



UNIVERSITEIT VAN PRETORIA  
UNIVERSITY OF PRETORIA  
YUNIBESITHI YA PRETORIA

Denkleiers • Leading Minds • Dikgopolo tša Dihlalefi

**LEFT BEHIND: THE STORY OF THE ETHIOPIAN PURSUIT OF  
DEMOCRACY**

SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS OF THE DEGREE  
OF MPhil (HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA)

**BY**

**ELIM SHANKO**

STUDENT NUMBER: u#22955349

**PREPARED UNDER THE SUPERVISION OF**

**PROF USANG M ASSIM**

(UNIVERSITY OF THE WESTERN CAPE)

**&**

**PROF ADEM KASSIE ABEBE**

(UNIVERSITY OF PRETORIA)

**AT**

**THE DULLAH OMAR INSTITUTE, UNIVERSITY OF THE WESTERN CAPE**

**25 OCTOBER 2022**

## **PLAGARISM DECLARATION**

I, Elim Shanko, student number u#22955349 declare as follows:

1. I understand what plagiarism entails and am aware of the University's policy in this regard.
2. This assignment/examination/dissertation is my own, original work. Where someone else's work has been used (whether from a printed source, the internet or any other source) due acknowledgement has been given and reference made according to the requirements of the Faculty of Law.
3. I did not make use of another student's work and submit it as my own.
4. I did not allow anyone to copy my work with the aim of presenting it as his or her own work.

Signature: **Elim Shanko**

Date: 25 October 2022

## **DEDICATION**

I dedicate this thesis to my parents. This work is in honour of you and every other Ethiopian whose deep love for their country, despite their feelings of powerlessness, keeps them reinvesting their time, their resources, and their lives in pursuit of shaping a nation that is home to all, unified and peaceful.

I also dedicate this thesis to Africans of the Diaspora who battle to find their place in giving back to this beautiful continent- there is always room for you to be part of a positive change.

## ACKNOWLEDGMENT

Firstly, I want to acknowledge my friends, my partner, and my family who have supported me throughout the course of this year and this rigorous thesis-writing process- your encouragement has carried me through it all.

I am deeply grateful to my supervisors Prof. Usang M. Assim and Prof. Adem K. Abebe whose patient and accommodating academic guidance was instrumental in my completion of this thesis.

I am thankful to the Mandela Rhodes Foundation for sponsoring my academic study and giving me the opportunity to partake in this prestigious master's program.

I further extend my gratitude to the Centre for Human Rights for the chance to undertake this degree.

I would lastly like to acknowledge my mentors Keith Kay, Kyle Caffey, Cliff Williams, Andrew DeCort and Michael McKoy for selflessly pouring into me, advocating for me and for reminding me that my contribution is worthwhile- without you, I would not have had the confidence or opportunity to be here.

## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION .....</b>	<b>1</b>
1.1	BACKGROUND AND CONTEXT .....	1
1.2	PROBLEM STATEMENT RESEARCH QUESTION AND METHODOLOGY .....	2
1.2.1	<i>Problem Statement</i> .....	3
1.2.2	<i>Research Question</i> .....	3
1.2.3	<i>Methodology</i> .....	3
1.3	LITERATURE REVIEW.....	3
1.4	LIMITATIONS OF RESEARCH.....	6
1.5	DEFINITION OF KEY TERMS.....	6
1.6	STRUCTURE .....	7
<b>2</b>	<b>CONCEPTUAL AND LEGAL FRAMEWORKS OF DEMOCRACY.....</b>	<b>8</b>
2.1	INTRODUCTION .....	8
2.2	INTERNATIONAL LEGAL FRAMEWORKS .....	8
2.3	DOMESTIC LEGAL FRAMEWORKS .....	9
2.4	ELEMENTS OF DEMOCRACY.....	10
2.5	ELECTIONS, FREEDOM OF EXPRESSION AND SEPARATION OF POWERS.....	11
2.5.1	<i>Separation of powers within a historically authoritarian state</i> .....	11
2.5.2	<i>Elections in a democratic Ethiopia</i> .....	11
2.5.3	<i>Freedom of speech for a democratic order</i> .....	12
2.6	CONCLUSION.....	12
<b>3</b>	<b>HISTORICAL BACKDROP.....</b>	<b>14</b>
3.1	INTRODUCTION .....	14
3.2	THE LION OF JUDAH .....	14
3.2.1	<i>A modern empire</i> .....	14
3.2.2	<i>The Revised Constitution</i> .....	16
3.2.3	<i>Domestic opposition and the collapse of the empire</i> .....	17
3.2.4	<i>An assessment of the Emperor</i> .....	18
3.3	THE DERG AND THE RISE OF A MILITARY DICTATORSHIP .....	18
3.3.1	<i>Establishing a political organisation</i> .....	18
3.3.2	<i>Socio-political reforms of the Derg</i> .....	19
3.3.3	<i>The rise of the dictatorship</i> .....	21
3.3.4	<i>An assessment of the Derg</i> .....	22
3.4	CONCLUSION.....	23
<b>4</b>	<b>ASSESSING THE EPRDF AND THE PROSPERITY PARTY.....</b>	<b>24</b>

4.1	INTRODUCTION .....	24
4.2	CHARACTERISING THE RULING PARTIES AND ETHNO-FEDERALISM .....	24
4.2.1	<i>Marxist-Leninist League of Tigray</i> .....	24
4.2.2	<i>A revolutionary democracy</i> .....	25
4.2.3	<i>Medemer</i> .....	26
4.2.4	<i>Ethno-federalism</i> .....	27
4.3	SEPARATION OF POWERS .....	28
4.3.1	<i>Legal guarantees</i> .....	28
4.3.2	<i>Separation of powers in the EPRDF</i> .....	32
4.3.3	<i>Separation of powers under Prosperity Party</i> .....	34
4.3.4	<i>An assessment of the separation of powers</i> .....	36
4.4	ELECTIONS.....	36
4.4.1	<i>1992</i> .....	36
4.4.2	<i>1995 and 2000</i> .....	38
4.4.3	<i>2005</i> .....	40
4.4.4	<i>2010 and 2015</i> .....	42
4.4.4	<i>2021</i> .....	43
4.4.5	<i>An assessment of elections</i> .....	45
4.5	FREEDOM OF EXPRESSION .....	45
4.5.1	<i>Legal guarantees</i> .....	46
4.5.2	<i>Accessibility</i> .....	49
4.5.3	<i>Assessment on freedom of speech</i> .....	52
4.6	CONCLUSION.....	52
<b>5</b>	<b>CONCLUSION AND RECOMMENDATIONS .....</b>	<b>53</b>
5.1	CONCLUDING REMARKS.....	53
5.1.1	<i>What democratic model has Ethiopia adopted?</i> .....	53
5.1.2	<i>Has Ethiopia's democratic framework succeeded?</i> .....	55
5.1.3	<i>Is this framework democratic?</i> .....	57
5.1.4	<i>Can the framework be redesigned?</i> .....	57
5.2	FINAL RECOMMENDATIONS .....	58
5.2.1	<i>Constitutional measures</i> .....	59
5.2.2	<i>General Recommendations</i> .....	59
5.2.3	<i>Legislative measures</i> .....	60
	<b>BIBLIOGRAPHY .....</b>	<b>61</b>
	BOOKS .....	61
	CHAPTERS IN BOOKS.....	64
	THESES AND DISSERTATIONS .....	65
	INTERNATIONAL INSTRUMENTS.....	65

LEGISLATION ..... 66  
REPORTS AND PAPERS..... 67  
INTERNET SOURCES..... 69

## ACRONYMS

1995 Constitution	(Revised Constitution)
African Charter on Democracy, Elections and Governance	(ACDEG)
African Charter on Human and Peoples' Rights	(Charter)
All Ethiopia Socialist Movement	(Me'ison)
All-Amhara People's Organization	(AAPO)
Amended Electoral Law Proclamation	(AEL)
Coalition for Unity and Democracy	(CUD)
Constitutional Commission	(CC)
Convention on the Elimination of All forms of Discrimination against Women	(CEDAW)
Council of Ministers	(COM)
Council of Representatives	(COR)
Crown Prince	(CP)
Economist Intelligence Unit Democracy Index	(EIUI)
Emperor Haile Selassie	(Emperor)
Eritrean People's Liberation Front	(EPLF)
Ethiopian Electoral, Political Parties Registration and Elections Code of Conduct	(Electoral Proclamation)
Ethiopian People's Revolutionary Democratic Front	(EPRDF)
Ethiopian People's Revolutionary Party	(EPRP)
European Union-Election Observation Mission	(EU-EOM)
Freedom House Index	(FHI)
Hate Speech and Disinformation Prevention and Suppression Proclamation	(Hate Speech Proclamation)
Head of State	(HOS)
House of Federation	(HOF)
House of People's Representatives	(HPR)
Human Rights Committee	(Committee)
International Covenant on Civil and Political Rights	(ICCPR)



International Covenant on Economic Social and Cultural Rights	(CESCR)
Marxist Leninist League of Tigray	(MLLT)
National Electoral Board of Ethiopia	(NEBE)
Ogadeni National Liberation Front	(ONLF)
Oromo Liberation Front	(OLF)
Prevention and Suppression of Terrorism Crimes Proclamation	(Terrorism Proclamation)
Prime Minister	(PM)
Prosperity Party	(PP)
Protocol to the African Charter of Human and Peoples' Rights on the Rights of Women in Africa	(Maputo Protocol)
State Council	(SC)
Telecom Fraud Offence Proclamation	(TFO)
Tigrayan People's Liberation Front	(TPLF)
TPLF-led EPRDF	(TPLF-EPRDF)
Transitional Charter	(TC)
Transitional Government of Ethiopia	(TGE)
Union of Ethiopian Marxist-Leninist Organisations	(Imaldeh)
United Nations	(UN)
Universal Declaration of Democracy	(UDD)
Universal Declaration of Human Rights	(UDHR)
Voice of Wayne Tigray	(VWT)

# 1 INTRODUCTION

## 1.1 Background and context

Free of formal colonial shackles, pre-1935 Ethiopia was a beacon of hope on the African continent. Despite its own internal struggles, Ethiopia, and its final Emperor Haile Selassie (Emperor), represented a source of pride for nationals, Africans, and people of the African diaspora. The Italian occupation of the 1930s deepened Ethiopia's anti-colonial record and its growing identity as an African state. After victory against the Italians, social ventures emerged to promote that identity, one of which was the Haile Selassie I Prize Trust. It aimed to 'strengthen the spiritual and cultural bond between the Ethiopian people, peoples of the African continent and the whole world'.<sup>1</sup> Financially rewarding students who made great contributions to African and Ethiopian intellectual dispensation, it invited students from across the globe to study at Addis Ababa University.<sup>2</sup>

The Emperor also sought to modernise Ethiopia and brought about a newer sense of freedom than citizens had previously seen.<sup>3</sup> He introduced the first constitutions of the country, formed a parliament, and championed advanced education. Along with the perceived modernisation of Ethiopia, the body of African and African diaspora intellectuals was growing. In response to African colonisation, a 'continental self-awareness', later coined 'Pan-Africanism', emerged.<sup>4</sup> This movement aimed to 'gain the racial identity and pride of black people that was lost because of slavery, colonialism and social oppression'.<sup>5</sup> The movement had grown so much that it began to take root on the African continent, several thousand miles from its origins in the West.<sup>6</sup>

The Emperor was an icon for the Pan-African mission. The movement served as an opportunity to reinvent who Africans were and what Africa could be, while Ethiopia remained its symbol of black liberation.<sup>7</sup> To incrementally realise the vision of a 'United States of Africa', a

---

<sup>1</sup> F Gebrekidan 'From Adwa to OAU: Ethiopia and the politics of Pan Africanism, 1896-1963' (2012) *International Journal of Ethiopian Studies* 81.

<sup>2</sup> As above.

<sup>3</sup> PB Henze "Is Ethiopia democratic? a political success story' (1998) *Journal of Democracy* 43.

<sup>4</sup> Gebrekidan (n 1) 71.

<sup>5</sup> G Metaferia 'The Ethiopian connection to the Pan African movement' (1995) *Journal of Third World Studies* 300.

<sup>6</sup> As above.

<sup>7</sup> Metaferia (n 5) 303.

fruit of the Pan-African ideology, Kwame Nkrumah and Haile Selassie, along with other African leaders, established the Organisation of African Unity and headquartered it in Addis Ababa, Ethiopia.<sup>8</sup> Establishing Ethiopia as a symbol of African progress and imagination.

Nonetheless, the movement came to a slow close. With the death of Marcus Garvey and W.E.B. Dubois abroad, as well as the downfall of the Emperor and the death of Nkrumah, their aspirations largely stalled. A question thus remains: what then became of Ethiopia, Africa's shining star, its prospects for modernity, centre of African intellectualism and socio-political transformation?

Today, Ethiopia serves as a tale of an African dream unfulfilled. Rife with civil wars, political authoritarianism, absence of rule of law and lack of political rights, Ethiopia is a long way from the beacon of hope it once was.<sup>9</sup> One of Ethiopia's greatest challenges has been its poor political organisation and its failure to establish a successful democratic order.

The concept of democracy connotes a system of administration for policy creation and articulation of citizens' rights; the ultimate goal being the rule of, for and by the people.<sup>10</sup> Today, Ethiopia scores 23 on the Freedom House Index (FHI), categorised as an 'un-free' nation.<sup>11</sup> It similarly scores 3.2 on the Economist Intelligence Unit Democracy Index (EIUI) ranking the country 27th in Africa; officially dubbing the nation 'authoritarian', only 1.9 points higher than the lowest ranked nation on the continent, the Democratic Republic of Congo.<sup>12</sup>

This thesis assesses the historical trajectory of democracy in Ethiopia through interrogating the quality of the following three elements (i) separation of powers and checks and balances (ii) free and fair elections, and (iii) freedom of speech.

## 1.2 Problem Statement Research Question and Methodology

---

<sup>8</sup> Gebrekidan (n 1) 83.

<sup>9</sup> Freedom House 'Freedom in the world 2021, Ethiopia'  
<https://freedomhouse.org/country/ethiopia/freedom-world/2021> (accessed 08 October 2022).

<sup>10</sup> V Eshrenberg 'Origins of democracy' (1950) *Historia: Zeitschrift für Alte Geschichte* 515.

<sup>11</sup> Freedom House (n 9).

<sup>12</sup> Democracy in Africa 'Democracy ratings' <https://democracyinfrica.org/democracy-monitor/ethiopia/> (accessed 22 May 2022); The Economist Intelligence Unit Index 'Democracy ratings 2021'  
[https://pages.eiu.com/rs/753-RIQ-438/images/eiu-democracy-index-2021.pdf?mkt\\_tok=NzUzLVJJUS00MzgAAAGG4T\\_JD89GDfQ7JydQQLTuzSRxpGjuE-YI141pvEdCM8tQA8XZj1VN0ovTi9I8eooCP7XQyccqgI2ZSXT3sf2cPcVxgfG\\_NAhfSJs4AQIswnSoLQ](https://pages.eiu.com/rs/753-RIQ-438/images/eiu-democracy-index-2021.pdf?mkt_tok=NzUzLVJJUS00MzgAAAGG4T_JD89GDfQ7JydQQLTuzSRxpGjuE-YI141pvEdCM8tQA8XZj1VN0ovTi9I8eooCP7XQyccqgI2ZSXT3sf2cPcVxgfG_NAhfSJs4AQIswnSoLQ) (accessed 22 May 2022).

### **1.2.1 Problem Statement**

Riddled with autocratic leaders, human rights violations, and a disregard for rule of law, democratic realisation in much of Africa remains poor - particularly true for Ethiopia. A nation without a quintessential colonial history, it has nevertheless been strongly affected by Western and Eastern political theories. In its ostensible transition to democratic rule, Ethiopia has formally transplanted pre-existing, foreign, governance approaches and formally implemented them domestically. Contrary to the democratic order they espouse, Ethiopian political leaders have leveraged a façade of democracy to license authoritarian rule. To that effect, Ethiopia remains a nation struggling to keep up with the tides of democracy and the demands of its people.

### **1.2.2 Research Question**

The research question is: Does Ethiopia's current governmental framework truly constitute a democratic approach?

The sub-questions are:

- 1.1. What democratic model have successive regimes in Ethiopia adopted?
- 1.2. What are the transplanted elements of Ethiopia's democratic framework?
- 1.3. How has it failed or succeeded to facilitate democracy in Ethiopia?
- 1.4. How can Ethiopia's democratic framework be redesigned if at all?

### **1.2.3 Methodology**

The thesis is based on desktop research. It relies heavily on Ethiopian history, democratic theory, and legal and constitutional analysis. Elements of the research are comparative in nature, analysing the history and legal texts of comparable states. This thesis also leverages conceptualisations of minimalist and maximalist democratisation models as benchmarks for evaluation.

## **1.3 Literature Review**

Democratic theories are commonly categorised as either being minimalist or maximalist in their approach.<sup>13</sup> Prominent scholars of the minimalist theory are Adam Przeworski and Joseph

---

<sup>13</sup> Unpublished M Kelecha 'Protests, development and democratization in Ethiopia, 2014-2020' unpublished thesis, University of Westminster PhD thesis 30.

Schumpeter. The minimalist approach suggests that democracy ‘does not set the conditions for its outcomes or characterise itself as anything other than an electoral system’.<sup>14</sup> Democracy is merely seen as an instrument that permits certain individuals to make decisions on behalf of others through elections.<sup>15</sup> Characterised by its emphasis on democratic elections and the peaceful transition of power, the minimalist approach does not assume that democracy ought to ensure the realisation of additional civil liberties.<sup>16</sup> The maximalist approach asserts that democracy ought to deliver ‘reasonably broad guarantees of basic civil rights’.<sup>17</sup> Theorists like James T Kloppenberg posit that democracy plays a crucial role in equality, autonomy and public participation in rule of law.<sup>18</sup> Other prominent scholars who have written on this theory include Robert Dahl and Larry Diamond.

Scholars like Efem Ubi and Vincent Ibonye argue that liberal democracies are doomed to fail in Africa. They contend that liberal democracies were simply transported ‘hook line and sinker’ to African states.<sup>19</sup> Adopted in some cases to impress or be accepted by the West, they believe liberal democracies have led to the politicisation of ethnicity, economic deprivation, and have protected authoritarian rulership due to performative elections.<sup>20</sup> Thus, since liberal democracies never intended to work in hand with African culture and institutions, they are considered doomed to fail.

Universalist theorists like Francis Fukuyama, however, believe that liberal democracy is the best version that can be achieved, and African states must adopt it along ‘with its economic correlate, capitalism’.<sup>21</sup> Arguing that it can only function when states assume a homogenous identity, Fukuyama posits that traditional forms of organisation ought to be replaced with an economically rational and culturally unified central state. This theory, however, assumes that African states did not practice democracy before Western influence. It insinuates that democracy can only flourish in the social organisation that Westerners have observed and established; those that value capitalism, efficiency, and homogeneity.

---

<sup>14</sup> AK Fayemi ‘Towards an African theory of democracy’ *Research Review*, 2.

<sup>15</sup> Kelecha (n 13) 32.

<sup>16</sup> As above.

<sup>17</sup> Fayemi (n 14) 3.

<sup>18</sup> Kelecha (n 13) 33.

<sup>19</sup> EN Ubi & V Ibonye ‘Is liberal democracy failing in Africa or is Africa failing under liberal democracy?’ (2019) *Taiwan Journal of Democracy* 162.

<sup>20</sup> As above.

<sup>21</sup> Fayemi (n 14) 4 & 5.

Others have argued that a traditionalist approach to democracy is the best fit for Africa. Scholars like Wamba dia Wamba argue that the more organic organisation for African states is the indigenous system.<sup>22</sup> They posit that the solution for Africa is to revert to traditional democratic practices that they assume functioned more successfully.<sup>23</sup> This theory conceptualises African states through a monolithic lens, assuming that all states practised successful but unique forms of democracy. It also does not adequately consider the histories of African states like Ethiopia, a country where the collapse of the traditional form of rule, a monarchy, was initiated by the people, a clear example that not all indigenous political structures served the people.

Kramer Greek and others advocate for an eclectic approach.<sup>24</sup> Their central claim is that democracy functions best on the continent when indigenous practices of African states are applied in tandem with the democratic values from other cultures. Arguing that democracy is constantly changing, they suggest that its most ideal form can always be reimagined. Ademola K Fayemi aligns with the eclectic approach, encouraging African states to employ a sense of imagination and craft theories of democracy that put Africa at the centre.<sup>25</sup> While cognisant that the existence of a relevant democratic framework does not guarantee democratic realisation, Fayemi argues that the lack of such a framework, however, ensures even less.<sup>26</sup>

Most critiques of Ethiopian democracy provide assessments of its success through the lens of pre-existing foreign democratic ideals.<sup>27</sup> What is missing in the literature is an interrogation of which theories of democracy Ethiopian intellectuals and leaders have articulated and how such theories either promote or inhibit the country in realising democracy and serving its people.

By ceasing to take on foreign theories of democracy by name alone and instead crafting a democratic theory and framework that ensures the core elements of democracy are protected and

---

<sup>22</sup> As above 13.

<sup>23</sup> As above.

<sup>24</sup> Fayemi (n 14) 13.

<sup>25</sup> As above 14.

<sup>26</sup> Fayemi (n 14) 15.

<sup>27</sup> A Abbay 'Diversity and democracy in Ethiopia' (2009) *Journal of East African Studies*; M Gudina 'Elections and democratization in Ethiopia, 1991-2010' (2011) *Journal of East African Studies*; J Bach 'Abyotawi democracy: neither revolutionary nor democratic, a critical review of EPRDF's conception of revolutionary democracy in post-1991 Ethiopia' (2012) *Journal of East African Studies*; S Terfa 'The Federal Democratic Republic of Ethiopia: liberal democratic or authoritarian regime?' (2012) *African Social Science Review*.

duly implemented, Ethiopia could see the dawn of a new era. The thesis seeks to contribute to conversations on building an appropriate democratic framework for Ethiopia.

#### **1.4 Limitations of Research**

This research is limited to an assessment of Ethiopia's historical and current democratic frameworks. The assessment will take place through an evaluation of the following minimalist democratic principles:

- i) Separation of powers and checks and balances
- ii) Free and fair elections
- iii) Freedom of expression

This paper does not assess democratic elements beyond these. Additionally, it does not offer an entirely new democratic framework for the country. This research is authored from a hybrid political-science and anthropological lens, although it touches on international law, it is not the focus of this paper, and thus will only be briefly discussed.

#### **1.5 Definition of key terms**

Democratic Theory: In *A preface to democratic theory*, Robert Dahl notes that 'there is no democratic theory - there are only democratic theories.'<sup>28</sup> Like any social theory, democratic theories exist in multiplicity.<sup>29</sup> The difficulty in providing a clear definition is in part due to the 'slipperiness of democracy as an object of study', a contributing factor to the wide diversity of democratic theories.<sup>30</sup> However, Dahl notes that democratic theory is 'concerned with the 'process by which ordinary citizens exert a relatively high degree of control over their leaders'.<sup>31</sup> Thus a state's theory of democracy can be understood as the conceptual framework that underpins the legal framework intended to realise such a theory in practice. Accordingly, this thesis will leverage the term democratic theory, to refer to the conceptual ideologies of democracy.

---

<sup>28</sup> R Dahl *A preface to democratic theory* (1956) 1.

<sup>29</sup> As above.

<sup>30</sup> R Dean *et al.* 'What is democratic theory?' (01 Dec 2019) *Democratic Theory* 1.

<sup>31</sup> Dahl (n 28) 3.

Democratic Framework: For the purposes of this thesis the term refers to the collection of theoretical and legal frameworks that make up a state's democratic organisation.

## **1.6 Structure**

This thesis is divided into five chapters. The first introduces the background, methodologies, and scope of the research. The second introduces the conceptual and legal frameworks of democracy and contextualises the assessment criteria and evaluation methodologies that the thesis is based on. Chapter three narrates the socio-political history of Ethiopia, during the reign of the Emperor and the Derg. The fourth chapter analyses the democratic approaches during the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) between 1991 and 2019, and the Prosperity Party (PP) from 2019- to 2022 and provides an assessment of their democratic frameworks in theory and in practice. The fifth chapter offers conclusions and recommendations.



## **2 CONCEPTUAL AND LEGAL FRAMEWORKS OF DEMOCRACY**

### **2.1 Introduction**

This chapter offers an evaluation model by which Ethiopia's democratic practice(s) can be assessed. The chapter lays out existing legal and conceptual frameworks that define standards of, characterise and provide a basis to evaluate democracy. It re-introduces the concepts of minimalist and maximalist notions of democracy to better distinguish the relevance of the evaluation model of this thesis. It finally identifies the three elements of democracy that are briefly discussed in chapter three and thoroughly assessed in chapter four. The chapter expounds on the justification for identifying these three elements for assessment and their relevance to the Ethiopian paradigm.

### **2.2 International legal frameworks**

Although there is no explicit international right to democracy, there exists an international legal lens by which democracy is articulated and measured. International law promotes democracy by implicitly recognising a democracy as the ideal political order, guaranteeing the realisation of several of its elements, or by crafting overt standards by which to achieve it. The 1995 Ethiopian Constitution mandates that its rights and freedoms ought to be interpreted in line with the Universal Declaration of Human Rights (UDHR) and other international covenants and human rights treaties.<sup>32</sup> Thus, emphasising the significance of international standards regarding the domestic realisation of democracy.

International treaties, many of which Ethiopia has ratified, that champion democracy as an ideal and mandate the realisation of its elements include: the UDHR,<sup>33</sup> the International Covenant on Civil and Political Rights (ICCPR),<sup>34</sup> the International Covenant on Economic, Social and Cultural Rights (CESCR),<sup>35</sup> the Convention on the Elimination of All forms of Discrimination against Women (CEDAW),<sup>36</sup> the African Charter on Human and Peoples' Rights (Charter),<sup>37</sup> and the Protocol to the African Charter of Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

---

<sup>32</sup> Art 13(2).

<sup>33</sup> Art 10, 18, 19, 20, 21, 27, 29.

<sup>34</sup> Arts 14, 21 & 22.

<sup>35</sup> Arts 1, 4 & 8.

<sup>36</sup> Arts 7.

<sup>37</sup> Arts 7, 9, 10, 11, 13, 20, 22, 26

<sup>38</sup> With regards to outright democratic standards, there is one standalone international treaty that establishes such a benchmark: the African Charter on Democracy, Elections and Governance (ACDEG), which Ethiopia ratified in 2007.<sup>39</sup>

There are also several non-binding legal instruments that set normative standards for its realisation such as the Universal Declaration of Democracy (UDD),<sup>40</sup> several resolutions from the United Nations (UN) General Assembly,<sup>41</sup> the Model Law on Access to Information for Africa, the Guidelines on Access to Information and Elections in Africa, the 2019 Revised Declaration of Principles on Freedom of Expression and Access to Information in Africa, the Joint Declaration on Freedom of Expression and Elections in the Digital Age, the 2030 Agenda for Sustainable Development,<sup>42</sup> and declarations from the UN Human Rights Council.<sup>43</sup> For the purposes of this thesis, international normative standards are only briefly discussed.

### **2.3 Domestic legal frameworks**

The domestic legal expressions and protections of democracy are likely the most relevant and compelling perspectives to assess the quality of a state's democratic order. The primary domestic legal frameworks discussed are the 1931 Constitution, the 1955 Constitution, the 1987 Constitution, the Transitional Charter (TC), and the 1995 Constitution. Although the 1931 and 1955 Constitutions did not declare to be under a democratic system, they do espouse elements of democracy, and thus an assessment is necessary. The 1987 Constitution was the inaugural constitution to claim a democratic structure and it was quickly followed by the TC which espoused a democratic state structure within the preamble. The TC was eventually replaced with the 1995 Constitution that declares Ethiopia to be a democratic state via the establishment of a multi-party

---

<sup>38</sup> Art 9; Preamble para 11.

<sup>39</sup> The entirety of the ACDEG is dedicated to ensuring the realisation of democratic principles.

<sup>40</sup> Inter-Parliamentary Union

<https://www.ipu.org/our-impact/strong-parliaments/setting-standards/universal-declaration-democracy> (accessed 06 September 2022).

<sup>41</sup> The General Assembly has adopted about one resolution a year since 1988 in reference to democracy. A comprehensive list can be accessed here <https://research.un.org/en/docs/ga/quick/regular/43> (accessed 01 September 2022).

<sup>42</sup> Introduction para 9.

<sup>43</sup> 'Human rights, democracy and the rule of law' Human Rights Council (19 April 2012) UN Doc A/HRC/RES/19/36 ; 'Human rights, democracy and the rule of law' Human Rights Council (9 April 2015) UN Doc A/HRC/RES/28/14.

ethnic federation.<sup>44</sup> Several relevant domestic laws that address the separation of powers, elections and freedom of speech are also discussed throughout chapter four.

## 2.4 Elements of democracy

Democracy is commonly articulated through either minimalist or maximalist elements. A minimalist standard requires the legal protection of a maximum of two ‘core’ elements: elections and free competition.<sup>45</sup> A maximalist standard, on the other hand, demands ‘supporting dimensions of democracy,’ like, freedom of expression, relative social equality, and democratic state institutions.<sup>46</sup> Democratic measurement indices leverage these elements to craft their own evaluation methodologies. FHI, an arguably more minimal evaluation index, ranks countries as either ‘free’, ‘partly free’, or ‘not free’ by examining the level of political rights and civil liberties.<sup>47</sup> Other minimalist evaluation models include the Alvarez-Cheibub-Limongi-Przeworski Measure and the Polity Index.<sup>48</sup> The EIUI, more maximalist in its approach, leverages five criteria for evaluation (i) electoral process and pluralism; (ii) civil liberties; (iii) the functioning of government; (iv) political participation; (v) and political culture.<sup>49</sup> This model emphasises the interdependence of ‘core’ democratic elements, with the ‘supporting dimensions’ of democracy. The International IDEA’s Global State of Democracy Index<sup>50</sup> is another example of a maximalist evaluation models. Thus, taking a hybrid approach of minimalist and maximalist assessments, the subsequent chapters evaluate the following democratic elements in Ethiopia: (i) elections (ii) freedom of expression (iii) and separation of powers through checks and balances.

---

<sup>44</sup> Art 1.

<sup>45</sup> CH Knutsen ‘Measuring democracy’ (2014) *Encyclopaedia of Quality of Life and Well-Being Research* 3930.

<sup>46</sup> Knutsen (n 45) 3931.

<sup>47</sup> Freedom House ‘Freedom in the world research methodology’ <https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology> (accessed 01 September 2022).

<sup>48</sup> Knutsen (n 45) 3931.

<sup>49</sup> L Kekic ‘The Economist Intelligence Unit’s Index of democracy’ (2007) [https://www.economist.com/media/pdf/democracy\\_index\\_2007\\_v3.pdf](https://www.economist.com/media/pdf/democracy_index_2007_v3.pdf).

<sup>50</sup> International IDEA Global State of Democracy Indices ‘How we measure’ <https://www.idea.int/gsod-indices/dataset-resources> (accessed 03 October 2022).

## **2.5 Elections, freedom of expression and separation of powers**

It is crucial to note that these three elements of democracy are by no means to be interpreted as absolute benchmarks for democratic realisation. As previously noted, the concept of democracy itself is a slippery notion and while the ‘best’ version of democracy is yet to be identified, theories of how to best conceptualise and actualise it are manifold. However, considering the arguable universality of these elements as pillars of democracy, they prove relevant as references for assessment in this case. Furthermore, checks and balances, elections, and freedom of speech, are not outright Western ideals and have been constitutionally protected in Ethiopia, albeit more robustly in its most modern version, and this thesis aims to demonstrate how even such minimal standards of democracy fail to be respected.

### **2.5.1 Separation of powers within a historically authoritarian state**

Marked by a prolonged imperial rule and a brutal communist dictatorship, by 1991 Ethiopians had only experienced authoritarian governance. Separation of powers was only first endorsed by an Ethiopian political leader during the nation’s turn to a federation; however, devolution of power was a demand of the people that traced back to the 1960s. Thus, an analysis of this element is crucial to conclude if Ethiopia has since moved away from authoritarian practices.

Separation of powers within a democracy is further guaranteed in in the ACDEG, the Charter, the ICCPR, the UDHR and the UDD. The ACDEG recognises the separation of powers as an essential element of a democratic organisation,<sup>51</sup> whereas the Charter affirms this point by enshrining individuals’ right to be tried by a fair and impartial tribunal.<sup>52</sup> Similarly, the ICCPR, UDHR and UDD affirm one’s right to have their trial heard by a competent and independent court.<sup>53</sup>

### **2.5.2 Elections in a democratic Ethiopia**

Free and fair elections is one of two ‘core’ democratic elements identified by the minimalist model, providing the rationale for its inclusion within the assessment of democracy in Ethiopia.

---

<sup>51</sup> Arts 3(5) & 34.

<sup>52</sup> Arts 7 & 26.

<sup>53</sup> ICCPR art 14; UDD art 17; UDHR art 10.

International standards on the matter can be found in the ACEDG,<sup>54</sup> the UDD,<sup>55</sup> the UDHR,<sup>56</sup> CEDAW,<sup>57</sup> the Maputo Protocol,<sup>58</sup> and the ICCPR<sup>59</sup>.

The absence of equal electoral participation was a cornerstone of Ethiopian political governance until 1991. The imperial order, historically hostile to public political participation, only began to make slow progress on this front during the reign of the Emperor. However, the time of the Derg seemed to reverse some, if not all, the incremental progress made, rewarding political opposition with harassment, detention and even death. Therefore, the historical substantive absence of protections for electoral participation necessitates a thorough investigation within this thesis.

### **2.5.3 Freedom of speech for a democratic order**

Arguably a more maximalist element, freedom of speech functions as a supporting dimension of democracy, insofar as it facilitates the quality of other democratic elements. Thus, this element is interrogated for two reasons. Firstly, freedom of speech is inextricably linked to elections as a necessary enabler of democracy. Secondly, Ethiopia's perpetual failure to protect this right during the Emperor's and the Derg's reign requires a critical evaluation of post-communist government practices to conclude whether Ethiopia's current democratic order is truly the antidote to historical shortcomings. Freedom of expression is additionally guaranteed by international law and is acknowledged in the Charter,<sup>60</sup> the ICCPR,<sup>61</sup> the ACDEG,<sup>62</sup> and the UDD.<sup>63</sup>

## **2.6 Conclusion**

The chapter has outlined the international and domestic foundations and key elements of democracy, in the African context. These elements will provide the basis for the assessment of the democratic framework and practices of Ethiopia's successive regimes. Accordingly, the following

---

<sup>54</sup> Arts (3), 2(13), 17, 18, 19, 20, 21 & 32; Preamble, para 6 & 8.

<sup>55</sup> Preamble para 5.

<sup>56</sup> Art 21(3).

<sup>57</sup> Art 7.

<sup>58</sup> Art 9.

<sup>59</sup> Art 25.

<sup>60</sup> Art 9.

<sup>61</sup> Art 19.

<sup>62</sup> Arts 2(10), 19(2) & 27(8).

<sup>63</sup> Arts 13 & 21.

chapters leverage a hybrid conceptualisation of minimalist and maximalist approaches to assess the quality of the discussed democratic elements.

## **3 HISTORICAL BACKDROP**

### **3.1 Introduction**

This chapter offers the historical context for Ethiopia's democratic experiment. It begins with a narration of the Emperor's induction into power and his unprecedented ruling structure. The chapter reviews his introduction of modern democratic elements such as constitutions, a parliament, and an electoral structure. It touches on the separation of powers, elections, and freedom of speech during the Emperor's rule. The chapter then follows the coup d'état that erected the nation's first socialist government in his place - the Derg. The chapter offers a brief evaluation of the Marxist-Leninist democratic organisation of the new regime through the lens of the three democratic elements. In conclusion, the chapter offers an evaluation of the impacts such a political history had on a nation transitioning into a new democratic order and the social and political vulnerabilities that carried over into Ethiopia's new era.

### **3.2 The Lion of Judah**

#### **3.2.1 A modern empire**

Emperor Haile Selassie I was crowned King of Kings of the empire on 2 November 1930.<sup>64</sup> Admired for his visionary prowess, the Emperor had fierce ambitions to establish Ethiopia as a competitive force on the global stage. Thus, the Emperor made several political strides to modernise the country.

The first initiative took place during his coronation ceremony where world leaders from Britain, Italy, and several other western nations were invited.<sup>65</sup> With foreign dignitaries never before present at a coronation, the Emperor sought to proclaim to his guests that Ethiopia was a modern and civilised society.<sup>66</sup> Secondly, he introduced Ethiopia's 1931 Constitution, stamping another badge of modernity on the nation. Thirdly, he developed a modernisation program that involved building hospitals, the first university, and other large-scale projects- bolstering the domestic infrastructure and catalysing a new generation of Ethiopian intellectuals.<sup>67</sup> However

---

<sup>64</sup> A Asserate (2015) *King of kings: the triumph and tragedy of emperor Haile Selassie I of Ethiopia* 137.

<sup>65</sup> As above 147.

<sup>66</sup> Asserate (n 64) 137.

<sup>67</sup> As above 152.

impressive these changes seemed on the surface; they did not instigate the positive domestic transformation one would hope to witness in a modernising state.

For starters, the coronation ceremony resulted in mixed reviews; some attendees commented that the ceremony proved more gaudy than kingly, while others pointed out the irony of such a grand celebration while the public experienced dire poverty.<sup>68</sup>

Although the Constitution was lauded for its establishment of a contemporary parliament, and its provisions for people's rights, the division of powers and public participation were feigned.<sup>69</sup> Approximately half of the 1931 Constitution solely focused on royal succession and the powers of the Emperor.<sup>70</sup> It decreed that the Crown Prince (CP) may only be derived from the line of Haile Selassie.<sup>71</sup> A divergence from the previous requirements to obtain kingship, it stripped all other Ethiopian Princes of their political authority and their subsequent claim to the throne, abolishing the Emperor's political threats and transforming the longstanding feudal system into an absolute monarchy.<sup>72</sup>

A parliament and a judiciary were established, however, both branches were explicitly subordinate to the authority of the Emperor, extending his powers while providing ostensible conditions for the participation of the public.<sup>73</sup> The Emperor maintained 'supreme power' to open and close the chambers at his will, to independently craft legislation and to personally approve all acts of parliament.<sup>74</sup> The Constitution further dictated that senate members 'be appointed by His Majesty the Emperor' and that 'until the people are capable of electing them themselves', the Emperor was to appoint the members of the Chamber of Deputies.<sup>75</sup>

Regarding individual rights, the 1931 Constitution enshrined the rights to move freely,<sup>76</sup> due process,<sup>77</sup> property,<sup>78</sup> and to petition the government.<sup>79</sup> Nevertheless, all such rights were

---

<sup>68</sup> Asserate (n 64) 125.

<sup>69</sup> As above.

<sup>70</sup> Chapter I & II.

<sup>71</sup> Chapter I art 3.

<sup>72</sup> Asserate (n 64) 147.

<sup>73</sup> Art 50.

<sup>74</sup> Chapter II art 6, 8, 9, 10.

<sup>75</sup> Chapter III art 2; chapter IV art 30, 31 & 32.

<sup>76</sup> Art 22.

<sup>77</sup> Art 22, 23, 24, 25.

<sup>78</sup> Art 27.

<sup>79</sup> Art 22, 23, 24, 25, 27 & 28.



protected only within the limits of the law.<sup>80</sup> The 1931 Constitution ultimately required all entities of the state and all Ethiopians to pledge allegiance to the Emperor, declare his personhood sacred and his power indisputable.<sup>81</sup> Although the 1931 Constitution seemed to curtail the Emperor's power at the outset, it functioned to further entrench the absolute rule of the monarchy.<sup>82</sup>

The modernisation programs, although commendable, had limited impact. With most efforts concentrated in the capital, Addis Ababa, access to schools and commercial goods and services was scarce for the rural population outside of the city.<sup>83</sup>

### 3.2.2 The Revised Constitution

Between 1935 and 1941 Ethiopia was under Italian occupation. After returning from a five-year exile, the Emperor resumed his rule haunted by the fear that he might lose his power to new opposing forces. Thus, the Emperor made efforts to ensure no political opponents acquired power that could contest his own. Employing a system of *shum shir* (appoint-demote); the Emperor kept Ethiopian officials anxious about appearing disloyal to him.<sup>84</sup> This stifled internal political dissent and choked public political discussion and association.<sup>85</sup> In 1955, catalysed by the re-joining of Eritrea with Ethiopia, the Emperor embarked on a revision project of the Constitution, creating the 1955 Constitution (Revised Constitution). The Revised Constitution provided additional civil and political rights for citizens, but also further entrenched the absolute rule of the Emperor while continuing to feign modernity.<sup>86</sup> It largely outlined the powers and privileges of the Emperor.<sup>87</sup> It decreed the Emperor and his family were privy to special protection under the law,<sup>88</sup> protected the Emperor from any legal suit,<sup>89</sup> and required the Ethiopian people to defend the emperor from all his enemies.<sup>90</sup>

---

<sup>80</sup> As above.

<sup>81</sup> Art 22-28.

<sup>82</sup> Asserate (n 64) 147.

<sup>83</sup> D. Levine 'Haile Selassie's Ethiopia: myth or reality?' (1961) *Africa Today* 12.

<sup>84</sup> As above 13.

<sup>85</sup> As above.

<sup>86</sup> B Zewde (2002) *A history of modern Ethiopia 1866-1991* (2002) 235.

<sup>87</sup> Chapter I & II.

<sup>88</sup> Art 47.

<sup>89</sup> Art 62.

<sup>90</sup> Art 64.

However, the right to elect local representatives for the Chamber of Deputies was finally granted.<sup>91</sup> Eligible voters were required to be at least 21 years of age and own personal property.<sup>92</sup> The latter qualification was especially problematic as Ethiopia practised a feudal land-tenure system that rendered most Ethiopians landless.<sup>93</sup> Due to the restrictive eligibility criteria and a disempowered electorate, voter turnout was dismally low.<sup>94</sup>

Members of the Senate were still appointed by the Emperor.<sup>95</sup> In order to be an eligible candidate, one was required to be a Prince, a high-ranking government official or dignitary - another method by which the Emperor purported a dispersal of powers, while in fact retaining power within his spheres of influence.<sup>96</sup>

The Revised Constitution expanded the list of civil rights. It granted freedom of religion,<sup>97</sup> freedom of speech and the press,<sup>98</sup> the right to peaceful assembly,<sup>99</sup> and the right to join or form associations.<sup>100</sup> However, freedom of association did not include the right to form political parties and most of the civil liberties such as freedom of speech were only protected within the limits of the law.<sup>101</sup>

### **3.2.3 Domestic opposition and the collapse of the empire**

Although his return from exile cemented a successful removal of the Italian occupation, it did not silence the social-political demands. Shortly after his return, the Emperor ‘continued to behave much like his imperial forefathers while indulging at will in the oratory of modernization’.<sup>102</sup> There was growing opposition against the Emperor, while the causes varied, opposition both covert and overt, was everywhere.<sup>103</sup> The last decades of the Emperor’s rule were marked by the peasant revolts, the student movement, and the attempted military coups of 1960.

---

<sup>91</sup> Art 95.

<sup>92</sup> Art 96.

<sup>93</sup> B Zerga ‘Land resource, uses, and ownership in Ethiopia: past, present and future’ (2016) *International Journal of Scientific Research & Engineering Trends* 19.

<sup>94</sup> Zewde (n 86) 235.

<sup>95</sup> Art 102

<sup>96</sup> Art 103.

<sup>97</sup> Art 40.

<sup>98</sup> Art 41.

<sup>99</sup> Art 45.

<sup>100</sup> Art 47.

<sup>101</sup> Asserate (n 64) 134 & 135.

<sup>102</sup> Levine (n 83) 12.

<sup>103</sup> Zewde (n 86) 388.

The peasant revolts marked a rise of the marginalised class against the increasing sharecropping demands by landlords, coining the slogan ‘land to the tiller’.<sup>104</sup> The student movement, beginning as an elite forum catalysed by domestic and foreign intellectuals, grew into a ‘mass revolutionary movement in the late 1960s’.<sup>105</sup> Petitioning alongside the peasant revolts, the student movement denounced the ‘feudo-bourgeois regime in Ethiopia [...] expressing solidarity with the anti-imperialist and anti-colonialist struggles elsewhere in the world.’<sup>106</sup> The uninterrupted opposition weakened the feudal regime and made way for the 1960 attempted coup. Although unsuccessful, the 1960 coup would not mark the final attempt to overthrow the monarchy - on 2 September 1974, the military staged a coup, overthrew the Emperor, and established the Derg – a committee of rank-and-file military officers - as the new political nerve of Ethiopia.

### **3.2.4 An assessment of the Emperor**

The Emperor’s time in power evoked mixed reviews. Although revered as an African visionary by some, he was also seen as a power-hungry despot preoccupied with approval of the West. His intrigue with modernisation ushered in seedlings of democracy through formally recognised constitutional rights, and an elected parliament. It also produced a generation of intellectuals who instigated a reimagination of the Ethiopian social and political order. Throughout his reign, however, the Emperor revealed that he did not seek to introduce true democracy. His conduct of professing a political order to build rapport with his desired support base, the suppression of political opposition, and the centralisation of power, would reappear as pillars of subsequent regimes.

## **3.3 The Derg and the rise of a military dictatorship**

### **3.3.1 Establishing a political organisation**

Due to the absence of organised political opposition during the Emperor’s rule, a clear path was built for the Derg’s ascendancy. Although historically infamous as a Marxist regime, the Derg were not the original advocates of such a political approach.<sup>107</sup> Between 1974 and 1976, the student

---

<sup>104</sup> A Tiruneh *The Ethiopian revolution 1974-1987: a transformation from an aristocratic to a totalitarian autocracy* (2003) 91.

<sup>105</sup> Zewde (n 86) 388.

<sup>106</sup> As above 400.

<sup>107</sup> Zewde (n 86) 443.

movement remained obstinate in its demands for social, political, and economic rights and reforms. An indispensable force in the revolution against the Emperor, initial support from the student movement was imperative for the success of the Derg regime.<sup>108</sup> While the Derg was still proclaiming loyalty to the CP, the students pushed for disbandment of the feudal regime.<sup>109</sup> Arguing that the ruling political group ought to put the Ethiopian people first, the students attested that to do so would require an ‘elimination of capitalism and imperialism’ and the formation of a people’s government.<sup>110</sup> Although the Marxist-Leninist approach was the cry of the radical students and intellectuals, the general Ethiopian public was not particularly informed on what this new political approach entailed. The promise of political rights and social equity, however, struck a chord with the Ethiopian masses and they ‘instinctively supported the radical initiative’, making Marxist-Leninism the prevailing approach of the movement.<sup>111</sup>

### 3.3.2 Socio-political reforms of the Derg

Marxist-Leninism is a ‘sum of all the works of Marx and Lenin... codified and appl[ied] in contexts often very different from those in which Marx and Lenin wrote’.<sup>112</sup> The theory of Marx mostly advocates single-party rule alongside a ‘rejection of the market in economics’.<sup>113</sup> Leninism builds on the foundation of Marxism and calls for the nationalisation of industries and trade to make way for rule by the masses.<sup>114</sup>

To quell the opposing demands of the left and the moderates, the Derg cobbled together a compromise they dubbed Ethiopian Socialism.<sup>115</sup> On 20 December 1974, the Derg issued their first document outlining their political and economic reform program that focused on five basic principles: (i) sovereignty; (ii) absoluteness of Ethiopia’s unity; (iii) self-reliance; (iv) the dignity of labour and (v) precedence of the public good.<sup>116</sup> The Derg also permitted the rise of various multi-national civilian political organisations between 1974 and 1975.<sup>117</sup> Through the Provisional

---

<sup>108</sup> Zewde (n 86) 444.

<sup>109</sup> J Markakis ‘Garrison socialism: the case of Ethiopia’ (1979) *MERIP Reports* 7.

<sup>110</sup> As above.

<sup>111</sup> As above.

<sup>112</sup> A Brown *The demise of Marxism- Leninism in Russia* (2004) 1.

<sup>113</sup> As above 2.

<sup>114</sup> Brown (n 112) 2.

<sup>115</sup> Tiruneh (n 104) 87.

<sup>116</sup> As above.

<sup>117</sup> T Oliko ‘Political violence in Ethiopia: some reflections on the Red Terror legacies’ (2012) *Ethiopian*

Office for Mass Organisational Affairs, the Derg ran domestic operations in collaboration with other political movements.<sup>118</sup> The most prominent were the All Ethiopia Socialist Movement (Me'ison) and the Ethiopian People's Revolutionary Party (EPRP). Although slightly divergent in their Marxist theories, these parties aligned in their belief that a people's government was the only reasonable solution for Ethiopia.<sup>119</sup> Both parties were members of the Union of Ethiopian Marxist-Leninist Organisations (Imaldeh), and regularly clashed on how to govern the state.<sup>120</sup> It is important to note that such movements were not political parties in a formal sense, as the Derg's Ethiopian Workers Party was the only party of the state.

In 1987, the new constitution was enacted. Its adoption legitimised the socialist nature of the nation and marked a symbolic transition where the Derg fell away, and a new nation arose, the People's Democratic Republic of Ethiopia, with Mengistu Haile Mariam as the president.<sup>121</sup> During these years, the Derg generated hope that Ethiopia may be on the brink of socio-political transformation, one where the rights and flourishing of the public took centre stage. Decreeing an observance of Marxist-Leninist socialist legality, it vested the ultimate power of the state in the working people.<sup>122</sup> It decreased the minimum age of suffrage to 18 and enshrined the right to participation through local elections of Regional Shengos (regional councils).<sup>123</sup> Although elections were constitutionally protected, data regarding participation in elections is scarce, and the likelihood that elections were conducted freely and fairly is highly dubious at best.

The National Shengo was the elected body comprised of Regional Shengos and it was the 'supreme organ of state power'.<sup>124</sup> It maintained the authority to: enact, amend, and supervise the observance of the constitution; determine domestic and foreign policy; establish the council of state; establish the supreme court and elect the president and vice president of the state.<sup>125</sup> The 1987 Constitution vested judicial authority in the supreme court and subsequent legislation

---

*Journal of Social Science and Humanities* 66.

<sup>118</sup> Zewde (n 86) 443.

<sup>119</sup> As above 442.

<sup>120</sup> Zewde (n 86) 442.

<sup>121</sup> As above 465.

<sup>122</sup> Art 3(1) & 5.

<sup>123</sup> Art 3(2); M Meier 'Ethiopia' in D Nohlen, M Krennerich & B Thibaut (eds) *Elections in Africa: a data handbook* (1999) 375.

<sup>124</sup> Art 62.

<sup>125</sup> Art 63.

established High Courts under its purview.<sup>126</sup> Appointment of judges was conducted by respective regional Shengos and a judge's tenure 'was the same as the Shengo that appointed them'.<sup>127</sup> Thus, all other branches of government were subordinate to the authority of the National Shengo – a complete absence of checks, balances, and devolution of powers. Conscious that the priority of the socialist state was rule by the people, such a political organisation greatly empowered regionally elected leaders. In practice, however, the Shengo was a bloated body that only met a few times, and real power resided with a small committee, Council of State, of the then-ruling Workers Party led by the president. Accordingly, the president and his council of ministers were the nerve centres of the state.

A positive attribute in this constitution is the expansion of social, political, and economic rights, including the right to free education,<sup>128</sup> the right to health care,<sup>129</sup> freedom of consciousness and religion,<sup>130</sup> freedom of speech and the duty of the state to facilitate and support it,<sup>131</sup> and the right to elect and be elected.<sup>132</sup> However, most civil rights failed to exist in practice. In fact, the regime's obstinance in restraining rights like freedom of speech and freedom of association was so severe, it provoked the period of political violence.

### 3.3.3 The rise of the dictatorship

Since the coup, Mengistu Haile Mariam progressively made his rise in leadership. Less covert than his predecessor, Mengistu violently and publicly eliminated all possible rivals within the Derg.<sup>133</sup> In the same vein, the civil unions and organisations established in 1974 and 1975 were quickly dissolved.<sup>134</sup> While Mengistu was eliminating internal political threats, external opposition parties were causing their own demise. By August 1977, the leaders of the EPRP and Me'ison had been

---

<sup>126</sup> S Assefa 'Conspicuous absence of independent judiciary and 'apolitical' courts in modern Ethiopia' (2021) *Mizan Law Review* 398.

<sup>127</sup> As above.

<sup>128</sup> Art 40.

<sup>129</sup> Art 42.

<sup>130</sup> Art 46.

<sup>131</sup> Art 47.

<sup>132</sup> Art 50.

<sup>133</sup> Zewde (n 86) 460

<sup>134</sup> Olike (n 117) 67.

either captured or killed - although the EPRP managed to live on - Me'ison collapsed with its remaining members absorbed into the Derg.<sup>135</sup>

Tensions between the EPRP and the Derg continued to escalate and, eventually, their rivalry led to the the 'Red Terror' and the 'White Terror'.<sup>136</sup> Beginning in 1977, this period of political violence took over the nation; the Derg and the EPRP imprisoned, tortured, and orchestrated a mass murder of civilians who did not align with their political trajectories. The political violence additionally facilitated the mass assassinations of young and educated citizens.<sup>137</sup> Left with no threats to his power, by 1987 Mengistu had obtained a level of authoritarian rule enjoyed by no previous Ethiopian leader.<sup>138</sup>

By the turn of the 1980s, the Derg had grown increasingly unpopular and its demise came about through resistance by the masses and the unyielding struggle of guerrilla groups. The Eritrean People's Liberation Front (EPLF) battled the Derg in Eritrea, and the Tigrayan People's Liberation Front (TPLF) posed the greatest threat to the Derg's power in Ethiopia.<sup>139</sup> Forming a coalition known as the EPRDF, along lines of ethnolinguistic identity, it worked with the other political parties in to overthrow the Derg regime in 1991.<sup>140</sup>

### 3.3.4 An assessment of the Derg

The era of the Derg introduced an ambitious investment in the social and political renewal of the countryside, a shift from the sole focus on Addis Ababa. For the first time in Ethiopian history, it allowed disparate political groups to emerge and offer, albeit limited, contributions to the public political discourse. Piloting Ethiopia's very own ideology of "Ethiopian Socialism", the 1987 Constitution promised a lot in terms of social welfare, civil rights and public participation. However, legal guarantees like freedom of expression and freedom of assembly were not

---

<sup>135</sup> Zewde (n 86) 453 & 451.

<sup>136</sup> The White Terror was the political violence ensued by the EPRP mainly targeting public officials and the Red Terror was the political violence ensued by the Derg. Because representatives of these political parties conducted violent acts while dressed in civilian clothing the extent to which each party was responsible for the mass destruction was not always clear and is thus occasionally contested.

<sup>137</sup> Olike (n 117) 73.

<sup>138</sup> Zewde (n 86) 451.

<sup>139</sup> Olike (n 117) 68.

<sup>140</sup> M Ottaway 'The Ethiopian transition: democratisation or new authoritarianism' (1995) 69.

protected. Thus, the period of socialism in Ethiopia fell short of the expectations of the political radicals who championed its establishment and the Derg's constitutional aspirations.

### **3.4 Conclusion**

Although the regimes of the Emperor and Mengistu Haile Mariam were divergent in their political leanings, these two rulers equally practised authoritarianism, leveraged 'modern' systems of political organisation to feign progress while further entrenching themselves in power, and found their demise through mass uprisings and organised rebellion. Ethiopia has a strong history of 'big man rule', evident in both regimes. Accordingly, they similarly disregarded human and democratic rights.<sup>141</sup>

The Emperor's regime established a constitutional monarchy with modernist leanings. Characterised in its final years by performative democratic processes such as elections, and limited safeguards for freedom of expression, the regime laid a weak foundation for the establishment of the following 'democratic' order. The Derg constituted the first official democratic regime of the nation. Although constitutionally assuring democratic elements like elections, freedom of expression, and the expansion of civil and political rights, in practice the Derg failed to realise such aspirations. It was finally organised as a one-party state founded on the idea of 'democratic centralism'. The ruling group functioned more accurately as an authoritarian regime with Mengistu retaining all control, intolerant of political opposition. Accordingly, the nation's turn to a formal multi-party ethnic federation took off on shaky ground.

---

<sup>141</sup> Olike (n 117) 69.



## **4 ASSESSING THE EPRDF AND THE PROSPERITY PARTY**

### **4.1 Introduction**

This chapter provides an assessment of the quality of (i) free and fair elections (ii) freedom of expression (iii) and separation of powers through checks and balances during the rule of the Transitional Government of Ethiopia (TGE), the EPRDF and the PP. In its evaluation of the separation of powers, the chapter offers critiques of the drafting processes of the TC and the 1995 Constitution, highlighting the lack of diverse political representation throughout the process. It also interrogates the practical failures in realising checks and balances for the branches of government. The chapter follows with a revision of the 1992 regional, and the 1995 to 2021 national elections. Employing the TC and the 1995 Constitution as the primary legal frameworks for interrogation, it further explores the impacts of relevant domestic legislation on national elections. The chapter concludes with an evaluation of Ethiopia's quality of freedom of speech through the constitutional framework, the state-dominated media industry and several domestic proclamations on the matter.

### **4.2 Characterising the ruling parties and ethno-federalism**

#### **4.2.1 Marxist-Leninist League of Tigray**

Meles Zenawi was one of the eminent 'ideologues' of the Marxist-Leninist League of Tigray (MLLT), a political organisation that existed in parallel to the TPLF.<sup>142</sup> Inspired by Stalin, Mao and Albania, the MLLT endorsed a 'proletarian-peasant dictatorship to liberate the Ethiopian people'.<sup>143</sup> Meles, eventually assuming a similar role in the TPLF, transferred his MLLT ethos to the TPLF and rooted the political party in two core convictions (i) the need for a non-revisionist Maoist democratic approach and (ii) freedom from ethnic oppression.<sup>144</sup> The party's ethnic power base was founded on the belief that Ethiopian ethnic groups had suffered prolonged oppression under the 'Amharas', and 'turning Ethiopia into a socialist society that respect[s] and protect[s] their [ethnic] rights was the only appropriate remedy.'<sup>145</sup> Cognisant of the small Tigraen population, the TPLF knew they needed additional public support to secure leadership of the

---

<sup>142</sup> Terfa (n 27) 141.

<sup>143</sup> P Gilkes Ethiopia – Perspectives of Conflict 1991 -1999' (1999) 22; As above 141.

<sup>144</sup> Terfa (n 27) 140.

<sup>145</sup> As above 135; Gilkes (n 143) 22-23.

country.<sup>146</sup> By the late 1980s, the TPLF established the EPRDF coalition and served as the leading regional party within the coalition. It served as a collection of regional ethnic parties with a shared socialist vision for a multi-ethnic state.<sup>147</sup> After successfully overthrowing the Derg they were tasked with forming the TGE, a combination of TPLF- led EPRDF (TPLF-EPRDF), EPLF and Oromo Liberation Front (OLF) forces, to ease the nation through the birth of a new democratic order.

#### 4.2.2 A revolutionary democracy

As the TGE formed, the TPLF- EPRDF dropped their Marxist views in exchange for a multi-party ethno-federation. The TPLF eschewed liberal democracy, the customary correlate of a federalist structure and replaced it with a ‘revolutionary democracy’. ‘Revolutionary democracy’ is a hybrid dogma grounded in Leninism, ‘infused with some democratic principles, and confronted with or applied to ethnic diversity in the country’.<sup>148</sup> Elements of liberal democracy within the TPLF-EPRDF framework can be observed through the legal protections of civil liberties, guarantees for human rights, and protections for free and fair elections. Although employing an ethno-federalist structure, the TPLF-EPRDF’s ‘revolutionary democracy’ seemed to work in contradiction to the requirements of a federal state. Paradoxical in nature, a federation is characterised by its devolution of government powers to state bodies, while a ‘revolutionary democracy’ anchors government authority within a central party through ‘democratic centralism’.<sup>149</sup> Arguably remiss of democratic content, ‘revolutionary democracy’ reinforces ‘democratic centralism’ and promotes the fusion of the ruling party, state and government.<sup>150</sup> The fusion of ‘revolutionary democracy’ with elements of liberal democracy permitted Ethiopia to function as a pseudo-democracy, employing authoritarian practices as it suited them. The Ethiopian government maintained the façade of

---

<sup>146</sup> Encyclopedia.com ‘Demographics of Ethiopia’ <https://www.encyclopedia.com/places/africa/ethiopia-political-geography/tigray> (accessed 31 August 2022).

<sup>147</sup> Gilkes (n 143) 23.

<sup>148</sup> J Abbink ‘Ethnic-based federalism and ethnicity in Ethiopia: reassessing the experiment after 20 years’ (2011) *Journal of East African Studies* 602.

<sup>149</sup> L Aalen ‘The revolutionary democracy of Ethiopia: A wartime ideology both shaping and shaped by peacetime policy needs’ (2019) *Government & Opposition an International Journal of Comparative Politics* 2.

<sup>150</sup> Abbink (n 148) 643.

democracy to perpetuate a rule that undercut the very foundational requirements of democratic governance.

### 4.2.3 Medemer

True to Ethiopian fashion, at the dawn of the Prime Minister (PM) Abiy Ahmed's tenure he launched the concept of *medemer* (synergy), in place of revolutionary democracy, as the new dominant ideology behind his political ethics and vision for Ethiopia. *Medemer* is said to be a homegrown idea that, at its core, is 'a covenant of peace seek[ing] unity in common humanity and pursu[ing] peace by practising love and reconciliation'.<sup>151</sup> It is founded on three independent pillars (i) building vibrant democracy (ii) economic vitality and (iii) regional integration and openness to the world.<sup>152</sup> Coming into leadership at a time when Ethiopia felt like it was on the brink of ethnic war, *medemer* brought with it a wave of hope for a new Ethiopia.<sup>153</sup> *Medemer* has been critiqued for its lack of a clear political strategy and its simplistic positioning as a solution to the complex ethnic tensions of the state, without providing practical means by which to arrive at a compromise.<sup>154</sup> Today, it has done little to quell ethnic division and establish a firm unitary 'Ethiopian' identity. In fact, since its introduction, Ethiopia has seen one of its worst ethnic conflicts yet- the civil war in Tigray.<sup>155</sup> Furthermore, while critiquing the Marxist underpinnings of the EPRDF regime, *medemer* fails to align with a specific ideology itself.<sup>156</sup> The PM has also knocked the extensive ethnic focus of previous leaders stating that it has concealed other

---

<sup>151</sup> United States Institute of Peace Introductory speech by Ethiopian Ambassador to the United States, Fitsum Arega, 'A Changing Ethiopia: Understanding Medemer' (13 February 2020) <https://www.usip.org/events/changing-ethiopia-understanding-medemer> (accessed 12 October 2022); My emphasis.

<sup>152</sup> J Tadese 'The political reform and "Medemer" discourse: its implications for sustainable peace in Ethiopia' (October 2020) *Journal of Peace Education* 17.

<sup>153</sup> E Chala 'The conflict in eastern Ethiopia, explained' (18 September 2017) <https://globalvoices.org/2017/09/18/the-conflict-in-eastern-ethiopia-explained/> (accessed 12 October 2022).

<sup>154</sup> BBC News 'Ethiopia's Abiy Ahmed: inside the mind of this year's Nobel Peace Prize winner' (10 December 2019) <https://www.bbc.com/news/world-africa-50690548> (accessed 14 October 2022).

<sup>155</sup> G York 'Tigray war has seen up to half a million dead from violence and starvation, say researchers' (14 March 2022) <https://www.theglobeandmail.com/world/article-tigray-war-has-seen-up-to-half-a-million-dead-from-violence-and/> (accessed 16 October 2022); UN Refugees 'Ethiopia's Tigray refugee crisis explained' (06 July 2022) <https://www.unrefugees.org/news/ethiopia-s-tigray-refugee-crisis-explained/> (accessed 16 October 2022).

<sup>156</sup> D Behailu 'Medemer in a land of extremes' (16 February 2020) <https://www.ethiopia-insight.com/2020/02/16/medemer-in-a-land-of-extremes/> (accessed October 16 2022); BBC News (n 154).

significant marginalising identities such as economic standing and gender.<sup>157</sup> *Medemer* promises a lot with regards to repairing the deep ethnic and political wounds of Ethiopia, while arguably providing little in terms of explicit measures and a political strategy to achieving that objective.

#### 4.2.4 Ethno-federalism

Ethno-federalism has garnered heavy criticism from scholars; some warn against its official adoption in South Sudan, as they believe the experiment has failed in Ethiopia.<sup>158</sup> Of the two characteristics of an ethnic federation (i) devolution of powers to state governments and (ii) regional distinction based on ethnicity, Ethiopia only truly practises the latter. In Africa, ethnicity has been used as a tool to bifurcate the people.<sup>159</sup> Creating dichotomies of ‘us’ and ‘them’ it impedes cooperation, running the risk of leveraging a lens meant to ‘raise democratic questions’ into one that facilitates ‘extremism and fascism’.<sup>160</sup> In the case of Ethiopia, it could be argued that since its establishment as a multi-ethnic federation there has only been an increase in ethnic disputes.<sup>161</sup> Considering most conflicts are about ‘land and the boundaries between territorialised ethnic groups’, a non-ethnic federal organisation may have avoided such challenges.<sup>162</sup> Although intended to decrease ethnic hierarchy and ostracization, there has been little evidence to confirm that this political approach has been effective.<sup>163</sup>

Furthermore, the success rate of ethno-federations is not promising. Philip Roeder notes that out of the 18 post-1901 ethno-federations, 14 experienced disintegrations.<sup>164</sup> Roeder argues that the cases of the Soviet Union, Yugoslavia, and Czechoslovakia particularly failed because they shared the following characteristics:

---

<sup>157</sup> Behailu (n 156).

<sup>158</sup> JG Akech ‘What type of federalism should South Sudan adopt and why?’ (12 January 2022) <https://africlaw.com/2022/01/12/what-type-of-federalism-should-south-sudan-adopt-and-why/> (accessed 21 September 2022).

<sup>159</sup> T Adebo ‘Democratic political development in reference to Ethiopia’ (1996) *Northeast African Studies* 61.

<sup>160</sup> As above.

<sup>161</sup> BA Taye ‘Ethnic federalism and conflict in Ethiopia’ (7 December 2017) <https://www.accord.org.za/ajcr-issues/ethnic-federalism-conflict-ethiopia/> (accessed 01 October 2022) para 20.

<sup>162</sup> As above.

<sup>163</sup> Abbink (n 148); A Ayele ‘Revisiting ethnic polities in the federal system’s conflict management capacity in post-1995 Ethiopia’ (01 July 2019) *African Journal of Governance and Development* 37.

<sup>164</sup> L Anderson ‘Ethnofederalism: the worst form of institutional arrangement ...?’ (2014) *International Security* 168.

1. Practised a sham federation where most of the power was held in a single central party.
2. Experienced trauma due to simultaneous political and economic transitions.
3. Had ethnically defined subunits within the federation.<sup>165</sup>

Roeder argues that although ethnic federations in and of themselves are not always doomed to fail, if nations meet these three conditions, to adopt ethno-federalism ‘is to all but guarantee failure’.<sup>166</sup> Ironically, Ethiopia fully meets these three criteria, leaving one to wonder its fate.

### 4.3 Separation of powers

Federalist states are founded on legally guaranteed separations of power that permit all levels of government to apply their authority independently, one of the lynchpins of a federal system.<sup>167</sup> Ethiopia employs a bicameral parliamentary democracy; therefore, separation of powers is better understood in terms of checks and balances and does not appear in the same fashion as those in a presidential system. Thus, what is meant by separation of powers in this context is that the constitutional and legislative rules assure that political control is not totally vested in one branch.<sup>168</sup> The following section assesses the checks and balances between the executive, the judiciary, and the legislature within the federal and state governments of Ethiopia.

#### 4.3.1 Legal guarantees

On the international stage, the significance of separation of powers for parliamentary democracies has been noted by the Human Rights Committee (Committee). In its 1997 concluding observations to Slovakia, the Committee noted that ‘lack of clarity in the delineation of the respective competences of the executive, legislative and judicial authorities may endanger the implementation of the rule of law and a consistent human rights policy.’<sup>169</sup> Beyond international

---

<sup>165</sup> As above 171.

<sup>166</sup> Anderson (n 164) 168 & 171.

<sup>167</sup> A Fiseha & Z Ayele ‘Concurrent powers in the Ethiopian federal system’ in Steytler, N (auth) *Concurrent Powers in Federal Systems, Meaning Making and Managing* (2017) 241.

<sup>168</sup> Unpublished Y Kassa ‘The Judiciary and its Interpretive Power in Ethiopia: A Case Study of the Ethiopian Revenues and Customs Authority’ unpublished LLM thesis University of Addis Ababa, 2011 43.

<sup>169</sup> ‘Concluding observations of the Human Rights Committee - Slovakia’ Human Rights Committee (4 August 1997) UN Doc CCPR/C/79/Add. 79 2.

standards, the TC and the 1995 Constitution, provide more prescriptive legal requirements for separation and will be discussed in the rest of this section.

### *The Transitional Charter*

The TC of 1991 was crafted during the July peace talks of that year. Attendance was decided through invitation alone and the EPRDF held back invitations to parties who could threaten their agenda.<sup>170</sup> Of the parties that were invited, little to none had political strategies of their own, creating a path of least resistance for the EPRDF to enact the TC without much protest.<sup>171</sup> The TC organised the TGE into two main bodies: a Council of Representatives (COR) and a Council of Ministers (COM).<sup>172</sup> The COR, superior to the COM, was tasked with exercising all legislative functions as well as supervising the work of the COM.<sup>173</sup> The COR maintained the authority to appoint the Head of State (HOS) who also functioned as the Chairperson of the COM, giving the HOS the opportunity to control the COR, a practice that would later be repeated during the EPRDF and PP regimes. The TC demonstrates the subtle introduction of ethnic politicisation: requiring the HOS and the PM, to be from different nationalities and enshrining the rights of nations and nationalities to self-determination.<sup>174</sup> Article 13 of the TC served as a precursor provision regarding the establishment of the multi-ethnic federalist state. It established ‘local and regional councils [...] defined on the basis of nationality’. Regarding judicial authorities, the TC simply vested the duty to administer justice upon the courts. They were obliged to fulfil their responsibilities autonomously.<sup>175</sup>

The Constitutional Commission (CC) was authorised to draft a new constitution for the country and was made up of members of the COR and other high-ranking political officials.<sup>176</sup> Shortly after the passing of the TC, the CC began drafting the constitution. The process, however, was remiss of productive deliberation as the TPLF interpreted any dissenting voices as rebellion.<sup>177</sup>

---

<sup>170</sup> Gudina (n 27) 667.

<sup>171</sup> As above.

<sup>172</sup> Art 7.

<sup>173</sup> Art 9

<sup>174</sup> Arts 2& 9(b).

<sup>175</sup> Art 9(f).

<sup>176</sup> Art 10.

<sup>177</sup> TM Vestal ‘An analysis of the new constitution of Ethiopia and the process of its adoption’ (1996) *Northeast African Studies* 26.

Therefore, reaching consensus within the CC was as simple as reaching consensus during the drafting of the TC. With virtually no opposing voices included in the drafting process, the result of this approach was the constitutionalising of the core beliefs of the TPLF manifesto.<sup>178</sup>

There was, however, one additional check the new constitution had to pass before being enacted. The TC mandated that the draft constitution be presented to the people for discussion before the final version was to be adopted by the Constituent Assembly. Nonetheless, when it came time to deliberate with the people, no more than 30% of the citizenry participated, and those involved were largely threatened to attend due to threats from the EPRDF, with little understanding of the ongoing process.<sup>179</sup> Consequently, the last check to ensure the new constitution could be a product of more than the sole political agenda of the TPLF failed to yield its desired results.

### *1995 Constitution*

The 1995 Constitution declared the multi-party ethnic federalist organisation of the Ethiopian state and inaugurated a federal bicameral legislature made up of the House of People's Representatives (HPR) and the House of the Federation (HOF). While the HOF has limited legislative powers, it has the authority to interpret the constitution and settle disputes between states.<sup>180</sup> Powers to craft and enact legislation are vested in the HPR for the federal government and for the states in the State Council (SC).<sup>181</sup> SCs are empowered to establish state legislation on their own accord, establish and staff state courts at their discretion, and administer the state budget as they see fit.<sup>182</sup> In Ethiopia, unlike other parliamentary federations, there is no secondary federal, separately elected, chamber or authority that has equal the power to participate in crafting legislation. The natural players to assume this role would be the HOF or the president, but both lack the authority to participate in the legislative process accordingly.<sup>183</sup> The president serves a ceremonial role, while the executive branch of the federal government is constituted of the majority party in the

---

<sup>178</sup> AK Abebe 'From the "TPLF constitution" to the "constitution of the people of Ethiopia": constitutionalism and proposals for constitutional reform' in MK Mbondenyi & T Ojienda (eds) *Constitutionalism and democratic governance in Africa: contemporary perspectives from Sub-Saharan Africa* (2013) 51-87.

<sup>179</sup> Vestal (n 177) 25.

<sup>180</sup> Art 62.

<sup>181</sup> Arts 50(3), 50 (4) 50(5) & 50(6).

<sup>182</sup> Art 54.

<sup>183</sup> Kassa (n 168) 46.

HPR, the PM and the COM; and for the states, it is the State Administration.<sup>184</sup> The Federal and State judicial powers are granted to the respective federal and state courts and constitute the judicial branch.<sup>185</sup>

One of the Ethiopian constitution's core features is the supremacy of the parliament.<sup>186</sup> Through it the 'executive derives from and is constitutionally accountable to the parliament' and thus the system necessitates a merger of authority between the executive and the legislature wherein the executive is answerable to the legislature'.<sup>187</sup> Therefore, it is not surprising that the constitution grants the HPR vast formal powers across the legislative branch and influential powers over the executive. The powers of the HPR are additionally affirmed in the authority of the majority party to appoint the executive, and question and investigate the executive's conduct as a horizontal check.<sup>188</sup> However, considering the majority party makes most executive appointments, it is safe to assume that leaders of the HPR most likely maintain the same political interests as the executive, causing one to question the value of such a check in practice.<sup>189</sup>

Furthermore, in the case of Ethiopia where the majority party has maintained over 90% domination of parliamentary seats between 1995 and today, there has been even more conflation between the powers of the executive and the legislature. The constitution further grants authority for the PM and their cabinet to sit within the parliament which ultimately 'diminishes the place of separation of powers between the legislature and the executive.'<sup>190</sup> Indeed, the members of parliament, including the speaker, are lower in the party hierarchy, where decisions are made, than the executive leaders. Consequently, in practice, the executive has obtained greater authority than the parliament itself.<sup>191</sup>

Although the judiciary is mandated to operate without any government interference, and supreme judicial authority is vested in the supreme court, the parliament's supremacy is observed in the constitutional authority of the HPR to establish federal and first-instance courts at their

---

<sup>184</sup> Art 50(6).

<sup>185</sup> Art 50(7).

<sup>186</sup> A Fiseha 'Legislative – executive relations in the Ethiopian parliamentary system: towards institutional and legal reform' (2015) *Constitution building in Africa* 246.

<sup>187</sup> As above 246.

<sup>188</sup> Art 55(17).

<sup>189</sup> Art 55(17).

<sup>190</sup> Kassa (n 168) 45.

<sup>191</sup> Fiseha (n 186) 249.



discretion.<sup>192</sup> Even the establishment of federal religious and customary courts occurs at the discretion of the HPR.<sup>193</sup> Thus, if there is an inverse hierarchy between the executive and the legislature, this risks subordinating the judicial branch to the powers of the executive. The PM is further endowed with the authority to nominate the judges, president and vice president of the federal supreme court and the auditor general,<sup>194</sup> another possible subordination of the judiciary to the power of the executive. Lastly, the federal and state courts are not vested with the authority to interpret the constitutionality of laws; instead that power is under the jurisdiction of the HOF.<sup>195</sup> Despite the constitution's intention to equate the authority of the judiciary with that of the executive, in practice, a tense relationship between the two branches exists and has resulted in the progressive delegitimization of the court's authority.<sup>196</sup>

#### **4.3.2 Separation of powers in the EPRDF**

The 1995 Constitution officially established the nation as a multi-party ethnic federation, but it has been argued that the federal organisation of the state is in fact a misnomer.<sup>197</sup> Despite the expansive powers granted to states, there is no true division between state and federal authorities. The EPRDF has been accused of establishing regional party 'fronts', made of EPRDF members, that vie for state leadership in their respective regions, while being nothing more than puppets of the ruling party.<sup>198</sup> Thus, the EPRDF's establishment as the majority seat holder in the HPR, and the TPLF's subsequent leadership of the party, was made possible because their affiliated regional parties won the majority within their respective regions. Therefore, the EPRDF held power of the federal government while their affiliated regional parties held power within state governments, consolidating power within one political coalition. Thus, the vast legal powers granted to state governments did not disperse power between the federal and state organisations, but in fact, diffused the consolidated state and federal power of the EPRDF to the legislative and judicial branches.

---

<sup>192</sup> Arts 78(2) & 79(2); A Fiseha 'Separation of powers and its implications for the judiciary in Ethiopia' (2012) *Journal of East African Studies* 704.

<sup>193</sup> Arts 78(2) & 78(5).

<sup>194</sup> Art 74(7).

<sup>195</sup> Fiseha (n 192) 706.

<sup>196</sup> As above 709.

<sup>197</sup> Terfa (n 27) 147.

<sup>198</sup> As above 148.

Assefa Fiseha largely attributes the practical supremacy of the executive to (i) the hegemonic nature of the EPRDF, (ii) the ‘overlap of functions’ between EPRDF party leaders and the executive branch and (iii) the delegation of rulemaking by the parliament to the executive.<sup>199</sup> Despite the EPRDF’s long-term dominance of the parliament, it failed to produce an environment where diverse political discourse amongst party members was encouraged. In fact, the notion of ‘democratic centralism’ necessitates junior members be subservient to high-ranking officials in the party. This permitted party leaders to act with virtually no parliamentary resistance and has largely silenced the voice of the few opposition party representatives. Secondly, the overlap of functions between the party leaders and the executive has advanced the power of the executive. The EPRDF advocated for a ‘vanguard party’ where the ‘top political elite in the leadership retains control of the political process and the economic sector’.<sup>200</sup> This enabled the dominance of government institutions by the executive and further disincentivised members of parliament from providing dissenting contributions to parliamentary discourse. Lastly, although the delegation of rulemaking to the executive is not novel to the Ethiopian context, when practiced in comparable government structures, like the UK, it is employed with considerable efforts to limit the authority of the executive.<sup>201</sup> In Ethiopia, however, delegated legislation fails to be ‘subject to either prior substantive predetermination by parliament or plenary/committee approval of delegated legislation after enactment by the executive’.<sup>202</sup> Hence, although the parliamentary system of government necessitates supreme authority of the parliament, in practice the executive has historically served as the primary authority. Accordingly, the bloated authority of the executive has permeated to the state and regional levels. Thus, in Ethiopia the role of the legislature is taken up by the executive and the supremacy of the parliament ‘is replaced by cabinet dictatorship’.<sup>203</sup>

With regards to the judiciary, its authority has been greatly compromised due to ouster clauses, overt overrides of judicial decisions, and the inconsistent tenure of judicial staff during shifts in government leadership. The legislature has progressively established more institutions that function as quasi-judicial bodies, illegally transferring adjudicatory powers from the courts to

---

<sup>199</sup> Fiseha (n 186) 251.

<sup>200</sup> As above 257.

<sup>201</sup> Fiseha (n 186) 265.

<sup>202</sup> As above.

<sup>203</sup> Fiseha (n 186) 253.

these new institutions.<sup>204</sup> Furthermore, its judicial authority has been diminished via legislation such as Regulation No.5/2008. Concerned with addressing corruption of government employees, this law explicitly notes that the:<sup>205</sup>

Director-General may, without adhering to the formal disciplinary procedures, dismiss any employee, [... and the dismissed employee] may not have the right to be reinstated by the decision of judicial body

*Yeka Land Development and Administration Office v. Asmelash Tafese and others* serves as another example where the judiciary has been prohibited from reviewing decisions by the executive. The tradition of reorganising the judiciary to suit the leader of the time has been a long-standing practice of Ethiopian politics.<sup>206</sup> Consequently, the public has become sceptical of the authority, autonomy, capability and integrity of the judiciary.<sup>207</sup> This is not only indicative of the lack of independence of the judiciary but also the lack of access to justice for the Ethiopian people.<sup>208</sup> Hence, the role of the judiciary as a check on the legislature, and as the institution of supreme judicial authority, has considerably been compromised. While checks and balances are partially ensured by the constitution, in practice, the executive has consumed the supreme authority of the parliament and the judiciary has been rendered unable to control the power of the legislature or the executive.<sup>209</sup>

### 4.3.3 Separation of powers under Prosperity Party

Despite the rise to power of Abiy Ahmed as PM in April 2018, and the subsequent replacement of the EPRDF with the PP in 2019, the executive continues to function as the supreme source of government power. The bloated powers of the PM were visible with the sweeping changes he unleashed in his first few days in office, often without consulting parliament, or even his party.

---

<sup>204</sup> Fiseha (n 192) 706.

<sup>205</sup> Fiseha (n 192) 708.

<sup>206</sup> As above 703.

<sup>207</sup> Fiseha (n 192) 708.

<sup>208</sup> Center for International Legal Cooperation, Ministry of Capacity Building ‘Comprehensive justice system reform program’ (2005) <https://www.cilc.nl/cms/wp-content/uploads/2014/11/CILC-Ethiopia-D-05-0103.pdf> 63.

<sup>209</sup> Kassa (n 168) 47.

His reform of oppressive laws, promises to allow foreign banks to operate within the state, and repeal of restrictions on internet access bought him favour before the international community.<sup>210</sup>

Ironically, eventual critiques against the new PM came about due to his abuse of these excessive powers. Sanctioning a civil war in Tigray, implementing new restrictive legislation, and authorising frequent internet shutdowns, the PM's international popularity quickly declined.<sup>211</sup> The PM has, however, made steps towards diversifying his post-October 2021 cabinet appointing three of his members from opposition parties, the first time in Ethiopian history.<sup>212</sup> However, there has still been no official effort to put legal boundaries around the executive's legislative powers, nor have there been signs that the hegemonic nature of the PP has been reversed in favour of a more democratic culture. Thus, the parliamentary domination of the PM's cabinet and legislative dominance of the executive persists in Ethiopia today.

PM Abiy Ahmed appointed a new supreme court Chief Justice, Meaza Ashenafi. The Chief Justice has led the revision and enactment of new legislation to increase the judicial integrity of the courts.<sup>213</sup> For example, Proclamation 1233/2021 aims to 'ensure transparency, impartiality and public confidence in [judicial appointments]'.<sup>214</sup> Additionally, Proclamation 1234/2021 serves to delineate the jurisdiction and authorities of federal and state courts, providing greater clarity and accountability to their operations.<sup>215</sup> To date, however, there hasn't been clear data that illustrates that such reforms have had any positive impact on the independence of the judiciary.

---

<sup>210</sup> Business Insider Africa 'Prime minister Abiy Ahmed said Ethiopia is currently amending its laws to allow foreign banks to operate within the country' (23 February 2022) <https://africa.businessinsider.com/local/markets/prime-minister-abiy-ahmed-said-ethiopia-is-currently-amending-its-laws-to-allow/tjm56gc> (accessed 07 October 2022); Reporters Without Borders 'Ethiopia' <https://rsf.org/en/country/ethiopia> (accessed 19 October 2022).

<sup>211</sup> Afex 'Ethiopia press freedom dreams under Abiy Ahmed turning into a nightmare' (16 November 2020) <https://www.africafex.org/digital-rights/ethiopias-press-freedom-dreams-under-abiy-ahmed-turning-into-nightmare> (accessed October 17 2022); D Walsh 'From Nobel Hero to driver of war, Ethiopia's leader faces voters' (21 June 2021) <https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html> (accessed 15 October 2022); IA Bergström 'From Nobel Peace Prize to the front lines: Ethiopia's Abiy Ahmed named worst head of state in the world' (13 January 2022) <https://sciencenorway.no/government-leadership-war/from-the-nobel-peace-prize-to-the-front-lines-ethiopias-abiy-ahmed-named-worst-head-of-state-in-the-world/1965184> (accessed 17 October 2022).

<sup>212</sup> A Getachew 'Ethiopian parliament approves Abiy's 22 – member cabinet' (10 June 2021) <https://www.aa.com.tr/en/africa/ethiopian-parliament-approves-abiy-s-22-member-cabinet/2384837> (accessed 07 October 2022).

<sup>213</sup> UNDOC 'The road towards judicial integrity at the federal court of Ethiopia' <https://www.unodc.org/dohadecaration/en/news/2021/20/the-road-towards-judicial-integrity-at-the-federal-courts-of-ethiopia.html> (accessed 07 October 2022).

<sup>214</sup> Proclamation 1233/2021 Federal Judicial Administration Proclamation Art 3.

<sup>215</sup> Proclamation 1234/ 2021 Federal Courts Proclamation Art 3.

Consequently, the Ethiopian government has a long way to go before the judicial branch is practically endowed with the appropriate authorities to execute its checking and balancing functions.<sup>216</sup>

#### **4.3.4 An assessment of the separation of powers**

Despite commendable efforts of the 1995 Constitution to ensure that traditional checks and balances are realised, some gaps exist in the constitutional drafting. By concentrating all legislative powers to one chamber of the parliament, it runs the risk of enabling a majority party to unilaterally enact legislation. Additionally, ouster clauses have undercut the checking powers of the judiciary and have served to further strengthen the authority of the executive and the legislature. Furthermore, considering the limited power of the courts to question the constitutionality of legislation, the judiciary's ability to check the practice of the parliament is significantly compromised. Lastly, the overlap of leaders within the executive and the parliament has led to a fusion of authorities that has left both bodies with similar political interests and virtually no accountability. In effect, the executive's powers have become so distended that the power of the parliament has become subordinate to it.

#### **4.4 Elections**

This section provides an assessment of the 1992 regional elections and the national elections from 1995 to 2021. It explores the domestic legal frameworks via the TC, the 1995 Constitution and domestic legislation that shaped the nation's approach to national elections. It then evaluates the participation and accessibility of national elections and makes an assessment as to whether free and fair democratic elections took place in Ethiopia. As it is almost impossible to discuss elections without discussing freedom of speech, this section briefly touches on the element of freedom of speech as it regards to elections.

##### **4.4.1 1992**

---

<sup>216</sup> L Estefanos 'Judicial reform in Ethiopia: inching towards justice' (5 September 2021) <https://www.ethiopia-insight.com/2021/09/05/judicial-reform-in-ethiopia-inching-towards-justice/> (accessed 07 October 2022); UNODC (n 214).

Domestically, the 1992 elections were predicated on the legal foundation of the TC which protected the right to participate in elections through the formation of political parties and free and fair representation.<sup>217</sup> It also enshrined the right to elect a national government, once such a process was defined by the new constitution, and assured that the first regional elections for local and regional councilpersons would be held within three months of the TGE's establishment.<sup>218</sup> In practice, the elections fell short of these legal guarantees.

One of the first failures of the election was its timing. The TC constituted that the regional elections ought to take place three months after the establishment of the TGE. Nonetheless, the elections came about almost a year after the TGE was established, a delay of the people's right to participate in government.<sup>219</sup> Furthermore, due to the great power divide between the EPRDF and other political parties, there was scepticism regarding the EPRDF's ability to deliver a free and fair election.<sup>220</sup> Distrust amongst political parties was so rampant that the leading opposition party (the OLF) pulled out of the race at the eleventh hour, amidst allegations of the EPRDF harassing, intimidating and detaining members of its party.<sup>221</sup> This also led to withdrawal from the ballot by the All-Amhara People's Organisation (AAPO), the Ethiopian Democratic Action Group, the Islamic Front for Liberation of Oromia, and the Gideo People's Democratic Organisation.<sup>222</sup> Older parties, such as the EPRP and the Me'ison, were completely excluded from registering as political candidates.<sup>223</sup> This demonstrates the insufficient access to participation for political candidates and the deprivation of a competitive election for the electorate. With regards to media censorship, it was reported that the TPLF-EPRDF leveraged the government-owned mass media to control the electoral narrative, intimidate opponents and bolster their own political standing.<sup>224</sup> To make matters worse, the public was dreadfully unprepared to take part in their first democratic election.

---

<sup>217</sup> Arts 1 & 2.

<sup>218</sup> Arts 1, 2, 12 & 13.

<sup>219</sup> National Democratic Institute for International Affairs 'An evaluation of June 21, 1992 elections in Ethiopia' (1992) 3.

<sup>220</sup> National Democratic Institute for International Affairs (n 219) 2.

<sup>221</sup> K Richburg 'International Observer Team Criticizes Ethiopian Elections' (24 June 1992) <https://www.washingtonpost.com/archive/politics/1992/06/24/international-observer-team-criticizes-ethiopian-elections/a895291d-f344-4a74-b79c-4383ef5bb7b6/> (accessed 15 September 2022); JW Harbeson 'Elections and democratisation in post-Mengistu Ethiopia' (1996) Report prepared for the United States Agency for International Development Project on elections in war-torn societies 38.

<sup>222</sup> Gudina (n 27) 668; National Democratic Institute for International Affairs (n 220) 3.

<sup>223</sup> Gudina (n 27) 668.

<sup>224</sup> Richburg (n 221).

Without prior familiarity with the democratic and electoral processes, most Ethiopians were not prepared to adequately participate in the election.<sup>225</sup> Not only were they poorly versed in democratic custom, but the bulk of the peasant population was also illiterate.<sup>226</sup>

The 1992 elections were Ethiopia's 'test' to demonstrate they could run a free and fair election. Unfortunately, the election fell remarkably short of these expectations. It failed to dispel the ethnic tensions and quite possibly added fuel to the fire. The EPRDF and its affiliates won with a 95.8% majority.<sup>227</sup> Most, if not all, external observers concluded that the election could not be considered competitive, fair, and free.<sup>228</sup> The election outcomes were rejected by virtually all opposition parties due to these discrepancies. Despite the domestic and international pushback, the EPRDF continued to set up local governments that 'were neither democratic nor autonomous'.<sup>229</sup> Moreover, the behaviour demonstrated by the EPRDF in 1992 set the precedent for the coalition's electoral practice for the next 20 years.

#### 4.4.2 1995 and 2000

By the time the 1995 national elections rolled around, Ethiopia had adopted its 1995 Constitution and was ranked as 'partly free' by the FHI.<sup>230</sup> This new document was praised for its expansion of democratic and civil rights and seemed promising for Ethiopia's turn to democracy. Article 38 preserved the right of Ethiopians to 'vote and be elected'.<sup>231</sup> It granted universal suffrage to Ethiopians above the age of 18 and promised individuals the right to participate and belong to any political association of their choice. It also formalised the establishment of the National Election Board of Ethiopia (NEBE).<sup>232</sup> Tasked to ensure 'free and fair elections', the NEBE was guaranteed to be an independent body, and execute its mandate in an impartial manner.<sup>233</sup> The members of the NEBE, however, were selected based on a recommendation of the PM and then were appointed

---

<sup>225</sup> National Democratic Institute for International Affairs (n 219) 2.

<sup>226</sup> As above.

<sup>227</sup> Harbeson (n 221) 42.

<sup>228</sup> Richburg (n 221).

<sup>229</sup> Gudina (n 27) 669.

<sup>230</sup> Freedom House 'Freedom in the world, the annual survey of political rights and civil liberties 1995-1996' (1996) [https://freedomhouse.org/sites/default/files/2020-02/Freedom\\_in\\_the\\_World\\_1995-1996\\_complete\\_book.pdf](https://freedomhouse.org/sites/default/files/2020-02/Freedom_in_the_World_1995-1996_complete_book.pdf) (accessed 07 October 2022) 5.

<sup>231</sup> Art 38.

<sup>232</sup> Art 102.

<sup>233</sup> Art 102(1).



by the HPR.<sup>234</sup> This arrangement threatened the autonomy of the NEBE and granted the executive influence over the observation of national elections. Additional duties of the NEBE were later laid out in the National Electoral Board Regulations of 2007 which are discussed further in section 4.4.4.

Ethiopia's national elections of 1995 and 2000 were known for being remiss of competition and hostile towards citizens intending to vote against the ruling party. The challenges surfaced in 1992 regarding the lack of familiarity with the democratic process, and illiteracy were still an impediment in these two cycles. Regional council persons, tasked with educating the electorate and ensuring no irregularities occurred during registration and ballot casting, were not always conducive to free and fair elections.<sup>235</sup> Evidence surfaced that regional council persons were ordered to inform citizens 'about candidates that should be voted for' as well as 'information about the harmful consequences' if another party were to be elected.<sup>236</sup> Moreover, the national literacy rate sat around 27% in 1995 and 33% in 2000, leaving roughly two-thirds of the electorate disadvantaged.<sup>237</sup>

Additionally, a multitude of other social and political factors such as the harassment of political opponents and their supporters, as well as lingering civil war and famine threatened equal access. The Human Rights Watch (HRW) reports of 1995 and 2000 confirmed that harassment, detention, and intimidation of political opponents was a continued practice, as 'more than a dozen Ogadeni Nation Liberation Front (ONLF), six AAPO and five Sidama Liberation Movement officials were killed' by the EPRDF security in 1994.<sup>238</sup> Political competition was so repressed that during the 2000 election over 50% of electoral constituencies only had EPRDF candidates on their ballots.<sup>239</sup> To make matters worse, Ethiopia's violent border dispute with Eritrea and the

---

<sup>234</sup> Art 102(2).

<sup>235</sup> B Zewde 'Systems of local governance among the Gurage' in B Zewde & S Pausewang (eds) *The challenge of democracy from the bottom* (2002) 67.

<sup>236</sup> As above.

<sup>237</sup> UNESCO Institute for Statistics 'Ethiopia' <http://uis.unesco.org/en/country/et> (accessed 1 September 2022).

<sup>238</sup> Human Rights Watch 'Human rights watch world report 1995 Ethiopia' (1995) <https://www.refworld.org/docid/467fca9a1a.html> (accessed 02 September 2022).

<sup>239</sup> Human Rights Watch 'Human rights watch world report 2001 – Ethiopia' (2001) <https://www.refworld.org/docid/3ae6a8ddc.html> (accessed 03 September).



famine in the Eastern and Southern States devastated the population.<sup>240</sup> A clear demonstration that the constitutionally protected right to free and fair elections was not equally accessible to all.

Although the 1995 Constitution bore a promising legal foundation, participation in elections was not equally accessible. In both elections, the EPRDF won the outstanding majority, in 1995 they closed out the election with 90% of parliamentary seats and in 2000 they won approximately 95% of seats.<sup>241</sup> The intolerance of political competition demonstrated that the TGE was not ready to organise free elections, nor relinquish power to a democratically elected party, perpetuating Ethiopia's dark authoritarian history. Much like 1992, the conditions of these two elections strongly favoured the EPRDF. A study by Addis Ababa University concluded that 71% of participants from Oromia, 72% of participants from the South Ethiopian Peoples region and 72% of participants from Addis Ababa felt that there was a lack of genuine choice among the candidates of the 1995 election.<sup>242</sup> Allegations of fraud as well as reports that the EPRDF punished citizens for voting against them continued throughout the 1995 and 2000 elections.<sup>243</sup>

#### 4.4.3 2005

By 2005, Ethiopia had retained its 'partly free' status from FHI and there was little expectation that that year's election would become the international spectacle it was.<sup>244</sup> After several non-competitive elections, the 2005 election stood out for its relative tolerance of political competition, a result of external and internal pressure.<sup>245</sup> For the first time, political debates were held between opposing candidates and were broadcasted across media platforms nationally.<sup>246</sup> New party coalitions, like the Coalition for Unity and Democracy (CUD) were formed and attracted 'considerable followings'.<sup>247</sup> Access to electoral participation, although imperfect, was broadened in a fashion never seen in the state.

---

<sup>240</sup> UNESCO (n 237).

<sup>241</sup> Gudina (n 27) 669; T Aaron 'Identity politics, citizenship and democratization in Ethiopia' (2005) *International Journal of Ethiopian Studies* 63 & 66.

<sup>242</sup> Gudina (n 27) 669.

<sup>243</sup> T Lyons 'Ethiopian elections: past and future' (2010) *International Journal of Ethiopian Studies* 114.

<sup>244</sup> Freedom House 'Freedom in the world 2005: the annual survey of political rights and civil liberties' (2005) [https://freedomhouse.org/sites/default/files/202002/Freedom in the World 2005 complete book.pdf](https://freedomhouse.org/sites/default/files/202002/Freedom%20in%20the%20World%202005%20complete%20book.pdf) (accessed 08 October 2022) 224.

<sup>245</sup> Gudina (n 27) 670.

<sup>246</sup> Lyons (n 243) 108.

<sup>247</sup> Gilkes (n 143) 67.

Nevertheless, several challenges still made participation inaccessible to constituents. The national literacy rate had dropped down to 29%, the conflict with Eritrea had not formally ceased, and famine and poverty was still prevalent.<sup>248</sup> The EPRDF had also not abandoned their longstanding practice of repressing political opposition. Restricting mass rallies, harassing and detaining the opposition, and intermittently blocking the opposition's appearance in the national media, the EPRDF still wanted to ensure that they would retain power.<sup>249</sup>

At the close of the election, the NEBE confirmed that the EPRDF had won 286 of the 462 seats available.<sup>250</sup> The opposition, however, contested that the EPRDF had only rightly won 38 of those seats and the true majority was won over by the CUD with 158 parliamentary seats.<sup>251</sup> There were numerous signals that tampering of voter registration and vote counting had occurred, generating a public outcry over the results.<sup>252</sup> Approximately 299 cases claiming election irregularities were filed for over 50% of the seats in parliament.<sup>253</sup> Additionally, external monitoring groups such as the European Union-Election Observation Mission (EU-EOM) 'unambiguously stated that there had been major irregularities at the counting stage', and that the 'Ethiopian election fell far short of meeting international standards'.<sup>254</sup> In anticipation of public protest, PM Meles declared a state of emergency, deploying armed forces to repress and arrest demonstrators.<sup>255</sup> During this crackdown, at least 200 people were killed, and an estimated 30,000 people were arrested.<sup>256</sup> International pressure provoked a recount of the disputed cases, nevertheless, only 31 cases were found worthy of a recount, all of which the EPRDF won.<sup>257</sup> It was evident that the EPRDF had no intentions to relinquish power in the case that they lost the

---

<sup>248</sup> Amnesty International 'Ethiopia: the 15 May 2005 elections and human rights' (29 April 2005) <https://reliefweb.int/report/ethiopia/ethiopia-15-may-2005-elections-and-human-rights> (accessed 06 September 2022); UNESCO (n 237); Human Rights Watch 'Ethiopia events of 2004' <https://www.hrw.org/world-report/2005/country-chapters/ethiopia> (accessed 06 September 2022).

<sup>249</sup> Gudina (n 27) 671.

<sup>250</sup> Aaron (n 241) 68.

<sup>251</sup> As above.

<sup>252</sup> Gudina (n 27) 671.

<sup>253</sup> As above.

<sup>254</sup> Gudina (n 27) 672.

<sup>255</sup> Lyons (n 243) 108.

<sup>256</sup> Human Rights Watch 'One hundred ways of putting pressure: violations of freedom of expression in Ethiopia' (24 March 2010) <https://www.hrw.org/report/2010/03/24/one-hundred-ways-putting-pressure-violations-freedom-expression-and-association> (accessed 10 September 2022).

<sup>257</sup> Voice of America '2005 Ethiopian election: a look back' (16 May 2010) <https://www.voanews.com/a/article-2005-ethiopian-election-a-look-back-93947294/159888.html> (accessed 11 September 2022).

election, instead they employed symbolic elections as a veneer to permit an internationally palatable advancement of their democratic rule.

#### 4.4.4 2010 and 2015

The tradition of non-competition and government repression was now a foundational characteristic of elections in Ethiopia. Moreover, the TPLF-EPRDF used the 2005 incident as a pretext to increase restrictions against political opponents and civilian activists. Prior to the 2010 election, the parliament implemented new laws that severely decreased access to electoral participation such as the Amended Electoral Law of Ethiopia Proclamation (AEL) (2007).<sup>258</sup>

The AEL outlined the duties and powers of the NEBE. It affirmed that all members of the board were required to be appointed by the HPR following a recommendation by the PM, and that the HPR maintains the power to dismiss any board member deemed unfit.<sup>259</sup> It is tasked to provide all public voter education, as well as register and license all national and regional political parties.<sup>260</sup> It had the power to recruit electoral officers to conduct and monitor elections, to investigate, cancel or order re-election of any election results, and to certify and officially announce election results.<sup>261</sup> Such broad regulatory authority over elections was peculiarly placed under the supervision of the PM - an obvious threat to the body's impartiality.

The EPRDF also hampered the electoral process by training regional and district representatives to 'slow down and undermine opposition movements' putting a stop to any prospect of future competitive elections at the outset.<sup>262</sup> The combination of new domestic legislation and non-democratic practices led up to the EPRDF's 99.6% win in 2010 and the infamous 100% Election of 2015.

During the 2010 elections, the EPRDF continued to intimidate and threaten political opponents, causing a significant reduction in the number of political candidates on the ballot.<sup>263</sup> Although the election lacked the usual presence of independent electoral observers and opposition party poll watchers, the EU-EOM was still able to observe that 'the electoral process fell short of

---

<sup>258</sup> Gudina (n 27) 673.

<sup>259</sup> Art 6(6).

<sup>260</sup> Art 7(6) & 7(4).

<sup>261</sup> Arts 7(7), 7(12), 7(10).

<sup>262</sup> Gudina (n 27) 673.

<sup>263</sup> As above 674.

international commitments’ noting a lack of a ‘fair playing field’ and ‘transparency’.<sup>264</sup> In 2012, Meles Zenawi passed away and Hailemariam Desalegn, deputy PM at that time and member of the Southern Ethiopian People’s Democratic Movement, was appointed PM. Although the TPLF had formally lost the premiership in the EPRDF, not much changed concerning the EPRDF’s electoral practices. The 2015 election had even fewer observers in attendance. Although observers from the African Union noted the 2015 elections passed ‘without incident’, additional external election observers from the European Union and the Carter Centre, who were critical of the ruling party in their 2010 reports, were not invited.<sup>265</sup> The election was further characterised as a ‘tragic demise of the multi-party system in Ethiopia’.<sup>266</sup> HRW reported that the outcome of the 2015 election was the fruit of seeds sown long ago as ‘the independent media has been decimated, civil society groups virtually eliminated, and peaceful public demonstrations quelled’.<sup>267</sup> By 2015, Ethiopia had received their lowest democracy rating from FHI, officially ranked as ‘not free’.<sup>268</sup>

#### 4.4.5 2021

In 2018, following an internal struggle within the EPRDF, Abiy Ahmed, a representative of the Oromo Democratic Party, was named the new PM of Ethiopia. A controversial figure, he made progressive improvements to the electoral practice of Ethiopia, but also made contributions hindering freedom and fairness. Arguably shedding dictatorial rule by one regional party in exchange for another, the country is still subject to single party domination by the EPRDF - recently transformed into the PP.<sup>269</sup>

In 2019, the Ethiopian parliament enacted the 2019 amendment to the Ethiopian Electoral, Political Parties Registration and Elections Code of Conduct Proclamation (Electoral

---

<sup>264</sup> Gudina (n 27) 675.

<sup>265</sup> The Guardian ‘Ethiopia’s ruling party wins by landslide election’ (22 June 2015) <https://www.theguardian.com/world/2015/jun/22/ethiopias-ruling-party-win-clean-sweep-general-election> (accessed 06 September 2022).

<sup>266</sup> As above.

<sup>267</sup> F Horne ‘Dispatches: alarm bells for Ethiopia’s 100% election victory’ <https://www.hrw.org/news/2015/06/23/dispatches-alarm-bells-ethiopias-100-election-victory> (2015) (accessed 06 September 2022).

<sup>268</sup> Freedom House ‘Freedom in the world 2015’ (2015) [https://freedomhouse.org/sites/default/files/01152015\\_FIW\\_2015\\_final.pdf](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) (accessed 08 October 2022) 22.

<sup>269</sup> G Gebreluel ‘Ethiopia’s prime minister wants to change the ruling coalition. who’s getting left out?’ (23 December 2019) <https://www.washingtonpost.com/politics/2019/12/23/ethiopias-president-wants-change-ruling-coalition-whos-getting-left-out/> (accessed 22 September 2022).

Proclamation). This revision elicited concern from the public as it increased the minimum member requirement of regional parties from 750 to 4 000 members.<sup>270</sup> For national parties, it was raised from 1 500 to 10 000 members.<sup>271</sup> Its enactment generated concern that the PP was continuing the oppressive tactics of the EPRDF, with a different PM.<sup>272</sup> Additionally, major opposition parties such as the OLF, the Ethiopian Citizens for Social Justice and the OFC boycotted the election as some of their prominent political leaders were being harassed and detained by the federal government.<sup>273</sup>

The election had been postponed twice due to the COVID-19 pandemic, but despite the ongoing civil war in Tigray, ethnic violence and logistical challenges that were sparked, the election took place in 2021.<sup>274</sup> The elections were so effected by these conditions that voting did not take place in three regions.<sup>275</sup> The democratic nature of the 2021 elections was highly contested, with some political analysts noting that, due to PM Abiy's autocratic behaviour, domination by the PP was virtually guaranteed, while others insisted that the high voter turnout and the new leadership of the NEBE attributed to the comparatively evolved nature of the election.<sup>276</sup> A report by the National Democratic Institute found that despite high hopes for this election, and notable improvements made since 2015, due to ethnic tensions, lack of participation by certain regions, and arrests of prominent journalists, 'the electoral environment fell short of key standards concerning human and civil liberties, electoral campaigning, adequate security for all parties, and overall peace and security.'<sup>277</sup>

---

<sup>270</sup> Art 63.

<sup>271</sup> Art 64.

<sup>272</sup> Africanews 'Civil servants ban hike in party registration worries Ethiopia opposition' (26 August 2019) <https://www.africanews.com/2019/08/26/civil-servants-ban-hike-in-party-registration-worries-ethiopia-opposition/> (accessed 22 September 2022).

<sup>273</sup> BBC News 'Ethiopian election: Abiy Ahmed wins the huge majority' (11 July 2021) <https://www.bbc.com/news/world-africa-57791868> (accessed 22 September 2022); Z Ayele 'Covid-19 and Ethiopia's sixth general election, case study, 30 March 2022' (2022) <https://www.idea.int/sites/default/files/covid-19-and-ethiopias-sixth-general-election-en.pdf> 6.

<sup>274</sup> Aljazeera 'Ethiopia: Abiy's Prosperity Party wins landslide election victory' (10 July 2021) <https://www.aljazeera.com/news/2021/7/10/ethiopias-ruling-party-wins-national-election-in-landslide> (accessed 05 October 2022).

<sup>275</sup> As above.

<sup>276</sup> A Verjee & T Lyons 'Why Ethiopia's 2021 elections matter' (17 July 2021) <https://www.usip.org/publications/2021/06/why-ethiopias-2021-elections-matter> (accessed 05 October 2022); J Abbink 'The Ethiopian June 2021 elections: a step to political normality?' <https://www.ascleiden.nl/content/ascl-blogs/jan-abbink/ethiopian-june-2021-elections-step-political-normality> (accessed 05 October 2022).

<sup>277</sup> International Republican Institute & National Democratic Institute 'Ethiopia June 21, 2021, national

The 2020 Prevention and Suppression of Terrorism Crimes Proclamation (Terrorism Proclamation) and the 2020 Hate Speech and Disinformation Prevention and Suppression Proclamation (Hate Speech Proclamation) had considerable effects on the democratic nature of this election. Enabling large-scale arrests of political dissenters and authorising nationwide internet shutdowns, these laws hindered the realisation of freedoms necessary for free and fair elections. They also hindered the realisation of the principle of ‘proactive disclosure’ which requires those that ‘hold information of public interest [particularly with regards to elections] to routinely provide such information, even if they have not been asked to’ – as mandated by the Guidelines on Access to Information and Elections in Africa.<sup>278</sup> As a result, the PP won 94% of parliament seats in 2021, and the longstanding domination of the EPRDF party, now PP, continues.<sup>279</sup> Despite positive incremental changes the PP may have catalysed, Ethiopia still maintained its dismal ‘not free’ rating as of 2021.<sup>280</sup>

#### **4.4.6 An assessment of elections**

During the reign of the EPRDF, national elections in Ethiopia mostly served as a symbolic ceremony of democracy. The electoral record over those 20 years was disconcertingly predictable for the people of Ethiopia. The EPRDF established a tradition where it was impossible to imagine them winning a fair election against any decent opposition.<sup>281</sup> The PP has arguably perpetuated the practice of the EPRDF. Although some restrictive legislation has been repealed or amended, such efforts have fallen short of producing substantive impacts. Furthermore, new legislation has put further restrictions on electoral participation and continues to undermine the electoral process.

#### **4.5 Freedom of expression**

---

elections report’ (2021)

<https://www.ndi.org/sites/default/files/LEOME%20Report%20of%20the%20June%202021%20Elections.pdf>  
2 & 3.

<sup>278</sup> Rational and Objectives of the Guidelines.

<sup>279</sup> NPR ‘Ethiopia’s ruling party wins national election in landslide’ (10 July 2021)

<https://www.npr.org/2021/07/10/1015019374/ethiopias-ruling-party-wins-national-election-in-landslide>  
(accessed 22 September 2022).

<sup>280</sup> Freedom House (n 9).

<sup>281</sup> Gudina (n 27) 672.

This section evaluates Ethiopia's freedom of speech through an analysis of the TC and the 1995 Constitution. It assesses how domestic legislation had direct effects on Ethiopians' ability to enjoy their right to freedom of speech. Lastly, the practical enjoyment of freedom of expression is explored through an interrogation of public media ownership and government operations during national elections. This section will focus on the enjoyment of freedom of speech via accessibility through media service platforms as political discourse has increasingly shifted to and is dependent on technology platforms today.<sup>282</sup>

#### 4.5.1 Legal guarantees

To demonstrate its distinctiveness from previous oppressive regimes, the TGE ensured that certain rights and freedoms were included in the TC. A free press and media presented an opportunity to 'boost the new governments [domestic and] international legitimacy.'<sup>283</sup> Article one of the TC enshrined the rights to freedom of expression, assembly, and association. It even highlights the 'right to engage in *unrestricted* political activity' and to organise political associations. The 1995 Constitution similarly guarantees this right in article 29. Going further than the TC, it includes freedom of the press, stating that in the interest of protecting opinions that are 'essential to the functioning of a democratic order', the press enjoys additional legal protections.

There were also several domestic laws addressing press freedoms during this period. Firstly, the Press Proclamation guaranteed freedom of the press, outlawed censorship and declared the right of the press to access and disseminate information.<sup>284</sup> The Broadcasting Proclamation additionally outlined the authorities of the Ethiopian Broadcasting Authority (EBA), an independent federal agency tasked to ensure the press operates within the limits of the law.<sup>285</sup> Although the legislation noted the EBA's autonomy, it was still legally accountable to the PM, much like the NEBE.<sup>286</sup> By 2008 the Government Communication Affairs Proclamation was enacted; vesting the regulatory powers of the Ministry of Information in the EBA, again

---

<sup>282</sup> AE Cladis 'A shifting paradigm: an evaluation of the pervasive effects of digital technologies on language expression, creativity, critical thinking, political discourse, and interactive processes of human communications' (2018) *E-Learning and Digital Media* 341-364.

<sup>283</sup> I Gagliardone 'New media and the developmental state in Ethiopia' (2014) *African Affairs* 284.

<sup>284</sup> Press Proclamation No.34/1992 arts 3 & 8.

<sup>285</sup> Proclamation No. 178/199 'Broadcasting Proclamation.'

<sup>286</sup> Art 4(2).



accountable to the PM.<sup>287</sup> Two laws were later passed in the name of security and stability: the Anti-Terrorism (AT) Proclamation and the Telecom Fraud Offence Proclamation (TFO).<sup>288</sup> Both gave broad latitudes to the Ethiopian government to persecute journalists and activists who spoke against the ruling government. Article six of the TFO outlaws using telecom services to ‘disseminat[e] any terrorising messages’ in accordance with the definitions for terrorism set out in the AT Proclamation. The AT Proclamation, however, employed broad language to define ‘terrorist organisations’ and ‘terrorist acts’, making it possible for the TFO to be abused at will.<sup>289</sup> Furthermore, the penalty for committing terrorist acts could be punishable by death in some cases.<sup>290</sup>

The AT Proclamation created the legal pathway for the arrests of the ‘Zone 9 Bloggers’, Mr Okello Akway Ochalla- governor of Gambella, journalist Reeyot Alemu, journalist Eskinder Nega and deputy chairman of the Oromo Federalist Democratic Movement - Bekele Gerba.<sup>291</sup> This is only the tip of the iceberg, between 1991 and 1999 Ethiopia was notoriously named the nation with the most jailed journalists on the continent - except for 1997.<sup>292</sup> The Committee to Protect Journalists reported that Ethiopia has imprisoned journalists every year, apart from 2004, from 1993 up until 2015.<sup>293</sup>

Thus, although freedom of expression was constitutionally protected, it was equally limited through domestic laws. By centralising the regulatory authority of the media under the supervision of the PM and establishing legal grounds for the criminalisation of public speech under the AT Proclamation and the TFO, freedom of speech protections were shaky.

At the start of Abiy’s rule, the government repealed the infamous 2009 Charities and Societies Proclamation, allowing foreign NGOs to engage in areas of human rights, including right

---

<sup>287</sup> Proclamation No. 590/ 2008 ‘A Proclamation To Provide For Freedom Of The Mass Media And Access To Information’ art 11(2).

<sup>288</sup> Proclamation No. 652/2009 of 2009 ‘A Proclamation on Anti-Terrorism’; Proclamation 761/2012 of 2012 ‘Telecom Fraud Offence Proclamation’.

<sup>289</sup> Arts 2(4), 3, 4, 5, 6 & 7).

<sup>290</sup> Art 3.

<sup>291</sup> The Oakland Institute & The Environmental Defender Law Center ‘Ethiopia’s anti-terrorism law: a tool to stifle dissent’ (2015) 6- 8; D. Smith ‘Blow to press freedom as Ethiopia convicts 24 of plotting rebellion’ (28 June 2012) <https://www.theguardian.com/world/2012/jun/28/ethiopia-convicts-journalists-opposition-rebellion> (accessed 08 September 2022).

<sup>292</sup> Gilkes (n 143) 42.

<sup>293</sup> Committee to Protect Journalists ‘Explore all CPJ data’ [https://cpj.org/data/imprisoned/2021/?status=Imprisoned&cc\\_fips%5B%5D=ET&start\\_year=2016&end\\_year=2021&group\\_by=location](https://cpj.org/data/imprisoned/2021/?status=Imprisoned&cc_fips%5B%5D=ET&start_year=2016&end_year=2021&group_by=location) (accessed 06 September 2022).



to freedom of expression.<sup>294</sup> The PP also enacted the 2020 Terrorism Proclamation, a revision of the AT Proclamation.<sup>295</sup> Although progressive in some respects, it still received criticism due to ambiguous wording that ‘empowers lawmakers to identify and ban terrorist organisations, a move previously used to outlaw political parties’ such as the OLF.<sup>296</sup> Furthermore, it still sanctions the death penalty as a legitimate punishment for terrorist acts.<sup>297</sup> The PP additionally enacted the Hate Speech Proclamation. Allegedly motivated by the ‘increasing communal violence that [...] has been exacerbated by speeches and statements online’, parliament approved a law that could easily be leveraged to limit free speech.<sup>298</sup> Invoking punitive measures for alleged acts of hate speech and misinformation, the proclamation similarly leverages imprecise language that grants wide-ranging freedoms for the government to misappropriate the law and curtail public discourse.<sup>299</sup> For example, it defines disinformation as ‘speech that is [...] disseminated by a person who knew or *should reasonably have* known the falsity of the information’, while failing to define the concept of ‘reasonable knowledge’.<sup>300</sup> Although article 6 of the proclamation attempts to protect journalists from severe punitive measures it fails to do so. Its incongruence with article 258 of the Ethiopian criminal code has provided loopholes for the government to arbitrarily arrest journalists and sentence them to death, rendering the protections of article 6 ineffective.<sup>301</sup> Thus, by 2022, Ethiopia has again been dubbed sub-Saharan Africa’s worst jailer of journalists with

---

<sup>294</sup> Human Rights Watch ‘Ethiopia: Abiy’s first year as prime minister, review of freedom of association’ (04 April 2019) <https://www.hrw.org/news/2019/04/04/ethiopia-abiy-first-year-prime-minister-review-freedom-association> (accessed 08 October 2020); Proclamation No. 621/2009 ‘Charities and Societies Proclamation’.

<sup>295</sup> Proclamation No. 1176/2020 ‘Prevention and Suppression of Terrorism Crimes Proclamation’.

<sup>296</sup> Voice of America ‘Ethiopia adopts new version of much criticised terrorism law’ (03 January 2020) [https://www.voanews.com/a/africa\\_ethiopia-adopts-new-version-much-criticized-terrorism-law/6182042.html](https://www.voanews.com/a/africa_ethiopia-adopts-new-version-much-criticized-terrorism-law/6182042.html) (accessed 23 September); Art 10.

<sup>297</sup> Art 3 & 17.

<sup>298</sup> Human Rights Watch ‘Ethiopia: bill threatens free expression’ (19 December 2019) <https://www.hrw.org/news/2019/12/19/ethiopia-bill-threatens-free-expression> (accessed 22 September 2022).

<sup>299</sup> Reporters Without Borders ‘Wave of arrests of media workers in Ethiopia’ <https://rsf.org/en/wave-arrests-media-workers-ethiopia> (accessed 24 September 2022).

<sup>300</sup> Art 2(3). My emphasis.

<sup>301</sup> Committee to Protect Journalists ‘Ethiopian journalist Dessu Dull and Bikila Amenu face death penalty on Anti-Stage charges’ (02 May 2022) <https://cpj.org/2022/05/ethiopian-journalists-dessu-dulla-and-bikila-amenu-face-death-penalty-on-anti-stage-charges/> (accessed 12 October 2022).

approximately 18 journalists arrested within a ten-day period, of which two are allegedly facing death sentences.<sup>302</sup>

Consequently, although the PP has arguably taken incremental measures to correct the oppressive nature of pre-existing legislation, the amendments to such laws fail to remedy all issues within them. Furthermore, the PP has enacted new legislation that sanctions additional limitations on freedom of expression, leaving the Ethiopian people no better off than before the new party came into power.

#### 4.5.2 Accessibility

Apart from insufficient, and arguably malicious, domestic legislation and the suppression of public protests, additional factors restricted access to free expression. The Ethiopian government maintained a monopoly over virtually all media services which they continuously manipulated during elections. By leveraging popularised television and radio platforms born out of the time of the Emperor, the EPRDF was able to ensure its political message was the loudest and most accessible source of public information. To further its grip on the public discourse, the federal government strategically ensured they had no media competition as it rolled into the 21<sup>st</sup> century. In Africa, the 2000s were a time when ‘privatized telecommunication markets were booming’.<sup>303</sup> Meanwhile in Ethiopia, the government was engineering a means by which they could maintain control over the public discourse. The Ethiopian government received a \$1.9 billion (USD) loan from China to ‘expand mobile service and internet connectivity while keeping Ethio-telcom as the only player in the market’.<sup>304</sup> Assuming media ownership correlates to media control- such a disparity in ownership of media services is quite concerning.

Between 1991 and 2005 there were three radio stations that dominated the airwaves: Radio Ethiopia, Radio Fana and The Voice of Woyane Tigray (VWT).<sup>305</sup> Radio Ethiopia is the longest

---

<sup>302</sup> Reporters Without Borders ‘Eighteen journalists arrested in Ethiopia, two facing possible death sentence’ (03 June 2022) <https://rsf.org/en/eighteen-journalists-arrested-ethiopia-two-facing-possible-death-sentence> (accessed 05 October 2022); Africanews ‘Ethiopia among worst jailers of journalists- rights group’ <https://www.africanews.com/2022/08/02/ethiopia-among-worst-jailers-of-journalists-rights-group/> (accessed 05 October 2022).

<sup>303</sup> Gagliardone (n 283) 295.

<sup>304</sup> As above.

<sup>305</sup> J Mohammed ‘Broadcast media monopolistic syndrome: the major impediment in the use of radio for sustainable development in Ethiopia’ (2015) *Journal of Sustainable Development in Africa* Volume 17 175.

serving radio station, dating back to the rule of Emperor Haile Selassie. It has a large following and was subsequently monopolised by the ruling EPRDF party, ensuring that plural and dissenting voices were hardly heard.<sup>306</sup> Similarly, Radio Fana is owned by the EPRDF and VWT is owned by the TPLF and headquartered in Tigray.<sup>307</sup> Radio broadcasts from abroad, such as the Voice of America and Deutsche Welle, were often disrupted and at times forbidden from being broadcasted domestically.<sup>308</sup> By 2013, of the 25 operational radio stations, no more than three were commercial broadcasters, with the vast majority being state owned media operations.<sup>309</sup> It is clear that Radio Fana, Radio Ethiopia and VWT's popularity, as well as their longstanding existence in Ethiopia, is largely due in part to their close affiliation with the TPLF and EPRDF.<sup>310</sup>

With regards to access to TV stations, the pattern is frighteningly similar.<sup>311</sup> Ethiopian Broadcast Corporation is the only television service at the national level, and it is owned by the federal government.<sup>312</sup> Upon its creation in 1964, it was leveraged by the Emperor to diffuse his political agenda across the nation. The same methodologies were put into practice by the EPRDF.<sup>313</sup> As the government has done with radio stations based abroad, it has equally banned TV broadcast from abroad, such as the Ethiopian Satellite Television, a broadcasting channel set up by exiled Ethiopian journalists and activists.<sup>314</sup>

The federal government's media monopoly stretches to internet service ownership with Ethio-telcom as, until late 2022, the sole internet provider in Africa's second most populous country. With the cost of internet connection unaffordable for most Ethiopians at this time, and only one service provider available to meet the large demand, internet penetration has been dismally low.<sup>315</sup> Several international human rights organisations have published numerous articles about the repression of free speech, the jailing of journalists and the surveillance of citizens

---

<sup>306</sup> Mohammed (n 303) 178.

<sup>307</sup> As above 175.

<sup>308</sup> Mohammed (n 303) 178.

<sup>309</sup> As above.

<sup>310</sup> Mohammed (n 303) 175.

<sup>311</sup> As above 178.

<sup>312</sup> Unpublished NA Dodolla 'Ethiopian media industry: ownership and regulations from a historical point of view' unpublished thesis MA thesis, Addis Ababa University, 2013 28.

<sup>313</sup> Mohammed (n 303) 176.

<sup>314</sup> Mohammed (n 303) 178.

<sup>315</sup> Gagliardone (n 283) 286.

The World Bank 'Individuals using the internet (% of population)' <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=ET> (accessed 08 October 2022).

through state-owned media services.<sup>316</sup> Thus, inaccessible media service and a state monopoly has enabled the Ethiopian government to control and censor internet publications, listen in on communications between citizens, prohibit political organisation and mobilisation, and disrupt any media and communication platform of their choosing.<sup>317</sup>

Today, the federal government still maintains a significant monopoly on the media industry. In 2020, the PP made headlines after announcing that the federal government intended to publicly trade 45% of the Ethio-telcom media giant by 2021.<sup>318</sup> Earlier this year, however, they disclosed that they would be indefinitely postponing the sale due to concerns of economic fluctuation domestically and globally.<sup>319</sup> Internet services showed more promise regarding divestment of federal ownership. In 2021, Safaricom received an operating license to provide 25% of Ethiopians with mobile and internet services by 2025- a promising step towards media freedom.<sup>320</sup>

The MSI ranks a state's media through four qualitative criteria and one of these is freedom of speech. Ethiopia received an assessment score via this index from the years of 2006- 2012. Its lowest score, 0.19, was received in 2006 and 2007.<sup>321</sup> Signifying that the state media is anti-free press and the government, and its laws, hinder freedom of speech and media professionalism. The highest score Ethiopia has ever received is 1.36 in 2008. Meaning the country has an unsustainable mixed media system where the government and the corresponding legal framework oppose a free media system.<sup>322</sup> Although MSI has not ranked Ethiopia since 2012, Reporters Without Borders

---

<sup>316</sup> Human Rights Watch 'They know everything we do: Telecom and internet surveillance in Ethiopia' (25 March 2014) <https://www.hrw.org/report/2014/03/25/they-know-everything-we-do/telecom-and-internet-surveillance-ethiopia> (accessed 08 September 2022); Human Rights Watch (n 290); Amnesty International 'Ethiopia: Journalists in prison – press freedom under attack'(1998) <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr250101998en.pdf> 2.

<sup>317</sup> Gagliardone (n 283) 296.

<sup>318</sup> L. Selashie & Q.Vellut 'Ethiopia: 45% of Telcoms company Ethio to be sold off, despite conflict in the north' (23 November 2010) <https://www.theafricareport.com/51731/ethiopia-45-of-telecoms-company-ethio-to-be-sold-off-despite-conflict-in-the-north/> (accessed 25 September 2022).

<sup>319</sup> Reuters 'Ethiopia says has postponed sale of stake in Ethio telcom' (18 March 2022) <https://www.nasdaq.com/articles/ethiopia-says-has-postponed-sale-of-stake-in-ethio-telecom> (accessed 25 September 2022).

<sup>320</sup> Sumitomo Corporation 'Launch of telecommunications services in Ethiopia' (07 October 2022) <https://www.sumitomocorp.com/en/jp/news/release/2022/group/16060> (accessed 10 October 2022).

<sup>321</sup> Media Sustainability Index 'Media Sustainability Index Ethiopia 2012' (2012) <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-africa-2012-ethiopia.pdf>.

<sup>322</sup> As above.

has rated Ethiopia 114<sup>th</sup> out of 180 countries on their Press Freedom Index.<sup>323</sup> Placing them within the bottom 30<sup>th</sup> percentile of states that protect media freedoms.

### **4.5.3 Assessment on freedom of speech**

Although freedom of expression is constitutionally protected, domestic legislation equally curtailed such freedoms. Regulatory authority over the media ultimately answered to the PM, and EPRDF legislation such as the AT Proclamation and the TFO criminalised free speech. Despite the PP's incremental measures to rectify the pre-existing legislation, the amended laws fail to adequately remedy all issues. Additionally, the PP has carried out new laws that place additional limitations on freedom of expression, arguably providing no greater improvement to the condition of Ethiopians. The Ethiopian federal government has managed to control free speech through their media monopoly and has subsequently leveraged that power to intimidate, harass, and jail political dissenters. Thus, although freedom of speech may be somewhat legally protected additionally domestic legislation and the government's control over media demonstrates that this freedom fails to exist in practice.

## **4.6 Conclusion**

This chapter has offered an in-depth analysis of the three elements of democracy during the regimes of the EPRDF and the PP. It has discussed how the executive branch has hoarded power within the cabinet and the highest-ranking party officials within the parliament, undercutting the checking and regulatory authorities of the judiciary and resulting in an imbalance in the powers between the three branches of government. The chapter has also assessed how elections have failed to be competitive, free and fair, falling short of international standards on democratic elections and subsequently failing to realise the rights enshrined within the 1995 Constitution. Lastly, the chapter has demonstrated how freedom of speech fails to be free at all, due to the government's extensive monopoly over media services and its restrictive legislation. Thus, the Ethiopian people are unable to freely engage in political discourse and are subjected to harsh, if not deadly, punitive measures.

---

<sup>323</sup> Reporters Without Borders (n 210).

## 5 CONCLUSION AND RECOMMENDATIONS

This final chapter offers summative evaluations of the Ethiopian democratic framework discussed throughout the thesis. It provides concluding remarks on the proposed research questions as well as recommendations to enhance the democratic nature of Ethiopia's existing framework.

### 5.1 Concluding remarks

#### 5.1.1 What democratic model has Ethiopia adopted?

Much like Fayemi and Greek championed, Ethiopia has leveraged an eclectic construction of a democratic model.<sup>324</sup> While these scholars argue in favour of an African democratic imagination, critics have posited that African states' proclivity to reinvent their own conception of democracy has led to the popularity of authoritarian and performative democratic societies.<sup>325</sup> Thus, this chapter explores whether such an eclectic approach has proved advantageous for democratic realisation in Ethiopia.

Although having formally established a multi-party ethnic federation, the TPLF rejected the liberal democratic order that customarily accompanies a federalist structure and replaced it with the dogma of 'revolutionary democracy'. A hybrid ideology of Leninism and liberal democracy applied through a lens of ethnic diversity, this ideology is foundationally controversial and oppositional to the organisation of a federal state.<sup>326</sup> While a federacy is distinguished by its devolution of powers to regional states, a 'revolutionary democracy' anchors government authority within a central party and promotes the fusion of the ruling party, state and government.<sup>327</sup> Even at its best, it is founded on centralised decision-making based on internal party deliberation under a hegemonic party, rather than through genuine multi-party competition with prospects of change of government.

The liberal democratic influences within the revolutionary democratic order can particularly be observed in the constitutional guarantees of elections, political competition, and civil and political rights. Interestingly, the manifestation of these liberal democratic elements

---

<sup>324</sup> Fayemi (n 14) 13.

<sup>325</sup> Addis Standard 'Rejoinder: democracy is the minimum core for Ethiopians' (24 June 2020) <https://addisstandard.com/a-rejoinder-democracy-is-the-minimum-core-for-ethiopians/> (accessed 01 October 2022).

<sup>326</sup> Abbink (n 148) 602.

<sup>327</sup> Aalen (n 149) 2; As above; Bach (n 27) 643.

likens Ubi and Ibonye's assertions in chapter one. They argue that in the absence of realising true liberal democracy, shallow democracies are erected in their place. Established prominently to gain credibility with foreign partners, semblances of liberal democracies in Africa have disappointingly resulted in the 'politicisation of ethnicity, economic deprivation, and have protected authoritarian rulership through performative elections'.<sup>328</sup> Ubi and Ibonye were not far off in their characterisation, considering the social, political, and economic consequences they named are representative of Ethiopia's current condition. Ethiopia's historical introductions of democratic elements, and its eventual turn to a federation, was considerably catalysed out of a desire to appease foreign allies- as Ubi and Ibonye anticipated.

The *medemer* ideology, although remiss of an explicit political approach, made promises to serve as the panacea for Ethiopia's broad-ranging economic, political, and social strife. While preaching a message of unity and love, however, it has done little to quell ethnic division and establish a firm unitary 'Ethiopian' identity. Furthermore, the ideology's absence of a distinct political identity has provided the PP leeway to embrace and redesign elements from the EPRDF regime at its convenience. Thus, several aspects of the EPRDF's 'revolutionary democracy' dogma have been kept alive through the PP's ruling practice. Demonstrated by the PP's hostility towards notable competitive parties and their leaders, the government continues to make political participation for such parties virtually impossible and has leveraged the autocratic tendencies of the 'vanguard party' and 'democratic centralism' ethos of the EPRDF to do so. The PP has also maintained an unbalanced power system between the three branches of government and has continued to employ the excessive powers of the executive for their own interests.

The multi-ethnic aspect of Ethiopia's federal democracy is another one of its central characteristics. First observed in Eastern European countries, namely the Soviet Union, Czechoslovakia and the former Yugoslavia, this political organisation was established in non-democratic socialist states.<sup>329</sup> Although contested, the TPLF-EPRDF argued that its ethnic focus was motivated by an effort to promote equality amongst the different linguistic groups of Ethiopia. Often referred to as the Ethiopian democratic experiment, the ethno-federalist model is not common today. Currently, Ethiopia stands as the sole constitutionally recognised ethnic federation,

---

<sup>328</sup> Ubi & Ibonye (n 19) 162.

<sup>329</sup> Anderson (n 164) 166.



while countries such as India, Nigeria, South Sudan, and Pakistan employ elements of ethno-federations.

### **5.1.2 Has Ethiopia's democratic framework succeeded?**

Despite constitutional guarantees of separation of powers, free and fair elections and freedom of speech, the Ethiopian federal government has failed to facilitate rule for, of and by the people in practice. Separation of powers in Ethiopia has proven to be an unachievable notion. Possibly handicapped by the nation's long-running history with 'big man rule', Ethiopia more accurately functions as a unitary state. With the executive as the supreme source of power, the legislature and the judiciary have been subordinated to the authority of the head of state and his like-minded cronies. Intolerant of dissent, the 30+ year ruling party, the EPRDF turned PP, continues to require a militaristic devotion to the party leaders. The ruling party has also championed the notion of 'democratic centralism'. Endorsing the fusion of the ruling party, state, and government, it has amassed all political authority. The Ethiopian executive has also been empowered to single-handedly transform the social and political landscape of the nation at-will due to minimal regulations on its legislation-making powers. Moreover, the powers of the judiciary to check the legislature have been severely compromised because of ouster clauses that devolve the powers of the judiciary to quasi-judicial bodies, and the courts' inability to rule on the constitutionality of legislation.

Elections have also proven a contentious issue, even a farce, in Ethiopia. Although consistently holding national elections since 1995 (save the 2020 election), they have failed to yield a political victor other than for the EPRDF and the PP. National elections have also fallen short of meeting their competitive requirement. With 2005 being the closest Ethiopia has gotten to a competitive election, the government responded with a backlash of new domestic legislation that repressed political competition, stifled dissent and reversed the significant progress made.<sup>330</sup> Riddled with voter and registration fraud, intimidation of the electorate, harassment, jailing and abuse of opposing political leaders and journalists, free and fair participation in national elections

---

<sup>330</sup> Such legislation included the 2007 Amended Electoral Law, the 2009 CSO Law and the 2008 Political Parties Registration Proclamation.



is a privilege unrealised by the majority of the Ethiopian electorate.<sup>331</sup> Practically, national elections in Ethiopia mostly serve as a semblance of democracy, void of true freedom and fairness.

Similarly, freedom of speech lacks effect in practice, despite its guarantees in the constitution, it has been severely limited through domestic legislation that curtail Ethiopians' constitutionally protected rights to freedom of expression. Furthermore, the federal government's media monopoly put access to receive and disseminate information in the hands of the ruling party, an arguably authoritarian regime that has been unwilling to relinquish power over the past 30 years. The central government has thus used this power to control and censor internet publications, listen in on communications between citizens and prohibit political organisation and mobilisation.<sup>332</sup> Considering the restrictive domestic legislation and the monopoly the state maintains over the media, freedom of speech has been arguably non-existent.

As discussed, Ethiopia is a multi-party ethnic federation, and this political organisation continues to receive criticism from scholars. Since its establishment, ethnic tensions have failed to dissolve, calling into question its effectiveness as a model for multi-ethnic cooperation.<sup>333</sup> In the place of equality, the ethnic focus has turned ethnicity into a political weapon.<sup>334</sup> As one considers the outcomes of comparable ethno-federations like Yugoslavia, ethno-federalism in the manner it is imagined today, similarly shows little promise for success in Ethiopia. Although a more promising replacement has yet to be identified, such an inquiry may be a necessary next step for African political theorists.

The notion of success and failure, of course, is subjective. However, even if the benchmark for success is the mere existence of constitutional and legislative guarantees for the discussed elements of democracy, then the Ethiopian framework seems to have failed. Considering domestic legislation continues to undercut the constitutional guarantees to democracy, the democratic framework fails to holistically protect separation of powers, free and fair elections, and freedom of speech. The constitution and domestic legislation fail to work harmoniously in favour of democracy, and coupled with poor governing practice, it has consequently led to the failure of

---

<sup>331</sup> This was the case for the 1995, 2000, 2005, 2010 and 2015 national elections.

<sup>332</sup> Gagliardone (n 283) 296.

<sup>333</sup> Taye (n 161) para 20.

<sup>334</sup> As above; Ayele (n 163) 37.

democratic realisation on the ground. The reality of Ethiopian political governance is that there has failed to be a time when the people ever ruled the nation.<sup>335</sup>

### **5.1.3 Is this framework democratic?**

In the sense that the democratic elements considered in this thesis are protected constitutionally, the Ethiopian democratic framework meets the requirements to be considered a democracy. In fact, Ethiopia's constitution goes further and champions other maximalist components of democracy such as human rights, ethnic representation, and equality.<sup>336</sup> However, where Ethiopia's framework largely falls short is in the existing domestic legislation that hinders the realisation of such democratic elements and the failure to ensure enforcement of constitutional mandates. Therefore, despite an explicit constitutional declaration of democracy and corresponding constitutional protections, the conflicting domestic legislation has resulted in a contradictory democratic framework and thus Ethiopia fails to provide comprehensive legal assurance and practically establish democracy.

### **5.1.4 Can the framework be redesigned?**

The initial hypothesis of this paper was that Ethiopia ought to craft a democratic framework of its own. However, this thesis has revealed that Ethiopian ruling elites have, in fact, crafted their own version(s) of democracy, (i) no-party democracy (ii) single-party Ethiopian socialism (iii) multi-party 'revolutionary democracy' and now (iv) the vague *medemer* dogma. Unfortunately, it seems these democratic theories have worked against the best interest of the Ethiopian people, disempowering, and dispossessing them of their political agency. As far as the current regime is concerned, it may be too soon to tell the fate of its trajectory. Thus, was Fayemi's viewpoint flawed? Is the prospect of effective African theories of democracy a plausible aim for countries like Ethiopia?

This author believes that the necessity for culturally and historically appropriate democratic frameworks cannot be disregarded. It would be questionable to assume that one form of democracy can serve as the panacea for all states, although all democracies reflect certain common

---

<sup>335</sup> My emphasis.  
<sup>336</sup> Arts 10 & 14-28.

fundamental aspects. However, the success of a democratic framework might depend more on *how* such theories are developed, as opposed to if they are developed at all. In the case of Ethiopia, democratic ideologies and their corresponding frameworks have been developed unilaterally by authoritarian leaders, as witnessed during the rule of Haile Selassie, the Derg and finally the TPLF-EPRDF. Even when drafting the existing constitution, despite an explicit constitutional mandate to receive consensus from the people, the ruling government failed to adequately include the public and opposition party leaders.<sup>337</sup>

In place of offering a prescriptive re-writing of the existing democratic framework, this author believes there ought to be a robust discussion between the Ethiopian government and its people. Thus, to draft a more representative framework, inspiration can be taken from countries like South Africa, whose constitution-making process has been lauded for its highly participatory features.<sup>338</sup> Hence, such a discussion between the government and its people should (i) seriously reconsider the ethno-federalist structure of the state, (ii) contemplate including constitutional protections for checks and balances of the executive, and empowerment of the judiciary, and (iii) discuss detaching itself from the nation's autocratic political traditions and disavow a centralist model of governance for the future. Furthermore, it should interrogate existing and future legislation to ensure it is aligned with democratic freedoms and rights enshrined in the constitution, as well as with the spirit and purpose of international law.

## 5.2 Final Recommendations

One must note that any recommendations aimed at promoting a truly democratic dispensation in Ethiopia would likely be challenging, if not impossible, to implement. As this thesis has demonstrated, the Ethiopian government has laboured to ensure they wield all political authority, and thus their eagerness to implement changes that undermine their autocratic nature is unlikely at best. However, to truly embody the label of a democracy, as Ethiopia does, such 'unrealistic' recommendations must be made to illustrate what ought to be done to meet this end. Thus, the following recommendations aim to do just that.

---

<sup>337</sup> During the drafting of the 1995 Constitution when the government only surveyed 30% of the Ethiopian people, most of who were compelled to attend the meeting.

<sup>338</sup> A Saati 'Participatory constitution – making as a transnational legal norm: why does it stick in some contexts and not in others?' (2017) *UC Irvine Journal of International, Transnational, and Comparative Law* 127.

### **5.2.1 Constitutional measures**

*Partake in a collaborative amendment process of the constitution:*

1. Since the existing constitution was remiss of true democratic participation in its drafting, at a foundational level the constitutional framework fails to be representative of Ethiopians and is instead a product of the Ethiopian elite. Thus, initiating an amendment process can close some of the gaps in the existing constitution and can ensure the democratic framework enshrined represents the values of the Ethiopian people. The following elements should be considered for discussion:
  - a. Judicial authority to interpret the constitution.
  - b. The ethno-federalist organisation of the state.
  - c. The adoption of a liberal democracy as the customary correlate to federalism.

### **5.2.2 General Recommendations**

*Constitutional adjudication:*

1. The Ethiopian government, in collaboration with the Ethiopian people, should contemplate strengthening checks and balances, particularly through the transferring of power of constitutional adjudication to independent judicial bodies, of which the details can be further deliberated.

*Reconsidering ethno-federalism:*

2. The Ethiopian government, in collaboration with the Ethiopian people, should strongly reconsider the ethno-federalist organisation of the state. In the place of an ethno-federal model, a standard federalist organisation should be considered.

*Move away from hegemonic majority party ruling structure:*

3. The people and government of Ethiopia might consider establishing a liberal democratic order as the compatible democratic organisation of the federalist state. Adopting a liberal democratic order would undercut the hegemonic tendencies

originally established by the EPRDF and facilitate diverse and representative engagement within the ruling party and nation at large.

4. Ensure best efforts are made to separate federal and state government power. In so doing, the nation may engage in the practice of devolving powers to state governments as opposed to concentrating it within the ruling party.

*Strengthening independent institutions:*

5. Institutions such as the EBA and the NEBE play a crucial role in ensuring the realisation of democratic principles and their independence to function autonomously is paramount. Thus, strengthening their self-governance will nurture the integrity of the democratic order and promote impartiality in monitoring the media and elections.
6. The independence of complementary public institutions, for example, the Ethiopian Human Rights Commission and the Ethiopian Prosecution Service should additionally be pursued as they are secondary checks and balances to the government.

### **5.2.3 Legislative measures**

*The Government of Ethiopia, through parliament, should:*

1. Review existing legislation critical to the realisation of separation of powers, free and fair elections and freedom of speech previously noted in this chapter and chapter four. Such a review should ensure synergies with the guarantees enshrined in the 1995 Constitution and the spirit of relevant international legal standards.
2. Enact new legislation that puts checks on the executive regarding its legislative powers.

Word count: **19,997**

## **BIBLIOGRAPHY**

### **Books**

Asserate, A *King of kings: the triumph and tragedy of emperor Haile Selassie I of Ethiopia* (Haus Publishing 2015) 137-152.

Brown, A *The demise of Marxism- Leninism in Russia* (Palgrave Macmillan 2004) 1-2.

Dahl, R A *A preface to democratic theory* (University of Chicago Press 1956) 1-2.

Meier , M ‘Ethiopia’ in Nohlen,D; Krennerich, M; & Thibaut, B (eds) *Elections in Africa: a data handbook* (Oxford University Press 1999) 375.

Zewde, B (2002) *A history of modern Ethiopia 1866-1991* (Ohio University Press 2002) 235-451.

### **Journal articles**

Aaron, T ‘Identity politics, citizenship and democratization in Ethiopia’ (2005) *International Journal of Ethiopian Studies* 63- 68.

Abbay, A ‘Diversity and democracy in Ethiopia’ (2009) *Journal of East African Studies*.

Abbink, J ‘Ethnic-based federalism and ethnicity in Ethiopia: reassessing the experiment after 20 years’ (2011) *Journal of East African Studies* 602-643.

Adebo, T ‘Democratic political development in reference to Ethiopia’ (1996) *Northeast African Studies* 61.

Anderson, L ‘Ethnofederalism: the worst form of institutional arrangement ...?’ (2014) *International Security* 166-171.

Assefa, S ‘Conspicuous absence of independent judiciary and ‘apolitical’ courts in modern Ethiopia’ (2021) *Mizan Law Review* 398.

Ayele, A ‘Revisiting ethnic polities in the federal system’s conflict management capacity in post-1995 Ethiopia’ (1 July 2019) *African Journal of Governance and Development* 37.

Bach, J ‘Abyotawi democracy: neither revolutionary nor democratic, a critical review of EPRDF's conception of revolutionary democracy in post-1991 Ethiopia’ (2012) *Journal of East African Studies* 643.

Cladis, AE ‘A shifting paradigm: an evaluation of the pervasive effects of digital technologies on language expression, creativity, critical thinking, political discourse, and interactive processes of human communications’(2018) *E-Learning and Digital Media* 341-364.

Dean, R *et al.* ‘What is democratic theory?’ (01 Dec 2019) *Democratic Theory* 1.

Eshrenberg, V ‘Origins of democracy’ (1950) *Historia: Zeitschrift für Alte Geschichte* 515.

Fayemi, AK ‘Towards an African theory of democracy’ *Research Review* 3-15.

Fiseha, A ‘Legislative – executive relations in the Ethiopian parliamentary system: towards institutional and legal reform’ (2015) *Constitution building in Africa* 246.

Fiseha, A ‘Separation of powers and its implications for the judiciary in Ethiopia’ (2012) *Journal of East African Studies* 704-708.

Gagliardone, I ‘New media and the developmental state in Ethiopia’ (2014) *African Affairs* 284-296.

Gebrekidan, F ‘From Adwa to OAU: Ethiopia and the politics of Pan Africanism, 1896-1963’ (2012) *International Journal of Ethiopian Studies* 71-83.

Gilkes, P Ethiopia – Perspectives of Conflict 1991 -1999’ (1999) 22-67.

Gudina, M ‘Elections and democratization in Ethiopia, 1991-2010’ (2011) *Journal of East African Studies* 667-675.

Henze, PB “Is Ethiopia democratic? a political success story’ (1998) *Journal of Democracy* 43.

Knutsen, CH ‘Measuring democracy’ (2014) *Encyclopaedia of Quality of Life and Well-Being Research* 3930- 3931.

Levine, D ‘Haile Selassie’s Ethiopia: myth or reality?’ (1961) *Africa Today* 12.

Lyons, T ‘Ethiopian elections: past and future’ (2010) *International Journal of Ethiopian Studies* 108- 114.

Markakis, J ‘Garrison socialism: the case of Ethiopia’ (1979) *MERIP Reports* 7.

Metaferia, G ‘The Ethiopian connection to the Pan African movement’ (1995) *Journal of Third World Studies* 300-303.

Mohammed, J ‘Broadcast media monopolistic syndrome: the major impediment in the use of radio for sustainable development in Ethiopia’ (2015) *Journal of Sustainable Development in Africa* Volume 17 175-178.

Olika, T ‘Political violence in Ethiopia: some reflections on the Red Terror legacies’ (2012) *Ethiopian Journal of Social Science and Humanities* 66-73olo.

Ottaway, M ‘The Ethiopian transition: democratisation or new authoritarianism’ (1995) 69.



Tadese, J 'The political reform and "Medemer" discourse: its implications for sustainable peace in Ethiopia' (October 2020) *Journal of Peace Education* 17.

Terfa, S 'The Federal Democratic Republic of Ethiopia: liberal democratic or authoritarian regime?' (2012) *African Social Science Review* 140-147.

Tiruneh, A *The Ethiopian revolution 1974-1987: a transformation from an aristocratic to a totalitarian autocracy* (2003) 87-91.

Ubi, EN & Ibonye, V 'Is liberal democracy failing in Africa or is Africa failing under liberal democracy?' (2019) *Taiwan Journal of Democracy* 62.

Vestal, TM 'An analysis of the new constitution of Ethiopia and the process of its adoption' (1996) *Northeast African Studies* 25- 26.

Zerga, B 'Land resource, uses, and ownership in Ethiopia: past, present and future' (2016) *International Journal of Scientific Research & Engineering Trends* 19.

### **Chapters in books**

Abebe, AK 'From the "TPLF constitution" to the "constitution of the people of Ethiopia": constitutionalism and proposals for constitutional reform' in Mbondenyi, MK & Ojienda, T (eds) *Constitutionalism and democratic governance in Africa: contemporary perspectives from Sub-Saharan Africa* (Pretoria University Law Press 2013) 51-87.

Fiseha, A & Ayele, Z 'Concurrent powers in the Ethiopian federal system' in Steytler, N (auth) *Concurrent Powers in Federal Systems, Meaning Making and Managing* (Brill | Nijhoff 2017) 241.

Zewde, B 'Systems of local governance among the Gurage' in B Zewde & S Pausewang (eds) *The challenge of democracy from the bottom* (Nordic Africa Institute 2002) 67.

### **Theses and dissertations**

Unpublished M Kelecha ‘Protests, development and democratization in Ethiopia, 2014-2020’ unpublished thesis, University of Westminster PhD thesis, 2021 30-33.

Unpublished NA Dodolla ‘Ethiopian media industry: ownership and regulations from a historical point of view’ unpublished thesis MA thesis, Addis Ababa University, 2013 201.

Unpublished Y Kassa ‘The Judiciary and its Interpretive Power in Ethiopia: A Case Study of the Ethiopian Revenues and Customs Authority’ unpublished LLM thesis University of Addis Ababa, 2011 43-47.

### **International instruments**

2030 Agenda for Sustainable Development.

African Charter on Human and Peoples’ Rights.

Concluding observations of the Human Rights Committee - Slovakia’ Human Rights Committee (4 August 1997) UN Doc CCPR/C/79/Add. 79.

Convention on the Elimination of All forms of Discrimination against Women.

Guidelines on Access to Information and Elections in Africa.

Human rights, democracy and the rule of law’ Human Rights Council (19 April 2012) UN Doc A/HRC/RES/19/36.

Human rights, democracy and the rule of law’ Human Rights Council (9 April 2015) UN Doc A/HRC/RES/28/14.

International Covenant on Civil and Political Rights.

International Covenant on Economic, Social and Cultural Rights.

Joint Declaration on Freedom of Expression and Elections in the Digital Age.

Model Law on Access to Information for Africa.

Protocol to the African Charter of Human and Peoples' Rights on the Rights of Women in Africa.

Universal Declaration of Human Rights.

Universal Declaration of Democracy.

### **Legislation**

Press Proclamation No.34/1992

Proclamation No. 1162/2019 The Ethiopian Electoral, Political Parties Registration and Elections Code of Conduct Proclamation.

Proclamation No. 1176/2020 Prevention and Suppression of Terrorism Crimes Proclamation.

Proclamation No. 1185 /2020 Hate Speech and Disinformation Prevention and Suppression Proclamation.

Proclamation 1233/2021 Federal Judicial Administration Proclamation.

Proclamation 1234/2021 Federal Courts Proclamation.

Proclamation No. 178/199 Broadcasting Proclamation.

Proclamation No 532/2007 The Amended Electoral Law of Ethiopia Proclamation.

Proclamation No. 590/ 2008 ‘A Proclamation To Provide For Freedom Of The Mass Media And Access To Information’

Proclamation No. 621/2009 of 2009, Charities and Societies Proclamation.

Proclamation No. 652/2009 of 2009 A Proclamation on Anti-Terrorism.

Proclamation No. 761/2012 of 2012 Telecom Fraud Offence Proclamation.

Regulation No. 5/2008.

The 1931 Constitution of Ethiopia

The 1955 Constitution of Ethiopia

The 1987 Constitution of the People's Democratic Republic of Ethiopia.

The 1995 Constitution of the Federal Democratic Republic of Ethiopia.

### **Reports and papers**

Ayele, Z ‘Covid-19 and Ethiopia’s sixth general election, case study, 30 March 2022’ (2022) <https://www.idea.int/sites/default/files/covid-19-and-ethiopias-sixth-general-election-en.pdf> 6.

Amnesty International ‘Ethiopia: Journalists in prison – press freedom under attack’ (1998) <https://www.amnesty.org/en/wp-content/uploads/2021/06/afr250101998en.pdf> 2.

Center for International Legal Cooperation, Ministry of Capacity Building ‘Comprehensive justice system reform program’ (2005) <https://www.cilc.nl/cms/wp-content/uploads/2014/11/CILC-Ethiopia-D-05-0103.pdf> 63.

Freedom House 'Freedom in the world 2015' (2015)  
[https://freedomhouse.org/sites/default/files/01152015\\_FIW\\_2015\\_final.pdf](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) 22.

Freedom House 'Freedom in the world, the annual survey of political rights and civil liberties 1995-1996' (1996)  
[https://freedomhouse.org/sites/default/files/202002/Freedom\\_in\\_the\\_World\\_1995-1996\\_complete\\_book.pdf](https://freedomhouse.org/sites/default/files/202002/Freedom_in_the_World_1995-1996_complete_book.pdf) 5.

Freedom House 'Freedom in the world 2005: the annual survey of political rights and civil liberties' (2005)  
[https://freedomhouse.org/sites/default/files/202002/Freedom\\_in\\_the\\_World\\_2005\\_complete\\_book.pdf](https://freedomhouse.org/sites/default/files/202002/Freedom_in_the_World_2005_complete_book.pdf) 224.

Human Rights Watch 'Human rights watch world report 1995 Ethiopia' (1995)  
<https://www.refworld.org/docid/467fca9a1a.html>.

Human Rights Watch 'Human rights watch world report 2001 – Ethiopia' (2000)  
<https://www.refworld.org/docid/3ae6a8ddc.html>.

International Republican Institute & National Democratic Institute 'Ethiopia June 21, 2021, national elections report' (2021)  
<https://www.ndi.org/sites/default/files/LEOME%20Report%20of%20the%20June%202021%20Elections.pdf> 2-3.

J.W. Harbeson 'Elections and democratisation in post-Mengistu Ethiopia' (1996) Report prepared for the United States Agency for International Development Project on elections in war-torn societies 38-42.

Kekic, L 'The Economist Intelligence Unit's Index of democracy' (2007)  
[https://www.economist.com/media/pdf/democracy\\_index\\_2007\\_v3.pdf](https://www.economist.com/media/pdf/democracy_index_2007_v3.pdf).

Media Sustainability Index ‘Media Sustainability Index Ethiopia 2012’ (2012)  
<https://www.irex.org/sites/default/files/pdf/media-sustainability-index-africa-2012-ethiopia.pdf>.

National Democratic Institute for International Affairs ‘An evaluation of June 21, 1992 elections in Ethiopia’ (1992) 3.

The Oakland Institute & The Environmental Defender Law Center ‘Ethiopia’s anti-terrorism law: a tool to stifle dissent’ (2015) 6-8.

## **Case law**

### **Ethiopia**

*Yeka Land Development and Administration Office v. Asmelash Tafese and others.*

## **Internet Sources**

Abbink, J ‘The Ethiopian June 2021 elections: a step to political normality?’  
<https://www.ascleiden.nl/content/ascl-blogs/jan-abbink/ethiopian-june-2021-elections-step-political-normality> (accessed 05 October 2022).

Addis Standard ‘Rejoinder: democracy is the minimum corer Ethiopians’ (24 June 2020)  
<https://addisstandard.com/a-rejoinder-democracy-is-the-minimum-core-for-ethiopians/> (accessed 01 October 2022).

Afex ‘Ethiopia press freedom dreams under Abiy Ahmed turning into a nightmare’ (16 November 2020)  
<https://www.africafex.org/digital-rights/ethiopias-press-freedom-dreams-under-abiy-ahmed-turning-into-nightmare> (accessed 17 October 2022).

Africanews ‘Ethiopia among worst jailers of journalists- rights group’ (02 August 2022) <https://www.africanews.com/2022/08/02/ethiopia-among-worst-jailers-of-journalists-rights-group/> (accessed 05 October 2022).

Africanews ‘Civil servants ban hike in party registration worries Ethiopia opposition’ (26 August 2019) <https://www.africanews.com/2019/08/26/civil-servants-ban-hike-in-party-registration-worries-ethiopia-opposition/> (accessed 22 September 2022).

Akech, JG ‘What type of federalism should South Sudan adopt and why?’ (12 January 2022) <https://africlaw.com/2022/01/12/what-type-of-federalism-should-south-sudan-adopt-and-why/> (accessed 21 September 2022).

Aljazeera ‘Ethiopia: Abiy’s Prosperity Party wins landslide election victory’ (10 July 2021) <https://www.aljazeera.com/news/2021/7/10/ethiopias-ruling-party-wins-national-election-in-landslide> (accessed 05 October 2022).

Amnesty International ‘Ethiopia: the 15 May 2005 elections and human rights’ (29 April 2005) <https://reliefweb.int/report/ethiopia/ethiopia-15-may-2005-elections-and-human-rights> (accessed 06 September 2022).

BA Taye ‘Ethnic federalism and conflict in Ethiopia’ (07 December 2017) <https://www.accord.org.za/ajcr-issues/ethnic-federalism-conflict-ethiopia/> (accessed 01 October 2022).

BBC News ‘Ethiopia’s Abiy Ahmed: inside the mind of this year’s Nobel Peace Prize winner’ (10 December 2019) <https://www.bbc.com/news/world-africa-50690548> (accessed 14 October 2022).

BBC News ‘Ethiopian election: Abiy Ahmed wins the huge majority’ (11 July 2021) <https://www.bbc.com/news/world-africa-57791868> (accessed 22 September 2022).

Behailu, D ‘Medemer in a land of extremes’ (16 February 2020) <https://www.ethiopia-insight.com/2020/02/16/medemer-in-a-land-of-extremes/> (accessed October 16 2022).

Business Insider Africa ‘Prime minister Abiy Ahmed said Ethiopia is currently amending its laws to allow foreign banks to operate within the country’ (23 February 2022) <https://africa.businessinsider.com/local/markets/prime-minister-abiy-ahmed-said-ethiopia-is-currently-amending-its-laws-to-allow/tjm56gc> (accessed 07 October 2022).

Bergstrøm, IA ‘From Nobel Peace Prize to the front lines: Ethiopia’s Abiy Ahmed named worst head of state in the world’ (13 January 2022) <https://sciencenorway.no/government-leadership-war/from-the-nobel-peace-prize-to-the-front-lines-ethiopias-abiy-ahmed-named-worst-head-of-state-in-the-world/1965184> (accessed 17 October 2022).

Chala, E ‘The conflict in eastern Ethiopia, explained’ (18 September 2017) <https://globalvoices.org/2017/09/18/the-conflict-in-eastern-ethiopia-explained/> (accessed 12 October 2022).

Committee to Protect Journalists ‘Ethiopian journalist Dessu Dull and Bikila Amenu face death penalty on Anti-State charges’ (02 May 2022) <https://cpj.org/2022/05/ethiopian-journalists-dessu-dulla-and-bikila-amenu-face-death-penalty-on-anti-state-charges/> (accessed 12 October 2022).

Committee to Protect Journalists ‘Explore all CPJ Data’ [https://cpj.org/data/imprisoned/2021/?status=Imprisoned&cc\\_fips%5B%5D=ET&start\\_year=2016&end\\_year=2021&group\\_by=location](https://cpj.org/data/imprisoned/2021/?status=Imprisoned&cc_fips%5B%5D=ET&start_year=2016&end_year=2021&group_by=location) (accessed 06 September 2022).

Encyclopedia.com ‘Demographics of Ethiopia’ <https://www.encyclopedia.com/places/africa/ethiopia-political-geography/tigray> (accessed 31 August 2022).



Estefanos, L ‘Judicial reform in Ethiopia: inching towards justice’ (5 September 2021) <https://www.ethiopia-insight.com/2021/09/05/judicial-reform-in-ethiopia-inching-towards-justice/> (accessed 07 October 2022) .

Freedom House ‘Freedom in the world 2021, Ethiopia’ <https://freedomhouse.org/country/ethiopia/freedom-world/2021> (accessed 08 October 2022).

Freedom House ‘Freedom in the world research methodology’ <https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology> (accessed 01 September 2022).

Democracy in Africa ‘Democracy ratings’ <https://democracyinafrica.org/democracy-monitor/ethiopia/> (accessed 22 May 2022).

Gebreluel, G ‘Ethiopia’s prime minister wants to change the ruling coalition. who’s getting left out?’ (23 December 2019) <https://www.washingtonpost.com/politics/2019/12/23/ethiopia-president-wants-change-ruling-coalition-whos-getting-left-out/> (accessed 22 September 2022).

Getachew, A ‘Ethiopian parliament approves Abiy’s 22 – member cabinet’ (10 June 2021) <https://www.aa.com.tr/en/africa/ethiopian-parliament-approves-abiy-s-22-member-cabinet/2384837> (accessed 07 October 2022).

Horne, F ‘Dispatches: alarm bells for Ethiopia’s 100% election victory’ 23 June 2015 <https://www.hrw.org/news/2015/06/23/dispatches-alarm-bells-ethiopia-100-election-victory> (accessed 06 September 2022).

Human Rights Watch ‘Ethiopia: Abiy’s first year as prime minister, review of freedom of association’ (04 April 2019) <https://www.hrw.org/news/2019/04/04/ethiopia-abiy-s-first-year-prime-minister-review-freedom-association> (accessed 08 October 2020).

Human Rights Watch ‘Ethiopia: bill threatens free expression’ (19 December 2019) <https://www.hrw.org/news/2019/12/19/ethiopia-bill-threatens-free-expression> (accessed 22 September 2022).

Human Rights Watch ‘Ethiopia events of 2004’ <https://www.hrw.org/world-report/2005/country-chapters/ethiopia> (accessed 06 September 2022).

Human Rights Watch ‘One hundred ways of putting pressure: violations of freedom of expression in Ethiopia’ (24 March 2010) <https://www.hrw.org/report/2010/03/24/one-hundred-ways-putting-pressure/violations-freedom-expression-and-association> (accessed 10 September 2022).

Human Rights Watch ‘They know everything we do: Telcom and internet surveillance in Ethiopia’ (25 March 2014) <https://www.hrw.org/report/2014/03/25/they-know-everything-we-do/telecom-and-internet-surveillance-ethiopia> (accessed 08 September 2022).

International IDEA Global State of Democracy Indices ‘How we measure’ <https://www.idea.int/gsod-indices/dataset-resources> (accessed 03 October 2022).

L. Selashie & Q. Vellut ‘Ethiopia: 45% of Telcoms company Ethio to be sold off, despite conflict in the north’ (23 November 2010) <https://www.theafricareport.com/51731/ethiopia-45-of-telecoms-company-ethio-to-be-sold-off-despite-conflict-in-the-north/> (accessed 25 September 2022).

NPR ‘Ethiopia’s ruling party wins national election in landslide’ (10 July 2021) <https://www.npr.org/2021/07/10/1015019374/ethiopias-ruling-party-wins-national-election-in-landslide> (accessed 22 September 2022).

Reporters Without Borders ‘Eighteen journalists arrested in Ethiopia, two facing possible death sentence’ (03 June 2022) <https://rsf.org/en/eighteen-journalists-arrested-ethiopia-two-facing-possible-death-sentence> (accessed 05 October 2022).

Reporters Without Borders ‘Ethiopia’ <https://rsf.org/en/country/ethiopia> (accessed 19 October 2022).

Reporters Without Borders ‘Wave of arrests of media workers in Ethiopia’ <https://rsf.org/en/wave-arrests-media-workers-ethiopia> (accessed 24 September 2022).

Reuters ‘Ethiopia says has postponed sale of stake in Ethio telcom’ (18 March 2022) <https://www.nasdaq.com/articles/ethiopia-says-has-postponed-sale-of-stake-in-ethio-telecom> (accessed 25 September 2022).

Richburg, K ‘International Observer Team Criticizes Ethiopian Elections’ (24 June 1992) <https://www.washingtonpost.com/archive/politics/1992/06/24/international-observer-team-criticizes-ethiopian-elections/a895291d-f344-4a74-b79c-4383ef5bb7b6/> (accessed 15 September 2022).

Smith, D ‘Blow to press freedom as Ethiopia convicts 24 of plotting rebellion’ (28 June 2012) <https://www.theguardian.com/world/2012/jun/28/ethiopia-convicts-journalists-opposition-rebellion> (accessed 08 September 2022).

Sumitomo Corporation ‘Launch of telecommunications services in Ethiopia’ (07 October 2022) <https://www.sumitomocorp.com/en/jp/news/release/2022/group/16060> (accessed 10 October 2022).

The Economist Intelligence Unit Index ‘Democracy ratings 2021’ [https://pages.eiu.com/rs/753-RIQ438/images/eiudemocracyindex2021.pdf?mkt\\_tok=NzUzLVJJUS00MzgAAAGG4T\\_JD89GDfq7JydQQLTuzSRxpGjuEYI141pvEdCM8tQA8XZj1VN0ovTi9I8eooCP7XQyCSqgI2ZSXT3sf2cPcVxgfG\\_NAhfSJs4AQlswNSoLQ](https://pages.eiu.com/rs/753-RIQ438/images/eiudemocracyindex2021.pdf?mkt_tok=NzUzLVJJUS00MzgAAAGG4T_JD89GDfq7JydQQLTuzSRxpGjuEYI141pvEdCM8tQA8XZj1VN0ovTi9I8eooCP7XQyCSqgI2ZSXT3sf2cPcVxgfG_NAhfSJs4AQlswNSoLQ) (accessed 22 May 2022).

The Guardian ‘Ethiopia’s ruling party wins by landslide election’ (22 June 2015) <https://www.theguardian.com/world/2015/jun/22/ethiopias-ruling-party-win-clean-sweep-general-election> (accessed 6 September 2022).

UN Refugees ‘Ethiopia’s Tigray refugee crisis explained’ (06 July 2022) <https://www.unrefugees.org/news/ethiopia-s-tigray-refugee-crisis-explained/> (accessed 16 October 2022).

UNDOC ‘The road towards judicial integrity at the federal court of Ethiopia’ <https://www.unodc.org/dohadeclaration/en/news/2021/20/the-road-towards-judicial-integrity-at-the-federal-courts-of-ethiopia.html> (accessed 07 October 2022).

UNESCO Institute for Statistics ‘Ethiopia’ <http://uis.unesco.org/en/country/et> (accessed 01 September 2022).

United States Institute of Peace Introductory speech by Ethiopian Ambassador to the United States, Fitsum Arega, ‘A Changing Ethiopia: Understanding Medemer’ (13 February 2020) <https://www.usip.org/events/changing-ethiopia-understanding-medemer> (accessed 12 October 2022).

Verjee, A & Lyons, T ‘Why Ethiopia’s 2021 elections matter’ (17 June 2021) <https://www.usip.org/publications/2021/06/why-ethiopias-2021-elections-matter> (accessed 05 October 2022).

Voice of America ‘2005 Ethiopian election: a look back’ (16 May 2010) <https://www.voanews.com/a/article-2005-ethiopian-election-a-look-back-93947294/159888.html> (accessed 11 September 2022).

Voice of America ‘Ethiopia adopts new version of much criticised terrorism law’ (03 January 2020) <https://www.voanews.com/a/africa-ethiopia-adopts-new-version-much-criticized-terrorism-law/6182042.html> (accessed 23 September).

Walsh, D 'From Nobel hero to driver of war, Ethiopia's leader faces voters' (21 June 2021) <https://www.nytimes.com/2021/06/21/world/africa/Ethiopia-election-Abiy-Ahmed.html> (accessed 15 October 2022).

York, G 'Tigray war has seen up to half a million dead from violence and starvation, say researchers' (14 March 2022) <https://www.theglobeandmail.com/world/article-tigray-war-has-seen-up-to-half-a-million-dead-from-violence-and/> (accessed 16 October 2022).