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Matthew J. McCracken

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# ABUSING SELF-DETERMINATION AND DEMOCRACY: HOW THE TPLF IS LOOTING ETHIOPIA

Matthew J. McCracken<sup>†</sup>

## Introduction

Ethiopia is a nation facing a silent crisis. After Eritrean and Tigrayan rebels overthrew Ethiopia's socialist-military government in 1991, members of the Tigray People's Liberation Front (or "TPLF") reorganized into a new political party known as the Ethiopian People's Revolutionary Democratic Front (or "EPRDF") and assumed control of Ethiopia's central government.<sup>1</sup> After 100 years of domination by the Amhara tribe, Ethiopia's new government, led by Prime Minister Meles Zenawi, claimed to usher in a new era of political openness.<sup>2</sup> A former Secretary General of the TPLF, Zenawi invited representatives from Ethiopia's many regional and cultural minorities to participate in the drafting of Ethiopia's Transitional Charter and new Constitution.<sup>3</sup>

This so-called "Revolutionary Era" produced many significant political changes. In 1993, Eritrea passed a referendum declaring its independence and seceded from Ethiopia.<sup>4</sup> Ethiopia did not challenge the referendum, and soon after it passed, the United Nations recognized Eritrea's sovereignty.<sup>5</sup> When Ethiopia's Constitution was ratified in 1994, it established Ethiopia as a federal republic, and embraced the principle of self-determination through democratic rule.<sup>6</sup> Allegedly to further these

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<sup>†</sup> J.D., Case Western Reserve University School of Law, May, 2004. I would like to thank my wife, Aida Bezuneh McCracken, for her insight, patience, and inspiration, without which, I would not have been able to write this Note.

<sup>1</sup> See Aaron P. Micheau, *The 1991 Transitional Charter of Ethiopia: A New Application of the Self-Determination Principle?*, 28 CASE W. RES. J. INT'L. L. 367, 377-78 (1996) [hereinafter *The 1991 Transitional Charter*].

<sup>2</sup> SEE FEDERAL RESEARCH DIVISION, U.S. LIBRARY OF CONGRESS, ETHIOPIA: A COUNTRY STUDY xxv-xxxvi (Thomas P. Ofcansky & LaVerle Berry eds., 1993), available at <http://lcweb2.loc.gov/frd/cs/ettoc.html> [hereinafter A COUNTRY STUDY].

<sup>3</sup> See *id.*

<sup>4</sup> See Bereket Habte Selassie, *Self-Determination in Principle and Practice: the Ethiopian-Eritrean Experience*, 29 COLUM. HUM. RTS. L. REV. 91, 119 (1997) [hereinafter *Principle and Practice*].

<sup>5</sup> *Id.* at 128.

<sup>6</sup> See generally ETH. CONST. (Constitution of the Federal Democratic Republic of Ethiopia, 1994), available at [http://www.civicwebs.com/cwvlib/constitutions/etiopia/constitution\\_1994.htm](http://www.civicwebs.com/cwvlib/constitutions/etiopia/constitution_1994.htm).

ends, the Constitution granted all “Nations, Nationalities, and Peoples” in Ethiopia the unconditional right to secede from the nation. To Ethiopian minorities and observers in the international community, the country seemed poised for democratic reform that would end decades of oppression.<sup>7</sup>

However, soon after the new Constitution was ratified, some legal scholars criticized its provision that allows regions within Ethiopia to secede.<sup>8</sup> According to these scholars, the provision, articulated in Article 39, creates an unworkable form of central government by making it too easy for the country to break apart.<sup>9</sup> Under Article 39, all a region needs to exercise its right of secession is a referendum passed by a two-thirds majority of its regional parliament and a separate referendum passed by a simple majority of the national parliament.<sup>10</sup>

Most of the scholars who have criticized Article 39 assume that its inclusion in the 1994 Constitution came about as a compromise between the EPRDF and other regional representatives.<sup>11</sup> Under this assumption, the EPRDF reluctantly included Article 39 in the Constitution in order to appease regional calls for self-determination rights by minority populations who were inspired by Eritrea’s secession in 1993.<sup>12</sup> In other words, the EPRDF needed to include Article 39 in order to garner support from Ethiopia’s regional governments and preserve the country’s national integrity.

However, recent developments have demonstrated that this assumption is probably incorrect. A new theory regarding the EPRDF’s purpose behind Article 39 is quietly gaining acceptance in Ethiopian and international circles. Although this theory is highly speculative, it is also potentially illuminating and explosive. It has all the hallmarks of a grand conspiracy theory: it implicates the highest levels of the Ethiopian government; it involves a far-reaching plan with long-term goals; and it involves the use of violence and under-handed politics in order to perpetrate a fraud on the Ethiopian people and the international community. Worst of all, it is probably correct.

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<sup>7</sup> See, e.g., Seyoum Hameso, *The TPLF Ethiopia: Where Next?*, Oromia Online (May 2001), at [http://www.oromia.org/Articles/The\\_TPLF\\_Ethiopia\\_Where\\_Next.htm](http://www.oromia.org/Articles/The_TPLF_Ethiopia_Where_Next.htm) [hereinafter *The TPLF Ethiopia*].

<sup>8</sup> See, e.g., Derege Demissie, Note, *Self-Determination Including Secession vs. The Territorial Integrity of Nation-States: A Prima Facie Case for Secession*, 20 SUFFOLK TRANSNAT’L L. REV. 165, 187 (1996) [hereinafter *A Prima Facie Case*].

<sup>9</sup> *Id.*

<sup>10</sup> See ETH. CONST. art. 39.

<sup>11</sup> See, e.g., *The TPLF Ethiopia*, *supra* note 7.

<sup>12</sup> See generally *A Prima Facie Case*, *supra* note 8.

In brief, the new theory is this: the TPLF-dominated EPRDF *intentionally* included Article 39 in Ethiopia's 1994 Constitution so that the Tigray region could loot Ethiopia of its resources, use the Ethiopian military to expand the borders of Tigray, and then secede from Ethiopia. Underlying this theory is the widely held opinion that the TPLF and EPRDF are not independent organizations, but symbiotic.<sup>13</sup>

The evidence supporting this theory comes from several sources. Most importantly, the TPLF put its intentions in writing in the organization's manifesto known as the "Republic of Greater Tigray."<sup>14</sup> Drafted by TPLF leaders in 1976, the manifesto sets forth an elaborate plan for the liberation of Tigray from Ethiopian rule.<sup>15</sup> The plan involves two main steps: 1) re-demarcating Tigray's borders to expand the region's borders within Ethiopia, and 2) acquiring coastal lands within Eritrea and seceding as an independent nation.<sup>16</sup>

The EPRDF has taken several actions that seem to adhere to the plans set forth in the TPLF manifesto since it took over Ethiopia's central government in 1991. For example, the TPLF/EPRDF has dramatically developed the Tigray region since they came to power. Before the 1991 Revolution, Tigray was territorially limited and economically underdeveloped.<sup>17</sup> Since the Revolution, in addition to trying to acquire Badme from Eritrea (discussed below), Tigray has successfully annexed fertile lands from the neighboring regions of Wollo and Gondar within Ethiopia.<sup>18</sup> When compared with other Ethiopian provinces, Tigray has experienced disproportionate economic growth and development since 1991. Soon after coming to power, the EPRDF established the Endowment Fund for the Rehabilitation of Tigray (or "EFFORT") with a considerable

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<sup>13</sup> Some articles even refer to the TPLF and the EPRDF simultaneously. See, e.g., *The TPLF Ethiopia*, *supra* note 7 (referring to the organizations as the "TPLF/EPRDF"); see also, Benyam Solomon, *Who Benefits from the Eritrean-Ethiopian War?*, (Apr. 20, 1999) available at [http://www.denden.com/Conflict/newscom/tplf\\_benefit.html](http://www.denden.com/Conflict/newscom/tplf_benefit.html) (quoting the Human Rights Watch's 1999 report which referred to the organizations as the "EPRDF[TPLF]") [hereinafter *Who Benefits*].

<sup>14</sup> "Tigray" and "Tigre" are alternate spellings of "Tigray." See Anon., *The Manifesto of the TPLF on "Republic of Greater Tigray" and The Current Border Conflict Between Ethiopia and Eritrea*, (Aug. 3, 1998) available at <http://denden.com/Conflict/tplf-manifesto-98.htm> [hereinafter *The Manifesto of the TPLF*].

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See generally John Young, *Development and Change in Post-Revolutionary Tigray*, 35 J. MODERN AFR. STUDIES 81, 81-99 (1997) [hereinafter *Post-Revolutionary Tigray*].

<sup>18</sup> Martin Stolk, *Hidden Agendas of the Horn War?*, MIDDLE EAST TIMES, Feb. 23, 1999, available at [http://www.martinstolk.nl/engels/1999/hidden\\_agendas.htm](http://www.martinstolk.nl/engels/1999/hidden_agendas.htm) [hereinafter *Hidden Agendas*].

amount of Ethiopian capital.<sup>19</sup> Through the EFFORT program, the TPLF/EPRDF has diverted large quantities of government resources and international aid to Tigray.<sup>20</sup> As a result, Tigray has experienced radical commercial growth while other regions of Ethiopia have stagnated.<sup>21</sup>

More evidence supporting this theory comes from the recent border dispute between Ethiopia and Eritrea. The dispute perfectly comports with the TPLF manifesto when one considers what could have happened if Ethiopia had won. The Tigray region has always had one major weakness: it is landlocked.<sup>22</sup> When Eritrea seceded in 1992, it took all of Ethiopia's access to the Red Sea with it.<sup>23</sup> If Ethiopia had succeeded in annexing the Eritrean region of Burie during the recent border dispute, it would have cut off Eritrea's access to its port city of Assab.<sup>24</sup> Located in the southernmost region of Eritrea,<sup>25</sup> Assab would have once again given Ethiopia access to the Red Sea. In addition, according to the 1976 manifesto, Assab borders certain Ethiopian lands within the borders of "Greater Tigray."<sup>26</sup> Thus, annexing Assab from Eritrea would have allowed the TPLF to "liberate" regions of "Greater Tigray" and gain access to the Red Sea in accordance with the manifesto.

Finally, Ethiopia's 1994 Constitution also conforms to the 1976 TPLF manifesto by giving Tigray a "legal" means for secession from Ethiopia. One might argue that by granting the right to secede to *all* "Nations, Nationalities, and Peoples" the TPLF limited its ability to exploit other regions of Ethiopia. After all, if other regions felt they were being exploited by the EPRDF, they would probably secede themselves. However, as this article will make clear, other regions of Ethiopia *have* tried to secede under Article 39, and the TPLF/EPRDF has used violence and underhanded politics in order to undermine them.<sup>27</sup> In particular, the EPRDF has repeatedly suppressed calls for independence by members of the Oromo tribe and Ethio-Somalis living in the Ogaden.<sup>28</sup>

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<sup>19</sup> See *Post-Revolutionary Tigray*, *supra* note 17, at 85.

<sup>20</sup> *Id.*

<sup>21</sup> See *id.* at 85-86.

<sup>22</sup> See Map of Ethiopia's Administrative Zones in Appendix 1.

<sup>23</sup> See Map of the Ethiopia – Eritrea Border in Appendix 2.

<sup>24</sup> *Hidden Agendas*, *supra* note 18.

<sup>25</sup> See Appendix 2.

<sup>26</sup> See David Hirst, *Human waves fall as war aims unfold*, GUARDIAN UNLIMITED (1999), available at <http://www.guardian.co.uk/Archive/Article/0,4273,3866153,00.html> [hereinafter *Human Waves*].

<sup>27</sup> See, e.g., *Who Benefits*, *supra* note 13.

<sup>28</sup> See generally *The TPLF Ethiopia*, *supra* note 7; Ogaden Human Rights Committee, *Background*, OGA DEN ONLINE (2002), at <http://www.ogaden.com/Background.htm> [hereinafter, *Ogaden Online Background*].

The purpose of this article is to bring the hidden agenda of Ethiopia's central government to the attention of the international community. The TPLF is abusing the international legal principles of democracy and self-determination in order to further their illegitimate aims. By declaring itself to be a democracy, Ethiopia has been able to secure financial aid from Western nations including the United States.<sup>29</sup> Along with resources obtained from other regions within Ethiopia, this international aid has been disproportionately diverted to Tigray by the TPLF-dominated central government.<sup>30</sup> Furthermore, the TPLF has used Ethiopian soldiers to fight a war against Eritrea on its behalf in an attempt to expand the borders of Tigray.<sup>31</sup>

According to the TPLF's own manifesto, Tigray plans to secede from Ethiopia.<sup>32</sup> To this end, the TPLF/EPRDF has created a Constitution that will allow them to secede.<sup>33</sup> If Tigray secedes, it will leave Ethiopia in chaos. With no central leadership and stripped of its resources, Ethiopia might cease to exist. Ethiopia's *Balkanization* would likely create great instability in the Horn of Africa.

The United Nations has repeatedly demonstrated its willingness to grant sovereignty to "people" who claim independence based on the principle of self-determination.<sup>34</sup> Specifically, various United Nations resolutions support self-determination for two types of populations: 1) post-colonial peoples and 2) peoples suppressed by "foreign domination."<sup>35</sup> However, the situation in present-day Ethiopia does not fit neatly into one of these categories. The UN has never confronted the question of whether a dominant minority population may secede from its nation-state in the name of self-determination.<sup>36</sup> Will the United Nations allow the TPLF to loot

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<sup>29</sup> See U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT BUREAU FOR DEMOCRACY, CONFLICT, AND HUMANITARIAN ASSISTANCE (DCHA) - *Ethiopia Drought Fact Sheet #1 (FY 2003)*, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID) (2002), available at <http://www.reliefweb.int/w/rwb.nsf/sDCFCF9C04F06BECA85256C4F00749170> [hereinafter *Ethiopia Fact Sheet*].

<sup>30</sup> See *Who Benefits*, *supra* note 13.

<sup>31</sup> See *Human Waves*, *supra* note 26.

<sup>32</sup> See *Who Benefits*, *supra* note 13; *The Manifesto of the TPLF*, *supra* note 14.

<sup>33</sup> See ETH. CONST. art. 39.

<sup>34</sup> See generally Gebre Hiwet Tesfagiorgis, *Self-Determination: Its Evolution and Practice by the United Nations and Its Application to the Case of Eritrea*, 6 WIS. INT'L L.J. 75-127 (1987) [hereinafter *Self-Determination: Its Evolution*], see also, *Principle and Practice*, *supra* note 4.

<sup>35</sup> *Self-Determination: Its Evolution*, *supra* note 34, at 92-93.

<sup>36</sup> See Herb Feith & Alan Smith, *Self-determination in the 1990s: Equipping the UN to Resolve Ethno-Nationalist Conflicts*, in CONFLICT TRANSFORMATION 143-162 (Kumar Rupensinghe ed., 1995). All of the previous claims for self-determination that have been

Ethiopia of its resources in the name of self-determination and under the guise of democracy?

This article is organized into four sections: Section One summarizes the history of the present crisis facing Ethiopia. Section Two analyzes the legal rights of regional governments under Ethiopia's 1994 Constitution and explores ways that the TPLF/EPRDF has suppressed those rights. Section Three presents evidence that the TPFL is attempting to loot Ethiopia and assert Tigray's independence. Finally, Section Four considers the legality of Tigray's potential secession under international law.

### *I. History of the Crisis*

The consolidation of modern-day Ethiopia (including Eritrea) began in the late thirteenth century with the emergence of the Amhara, or Solomonic dynasty.<sup>37</sup> Through a gradual process of military expansion, the Amhara assimilated neighboring tribal communities in ancient Abyssinia.<sup>38</sup> In the late nineteenth century, the Ethiopian Empire came into conflict with European colonial invaders from Italy, Britain, and France.<sup>39</sup> Throughout this period, despite the growing external conflicts, Ethiopia continued to expand. Although continued warfare forced Ethiopia to cede Eritrea to the Italians, the country expanded into the Southern regions of present-day Ethiopia.<sup>40</sup> By the mid-nineteenth century, Ethiopia occupied lands to the South and Southwest inhabited by the semi-nomadic Oromo tribe.<sup>41</sup>

#### **A. The King Menelik II Era**

In 1889, King Menelik II became the autocratic ruler of the Ethiopian Empire.<sup>42</sup> Menelik II established a new capital at Addis Ababa and succeeded in uniting the provinces of Tigray and Amhara with Shewa.<sup>43</sup> In 1895, Menelik was able to reoccupy Eritrea and force Italian colonialists out of the region with his decisive victory at the battle of Aduwa.<sup>44</sup>

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brought before the United Nations have come from populations seeking either independence or relief from dominant regimes or foreign governments.

<sup>37</sup> *The 1991 Transitional Charter*, *supra* note 1, at 370.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *See Principle and Practice*, *supra* note 4, at 101-102.

<sup>42</sup> *See A Prima Facie Case*, *supra* note 8, at 179.

<sup>43</sup> *Id.* at 179-180.

<sup>44</sup> *Id.* at 180. "Adowa" and "Adwa" are alternate spellings of "Aduwa." *See also* Kristin Henrard & Stefaan Smis, *Recent Experiences in South Africa and Ethiopia to Accommodate*

Menelik II expanded the Empire further by annexing territories occupied by the Afar and Sidama.<sup>45</sup> By the turn of the twentieth century, Ethiopia encompassed the majority of the Horn of Africa.<sup>46</sup>

### B. The Haile Selassie Era

Haile Selassie became Emperor of Ethiopia in 1930.<sup>47</sup> A member of the Amhara tribe, Haile Selassie began a process of what some have called "Amharatization" by outlawing the teaching of all languages other than Amharic throughout the Ethiopian Empire.<sup>48</sup> The Amhara tribe, although a numerical minority, dominated Ethiopian national affairs.<sup>49</sup>

With the rise of the dictator Benito Mussolini, Italy revived its interest in Ethiopia and invaded the country once again in 1935.<sup>50</sup> The following year the Italians conducted a successful military campaign that culminated in the fall of Addis Ababa. After the Allies defeated the Italians at the conclusion of World War II, Ethiopia was liberated, and Haile Selassie, who had been forced to flee by the occupying Italians, reclaimed the throne.<sup>51</sup> Although Ethiopia regained most of its former territory following World War II, British forces continued to occupy Eritrea in trust after the War.<sup>52</sup>

In 1950, the United Nations made Eritrea a federal republic under Ethiopian control.<sup>53</sup> Ethiopia gradually eroded this federal relationship until it formally annexed Eritrea in 1962.<sup>54</sup> Following this annexation, groups of liberation-minded students and scholars quietly began amassing within Eritrea and other regions of Ethiopia.<sup>55</sup> During its two periods of Italian occupation, Eritrea had begun to develop a national identity independent of Ethiopia.<sup>56</sup> Periodic uprisings in Eritrea were quelled with

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*Cultural Diversity: A Regained Interest in the Right the Self-Determination*, 44 J. AFR. L. 1, 17, 39 (2000) [hereinafter *A Regained Interest*].

<sup>45</sup> *Id.*

<sup>46</sup> See Map of the Horn of Africa in Appendix 3.

<sup>47</sup> See *Principle and Practice*, *supra* note 4, at 102.

<sup>48</sup> See *The 1991 Transitional Charter*, *supra* note 1, at 372.

<sup>49</sup> See *id.* at 372-73.

<sup>50</sup> See *id.* at 371.

<sup>51</sup> See *id.* at 372.

<sup>52</sup> See Minasse Haile, *Legality of Secessions: The Case of Eritrea*, 8 EMORY INT'L L. REV., 479-537, 484 (Fall 1994) [hereinafter *Legality of Secessions*].

<sup>53</sup> *Id.* at 485-486.

<sup>54</sup> *The 1991 Transitional Charter*, *supra* note 1, at 372.

<sup>55</sup> See *Id.* at 374.

<sup>56</sup> See *Principle and Practice*, *supra* note 4, at 113.



swift military action at the direction of Haile Selassie.<sup>57</sup> In addition, Haile Selassie used force to retain Ethiopia's outer territories after they were challenged by Somalia and the Sudan.<sup>58</sup>

### C. The Mengistu Era

Although Haile Selassie was successful in defending Ethiopia's borders, his neglect of internal crises, such as the great inequality in the distribution of wealth and widespread political corruption, led to his downfall during the 1970's.<sup>59</sup> In 1974, students, workers, and soldiers began a series of strikes and demonstrations that culminated on September 12, 1974, with the deposition of Haile Selassie by members of his own armed forces.<sup>60</sup> The following year, monarchical rule in Ethiopia ended and was replaced by a socialist-military form of government known as the *Derg*.<sup>61</sup> Mengistu Haile Mariam, a former major in Haile Selassie's military, was named Chairman of the *Derg*.<sup>62</sup>

Initially, the overthrow of the monarchy and the creation of a socialist republic ushered in a new era of political openness in Ethiopia. Ethnic groups that had been brought into the Ethiopian Empire during the 19th and 20th centuries, such as the Tigrayans, Oromos, Afars, Sidama, Ethio-Somalis, and Eritreans, increased their demands for self-determination.<sup>63</sup> Several of these groups even questioned the legitimacy of the Ethiopian state, and created guerrilla forces to fight for independence.<sup>64</sup> With the liberalization of politics, several ideologically based political organizations formed, each with its own view as to the preferred character of a new Ethiopia. One such group, the Tigray People's Liberation Front (or "TPLF"), formed in late 1975.<sup>65</sup> According to the TPLF's manifesto "Republic of Greater Tigray," the organization was founded with the purpose of expanding the borders of Tigray within Ethiopia and "liberating" the region from Ethiopian rule.<sup>66</sup> The TPLF and other regional

<sup>57</sup> See *A Prima Facie Case*, *supra* note 8, at 180-182.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 181; see also *The 1991 Transitional Charter*, *supra* note 1, at 372-375.

<sup>60</sup> See *The 1991 Transitional Charter*, *supra* note 1, at 375.

<sup>61</sup> *Id.* at 375-376

<sup>62</sup> See *A Regained Interest*, *supra* note 44, at 40.

<sup>63</sup> See generally Asafa Jalata, *The Emergence of Oromo Nationalism and Ethiopian Reaction*, in *OROMO NATIONALISM AND THE ETHIOPIAN DISCOURSE: THE SEARCH FOR FREEDOM AND DEMOCRACY* 1, 1-23, 10 (Asafa Jalata ed., 1998) [hereinafter *Oromo Nationalism*].

<sup>64</sup> See generally *The 1991 Transitional Charter*, *supra* note 1.

<sup>65</sup> *Id.* at 377.

<sup>66</sup> *The Manifesto of the TPLF*, *supra* note 14.

organizations called for greater representation in Ethiopia's government.<sup>67</sup> However, rather than allow for democratic elections, the military regime attempted to co-opt potential opponents by giving the most significant political organizations representation in Ethiopia's deliberative body, the Politburo.<sup>68</sup>

It soon became clear to independence-minded minority political organizations that Mengistu had no intention of allowing Ethiopia to break apart.<sup>69</sup> Despite their representation in the Politburo, regional political bodies like the TPLF were often frustrated and pre-empted by Ethiopian military forces loyal to the *Derg*.<sup>70</sup> By 1977, Mengistu's chief opposition, the Ethiopian People's Revolutionary Party (or "EPRP"), began waging guerrilla warfare against the *Derg*.<sup>71</sup> In a period known as the "White Terror," the EPRP launched systematic attacks designed to undermine the military rule of the *Derg*.<sup>72</sup> The Government responded with its own campaign known as the "Red Terror."<sup>73</sup> During this period, the military government supplied loyal peasants and workers with weapons and told them to root out so-called "enemies of the revolution."<sup>74</sup> Between 1977 and 1978, countless numbers of Ethiopians deemed threats to the government were killed or disappeared as a result of the Red Terror.<sup>75</sup>

#### D. The Revolutionary Era

Although the Red Terror forced most of the Ethiopian independence movements underground, by 1987, they had begun to reemerge as revitalized and better organized military forces.<sup>76</sup> The EPRP, the Eritrean People's Liberation Front (or "EPLF"), and the Tigray People's Liberation Front (or "TPLF") waged increasingly successful military campaigns against the *Derg*. Over the next two years, the Ethiopian army suffered a series of defeats and became demoralized.<sup>77</sup> The EPLF was able to reclaim

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<sup>67</sup> See A COUNTRY STUDY, *supra* note 2 at 60-62.

<sup>68</sup> *Id.* at 263.

<sup>69</sup> See generally *id.*

<sup>70</sup> *Id.* at 237.

<sup>71</sup> *Id.* at 58.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 58-59 & 237.

<sup>75</sup> See *id.* at 327 (Amnesty International concluded that the Red Terror resulted in several thousand to perhaps tens of thousands of people killed, tortured, and imprisoned. Other sources estimate that during that time about 30,000 people perished as a result of the Red Terror and harsh conditions in prisons and concentration camps).

<sup>76</sup> See generally *id.* at 60-62.

<sup>77</sup> See *id.* at 64-65.

most of Eritrea and TPLF forces occupied most of the Tigray region. By 1991, a new umbrella organization known as the Ethiopian People's Revolutionary Democratic Front (or "EPRDF"), which was led by the Tigray tribe and the TPLF, had encircled the capital city of Addis Ababa.<sup>78</sup> The Ethiopian army lost its will to fight and political leaders conceded defeat. By May of 1991, the EPLF had completely taken over Eritrea, Mengistu had fled the country, and the EPRDF had taken over Addis Ababa.<sup>79</sup>

By late 1991, the EPRDF, led by Meles Zenawi, had established a transitional government in Addis Ababa. Zenawi, of both Tigrayan and Eritrean descent, had forged an alliance between the TPLF/EPRDF and the EPLF leading up to the 1991 revolution.<sup>80</sup> Following the revolution, the EPLF organized a referendum asserting Eritrea's independence. The referendum passed by an overwhelming majority.<sup>81</sup> Ethiopia's new government did not contest Eritrea's independence, and in 1992, the United Nations recognized Eritrea as a sovereign nation.<sup>82</sup> It seems likely that Ethiopia allowed Eritrea to secede as a condition of the pre-Revolution alliance between the TPLF/EPRDF and the EPLF.<sup>83</sup>

Following its ascent to power, the Tigray-led EPRDF welcomed other regional revolutionary groups to discussions on how to structure Ethiopia's new government.<sup>84</sup> This was an era of revived optimism for smaller liberation organizations such as the Oromo Liberation Front (or "OLF"), the Ogaden National Liberation Front (or "ONLF"), and representatives from other minority populations such as the Sidama and the Afar.<sup>85</sup>

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<sup>78</sup> *Id.* at 307 & 309.

<sup>79</sup> *Id.* at 309-310.

<sup>80</sup> *See generally id.* 307-310.

<sup>81</sup> *See Principle and Practice, supra* note 4, at 119.

<sup>82</sup> *Id.* at 120.

<sup>83</sup> The EPLF initially aided the TPLF because they viewed Tigray as a "buffer" region between Eritrea and the central government in Ethiopia. However, it also knew that the TPLF would control Ethiopian politics if the EPRDF defeated the *Derg*. In its infancy, the TPLF had few weapons and little money. Given the EPLF's superior bargaining position, it seems plausible that the EPLF aided the TPLF on the condition that the TPLF would not later challenge Eritrea's secession once it came to power. *See generally* A COUNTRY STUDY, *supra* note 2 at 307-310.

<sup>84</sup> *See Principle and Practice, supra* note 4, at 120-121.

<sup>85</sup> *See, e.g., The TPLF Ethiopia, supra* note 7; *see also* Ogaden Online Background, *supra* note 28 and Hameso, Seyoum and Tilahun Ayanou Nebo, *Ethiopia: A New Start?*, The Sidama Concern (2000) (book review), at [http://www.sidamaconcern.com/books/ethiopia\\_a\\_new\\_start.html](http://www.sidamaconcern.com/books/ethiopia_a_new_start.html) [hereinafter *The Sidama Concern*].

### E. The 1994 Constitution

The transitional government ratified Ethiopia's new Constitution in 1994.<sup>86</sup> The Constitution, which renamed the country "The Federal Democratic Republic of Ethiopia," organizes Ethiopia into a federal system comprised of nine member states delineated according to historical, cultural, and geographic boundaries.<sup>87</sup> The Constitution's most controversial provision, Article 39, Chapter 1, provides that "every Nation, Nationality, and People in Ethiopia has an unconditional right to self-determination, including the right to secession."<sup>88</sup>

### F. Recent Developments

In 1998, a border dispute between Ethiopia and Eritrea erupted at the city of Badme.<sup>89</sup> This dispute revitalized regional calls for self-determination in Ethiopia. Disgruntled minority leaders see Eritrea's secession as an example to follow.<sup>90</sup> In their view, if Eritrea had a valid claim to secession and independence, then regions like Oromia and Ogaden should have a similarly valid claim.<sup>91</sup> Article 39 of Ethiopia's 1994 Constitution only adds fuel to this fire. Under Article 39, local governments have an "unconditional" right to secede. The TPLF/EPRDF has given only lip-service to its own Constitution, frustrating regional attempts at independence.<sup>92</sup> As the next section will indicate, the TPLF/EPRDF has used manipulation and intimidation to control the federal government, creating an atmosphere rich in distrust and ripe for revolutionary warfare.

## II. The TPLF/EPRDF and Ethiopia's 1994 Constitution

Ethiopia's regional populations have grown increasingly dissatisfied with the EPRDF's implementation of the new Ethiopian government.<sup>93</sup> Many see the EPRDF as a front for the TPLF and the Tigray people generally, and see the supposedly federal form of government as a mask for

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<sup>86</sup> See discussion of Ethiopia's 1994 Constitution *infra* Part II.

<sup>87</sup> See ETH. CONST. arts. 1, 47.

<sup>88</sup> *Id.* at art. 39.

<sup>89</sup> See discussion of the border dispute between Ethiopia and Eritrea *infra* Part III.C.

<sup>90</sup> See, e.g., *Oromo Nationalism*, *supra* note 63, at 17.

<sup>91</sup> *Id.*

<sup>92</sup> See generally *id.*

<sup>93</sup> See, e.g., *The TPLF Ethiopia*, *supra* note 7; see also *Ogaden Online Background*, *supra* note 28.

Tigray's suppression of other cultural minorities.<sup>94</sup> Supposedly democratic elections have been marred by accusations of intimidation and underhanded politics.<sup>95</sup> The TPLF/EPRDF has created its own satellite organizations within minority regions in order to undermine growing calls for enforcement of the self-determination clause.<sup>96</sup>

Throughout Ethiopia's history, various central governments have suppressed regional and cultural nationalism.<sup>97</sup> Under Haile Selassie, members of the Amhara tribe dominated national politics.<sup>98</sup> During the Mengistu regime, the socialist-military government suppressed ideological factionalism in the interest of strengthening the nation-state.<sup>99</sup> Although the *Derg* was comprised of members from many different tribes, the central government did not allow for self-government by local communities.<sup>100</sup>

The 1991 Revolution led to a period of renewed optimism for minority populations in Ethiopia.<sup>101</sup> However, this optimism was short-lived. Although the 1994 Constitution supposedly grants every "Nation, Nationality, and Peoples" the "unconditional" right to self-determination, including the right to secede, the TPLF/EPRDF has used various means to frustrate the enforcement of that right.<sup>102</sup> Although the Tigray make up only 5% of Ethiopia's population, TPLF/EPRDF members now hold more than ninety percent of the seats in the national parliament.<sup>103</sup> It seems likely that the TPLF/EPRDF, like the *Derg* before it, never had any intention of allowing other regions to secede from Ethiopia.

### A. Legal Rights under Ethiopia's 1994 Constitution

Ethiopia's 1994 Constitution seems to reflect the renewed optimism and inclusiveness of the regional governments who participated in its

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<sup>94</sup> See generally Leenco Lata, *The Making and Unmaking of Ethiopia's Transitional Charter*, in *OROMO NATIONALISM AND THE ETHIOPIAN DISCOURSE: THE SEARCH FOR FREEDOM AND DEMOCRACY*, 51, 63, 71-73 (Asafa Jalata ed., 1998) [hereinafter *Making and Unmaking*].

<sup>95</sup> See AMNESTY INTERNATIONAL, *ANNUAL REPORT 2001: ETHIOPIA (2001)*, available at <http://www.amnesty.org/ailib/aireport/index.html> [hereinafter *AI REPORT 2001*].

<sup>96</sup> See, e.g., *Oromo Nationalism*, *supra* note 63, at 14.

<sup>97</sup> See discussion *supra* Part I.

<sup>98</sup> See discussion *supra* Part I.B.

<sup>99</sup> See discussion *supra* Part I.C.

<sup>100</sup> See *A COUNTRY STUDY*, *supra* note 2 at 58-59 & 111.

<sup>101</sup> See, e.g., *The TPLF Ethiopia*, *supra* note 7; see also *Ogaden Online Background*, *supra* note 28 and *The Sidama Concern*, *supra* note 85.

<sup>102</sup> See, e.g., *Oromo Nationalism*, *supra* note 63.

<sup>103</sup> See *AI REPORT 2001*, *supra* note 95.

drafting.<sup>104</sup> The strength of regional governments under the 1994 Constitution is evident from the first words of its Preamble, which provides: “We, the Nations, Nationalities, and Peoples of Ethiopia: Strongly committed, in full and free exercise of our right to self-determination, [create this Constitution].”<sup>105</sup> The Preamble also recognizes historical inequities under previous governments, stating “[we are f]ully cognizant that our *common destiny* can best be served by rectifying historical unjust relationships and by further promoting our *shared interests*[.]”<sup>106</sup> As this conciliatory language indicates, the 1994 Constitution allegedly rectifies past injustices by permitting the people of Ethiopia greater participation in national decision-making, while simultaneously preserving individual, group, and national identity.

In Chapter One, the 1994 Constitution establishes a “Federal and Democratic State structure.”<sup>107</sup> As such, it gives great deference to the will of the people. In recognition of the fact that Ethiopia is a diverse nation with many cultures, Article 5 of Chapter One provides that “[a]ll Ethiopian languages shall enjoy equal state recognition . . . [although] Amharic shall be the working language of the Federal Government.”<sup>108</sup> Furthermore, Article 25 prohibits discrimination against any person on the basis of “race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth, or status.”<sup>109</sup>

Part Two within Chapter Three of the 1994 Constitution is entitled “Democratic Rights.”<sup>110</sup> Under Article 29 of that Part, “[e]verone has the right to freedom of expression *without any interference*.”<sup>111</sup> In addition, “[f]reedom of the press and other mass media . . . is guaranteed.”<sup>112</sup> The right of all Ethiopians to vote in democratic elections “at any level of government” and to “take part in the conduct of public affairs” is established in Article 38.<sup>113</sup> Article 38 provides that “elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”<sup>114</sup>

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<sup>104</sup> See generally *A Prima Facie Case*, *supra* note 8, at 182-185.

<sup>105</sup> ETH. CONST. pmb1.

<sup>106</sup> *Id.* [emphasis added].

<sup>107</sup> *Id.* art. 1.

<sup>108</sup> *Id.* art. 5.

<sup>109</sup> *Id.* art. 25.

<sup>110</sup> *Id.* chap. 3, pt. 2.

<sup>111</sup> *Id.* art. 29 ¶ 2. [emphasis added].

<sup>112</sup> *Id.* art. 29, ¶ 3.

<sup>113</sup> *Id.* art. 38.

<sup>114</sup> *Id.*

The most provocative and controversial section of the 1994 Constitution is Article 39, entitled "Rights of Nations, Nationalities, and Peoples."<sup>115</sup> Because this Article of the Constitution is particularly relevant to the present crisis in Ethiopia, it requires more in-depth analysis. The Constitution recognizes the states of Tigray, Afar, Amhara, Oromia, Somalia, Benshangul/Gumuz, the State of the Southern Nations, Nationalities, and Peoples (including the Sidama), Gambela, and Harari.<sup>116</sup> In addition, the Constitution provides procedures for other "Nations, Nationalities and Peoples" to organize into a new state under certain circumstances.<sup>117</sup>

The first three paragraphs of Article 39 state that "[e]very Nation, Nationality and People in Ethiopia" has: 1) "an unconditional right to self-determination, including the right to secession[,]" 2) "the right to speak, to write, and to develop its own language; to express, to develop, and to promote its culture, and preserve its history[,]" and 3) "the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments."<sup>118</sup>

Of the rights granted to all "Nations, Nationalities, and Peoples" under Article 39, the unconditional right to secede has been the source of the most controversy. As previously noted, scholars have assumed that this provision of the 1994 Constitution reflects a compromise made as a part of the uneasy alliance between Ethiopia's regional opposition groups and the Tigray-led EPRDF.<sup>119</sup> Under this assumption, following the 1991 coup, the void left by the *Derg* left many regional groups clamoring for power over Ethiopia's central government.<sup>120</sup> Eritrea's secession in 1992 further escalated tensions by inspiring regional governments to seek their own sovereignty as minority populations questioned the very existence of the Ethiopian state.<sup>121</sup> Thus, the right of secession enshrined in Article 39 can be seen as a compromise made by the EPRDF in order to legitimize its power over Ethiopia and quell tensions with other regional groups.<sup>122</sup> However, for reasons set forth in the next section, this assumption, although widely held, is probably politically accurate, but practically shortsighted and dangerously naive.

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<sup>115</sup> *Id.* art. 39.

<sup>116</sup> *Id.* chap. 4, art. 47.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.* art. 39.

<sup>119</sup> See, e.g., *The TPLF Ethiopia*, *supra* note 7.

<sup>120</sup> *Id.*

<sup>121</sup> See, e.g., *Oromo Nationalism*, *supra* note 63, at 17.

<sup>122</sup> See, e.g., *The TPLF Ethiopia*, *supra* note 7.

Article 39 also sets forth the procedures by which regional states can exercise their rights to self-determination and secession. Under Section Four of Article 39, a region may secede when 1) “a demand for secession has been approved by a two-thirds majority of the members of the Legislative Council of the Nation, Nationality, or People concerned;” 2) “the Federal Government has organized a referendum which must take place within three years from the time it received the concerned council’s decision for secession;” 3) “the demand for secession is supported by a majority vote in the referendum;” 4) “the Federal Government will have transferred its powers to the council of the Nation, Nationality, or People who has voted to secede;” and 5) “the division of assets is effected in a manner prescribed by law.”<sup>123</sup>

Under comparative analysis, the procedural requirements for secession under Ethiopia’s 1994 Constitution are strikingly minimal. No other nation has adopted such a lenient view regarding the secession of its member states.<sup>124</sup> On its face, Ethiopia’s Constitution ignores grave risks and guarantees rights “unprecedented in the history of nation states.”<sup>125</sup>

### **B. The Suppression of Minority Rights by the TPLF/EPRDF**

One might wonder if so many cultural and regional minorities are unhappy with the new government, and the procedural requirements for secession are so minimal, why no regions other than Eritrea have successfully seceded from Ethiopia. The answer lies in the fact that the Tigray-led EPRDF has undermined its own Constitution through violence, intimidation, and political influence in order to prevent regional governments from exercising their self-determination rights under Article 39.<sup>126</sup>

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<sup>123</sup> ETH. CONST. art. 39.

<sup>124</sup> See *Principle and Practice*, *supra* note 4, at 125.

<sup>125</sup> *Id.* at 128, quoting Paul H. Brietske, *Ethiopia’s Leap in the Dark: Federalism and Self-Determination in the New Constitution*, 39 J. AFR. L. 1, 32 (1995).

<sup>126</sup> Minority populations within Ethiopia have been able to present their views and concerns to the global forum with the advent of the Internet. However, because of its subjective nature, the anecdotal evidence contained in this section should be analyzed with heightened scrutiny. Although many cultural minorities in Ethiopia have suffered under the rule of the TPLF/EPRDF, this section will focus on the struggles of the Oromo and the Ethio-Somalis living in the Ogaden region.



## 1. The Oromo

Throughout Ethiopia's history, no other tribal population has been more oppressed and marginalized than the Oromo.<sup>127</sup> Inhabiting the majority of southern Ethiopia, Oromos are the largest ethno-national group in Ethiopia, comprising over sixty percent of the country's population.<sup>128</sup> Oromos have been continually subjugated and impoverished by Ethiopian central governments that have deprived them of education, economic resources, and cultural identity.<sup>129</sup> During the 1960's, an Oromo-nationalism movement known as the Oromo Liberation Front (or "OLF") formed to address concerns of the Oromo people in Ethiopian society.<sup>130</sup> Although the OLF was forced underground during the reign of the *Derg*, it emerged again in the early 1990's. As an alleged gesture of national unity, in 1991 the EPRDF invited representatives of the OLF to participate in the drafting of Ethiopia's new Constitution.<sup>131</sup>

Although initially optimistic, the OLF has grown increasingly dissatisfied with the EPRDF.<sup>132</sup> Oromos argue that the EPRDF is nothing but a front for the TPLF and the Tigray people generally.<sup>133</sup> Under this view, the Tigray have simply taken the place of the Amhara as the tribal dictators of Ethiopia.<sup>134</sup>

Since Ethiopia's 1991 revolution, the EPRDF has inhibited Oromo nationalism in several ways. For example, the EPRDF created the Oromo People's Democratic Organization (or "OPDO") in order to diffuse support for the OLF and weaken the push for Oromo independence.<sup>135</sup> The OPDO, considered by the OLF to be a "puppet organization,"<sup>136</sup> was created from Ethiopian war prisoners captured in Eritrea and Tigray during the 1991 Revolution.<sup>137</sup> While the OPDO supports national unity in Ethiopia, most

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<sup>127</sup> See *Human Waves*, *supra* note 26.

<sup>128</sup> See generally Asafa Jalata, *Preface*, in *OROMO NATIONALISM AND THE ETHIOPIAN DISCOURSE: THE SEARCH FOR FREEDOM AND DEMOCRACY*, i-xii, at ix-x, (Asafa Jalata ed., 1998).

<sup>129</sup> *Id.*

<sup>130</sup> See *Oromo Nationalism*, *supra* note 63, at 11.

<sup>131</sup> *Id.* at 12-13.

<sup>132</sup> See generally *id.*; see also *The TPLF Ethiopia*, *supra* note 7.

<sup>133</sup> See generally *Oromo Nationalism*, *supra* note 63.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.* at 14.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

Oromo reject the group, calling it *maxanee*, which means “an organization that does not have its own existence.”<sup>138</sup>

According to the OLF, the TPLF/EPRDF supplied members of the OPDO with campaign funds leading up to regional elections in June of 1992.<sup>139</sup> Thereafter, members of the OLF withdrew from the elections on the grounds that democracy was being undermined by the Tigrayan-dominated regime.<sup>140</sup> As a result, Oromia’s regional government was filled with OPDO members who supported the EPRDF. These officials, in turn, elected pro-EPRDF representatives to Ethiopia’s federal government.<sup>141</sup>

Seeing their hopes for democratic reform systematically undermined by the TPLF/EPRDF, the OLF once again began striving for Oromo independence through guerilla warfare.<sup>142</sup> To discourage Oromo citizens from joining the liberation movement, the EPRDF allegedly “murdered thousands of Oromos and created several concentration-type camps at Hurso (Hararghe), Didesa (Wallaga), and Bilate (Sidamo) . . . where it practices ethnic cleansing.”<sup>143</sup>

## 2. Ethio-Somalis living in the Ogaden

The Ogaden is a hotly contested region between the south-eastern border of Ethiopia and the north-western border of Somalia.<sup>144</sup> Between 1948 and 1955, Britain, who held a colonial claim over the region, ceded large portions of the Ogaden to Ethiopia.<sup>145</sup> During this period, Ethiopian occupation forces killed more than one hundred residents of the Ogaden and implemented the policy of “Amharatization” at the direction of Haile Selassie.<sup>146</sup> Under Mengistu, the *Derg* transferred thousands of Ethiopian settlers to the Ogaden in an attempt to change the demographic make-up of the region.<sup>147</sup> By making the Somali-born indigenous inhabitants of the Ogaden a politically insignificant minority, Mengistu suppressed the push for an Ogadeni national identity and brought the Ogaden under Ethiopian control.<sup>148</sup>

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<sup>138</sup> *Id.*

<sup>139</sup> *See id.* at 14-16.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* at 15.

<sup>142</sup> *Id.* at 16.

<sup>143</sup> *Id.* at 17.

<sup>144</sup> *See* 1990 Relief Map of Ethiopia in Appendix 4.

<sup>145</sup> *See Ogaden Online Background, supra* note 28.

<sup>146</sup> *Id. See A Prima Facie Case, supra* note 8, at 180-182.

<sup>147</sup> *Ogaden Online Background, supra* note 28.

<sup>148</sup> *Id.*

When the TPLF/EPRDF came to power in 1991, indigenous residents of the Ogaden initially welcomed Ethiopia's new Charter and embraced the new government's policy of supposedly uninhibited self-determination.<sup>149</sup> The Ogaden National Liberation Front (or "ONLF"), the vanguard of the Ogaden people's long struggle against Ethiopian occupation, decided unequivocally to be a part of the new political process in Ethiopia by ratifying the new Charter and Constitution.<sup>150</sup> The EPRDF's promises of inclusiveness and democracy led to a period of renewed optimism for residents of the Ogaden and the ONLF.<sup>151</sup>

Ogadeni optimism was short-lived. Like the Oromo, Ogadenis quickly learned that the EPRDF had no intention of allowing the Ogaden Regional Parliament to exercise the self-determination rights supposedly guaranteed by Article 39.<sup>152</sup> In 1992, the ONLF accused the TPLF/EPRDF of masterminding the killings of several ONLF officials, including some members belonging to the Front's Central Committee.<sup>153</sup> In September of 1992, the Ogaden people went to the polls to elect regional representatives. Unlike the Oromo and the OLF, Ogadeni candidates were not opposed by EPRDF-backed candidates.<sup>154</sup> As a result, ONLF members were elected to roughly eighty-four percent of the seats in the Ogaden Regional Parliament.<sup>155</sup>

However, the EPRDF soon employed tactics to limit the effectiveness of the new local government of the Ogaden. In mid-1993, the Ogaden regional government accused the central government in Addis Ababa of "flagrant interference" in the day-to-day affairs of the Ogaden region.<sup>156</sup> In addition, the EPRDF allegedly deprived the Ogaden region of its share of the central budget and aid from the international community.<sup>157</sup> Tensions in the region escalated when Ethiopian security forces arrested the President, Vice-President, and Secretary of the Ogaden Regional Assembly in late-1993.<sup>158</sup> They were released from prison ten months later without ever having been charged or tried.<sup>159</sup>

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<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *See generally id.*

<sup>153</sup> *Id.*

<sup>154</sup> *See id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

On January 28, 1994, the ONLF called for a referendum on self-determination and independence for the Ogaden at a press conference in Addis Ababa.<sup>160</sup> The TPFL/EPRDF responded to the press conference both quickly and violently. On February 22, 1994, more than 81 unarmed Ogadeni protestors were allegedly massacred by TPLF militias in the Ogaden town of Wardheer.<sup>161</sup> On April 17, 1994, the TPLF/EPRDF launched a large-scale military offensive against ONLF positions and arrested many suspected supporters of the ONLF.<sup>162</sup>

In May of 1994, the Ogaden Regional Assembly passed a unanimous resolution demanding a referendum on self-determination and independence for the Ogaden people in accordance with Article 39 of Ethiopia's 1994 Constitution.<sup>163</sup> The central government reacted by overthrowing and virtually disbanding all democratically elected national institutions in the Ogaden, including the Regional Parliament.<sup>164</sup> Later that same year, the EPRDF sponsored a new satellite party in the Ogaden called the Ethiopian Somali Democratic League (or "ESDL"). Like the OPDO in Oromia, the ESDL is seen by local residents of the Ogaden as a puppet organization implemented by the EPRDF in order to undermine the local push for self-determination.<sup>165</sup>

### C. Recent Oppressive Acts by the TPLF/EPRDF

The struggles for independence and self-determination of the Oromo and the Ogadeni people continue today.<sup>166</sup> Other smaller regional populations within Ethiopia, such as the Sidama, the Afar, and the Amhara, also continue to be oppressed by the Tigray and the EPRDF-dominated central government.<sup>167</sup> According to recent Amnesty International reports, clashes between EPRDF forces and rebels from both the OLF and ONLF have resulted in numerous human rights violations, mainly by government troops against civilians accused of supporting the rebels.<sup>168</sup>

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<sup>160</sup> *Id.*

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> See generally AMNESTY INTERNATIONAL, ANNUAL REPORT 2002: ETHIOPIA (2002), available at <http://www.web.amnesty.org/web/ar2002.nsf/afr/ethiopia?Open> [hereinafter AI REPORT 2002] (explaining that governments in both regions have continued to face armed opposition).

<sup>167</sup> See generally *id.*

<sup>168</sup> *Id.*

In May of 2000, nation-wide elections were held for seats in national and regional parliaments.<sup>169</sup> More than 50 political parties took part in the elections, including 23 opposition parties.<sup>170</sup> International observers were banned from monitoring the elections by the EPRDF.<sup>171</sup> According to Amnesty International, there were many claims by opposition parties of government repression and intimidation during voter registration and campaigning, particularly in Ethiopia's Southern region.<sup>172</sup> Several opposition parties complained of supporters being beaten and detained, offices being closed, candidates being prevented from registering, and opposition party supporters being dismissed from government jobs.<sup>173</sup> There were many reports of civilians being shot dead by police at voting locations throughout Ethiopia on Election Day.<sup>174</sup>

Not surprisingly, despite nationwide opposition, the EPRDF coalition led by Prime Minister Meles Zenawi's Tigray People's Liberation Front won more than ninety percent of the seats in both national and regional parliaments.<sup>175</sup> In October of 2000, the "new" government, again headed by Meles Zenawi, was sworn in.<sup>176</sup>

On April 10, 2001, police violently dispersed students at Addis Ababa University who were peacefully protesting on their campus against EPRDF-imposed restrictions on their academic freedoms.<sup>177</sup> Over forty students were injured and the situation on campus remained tense during the following week, and on April 17, police ordered students to return to their classes or face expulsion.<sup>178</sup> According to reports, supporters of the students began throwing rocks at the police.<sup>179</sup> The police responded with live ammunition.<sup>180</sup> In the two days of rioting that ensued, at least 31 people were killed.<sup>181</sup> Around three thousand people, including students, opposition party members, and human rights activists were arrested and held without trial following the riots.<sup>182</sup>

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<sup>169</sup> AI REPORT 2001, *supra* note 95.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

<sup>177</sup> AI REPORT 2002, *supra* note 166.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

Following the riots, the TPLF arrested Mesfin Wolde Mariam, former Secretary General of the Ethiopian Human Rights Council (or “EHRCO”), in Addis Ababa on May 8, 2001.<sup>183</sup> He was charged with “organizing [himself] under an underground political party . . . with a view to changing the Constitution through illegal means” and “incitement to violence.”<sup>184</sup>

Mariam’s arrest symbolizes the increasing brashness of Ethiopia’s central government. The push for literal enforcement of the 1994 Constitution, especially Article 39, is growing. Regional populations are striving towards referendums declaring their self-determination and independence from Ethiopia. The more opposition groups criticize the central government, the more the EPRDF responds with violence and underhanded politics. As a result of this violence, Ethiopia faces potential *Balkanization*, either through force or international intervention.

### *III. Evidence of the TPLF’s Hidden Agenda*

The TPLF/EPRDF’s violent clashes with the OLF and the ONLF demonstrate that Ethiopia’s central government has no intention of allowing Oromia or the Ogaden to secede. In light of this fact, one might ask why the TPLF/EPRDF granted regional governments the ‘unconditional’ right to secede in Ethiopia’s 1994 Constitution. The answer is simple. The TPLF/EPRDF enshrined the right of secession in their Constitution so that the TPLF could use Ethiopian resources to develop and expand the province of Tigray, and then secede themselves.

For obvious reasons, direct evidence of the TPLF’s hidden agenda is difficult to find. However, circumstantial and anecdotal evidence abounds suggesting that the TPLF is secretly attempting to loot Ethiopia. This evidence comes from three main sources: 1) the 1976 TPLF manifesto known as the “Republic of Greater Tigray,” 2) the economic development that has taken place in Tigray since the 1991 Revolution, and 3) the implications of the border dispute between Ethiopia and Eritrea.

#### **A. The “Republic of Greater Tigray”**

The most compelling evidence of the TPLF’s hidden agenda comes from the organization’s own manifesto, the “Republic of Greater Tigray.” In the mid-1970’s, a small group of Tigrayan dissidents formed the Tigray People’s Liberation Front (or “TPLF”) in order to liberate the Tigray region from Ethiopia’s socialist-military government.<sup>185</sup> In 1976, TPLF leaders

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<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> See generally *Who Benefits*, *supra* note 13; *The Manifesto of the TPLF*, *supra* note 14; and *Human Waves*, *supra* note 26.

spelled out their long-term plan in the group's manifesto.<sup>186</sup> This plan consists of two main parts, 1) annexing lands within Ethiopia to expand the borders of Tigray, and 2) acquiring access to the Red Sea through the Eritrean port-city of Assab.<sup>187</sup> The plan culminates in Tigray's secession from Ethiopia.<sup>188</sup> Interestingly, Meles Zenawi, the former Secretary General of the TPLF and the current Prime Minister of Ethiopia, has never formally repudiated the "Republic of Greater Tigray," or its secessionist goals.<sup>189</sup>

One way the "Republic of Greater Tigray" aims to expand the borders of Tigray is by redefining who qualifies as a citizen of Tigray. According to the manifesto, a Tigrayan is defined as any person who speaks the Tigray language of "Tigigna," *including* those that live outside the borders of Tigray-proper.<sup>190</sup> Many Ethiopian tribes that neighbor Tigray speak dialects of Tigigna, including the Kunamas, the Sahos, the Afar, the Agnew, and the Welkai.<sup>191</sup> Thus, under the TPLF's manifesto, lands these tribes occupy will be "liberated" from Ethiopia as parts of "Greater Tigray."<sup>192</sup> Furthermore, the manifesto delineates the borders of "Greater Tigray" to include lands to the West inside of Gondar, lands to the South inside of Wollo, and lands to East inside the Eritrean regions of Burie and the port city of Assab, formerly occupied by the Afar.<sup>193</sup>

Since the TPLF/EPRDF took control of Ethiopia in 1991, Tigray has successfully annexed lands from Wollo and Gondar in accordance with the TPLF manifesto.<sup>194</sup> These annexations received little fanfare because the regions are inhabited primarily by poor farmers and the TPLF dominates local politics.<sup>195</sup> Furthermore, the EPRDF produced maps in 1997 that seemed to expand the territorial holdings of Tigray. Specifically, Ethiopian administrative maps show an "enlarged" Tigray that borders the Sudan and

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<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> See *Human Waves*, *supra* note 26.

<sup>190</sup> See Mebrat Tzehale, *Background to the Current Border Dispute Between Eritrea and Ethiopia* (2000), available at <http://home.planet.nl/~hans.mebrat/eritrea-ethiopia.htm> [hereinafter *Background to the Current Border Dispute*].

<sup>191</sup> *Id.*

<sup>192</sup> See generally *Who Benefits*, *supra* note 13; *The Manifesto of the TPLF*, *supra* note 14; and *Human Waves*, *supra* note 26.

<sup>193</sup> See *Hidden Agendas*, *supra* note 18.

<sup>194</sup> *Id.*

<sup>195</sup> See *Who Benefits*, *supra* note 13.

incorporates land within Eritrea.<sup>196</sup> Interestingly, this enlarged map also appears on new versions of Ethiopia's paper currency, the Birr.<sup>197</sup>

The enlarged 1997 maps did not go unnoticed by Eritreans. A popular joke even surfaced in Eritrea on the subject: An Eritrean asks a Tigrayan where the city of Badme is located. The Tigrayan pulls out a map that shows Badme as a part of Ethiopia. Surprised, the Eritrean remarks, "But I thought Badme was in Eritrea!?" To which the Tigrayan replies, "Oh, I'm sorry. This is next year's map."<sup>198</sup> Any humor Eritreans may have found in this joke quickly vanished the following year when the border dispute with Ethiopia erupted at Badme.<sup>199</sup>

### B. Economic Development in Tigray Since 1991

Tigray has changed significantly since the 1991 Revolution. Before the Revolution, Tigray was economically limited and relatively undeveloped.<sup>200</sup> Since the Revolution, Tigray has experienced vast economic and commercial growth. After coming to power, the EPRDF established several economic programs to benefit Tigray with Ethiopian money.<sup>201</sup> Through these "post-war rebuilding programs," the TPLF/EPRDF has diverted large quantities of Ethiopian government resources to Tigray.<sup>202</sup> In addition, by declaring itself to be a democracy, the central government has been able to obtain large amounts of international aid for Ethiopia.<sup>203</sup> Some observers suspect that aid meant to prevent famine has been diverted to TPLF-affiliated programs.<sup>204</sup> While these allegations have yet to be proved, one fact is clear: Tigray has experienced radical commercial growth while other regions of Ethiopia have stagnated.<sup>205</sup>

Shortly after coming to power, the TPLF/EPRDF established Endowment Fund for the Rehabilitation of Tigray (or "EFFORT") with the purported purpose of rebuilding Tigray in the wake of the 1991 Revolution.<sup>206</sup> EFFORT was funded with a substantial amount of Ethiopian

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<sup>196</sup> See *Hidden Agendas*, *supra* note 18.

<sup>197</sup> *Id.* See also the picture of a modern Birr in Appendix 5.

<sup>198</sup> See *Hidden Agendas*, *supra* note 18.

<sup>199</sup> See *id.*

<sup>200</sup> See *Who Benefits*, *supra* note 13.

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> See, e.g., *Ethiopia Fact Sheet*, *supra* note 29.

<sup>204</sup> See, e.g., *Hidden Agendas*, *supra* note 18.

<sup>205</sup> See, e.g., *Ogaden Online Background*, *supra* note 28.

<sup>206</sup> See *Post-Revolutionary Tigray*, *supra* note 17, at 85.



capital garnered from several sources, including: non-military equipment captured from the *Derg*, money from private and public Ethiopian companies, financial contributions of Non-governmental Organizations (or "NGO's"), and money borrowed from the state-owned banks of Ethiopia.<sup>207</sup>

Money supplied through EFFORT has allowed the TPLF to develop Tigray's cities far beyond where they were before the 1991 Revolution.<sup>208</sup> Some of the projects the TPLF has funded through EFFORT include a marble quarry at Sheraro, a pharmaceutical firm at Adigrat, textile and clothing workshops at Aduwa, an industrial plant to produce cement in the capital city of Mekelle, and "Guna," a sizeable and diversified enterprise which provides loans, seeds, and tractors to farmers in the commercially-significant region of Humera.<sup>209</sup>

In addition to EFFORT, several other NGO's facilitate the economic advantage that Tigray holds over other regions of Ethiopia. These include the Relief Society of Tigray (or "REST"), initially established by the TPLF during the course of the 1991 Revolution, and the Tigray Development Association (or "TDA"), another NGO with a close relationship to the TPLF.<sup>210</sup> These organizations have an increasing involvement in the commercial sector, for example, REST operates a bus service, while the TDA has become, *inter alia*, the owner of a travel agency based in Addis Ababa.<sup>211</sup>

The diversion of Ethiopian resources to Tigray is not limited to NGOs. Other expensive projects proceeding in Tigray are not directly traceable to an NGO or the TPLF/EPRDF, but seem suspect given the troubled state of the Ethiopian economy.<sup>212</sup> For example, three colleges have been built in Tigray's capital city of Makalle: a business school, a medical school, and an engineering school.<sup>213</sup> In addition, luxurious hotels have been constructed in Tigray cities like Axum.<sup>214</sup> Furthermore, multiple high-rise office buildings have been constructed in Tigrayan urban centers.<sup>215</sup> Interestingly, many of these buildings remain empty.<sup>216</sup> Some critics have speculated that

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<sup>207</sup> *Id.*

<sup>208</sup> See *Hidden Agendas*, *supra* note 18.

<sup>209</sup> See *Post-Revolutionary Tigray*, *supra* note 17, at 85-86.

<sup>210</sup> *Id.* at 86.

<sup>211</sup> *Id.*

<sup>212</sup> See generally *Ethiopia: Focus on cycle of poverty*, U.N. OCHA INTEGRATED REGIONAL INFORMATION NETWORK ("IRIN"), (2002), available at <http://www.reliefweb.int/w/rwb.nsf/> [hereinafter *Cycle of Poverty*].

<sup>213</sup> See *The Manifesto of the TPLF*, *supra* note 14.

<sup>214</sup> *Id.*

<sup>215</sup> *Id.*

<sup>216</sup> *Id.*

the TPLF intends these buildings to be the future centers of Tigrayan business once the region secedes from Ethiopia.<sup>217</sup>

In addition to diverting money from the rest of Ethiopia to Tigray, international aid organizations suspect that the TPLF has also misappropriated donated monies.<sup>218</sup> Since overthrowing the socialist *Derg*, the ostensibly-democratic EPRDF has been able to secure large amounts of aid from Western nations such as the United States.<sup>219</sup> According to the international advocacy group Human Rights Watch (or "HRW"), Western nations have "poured in funding to help the country develop, but turned a blind eye to human rights violations . . . not wishing to jeopardize Ethiopia's cooperation in fighting terrorism."<sup>220</sup> Furthermore, according to UN documents, "[t]he poor in Ethiopia are getting poorer despite billions of dollars of aid."<sup>221</sup> As a result, food aid and its effectiveness have also come under the close scrutiny of the UN's Emergencies Unit for Ethiopia (or "EUE").<sup>222</sup> The EUE suggests that checks must be put in place to ensure that aid is delivered on time and to the right people.<sup>223</sup>

By all accounts, Ethiopia is a country in economic crisis.<sup>224</sup> Ethiopia's two-year border dispute with Eritrea (discussed below) cost the country an estimated \$1 Million (US) per day.<sup>225</sup> The country's financial debt is staggering. As of November, 2002, Ethiopia owed the rest of the world around \$6 Billion (US), the equivalent of Ethiopia's entire gross domestic product.<sup>226</sup> Given Ethiopia's debt and growing famine crisis, Tigray's recent development seems particularly suspect. In light of the foregoing analysis, it seems plausible that the TPLF diverts borrowed money and international aid to Tigray because it believes Tigray will be able to leave the rest of Ethiopia with the bill when it secedes.

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<sup>217</sup> See, e.g., *id.*

<sup>218</sup> See generally *Cycle of Poverty*, *supra* note 212.

<sup>219</sup> See *Ethiopia Fact Sheet*, *supra* note 29.

<sup>220</sup> *Eritrea-Ethiopia: Rights Group says Border Ruling "Favourable" to Eritrea*, U.N. OCHA INTEGRATED REGIONAL INFORMATION NETWORK ("IRIN"), (2003), available at <http://www.reliefweb.int/w/rwb.nsf/> [hereinafter *Favorable Ruling*].

<sup>221</sup> *Cycle of Poverty*, *supra* note 212.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Cf. id.* (discussing the startling fact that 2.5 million people are at "serious risk" of destitution).

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

### C. The Ethiopia – Eritrea Border Dispute

More circumstantial evidence of the TPLF's hidden agenda comes from the recent border dispute between Ethiopia and Eritrea. In 1998, hostilities broke out between Ethiopian and Eritrean forces near the Eritrean city of Badme.<sup>227</sup> Although the TPLF/EPRDF and the EPLF were allies during the 1991 Revolution against the *Derg*, relations between them had soured.<sup>228</sup> Both sides cited "territorial integrity" as their justification for the use of force.<sup>229</sup> In 2000, both sides agreed to have the border dispute settled by the United Nations.<sup>230</sup> A special commission created to resolve the dispute handed down its decision in April of 2002.<sup>231</sup> This section will demonstrate how the events leading up to, surrounding, and following the Ethiopia – Eritrea border dispute shed light on the TPLF's hidden agenda.

The TPLF/EPRDF-led Ethiopian government attacked Eritrea in furtherance of the TPLF's plan to gain access to the Red Sea for "Greater Tigray." A year before overthrowing the *Derg*, Meles Zenawi, then the leader of the TPLF, was quoted as saying, "We look to [the independence of Eritrea] from the viewpoint of the interests of Tigray, first, and then Ethiopia as a whole. We know that Tigray needs access to the sea and the only way is through Eritrea."<sup>232</sup> From this quote one can infer that the future Prime Minister of Ethiopia was considering challenging the borders of Eritrea on behalf of the Tigray even before he assumed power over Ethiopia.

This inference explains why Ethiopia later opened the Burie front near Eritrea's southernmost port town of Assab. Unlike other areas contested during the border dispute, Burie had not previously been a source of conflict.<sup>233</sup> If Ethiopia had succeeded in annexing the Eritrean town of Burie, it would have cut off Eritrea's access to its port city of Assab.<sup>234</sup> Located in the southernmost region of Eritrea,<sup>235</sup> Assab would have once again given Ethiopia access to the Red Sea. In addition, according to the 1976 manifesto, Assab borders certain Ethiopian lands within the borders of

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<sup>227</sup> See *Background to the Current Border Dispute*, *supra* note 190.

<sup>228</sup> See *Human Waves*, *supra* note 26.

<sup>229</sup> See *Hidden Agendas*, *supra* note 18.

<sup>230</sup> See *Ethiopia and Eritrea – UNMEE – Background*, U.N. MISSION IN ERITREA AND ETHIOPIA ("UNMEE") (2002), available at <http://www.un.org/Depts/dpko/missions/unmee/background.html> [hereinafter *UNMEE Background*].

<sup>231</sup> *Id.*

<sup>232</sup> *Hidden Agendas*, *supra* note 18.

<sup>233</sup> *Id.*

<sup>234</sup> See *id.*

<sup>235</sup> See Appendix 2.

“Greater Tigray.”<sup>236</sup> Thus, it is likely that the Tigrayan leaders of Ethiopia opened the Burie front in an attempt to capture Assab’s Red Sea access for the benefit of “Greater Tigray.”<sup>237</sup>

New evidence also suggests that the TPLF/EPRDF committed war crimes during the border dispute with Eritrea by using peasants from rural regions of Ethiopia as “human minesweepers.”<sup>238</sup> Before the dispute erupted, Tigrayans made up the overwhelming majority of Ethiopia’s army.<sup>239</sup> With war with Eritrea looming, the Tigrayans mobilized the Ethiopian state on their behalf.<sup>240</sup> They “recruited” some 250,000 men from other regions to join the army.<sup>241</sup> These recruits – mostly rural farmers with little or no training – fought on Ethiopia’s front-line, while Tigrayans, who made up eighty percent of the army’s officers, directed the battle from the rear.<sup>242</sup> The Ethiopian leadership’s strategy for the new recruits was simple: deploy tens of thousands of them along a 3-mile front, drive them forward through minefields, and hope that they blow themselves up in order to clear a path to the Eritrean front line for better trained troops, mechanized forces, and artillery.<sup>243</sup> Recruits who attempted to turn back were shot by their superiors.<sup>244</sup> This strategy resulted in the slaughter of many Ethiopians and prompted international outrage.<sup>245</sup> A 1999 article in “The Economist” stated, “[the TPLF/EPRDF] have been prepared to accept casualty figures that are usually regarded as unacceptable in modern warfare.”<sup>246</sup>

Ethiopia’s strategy did not work. After two years of bloody fighting, Ethiopia had failed to realize its territorial goals.<sup>247</sup> In 2000, both sides agreed to have the dispute settled by the United Nations.<sup>248</sup> On September 15, 2000, UN Security Council Resolution 1320 established the United Nations Mission in Ethiopia and Eritrea (or “UNMEE”) to monitor the ceasefire between the two countries.<sup>249</sup> In addition, under the auspices of

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<sup>236</sup> See *Human Waves*, *supra* note 26.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.*

<sup>239</sup> *Id.*

<sup>240</sup> *Id.*

<sup>241</sup> *Id.*

<sup>242</sup> *Id.*

<sup>243</sup> *Id.*

<sup>244</sup> *Id.*

<sup>245</sup> *Id.*

<sup>246</sup> *Ethiopia and Eritrea: Trench Warfare*, THE ECONOMIST, Mar. 13, 1999, at 58.

<sup>247</sup> See *Human Waves*, *supra* note 26.

<sup>248</sup> S.C. RES. 1320, U.N. SCOR, 4181st mtg., at 1, U.N. Doc. E/58366 (2000).

<sup>249</sup> *Id.*

the Organization for African Unity (or "OAU"), an agreement between Eritrea and Ethiopia established the Eritrea – Ethiopia Boundary Commission (or "EEBC") to resolve the conflict.<sup>250</sup> The EEBC handed down its decision on April 13, 2002.<sup>251</sup> In the international advocacy group Human Rights Watch's (or "HRW") 2003 World Report, the organization opined that the EEBC "gave a ruling favorable to Eritrea."<sup>252</sup> According to HRW, "[t]he report [by the EEBC] generally rejected Ethiopia's claims including (without mentioning it by name) the claim to the village of Badme where the war had started."<sup>253</sup> According to diplomatic sources, Ethiopia is currently preparing a comprehensive legal challenge to the EEBC ruling.<sup>254</sup>

#### *IV. The Legality of Tigray's Potential Secession Based on Self-determination*

Ethiopia's failure to annex Badme and the port city of Assab from Eritrea may have temporarily thwarted the TPLF's dreams of access to the Red Sea for "Greater Tigray." However, the TPLF/EPRDF leadership that remains in control of Ethiopia may challenge the border with Eritrea again in the future through legal or military means.<sup>255</sup> Alternatively, the TPLF might decide to assert Tigray's independence from Ethiopia without access to the Red Sea. In either case, the question remains: could Tigray legally secede from Ethiopia in the name of self-determination under international law?

The principle of "self-determination" is one of the most commonly and passionately expressed concepts in international relations.<sup>256</sup> Yet, it also has the distinction of being one of international law's most complex and confusing terms.<sup>257</sup> Ever since the principle was enshrined in the United Nations Charter, the UN has become the principle venue for claims of self-determination and defenses to those claims.<sup>258</sup> Through a series of UN

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<sup>250</sup> See *UNMEE Background*, *supra* note 230.

<sup>251</sup> See *Favorable Ruling*, *supra* note 220.

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> See generally *id.*

<sup>256</sup> See *A Prima Facie Case*, *supra* note 8; see also *Legality of Secessions*, *supra* note 52, at 479.

<sup>257</sup> See *Self-Determination: Its Evolution*, *supra* note 34, see also *A Regained Interest*, *supra* note 44.

<sup>258</sup> *Self-Determination: Its Evolution*, *supra* note 34, at 77.

resolutions, the concept of self-determination has evolved and been refined.<sup>259</sup>

In order to understand the concept of self-determination, one must have a working definition of the term "self."<sup>260</sup> In other words, what constitutes a "people" entitled to the right to self-determination? Who qualifies as a beneficiary of such a right? What is the *prima facie* case for making a claim of self-determination?

### A. The Evolution of "Self-Determination" in the United Nations

The concept of "self-determination" gained international legal recognition when the Great Powers (the United States, the Soviet Union, Great Britain, France, and China) came together following the end of World War II to draft the Charter for the United Nations (hereinafter, the "Charter").<sup>261</sup> Article 1, Paragraph 2 of the Charter recognizes "the principle of equal rights and self-determination of peoples."<sup>262</sup> The principle is also mentioned in the preamble of Article 55, which deals with the development of international social and economic cooperation.<sup>263</sup>

In 1960, the UN approved the Declaration of the Granting of Independence to Colonial Countries and Peoples: General Assembly Resolution 1514 (XV) (hereinafter "Resolution 1514").<sup>264</sup> Although the title of Resolution 1514 refers to "colonial countries and peoples," the Declaration has become the springboard for most modern calls for self-determination.<sup>265</sup> Indeed, the UN and legal scholars have given the term "colonial" a broad working definition to include most, if not all countries and peoples.<sup>266</sup> To support this view, some note that Principle 1 of the Resolution 1514 does not refer explicitly to "colonialism." Rather, Resolution 1514 prohibits subjection of peoples to alien subjugation, domination, and exploitation.<sup>267</sup> Furthermore, Principle 2 of Resolution 1514 provides that "[a]ll people have the right to self-determination; by

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<sup>259</sup> See generally *id.* (reviewing the norms established by the UN by which claimants to self-determination can be "judged").

<sup>260</sup> See, e.g., *Legality of Secessions*, *supra* note 52, at 516-518.

<sup>261</sup> *Id.* at 480.

<sup>262</sup> U.N. CHARTER art. 1, para. 2.

<sup>263</sup> *Id.* art. 55.

<sup>264</sup> G.A. RES. 1514, U.N. GAOR, 15th Sess., Supp. No. 16, at 29, U.N. Doc. A/4684 (1960) [hereinafter *Resolution 1514*].

<sup>265</sup> *Id.*

<sup>266</sup> See, e.g., *Legality of Secessions*, *supra* note 52, at 516-518.

<sup>267</sup> See *id.*

virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development."<sup>268</sup>

Several provisions of Resolution 1514 seem internally inconsistent and contrary to the UN Charter.<sup>269</sup> For example, Principle 4 of Resolution 1514 provides that "[a]ll armed actions or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected."<sup>270</sup> However, Principle 6 of Resolution 1514 provides that "[a]ny attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."<sup>271</sup> Thus, Resolution 1514 embraces the right of "dependent peoples" to strive for "complete independence," but simultaneously prohibits "any attempt" at independence that threatens "national unity and territorial integrity." Conflict arises over the fact that, depending on one's point of view, the same act of rebellion can be seen as both an attempt to gain independence *and* a threat to national unity. This conflict is exacerbated by the fact that Resolution 1514 does not define the word "people."<sup>272</sup>

The United Nations Charter embodies the two internationally recognized rights of self-determination and territorial integrity. In many ways, Resolution 1514 pits one against the other by begging the question of which right takes precedent when the two are in conflict.<sup>273</sup> Former UN Secretary-General U Thant summarized this conflict in 1971 when he stated; "[A problem] which often confronts us and to which as yet no acceptable answer has been found in the provisions of the Charter, is the conflict between the principles of the integrity of sovereign states and the assertion of the right to self-determination, and even secession, by a large group within a sovereign state . . . [A] dangerous deadlock can paralyze the ability of the United Nations to help those involved."<sup>274</sup> Thus, while Resolution 1514 increased the rights of people to self-determination, it caused definitional problems that still plague the international legal community.

These definitional problems were revisited, but not resolved, in 1970 when the UN General Assembly passed The Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among

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<sup>268</sup> *Resolution 1514, supra* note 264.

<sup>269</sup> *See Self-Determination: Its Evolution, supra* note 34, at 87.

<sup>270</sup> *Resolution 1514, supra* note 264, at (4).

<sup>271</sup> *Id.* at (6).

<sup>272</sup> *See Self-Determination: Its Evolution, supra* note 34, at 88.

<sup>273</sup> *Id.* at 89.

<sup>274</sup> *Id.* citing the Introduction to the Report of the United Nations Secretary General, 1971.

States in Accordance with the Charter of the United Nation: General Assembly Resolution 2625 (XXV) (hereinafter "Resolution 2625").<sup>275</sup> In the section entitled "The Principle of Equal Rights and Self-Determination," Resolution 2625 dictates principles aimed at clarifying how a people can exercise its rights to self-determination. For example, Resolution 2625 provides that "[t]he establishment of a sovereign and independent State, the free association or integration with an independent State, or the emergence into any other political status *freely determined by a people* constitute modes of implementing the right of self-determination by that people."<sup>276</sup>

Furthermore, Resolution 2625 provides that people who are forcibly prohibited from exercising their rights to self-determination can seek redress from the United Nations. In the same section, Resolution 2625 provides that "[e]very state has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principles of their right to self-determination and freedom and independence . . . [In such cases] such peoples are entitled to seek and receive support in accordance with the purposes and principles of the Charter."<sup>277</sup>

However, like Resolution 1514, Resolution 2625 fails to reconcile the conflict between the right to self-determination and the right to national integrity.<sup>278</sup> Resolution 2625 provides that "[n]othing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair . . . the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above . . ."<sup>279</sup> While this principle would seem to grant the right to self-determination to oppressed minorities within a State, the lack of a working definition for the term "peoples" weakens the protection afforded to sub-groups within a sovereign State. Resolution 2625, like Resolution 1514, fails to specify who benefits from the right to self-determination.<sup>280</sup>

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<sup>275</sup> G.A. RES. 2625, U.N. GAOR, 25th Sess., Supp. No. 28, at 121, U.N. Doc. A/8028 (1970) [hereinafter *Resolution 2625*].

<sup>276</sup> *Id.* [emphasis added].

<sup>277</sup> *Id.*

<sup>278</sup> See generally *Self-Determination: Its Evolution*, *supra* note 34, at 88-91.

<sup>279</sup> *Resolution 2625*, *supra* note 275.

<sup>280</sup> See generally *Self-Determination: Its Evolution*, *supra* note 34, at 91.



## B. Defining the Term "Self"

The ambiguity within the various UN Resolutions concerning the rights of people to govern themselves demonstrates that a working definition of "self" and "people" is central to any discussion regarding self-determination. Although the United Nations has failed to supply such a definition, legal scholars have concluded that the UN Resolutions described above grant self-determination rights to two groups of people: (1) colonial peoples; and (2) peoples subjected to "foreign domination."<sup>281</sup> Evidence that the UN grants self-determination rights to colonial peoples comes from, among other sources, the title of UN Resolution 1514, which explicitly refers to "colonial countries and peoples."<sup>282</sup> Evidence for support of the second group, though less obvious than that for colonized peoples, also comes directly from the text of UN Resolution 1514. Resolution 1514 expanded the right of self-determination beyond the classical colonial setting to include struggles against "alien subjugation, domination, and exploitation."<sup>283</sup>

However, the *scope* of the second group is less than clear. Many questions remain unanswered by the texts. What constitutes foreign "subjugation, domination, and exploitation?" Who is considered "foreign?" Is the term "foreign" limited to oppressors outside of a recognized State, or can "foreign" apply to the government within a nation-state who is geographically, culturally, and politically removed from the local population it oppresses? In spite of their importance to the case of Ethiopia and other multi-cultural countries, answers to these questions remain elusive.

In broad terms, legal scholars use both objective and subjective approaches in identifying a legitimate "self" for the purpose of defining a group as a "people" entitled to self-determination rights.<sup>284</sup>

The subjective approach focuses on the desire of a collection of people to form a coherent group identity, and under this approach, a "self" defines itself.<sup>285</sup> In other words, in order for a group of individuals to constitute a "people" deserving the right to self-determination, all the group needs is a commonly held desire to govern itself. However, this standard suffers from the fact that it lacks non-arbitrary, exclusive, and inclusive elements.<sup>286</sup> A group might broaden its alleged membership in order to expand its

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<sup>281</sup> See, e.g., *id.* at 92.

<sup>282</sup> Resolution 2625, *supra* note 275; *Self-Determination: Its Evolution*, *supra* note 34, at 92.

<sup>283</sup> *Id.* at 92-93.

<sup>284</sup> *A Prima Facie Case*, *supra* note 8, at 171.

<sup>285</sup> *Id.*

<sup>286</sup> *Id.* at 171-172.

territorial claim. This might infringe upon the rights of others within the territory who do not completely identify with the group. Thus, such an amorphous standard creates the potential for hostility between individual members within the group.<sup>287</sup>

The objective approach avoids this potential conflict by defining a “people” according to several specific, non-arbitrary criteria. These criteria include (1) a common historic tradition, (2) racial or ethnic identity, (3) cultural homogeneity, (4) linguistic unity, (5) religious or ideological belief, (6) geographic proximity, and (7) common economic conditions.<sup>288</sup> This non-exclusive list of criteria provides objective ways for groups of people to categorize themselves. However, the objective approach is not without its problems. For example, a single person belongs to several different groups depending on which criterion controls. Thus, conflict may arise over which criterion or group of criteria will define the group deserving of self-determination rights.

### C. Self-determination Law Applied to Ethiopia

In light of the preceding analysis, it seems unlikely that the TPLF would be able to legally assert Tigray’s independence based on self-determination. Although Tigray’s culture, language, and regional identity qualifies the region as a “self” under both the subjective and objective approaches to the term, Tigray does not fit into one of the groups that are afforded self-determination rights under the United Nations. Specifically, Tigray is not a colonized land and is not subject to “foreign domination.”<sup>289</sup> To the contrary, the Tigray-led TPLF/EPRDF now dominates Ethiopian politics.<sup>290</sup> Furthermore, UN Resolution 2625 protects the territorial integrity of sovereign states.<sup>291</sup> Tigray’s secession would undoubtedly threaten Ethiopia’s territorial integrity. If the TPLF/EPRDF leaders fled Addis Ababa, then Tigray’s secession would leave Ethiopia in chaos and without a working central government.<sup>292</sup>

It seems far more likely that other regions of Ethiopia would be able to assert an internationally-recognized call for self-determination. Both Oromia and the Ogaden have tried to assert their independence from Ethiopia, but both have been undermined through the efforts of the

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<sup>287</sup> *Id.* at 172.

<sup>288</sup> *Id.*, quoting the objective factors for self-determination rights listed by the United Nations Economic and Social Cooperation Organization (“UNESCO”).

<sup>289</sup> See discussion *supra* Part II.B.

<sup>290</sup> *Id.*

<sup>291</sup> See *Resolution 2625*, *supra* note 275.

<sup>292</sup> See generally *Human Waves*, *supra* note 26.

TPLF/EPRDF.<sup>293</sup> Oromia and the Ogaden have distinct cultural identities.<sup>294</sup> Furthermore, both are subject to TPLF/EPRDF domination.<sup>295</sup> If Oromia and the Ogaden were able to convince the international community that domination by the TPLF/EPRDF constitutes “foreign domination,” then they would likely qualify as groups deserving self-determination rights under UN Resolutions 1514 and 2625.

Ethiopia’s 1994 Constitution and the TPLF’s political dominance complicate this analysis. The United Nations has never been confronted with the situations where a regional government’s right to secede is enshrined in a country’s constitution, or where a dominant cultural minority has asserted its independence from the rest of the country based on the self-determination principle.<sup>296</sup>

### *Conclusion*

The Tigray People’s Liberation Front has attempted to loot Ethiopia from within. The TPLF and its political sibling the Ethiopian People’s Revolutionary Democratic Front have perpetrated a grand fraud on the Ethiopian people and the international community. As the preceding analysis shows, circumstantial evidence of the TPLF’s hidden agenda abounds. The TPLF/EPRDF has established a façade of democracy in order to garner both internal support and international aid.<sup>297</sup> Since 1991, the Tigray-dominated central government has systematically undermined that democracy and diverted Ethiopia’s resources to Tigray.<sup>298</sup> In addition, the TPLF/EPRDF has created a Constitution that gives Tigray the “unconditional right” to secede from Ethiopia based on the self-determination principle.<sup>299</sup> In pursuit of a “Greater Tigray,” the TPLF has expanded the borders of Tigray and attempted to gain access to the Red Sea.<sup>300</sup>

It remains to be seen whether or not the TPLF will ever be able to realize the goals set forth in the “Republic of Greater Tigray.” Undoubtedly, the TPLF’s plans were set back immensely by Ethiopia’s failure to capture key territories in the Ethiopia-Eritrea border dispute. The decision handed down by the Eritrea – Ethiopia Boundary Commission

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<sup>293</sup> See discussion *supra* Part II.B.i-ii.

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

<sup>296</sup> See *supra* note 36.

<sup>297</sup> See, e.g., *Ethiopia Fact Sheet*, *supra* note 29.

<sup>298</sup> See discussion *supra* Part II.B.

<sup>299</sup> See, e.g., *Ogaden Online Background*, *supra* note 28.

<sup>300</sup> See discussion *supra* Part III.A.

further hindered the TPLF. However, Ethiopia is preparing a comprehensive appeal to the EEBC's ruling. The outcome of the appeal will likely have a significant impact on the future plans of the TPLF.

The Ethiopia – Eritrea border dispute may have caused an ideological rift in the TPLF's power structure. According to Amnesty International, in March of 2001, internal conflict within the TPLF led to the expulsion of twelve members of the organization's Central Committee.<sup>301</sup> A number of regional and security officials were dismissed and some were arrested.<sup>302</sup> Over the following months, many important officials left the TPLF.<sup>303</sup> In May, Kinfe Gebre-Medhin, the person in charge of internal security in the government, was assassinated.<sup>304</sup> In addition, eighteen people, including two of the twelve officials expelled from the TPLF, were arrested in May for corruption.<sup>305</sup> While the underlying causes of these arrests and expulsions remain unclear, they may signal the demise of TPLF "hardliners." It is possible that Prime Minister Meles Zenawi and the other TPLF members remaining in Ethiopia's central government have given up on ever asserting Tigray's independence following Ethiopia's failure to gain access to the Red Sea.

Regardless of whether or not Tigray ever actually tries to secede, Ethiopia's recent history has presented novel questions to the international legal community: What is the legal significance of a constitutional right of secession? Must the international community respect such a right when it is based in deception? What duty does the U.N. have to intervene when a dominant minority population uses the concept of self-determination in order to oppress other minorities?

The international community, led by the United States, has chosen to ignore these and other questions in the case of Ethiopia. Perhaps the United States is too concerned with preserving Ethiopia as an ally in the "war on terror" to question the legitimacy of Ethiopia's "democracy."<sup>306</sup> By blindly aiding Ethiopia and the TPLF, the United States risks creating a populous in Ethiopia rich with anti-American sentiment. The secession of Tigray would only provoke more anger and ultimately create the potential for more terror directed at American interests. The world cannot afford to ignore the hidden agenda of the TPLF any longer.

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<sup>301</sup> AI REPORT 2002, *supra* note 166.

<sup>302</sup> *Id.*

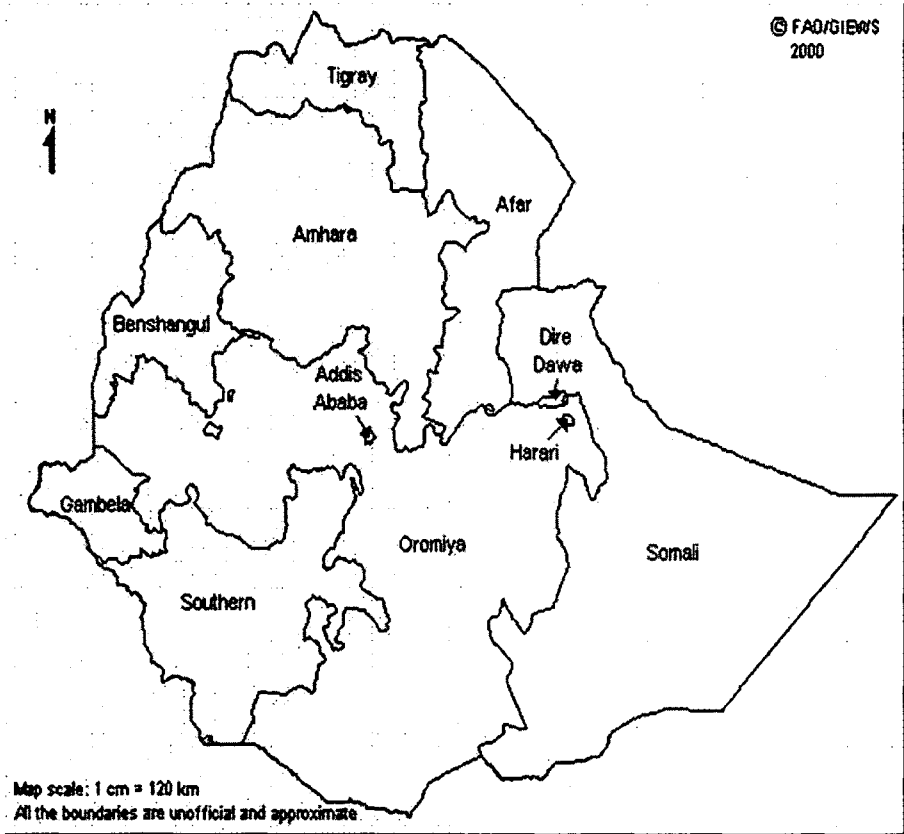
<sup>303</sup> *Id.*

<sup>304</sup> *Id.*

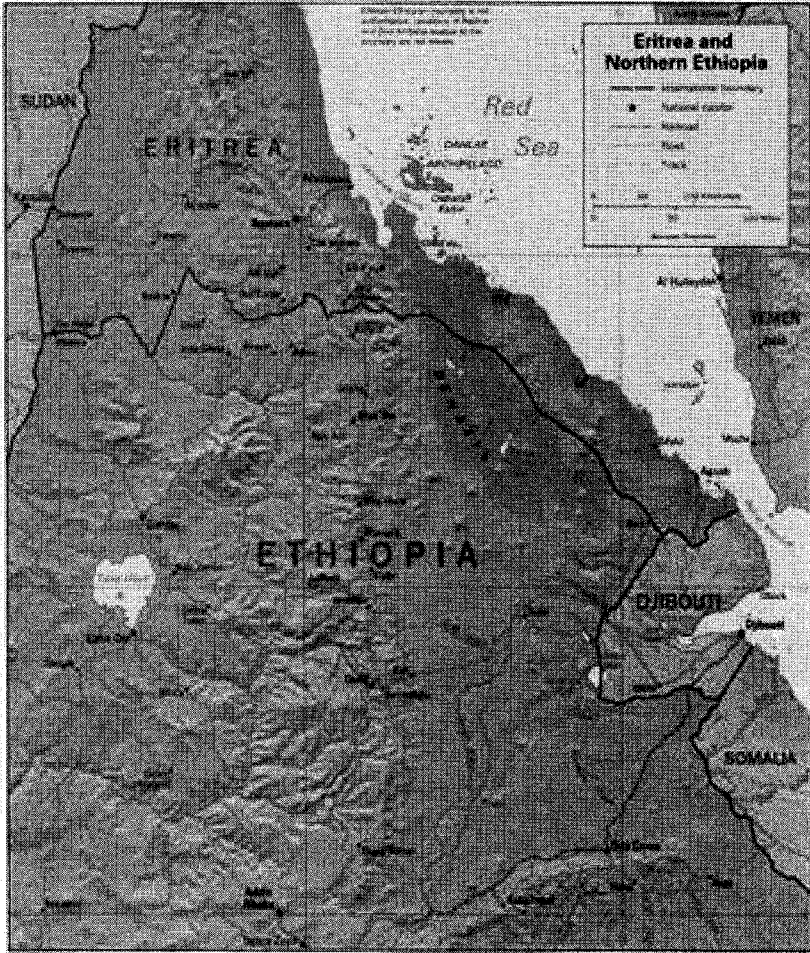
<sup>305</sup> *Id.*

<sup>306</sup> See *Favorable Ruling*, *supra* note 220.

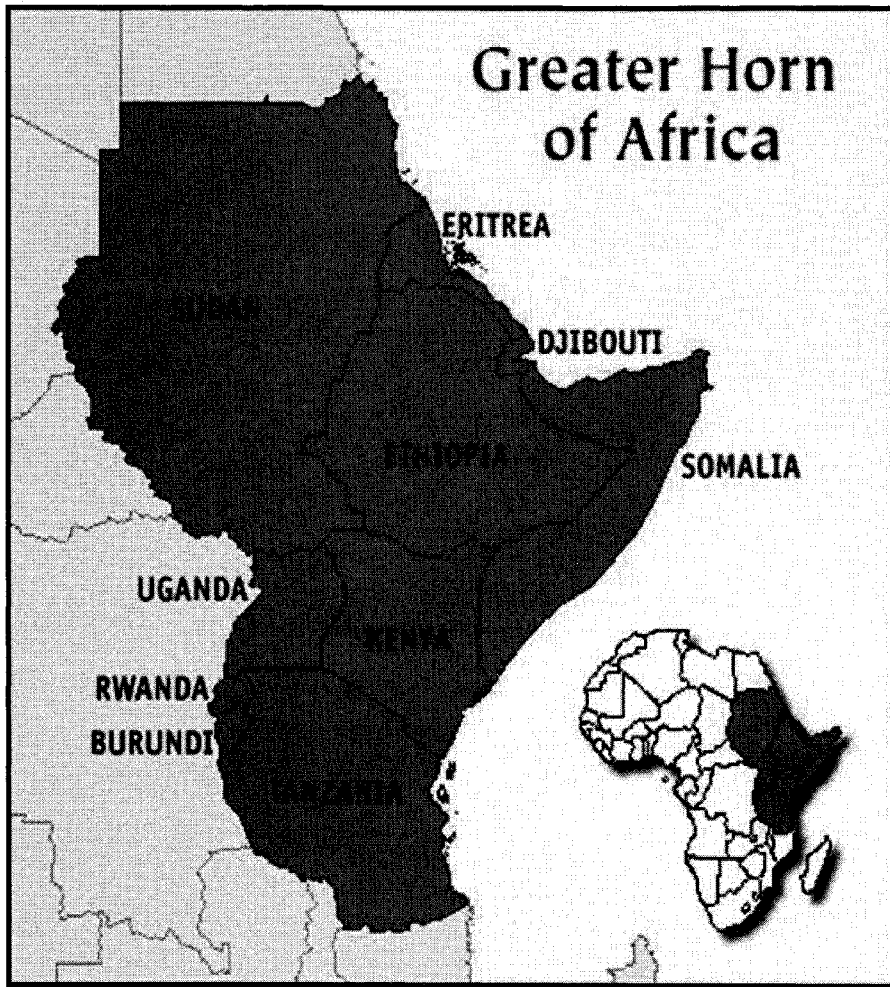
**Appendix 1 – Map of Ethiopia's Administrative Zones**



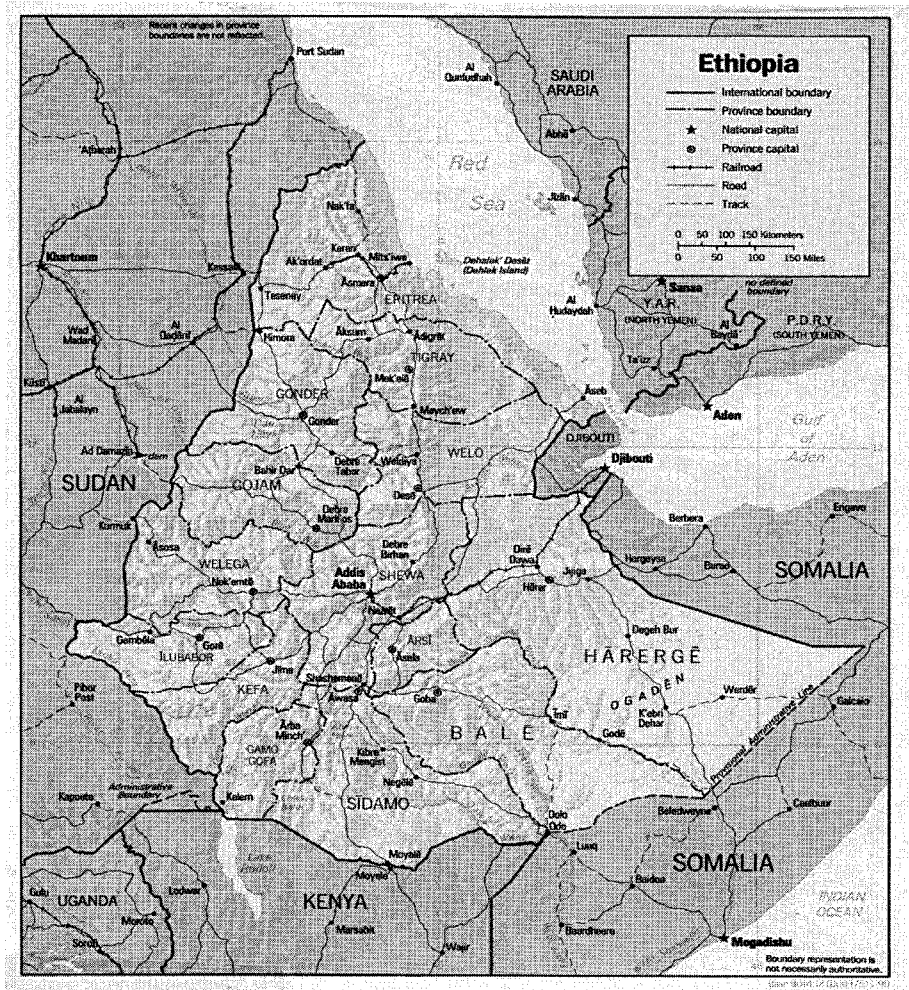
**Appendix 2 – Map of the Ethiopia – Eritrea Border**



**Appendix 3 – Map of the Horn of Africa**



Appendix 4 – 1990 Relief Map of Ethiopia





Appendix 5 – The Modern Birr

