between two major projects of the center and that of the subunit. Conner way back in 1972 challenged the idea of nation building in a multiethnic context warning that it could lead to nation destroying.[12] Minorities within nation states faced expulsion, assimilation and genocide.[13] Even in the advanced democracies of the west, French speaking Canadians, Scottish, the Flanders in Belgium continue to negotiate for more, not less autonomy. In the face of state under the control of centrist elite as is the case in Ethiopia, nations within the state aspire to have autonomy or even their

7 Glen Anderson, 'Unilateral Non-Colonial Secession and Internal Self-Determination: A Right of Newly Seceded Peoples to Democracy?' 34:2 *Arizona Journal of International and Comparative Law* (2016) P.2.

8 F. Müller-Rommel, *Ethno regionalist Parties in Western Europe: Theoretical Considerations and Framework of Analysis* (London: Routledge, 1998).

9 Stephen Walt, 'The Most Powerful Force in the World' *Foreign Policy* (*2011*).

10 Stephen Walt, 'You Can't Defeat Nationalism, So Stop Trying', *Foreign Policy* (2019).

11 Anthony Smith, *Ethno-Symbolism and Nationalism: A Cultural Approach* (New York: Routledge, 2009).

12 Walker Connor, 'Nation Building or Nation Destroying?' 24:3 *World Politics* (1972) pp. 319–355.

13 Crawford Young, *The Politics of Cultural Pluralism* (Wisconsin: The University of Wisconsin Press, 1976).

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own state to ensure their survival and right to self-government. Many have predicted the end of nationalism and the nation state[14] but as rightly argued by Walt (2011, 2019) and Nordia[15] nationalism is here to stay. It has survived predictions of its demise both from the right and the left and we should find ways to manage it.

Politically mobilised identity based cleavages caused after the end of the Cold War to what Lijphart dubs a 'wave of ethnic conflicts,'[16] instead of the promised 'third wave of democracy.'[17] According to Gurr mobilised 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 or other coercive process of nation building.[18] They mobilise politically around assertions of national identity and self-determination. The goal of such mobilisation is to recover the extensive self-government they claim to have enjoyed historically or they aspire to have now. Countries that have politically mobilised ethno national groups cannot assume to have stable territory. 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.[19] There is strong link between territory and ethno national based mobilisation. The making and unmaking of territory is part of the political game when conducted by the state to disempower groups and break them apart. The state is not a neutral actor as it promotes particular interests which the ethno national group contests. Indeed, the clash between state led nationalism, the interests behind it and the ethno national group remains central to many wars and conflicts[20] including the Tigray case.

14 Ernest Gellner, *Nation and Nationalism* (Oxford: Basil Blackwell, 1983); Kenichi Ohmae, *The End of the Nation State: The Rise of Regional Economies* (New York: Free Press, 1995).

15 Ghia Nordia, 'The End of the Postnational Illusion' 28:2 *Journal of Democracy* (2017) pp. 5–19.

16 Arend Lijphart, The Wave of Power Sharing Democracy' in *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy* Andrew Reynolds ed. (New York: Oxford University Press, 2002) p.37.

17 Samuel Huntington, *The Third Wave: Democratization in the Late 20*th *Century* (University of Oklahoma Press, 1991).

18 Ted Gurr, *Why Men Rebel?* (New Jersey: Princeton University Press, 1991) p.19.

19 George Anderson and Sujit Choudhry, 'Territorial Cleavages and Constitutional Transitions: Political Mobilization, Constitution Making Processes and Constitutional Design' in Anderson and Choudhry eds., *Territory and Power in Constitutional Transitions,* Oxford: Oxford University Press, 2019) p.374.

20 Lars-Erk Cederman, Andreas Wimmer and Brian Min, ' Why Do Ethnic Groups Rebel? New Data and Analysis', 62:1 *World Politics,* (2010) pp. 87–119.

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Mismanagement of ethno national based cleavages has resulted in the formation of some twenty-seven states that have joined the United Nations.[21] In the 1960s and 70s nearly all schools of thought (liberalism, socialism, globalisation, modernisation), regardless of their different viewpoints predicted that ethno national minorities will wither away through liberalism, socialism, melting pot and assimilation. Some have called this 'post national illusion'[22] and counselled actors to properly understand this force and the need to design appropriate institutions and policies to manage it. Countries in Africa like Nigeria, Ethiopia, South Africa and Kenya, despite differences in the degree of mobilisation, all continue to face challenge related to particular type of cleavages. In other words, they are all deeply divided societies. As such identity becomes the prime source of political mobilisation around which political claims for recognition, resource control, accommodation, self-government are framed, political parties formed, elections contested and governments composed.[23] These forces affect the process of constitution making and constitutional design. A distinct identity based political mobilisation demands for a more autonomous self-government or may even secede.

The nation is famously defined as a community that shares common identity and territory, believes in belonging together and wants to determine its political destiny through a concerted political action directed at self-government and statehood.[24] This distinguishes it from other forms of associations such as ethnic groups that may share common identity related to common descent but may not have a clear political goal. The nation's main goal is self-government and statehood and that serves a basis for *political action* linking the elite and the masses. There are objective and subjective elements of the definition and many focus on the subjective than the objective (common culture, language, religion, territory or political institutions) elements.[25] The nation exists in the hearts of the members and is manifested in the sense of *belonging together and distinctiveness from others*. 'The essence of the nation is not tangible. It is psychological, a matter of *attitude*, rather than of fact… nation is a self-differentiating group…with a popularly held *awareness or belief* that one's group is *distinct*'[26] from others. The relationship between groups and the boundary for

21 Alfred, Stepan, Juan Linz and Yogendra Yadiv, *Crafting State Nations: India and Other Multinational Democracies* (John Hopkins University Press, 2011) p.9.

22 Nordia, *supra* note 15.

23 Anderson and Choudhry, *supra* note 19, p.374.

24 David Miller, *On Nationality* (Oxford: Clarendon Press, 1997) p.18.

25 Connor, *supra* note 12 p.337; Rene Grotenhuis, *Nation Building as Necessary Effort in Fragile States* (Amsterdam: Amsterdam University Press, 2016) p.28.

26 Connor, *supra* note 12 p.337.

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differentiation could be based on language as in Canada, Ethiopia or religion as in Northern Ireland (Catholic vs. Protestant) and the Sudan (South Sudan before 2011). Having well-functioning state institutions is vital for the state but is not enough. Belgium, Canada, the UK and Spain have those institutions but they have the Flanders, Quebec, Scottish and Catalan problems that continue to threaten the core nation. There, the nation projected by the state collides with the nation projected by Flanders, Quebec, Scottish and Catalan respectively. Political and economic injustice caused by the state remains at the heart of identity-based mobilisation (relative deprivation theory) but the search for dignity, collective security and self-esteem are the core factors that flames and gives it the emotive force. While the relative deprivation theory focuses on the power and resource element, the human needs theory goes much further than that to include the need for collective security, right to exist as a group, prevention from threats of genocide and ethnic cleansing- the passions and emotions beyond the material interests of ethno national minorities.[27] The gist as argued by Connor goes 'Better a government run like hell by Filipinos than one run like heaven by Americans'.[28] There is this pejorative that comes with the concept of a 'minority' framed by the state that the former want to end. It implies such a group has no voice or has only less voice. The response from the non-core group or the ethno national minority is why become a mayor when one can be a president in a new nation state? Why remain as a minority of say 20% when one can be a hundred percent in one's own new nation state.

Wimmer (2019) articulated the promise and strength of the nation state and its relations with the nation that goes back to the heart of the social contract. As reflection of nation's right to self-government:

> rulers should govern in the interest of the nation- ensure participation, equality, rule of law, and that as long as they did so, the ruled owed them political loyalty, soldiers, and taxes. Nationalism at once reflected and justified this new compact. It held that the rulers and the ruled both belonged to the same nation and thus shared a common historical origin and future political destiny. Political elites would look after the interests of the common people.[29]

27 Dawn Walsh, *Territorial Self Government as Conflict Management Tool* (Chan: Palgrave Macmillan, 2018) pp.4–5.

28 Connor, *supra* note 12 p.343.

29 Andreas Wimmer, 'Why Nationalism Works And Why It Isn't Going Away' *Foreign Affairs* (*2019* March/April).

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Empires belong to conglomerate of subunits that have come together often through coercive process while a nation with a state has an owner that is ready to fight and die for it. A nation is a 'community of action and purpose'[30] often political with an ideology that binds the elite and the masses to ensure political and economic interests as well as provide security and collective self-esteem from real or perceived threat. The primordial elements such as culture, language, shared history are used as bases of mobilisation for political and economic gains in a manner that fits the social constructionist theory.[31] Yet the mobilisation and the imagined nation use concrete tools for mobilisation: the primordial elements. It is not constructed in the abstract. The raw materials are the primordial manifestations. Yet it is also about identity, collective security and dignity. Ethno national minority groups often face harsh treatment from the state. The latter uses public policies (such as education, media, anthem, flag. history, culture) to make them publicly invisible and powerless.[32] It has enormous resources at its disposal that can decimate minority groups. In reaction, the ethno nationalist deconstructs the state led process of nation building and asserts its identity and claims for self-government either within the state or as an independent state. The tension between the state that imposes its policies in the name of unity, territorial integrity, social cohesion and the ethno national groups that deconstructs the state's narrative in the name of self-government is what paralyses the nation state. In many cases, the state becomes a *mask* for a ruling elite to promote its own narrow interest at the expense of ethno national minorities. As will be shown later, the centrist elite in Ethiopia is using state institutions such as the army and the media to decimate an entire regional state in the name of unity and 'law enforcement.'

Ethiopia is one of the most diverse countries in the Horn of Africa and in some ways distinct as it hosts many politically mobilised ethno national liberation forces perhaps a record within the African continent. Although it had centuries of experience with 'devolved autocracy,'[33] Ethiopia remained a centralised authoritarian state for the most part of the last century and went through a civil war that came to an end with the defeat of the military junta in 1991. Ethiopia went through a transitional process (1991–1995) dominated by the Ethiopian Peoples Liberation Front (EPRDF 1991–2018), a coalition of four

30 Smith, *supra* note 11.

31 Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).

32 Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity* (Oxford: Oxford University Press, 2007).

33 Christopher Clapham, 'The Ethiopian Experience of Devolved Government' 1:1 *Ethiopian Journal of Federal Studies* (2013) p.18.

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ethno national based parties,[34] and adopted a federal system with the regional states mainly based on language. The principal objective of the federal system is ensuring self-government to ethno national groups in response to the 'nationality question' as framed by the Ethiopian Student Movement in the 1970s.[35]

Self-government has previously been a victim of democratic centralism (as the centralised party controls over all affairs of the state making self-government farce) and developmental state where the federal government focused more on economic growth pushing democracy and self-government to the sidelines. The federal system under EPRDF (1991–2018) operated under three major unwritten frameworks: a big man (Meles Zenawi, nicknamed by Clapham 'the philosopher-king of the EPRDF')[36] democratic centralism (his main tool), and the vanguard party. Frustrated by centralisation and increased sense of alienation led to violent protests for three years (2015–2018) particularly in Oromia and Amahra regions forcing former Prime Minister Hailemariam Desalegn from the Southern coalition of the EPRDF to resign and the coming to power of Abiy Ahmed from the Oromo Peoples Democratic Organisation (later renamed as Oromo Democratic Party-ODP). Thus there was hope that the new leadership that came to power in 2018 will reverse the centralisation as Oromia, the regional state where Abiy comes from, called for end to federal intervention and centralisation.[37] Yet, centralisation and authoritarianism have continued in a new form and as will be shown later (section two) the federation is informally turned into a decentralised unitary system triggering sub state nationalism to a new level with a high risk of falling apart.[38]

Tigray was at the fore front of the struggle for self-government and played a key role in the post-1991 federal system but as the new regime has since 2018 been engaged in centralisation of power leading to devastating war that broke

34 The members of the coalition include, the Tigray People Liberation Front (TPLF), Amhara National Democratic Movement (ANDM, later renamed Amhara Democratic Party-ADP), Oromo People Democratic Organization (OPDO, later renamed Oromo Democratic Party-ODP), the Southern People Democratic Movement (SPDM).

35 Bahru Zewde, *The Quest for Socialist Utopia: The Ethiopian Student Movement 1960–1974* (James Currey, 2014) p.218.

36 Christopher Clapham, *The Horn of Africa: State Formation and Decay* (London: Hurst & Co.2017) p.69; see also Lovise Aalen, *Ethnic Federalism in a Dominant Party State: the Ethiopian Experience 1991–2000* (Bergen: Chr Michelsea Institute, (2002).

37 Rene Lefort, William Davison, Federalist façade for centralist front <https://www.ethiopia-insight.com/2019/08/18/federalist-facade-for-centralist-front/> 18 August 2019.

38 See Nic Cheeseman and Yohannes Woldemariam, Can Ethiopia Survive? *Foreign Affairs* https://www.foreignaffairs.com/articles/ethiopia/2021-11-05/can-ethiopia-survive 5 November 2021.

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out early November 2020. The same challenge is slowly emerging in Oromia. Demands for more autonomy and self-government have also been on the rise in the Southern state. 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 status of constituent unit and two states have emerged bringing the number of states in Ethiopia to eleven. Ethno national groups are thus demanding more, not less even after two and half decades of federal practice.[39] The tension between the federal government committed to centralising power and regional states that are pushing for more autonomy is currently at its peak. And the more the elite in power tries to centralise, the more it provokes ethno national elites to push to the extreme as there is inverse relationship between state policy and ethno national mobilisation.[40]

2 The Rise of New Authoritarian Centrist Elite and its Impact on Self-rule

We now look into the policies and decisions of the rising new centralizing elite that have provoked ethno national mobilisation. The first indicator of authoritarian centralisation in Ethiopia is the federal government's action and the process of removal of regional state heads. Since the new government came to power in 2018, many of the leaders of the regional states have been removed by the ruling party disregarding regional states mandate to self-rule and the people's right to elect their own leaders[41] imposing its will by force including waging civil war in regional states. This is happening despite popular support for democracy and federalism as indicated by Afrobarometer.[42] Instead of providing political solution to major issues (e.g., a more inclusive political system, more working federal languages, transition to democracy, fair share of resources and genuine self-rule were among others the most popular slogans

39 Bekele Erko, Regional Prosperity Party leaders need to regain autonomy – and rescue Ethiopian democracy https://www.ethiopia-insight.com/2020/09/11/regional-prosperity-party-leaders-need-to-regain-autonomy-and-rescue-ethiopian-democracy/ September 11, 2020.

40 Milton Esman, *An Introduction to Ethnic Conflicts* (Cambridge: Polity Press, 2004) p.180.

41 The EPRDF used to remove regional state heads but there was some effort to follow constitutional rules. Regional state councils would at least approve party decisions. Current practices show complete disregard of constitutional rules and procedures.

42 The overwhelming majority of Ethiopians support federalism, democracy and seek accountable governance according to a study from Afrobaromter, October 30, 2020, https://www.afrobarometer.org/articles/afrobarometer-presentation-federalism-constitution/.

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of the popular protests since 2015),[43] the new trend is to use force to suppress popular demands. From Somali region[44] to Sidama,[45] Oromia,[46] Tigray, and Wolayta,[47] the actions taken by the federal government speak for themselves: one party show and military rule including the use of emergency decree to remove regional state leaders and suppress public demands, violence and excessive use of force,[48] massive abuse of human rights,[49] political killings and imprisoning key opposition political leaders (including Jawar Mohammed, Lidetu Ayalew (later released), Bekele Gerba, several senior Oromo leaders, Eskinder Nega (many of them released later) and thousands of junior opposition party members) and restricting media outlets and internet.[50] The federal

43 Rene Lefort, William Davison, Federalist façade for centralist front <https://www.ethiopia-insight.com/2019/08/18/federalist-facade-for-centralist-front/> 18 August 2019.

44 See Tobias Hagmann, *Fast Politics, Slow Justice: Ethiopia's Somali Region two Years After Abdi Illey*, Briefing Paper 11 September 2020.

45 Morris Kiruga, The Sidama crisis and escalating demands for statehood challenge Ethiopian constitution <https://www.theafricareport.com/15883/the-sidama-crisis-and-escalating-demands-for-statehood-challenge-ethiopian-constitution/Friday> 2 August 2019.

46 Tsedale Lemma 'After the Postponed Elections: Ethiopia's Fragile Transition Hangs in the Balance' <https://blog.bti-project.org/2020/08/24/ethiopias-fragile-transition-hangs-in-the-balance/> Etenesh Abera and Biah Jelan Analysis: Oromia Reeling from State Violence after Security Forces Kill, Injure a Staggering number of Protesters <https://addisstandard.com/analysis-oromia-reeling-from-state-violence-after-security-forces-kill-injure-a-staggering-number-of-protesters/ *addisstandard*> 19 August 2020.

47 Medihane Ekubamichael: Weeks after Army's Violent Crackdown in Wolaita, Prosperity Party Removes Zonal Chief <https://addisstandard.com/news-weeks-after-armys-violent-crackdown-in-wolaita-prosperity-party-removes-zonal-chief-administrator-others/ *addisstandard*>/ *September 2, 2020;* Minyahil Tadesse, It's time to respect the Wolayta people's constitutional rights <https://www.ethiopia-insight.com/2020/08/28/its-time-to-respect-the-wolayta-peoples-constitutional-rights/> August 28, 2020.

48 Ayele Woubshet, Our 'protectors' in blue: Police brutality and misconduct in Ethiopia <https://www.ethiopia-insight.com/2020/08/14/our-protectors-in-blue-police-brutality-and-misconduct-in-ethiopia/> 14 August, 2020.

49 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; See Amnesty International report, Beyond Law Enforcement: Human Rights Violations by Ethiopian Security Forces in Amhara and Oromia <https://www.amnesty.org/download/Documents/AFR2523582020ENGLISH.PDF>.

50 Since June 2020 several media houses critical of the government have been shut down (Asrat media, Oromo Media Network, Tigray TV, Dimtsi Weyane, OMN). The internet is blocked in parts of Ethiopia; Girma Gutema, OMN: An 'alien' star in Ethiopia's skewed media universe is 'cancelled' <https://www.ethiopia-insight.com/2020/08/12/omn-an-alien-star-in-ethiopias-skewed-media-universe-is-cancelled/> 12 August 2020.

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government has issued several emergency rules imposing military rule (otherwise called 'command posts') in regional states such as Oromia,[51] Tigray, Benishangul-Gumuz,[52] parts of the Amhara[53] and the South[54] but only a few of them have been submitted to parliament for approval.[55] Command posts imply civilian rule is being suspended and replaced by military rule and owing to its frequency and the wide geographic coverage, it has become the new normal. It is as if militarism has replaced federalism.

The second indicator is the ideological framework of the ruling party. The government's close advisor – stated 'we will continue to implement Menlik's (1889–1913) nation building project that was disrupted by EPRDF in 1991.'[56] This has become the hegemonic government's narrative as reflected in main media outlets and the ruling elite.[57] The narrative brings back Ethiopia's empire building project to the forefront. This was centralised Ethiopia that liquidated quasi autonomous kingdoms that existed for long through brutal and coercive process that became source of Ethiopia's political agony in the last century. The paradoxes inherent in this process are well known ranging from those who think it was a normal process of nation building[58] to those who think it was an empire building and part of colonialism.[59] In between the two extremes one finds those who describe that era as 'prison house of nationalities' advocate for a new social contract that allows for a more inclusive center and genuine self-rule, be it in the form of a federation or confederation.[60] The new equivalent

51 https://addisstandard.com/analysis-amid-renewed-violence-and-conflicting-accounts-army-places-oromo-special-south-wollo-north-shewa-zones-of-amhara-region-under-command-post/.

52 https://www.fanabc.com/english/metekel-zone-command-post-takes-measures-against-23-anti-peace-elements/.

53 http://apanews.net/en/news/another-command-post-established-after-fresh-conflict-in-northern-ethiopia 3 November 2021.

54 https://www.tesfanews.net/ethiopia-army-command-post-take-over-security-sidama/.

55 The command post imposed in Benishangul Gumuz in 2020 and the country wide state of emergency imposed in November 2021 have been approved by parliament. https://addisstandard.com/update-details-of-ethiopias-state-of-emergency-proclamation/.

56 See Daniel Kibret's interview at <https://www.youtube.com/watch?v=WZzcxrHngV4&t=1759s>.

57 See Tom Gardner, "Abiy Ahmed and the Struggle to Keep Ethiopia Together", The Africa Report, (October 11 2019), https://www.theafricareport.com/18565/abiy-ahmed-and-the-struggle-to-keep-ethiopia-together/?amp=1 where he states "Abiy would like to introduce an elected Presidency."

58 Levine, *supra* note 1.

59 Assafa Jaleta, 'Oromo Nationalism and Ethiopian Ethnocratic Politics' *20:1 Horn of Africa* (2002) pp. 11–45.

60 Merera Gudina, *Ethiopia: Competing Ethnic Nationalism and the Quest for Democracy,* 1960–2000 (Shaker Publishing, 2003).

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that advocates for the return to the old nation building era is Abiy's '*Medemer*'[61] where he glorifies Ethiopia's past, considers EPRDF era federalism as divisive and imagines integrated Ethiopia. The ongoing war in Tigray is described by its supporters and media activists as 'Ethiopia shall prevail,' (as if it is fighting a foreign country) the new version of Derg's (1974–1991) Ethiopia *Tikdem* (Ethiopia First). Prime Minister Abiy recently rejected the concept of Ethiopia as *pluri*-nation state as outlined in the preamble of the 1995 constitution and said 'we are one people.' Hence the critique as aptly explained by Trueman the 'imperial narrative is being recycled' in a new form through Abiy.[62] This new trend was partly tempered following the intra party crisis and power struggle between the ADP and ODP wings of PP, shifting the balance in favor of narrow circles of ODP after deposing senior members of ADP during mid-2022. It is yet to be seen what this shift means but so far the new regime was fully backing the pre-1991 narrative. This is not surprising. Abiy's speech in Parliament in April 2018 included the line 'God rest the soul of my mother who told me as a young boy that I will be Ethiopia's seventh King.'[63] One cannot expect democratisation and genuine self-government under a leader who thinks he is Ethiopia's seventh king. Centralised kingdom is antithesis to federalism and self-government.

The third indicator is a new policy that regulates regional state police. The constitution empowers regional states to establish their own police to ensure peace in their territory (Article 52).[64] However, a recent policy document of the federal government shows that the federal government has proposed to dissolve the regional state police alleging that it is heavily militarised against its mission and is becoming a threat to peace and security.[65] The document further state the special police is becoming tool for extremist ethnic and religious groups.[66] It centralises the recruitment process of regional state police

61 Abiy Ahmed, *Medemer,* Tsehai Publishers, (2019).

62 Trevor Trueman, An imperial narrative gets recycled <https://www.ethiopia-insight.com/2020/08/24/an-imperial-narrative-gets-recycled/> 24 August, 2020.

63 See his speech at <https://www.youtube.com/watch?v=9RO6D6xPZAk> as accessed on 9 September 2020.

64 Regional states have also established special police that resembles more of an army than regular police. Regional states claim the special police should be treated as part of manifestation of political autonomy. Yet its militarization has caused concerns and the federal government wants to regulate it. The new Police Standard does not however make a difference between the regular police and the special police. Regional states thus question its constitutionality. See Police Standard of Ethiopia, December 2020, Addis Ababa, Policy Document at 78–61. Interview with expert involved with in the preparation of the document, Ministry of Peace 15 May 2021 Addis Ababa.

65 See Police Standard *supra note 64.*

66 *Ibid*. at.58.

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by subjecting it to federal control.[67] Regional state police, according to this document, is made *accountable*[68] to the federal police while reserving the administrative accountability to the regional states.[69] Reversing previous trends and violating the regional state mandate, it subjects the promotion and appointment of deputy commissioner and the commissioner of regional states to be made by the federal government (Ministry of Peace).[70]

Fourthly, there are signs that show a move towards a centrally designed making and unmaking of constituent unit boundaries as part of the shift to 'geographic federalism.' Under an apparent claim that addressing interregional state disputes have become difficult to manage and need 'an expert' based solution, the federal government established 'Identity and Administrative Boundary Commission'[71] with country wide mandate and perhaps to dismantle the federal system identified by the centrist elite as the 'main source of Ethiopia's political crisis.'[72]As per the federal constitution Article 48, disputes and misunderstandings between two or more regional states are expected to be resolved amicably by the regional states. If that fails, the matter has to be submitted to the House of Federation (HoF)- a non- legislative second chamber composed of representatives of the different ethno national groups. Yet despite such clear constitutional principle, the federal government issued a proclamation establishing the Identity and Administrative Boundary Commission that is accountable to the Prime Minister. The commission is required to bring studies for addressing identity based and boundary disputes to the federal executive, parliament and the HoF. As per the constitution identity-based demands are decided by the local and regional state elected councils once the demand is submitted by the concerned community. The new body takes away the mandate of the community and the regional state councils and

67 *Ibid.* at 71.

68 *Ibid*. The Federal Police Commissioner General, the regional state police will be headed by Commissioner whose status is one step lower than the federal Commissioner General. It introduces a new element of the regional state police accountability to the federal level that violates the federal principle.

69 Police Standard, *supra*, *note 64* at 67.

70 *Ibid.* at 47.

71 See Proclamation 1101/2019, Administrative, Boundary and Identity Issues Commission; see also Yohanes Anberbir The *Reporter* (Amharic) https://www.ethiopianreporter.com/article/14706.

72 One of the main opinion makers on this- former Derg official wrote 'ethnic politics that has been institutionalised 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. There is little grasp of the political reality on the ground and there is little debate on the causes of ethno national based mobilisation and the deep cleavages.

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ultimately the *substantive* mandate of the HoF. What has been bestowed by the *constitution* to the regional states and the HoF is now given to the commission by *law*. Self-government as stipulated in the constitution is mandate of the 'nations and nationalities' (Articles 8, and 39) and any controversy related to self-government is adjudicated by the HoF: the house that is supposed to guard their interests. As it takes away the mandate of the HoF and introduces a centralised decision-making disregarding regional states, experts argue it is un constitutional body. Besides some of the members are well known political activists and leaders of political parties – partisan and not independent ones as claimed by the federal government and the law itself.[73]

The nomenclature of the commission is also controversial. In Amharic the word '*Astedader Wosen*' is centrist in its connotation. Regional states in Ethiopia are autonomous units, not provincial boundaries as in a unitary state and it is indeed very odd to refer to *Astedader Wosen* as if the boundary of the states can easily be made and unmade by the federal government. Any adjustment to boundary of regional states can only be made both by the participation of the federal government and regional states as it amounts to constitutional change. The normative assumption of the law thus speaks for itself: very centrist and thus are rightly criticised as designed by '*Ahadawi*/centrist mindset.'[74] Ironically, the decision of the Council of Constitutional Inquiry (CCI) (*Hamle* 24/2011 E.C) made in response to Tigray's challenge of the constitutionality of the law establishing the Commission, cites examples from Nigeria and India to justify its decisions explaining the constitutionality of the law, rejecting the application from Tigray that questioned its constitutionality. In both federations, particularly India, the federal parliament is mandated by the Indian constitution to make and unmake provincial boundaries as if India is a unitary state (Articles 3 and 4). On the contrary, the Ethiopian constitution does not give this kind of mandate to the federal government or the federal parliament. Indeed under Articles 8 and 39, constituent units are given with wide range of autonomy and this autonomy covers both political and territorial autonomy. In genuine federation, the federal government cannot unilaterally make or unmake boundary of constituent units. It requires the consent of the units.

Arguably, the law could have established an independent body of experts, not political activists, under the HoF that could provide expert opinions on the same matter to the HoF, helping it make sound decisions. Abiy's speech in July

73 See Yohanes Anberbir The Reporter (Amharic) https://www.ethiopianreporter.com/article/14706.

74 The application from Tigray regional state to the CCI as summarised in the decision of the CCI of *Hamle*/July 24/2011 E.C captures this point very well.

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2021 that stated the contested territories (in western Tigray) as belonging to *Begemidir* (old name of Gondar of the Amhara region) also prejudges an outcome that may be made by the commission.[75] 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 in parts of western and southern Tigray. As far as evidences show, from medieval to late 19th century, the territories were under Tigray Administration.[76] With the emergence of centralised and unitary Ethiopia and weakening of Tigray, the territories were annexed to Gondar and Wollo province of Amhara during the late 19th and early 20th century. Following the language-based restructuring of federal Ethiopia in post-1991 Ethiopia, the territories remained part of Tigray. When the war broke out in November 2020, Amhara forces annexed both territories displacing hundreds of thousands of Tigrayans and committing ethnic cleansing.[77] It was in this context that Prime Minster Abiy said, 'Wolkayit and Tselemti (the disputed territories) have always been part of *Begemidir*. Federal institutions are supposed to mediate impartially in disputes between regional states. The federal army is thus given a green light to side with the Amhara region and thereby reduced to be an agent of the Amhara elite, not any more impartial Ethiopia's defense force. The outcome of the commission is

75 See his speech July 1, 2021 speech https://www.youtube.com/watch?v=sJPw2EwNhx4.

76 According to an expert, an analysis of 32 old maps starting from the early 18th C., all the way to mid-20th century show 'Welkait is explicitly included within a larger Tigray confederation (periods 1707–1789; 1841–1886; and 1939–1941); it is briefly mapped as part of Amhara in 1891–1894 and part of Gondar from 1944–1990. At other periods it appears independent or part of a larger Mezaga ("dark earth") region. The Amhara/Gondar – Tigray border is mapped on the Tekeze River at short intervals in 1844–1847 and 1891–1894 and then more permanently between 1944 and 1990. The meta-analysis of the historical maps shows that for the larger part of the last 300 years or more, Western Tigray has been under Tigray jurisdiction, with a border running along or across the Simien massif. However, at times of upheaval, the territory has been briefly reorganised under either the Amhara polities or was autonomous' J. Nyssen, 2022a. Dataset: Western Tigray in 101 historical and 18 ethno-linguistic maps (1607–2009). Version 2. Ghent (Belgium): Ghent University, Department of Geography. Zenodo, 2022 p. https://doi.org/10.5281/zenodo.6554937; see also Michael Russel, *Nubia and Abyssinia* (New York: J. and J. Harper, 1833) p. 79; Samuel Gobat, *Journal of Three Years' Residence in Abyssinia* (New York: M. W. Dodd 1850) pp.42–43.

77 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.

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now a forgone conclusion.[78] By doing so Abiy has made the federal institutions sub servants of the interests of the centrist elite.

Thus Ethiopia is effectively a unitary decentralised state, not a federation anymore. This remains a puzzle because the constitution has not been amended. One should look into the forces that brought Abiy to power to capture the risks of this development. He came from Oromia and it is well known that the core content of the protests in Oromia was 'we need a genuine federation, more self-rule, stop federal government intervention in states'. In other words, it was a demand for more, not less autonomy. It is an irony then that Abiy is keen to centralise power contrary to his own social base. This is a paradox but reveals clearly his plan. As mentioned already the constitution has not been amended and the new ruling elite introduced these policies in violation of the political autonomy of the states.

It should be mentioned that in addition to the sham nature of the federations, it was the effort to centralise by the ruling elite that triggered the failure of the former USSR and Yugoslav federations.[79] There is thus a worrying parallel in Ethiopia at present: the more the federal government tries to centralise and imposes military rule, the more it triggers ethno nationalism and with it comes threats of fragmentation. It is this worrying trend that we have labelled as the rise of a new centrist authoritarianism. Thus return to centralisation and any effort to break down already mobilised ethno national groups to pieces ending group based rights could therefore risk the speeding up of the country's collapse.

Bargain and negotiation between the two levels of governments is an integral element of federalism, unilateral action is not. Federalism requires the will and commitment to implement the pact as outlined in the supreme constitution by both levels of governments. Resort to force or unilateral action goes against the federal will. The Ethio-Eritrea federation (1952–1962) was unilaterally dissolved by the emperor and the result was civil war and Eritrea's secession in 1993. The Addis Ababa Agreement that ensured autonomy to South Sudan and that brought relative peace to the Sudan was unilaterally abrogated by the regime in Khartoum resulting in devastating civil war and secession of South Sudan in 2011. Withdrawal of federal promises unilaterally has thus consequences.

78 Not surprisingly an application made by Tigray regional state to quash the law establishing the commission as unconstitutional was not accepted by the CCI. The CCI on Hamle 24/2011 E.C ruled that the contested law is constitutional and rejected the application.

79 John McGarry, Brendan O'Leary, 'Must Pluri-national Federations Fail?', 8:1 *Ethnopolitics* (2009) p.11.

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The tension between those seeking a more centralised system and the ethno national cleavages in Ethiopia has reached a new level. The increased trends of centralisation and undue interference in regional state affairs by the federal government continue to trigger regional state concerns. Tigray, a regional state that has paid a huge sacrifice fighting seventeen years to dismantle military rule (1975–1991) and ensure self-government has openly resisted the regime's meddling in regional states. The debate on whether Tigray should remain within Ethiopia or begin a new pathway has now taken center stage. The next section shows its origin and how it transformed itself across time with the current war and policies of the federal government as major drivers.

3 Tigray Nationalism

Despite rich history and constituting as foundation of the Ethiopian state for long, Tigray lost and remained a periphery in the 20th century. The period coincided with the emergence of the centralised and unitary state. For the most part of the first half of the last century, the centrist elite abrogated Tigray's age old political autonomy and kept on sending appointees from the center.[80] Central government's leaders often treated Tigray and Tigrayans as 'strangers' wrote Gebrehiwot Baykedagn, one of the Tigrayan intellectuals who worked with Emperor Menlik II '…. Tigre, during the time of [Emperor] Menelik II was absolutely ruined. He did not consider the Tigrean people as his own people.'[81] This was repeated by subsequent leaders and now by the regime in power as will be shown in the next sections.[82] Tigray's hereditary rulers were either killed or kept in Addis in the form of exile to allow the center to meddle in

80 Mekonen Berhane, *Political History of Tigray* (Addis Ababa University, MA Thesis 1994).

81 Gebre Hiwot Bykedagn, *Atse Menlik Ena Ethiopia*, Addis Ababa University Press, 2004; See Afwork Gebreysus *Tobia* (Amharic old novel) unfounded and infamous accusation of Tigrayans. Former President of Ethiopia Mengistu Haile Mariam said '…Tigray has never been self Sufficient in terms of food or finance…It cannot even cover the cost of papers and chalks for schools in the region.' See his speech on May Day *Addis Zemen* May 1, 1989, pp.5–6. All these are interpreted by TPLF and Tigrayan elites as part of grand project 'drain the sea to kill the fish'. Long before Tigray was isolated and marginalised in the 20th century, starting from Emperor Susneyos all the way to last quarter of the 19th century, Tigray was the main source of (80 %) of government's revenue. See Zewde Gebre Selassie, *Causes and Solutions to the Ethiopia-Eritrea Conflict* (Addis Ababa: Addis Ababa University Press 2014), p.83.

82 A key figure from the opposition Bedru Adem in a widely televised speech in the eve of the 2005 election read to his audience "let them go to where they came from" widely understood to imply to the Tigrayan community associated with the ruling party as if they came from another continent, *see* ASQUAL, May 10, 2015. Since then similar kind of narrative was built by media owned by the centrist elite. ESAT, an opposition TV officially

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Tigray's affairs.[83] Delegates of the central government not only kept on looting its resources but also annexed its territory both from the west and southern part. With the banning of the army of notables and the centralisation of the taxation system, Tigrayan notables' economic and political power was eroded and they lost what Gebru calls 'their corporate identity.'[84] After that they only survived as individuals and with the 'grace' they obtained from Showa. Political and economic marginalisation, loss of local autonomy, the harsh tax system, the introduction of Amharic in all state institutions were more than enough to create popular resentment that finally led to wide spread dissatisfaction among the population and a popular rebellion in 1943 (*kedamay weyane, the first Weyane-revolt*) against the center that virtually expelled the imperial army from Tigray until the rebellion was crushed with the help of British aerial bombardments.[85] Its failure sealed at least temporarily the struggle for centralisation and autonomy in favor of the former.

The policies of the military regime and how it impacted Tigray are well documented[86] but vital to mention that it was a major factor for the radicalisation of the Tigrayan elite and the reason for the articulation of the question of nationalities in Ethiopia as part of the ESM in the 1960s.[87]

While the seeds of Tigray nationalism emerged a bit earlier, a more concrete and organised form of resistance against the centre emerged with the establishment of the Tigray Peoples Liberation Front (TPLF) in 1975. Tigrayan nationalism led by the TPLF as a leftist movement had also class character. It did not have difficulty to find solidarity with the poor class (the peasant in particular) in other parts of the country. This was the basis for the formation of the EPRDF towards the end of the 1980s. The TPLF that rules Tigray, played a key role in the post-1991 Ethiopia following the defeat of the military in 1991, in the formation of the EPRDF, in the overthrew of the military regime in 1991 and restructured the Ethiopian state as a federal system. The Nationality Question

declared this is a fight between 95 million against 5 million, a declaration of Genocide against Tigrayans.

83 Menlik deposed Mengesha and appointed *Ras* Mekonen of Harar to govern Tigray. Mekonnen was then succeeded by another Showan appointee *Ras* Wolle Bitul. In 1900 Taitu appointed *Dejat* Gesese Wolde Hanna to administer Wolkayit and Tselemti. Tigray was governed by either appointees from Showa, Gondar (Ras Woldegiorgis and Wolle Bitul (1910) or Wagshum (Abate 1902) all the way to the 1940s. For details see Mekonnen, *supra* note 80.

84 Gebru Tareke, *Ethiopia: Power and Protest: Peasant Revolts in the Twentieth Century* (Cambridge: Cambridge University Press, 1991) p.74.

85 Ibid.

86 Young, *supra* note 3; Alemseged Abay, *Identity Jilted or Re Imagining Identity? The Divergent Paths of the Eritrean and Tigrayan Nationalist Struggles,* (Lawrenceville: NJ, 1998).

87 John Markakis, *Resource Conflict in the Horn of Africa* (London Sage Publications, 1998).

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was widely shared by the ESM and leaders of nationalist movements though they disagreed on how to address it. Some chose to address it by subsuming it under class while ethno nationalist based parties like the TPLF that later evolved to liberation movements gave it a primacy and picked it as an organizing principle. One of the pioneer movements that long advocated the 'national oppression' thesis was the TPLF.

Distinct from the ESM whose predominant view was to shape the struggle of the oppressed people along class lines, some of the University students from Tigray formed an association, which evolved into a party, the TPLF on February 1975. The TPLF focused on the liberation of Tigray both in terms of national and class, leaving the issue of post-independence Tigray unsettled.[88]

For the TPLF, as far as records show, the Tigrayan cause was not defined as a colonial one, although it defined its struggle as one of self-determination of oppressed nationalities, secession was an option but not its maximum objective.[89] As one has rightly noted the post liberation political status of Tigray, separation and independence or a nation within a multination Ethiopian polity was not pre-determined, it was to be determined in due course.[90] As events unfolded, the Tigrayan cause seemed to have been settled under a federal system in a multinational Ethiopia up until the coming to power of PM Dr. Abiy Ahmed in 2018. Since then the uncertainty begins again. Thus befitting the theories on social construction, Tigray nationalism has not been static nor primordial. It has continued to adapt itself largely in reaction to the centrist elite that controlled power in Addis Ababa. One could say 1975–1991 as reactive and assertive nationalism that aimed to ensure self-government ending a century of marginalisation. 1991–2018, dormant nationalism as the TPLF transformed itself from an insurgent movement to one of the major actors of state power. With the centrist elite back to power again, Tigray nationalism is in search of its destiny this time around deliberately triggered by the central government's marginalisation and an all-out war.

3.1 *Dismantling EPRDF and Internal Contradictions within the Ruling Party*

One needs to capture the factors that gave rise to tension and then the war that broke out between the federal government and Tigray in November 2020.

88 Adhana Haile Adhana, 'Tigray-The Birth of a Nation within the Ethiopian Polity,' in Mohamed Salih and John Markakis ed., *Ethnicity and the State in Eastern Africa* (Uppsala: Nordiska Afrikainstitute 1998).

89 In 1976, a section of the TPLF leadership issued a 'manifesto' declaring the establishment of the Republic of Tigray as its goal. Many argue, the document was never adopted by the party and was abandoned.

90 Adhana, *supra* note 88.

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After all, the TPLF was the founder of the EPRDF that later transformed itself into Prosperity Party (PP) from which the TPLF withdrew. At its core is the premature decision by Abiy to dissolve the EPRDF without creating sufficient party consensus and the internal power struggle that ensued in between that brought the first major crack within the ruling party forcing the TPLF to exit.

Among the major source of Abiy's internal turmoil is his premature decision to dissolve EPRDF and create his new Prosperity Party (PP). The apparent reason for the liquidation of EPRDF and replacement by PP relate to ending ethnic based coalition and replace by a one unified national party, need for a centralised policy making,[91] an ideological shift from revolutionary democracy, group rights and developmental state to the right focusing more on individual rights (hence the rhetoric *Ethiopiawinet* and *zegenet poletica-* citizenship politics in line with the wishes of the centrist elite) and in the end dissolve ethnic federalism and shift to geographic federalism.[92] EPRDF may have been authoritarian and vanguard that weakened state institutions but it was surely the machine that brought Ethiopia's remarkable socio economic development since 1991.[93] Abiy however decided to dissolve the EPRDF coalition without ensuring broader consultation within the ruling party, without addressing the internal contradictions and without a clear alternative.[94] According to a key informant, the process of dissolving the member coalitions did not comply with internal party procedures or the political party law as some of them were dissolved without conducting their party congress or have done so without ensuring the necessary quorum required to pass a decision. The Electoral Board is also required to observe the meetings to ensure the procedures are complied with but have not done so in all cases.[95] As a result, some even doubts the legality of

91 See Melaku Habtewold, Why Prosperity Party is needed <https://www.ethiopia-insight.com/2019/12/24/why-prosperity-party-is-needed/> December 24, 2019.

92 Tom Gardner, Will Abiy Ahmed's Bet on Ethiopia's Political Future Pay Off? <https://foreignpolicy.com/2020/01/21/will-abiy-ahmed-eprdf-bet-ethiopia-political-future-pay-off/> January 21, 2020; Mebratu Kelecha, Middleman <https://www.ethiopia-insight.com/2019/12/18/middleman/> December 18, 2019.

93 Michael Schuman, 'Forget the BRICS (Brazil, Russia, India and China.); Meet the PINES (Philippines, Indonesia, Nigeria and Ethiopia), *Time* at <http://time.com/22779/forget-the-brics-meet-the-pines/> accessed on 30 March 2014.

94 The TPLF accuses the Prime Minister for violating internal procedures of EPRDF while dissolving the party. It argues that it is not the leadership but for each member coalition to decide on whether to dissolve or not before the leadership could decide on the fate of the party. See TPLF Cites Legal, Procedural Shortfalls to Decline Merger addisstandard <https://addisstandard.com/news-tplf-cites-legal-procedural-shortfalls-to-decline-merger/> November 21, 2019.

95 Interview with a key informant based at NEBE in charge of political parties 20 May 20201, Addis Ababa.

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the current ruling party. Abiy was quick to pinpoint weaknesses within EPRDF particularly it's authoritarian tendency and human right abuses. Lemma Megerssa's objection to the process from his own party (ODP), the very person who gave his ODP's chairmanship to let Abiy become a prime minister does tell in itself how reckless the process was. Lemma, who was considered the front runner of the reformist team, stood against the decision, creating the first signs of a consequential rift between him and Abiy.[96] TPLF, the founder of the EPRDF declined to join and PP continued without TPLF absorbing the three coalitions and affiliate parties. According to a senior political observer, 'PP is an intellectually and politically orphaned EPRDF minus the TPLF.'[97] Since then PP – TPLF relations have gone from bad to worse leading to a destructive war, PP trying to dislodge the regional state and replace it by its own puppet while TPLF trying to ensure its self-rule. The result is a mutually assured destruction with a possible long-term effect for the country.

Yet, the above is only part of the story. Since Abiy assumed power, it put all the blame on one of its member coalitions: the TPLF. Both coalitions of the EPRDF (Oromo and Amhara wing) were engaged in appointing individuals who had clear grudges against the TPLF. ADP appointed Brigadier General Asaminew Tsige, a retired general who was sentenced for life imprisonment accused of masterminding a failed coup in 2009, as head of Security for the regional state. General Asaminew kept on making inflammatory speeches and organised regional security that in the end allegedly killed Amhara regional state leaders on June 22, 2019 and is suspected for the killing of the army chief General Seare Mekonnen and his colleague Major General Gezaei Abera in Addis Ababa on the same date- both former senior TPLF army leaders.

Way before the war broke out several other measures were taken targeting Tigray and Tigrayans. Roads connecting the federal government with Tigray were blocked and the federal government kept silent (inaction) for nearly two years. Senior army and security heads affiliated to the TPLF were killed and others sacked and many of them jailed. All the failures of the EPRDF were attributed to the TPLF and Tigrigna speakers, although the TPLF facilitated the handover of power peacefully to the new regime- a new trend in modern Ethiopia. This looked like the federal government was preparing for an all-out

96 Wallelign Shemsedin Op-ed: Peaceful Transition to Democracy in Ethiopia: Why is it so Enigmatic? <https://addisstandard.com/op-ed-peaceful-transition-to-democracy-in-ethiopia-why-is-it-so-enigmatic/ *addisstandard*/> August 26, 2020. see New Appointments see Defense Minister, Addis Ababa Mayor Removed *addisstandard*/ August 18, 2020/ <https://addisstandard.com/news-update-new-appointments-see-defense-minister-addis-abeba-deputy-mayor-removed/>.

97 Interview with a senior political analyst, 26 May 2021, Addis Ababa, Ethiopia.

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war against Tigray and the TPLF.[98] Amidst the winds of change, the Eritrean regime declared 'Weyane/TPLF's game is over.'[99] As if this was not enough and regional states are independent, heads of Oromia and Amhara regional states frequently visited Eritrea's capital Asmera, details of which are little known to date. Ethiopian constitution requires that agreements concluded by the executive have to be approved by parliament. Yet, this has not been done and little was known about the deals until the outbreak of the war. Although Tigray shares long borders with Eritrea, the federal government kept on isolating Tigray during the process. The TPLF was quick to smell what is coming from different sides and mobilised its supporters saying 'stay united or we will perish' and prepared itself for the worst. In an interview with Kjetil Tronvoll (2020) Dr. Abraham Tekeste Tigray's then deputy President and former Minister of Finance between 2016 and 2018, stated:

> The blockage of main road infrastructure south and west through Amhara regional state, impedes the trade in/out of Tigray. All trade has to be routed through Afar road, which incurs a higher cost… This is a federal highway, and the federal government accepts the blockage. The federal government thus *de facto* accepts that a partial embargo is put on us. … Tigrayan, non-Tigrayan, and foreign companies are all intimidated if they want to do investments in Tigray, they will hear that this is not acceptable. If they are foreigners, they first try by persuasion to convince them to invest in other regions instead. If not heeded to, they will use measures that are more explicit. Like denying the Chinese business delegation to travel to Tigray, for instance local Ethiopian investors are directly threatened and intimidated to drop their plans… PM Abiy also threatened to hold back the federal grant to Tigray regional state. Abraham underlines: "He has not done it yet. But he has threatened us many times. He wants TPLF to join PP and submit to the new politics, stop criticizing his performances[100]

98 Nebiyu Sihul Mikael Is Tigray really a drop in the bucket for Abiy's administration? https://www.ethiopia-insight.com/2019/01/17/is-tigray-really-a-drop-in-the-bucket-for-abiys-administration/ January, 17, 2019.

99 https://m.facebook.com/story.php?story_fbid=pfbid06CQ5UKpUee593unNHdK8iUWtkNA70GD83geTT5UJwY3R22ZG17yBhAbn4tKNeJGml&id=100056994202753&mibextid=Nif5oz; see also http://awate.com/the-game-is-over/ speech by Eritrean President on June 20, 2018.

100 Quoted in Kjetil Tronvoll, 'In Depth Analysis: Towards Tigray Statehood?' *Addis Standard*, May 4, 2020.

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On Addis Standard (2020), authors wrote:

> For TPLF, Abiy has committed the greatest betrayal against them. They conceded without bloodshed but were constantly demonised, attacked and bullied by their former comrades. They were blamed for all the bad acts and kicked out of federal power through dismantling EPRDF. They feel that Prosperity Party is threatening even their mandate to rule their own region with the rise of personal authoritarianism and continues silencing of regional voices.[101]

Adding fuel to fire, the federal government brought the narrative Oro-Amhara (ODP-ADP) coalition is a majority, Tigray is only 6% of the country and began implementing ruthlessly the six percent narrative. Yet this was just a prelude to a much uglier reality that led to the eventual expulsion of legitimate Tigrayan representatives from nearly all federal institutions. Ethiopian then officially became a federation without Tigray. Tigrayans then brought the slogan why become six percent when we can be hundred percent with a state of our own. Ethno national conflicts are often triggered by the perceived or real threat coming from the central government in which the groups political, economic and collective security is put at risk either by the action or omission of the centre or could relate to violation of autonomy as a result of breach of federal pact.[102] This came a few days before the November 2020 war when the federal government through the HoF established an interim centrally appointed puppet government for Tigray, accountable to the federal government outlawing the 'elected'[103] regional state. Self-rule has been replaced by centrally appointed agents.

In short, Tigray has no legitimate representatives in the federal institutions both in the executive and the two chambers. Decisions of the federal government are considered as illegitimate in the eyes of the majority of the Tigrayans and the regional state.[104] Ethiopia is operating without Tigray. Key principles of federalism: representation in federal institutions and self-rule have been violated.

101 Anonymous, 'Beyond the Constitutional Debate: Unpacking the Political Conundrum,' *Addis Standard* 25 May 2020.

102 McGarry and O'Leary, *supra* note 79.

103 Federal government outlawed elections conducted in Tigray in September 2020 for lack of mandate. Tigray argues, self-government without doubt implies conducting regional state elections.

104 Focus group discussion, Mekelle March 2020.

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In advanced federations of the west such as Switzerland and Belgium where cleavages exist a more inclusive centre ensuring equal representation of groups, consensus decision making and genuine autonomy provide ideal ways to address group concerns.[105] In addition, the respective constitutions ensure that when federal government enters into a treaty that impacts self-government, it is required to consult with the states. These principles ensure federal government does not compromise self-government in the name of exercising foreign policy. In Canada, the French speaking province (Quebec) enjoys more autonomy than other provinces. Within the comparative federalism discourse Quebec thus enjoys an asymmetric autonomy in response to an age-old demand for self-government and self-determination.[106]

3.2 *Secret 'War Pact with Eritrea'*

Following the election of Dr. Abiy Ahmed as chairman and PM of Ethiopia, there has been a visible political development that aimed to bring 'peace' in the Horn of Africa. The opening of the Zalambessa front on the new year of Ethiopia Meskerem 1, 2011 E.C (September 9, 2019) was in many ways symbolic showing how much the people and the army on both sides were sick and tired of the two-decade old border closure. This was indeed PM Abiy's New Year gift to Ethiopia and Eritrea. But the hope for peace and open border policy was only for a short time. Towards mid-2019, the borders were closed from the Eritrean side. Nothing was also reported to the parliament on the details of the agreements made between the two governments. It was left to the leaders of both countries. Ethiopian constitution requires that any international agreement concluded by the executive has to be submitted to the federal parliament (Article 55 sub 12). For the TPLF that remained suspicious from the outset, the secret nature of the agreement and the frequent visit by regional states sent the message that the Addis Ababa- Asmera- Bahr Dar axis is a secret pact to isolate and attack the TPLF. For many Tigrayan observers even outside of the TPLF, the post 2018 political developments in Ethiopia and the Horn is reminiscent of the years that followed the death of Emperor Yohanes IV. Internal and external forces are doing their best to attack the TPLF and marginalise Tigray. Right or wrong, this was the dominant perception on the mind of Tigrayans in 2020 and sadly that is what happened subsequently.[107]

105 Arend Lijphart, Consociationalism and Federalism: Conceptual and Empirical Links, 12:3 *Canadian Journal of Political Science*: (1979)pp. 499–515.

106 Ronald Watts, *Comparing Federal Systems*, 3rd edn. (Montreal and Kingston, McGill, Queen's University Press, 2008).

107 Focus group discussion held in March 2020 in three zones of Tigray (West, central and Mekelle).

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What do Abiy and Esayas have in common? The Eritrean regime suffered in the hands of the TPLF led EPRDF in the bloody border war (1998–2000). It had old grudges to revenge. The regime in Eritrea also thinks that TPLF is an obstacle to its ambition for regional hegemon in the Horn of Africa. The regime found the new leader in Ethiopia can be his instrument for his project in the region and in Ethiopia. Abiy thinks the TPLF is the major obstacle to his vision of centralised Ethiopia. Tigray has always been on the side of political autonomy for regional states. TPLF is thus the common target hence the orchestrated early November 2020 war. The *Foreign Policy* got this right:

> Abiy, believing he could defeat the Tigrayan guerrillas in a matter of weeks, as he predicted last November, sees Tigray as a barrier to his centralizing agenda. Abiy has rejected Ethiopia's loose federal structure of different nationalities. In preparation for his struggle with Tigray, Abiy made an alliance with the Eritrean leader Isaias Afwerki. His pact with Isaias, which won Abiy a Nobel Peace Prize in 2019, was essentially a war pact.[108]

As later developments proved, the Abiy-Esayas- Bahr Dar axis was secret pact to dismantle the TPLF and decimate Tigray.[109] It was in this context that Abiy mobilises the federal army, Amhara special police and the Eritrean army in the name of 'law enforcement'[110] to decimate the entire people and the region.

Tigray regional state that shares long border with Eritrea brings a much more complicated reality.[111] The war between the federal government and Tigray is a major anomaly and Ethiopia's political disaster in modern history. When the war broke out the Eritrean government joined the Ethiopian defence force

108 Robert Kaplan, 'Ethiopia's Problems are not Post-Colonial' https://foreignpolicy.com/2021/07/09/ethiopias-problems-arent-postcolonial/.

109 Yosief Ghebrehiwet. The 'peace' that delivered total war against Tigray, https://www.ethiopia-insight.com/2021/01/23/the-peace-that-delivered-total-war-against-tigray/ 23 January, 2021.

110 See press release at https://inquiry.achpr.org/elementor-536/ as accessed on 23 June 2021; 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*; See also Declan Walsh and Abdi Latif Dahir Why Is Ethiopia at War With Itself*? The New York Times* https://www.nytimes.com/2020/11/05/world/africa/ethiopia-tigray-conflict-explained.html 5 November 2020. Declan Walsh, *From Nobel Hero to Driver of War, Ethiopia's Leader Faces Voters https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html.*

111 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.

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and entered Tigray crossing international boundary causing the worst form of human right abuses widely reported by credible human right institutions and the international media.[112] The Ethiopian government invited a foreign army to its own internal problem, instead of defending the territorial integrity of the country.[113] Ethiopian government initially denied the involvement of 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.[114] 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.'[115]At the time of the writing, ironically, Ethiopia is held hostage by Eritrea.

3.3 *'Law enforcement' or War Crime and genocide?*

'If Ethiopia stops fighting, the war ends, there will be peace, but if Tigray stops fighting then it will extinct' was one of the popular slogans by Tigrayan activists at the height of the war between the federal government and Tigrayan combatants in 2022. It does capture the essence of the story from the Tigrayan side: struggle for survival as community. One of the prime functions of the state is to have monopoly over the use of force and ensure law and order in its territory. Whether federal or unitary, one of the defining features of the state is to provide safety and security to its citizens. The war in Tigray and its devastating impact forces one to ask, what happens if the state itself becomes

112 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%2Dhit%20Tigray%20region.&text=Both%20countries'%20troops%20have%20been,and%20the%20abuse%20of%20refugees. 2 April, 2021.

113 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=9rsG08FSsKA.

114 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; Eritrea confirms its troops are fighting in Ethiopia's Tigray For months, both sides denied Eritreans were involved, contradicting testimony from residents, rights groups, aid workers, and diplomats, https://www.aljazeera.com/news/2021/4/17/eritrea-confirms-its-troops-are-fighting-ethiopias-tigray 17 April 2021.

115 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.

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the main *source of insecurity* and commits ethnic cleaning and genocide, if it brings terror, not security?[116] The very assumptions of the role of the state turn upside down and as shown below nearly all known human rights provisions recognised in domestic and international laws have been violated by Abiy and his allies in Tigray.

The most fundamental and immediate cause of the antagonism between the federal government and Tigray is the 'law enforcement' narrative of the central government. Owing to its strategic location and proximity to the Red Sea and the Middle East, the present day Tigray and Eritrea (as one region before 1890) was the site of countless local, regional and international wars.[117] Tigray was a treadmill of war with massive costs to human life and the environment as documented in *Evil Days*[118] (*1991*), *Surrender or Starve*[119] (*1988*) and *Modern Abyssinia*[120] (*1901*) among others. Menlik II has marched to Tigray twice, once to subdue local nobility and the second to the battle of Adwa. He had with him hundreds of thousands of peasant army that depend on local supply for their survival leaving grain and seed stocks empty, and slaughtering the oxen used for ploughing.[121] 'Indeed, pillaging from the peasants and collecting war booty were the soldiers' chief incentives for joining the army'.[122] This trend continued under Haile Selassie during the early 1940s. As a result of the Emperor's post war policy 'The peasants were disarmed, dispossessed of their land, and burdened by a brutal onslaught of taxation that filled the coffers of the emperor, the local nobility in Tigre, and the Coptic church.'[123] The effect of Derg's brutal war (1974–1991) and its *villagisation* program that aimed to drain the region of its people was devastating still fresh in the mind of many Tigrayans. Tigray as the founder of the Ethiopian State resisted for long, centralisation of power in Addis Ababa and opted for political autonomy. The

116 Max Weber, *Politics as a Vocation* (Politik als Beruf), in Gesammelte Politische Schriften, Munich, 1921) pp. 396–450. Jon Sharman, Thousands thrown into Concentration camps and others butchered in Ethiopia's ethnic purge https://www.independent.co.uk/news/world/africa/ethiopia-tigray-ethnic-cleansing-concentration-camps-b1914876.html?fbclid=IwAR03heju9ZL7I2KmVmK_wEWczYdwtzWCRt_bW8OTuELRCVGndmyWLRDggS0 9 September 2021.

117 Haggai Erlich, *Ras Alula and the Scramble for Africa: A Political Biography- Ethiopia and Eritrea 1875–1897.* (NJ: Lawrenceville, The Red Sea Press, 1996).

118 Alex de Waal, *Evil Days: 30 Years of War and Famine in Ethiopia*, An African Watch Report (1991).

119 Robert Kaplan, *Surrender or Starve: Travels in Ethiopia, Sudan, Somalia and Eritrea* (New York: Vintage books, 1988).

120 Augustus Wylde, *Modern Abyssinia* (London: Methuen and Co. 1901).

121 Firebrace quoted in Kaplan, *supra* note 119 p.100.

122 Young, *supra* note 3 p.46.

123 Kaplan, *supra* note 119 p.100.

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reaction from the centre has always been not dialogue and political solution but force it to submission using war.[124] Robert Kaplan wrote, all these wars and neglect that target the region and its population were part of central government's project of 'surrender or starve.'[125]

Surrender or starve policy is now taken to a new brutal level under Abiy Ahmed as it becomes his official narrative. On November 4, 2020, a mutually destructive war broke out between the federal government and Tigray regional state. The federal government stated TPLF has attacked the Northern Military Division that was stationed in Tigray and thus declared what it called 'Law Enforcement Operation'[126] to bring culprits to Justice although this narrative was contradicted by the Prime Minister himself who said on a different date 'our goal was to make Mekelle Beshasha'[127] (a little village where Abiy came from), the then Amhara region police head Abere Adamu that said 'preparations were complete to launch an attack on TPLF' and senor military general of the regime that said 'we have met the goal of destroying Tigray's economic and political infrastructure.[128] The choice of the day is not arbitrary. It coincided with the United States presidential election where all eyes focused on. It is also harvesting season in most parts of Ethiopia. Abiy's plan speaks for itself. When the war broke out peasants in Tigray cannot harvest and no media will cover the hidden war as the focus was on the US presidential election. Telephone, electricity, internet and other media sources were blocked to make sure that the largest and deadly war in the world remains hidden and unreported. Banks operating in Tigray were blocked by the National Bank and individuals' institutions and companies were not allowed to withdraw money. While the international community was willing to provide aid and medical supplies, Ethiopian government sieged Tigray and rejected all such efforts until mid-2022. All state-owned media and the centrist elite kept narrating the 'law enforcement

124 Young, *supra* note 3.

125 Kaplan, *supra* note 119, p.93.

126 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; for a detail account of the different narratives about the start of the war see Antony Shaw, 'Ethiopia at War' in The Tigray War and Regional Implications v.1 (Eritrea Focus and Oslo Analytica, 2021) https://asenatv.com/wp-content/uploads/2021/07/The-Tigray-War-and-Regional-Implications-Volume-1.pdf.

127 See his speech July 1, 2021 speech https://www.youtube.com/watch?v=sJPw2EwNhx4.

128 Amhara region Police head Abere Adamu stated preparations were complete to launch an attack against TPLF https://addisstandard.com/news-analysis-amhara-region-police-chief-reveals-how-regions-police-force-guided-federalsteel-clad-mechanized-forces-to-join-war-in-tigray/ 4.1.2021; see his speech at Abere Adamu, Amhara Police Commissioner, revealed how they start the war on Tigray w/ ENDF in Humera – YouTube; See General Abebaw's interview at https://www.youtube.com/watch?v=Bah7nQacRIA.

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operation' but as the evidences showed it was not: the war targets the entire population and the region.

The African Union (AU) and other sources have challenged the government's narrative. The AU issued 'On 4 November 2020 the Government of the Federal Democratic Republic of Ethiopia launched a military offensive against the TPLF, this was followed by attacks on the Northern Command of the Ethiopian National Defence Forces by the TPLF on the same day.'[129] The *New York Times* also wrote, 'Mr. Coons, a Democrat warned Abiy about dangers of war in Tigray way before November 4 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.'[130] It is now clear that the TPLF and the Federal government have been at war since Abiy assumed power in 2018 and what happened on November 4, 2020 is culmination and build-up of what was already building since 2018. As outlined above, it was a consequence of years of misunderstandings between the two government that revolve around dissolution of EPRDF and formation of PP without creating sufficient consensus, Tigray's insistence on the right to self-government and Abiy's preference for central control of regional states.

As the evidences show, the federal government's claim as 'law enforcement operation' is a disguise to a much more devastating humanitarian and civilian disaster in the region. Amhara forces have joined the federal government's 'law enforcement operation' and annexed big territory on the west and southern part of Tigray and has been accused of ethnic profiling and 'ethnic cleaning.'[131] The involvement of the Amhara region special police remains contrary to the mandate clearly stipulated in the constitution that states that the role and

129 See press release at https://inquiry.achpr.org/elementor-536/ as accessed on 23 June 2021.

130 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*; See also Declan Walsh and Abdi Latif Dahir *Why Is Ethiopia at War With Itself? The New York Times* https://www.nytimes.com/2020/11/05/world/africa/ethiopia-tigray-conflict-explained.html 5 November 2020.

131 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; Nima Elbagir, Katie Polglase, Barbara Arvanitidis, Gianluca Mezzofiore and Laura Smith-Spark, Men are marched out of prison camps. Then corpses float down the river https://edition.cnn.com/2021/09/05/africa/ethiopia-tigray-humera-sudan-bodies-cmd-intl/index.html.

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mandate of the special police in regional sates is limited within the territory of the (Amhara) regional state (Article 52 of the federal Constitution).

Ethnic profiling of Tigrayans started way before the official war and continued throughout 2021 and 2022.[132] Tigrayans working in different institutions of the country were dismissed without cause and sent to concentration camps with many of them not brought to any court.[133] Nearly all businesses owned by Tigrayans throughout the country were shut and their bank accounts blocked.[134] As a result of the war, an estimated two million people have been internally displaced from their homes. 600,000 civilians have perished and some sixty-five thousand residents have become refugees in the Sudan. Nine hundred thousand Tigrayans have been exposed to manmade famine.[135] According to USAID 'Of the total population in Tigray, 5.2 million people are facing hunger and requiring emergency food assistance. With 90 percent of the population in extreme need of humanitarian aid, the stakes could not be higher.'[136] Above all the war targeted contrary to laws of war civilians and civilian institutions such as schools, universities, hospitals and factories. Nearly 90 percent of such civilian institutions and crops have been looted and dismantled. Civilians have been massacred throughout the regional state[137]

132 Purely ethnic profiling AP news at https://apnews.com/article/africa-race-and-ethnicity-racial-injustice-b1a97f2569592f499565bfb6e673dc3d 13 July 2021.

133 Simon Marks and Abdi Latif Dahir *As War Goes On in Ethiopia, Ethnic Harassment Is on the Rise https://www.nytimes.com/2020/12/12/world/africa/Ethiopia-Tigray-ethnic.html*; Giulia Paravicini, Dawit Endeshaw and Katharine Hourld Routers special Report Ethiopia's crackdown on Ethnic Tigrayans Snares Thousands https://www.reuters.com/investigates/special-report/ethiopia-conflict-tigrayans/ Purely ethnic profiling AP news at https://apnews.com/article/africa-race-and-ethnicity-racial-injustice-b1a97f2569592f499565bfb6e673dc3d.

134 Lucy Kassa, Ethiopia's Tigrayans rounded up, mutilated and dismembered in civil war ethnic purge https://www.telegraph.co.uk/world-news/2021/09/05/ethiopias-tigrayans-rounded-mutilated-dismembered-civil-war/.

135 According to some sources Abiy's recent war has caused death to millions of people in Ethiopia and though much is talked about Ukraine, Tigray's war remains world's largest one. See Mark Green, 'Ukraine Understandably the Focus, but Ethiopia's Tigray Conflict is World's Largest' at https://www.wilsoncenter.org/blog-post/ukraine-understandably-focus-ethiopias-tigray-conflict-worlds-largest 25 October, 2022; Jaclynn Ashly, Tigrayans in Ethiopia fear becoming "the next Rwanda" *African Arguments* https://africanarguments.org/2021/07/tigrayans-in-ethiopia-fear-becoming-the-next-rwanda/?fbclid=IwAR1-QqxqDYF51OAxfnC-FGxZ5K8fBrkUnnCOcc4BdZBidmD6cyUKarM_0G4.

136 See US-EU joint Statement https://www.usaid.gov/news-information/press-releases/jun-10-2021-us-eu-joint-statement-humanitarian-emergency-tigray 10 June 2021.

137 https://www.hrw.org/news/2021/03/05/ethiopia-eritrean-forces-massacre-tigray-civilians.

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with hundreds of thousands of civilians summarily executed. Sexual violence and gang-rape have been committed on women. 'Our problem is with your womb. Your womb gives birth to Woyane [a derogatory term used to refer to the TPLF]. A Tigrayan womb should never give birth'[138] a Tigrayan woman was told after she was gang-raped and mutilated. Hers is just one of many similar reports emerging daily from Tigray. Not even religious institutions, the dead and sacred places were spared: the *Al Nejashi* mosque one of the oldest in the world was subject of attack,[139] Axum, the Christian holy city and world heritage site was site of massacre.[140] Bodies found in the Mekelle martyrs' monument were desecrated. Nearly all clauses of the known domestic and international human rights treaties were violated.[141] What happened in Western Tigray in particular as documented in the joint investigative report by Human Rights Watch and Amnesty International show the regime and its allies aim was 'to erase Tigrayans from this land.'[142] It is traumatic to read the report and one can imagine what it meant to the victims and their families.

Starvation is also used as weapon of war.[143] The axis created among the federal government, Eritrea, Amahara and Afar forces left Tigray under complete siege since June 2021 all the way to 2022 (with a few exceptions between

138 Luck Kassa 'A Tigrayan womb should never give birth': Rape in Tigray https://www.aljazeera.com/news/2021/4/21/a-tigrayan-womb-should-never-give-birth-rape-in-ethiopia-tigray.

139 Tigray crisis: Ethiopia to repair al-Nejashi mosque https://www.bbc.com/news/world-africa-55530355.

140 Ethiopia's Tigray crisis: How a massacre in the sacred city of Aksum unfolded https://www.bbc.com/news/world-africa-56198469 26 February 2021.

141 The Ethiopian ad Eritrean army, Amhara special forces have jointly been accused of multiple massacres, starvation and sexual violence on civilians in Tigray. Tigrayans lost 90% the harvest and 80% of livestock as a result of looting and burning by the same forces. 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 03 juin 2021; Abiy's Administration in a Serious Trouble as Wars Intensify in all Fronts https://ethioheadlines.com/abiys-administration-is-in-full-crisis-internal-fighting-is-intensifying/ 17 May 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.

142 See Human Rights Watch and Amnesty International Joint Report 'We will Erase you from this land' Crimes Against Humanity and Ethnic Cleansing in Ethiopia's Western Tigray Zone, https://www.hrw.org/report/2022/04/06/we-will-erase-you-land/crimes-against-humanity-and-ethnic-cleansing-ethiopias April 6, 2022.

143 Helen Clark and Rachel Kyte, In Tigray, Sexual Violence Has Become a Weapon of War Foreign Policy https://foreignpolicy.com/2021/04/27/in-tigray-sexual-violence-has-become-a-weapon-of-war/.

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April-July 2022).[144] The siege makes no distinction between civilians and non-civilians and all humanitarian aid, basic services including medicine was blocked. The irony of which is the international community was willing to provide the much-needed aid and medicine but the regime was not willing to allow it enter Tigray. This demonstrates beyond doubt, the target is not TPLF as claimed by the regime but the entire people and the region.[145] USAID and OCHA have reported: 'critical aid is being blocked and prevented from saving lives.'[146] This was preceded by destruction of objects owned by Tigrayan peasants as the war uprooted the entire Tigray.[147] Food stores, warehouses, crops and domestic animals have been looted and destroyed by Eritrean and Ethiopian forces.[148] The siege made access to all much needed services such as banks, electricity, health facility, education, transport impossible and thus the entire region was deliberately made a victim of mass starvation. As one expert noted, if this is not war caused mass starvation and famine, 'the word

Katharine Houreld and Giulia Paravicini, UN official says starvation is being used as weapon of war in Tigray https://www.ctvnews.ca/world/un-official-says-starvation-is-being-used-as-weapon-of-war-in-tigray-1.5469072; Andrew Rettman https://euobserver.com/world/152370?fbclid=IwAR2jXxlunITZ8VfiBZxTCNGueg4J420ptjsVxIjf8n37fcZSFt8fAfhvXK0.

144 Editorial, Starvation has become a weapon of war in Ethiopia. U.S. action is urgent https://www.washingtonpost.com/opinions/global-opinions/ethiopia-tigray-famine-eritrea-us-action-urgent/2021/06/15/a20629be-cd2d-11eb-8014-2f3926ca24d9_story.html.

145 For its genesis see Ethiopia's hate media at https://tghat.com/2022/06/22/ethiopias-hate-media-soundtrack-to-tigray-genocide/ 15 November 2022.

146 https://twitter.com/PowerUSAID/status/1408479282784047109?s=20; OCHA (2021) Ethiopia – Tigray Region Humanitarian Update, Situation Report 4th February, Available at: https://reliefweb.int/report/ethiopia/ethiopia-tigray-region-humanitarian-update-situation-report-4-february-2021.

147 See Human Rights Watch Report at https://www.hrw.org/tag/tigray-conflict;_World Peace Foundation (2021) Starving Tigray: How Armed Conflict And Mass Atrocities Have Destroyed An Ethiopian Region's Economy And Food System And Are Threatening Famine, Available At: https://sites.tufts.edu/wpf/files/2021/04/starving-tigray-reportfinal.pdf.

148 World Peace Foundation (2021) Starving Tigray: How Armed Conflict And Mass Atrocities Have Destroyed An Ethiopian Region's Economy And Food System And Are Threatening Famine, Available At: https://sites.tufts.edu/wpf/files/2021/04/starving-tigray-report-final.pdf; Reuters Staff, 'Hundreds Of Buildings Burned Around Tigray Town, Research Group Says,' Reuters, February 25, 2021,; 'Ethiopia: 'Hundreds Executed' In Tigray,' Sky News, Youtube, March 16, 2021.; De Waal (2021) 'The Mango Orchards Of Zamra, Tigray,' World Peace Foundation, March 3, 2021, Available at: https://sites.tufts.edu/reinventingpeace/2021/03/03/the-mango-orchards-of-zamra-tigray/.

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has no meaning.'[149]Starvation as a weapon of war is crime under the Geneva Convention and its Protocols.[150]It is also a war crime under the Rome Statute.[151]

One should note that alongside the brutal war, those in power and their media have also been laying the ideological foundation for genocide and crimes against humanity. The centrist elite in power emerged with the most destructive and Rwanda like narrative making 'the other' weed or monster that had to be eliminated. Government's advisor to the Prime Minister said:

> From now on, we must ensure that people who look like them are not created. As you know after the fall of the Satan, there was nothing like Satan that was created. Satan was the last of his kind and they must also remain the last of their kind. There should be no land in this country that can sustain this kind of weed/Monster. People like them should not be born in this country ever again. They must be expunged and erased not just from the institutional registers but also from peoples' consciousness and memories.[152]

Abiy and the centrist elite's grand plan is 'the actual destruction of the TPLF, and the possibility of making sure no Tigrayan organisation (or even the region) could ever function effectively again, by destroying its administration, economy, infrastructure, culture, and even its population.'[153]Ethiopia's army General Abebaw Tadesse in an interview said, 'the plan of the war was to destroy Tigray's economy, its leaders, infrastructure… and we have done that effectively.[154] When such genocidal ideology becomes the ruling elites' framework and is propagated through state owned media, the consequence speaks for itself. Pekka Haavisto, a European Union envoy who visited Ethiopia in February 2021, told the European Parliament that Ethiopian leaders had told

149 Alex De Waal, 'Steal, Burn, Rape, Kill' London Review of Books 47:12 (2021) https://www.lrb.co.uk/the-paper/v43/n12/alex-de-waal/steal-burn-rape-kill.

150 See: The Geneva Convention, Article 54(1) of Protocol One and Article 14 of Protocol Two prohibit starvation as a method of war and method of combat, respectively.

151 The Rome Statute of the International Criminal Court, Article (8) (2) (b) (xxv) and (8) (2)(e)(xxv), at: UNGA, Rome Statute of the International Criminal Court (17 July 1998; last amended 2019).

152 See Daniel Kibret's speech in Amharic https://www.youtube.com/watch?v=nQluyj1iybs September 2021.

153 Antony Shaw, 'Ethiopia at War' in The Tigray War and Regional Implications v.1 (Eritrea Focus and Oslo Analytica, 2021) https://asenatv.com/wp-content/uploads/2021/07/The-Tigray-War-and-Regional-Implications-Volume-1.pdf p.62.

154 See General Abebaw's interview at https://www.youtube.com/watch?v=Bah7nQacRIA.

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him 'they are going to wipe out the Tigrayans for 100 years.'[155] Tragic enough although the government initially denied these serious accusations coming from human right institutions and credible persons, the Prime Minster himself appeared on TV in June 2021 and said, 'our goal was not to liberate Tigray. As a result of the war we have made Mekelle (Tigray's capital) equal with *Beshasha*. Tigray is not anymore center of gravity.'[156] He made it clear that it was not law enforcement but a war to decimate Tigray and Tigrayans.

Having witnessed all the human right abuses and the injustice, Abraha Belai (Tigrayan), staunch opponent of the TPLF for nearly two decades and who used to run an on line news media (*Ethio media*) appeared on online platform and said this is a crime of genocide committed on my people.[157] If these crimes have outraged Abraha Belai, one can imagine how ordinary Tigrayans have been outraged even more. The outcome, Tigrayans from all walks of life ranging from university professors, diaspora to retired army generals to opposition parties,[158] ordinary men and women joined the popular resistance in hundreds of thousands and changed the course of the war at least since June 2021 where they liberated large part of the regional state from all occupying forces pushing the war to the Amhara and Afar regional states.[159] Repression breeds anger and fuels ethno nationalism. Internal differences whether of Belai or the opposition parties did not matter this time around. They all united under Tigray nationalism to end the atrocity. As Walsh wrote 'Tigrayans drew on their experience of fighting a brutal Marxist dictatorship in Ethiopia in the 1970s and 1980s… Then, Tigrayan intellectuals used Marxist ideology to bind peasant fighters to their cause… But this time, the Tigrayan fighters are largely educated and hail from the towns and cities. And it is anger and atrocities, not Marxism that drew them to the cause.'[160] As illustrated already, the regime, its elite, and the media targeted Tigray and its people. The security and existence

155 Declan Walsh, *From Nobel Hero to Driver of War, Ethiopia's Leader Faces Voters https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html*.

156 See his speech July 1, 2021 speech https://www.youtube.com/watch?v=sJPw2EwNhx4.

157 See his interview Quo Vadis Ethiopia: Tigray as a Lens https://www.youtube.com/watch?v=808N7jI-a9I where he says, he opposed TPLF/EPRDF under normal politics . Ethiopia under Abiy is undertaking an abnormal political system that waged a genocide war.

158 Leaders of Salsay Weyane and Tigray Independence movement joined the youth alongside the TPLF.

159 Defeat in the mountains: Tigrayan forces have routed the Ethiopian army https://www.economist.com/middle-east-and-africa/2021/07/01/tigrayan-forces-have-routed-the-ethiopian-army.

160 Declan Walsh, How Local Guerrilla Fighters Routed Ethiopia's Powerful Army New York Times https://www.nytimes.com/2021/07/11/world/africa/tigray-guerrilla-fighers-ethiopia-army.html.

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of the people has been threatened more than ever before. The siege, the ethnic cleansing, the countless concentration camps and the genocidal campaign speak for themselves. One should note, despite Jews ambition to have their own state way before twentieth century, it was Nazi led genocide during the Second World War that forced them to have their new nation state. It came as a result of their decision, never again.[161] Tigrayans are now saying 'never again.'

Some have already concluded that genocide has been committed in Ethiopia.[162] Others wrote, 'are Tigrayans in Ethiopia becoming the next Rwanda?'[163] Abiy's policy is thus a continuity of centrist elite's age old political project of 'surrender or starve' this time taken to a new level of savagery, Ethiopia devouring an entire people and the regional state.[164] The irony remains: the regime's behaviour is brutal enough that treats Tigray and its people as 'alien' (following its military defeat in Tigray and subsequent retreat to the Amhara region in June 2021, Abiy said, we have retreated to our base- making official that Tigray is alien land) as has been the case with past regimes and yet is not willing to let it go. The other irony is related to the role of the international community. Since Rwanda, there has been modest progress in the norms of international law to intervene in some country's affairs on the ground of responsibility to protect and humanitarian intervention. When a regime targets its 'own' people and causes sufferings as is the case in Tigray, the regime loses its legitimacy to rule as it failed to protect society and international community comes to its rescue. Somalia, Bosnia, Kosovo and Libya were the examples.[165] Nothing of this sort happened since November 2020 and as one expert made it clear 'now genocide can be negotiated, rape can

161 Yoram Hazony, *The Virtues of Nationalism* (New York: Basic Books 2018).

162 Nike Ching, US Calls Out Genocide, Atrocities Committed in 6 Countries https://www.voanews.com/usa/us-calls-out-genocide-atrocities-committed-6-countries; Matthew Holubecki, Alexandra Mathews, Call the Tigray crisis a genocide https://www.theeagleonline.com/article/2021/07/opinion-call-the-tigray-crisis-a-genocide Federica Iezzi (2021) Genocide in Tigray, Nena News, Available at: http://nena-news.it/focus-on-africa-genocidio-neltigray/; Aid to the Church in Need (2021) Ethiopia, 'Genocide is happening in Tigray', Aleteia, Available at: https://aleteia.org/2021/06/02/ethiopia-genocide-is-happening-in-tigray/.

163 Jaclynn Ashly, Tigrayans in Ethiopia fear becoming "the next Rwanda" *African Arguments* https://africanarguments.org/2021/07/tigrayans-in-ethiopia-fear-becoming-the-next-rwanda/?fbclid=IwAR1-QqxqDYF51OAxfnC-FGxZ5K8fBrkUnnCOcc4BdZBidmD6cyUKarM_0G4.

164 Kaplan blamed the military junta for 'devouring Tigray' that is the foundation of the Ethiopian state. Kaplan, *Supra* p.91.

165 Alex de *Waal and Sarah Nouwen* 'The Necessary Indeterminacy of Self Determination: Politics, Law and Conflict in the Horn of Africa' *27:1 Nations and Nationalism* (2021) 27:1p. 52.

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be permitted, starvation can be tolerated, food aid can be traded, looting and destruction by a rogue neighbouring state is endorsed.'[166] The norms of international law and human rights have been turned upside down. International community could not even push the regime to allow unhindered access and flow of humanitarian aid to the needy.

As the number of ethno national based liberation fronts' both globally and in Ethiopia show, claims for self-government and political autonomy are not withering away. Yet the current international law system remains inadequate and *ad hoc* when it comes to demands related to self-government and secession by ethno national groups. Unity, territorial integrity and state sovereignty are often entrenched norms with the international law system. Yet, these norms are not absolute. The developments since the Cold War show when states commit serious crimes against ethno national minorities such as causing humanitarian disaster, ethnic cleansing, war crimes and genocide, international community may intervene on the basis of humanitarian norms and the responsibility to protect. Such grounds of intervention outweigh the claim by the aggressor state to territorial integrity and state sovereignty.

There is also an emerging literature that demonstrates that secession and self-determination should not necessarily be tied to injustice caused by a state. While secession demands in many developing countries are caused by injustice, the Quebec and Scotland cases show injustice is not necessary to trigger self-determination and secession.[167] There is shift towards procedural than substantive checks to claims for self-determination and secession. What is needed is the ethno national or regional group subjects the self-determination and secession to a democratic process in the form of a referendum, willingness to negotiate with the center (sometimes through regional or international bodies), demonstrate semblance of stability, order and build functioning state institutions and go through a cooling off period to avoid emotional decisions.

3.4 *What Effect: Secession?*

An ethno national group's right to secede could be justified either as a remedial right, that is, when the group is deprived of basic rights, unilateral abrogation

166 Medhaniye Tadese, an expert on the Horn could not hide his disgust with the international community in October 2022 following the Pretoria deal between the federal government and TPLF.

167 Margaret Moore, 'Introduction, The Self-Determination Principle and the Ethics of Secession,' in Margaret Moore ed. *National Secession and Self Determination* (Oxford: Oxford University Press, 1998) p.6; Susanna Mancini, 'Rethinking the Boundaries of Democratic Secession: Liberalism, Nationalism and the Right of Minorities to Self-Determination,' 6:3–4 *International Journal of Constitutional Law* (2008) pp.581–583.

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of the federal pact or as a primary right as is the case in the Ethiopian constitution Article 39 without the need to prove injustice or deprivation.[168] Whether constitutions should regulate secession or not remains controversial.[169] International law does not permit or deny secession and remains ambiguous leaving the matter to manipulation unless the parent state consents to it as in the case of Eritrea (by Ethiopia in 1993) and South Sudan (by Sudan in 2011). Somaliland has remained *de facto* independent since 1991 for more than three decades exercising effective control over its territory and conducting regular elections but has not gained recognition.

Yet, it is vital to note that a lot has changed since the end of the Cold War. While only Bangladesh seceded in the 1970s, some twenty seven new states emerged in the early 1990s. Secession in a non-colonial context is thus on the rise unlike the pre-Cold War era[170] and dubbed by Choudhry as 'post-sovereign constitution making.'[171] Post-sovereign in the sense that previously a single people had absolute mandate to decide for itself while after the Cold War through the concept of political settlement and minority rights in constitutions, there is a more inclusive, multi-stage process of decision making that takes into account the context of pluri-nations. This concept has been reinforced by the decisions of the Canadian Supreme Court on Quebec and International Court of Justice on Kosovo.[172] In the former, the Court took into account Quebec's interest alongside the rest of (English speaking) Canada.

Allen Buchanan has developed just-cause or remedial right theory of secession to fill the gap in international law.[173] He argued a group has a right to secede only if either (a) it is systematically oppressed or exploited, or (b) had its territory been unjustly annexed or (c) ethno national groups autonomy has systematically been violated. Others have added 'choice theory' that despite absence of violation of any of the above conditions recognise the right to

168 Allen Buchanan, 'Theories of Secession' 26:1 *Philosophy and Public Affairs* (1997) pp. 31–61.

169 Riegl Martin, and Bohumil Dobos eds., *Unrecognized States in the 21st Century* (Cham: Springer 2017).

170 Glen Anderson, 'Unilateral Non-Colonial Secession and Internal Self-Determination: A Right of Newly Seceded Peoples to Democracy?' 34:2 *Arizona Journal of International and Comparative Law* (2017) p. 2.

171 Sujit Choudhry, 'Secession and Post-Sovereign Constitution-making after 1989: Catalonia, Kosovo and Quebec' 17: 2 *International Journal of Constitutional* Law (2019) p.463.

172 ICGJ 423 (ICJ 2010), July 22, 2010, International Court of Justice [hereinafter Kosovo Opinion]; Judgment 42/2014.

173 Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2004).

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secede by a particular region or group so long as there is an express wish to that effect.[174] Democratic theory that focuses on the wishes of the people reinforces this position. Self-determination as it emerged in the French Revolution and applied thereafter entitles the nation to elect its own government through a democratic process and free itself from imperial rule.[175] Within comparative federalism the *compact theory* provides similar right.[176] The gist of the argument is that, contracting parties remain free to join or withdraw from such an association, if the other party violates the terms of the compact.

Comparative studies on federalism show there are three trends that explain the relationship between federalism and secession. Most federations are silent about secession and do not explicitly regulate it as in Germany, Australia and Switzerland. Some federations expressly prohibit secession (United States), the federation being called as 'indestructible union' after the Civil War.

The third approach is pragmatism. Some federations such as Canada although silent on the issue of secession have chosen a pragmatic pathway. Quebec held a referendum twice in 1980 with 59% saying 'no' while 40% 'yes' for secession. The defeat of the 'yes' group led to more centralisation that triggered a more aggressive reaction from Quebec leading to Quebec's quest for a second referendum in 1995.[177] Promises made before the first referendum to renew the federal pact and address Quebec's autonomy were betrayed by the federal government. In particular, Quebec's call for asymmetric autonomy and recognition as distinct nation was not welcomed by the federal government. In relation to the second referendum in 1995, the federal government requested the Supreme Court of Canada whether Quebec had the right to secede under the Constitution or international law and the Court ruled in 1998 (*Reference re Secession* of Quebec) that if Quebec citizens were to support secession on the basis of a *clear question* and with a *clear majority* vote, there is a constitutional obligation to negotiate a new pact and thus both the federal government and the state must negotiate leaving the matter for the political process to sort it out.[178] The Court identified federalism, democracy, constitutionalism and

174 D. Gauthier, 'Breaking Up: An Essay on Secession', 24:3 *Canadian Journal of Philosophy*, (1994) pp. 357–72.

175 Thomas Franck, 'The Emerging Right to Democratic Self-Governance' 86:1 *American Journal of International Law* (1992) pp. 46–91.

176 K. C. Wheare, *Federal government* (4th ed.) (Oxford University Press, 1963) p.87.

177 Francois Rocher and Elisenda Casanas Adam, 'Responding to Secession Referenda: Constitutional and Quasi Constitutional Change in Quebec and Scotland,' in Andre Lecours, Nikola Brassard-Dion and Guy Laforest eds. *Constitutional Politics in Multinational Democracies* (Montreal and Kingston: McGill-Queen's University Press, 2021) p.62.

178 George Anderson, *Federalism: An Introduction* (Oxford: Oxford University Press, 2008).

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minority rights to be the guiding principles. Thus, it is not a single sovereign but both the majority and minority that are required to make a compromise and even then Quebec's right to self-determination was given due consideration by the Court. Although the secessionists lost the vote, Quebec has gained substantial autonomy compared to other provinces of Canada resulting in asymmetric (Quebec enjoying more autonomy than other provinces) federation in 2006, where the federal government also conceded that constitutional amendment will not be made without the consent of Quebec.[179]

Following the collapse of Yugoslavia, Montenegro seceded from the parent state having fulfilled a 55% vote in favour which was agreed upon a head. The United Kingdom though a unitary devolved system had to allow a referendum in response to request for secession from Scotland in 2014 resulting in 55.3% 'no' and 44.7% in favour of secession with 84.5% voter turnout- one of the highest in recent history. There is the need to frame the referendum question as simple and clear. For example in the case of Scotland both governments agreed on the referendum question to be 'Should Scotland be an independent country? 'Yes/No.'[180] The procedure required a simple majority vote to decide the outcome. We should note, Quebec and Scotland's quest for secession is in many ways distinct. Both cases demonstrate that despite substantial support for secession, working and democratic federations do not lead to fragmentation. On the contrary, as seen in the former Soviet Union and Yugoslavia and despite express clauses for secession in the constitution of both countries, centralisation, denial and suppression lead to violence and fragmentation. Ethiopia's case is heading along the same pathway.

Tigray's case is beyond ordinary basic right or self-government deprivation to justify secession, although the matter has to finally be submitted to Tigrayans through a referendum. This is not an ordinary political conflict. There are clear evidences showing ethnic cleansing and genocide being committed on Tigrayans in addition to the violation of the federal principle. As a cohesive unit, Tigrayans have also been able to avert the threat of being wiped out from the face of the earth. Despite massive army and resource mobilisation and modern weapons, Tigrayans have succeeded to defend the regional state albeit as a huge cots. In as much as the suffering of the Jews under Nazi led to the emergence of Israel as a nation state, Ethiopia's genocidal war on Tigray has made every Tigrayan to decide 'never again.' Tigrayans have seen

179 Alain-G Gagnon and Richard Simeon, 'Canada' in Luis Moreno and Cesar Colino eds., *A Global Dialogue on Federalism: Diversity and Unity in Federal Countries* (Montreal and Kingston: McGill-Queen's University Press, 2010) p.119.

180 Rocher and Adam, *supra* note 176, p.51.

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with tier eyes, the federal army, military hardware and economy they built over the last three decades being used to destroy them. An independent investigation should be held and those responsible should be held accountable. To be sure, secession of South Sudan or Eritrea did not ensure good government in the two countries but Tigray unlike both countries is more homogenous and has centuries of experience with autonomous self-government that gives it the advantage to emerge as viable new nation state.

> ...after many years of nationalist wars in Eritrea and Tigray, *Adi Abo* (fatherland) is a fine word that thrills no one except the political entrepreneurs, and not all of them, for that matter... it is hard to speak about the existence of national consciousness unless it is entertained by the popular masses. That it has remained sheer musings of the elites in Eritrea and Tigray indicates its underdeveloped nature.[181]

This was what Alemseged wrote in 1998, a few months before the eruption of the Ethio-Eritrea war. Tigray nationalism has transformed itself owing to internal political dynamics within Tigray and in reaction to the threat coming from the federal government and other forces.

According to Tronvoll, if the present trend continues, Tigray fulfils to be a nation and could end up as a new state unless extra ordinary measures are taken. It has:

> a commonly shared historical narrative and myth of origin stretching back two millennia or more; a cohesive identity, common language and culture; and a homogenous population; a historical homeland saturated with blood by sacrifices made to defend it from foreign aggression throughout centuries; a political consciousness shaped by internal aspirations and external marginalisation; an economy and livelihood with great potential, but perceived to be held back by outsiders; and deep-rooted warrior culture and military capacity, in the face of felt victimhood and external security threats.[182].

181 Alemseged, *supra* note 86 p.169.

182 Kjetil Tronvoll, 'In-depth Analysis: Towards Tigray Statehood' *Addis Standard* https://addisstandard.com/in-depth-analysis-towards-tigray-statehood/ as accessed on 5 April 2021.

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As illustrated above, Tigray has all the fundamentals needed for a robust nationalist movement to take root that in response to the rise of authoritarian and genocidal regime lead to the emergence of a new state.

Religious leaders from all sects in Tigray have dissociated themselves from their counterparts in Addis Ababa accusing the latter of supporting the government's genocidal war. While earlier on there has been rural-urban divide on the question of whether Tigray needs to stay in Ethiopia, rural Tigray showing more sympathies with the Orthodox Church, old Abyssinia and the Ethiopian tradition, the urban elite was very sceptical, if not hopeless about Ethiopia since 2018. Abiy and Esayas's war uprooted rural Tigray more than anything else: its crops, animals, home, the family. The last vestiges of Abyssinia in rural Tigray are gone with the war. The social fabric is destroyed beyond repair. The federal government, Eritrea and regional states have put Tigray under siege. All public services have been cut. What else is left that connects Tigray and the rest of the country? The emerging narrative is profoundly rejection of Ethiopia and the regime.[183] The resentment is deep: 'both the federal government and the Amhara regional state by committing or omission have made Ethiopia *irrelevant* to Tigrayans. In the opinion of a senior analyst, 'If I cannot do business and live peacefully in the country, what is Ethiopia to me.'[184] One said, 'I cannot share same passport with those that raped my sister.'[185] Tigray's relative homogeneity and social cohesion compared to other regional states, regional state institutions and symbols (media and flag, cultural renaissance: *Ashenda, Meskel,* regional state map, powerful art and music that narrates Tigray nationalism) including the mushrooming social media activists (*digital Weyane*), newspapers and books in Tigrigna are also factors that are serving as a basis for the transformation of Tigray nationalism and the emergence of Tigray nation in search of its own state.

The war that broke out in November 2020 experts say was the last straw that broke the camel's back. Getachew Reda, member of TPLF's leadership said 'I was staunch supporter of Ethiopian state but the war made that position untenable. Now we are planning a referendum on Tigrayan independence.

183 Interview with Meresa Tsehaye a political science Associate Professor in Mekele University and Abraham Assefa, Mekele March 7, 2020.

184 Muluwork Kidane Mariam, interview February 20, 2020, Mekelle.

185 A physician and refugee in Sudan who treated raped women in the camp. https://www.bbc.com/news/world-africa-57818673 ESAT narrative of 95 to 5 million is replica of Derg's policy of let us drain the sea to kill the fish. https://www.tghat.com/2021/07/16/drain-the-sea-the-genocidal-call-broadcast-by-esat/?fbclid=IwAR0r59pLFHsMADccjgddlp-Y71pnL5_paQxHuYGkLFuYczCRPQ70AxIUpew In 2005 CUD kept on narrating 'Tigre wede Mekelle, Eka wede Kebele and that is exactly what happened in Gondar and Woldya.

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"Nothing can save the Ethiopian state as we know it, except a miracle,' he said. 'And I don't usually believe in them.'[186] This fact puts the TPLF that for long articulated TPLF as 'ethno nationalism in form, class in content' (to mean ethno nationalism is an instrument, not a goal hence its focus on eradicating poverty- the number one enemy of Ethiopia) between a rock and a hard place. If it feels it is losing its social base to the newly emerged radical parties, it will surely be pushed towards strong ethno nationalism abandoning its leftist ideology. Tigray nationalism appears at its peak and is not anymore imagined- it is getting concrete: map of Tigray is sold by way of souvenir in many shops in Mekelle. Military parades have become common phenomena. Artists seem to be reading the same book: singing very powerful songs that mobilise the people. Social media activists (popularly called *digital weyane*) actively promote Tigray nationalism and symbols of the struggle. For a careful observer, it is easy to smell a state in the making as if it does not care about Ethiopia's existence. As the chairman of the TPLF stated in his speech 'either the Ethiopian parliament should intervene and stop the madness at federal level or should make history acknowledging Tigray's independence.'[187]

3.5 *Identity: Collective Security, Dignity and Collective Self esteem*

Whether it is political power and resources alone or something else that drives ethno nationalism has always been contested. A large majority of the literature focuses on marginalisation from power and resources as the main drivers. The gist of the argument is that ethno nationalist entrepreneurs mobilise their supporters with the end to secure access to power and resources.[188] Yet, the passions and emotions attached with ethno national based conflicts are hard to explain using power and resource framework alone. The centralised nation state in a context of politically mobilised and territorially grouped sub state nationalism is perceived as a mask for the 'centrist elite's' culture, language, religion to become the national culture, language or religion.[189] In other words, the ruling elite which controls the state uses it not only to marginalise others from power and resources but also uses state institutions and policies to 'promote, consolidate and create a privileged position with respect to its identity and its manifestations. The state is defined as the expression of the

186 Declan Walsh, How Local Guerrilla Fighters Routed Ethiopia's Powerful Army New York Times https://www.nytimes.com/2021/07/11/world/africa/tigray-guerrilla-fighers-ethiopia-army.html.

187 Public speech by Dr. Debretsion Gebre Michael, Deputy President and chair of TPLF on the occasion of the 45th anniversary of the TPLF, Mekelle, Tigray, February 2020.

188 Gurr, *supra* note 18; Cederman and Wimmer, *supra* note 20.

189 Kymlicka, *supra* note 32, p.61.

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dominant group's nationhood.'[190] The left outs from the process (the ethno national minorities) are treated as second class and less worthy. At times, they are under threat of extinction from the state and the narrow interest that it promotes. It is not surprising then that the legitimacy of the government, its institutions, symbols and the values upon which it is established remain one of the sources of tension and at times the cause of its terminal crisis. Thus in addition to the marginalisation from power and resources, left outs struggle to regain lost social status and for group recognition and accommodation. The human needs theory better captures the essence as it goes much further than power and resource to include the need for collective security, right to exist as a group, prevention from threats of genocide and ethnic cleansing- the passions and emotions beyond the material interests[191] of ethno national minorities. Walsh rightly explained the Tigrayan popular resistance against the regime.

> Like a flood Tigrayans join the fight for honor. We saw how a scrappy Tigrayan force overcame one of the largest armies in Africa through force of arms and by exploiting a wave of popular rage. Going into the war, Tigrayans were themselves divided, with many distrustful of a governing Tigrayan party seen as tired, authoritarian and corrupt. But the catalogue of horrors that has defined the war – massacres, ethnic cleansing and extensive sexual violence – united Tigrayans against Abiy's government, drawing highly motivated young recruits to a cause that now enjoys widespread support.[192]

A young man fighting the regime was asked about the involvement of Eritrean mercenary army and Amhara special forces, his response was 'they are dying for money, we are dying for Tigray, the difference is visible, we will win.' The non-material aspects of conflict such as the need for collective security and existence as a group, the search for dignity and collective self-esteem, rich history (we were great and we want to be great again), claims by ethno nationalist groups to regain lost social status (dignity), in response to historical traumas on their identity also need to be taken note of.[193] Besides, the passions and emotions attached to identity if fuelled by some political and

190 *Ibid* p.62.

191 Walsh, *supra* note 27,pp.4–5.

192 Declan Walsh, How Local Guerrilla Fighters Routed Ethiopia's Powerful Army *New York Times* https://www.nytimes.com/2021/07/11/world/africa/tigray-guerrilla-fighers-ethiopia-army.html.

193 Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985).

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economic deprivations are more than enough to cause deadly conflicts. As Connor pointed, 'Men do not allow themselves to be killed for their interests; they allow themselves to be killed for their passions.'[194]

4 Conclusion

It is tragic that what initially was a political conflict between the federal government and Tigay regional state turned into an all-out war resulting in siege and ethnic cleansing of Tigrayans. The war did not happen all of a sudden. As outlined, it was the result of years of misunderstandings and federal government's misguided policy of centralisation and age-old policy of starve or surrender taken to a new level of savagery under Abiy: surrender or perish. There is a narrow room to consider asymmetric arrangement or a confederation if there is a will from both sides. For this to happen, the federal government should first reinstate the regional state self-government and ensure its legitimate representatives to have their right place in the federal institutions, release political prisoners, end all blockades and release the regional state's resources. Doing otherwise simply violates the constitutional principle of shared rule and self-rule and simply aggravates the on-going war between the federal government and the regional state leading to fragmentation. We have seen how nationalism transformed in Tigray: it began with modest tax and administration reforms in the 1940s and with the brutal measures taken by the then government came self-determination under TPLF. The social and political transformation since the war began in November 2020 is watershed. For every negative measure taken by the federal government, the political temperature of nationalism in Tigray increases making secession a near possibility. It is also not uncommon in European federation such as Belgium and Germany where international treaties that impact autonomy of subunits is done in consultation with those to be affected. As the war between the federal government and Tigray has also been significantly aggravated by the regime in Eritrea, Ethiopia's policy on Eritrea cannot ensure safety and security in Tigray. It is an anomaly, if not treason to see a federal government cooperating with another country to devour an entire regional state. Tigray has a high stake in Ethio-Eritrea relations. It cannot afford to be a stranger, it has to be a major actor.

The case study shows two major paradoxes: regime's determination to treat Tigray as 'alien' and use of all means of violence to crush demands for

194 Walker Connor, *Ethno nationalism: the Quest for Understanding* (Princeton NJ, 1994) p.206.

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self-government on one hand and lack of willingness to let Tigray go, on the other. Secondly, Since Rwanda, there has been progress in the norms of international law to intervene in some country's affairs on the ground of responsibility to protect and humanitarian intervention. When a regime targets its 'own' people and causes sufferings as is the case in Tigray, the regime loses its legitimacy to rule and international community comes to its rescue. Somalia and Kosovo were the examples. Nothing of this sort happened since November 2020 and Tigray' case shows ethnic cleansing, war crimes and genocide can be negotiated, rape and starvation can be tolerated despite millions perishing. The norms of international law and human rights have been turned upside down. International community has failed to make strategic intervention and as a result set worst precedent for tyrants elsewhere. International law must arguably defend unconditional right to internal self-determination including loose confederation to ethno national groups under peril and internationally monitored norm based, negotiated right to secession as is the case in Quebec should be adopted when regime's fail to respect constitutionally entrenched political autonomy and representation as is the case in Ethiopia. Unity and territorial integrity of a state are not absolute norms and when the state commits serious crimes such as ethnic cleansing, war crime and genocide, intervention on humanitarian grounds and responsibility to protect outweigh territorial integrity. Unity and territorial integrity cannot be a disguise to promote fascism in the 21st century.

As a way out, in the short run a more loose confederation in which decision making at federal level is more consultative and inclusive of all regional state actors could serve as a trust building process. The federal government should establish a very clear principle based intergovernmental relations for dealing with major political, economic, diplomatic and security issues with all regional states brought to the platform and making decisions based on consensus. Trust between the federal government and the regional state is broken. The federal government should use intergovernmental platforms inclusive of all regional states as means to mitigate existing tension and mistrust. Consensus based decision making also builds more trust and reduces the sense of alienation. Mobilised ethno national group that feels not represented in federal institutions has little incentive to stay in the union unless it is assured of some level of influence or even a veto at the center. It is also possible to introduce an asymmetric arrangement that allows Tigray to have more autonomy than other regional states. Historical and political factors justify such an arrangement.

Equally important is there are evidences indicating that ethnic cleansing and genocide have been committed in Tigray during the war. There is an urgent need to conduct an independent investigation by international human right

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organisations and based on the outcome the perpetrators have to face justice. Ensuring accountability is the only way to ensure that no such crimes will be committed in the future. It is not an ordinary political crisis. The regime has taken it to a new level through its brutal acts and those that suffered want to see justice served. Absent the above political measures, the likelihood of the emergence of a new Tigray nation state in the Horn seems inevitable. Such political development has the potential to set a new precedent for other ethno national groups in Ethiopia to follow suit facilitating the country's fragmentation.

Overall, the political developments since 2018 including the rise of an authoritarian elite, the regime's determination to use violence to crush political demands for self-government and inclusion and Tigrayan age old resistance to centralisation reinforced each other crystalizing Tigray's search for statehood. Asymmetric federalism that allows more political and policy autonomy to Tigray recognizing its distinct character and history or a loose confederation and collective decision making based on consensus at central level remain options short of secession. Yet, the federal government's extreme use of violence and its alliance with foreign force to decimate the region has made those options worthless. Tigray is left with exit as the most likely option.

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