

# Federalism and Ethnic Minorities in Ethiopia: Ideology, Territoriality, Human Rights, Policy

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## Abstract

In 1994 Ethiopia has adopted a new constitution, considered one of the most advanced in terms of provisions for human rights. The progressive ratification of several international treaties on minority rights had already begun in 1991, immediately after the fall of the Derg regime. This progress has brought Ethiopia into the UN monitoring system, but the review of the official UN documents reveals the mismatch between the mentioned constitutional and international steps and the on-ground situation. This article considers two possible causes of this gap. The first is the particular form of ethnic federalism, first introduced with the Charter of the Transitional Government of Ethiopia and later developed in the new constitution of the Federal Democratic Republic of Ethiopia (FDRE). The second is the contradiction between the constitutional theory based on the fundamental political freedoms, and the political practice of the ruling party, grounded in revolutionary democracy, a post-Marxist ideology based on the Leninist democratic centralism and on some of the principles of the developmental state. In this article the problems identified by a UN independent expert on minority issues have been re-considered with reference to the Ethiopian pastoral minorities. Special attention is paid to the controversy on the construction of the Gibe 3 dam along the course of the Omo River.

This article claims that minority and indigenous rights are compatible with ethnic federalism as defined in the FDRE constitution, but are in conflict with the praxis inspired by the working ideology of the ruling party.

**Keywords:** Ethiopia; pastoralism; minority rights; federalism; developmental state; Gibe 3

With the establishment of the Transitional Government of Ethiopia (TGE) in 1991 and the adoption of the Transitional Period Charter, Ethiopia entered into a constitutional process that has deeply transformed the formal structure of the state. The Transitional Charter opens with reference to the Universal Declaration of Human Rights of the United Nations, proclaiming the fundamental political freedoms, including the right to organise political parties without restrictions. Article Two establishes the rights of the nations, nationalities and peoples of Ethiopia to self-determination, in terms of administrative autonomy, protection of the cultural rights and participation in the central government, up to secession.<sup>1</sup> All these principles are confirmed and further elaborated in the 1994 constitution of the Federal Democratic Republic of Ethiopia (FDRE).<sup>2</sup> Indeed, the FDRE constitution is often considered one

<sup>1</sup> TGE 'Transitional Charter', Art. 1 and 2.

<sup>2</sup> The draft constitution was ratified by the Constitutional Assembly on December 8, 1994, and finally gazetted on August 21<sup>st</sup>, 1995 (Fiseha, *Federalism*, 53; FDRE, 'Federal Constitution').

of the most advanced charters in terms of provisions for human rights.<sup>3</sup> This change had the potential to lead the country out of the centralistic and authoritarian imperial and communist governments that for decades had brought the country into social unrest and ethnic conflicts. Unfortunately, several Ethiopian and international scholars have highlighted the existence of serious gaps between the constitutional theory and political practice.<sup>4</sup> This mismatch was consistently reported since the time of the TGE by the opposition groups and by small human rights organisation based in the diaspora, but was initially veiled under the image of the Ethiopian ‘democratization’ produced by international diplomacy.<sup>5</sup> The concern for human rights violations was later taken up by the major independent international human rights organisations.<sup>6</sup> From 2006 it has fully entered into the official documents produced by the UN Human Rights Council on Ethiopia.<sup>7</sup>

In this article I will try to identify the underlying causes of the revealed violations of minority rights, considering the institutional and ideological contradictions outlined by other scholars. To this aim I will focus on the Ethiopian ‘ethnic’ minorities and I will elaborate on the specific case of the Gibe 3 controversy in south-western Ethiopia.<sup>8</sup>

Scholars have identified two main problematic areas. The first is inherently related to the particular form of ‘ethnic federalism’ introduced in Ethiopia with the Transitional Charter and the FDRE constitution. The potential of the institutionalisation of ethnicity to generate ethnic conflict has been considered both in publications specific to human and minority rights in Ethiopia and in scholarly articles.<sup>9</sup> The second problematic area is the Marxist ideological background of the Ethiopian People’s Revolutionary Democratic Front (EPRDF), the ruling party, inspiring political action in contradiction with the principles of liberal democracy. These weaknesses are often presented as if they were co-existing and simultaneously affecting the political process. I would rather suggest that they constitute two alternative explanatory models of the current problems with minority rights. If the

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<sup>3</sup> Tronvoll, ‘New Start’, 20; McDougall, ‘Mission to Ethiopia’, 7, 25; CERD 2009, 2.

<sup>4</sup> Turton, ‘Introduction’, 14-8; Fiseha, ‘Theory versus Practice’; Tronvoll, ‘New Start’, 20, Tronvoll, ‘Human Rights Violations’, 50-5, 76.

<sup>5</sup> Pausewang et al., ‘Democratization or Control?’, 35, 43.

<sup>6</sup> The Oromia Support Group and the Ogaden Human Rights Committee have been active since 1991. Among the international organisations Human Rights Watch and Amnesty International have been particularly active in monitoring human rights abuses in Ethiopia.

<sup>7</sup> The UN human rights reports on Ethiopia can be downloaded from the official website of the High Commissioner for Human Rights, <http://www.ohchr.org/en/countries/africaregion/pages/etindex.aspx> [accessed 11/02/2014]

<sup>8</sup> This article deals with a topic related to the main theme of the AHRC-funded research ‘Landscape, People and Parks: Environmental Change in the Lower Omo Valley, Southwestern Ethiopia’, project no. A/H E510590/1, based at the African Studies Centre, University of Oxford. It was developed as a follow-up activity of the same project. I thank Tobias Hagman, John Abbink and David Turton for comments on an early version of this paper.

<sup>9</sup> CERD, ‘2007’, 4, quoted in Tronvoll (‘Human Rights Violations’, 59); Tronvoll, ‘New Start’, 22-3; Abbink, ‘Second Republic’, 14-15, elaborating on Ottaway (‘Democratization’, 50) and Barnes (‘Ethiopia’, 7); Abbink ‘Ethnicity and Conflict’.

first explanation is accepted, the FDRE constitution would itself contain the contradiction that hampers its democratic premises. As claimed by Jon Abbink, the constitutional institutionalisation of ethnicity would ultimately undermine ‘the democratic and issue-directed solution of concrete problems, and flouts the principles of the republic’.<sup>10</sup> The implication is that in order to solve the current problems some institutional steps need to be taken, including, as suggested by Abbink, the amendment of the FDRE constitution.<sup>11</sup> Conversely, if the second explanation is accepted, the systematic abuse of human and minority rights would simply be attributed to the failed implementation of the provisions contained in the FDRE constitution, a responsibility that should be attributed to the ruling party. This position is well exemplified by the opinion reported by Kjetil Tronvoll that ‘the Constitution is only meant for foreign consumption, and not for internal implementation’.<sup>12</sup>

#### *Minority rights under the FDRE*

As mentioned, the FDRE Constitution is highly elaborated with regards to human rights. Chapter Three is entirely dedicated to spelling out specific rights, including the freedoms of association, opinion and expression; protections against the judiciary and concerning conditions of detention; cultural, economic, social and environmental rights; and the rights of different minorities, including women. Art. 25 on the Right to Equality is considered to be in line with international law on minority rights in protecting against discrimination on ground of ethnicity, gender, opinion and other status. With reference to the internal debate on land tenure that has dominated Ethiopian politics since the 70s, Commas 4 and 5 of Art. 40 protect the peasants and pastoralists against displacement.

The FDRE constitution is equally advanced with regards to human rights protected under international law. Art. 9 (4) states that “all international agreements ratified by Ethiopia are an integral part of the law of the land”. Art. 13 in Chapter three further elaborates this concept:

the fundamental rights and freedoms specified in this chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and international instruments adopted by Ethiopia.

According to McDougall this implies that international human rights instruments to which Ethiopia is a party could in theory be invoked directly before national courts, without the need to formally adopt them into the national legislation.<sup>13</sup> However, the recent UN human rights reports stress that despite such

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<sup>10</sup> Abbink, ‘Second Republic’, 15.

<sup>11</sup> ‘Ethnicity and Conflict’, 392, 404.

<sup>12</sup> Tronvoll, ‘New Start’, 5. This idea implies that the principles of liberal democracy were formally proclaimed for the sake of enjoying support from the European and North-American countries and from the international financial institutions, a position shared by various oppositions (Lata, ‘Ethiopian State’; Vestal, ‘Ethiopia’).

<sup>13</sup> McDougall, ‘Mission to Ethiopia’, 7, 18, 27. This corresponds to the opinion already expressed by Ziegler (‘Mission to Ethiopia’, 11).

provision the articles of the ratified treaties have not been invoked before national courts.<sup>14</sup>

As visible in table 1, the TGE and the FDRE have remarkably increased the number of international instruments relevant to minority rights ratified by Ethiopia.

Table 1. Summary of the status of Ethiopia with the main international instruments relevant to minority rights (updated to 2012)

<b>Treaty/Declaration</b>	<b>Consent*/ Government</b>	<b>Additional protocols/ Notes</b>
International Convention on the Prevention and Punishment of the Crime of Genocide (1948)	YES/1948	
International Convention on the Elimination of All Forms of Racial Discrimination (1965) – (ICERD)	YES/Derg (1976)	Optional Protocol not ratified
International Covenant on Civil and Political Rights (1966) – (ICCPR)	YES/TGE (1993)	NOT a party to Art. 41 (mechanism of ensuring compliance with the Covenant); Optional protocols ICCPR-OP1 and ICCPR-OP2 not ratified
International Covenant on Economic, Social and Cultural Rights (1966) – (ICESCR)	YES/TGE (1993)	Optional Protocol ICESCR–OP not ratified
Convention on the Elimination of All Forms of Discrimination against Women (1979) – (CEDAW)	YES/Derg (1981)	Optional Protocol OP-CEDAW not ratified
Convention on the Rights of the Child (1989) – (CRC)	YES/Derg (1991)	Optional Protocol OP-CRC not ratified
ILO 169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries (1989)	NO	
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	NO	

<sup>14</sup> CCPR, ‘Ethiopia’, 2; ESCR, ‘Ethiopia’, 2.

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)	YES/TGE (1992)	Legally non-binding
African Charter on Peoples and Human Rights	YES/FDRE (1999)	
Convention for the Protection of All Persons from Enforced Disappearance (2006)	NO	
United Nations Declaration on the Rights of Indigenous Peoples (2007) – (UNDRIP)	YES/FDRE (2007)	Legally non-binding
Convention on the Rights of Persons with Disabilities (2006) – CRPD	YES/FDRE (2010)	Optional Protocol OP-CRPD not ratified
African Charter on the Rights and Welfare of the African Child	YES/FDRE (2002)	
ILO 29 Convention concerning Forced or Compulsory Labour	YES/FDRE (2003)	
ILO 182 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	YES/FDRE (2003)	

\* by signature, ratification, accession or adoption

Table 2. Other important international instruments related to minority rights (updated to 2012)

Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment (1984) – (CaT)	YES/TGE (1994)	Optional Protocol OP-CaT not ratified
Geneva Conventions (1949)	YES/TGE (1994)	Including the Additional Protocols
ICC Rome Statute of the International Criminal Court (1998)	NO	

This relative progress has brought Ethiopia into the UN monitoring system, but the review of the official UN documents reveals the astonishing and progressively increasing mismatch with the on-ground situation. With regards to minority rights Gay McDougall stated:

In some fundamental respects the true promise of the Constitution - equal and effective participation of members of minority ethnic groups within a system of democratic decision-making - remains unfulfilled. [...]. Minority communities that are discriminated against, excluded and marginalized are

frequently victims of conflict, may be forcibly displaced from their traditional territories and lack opportunities and capacity to promote and protect their rights.<sup>15</sup>

McDougall was the United Nation independent expert on minority issues for the 2006 mission to Ethiopia commissioned by the Human Rights Council. Her mission report can be considered the most authoritative official international position on minority rights in Ethiopia.<sup>16</sup> It should, however, be considered that McDougall did not explicitly address the issue of collective rights. This is likely to be a choice motivated by the fact that her mission was mandated on the basis of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and that Ethiopia has not ratified any binding treaty on indigenous rights.<sup>17</sup> Collective rights are anyway relevant, because they are embodied into minority rights. They were treated by McDougall in terms of the various impacts on the individuals belonging to the ethnic minorities. Indeed most of the cases considered in her report concern groups with a distinctive ethnic identity and distinctive cultural or linguistic features. Collective rights are also central to the political debate on Ethiopia, since they are recognized under the FDRE constitution.<sup>18</sup>

#### *Human rights violations*

In 2008 Tronvoll has carefully reviewed a 2007 report produced by the UN Committee on the Elimination of Racial Discrimination (CERD). This was among the first UN public documents to disclose the systematic and regular violation of human rights in the FDRE.<sup>19</sup> Tronvoll addressed the particular interpretation given in this report that violations occurred along ethnic and racial lines.<sup>20</sup> He classified the reported cases of violation and quantitatively assessed them, concluding that they ‘do appear to reflect an ethnic pattern’ simply because ethnicity has become the main organising principles of the country. Human rights violations take place in response to electoral challenges, social protests or political mobilisations, but ‘targeting individuals belonging to specific ethnic groups’.<sup>21</sup> Tronvoll is thus asserting the primacy of standard civil and political rights over collective rights. This is also the position of McDougall, who clearly connects the problems faced by minorities to the general conditions of abuse of human rights, demanding the immediate adoption of measures such as the re-establishment of independent media freedoms, the release or fair trial of opposition members, academics, journalists and students currently detained.<sup>22</sup>

The systematic violation of standard human rights has been re-asserted in the most recent UN public documents on Ethiopia. The 2010 concluding observations of

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<sup>15</sup> McDougall, ‘Mission to Ethiopia’, 2.

<sup>16</sup> General Assembly Resolution 60/251, 15 March 2006.

<sup>17</sup> McDougall, ‘Mission to Ethiopia’, 5.

<sup>18</sup> Tronvoll, ‘Human Rights Violations’, 54.

<sup>19</sup> CERD, ‘2007’; Tronvoll ‘Human Rights Violations’, 57-58, 78.

<sup>20</sup> Tronvoll ‘Human Rights Violations’. 50, 58-9.

<sup>21</sup> Ibid., 78.

<sup>22</sup> McDougall, ‘Mission to Ethiopia’, 3.

the UN Committee against Torture (CaT) express deep concern about numerous, on-going, consistent and credible allegations of routine use of torture; numerous allegations of extrajudicial killings of civilians by security forces in the Somali, Oromia and Gambella regional states; and concern about reports of rape and other forms of sexual violence against women and girls allegedly committed by members of the security forces.<sup>23</sup> Similar concerns were expressed in 2006 by the United Nation Committee on the Rights of the Child, reporting on information about the use of torture, cruel and degrading treatment by the police and the military to children belonging to minorities; the practice to target schools and students; sexual abuse, rape and killing of children by the armed forces where opposition groups are present, particularly against the Oromo and the Anuak.<sup>24</sup> This state of affairs is confirmed by the UN Human Rights Committee in the 2011 regular report inherent Covenant on Civil and Political Rights.<sup>25</sup>

The 2010 CaT report also denounces the numerous Optional Protocols to which Ethiopia is not a party and the failure to ratify the Rome Statute of the International Criminal Court, making the activation of the United Nations human rights compliance mechanisms difficult or impossible.<sup>26</sup>

#### *The ethnic variable*

The FDRE constitution is often considered quite a unique experiment, because it brings the acknowledgement of cultural diversity to the extreme consequence of using ethnicity as the fundamental organizing principle of the state.<sup>27</sup> As mentioned, the FDRE constitution defines Ethiopia as a polity composed by the nation, nationalities and peoples of the country. It is to these cultural and linguistic ‘groups’ that – according to art. 8.1 and 8.2 of the FDRE constitution – sovereignty is assigned, despite the presence of constitutional limitations in the legislative and budget autonomy of the decentralised ethnic-based administrative units. The definition of ‘nation nationality and peoples’ contained in art. 39 (5) of the FDRE constitution focuses on commonality of culture, language and identity, but also introduces the principle of territorial contiguities, assumed to characterise such groups. The principle of territoriality has strong implications for the definition of the administrative spaces at various levels, especially because it is coupled with the right to self-determination. Self-determination is defined in various articles as the right to establish new states at any time and to adopt measures of self-government. In practice only five of the new regional states fit the ideal of the correspondence of a large territory with a clearly defined ethno-linguistic majority. They are Tigray, Oromia,

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<sup>23</sup> CaT, ‘Ethiopia’, 3, 5-6.

<sup>24</sup> CRC, ‘Ethiopia’, 6-7, 18.

<sup>25</sup> CCPR, ‘Ethiopia’, 4, 5.

<sup>26</sup> CaT, ‘Ethiopia’, 14. Tables 1 and 2 in this article show that none of the relevant Optional Protocols to the treaties signed by the TGE and the FDRE was ratified. Similarly, no binding treaty on the rights of the indigenous peoples was ratified.

<sup>27</sup> Turton, ‘Introduction’, 1; Clapham, ‘Controlling Space’, 27; Habtu, ‘Ethnic Pluralism’. Fiseha observes that the ruling party and other Ethiopians prefer ‘multicultural federalism’ to the commonly accepted expression of ‘ethnic federalism’ (‘Federalism’, 213-4).

and the Afar, Amhara, and Somali regional states. The remaining regional states demarcated during the Transitional Period are linguistically heterogeneous and in some cases made up of a large number of ethnic groups. Within these major units the congruity between space and ethnicity was achieved at lower administrative level, either by demarcating special zones (*Leyu zone*), special districts (*Leyu woreda*), or simply seeking a correspondence between the demarcation of a district (*woreda*) or even a peasant association (*kebele* – the smallest administrative unit) with the territory of a small ethnic group, or of a clan or lineage.<sup>28</sup>

In terms of minority rights, this trend involves both opportunities and threats. Already in 1995 John Cohen outlined the problem of transforming dominant migrants into cultural minorities within the regional states that had adopted a national language different from Amharic.<sup>29</sup> In the same article Cohen also outlined a second concern, the process of boundary demarcation of the districts (*woreda*), particularly along the borders of the regional states.<sup>30</sup> In relation to this second case ethnic conflicts were numerous, serious and in some cases protracted; they led to massive displacements of population.<sup>31</sup> Other ethnic conflicts have been attributed to power struggle among groups in regional states where a dominant majority cannot immediately be identified, and to the process of demarcating new ethnic-based administrative spaces to gain allocation of a budget from the federal institutions.<sup>32</sup>

In all these cases, the victims can be classified as minorities within newly constituted ethno-cultural spaces. Indeed these conflicts are regarded as a major cause of concern in McDougall's report. However, in the same report she also praises the outstanding constitutional progress in minority rights, a clear indication that the constitution contains the provisions for protecting minorities within the new administrative spaces. In order to understand this failure we need to dig deeper in the realm of political culture, and, specifically, in the emic perceptions of the federal system. As Christopher Clapham noted, the new system was taken to imply that territory 'owned by one group could not be owned by another', imposing 'a clear territorial demarcation [...] on peoples who had become interspersed through diverse and longstanding patterns of settlement'.<sup>33</sup> At the lower administrative levels this wrong perception in some cases reached the extent of conceiving the new 'ethnic'

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<sup>28</sup> This reconstruction is based on Abbink 'Ethnicity and Constitutionalism', 167-9; Clapham, 'Controlling Space', 27; Fiseha, 'Federalism', 217-8, 237-40, 246; Turton, 'Introduction', 18-9; Taddele 'Federalism and Conflicts', 36-9; Cohen, 'Ethnic Federalism', 165-6, 172; Abbink, 'Second Republic', 15; Tronvoll, 'New Start', 19.

<sup>29</sup> Cohen, 'Ethnic Federalism', 168. See also Clapham 'Controlling Space', 29. Fiseha ('Federalism', 275) and Abbink ('Ethnicity and Conflict', 399) reported a number of local conflicts that broke out along this line.

<sup>30</sup> Cohen, 'Ethnic Federalism', 160.

<sup>31</sup> Abbink, 'Ethnicity and Conflict', 396. Two official UN documents released in 2007 reported between 100,000 and 280,000 (CERD, '2007', 4), and 300,000 (McDougall 'Mission to Ethiopia', 9) the number of internally displaced persons as a result of ethnic conflicts.

<sup>32</sup> Kefale, 'Federalism'; Fiseha, 'Federalism', ch. 5; Bruchhaus and Sommer, 'Hot Spot', part 2; Vaughan, 'Ethnic Federalism'.

<sup>33</sup> Clapham 'Controlling Space', 29.

space as an 'exclusive' ethnic space.<sup>34</sup> The implication was the implementation of actions of expulsion of minorities or, otherwise expressed, of ethnic cleansing, favoured by the generalised disregard of human rights. The tendency to demarcate smaller and smaller administrative spaces based on ethnic or clan identity increased the possibility to create such exclusive spaces.<sup>35</sup> The principle of self-determination replicated at all administrative levels gave the impression that each ethnic group could now protect its interests and forward its demands through the formal governmental structure. This wrong assumption has become common sense in Ethiopia, but it was pushed even further by the emerging political elite, since formal representation was taken as a viable alternative to the international understanding of minority rights. This quite clearly emerges from an interview released by a member of the EPRDF to Tronvoll, denying the existence of any discriminated or oppressed minority in Ethiopia, being all groups equal and enjoying equal rights under the FDRE constitution.<sup>36</sup> The same point was also academically articulated by Getachew Assefa's in his response to Tronvoll's article on human rights violation in Ethiopia. Getachew Assefa's argument is that given the 'legal, political and institutional landscape', whereby 'all autochthonous groups in Ethiopia have a member of their respective groups as their administrator and lawmakers', 'there is no way for ethnically – or racially – motivated violations of human rights to occur'.<sup>37</sup> The implication is that since under the new system abuses of minority rights cannot logically occur, there is no need to educate citizens, communities and officers, and to monitor and repress violations. In this way the provisions directly contained in the FDRE constitution and the potential to adopt relevant international instruments on minority and indigenous rights were by-passed, and no effort was made to establish intermediate institutional and legal mechanisms between the constitutional principles and the on-ground political processes. Even the 'additional legislation' explicitly required by the FDRE constitution to protect some of the mentioned rights has never been developed.

#### *The ruling party's ideology*

The Statute of the EPRDF asserts the centrality of 'revolutionary democracy', the ideology providing the guiding principles to democratize, transform and develop the Ethiopian society.<sup>38</sup> The substance of revolutionary democracy has, however, remained obscure to foreign observers and members of the opposition, because the party's official documents were in Amharic and have been kept confidential, for use by the EPRDF governing bodies and for indoctrination of the party's cadres.<sup>39</sup>

<sup>34</sup> Haggmann and Mulugeta, "Pastoral Conflicts," 29; Bassi 'Politics of Space'.

<sup>35</sup> Abbink, 'Ethnicity and Conflict', 397.

<sup>36</sup> Tronvoll, 'New Start', 19.

<sup>37</sup> Assefa, 'Reply to Tronvoll', 251. This position is highlighted by Tronvoll ('Rejoinder to Assefa' 476-7).

<sup>38</sup> EPRDF, 'Statute'.

<sup>39</sup> Two of these documents have now been translated into English and published in various issues of the *Ethiopian Register* in 1996, 1997 and 1998. Vestal, 'Ethiopia', 103, 109 (fn. 1); Abbink, 'Second Republic', 11, fn. 18.

Revolutionary democracy can only be understood with reference to the Marxist ideological background of the students' movement that led to the 1974 revolution, shared by all the major insurgent organisations that overthrew the Derg in 1991 and supported the transition to the TGE.<sup>40</sup>

### **The Leninist component**

The ideological influence of Vladimir Lenin on the leaders of the student's movement was described with an insider's perspective by Leencho Lata. Rather than a 'party of the working class', what was needed is a 'party for the working class', a revolutionary intelligentsia that should take the lead in rescuing another class. According to Lata's reading of Lenin, this could be achieved by 'narrowing the circle of those who have a better knowledge of the entire process'. A 'Central Committee' would accordingly take the role of 'the only thinking element of the party' and the party should take up the role of educating the beneficiary class, and raising their political consciousness through a powerful propaganda apparatus.<sup>41</sup>

Lenin's 'democratic centralism' was adopted by the Derg – the military junta that took over the 1974 Ethiopian revolution – as clarified in the 1976 enunciation of the *Program for the National Democratic Revolution*, and put into operation with the adoption of the constitution of the People's Democratic Republic of Ethiopia (PDRE) in 1987.<sup>42</sup>

Democratic centralism is also openly referred to in the EPRDF Statute, a document fully confirming the self-perception of the EPRDF as a vanguard party:

In order to enable people to rally behind the objectives of revolutionary democracy and to struggle for their accomplishment, EPRDF is expected to play the role of a vanguard by bracing up its organizational capacity to lead the people in their efforts to raise their consciousness and organize themselves.<sup>43</sup>

Based on a detailed review of *Guidelines for EPRDF's Organisational Structure and Operation*, an internal EPRDF document, and on research made with the Ethiopian diaspora, in 1999 Theodore Vestal tried to outline how democratic centralism, an ideology designed for a single-party system, could operate in a multi-party constitutional environment. Vestal reported that the EPRDF has built an internal structure parallel to the administrative one, with additional branches in the different sectors of the institutional and associational life. All the major governmental offices, institutions and agencies were thus made part of the Front's network. Similarly, the

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<sup>40</sup> Joireman, 'Opposition Politics', 388-392; Young 'Regionalism and Democracy, 92-3.

<sup>41</sup> Lata, 'Ethiopian State', 87-8. Lata was the Deputy Secretary General of the OLF at the time this organisation was a main component of the TGE in 1991 and 1992.

<sup>42</sup> Art. 4.1 quoted in Clapham, 'PDRE Constitution', 193. See also Clapham, 'State and Revolution', 13-4.

<sup>43</sup> EPRDF, 'Statute', Introduction. There here a striking analogy with art. 6 of the PDRE Constitution: 'The WPE [Workers' Party of Ethiopia], which is guided by Marxism Leninism, is a vanguard political party, determines the perspective for the development of the country, and is the guiding force of the state and the entire society'. (Quoted in Clapham, 'PDRE Constitution', 193).

EPRDF organisational units took control of the activities in the regional states, at all administrative levels. They also monitored the independent associations, opposition organisations and civic associations through infiltration. The EPRDF was particularly restrictive towards ‘any associational activity that may transcend ethnic boundaries’. Vestal reported the importance attributed by the EPRDF to a highly authoritarian command structure, ‘so centralised that even action plans to be implemented by the lowest bodies are commended from the top leadership’. By the time of Vestal’s account in 1999, the organs of the EPRDF were the Congress, formed by its member organisations, a sixty-person Council and a Twenty-man Executive Committee. The Executive Committee elected the General Secretary and the Deputy Secretary, and their members were also in charge of the Propaganda and Organizational Committee (POC), the unit responsible to mobilize ‘the masses’ through effective propaganda and indoctrination of the party’s cadres, and to build the capillary organization that operates at all levels and sectors of society.<sup>44</sup> Vestal’s description appears to be consistent with the conclusions of John Young’s study of the EPRDF:

the EPRDF remains a Leninist-structured and controlled party. And it is this party which not only oversees the public bureaucracy but also has a formative influence over regional parties.<sup>45</sup>

### **The Stalinist component**

The second recognized Marxist influence on revolutionary democracy is Stalin’s writings on the ‘national question’ within the USSR:

In order to cope with ethnic diversity of the former Russian Empire, [...] Stalin (who himself came from a peripheral region, Georgia) developed a system in which nationalities would enjoy cultural rights and a limited amount of administrative autonomy within their own home areas, subject to the overall control of a communist party.<sup>46</sup>

The debate on the different nations, nationalities and peoples of Ethiopia was already present in the student’s internal debate, but it certainly acquired a new dimension with the political struggle that brought the insurgent organizations to power in 1991.<sup>47</sup> The Tigrayan People’s Liberation Front (TPLF), the Eritrean People’s Liberation Front (EPLF) and the Oromo Liberation Front (OLF) were all insurgent organisations that had managed to control and self-administer at least part of the territory of their respective people during the Derg. They introduced ethnic federalism in Ethiopia, building on a study that was already produced during the Derg by the Institute for the Study of Ethiopian Nationalities.<sup>48</sup> The EPLF led Eritrea to

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<sup>44</sup> Vestal, ‘Ethiopia’, 103-9.

<sup>45</sup> Young, ‘Regionalism and Democracy’, 196.

<sup>46</sup> Clapham, ‘Controlling Space’, 21.

<sup>47</sup> Tiruneh, ‘Ethiopian Students’, 85-8; Young, ‘Regionalism and Democracy’, 192.

<sup>48</sup> Abbink, ‘Ethnicity and Constitutionalism’, 166; Young, ‘Regionalism and Democracy’, 193. Tronvoll, ‘New Start’, 18. The Derg rejected the suggestion to form administrative regions and districts based on ethnicity, but it nevertheless accepted ‘a strictly controlled element of representation for

independence in 1993 by referendum, the OLF was pushed back into insurgency in 1992 and the TPLF managed to present itself as the only political organisation with the capacity to administer the federation, having formed the EPRDF structure in 1988 by aggregating other ethnic components, including ‘Amhara, Oromo, southern based parties, a small and short-lived organisation of captured Derg officers, and other quickly established ethnically based movements’.<sup>49</sup> This operation was made by re-framing the national question in the logics of democratic centralism. The EPRDF is in fact formed by member organisations that according to its Statute accept to promote revolutionary democracy in their own regional state.<sup>50</sup> The ‘democratic’ component thus refers to the internal decision making process, the inter-ethnic dialogue possible at the Congress of the member organizations, with the capacity to formulate the programme of the organisation, and to elect the Council. The distribution of power among the nations and nationalities of Ethiopia was also assured by the provision that the Executive Committee should be formed by an equal number of representatives from the member organisations.<sup>51</sup> However, most observers claim that both the central organs and the member organisations of the EPRDF firmly remain under the control of the TPLF.<sup>52</sup> Several scholars have also elaborated on the mechanisms through which the EPRDF manages to maintain a highly centralised system of control and influence over the regions, despite the constitutional provisions for self-determination.<sup>53</sup>

### **The influence of Chinese communism**

During the phase of the armed struggle Maoism provided the liberation fronts with a powerful strategic instrument. Lata reports that the EPLF leaders were trained in China during the late 1960s, and that the TPLF was openly Maoist until the mid 1980s.<sup>54</sup> Young acknowledges that the early EPLF and Chinese revolutionaries had an enormous influence on the thinking of the TPLF.<sup>55</sup> According to Lata the strategy of the Ethiopian liberation fronts was to engage in low intensity armed struggle advancing in a gradual manner from peripheral rural communities to the centre. The conditions of Ethiopia were analogous to post-1927 China, with the need to build an army in an underdeveloped and agricultural society, and with little external support. As clarified by Young, the TPLF adopted Mao’s axiom that an ‘army could only be based on peasants’, following ‘the three most influential components’ of Mao’s work: ‘the mass line, the stress on self-reliance, and protracted war’.<sup>56</sup> The mass line implied building a strong relation of trust between the revolutionaries and the

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nationalities under the constitution of the PDRE’ (Clapham ‘Controlling Space’, 21).

<sup>49</sup> Young, ‘Regionalism and Democracy’, 193.

<sup>50</sup> EPRDF, ‘Statute’, II. 8.

<sup>51</sup> Vestal, ‘Ethiopia’, 104.

<sup>52</sup> Ibid., 104; Young ‘Regionalism and Democracy’, 193

<sup>53</sup> Young ‘Regionalism and Democracy’, 196-7. The most comprehensive list of these studies is provided by Tronvoll (‘Rejoinder to Assefa’, 477, fn. 4).

<sup>54</sup> Lata, ‘Ethiopian State’, 107. See also Joireman, ‘Opposition Politics’, 392.

<sup>55</sup> Young, ‘Peasant Revolution’, 136.

<sup>56</sup> Ibid., 33.

peasants, with the former taking the role of ‘political entrepreneurs’ and genuinely interpreting the demands of the peasants. The *gim gima* –mass evaluation meetings where the peasants had the opportunity to engage in open and lengthy debates with the leaders – and the land reforms were two of the instruments used to achieve this aim.<sup>57</sup> The work of cultural transformation, re-organization of the society and rural mobilization during the armed struggle was part of the Mao’s strategy outlined in *On Protracted War*, a publication known to the students of the 1974 movement. Lata explains that this led to the fusion of the political and military roles in the liberation fronts, as in the case of the Chinese Red Army.<sup>58</sup>

Today Maoist influence on revolutionary democracy seems to be confined in two rhetoric features. The first is the frequent use of battlefield metaphors and the representation of the political adversaries as ‘enemies’ in political speeches, with the implicit idea of a protracted revolutionary state and the need of a continuous social transformation.<sup>59</sup> The maintenance of the institution of *gim gima* after the termination of the resistance struggle can be considered a practical manifestation of this attitude.<sup>60</sup> The second feature is the centrality of the peasantry in Meles Zenawi’s — President of the Transitional Government of Ethiopia from the fall of the Derg in 1991 to 1995, Ethiopian Prime Minister from 1995 to his death in 2012 — notion of ‘agrarian democracy’. Meles Zenawi was Chairman of the TPLF since 1985 and head of EPRDF since its formation. In his speeches he often presented the phase dominated by the agrarian democracy as the necessary ‘prelude to the rise of an urban-based liberal and mature democracy’, the former being more effective in bringing about development of an African state with a negligible middle class.<sup>61</sup> Reference to the developmental state shows that revolutionary democracy is strongly influenced by the Chinese pragmatism in fostering economic reforms from 1978. By 1991, when the EPRDF took power, China already featured as a success story of economic growth, in a country that, at the time when the controlled openings to private property were first introduced, shared many of the social, economic and political characteristics found in the 1991 Ethiopia. Both in the FDRE constitution and in its actual policy the EPRDF promoted the market economy to attract foreign investments, a change that simultaneously fits the Chinese development trajectory and liberal democracy.

### **The incompatibility with liberal democracy**

Building on the Maoist ‘new democratic revolution’ and subsequent reforms in China, and on the Derg’s ‘democratic revolution’, the TPLF/EPRDF has developed revolutionary democracy, a post-Marxist ideology incompatible with the multi-party system, freedom of association, federal decentralisation and political pluralism

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<sup>57</sup> Ibid., 33, 142-4. Young refers that the TPLF was well acquainted with the Chinese Communist Party studies of the land reforms (237, fn. 72).

<sup>58</sup> Lata, ‘Ethiopian State’, 108-9, 116.

<sup>59</sup> Vestal, ‘Ethiopia’, 184.

<sup>60</sup> Pausewang et al. ‘Conclusion’, 232. In the context of the FDRE this technique is often manipulated to purge office holders.

<sup>61</sup> Abbay, ‘Democracy in Ethiopia’, 177.

proclaimed in the FDRE constitution. As Sarah Vaughan and Kjetil Tronvoll have outlined, “donors and EPRDF have not meant the same thing by ‘democracy’”.<sup>62</sup> In terms of political practice, this contradiction was tackled by adopting what some scholars have defined ‘a dual administrative structure’.<sup>63</sup> The EPRDF ruled the country according to its working ideology, while taking control of the various governmental institutions by elections. The FDRE constitution and the maintenance of an appearance of a multi-party system served as a powerful source of international and domestic political legitimacy. This ‘*modus operandi*’, however, can only work as long as the political supremacy of the ruling party is not challenged in the elections.<sup>64</sup> The contradiction between praxis and the FDRE constitution came to full light with the repression that followed the 2005 political elections. In two of their recent articles, Lovise Aalen and Tronvoll have discussed the restrictions on free expression since 2005, and the use of multi-party elections as ‘a means to sustain the incumbent regime’s own power’, suggesting the end of democracy and the return of electoral authoritarianism in Ethiopia.<sup>65</sup> A longer term review reveals that the EPRDF has systematically pushed out of the electoral competitive arena any party capable to challenge it. A case in point is the withdrawal of the OLF from the TGE after the 1992 ‘snap’ elections.<sup>66</sup>

The incompatibility between the practiced Leninist democracy and the democratic model proclaimed in the FDRE constitution was confirmed in 2009, when the EPRDF publicly dissociated the two pillars of liberal democracy: civil society as a branch independent of state governance, and human rights. The EPRDF’s underlying thought on civil society has been outlined by Alemseged Abbay:

Prime Minister Meles Zenawi believes that the reliance on NGOs can only lead to a fragile democracy which does not permit alternative paths to development. Instead, he argues, what Africa needs is a ‘paradigm shift’ from neoliberalism to an agrarian democracy, where the NGOs would have minimal roles.<sup>67</sup>

This thought was turned into action with the approval of Charities and Societies Proclamation No. 621/2009. The following is the comment contained in the 2009 report of the UN Committee on the Elimination of Racial Discrimination:

the Committee is concerned that the Charities and Societies Proclamation (2009), to a large extent, curtails freedom of association in that: (a) charities established by nationals [...] are not allowed to receive more than ten per cent of their funds from foreign sources, including international agencies and nationals living abroad; (b) charities established by residents [...] with an exclusively Ethiopian

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<sup>62</sup> Vaughan and Tronvoll, ‘Culture of Power’, 116; Abbink, ‘Second Republic’, 6, 9-10.

<sup>63</sup> Pausewang et al., ‘Conclusion’.

<sup>64</sup> Gudina, ‘Ethiopia’, 144-8.

<sup>65</sup> Aalen and Tronvoll, ‘2008 Ethiopian Elections’ 112; Aalen and Tronvoll, ‘End of Democracy’.

<sup>66</sup> Pausewang et al., ‘Democratization or Control?’; Pausewang et al., ‘Conclusion’; Young ‘Regionalism and Democracy’, 195; Vestal, ‘Ethiopia’, 30-2; Lata, 25-27, 62-7; Clapham, ‘Controlling Space’, 29; Gudina ‘Ethiopia’ 146.

<sup>67</sup> Abbay, ‘Democracy in Ethiopia’, 182. A more exhaustive description of the role of NGOs in revolutionary democracy is provided by Vestal (‘Ethiopia’, 157-8, 175-7).

membership are barred from taking part in the advancement of human and democratic rights [...] (art. 2).<sup>68</sup>

The serious impact on democracy related activity and monitoring of abuses of human rights is routinely reported in the UN human rights reports.<sup>69</sup>

The recent drop of democratic credibility has forced the EPRDF to search for alternative sources of political legitimacy. In a country affected by widespread poverty, the developmental model provides powerful rhetorical instruments. Economic growth has become central to the political discourse, building on the good results already achieved in recent years. The development plan for the current five years period (2010/11-2014/15) is indeed called “Growth and Transformation Plan”. The late Prime Minister announced that it will target 14.9% economic growth. Agriculture will continue to be a priority. Hydroelectric development is another key sector, with the plan to increase the country’s power production from 2,000MW to 10,000MW and the ambition of becoming an energy exporter in Africa.<sup>70</sup>

### *The rights of the pastoral minorities*

The pastoral areas of Ethiopia have been estimated to extend over 60% of the country, mainly in the arid and semi-arid lowlands, sustaining more than 12% of the total Ethiopian population. McDougall defines minorities as ‘distinct groups within societies that have faced long-term discrimination and disadvantage on the basis of identity as belonging to a national, ethnic, religious or linguistic group’. She clarifies that under her mandate ‘minority status is not defined by numerical factors alone’.<sup>71</sup> She can accordingly dedicate a full section to the Ethiopian pastoralists, being ‘distinct groups with traditional nomadic herding lifestyles, that are increasingly coming into conflict with settled farmers and the agro-industry’ and facing ‘high and disproportionate levels of poverty, food insecurity and low educational enrolment levels’.<sup>72</sup>

In Ethiopia the expressions ‘pastoral area’ and ‘pastoralists’ are used in a quite generic sense, but they include a diversity of peoples and situations. The lowlands to the east, south east and south of the Ethiopian Plateau are mainly inhabited by large and linguistically compact communities, speaking three different Cushitic languages, Afar, Somali and Oromo. These areas correspond to the Afar, the southern and south eastern part of Oromia, and the Somali regional states. Especially these last two regions have been seriously affected by organized ethno-national movements and insurgency since the 1960s. To the west and south west of the plateau, corresponding to the Gambella Regional State and part of Southern Nations, Nationalities, and People’s Region (SNNPR), a number of ethnic groups of a size ranging between a few hundred to 100,000 are found, each speaking a different language. These are the

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<sup>68</sup> CERD ‘2009’, 3.

<sup>69</sup> CCPR, ‘Ethiopia’, 7; ESCR, ‘Ethiopia’, 2.

<sup>70</sup> Embassy of The Federal Democratic Republic of Ethiopia [http://www.ethioembassy.org.uk/news\\_archive/Ethiopia\\_GTP.htm](http://www.ethioembassy.org.uk/news_archive/Ethiopia_GTP.htm), accessed 11/03/2011.

<sup>71</sup> McDougall, ‘Mission to Ethiopia’, 5.

<sup>72</sup> Ibid., 16-17.

groups that according to McDougall have been ‘subjected to discrimination and exclusion, both on the interpersonal and institutional levels, based on skin colour and other physical features’, being associated to a history of dominance ‘and patterns of exploitation during the slave trade’.<sup>73</sup>

The territories of all these groups have been annexed to modern Ethiopia starting from the mid-19<sup>th</sup> century, but especially after the 1896 Battle of Adwa. Not all of these groups are strictly pastoralists, since some practice shifting cultivation, flood retreat cultivation along the rivers, hunting, fishing and gathering, or a combination of livelihoods at various degrees. For this reason, a more comprehensive denomination would be ‘mobile indigenous peoples’, pointing to the various forms of mobility characterizing the relation between the families and the natural resources, and the fact that customary livelihoods are based on forms of common tenure of natural resources, enhanced by customary governance mechanisms.<sup>74</sup> History of recent conquest and marginality in the contest of the modern state, maintenance of distinct languages, cultural features and local identities, and presence of common resource tenures with customary institutions are all elements qualifying these communities for the protections of the collective rights established under international law on indigenous peoples.

### **Inter-ethnic conflict and displacement**

The main purpose of McDougall mission was to address the numerous episodes of ethnic violence discussed in the paragraph on the ethnic variable. Most of the considered cases involved ‘pastoral’ groups. She specifically dealt with the Anuak accident in the Gambella Regional State, culminating, in her own words, ‘in what some have called genocide’. She reported the perception of the community ‘that the military and political actors have provoked inter-ethnic conflict to safeguard highlander interests, divide political opposition, and clear communities from land for oil exploration’.<sup>75</sup>

Concerning the Cushitic speaking pastoral areas, she addressed the conflicts along the borders of the Oromia regional state, and intra-Oromo conflict that have resulted in large scale displacement. Even in this case McDougall considers the possibility that the government may have played an active role in orchestrating

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<sup>73</sup> Ibid., 18

<sup>74</sup> This category was first introduced in conservationist’s circles. The expression was used in Chatty and Colchester (‘Mobile Indigenous Peoples’). It is now adopted in international law in the context of World Conservation Union (IUCN) and the United Convention on Biodiversity Diversity, after the advocacy work of the IUCN Commission on Environmental, Economic and Social Policy (CEESP, <http://www.iucn.org/about/union/commissions/ceesp/>) and the IUCN Strategic Direction on Governance, Communities, Equity, and Livelihood Rights in Relation to Protected Areas (TILCEPA). It was also adopted by the World Alliance of Mobile Indigenous Peoples (WAMIP, <http://www.wamip.org/>).

<sup>75</sup> McDougall, ‘Mission to Ethiopia’, 10. For a detailed background description of the ethnic dynamics and power relations in this region see Feyissa (‘Gambella’). The case has also been discussed by Abbink (‘Ethnicity and Conflict’, 399). In some literature the Anuak are referred to by the name Anywaa.

conflict ‘as a means of destabilizing effective political opposition in the region’.<sup>76</sup> These statements seem to reflect the perspective of the insurgent organisations such as the OLF and the Ogaden National Liberation Front (ONLF), since the articulation of federal and local interests and their practical outcomes are far more complex. Research implemented on the Oromo-Borana inter-ethnic conflict nevertheless shows that systematic abuse of human rights, political mistrust between the TPLF/EPRDF and the Borana due to the alleged support of the latter for the OLF in the phase 1992-1995, political misrepresentation of the Oromo in the following phases and disregard of customary resource governance were the causes of the protracted ethnic conflict.<sup>77</sup> The Borana are probably the group that was more seriously affected in terms of the extension of the area from which they were permanently displaced.<sup>78</sup> The key events took place immediately after the OLF’ withdrew from the TGE government, when the TPLF openly supported the Garre and other Somali speaking groups in the process of demarcation of the regional border. Like the Gambella and the Somali national states, this was among the areas that were directly under the control of the army.<sup>79</sup> The case, therefore, fits well with the Tronvoll’s correlation of abuse of human rights with the practice by the federal government and its military forces to single out and support certain groups when situations of competition over local ethno-political positions, ethnic hegemony and ethnic conflict occur.<sup>80</sup>

### **The pastoral policy**

A second concern raised by McDougall is about the pastoralists’ policy adopted by the government:

The Government reportedly favours a policy to settle nomadic pastoralist groups. For many pastoralists this is a denial of the right to their culture and lifestyle and contrary to the Constitution, which extends guarantees regarding cultural preservation, and grants the right not to be evicted from traditional lands.<sup>81</sup>

Reference is made to the 2002 *Statement on Pastoral Development Policy* delivered by the federal government, with the main objective of ‘transforming the pastoral societies to agro-pastoral life complemented by urbanisation’. The priority is on ‘voluntary sedentarization along the banks of the major rivers’ to promote the shift ‘from mobility to sedentary life, from rural to small pastoral towns and urbanization’.<sup>82</sup> In a complementary document, mention is made to the ‘immense natural resources potential’ of the rivers in the pastoral area for irrigation and energy developments.<sup>83</sup> That the need for sedentarization is motivated more by external

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<sup>76</sup> McDougall, ‘Mission to Ethiopia’, 9.

<sup>77</sup> Bassi ‘Politics of Space’.

<sup>78</sup> Bassi ‘Customary Institution’; Tache and Oba, ‘Inter-ethnic Conflict’.

<sup>79</sup> Young, ‘Regionalism and Democracy’, 197

<sup>80</sup> Tronvoll, ‘Human Rights Violations’ 69, 73

<sup>81</sup> McDougall, ‘Mission to Ethiopia’, 17. See also ESCR, ‘Ethiopia’, 5.

<sup>82</sup> FDRE, *Statement Pastoral Policy*, 5-6.

<sup>83</sup> FDRE, ‘Pastoral Development’, 2-3.

interests than the pastoralists' self-determination in development is confirmed by the recent land legislation. In contradiction with comma 5 of art. 40 of the FDRE constitution, the FDRE Rural Land Administration and Use Proclamation, gazetted in 2005, paves the way to private appropriation of the resources customarily used by the Ethiopian pastoralists:

Preamble: "Whereas, it has become necessary to establish a conducive system of rural administration that promotes the conservation and management of natural resources, and encourage private investors in pastoral areas where there is tribe based communal land holding system.

Art 5 (3): Government being the owner of rural land, communal rural land holding can be changed to private holdings as may be necessary.<sup>84</sup>

The FDRE pastoral policy suggests that sedentarization 'should be implemented step by step on a voluntary bases' and building on 'pilot studies'.<sup>85</sup> The Oromo-Karrayu are involved in one of such pilot projects. Despite the fact that they are often mentioned in official sources as a success story, they are considered a case for special concern by McDougall.<sup>86</sup> This concern was recently confirmed in academic circles for the adverse cumulative effects of the construction of the Kessem and Tendaho dams on the Awash River and the connected plan to extend irrigation for sugar cane cultivation. These changes are in fact threatening the survival of the Karrayu and Afar, with thousands of displaced and destitute pastoralists being fed at nearby famine relief stations.<sup>87</sup>

### **The Gibe 3 controversy**

A third problematic area highlighted by McDougall concerns the small mobile indigenous communities, considered to be at risk to disappear as distinct ethnic groups due to resettlement, displacement, conflict, assimilation, cultural dilution, environmental factors and loss of land.<sup>88</sup>

The recent controversy concerning the environmental impact of the Gibe 3 dam shows that the government is already applying the new land legislation and pastoral policy, with the potential to affect the small communities of the lower Omo Valley in the ways outlined by the independent expert on minority issues. Indeed, the Gibe 3 issue has explicitly been mentioned in the 2012 UN regular report inherent the Covenant on Economic, Social and Cultural Rights.<sup>89</sup>

In line with its developmental objectives, the government has started the construction of the large Gibe 3 dam for hydroelectric production along the course of the Omo River. The dam is expected to have a regulatory impact on the flow of the Omo River, accumulating water during the rainy season and slowly releasing it

<sup>84</sup> FDRE, 'Rural Land Administration Proclamation'. For further elaboration on land policy and legislation relevant to pastoralist see Bassi et al., 'Borana Conserved Landscape' 8-14, and Flintan, 'Pastoral Women', 155-6, 158;

<sup>85</sup> FDRE, 'Pastoral Development', 6.

<sup>86</sup> McDougall, 'Mission to Ethiopia', 17.

<sup>87</sup> Kloos et al., 'Problems for Pastoralists' 258-262, 269.

<sup>88</sup> McDougall, 'Mission to Ethiopia', 2, 8.

<sup>89</sup> ESCR, 'Ethiopia', 6.

during the dry season. As a result the seasonal flooding of the Omo River is expected to be interrupted.

The Omo Valley downstream the site of Gibe 3 is inhabited by a number of ethnic groups, each speaking its own language. They practice a diverse combination of subsistence livelihoods. The Omo Delta provides livelihoods to at least 30,000 Daasanach, practicing a combination of cultivation and a particular type of delta-based cattle pastoralism in the vast flats regularly inundated by the flood of the Omo River. Upstream the Omo River, the Kara and the Muguji are two very small ethnic groups entirely dependent upon the flood of the Omo River for their cultivation in the inundated flats, along the banks of the Omo River and in the shores of the oxbow lakes. They integrate cultivation with complementary activities such as small stock husbandry, fishing, hunting, and honey cultivation, all dependent upon the ecology of the Omo River. Other groups like the Nyangatom, the Mursi and the Bodi integrate flood retreat cultivation with a degree of a quite unreliable rain fed and shifting cultivation, and with a relevant component of savannah-based cattle pastoralism. As outlined by David Turton, 'none of these is sufficient in itself, nor even in combination with one of the other two, to provide a regular, reliable subsistence, but each makes a vital contribution to the overall viability of the economy'.<sup>90</sup> Finally, along the lower Omo Valley there are other subgroups or assimilated minorities such as the Ngarich (Murle), living among the Nyangatom, and the Kwegu, living among the Mursi and the Bodi, fully dependent upon the river ecology. Thus all the ethnic groups and minorities living along the lower Omo Valley are fully dependent upon the flood of the Omo for their livelihoods, including those practicing a degree of rain-fed cultivation, not only because the flood assures a reliable crop at family level, but also because it produces the biomass that allows the survival of the herds in the driest season. The green belt and the forage produced by the flood and the fluctuation of the Omo River and of Lake Turkana are a key seasonal pastoral resource also for the pastoral groups normally living further away from the river and from lake, such as the Hamar in Ethiopia, and the Gabra, the Daasanach Inkoria and the Turkana in Kenya.<sup>91</sup>

Despite the fact that the environmental and economic relevance of the regular floods of the Omo River is fully acknowledged since the early 70s, the construction of Gibe 3 dam started in 2006 without any consideration for the potential impacts on the downstream communities and in absence of any consultation with those communities.<sup>92</sup> In 2008, after international criticism raised by some international NGOs, the Environmental and Social Impact Assessment of Gibe 3 was complemented with a downstream component.<sup>93</sup> This additional assessment acknowledges that 'the complete cessation of the average annual floods would be

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<sup>90</sup> Turton, 'Response to Drought', 332.

<sup>91</sup> The El Molo, the Daasanach Dies and the Daasanach Rielle, whose livelihoods are based on fishing on the shores of Lake Turkana, may also potentially be affected (Kloos et al. 'Problems for Pastoralists', 269-271).

<sup>92</sup> Kloos et al., 'Problems for Pastoralists', 266, 272-3. Key references on the economy of the area based on the early scientific researches include Butzer ('Ethiopian Delta'), Carr ('Pastoralism in Crisis'), Almagor ('Pastoral Partners'), Tornay ('Fusils Jaunes'), Turton ('Warfare and Ethnicity'), Turton ('Response to Drought').

disastrous for the communities which practice flood recession agriculture’, and it would also seriously affect both the pastoral sector and fishing.<sup>94</sup> However, due to the adopted methodology, the extension of the cultivated land and the amount of production under flood retriend cultivation appears to be largely underestimated. An independent academic source reports that the interruption of the flood or its significant reduction would have ‘a devastating impact on the livelihoods of up to 200,000 people in the lower Omo Valley and even a larger number around Lake Turkana’.<sup>95</sup> For instance, the downstream environmental assessment report fails to acknowledge that the Omo Delta not only provides livelihoods to over 30,000 Daasanach, but that the latter are also capable to produce a relevant grain surplus for the local markets most years.<sup>96</sup>

The proposed mitigation measure is the release of a controlled flood for 10 days in the usual season, equal to the average flood, but much shorter in its duration. According to the downstream environmental assessment, artificial flood needs to be deployed and secured on a permanent basis in order to maintain the current human activities on a same scale.<sup>97</sup> The efficacy of the proposed mitigation measure has seriously been questioned on various grounds.<sup>98</sup> Not only the proposed duration of 10 days appears to be insufficient for adequate moisture penetration, but the people of the lower Omo Valley have also stressed that occasional large floods are anyhow highly desirable to cultivate larger areas, to re-fill the oxbow lakes and to maintain the green belt along the Omo for both livestock and wildlife.<sup>99</sup>

Ironically, in a press release delivered in response to the international campaign launched in 2010 against the construction of the dam, the constructor of Gibe 3 disclosed that the even this controversial mitigation measure is regarded as a mere temporary solution, to be implemented as long as the complete transformation to ‘more modern forms of agriculture will be achieved’.<sup>100</sup> This solution links up to the dam’s capacity to regulate the flow of the Omo River, hence to remove the flood, a known constraint to the development of irrigation in the lower Omo Valley.<sup>101</sup> A life-giving environmental factor for the indigenous community is thus turned into a ‘life-threatening’ event and presented as such in the official documents and political speeches.<sup>102</sup> Indeed, the downstream environmental assessment seriously considers the possibility that the controlled flood will not be released as planned:

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<sup>93</sup> The main NGOs involved in this initial phase were CRBM - Campagna per la Riforma della Banca Mondiale and International Rivers, in coordination with CEE Bankwatch Network.

<sup>94</sup> Agriconsulting, ‘ESIA Downstream’, 136, 152, 156, 175.

<sup>95</sup> Kloos et al., ‘Problems for Pastoralists’, 266.

<sup>96</sup> Attempts to quantify components of this trade were made in 1993 (Bassi, ‘Interim Report’, 28-30), and in 2008, during the AHRC “Landscape, People and Parks” research.

<sup>97</sup> Agriconsulting, ‘ESIA Downstream’, 208.

<sup>98</sup> Kloos et al., ‘Problems for Pastoralists’, 266-7.

<sup>99</sup> Various interviews, “Landscape, People and Parks” research project.

<sup>100</sup> Salini, Press Release, 30 March 2010. The ‘Stop Gibe 3 Campaign’ was joined by other NGOs, including Survival International and Friends of Lake Turkana, the latter based in Kenya.

<sup>101</sup> Agriconsulting, ‘ESIA Downstream’, 136-7; 186-7; Salini, Press Release, 30 March 2010. See also the Prime Minister speech at the 13th Ethiopian Pastoralists Day in Jinka (Ethiotube, ‘Full Speech’).

<sup>102</sup> Kloos et al., ‘Problems for Pastoralists’, 267.

Further desirable instruments have been considered, and may be applied to both integrate the above main measures, compensate in case planned artificial floods are partially withheld due to unforeseen circumstances.

The instruments consist in setting up an Environmental and Social Management Plan, to enable the Ethiopian Electric Power Corporation (EEPCo) to monitor the implementation of the project and take corrective measures. The main suggested measures for the people of the lower Omo Valley are:

Smallholder irrigated schemes, totally financed by public development authority;  
Small scale commercial irrigated farms, partially financed by public development authorities;  
large scale commercial farms, facilitated by the public development authorities.<sup>103</sup>

The 8,000 families estimated to be entirely dependent on flood retreat cultivation are supposed to be allocated 0.25 ha. each, but no attempt was made to identify them, nor any specific plan was provided about where they should be resettled.<sup>104</sup> Despite the fact that the Daasanach, Kara, Hamar, Mursi, Murle, Muguji and Nyangatom are acknowledged as ‘tribal groups’, the idea of developing an indigenous development plan is openly rejected, and no provision is made to conduct consultations in line with international standards on indigenous peoples, on the ground that the proposed controlled flood ‘will permit local traditional socio-economic activities to perform on the same levels’. However, in the same paragraph the hypothesis is considered that failure to implement this measure will produce ethnic conflict, due to the shrinking resource base. Indeed the acknowledgment of the status of ‘tribal group’ is only functional to suggest the eventual need to take conflict resolution actions.<sup>105</sup>

Only the cost for the establishment of the monitoring mechanism and capacity building activities is considered integral to the project, while the cost of the compensation measures to be adopted in case the controlled flood will not operate as expected ‘should’ be paid with ‘marginal benefits from the exploitation of the Gibe 3 scheme’<sup>106</sup>:

These follow-up actions are not considered to be Contractor’s obligations but rather be ascribed as financial and technical responsibility of EEPCO and the Government of Ethiopia and be included as such within the existing local official developmental planning, possibly as a profit-sharing measure on returns originating from sales of electricity accruing to the Federal budget.<sup>107</sup>

It looks like that the fate of the mobile indigenous communities of the lower Omo Valley is entrusted to the national pastoral policy and to the developmental principals of revolutionary democracy. So far there is reliable information only

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<sup>103</sup> Agriconsulting, ‘ESIA Downstream’, 181-3.

<sup>104</sup> Ibid., 181-2, 226.

<sup>105</sup> Ibid., 96, 106, 156-7.

<sup>106</sup> Salini, “Environmental Management Plan”, 179.

<sup>107</sup> Agriconsulting, ‘ESIA Downstream’, 175.

concerning the implementation of the second and third measures, the development of commercial irrigation, both small and large scale, a business controlled by external actors, either national investors or international corporations. More than 65,000 ha. of land in the Daasanach and Nyangatom districts are reported to have already been leased to investors. During the 13<sup>th</sup> Pastoralists Day the late Prime Minister announced that 150,000 ha of land will be developed in the lower Omo Valley for sugar cane plantation.<sup>108</sup> It is assumed that the peoples of the lower Omo Valley will benefit of the development of infrastructure, services and job opportunities. However, the experience of the Karrayu and Afar in Ethiopia shows that members of the indigenous communities are unlikely to be able to compete with migrants in the labour market.<sup>109</sup> The indigenous peoples of the lower Omo Valley will face additional problems due to the fact that the majority of them was never enrolled in any school and is unable to speak Amharic, the official language both at level of the federation and their regional state. Meanwhile the 2005 proclamation on rural land will enable the establishment of large scale commercial farms in the land that they were using for grazing without even considering the hypothesis of compensation.

In similar conditions of pressure over resources used by indigenous and local communities and rapid change, civil society, particularly local and indigenous NGOs and associations, are expected to give a voice to the marginalised communities and to facilitate the adoption and the implementation of corrective measures. Unfortunately, in the SNNPR about 40 local associations and NGOs have been closed in 2009 as a consequence of the introduction of the Charities and Societies Proclamation. The remaining NGOs will be unable to work in the field of human rights.

#### *The incompatibility of revolutionary democracy with minority rights*

Despite the constitutional and international progress in the field of human rights, and adoption of ethnic federalism, the 2007 report of the UN independent expert on minority issues shows that the ethnic minorities of Ethiopia are still facing the most serious challenges, particularly those fitting into the emerging category of the mobile indigenous peoples, normally classified as ‘pastoralists’ in the Ethiopian context. The outlined problems can be gathered under two headings: unbalanced policies and ethnic conflict.

Concerning policies, the analysis here proposed suggests that the persisting practice of a Leninist-type ‘democratic centralism’ is the main constraint. The decision-making process is only apparently delegated to the constitutional bodies, while in practice it is confined within the highly centralist structure of the EPRDF. This is how Fiseha has described the policy process:

[Policy documents] mainly originate as party documents and are then published as federal documents by the Ministry of Information. [...] In theory, states can adapt the policies presented to them [...] but,

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<sup>108</sup> Ethiotube, ‘Full Speech’.

<sup>109</sup> Kloos et al., ‘Problems for Pastoralists’, 269.

in practice, the federal government plays a key influencing role due to the congruence of party and decision-making structure.<sup>110</sup>

The policy on pastoral development and the subsequent land legislation show that the ruling party is affected by some of the cultural biases that have historically affected Ethiopia, in this case along the highlands/lowlands divide.<sup>111</sup>

Since the ruling party by praxis exercises power in an unchallenged and unbalanced manner, there is no way for the peripheral ethnic minority to have their collective interests protected. The alternative ‘democratic’ mechanism, based on the Stalinist idea that ethnic groups are now represented in the formal system and are also part of the EPRDF governance structure, does not work due to the absence of mechanisms of accountability. Lacking any effective political alternative, and given the highly centralist organisation of the EPRDF, the elected peripheral officers have no choice but to be loyal to the party. By the EPRDF Statute their job is to apply the principle of revolutionary democracy. As such they are unlikely to defend the interests of their community or constituent when these are in contrast with the decision taken at the real decisional centre. The same minorities are also denied any alternative or independent channel to have a voice, given the general disregard for human rights, and specifically the outlined legal restrictions on civil society.

The Chinese-inspired strong developmental approach is an additional problem for the peripheral ethnic minorities, since in the case of Gibe 3 we see it stretched to the extent of dismissing the minority and indigenous rights of the potentially affected communities.

In relation to ethnic conflict the analysis here proposed highlights two points. The first is the domestic interpretation of ethnic federalism claiming that the interests of the ethnic groups, including the ethnic minorities, are protected through the formal system of representation. This view is not only – as above discussed – inherently wrong, but it is also in contradiction with the part of the FDRE constitution dealing with minority rights. Unfortunately, it provided the moral justification to bypass minority and collective rights in the country, and to avoid the establishment of the institutional mechanisms required to regulate the conflicts of interest among the competing and interspersed ethnic groups, a need outlined, among others, by Abbink.<sup>112</sup>

The second point is the realisation that the localised ethnic conflicts were not simply the result of local competition under the new constitutional legalization of ethnicity. The cases of the Anuak and the Borana – one from the multi-ethnic southwest, and one from the ethnically homogenous south – see an alleged key involvement of the federal government, hence of the EPRDF, and of the military. This is where Tronvoll’s observations on the violation of standard political rights, particularly in relation to the electoral processes, provide a key interpretative tool.<sup>113</sup>

<sup>110</sup> Fiseha, ‘Theory versus Practice’, 157-8.

<sup>111</sup> This policy stands in sharp contrast with the principles expressed in two recent global declarations released by the pastoralists themselves (‘Segovia Declaration’; ‘Mera Declaration’).

<sup>112</sup> Abbink, ‘Ethnicity and Conflict’, 391.

<sup>113</sup> Tronvoll ‘Human Rights Violation’, 72

The analysis here proposed points to revolutionary democracy, an ideology that – both in its Marxist premises and in its current pragmatist and China-oriented developmental approach – requires a hegemonic political role associated to the single-party system. This is in open contradiction with the multi-party system proclaimed by the FDRE constitution. The ideological need to maintain a *de facto* single party system forces the EPRDF into systematic violation of human rights. I however differ from Tronvoll’s analysis by stressing that the strategy to maintain the political hegemony in the Ethiopian context specifically induces the violation of collective rights in a proper sense, along with the civil and political rights. This is especially evident by the alleged EPRDF practice to sustain one or the other ethnic group in case of local ethnic competition for its own objectives.<sup>114</sup> We can accordingly attribute the recurrent ethnic conflicts to the lack of attention to both individuals’ and collective rights by the current political elite. As recalled by Tronvoll, theory of federalism already well acknowledged that ‘federal models based on ethnicity can only be justified when the basic human rights of all citizens’ ‘are protected’.<sup>115</sup>

The analysis here proposed indicates that there is no need to invoke an internal contradiction in the FDRE constitution to account for the violations of minority rights in Ethiopia. The problems should rather be ascribed to the contradiction between the fundamental political freedoms proclaimed in the FDRE constitution and the praxis inspired by the working ideology of the ruling party.

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<sup>114</sup> The Ethiopian specificity is given by the relevance that primary identities still retains in the interrelation with natural resources and governance, especially in the pastoral areas (Bassi, *Politics of Space*; Bassi, ‘Primary identities’).

<sup>115</sup> Tronvoll, ‘Human Rights Violations’, 78.

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