Journal of African Law, 58, 2 (2014), 231–249 © SOAS, University of London, 2014.
doi:10.1017/S0021855314000138

Media, Participation and Constitution-Making in Ethiopia

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Abstract

The role of communications in facilitating public participation in constitution-making is often neglected and misunderstood, particularly in post-war state-building when mass media may be weak. In the early 1990s, Ethiopia's ruling party, the Ethiopian People's Revolutionary Democratic Front (EPRDF), drafted one of Africa's most ambitious constitutions, allowing for ethnic federalism, decentralization and democratic reforms. The constitution has been highly controversial and many of its aspirations remain unrealized. This article explores how the EPRDF sought to use the media to explain and encourage acceptance of the constitution. It offers a framework for analysis that is relevant for countries beyond Ethiopia by examining: the role of media policies in providing domestic and international legitimacy for constitutions; the ways in which media can provide a space for non-violent political conflict or negotiation, where elites can navigate political struggles and debate ideology; and the use of media to implement the constitution's most ambitious goals.

INTRODUCTION

The legitimacy of constitutions, which may reflect their content as much as the process by which they were drafted and the capacity to implement them, is a contentious issue for societies emerging from violent conflict. The very process of drafting a constitution can be divisive and threaten weak coalitions and unsteady alliances while emboldening critics. While the role of constitution-making in post-war state-building has received significant attention[1], the ways in which governments, and their allies, attempt to "sell" or communicate a constitution to a conflict-affected population are often overlooked. This article will explore and analyse this process in Ethiopia under the government led by

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1 See, for example: K Samuels "Post-conflict peace-building and constitution-making" (2007–08) 6 *Chicago Journal of International Law* 663; J Widner "Constitution writing in post-conflict settings: An overview"(2007–08) 49 *William and Mary Law Review* 1513; D Horowitz "Conciliatory institutions and constitutional processes in post-conflict states" (2007–08) 49 *William and Mary Law Review* 1213; L Brahimi "Statebuilding in crisis and post-conflict countries" (paper presented at the seventh Global Forum on Reinventing Government, Vienna, 26–29 June 2007), available at: <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan026305.pdf> (last accessed 20 May 2013).

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

the Ethiopian People's Revolutionary Democratic Front (EPRDF). While the case of Ethiopia is unique in the scale and ambition of how the government has attempted to use the constitution fundamentally to restructure the state and re-define the nation through ethnic federalism, it is also instructive for the challenges it raises of communicating a constitution in a post-war environment. The article examines the media's role in the constitution-making process in three areas: legitimacy, negotiation and implementation, which are each discussed in turn.

After more than 20 years of guerrilla struggle in northern Ethiopia, the EPRDF seized power in 1991, ousting the Soviet-backed Derg regime.[2] Establishing the *legitimacy* to govern was a major challenge. Despite efforts to change its image, the EPRDF had largely been regarded as a party that reflected the interests of a specific political formation that had been leading the struggle against the Derg: the Tigrayan Peoples Liberation Front (TPLF), an ethnic insurgency rooted in the northern region of Tigray. At the time the EPRDF came to power, Tigrayans were a small minority, comprising approximately 6 per cent of the population.[3] Since the EPRDF seized control of the state by force, it had a legitimacy problem in the eyes of both a domestic population that had growing expectations of participation and accountability, and the international community that was encouraging democratic standards. The EPRDF approached the media, in particular the private media, in a way that sought to lend greater legitimacy to the constitution-making process and the government itself.

The approach to media policy that the EPRDF adopted when it first came to power allowed private newspapers to flourish. The press quickly became a forum for elite *negotiation* and debates on the constitution. Opposition parties and elements of the previous regime that were defeated were particularly active in this space. While in some post-conflict countries the press may serve as a space for controlled non-violent political conflict, or for the peaceful negotiation of core political ideas, in Ethiopia, the press largely failed to adopt this role. This article seeks to explain why.

The media also played a central role in the *implementation* of the constitution's central project of ethnic federalism. Through a mix of ambitious projects using the latest technologies for communication to more traditional means of communication for mobilization, the EPRDF pursued an ambitious agenda to translate and communicate the new policies outlined by the constitution.

These three categories, legitimacy, negotiation and implementation, offer a framework for analysing and understanding the potential and the realized role of the media in constitution-making processes. While they may not be

2 Derg means "committee" in Amharic and refers to the Coordinating Committee of the Armed Forces, Police and Territorial Army, or the military dictatorship that was led by Mengistu Haile Mariam.

3 Federal Democratic Republic of Ethiopia *Summary and Statistical Report of the 2007 Population and Housing Census* (2008, Central Statistical Agency) at 66.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

exclusive or sufficient, they are sufficiently broad to be applicable to other countries emerging from violent conflict. Before exploring these three categories, this article provides an overview of the ethnic federalist and constitutional arrangements that the EPRDF has sought to implement. It concludes by reflecting on the legacy as well as the current impact of the EPRDF's approach to media policy after it came to power in the early 1990s.

BACKGROUND: ETHNIC FEDERALISM AND THE CONSOLIDATION OF POLITICAL POWER

After assuming power in Addis Ababa, the EPRDF quickly had to tackle contentious issues of nationalism. The capture of the state required new strategies to demonstrate that all the disparate components of the ethnically diverse country, not just the Tigrayans, would be represented. One way the EPRDF sought to address this challenge was through a far-reaching approach to ethnic federalism and by recognizing the right to self-determination for all major ethnic groups. This policy was first reflected in the Transitional Charter of 1991 and subsequently in Ethiopia's Constitution of 1995.[4] The TPLF was steeped in Marxist-Leninist ideology during the guerrilla struggle and this experience, along with the approach the Soviet Union adopted to address issues of ethnicity and "nations and nationalities", is apparent. However, it is with some irony that this system was adopted just as the Soviet Union was disintegrating in the early 1990s, with its various federalist states pursuing separation.

The right to secession was entrenched in article 39 of Ethiopia's Constitution as part of a broader federalist system in which the ethnic regions would be given greater autonomy and take responsibility for economic development, education and security. From a cultural point of view, the new constitution represented relief for many groups that were now able to express their traditions openly, for example by using their own language in schools. Politically the situation was more complicated. While the constitution provided for self-determination up to succession, it made it extremely difficult, if not impossible, to do so without the support of the central government.[5]

4 Art 2 of the Transitional Period Charter of Ethiopia (1991) states: "The rights of nations, nationalities, peoples to self-determination is [sic] affirmed. To this end, each nation, nationality and people is guaranteed the right to: (a) preserve its identity and have it respected, promote its culture and history and use and develop its language; (b) administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom and fair and proper representation; (c) exercise its right to self-determination of independence, when the concerned nation / nationality and people is convinced that the above rights are denied, abridged or abrogated."

5 Art 39 of the Constitution of the Federal Democratic Republic of Ethiopia (1995) states: "The right to self-determination, including secession of every Nation, Nationality and People shall come into effect: (a) when a demand for secession has been approved by two-thirds majority of the members of the Legislative Council of the Nation, Nationality or People concerned; (b) when the Federal Government has organised a referendum which must take

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Despite a number of long-running campaigns and insurgencies that had been fighting (and continue to fight) for independence, including the Oromo Liberation Front (OLF) and the Ogaden National Liberation Front (ONLF), among others, it was only Eritrea that was granted independence in 1992. Many Ethiopians viewed the process that led to Eritrea's separation as lacking transparency and resulting from a pre-determined arrangement that was decided at the time of the guerrilla insurgency when the TPLF fought alongside the Eritrean People's Liberation Front.

As with all attempts to generalize a particularistic view across a national polity, the EPRDF's vision has clashed with competing versions of history and imaginings of the future. The very concept of basing a state on different ethnic groups was perceived by the party's adversaries as antithetical to the nation-building project of a single, unified Ethiopia that had been promoted by previous regimes. Since the mid-1800s, successive governments sought to consolidate power through privileging the Amhara ethnic group over others and by defining Ethiopian identity through Amhara culture. This process was initiated by Emperors Tewodros II and Menelik II; the former ended a long period of competition between feudal princes and the latter annexed the regions in the south to the Abyssinian empire, creating Ethiopia as it is today.[6] Subsequently, during his lengthy reign, Emperor Haile Selassie further consolidated the "Amharaziation" of Ethiopia, also extending it to Eritrea, which was annexed after the defeat of the Italians in World War II.[7] The process of Amharaziation and creating "unity" across Ethiopia did not stop with the deposition of Haile Selassie and the end of the empire and the feudal system that had supported it. While the subsequent Soviet-backed communist Derg regime refused, in theory, to distinguish between different ethnicities, in practice Amhara domination was perceived to have continued. Amharic was chosen as the national language, the use of vernacular language in schools was prohibited and Amhara urban elites were favoured as representatives of the government across Ethiopia.

The EPRDF's approach to ethnic federalism represented a radical departure from previous policies. As it sought to implement constitutional reform in line with ethnic and federalist objectives, it also worked to consolidate the power of both the TPLF as the dominant political party and of the government

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place within three years from the time it received the concerned council's decision for secession; (c) when the demand for secession is supported by majority vote in the referendum; (d) when the Federal Government will have transferred its powers to the council of the Nation, Nationality or People who has voted to secede; and (e) when the division of assets is effected in a manner prescribed by law."

6 Between Tewodros and Menelik another emperor, Yohannes IV, reigned over Ethiopia, but he spent most of his reign protecting the empire from foreign incursions.

7 Haile Selassie ruled Ethiopia between 1916 and 1974, first with the title of regent and later as emperor. His reign was interrupted between 1936 and 1941 by the Italian occupation, during which he found refuge in Bath, UK.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

to control a vast and populous country of more than 70 million people, second only to Nigeria in terms of population in sub-Saharan Africa.[8] On a practical level, to establish the ethnic federalist discourse at the political and social levels, and to fulfil the constitutional guarantee for ethnic groups to have "equitable representation in state and federal governments",[9] the country was divided into nine regional states,[10] each intended to represent "a group of people who have, or share, a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory".[11] The states were split into *woredas*, units of approximately 100,000 people, governed by administrations modelled on *baitos*, the councils created by the TPLF in Tigray during the war. The *woredas* were in turn divided in *kebeles*, village councils representing grassroots units of government.[12]

In theory, ethnic movements and groups were to be freely elected and have a strong role in the administration of the country. After decades of war, the TPLF was aware how divided and fragile the country was, but it did not anticipate the extent of the resistance to its political and economic vision and the difficulties in winning the country's support. Not all opposition groups were eager to join the coalition and many groups became disenchanted quickly. The OLF, for example, was a strong partner that initially joined the EPRDF's alliance, but soon felt marginalized and left the EPRDF. To ensure Oromo representation, the EPRDF created the Oromo People's Democratic Organization, which in practice simply served as an extension of the EPRDF in the region. Such organizations were created so the EPRDF could avoid real competition and create a de facto single party system, while maintaining some semblance or façade of democracy though elections and a multi-ethnic coalition.

The newly created ethnic parties have largely been dismissed as puppet organizations, while long-standing groups such as the ONLF and the OLF have retained legitimacy among their followers.[13] Ethnic federalism has been at

8 Federal Democratic Republic of Ethiopia *Summary and Statistical Report*, above at note 3 at 8.

9 Constitution of Ethiopia (1994), art 39, sec 3.

10 The cities of Addis Ababa and Dire Dawa were also granted administrative status.

11 The Constitution of the Federal Democratic Republic of Ethiopia, art 39, para 5 (1994).

12 The *kebele* maintained the form of the village councils created by the Derg.

13 This de-legitimizing or dismantling of local political organizations has also proved to be a common strategy in the government's approach towards civil society. Prominent organizations that often had significant support and expressed reasonable criticism towards the government have been dismantled through the arrest of their leaders, threats towards members of their staff, or financial and / or infrastructural sabotage. Even when the organizations were not dismantled entirely, the EPRDF would establish in its place a group with a similar, if not identical, name. The new group would be closely tied to the government but attempt to act as a "stand in", in a process that, at least at the beginning, often confused donor and aid organizations as well as the population. Some of the most prominent targets have been the Ethiopian Free Press Journalist Association,

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

odds with the vision and desire for self-determination for which these nationalist organizations have pressed, and which the Eritreans successfully obtained. The rapid expansion of the modern Ethiopian state, and the history of feudalism, forcibly and unlawfully incorporated many on Ethiopia's peripheries into the "empire", and secession is the only means for freeing them from the "oppression" of the highland (namely the Amhara and Tigrayan) "colonisers".[14]

There has, of course, been a rational basis of governance that shaped the EPRDF's policies in seeking to implement a federal arrangement: since Tigrayans are a small minority who fought a centralized government in part in an effort to overcome Amhara domination, a state with multiple ethnically based components would help justify control by a minority and shift the emphasis away from the Amhara character and influence.[15] There are also significant contradictions in which the EPRDF became embroiled as a result of this complex negotiation. Decentralization has become an essential political tenant but the party also desperately needs to exert central control and is reliant on an ideology such as ethnic federalism to stay in power.

The first elections that were held in 1992 were intended to legitimize the political order by providing a popular mandate for the government and signalling to the population that a new era had begun. The only two genuine opposition parties that were initially willing to participate, the OLF and the All Amhara Peoples' Organization,[16] withdrew due to harassment and intimidation.[17] Subsequent elections, for the constitutional assembly in 1994 and for the regional and federal governments in 1995, were similarly uncontested. The elections primarily served as a means of providing the new leadership with a symbolic mandate, which, even if it did not emerge from genuine

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The Ethiopian Teachers Association and the Ethiopian Human Rights Council. See interview with Iginio Gagliardone (23 May 2006), on file with the author.

14 M Gudina "Contradictory interpretations of Ethiopian history: The need for a new consensus" in D Turton (ed) *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* (2006, James Currey) 119.

15 Turton, id.

16 The All-Amhara People's Organization (AAPO) is one of the most vocal and active organizations agitating against the right of "self-determination" and was deeply angered with the secession of Eritrea, accusing the EPRDF of dismantling the country. Despite invitations from the EPRDF, the AAPO declined to participate in the transitional government, the drafting of the constitution or any elections, arguing that the constitutional process was undemocratic and dominated by the TPLF.

17 The four member parties of the EPRDF were the Oromo People's Democratic Organization, the Amhara National Democratic Movement, the Southern Ethiopian People's Democratic Front and the TPLF. The affiliates were the Afar People's Democratic Organization in Afar region, the Somali People's Democratic Front in Somali, the Gambella People's Democratic Front in Gambella, the Benishangul-Gumuz Peoples Democratic Unity Front in Benishangul-Gumuz and the Harari National League in Harari. Officially they are independent, but they were created by the EPRDF and have strong links with it.

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competition, could support their arguments for national and international legitimacy.

Participation and constitution-making

The process of drafting the constitution and determining the scope and dimensions of ethnic federalism has also frustrated many Ethiopians, the elite in particular. The extent to which genuine consultations took place is debatable. Although the government established a Constitutional Commission to draft the new constitution and arranged "broad consultations" with the public, the process has been described as inadequate and rushed.[18] Even if Ethiopians were given enough information to make informed evaluations and decisions about the proposed issues (which they were not), the government would often push its agenda and frame issues in such a way that those who were being consulted felt compelled to provide the answers the interviewers expected. In rural contexts, concepts such as "federalism" were not clearly explained. As John Markakis argues, "there was simply no time to form a national consensus on the legitimacy of the new political system".[19]

Negasso Gidada, the minister of information in the transitional government, was actively involved in efforts to raise awareness about the constitution.[20] He described a process in which trained experts, with support from the local authorities, would organize public discussions to explain key issues and then provide the opportunity for participants to vote on them. There was, however, a lack of participation by those who were not EPRDF supporters or members. Negasso recalled that the participants were largely self-selected and in many cases influenced by their local leaders. For example, in Oromia, the communities often turned to the OLF for guidance as to whether they should accept or reject certain policies or national leaders.[21] In some cases, the issues may be complex and the participants inadequately equipped to make informed decisions. Recognizing these limitations, they turn to the elite or local "experts" to inform or claim their position.[22]

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18 J Markakis *Federalism and Constitutionalism in the Horn of Africa* (2007, InterAfrica Group) at 49, as quoted in A Abebe "From the 'TPLF Constitution' to the 'Constitution of the people of Ethiopia': Constitutionalism and proposals for constitutional reform" in M Mobondenyi and T Ojienda (eds) *Constitutionalism and Democratic Governance in Africa*" (2013, Pretoria University Law Press) 51 at 55.

19 Ibid.

20 Negasso Gidada later served as the president of Ethiopia before leaving the EPRDF. He currently serves as head of the leading opposition party, the Unity for Justice and Democracy Party.

21 Interview with Negasso Gidada (4 January 2012) on file with the author.

22 This is not surprising as Devra Moehler put forward a similar argument about public participation among Ugandans in the constitution-making process in 1995. Her findings, drawing on a large survey sample, suggested that those who were active in the process were no more supportive of the constitution than those who stayed at home. As the constitution is difficult for citizens to evaluate, she argues that they relied on the elite to

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The opposition groups and elites who felt excluded chose not to engage in the "consultations" as they did not want to legitimize a process that they perceived to be fundamentally flawed. Similar to the Eritrea question, they argued that the other contentious issues in the constitution, including land and the federalist system, were essentially non-negotiable and pre-determined. Even within the Constitutional Commission itself, opportunities for shaping policy and the constitution were limited. Meaza Ashenafi, an informal associate of the committee of experts, was present during some of the negotiations and noted that, despite lively debates, a diverse representation of interests and a desire to reach consensus, the EPRDF entirely dominated the process, particularly when it came to voting.[23]

There were many warning signs of division and discontent among the elite and those closely following the constitution-making process and agenda of the new government. In 1994, Christopher Clapham publicly expressed reservations regarding the ERPDF's strategy, arguing that, while the opposition parties may legitimately be criticized for being divided and weak, they have "condemned the process of constitution-making in no uncertain terms. And there is no sign of a process of dialogue between the government and the opposition groups … The constitution making process to the exclusion of these other powerful undercurrents would be as fruitful as worrying about the rearrangements of the deck chairs of the Titanic."[24]

It is in this context that the EPRDF sought to harness the media, communications and technology to promote and advance their controversial constitution.

THE EPRDF'S LEGITIMACY PROBLEM

The EPRDF came to power with the use of arms, which provided the legitimacy of force but not the backing and support of all Ethiopians. While many were relieved that the Derg was defeated, the EPRDF was unfamiliar and untested. The EPRDF had a serious legitimacy problem, both domestically and as a member of the international community, which, at the turn of the Cold War, was increasingly dominated by democratic states. The new government sought to gain legitimacy through multiple means, including dramatically restructuring the civil service, creating new administrative structures and by adopting some of the characteristics of liberal democracies including multiparty elections and a "free" media. Elections and the media share similar roles. They allow for controlled political conflict, they ostensibly provide a space for

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shape their opinions: D Moehler "Participation and support for the constitution in Uganda" (2006) 44/2 *Journal of Modern African Studies* 275.

23 T Ragassa "The making and legitimacy of the Ethiopian Constitution: Towards bridging the gap between constitutional design and constitutional practice" 23/1 (2010) *Afrika Focus* 85 at 102.

24 As quoted in (22 December 1994) *Press Digest* at 4.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

participation and for a variety of voices to be expressed and, most importantly from the EPRDF's perspective, they help legitimize a hold on power and ambitious policies, such as those that the EPRDF was seeking to implement. In 1992 the EPRDF both moved towards multi-party elections and passed a press law that allowed for substantial and significant new freedoms for the media.

From a domestic perspective, the EPRDF was motivated by a desire to demonstrate that it was different from the Derg military government. It needed to earn the confidence of a nation that had endured decades of guerrilla war, government clampdowns and targeted assassinations.

The EPRDF also recognized that, if it wanted to press for limited democratic reforms and decentralization while retaining and consolidating control over the centre of the state, space for dissent would help legitimize it in what was envisioned as a possible single party democracy.[25] Bereket Simon, the former minister of information, argued that the government wanted to show that it was "tolerant" and that press freedom would provide a forum for people to "feel free".[26]

International pressure to liberalize the media was also significant. Tolerance of a free media is a highly symbolic gesture towards democracy and openness, and signals good governance and a respect for human rights. Weak governments, or fragile post-war states such as Ethiopia, have also been under pressure to demonstrate that the government is confident enough to tolerate criticism and that there are viable institutions able to foster a free media. While the underlying commitment varied among the ERPDF leadership, on the surface they espoused these values.[27] In 1992, Dima Noggo Sarbo, the first minister of information for the transitional government, noted that "a country's democratic tradition, and a government's democratic credentials, are today being measured by how much the press and the media in general are free".[28] Dima appeared acutely aware that press standards are key indicators of democracy for rich countries, and provide acceptance and legitimacy.

25 These views were expressed in the draft publication by M Zenawi " African development: Dead ends and new beginnings", available at: <http://www.meleszenawi.org.uk/pdf/zenawi_dead_ends_and_new_beginnings.pdf> (last accessed 17 July 2014).

26 Interview with Bereket Simon (24 June 2008), on file with the author.

27 Tellingly, Minister Dima Noggo Sarbo argued: "Today the mass media in America is a … very powerful institution. It makes and unmakes leaders, and has tremendous influence on public opinion as well as the government. Its becoming so powerful has to however be worrying, for any powerful institution has reasons to protect its power and corporate interests, from others. In the end freedom must be jealously protected and guarded from the powerful. There is the saying that 'power corrupts, and absolute power corrupts absolutely'. Hence if the press itself becomes too powerful, it may also abuse its power. For now and in our case, this danger does not exist. Ours is a struggle to implement principles which are taken for granted in many parts of the world": D Noggo "Keynote speech" (seminar on the role of the press in a democratic society, Addis Ababa, 1992) at 10.

28 Ibid.

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International assistance from western countries was also forthcoming to support the development of a "democratic media". This marked a shift from the Derg period when the Soviet Union trained journalists in the elements of a socialist media that would serve the ruling party. Organizations such as the Broadcasting Board of Governors in the United States, which runs the Voice of America, have been active in post-war media development, often promoting agendas such as the one Bruce Sherman, head of Global Strategy and Research, describes here: "[w]e try to promote the values that characterize journalism in the US, a Jeffersonian idea of what the media are and should do. So, in conflict scenarios, we try to help covering abuses, corruption and providing reliable information to those who cannot access it otherwise."[29]

Another indicator of success in liberal media development is the number of publications or outlets available. In recent years, foreign governments and aid agencies have invested heavily in either establishing or supporting media outlets and programmes, often emphasizing plurality and quantity. While this approach assumes a very specific and normative view of the media, with significant amounts of international aid tied to projects such as media development, this discourse and the media interventions placed pressure on the EPRDF to move towards a liberal media system.

The ERPDF appears to have believed that liberalizing the press and allowing freedom of expression would allow for the requisite "participation".[30] At the very least they could point to it as an example and claim greater legitimacy. After opening the media space to the private sector, the degree of enthusiasm with which the media was embraced was unexpected and unprecedented in Ethiopian history. More than 200 newspapers and 87 magazines were started between 1992 and 1997, frequently founded by journalists and editors who had experience in journalism under the Derg but lost their jobs when they were replaced by individuals more sympathetic to the EPRDF.[31] Not surprisingly, many of these newly launched publications became deeply critical of the EPRDF's ambitious political project, and the constitution in particular.

In comparison with other countries that were similarly emerging from violent conflict at the time the Cold War was ending, Ethiopia's media were relatively open during the constitution-making process and throughout much of

29 I Gagliardone "From mapping information ecologies to evaluating media interventions: An experts survey on evaluating media interventions in conflict countries" (paper prepared for the workshop on evaluating media's impact in conflict countries, Caux Conference Center, Swizerland, 13–17 December 2010 and revised May 2011), available at: https://www.academia.edu/1480888/From_Mapping_Information_Ecologies_to_Evaluating_Media_Interventions_An_Expert_Survey_on_Evaluating_Media_Interventions_in_Conflict_Countries (last accessed 21 August 2014) at 11.

30 For an overview of these arguments specifically relating to the press, see N Stremlau "The press and the political restructuring of Ethiopia" (2011) 5/4 *Journal of Eastern African Studies* 716.

31 S Bonsa *Survey of the Private Press in Ethiopia: 1991–1999* (2000, Forum for Social Studies) at 185.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

the 1990s. President Yoweri Museveni of Uganda also liberalized the press after a long guerrilla struggle, but he approached the private newspapers with a significantly different strategy, engaging in a systematic effort to co-opt or defeat the arguments critics were putting forward in the media. While other countries attempted a more gradual liberalization process, or continued to restrict the press altogether, Ethiopia's print media seemed comparatively untethered, although arrests of journalists and government harassment continued. As discussed in the next section, the EPRDF did not anticipate the response it received after liberalizing the press and it made little effort to engage with these new fora for elite and opposition arguments.

A SPACE FOR ELITE NEGOTIATION

The press quickly became a central forum for the elite to express their significant reservations about the constitution and it provided space for opposition parties to project alternative visions of Ethiopia.[32] In theory, a liberalized media is supposed to allow opponent voices to express grievances and could provide a forum for negotiation and debate. However, the Ethiopian press did not come to function in that way. One reason was that the press was polarized from the outset. The EPRDF's approach to replacing journalists at the Ministry of Information and in government agencies seemed to affirm the suspicions of some that the EPRDF was pursuing ethnic politics that favoured certain groups over others. In other words, what for decades had been characterized as Amhara domination was simply being replaced by a preference for Tigrayans and other aligned minority groups. The EPRDF also failed to engage the substantive arguments and respond to critics who were using the press as the primary platform for criticizing the ERPDF's core beliefs and political ideology.

The refusal to engage with the arguments, or the journalists and publications that were putting them forward, characterized much of the ERPDF's approach to the constitution-making process. Opposition groups repeatedly called on the government for more inclusive dialogues that also had an element of reconciliation, only to be ignored. One such initiative was the Conference on Peace and Reconciliation. The government responded by arguing that the individuals were "anti-peace" and there was no need for a "peace" conference in a country that was already at peace. As the editorial in the private and popular newspaper *Waqt* noted: "the head of the conference's host country, and the main participant at that, is behaving like the head of a household who doesn't wish to be disturbed at mealtimes".[33]

The conference proceeded as planned, with significant domestic and international participation. It reached a number of recommendations and conclusions and established the Council of Alternative Forces for Peace and

32 N Stremlau "The press and the political restructuring", above at note 30.

33 "Editorial" (22 December 1993) Waqt, as quoted in *Press Digest* at 1.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

Democracy in Ethiopia, which was the first opposition coalition. In addition to critiques that the EPRDF was weakening the unity and integrity of the country, and calls for a new transitional government to engage in dialogues on the process of reconciliation and constitution-making, conference delegates ominously argued they were:

> "convinced that the drama aimed at giving a single political organisation legal authority for its undemocratic and dictatorial activities through a great document like a constitution should be stopped and that the constitution should be drafted by representatives of the people elected by an overall participation of political organisations. Contrary to this, stifling the operation of political organisations and endorsing a constitution drafted by a commission set up by one organisation in the face of popular opposition to it will have a similar result of un-acceptability as in the case of past constitutions because it didn't originate from the people. Hence, the Council of Alternative Forces will ardently struggle and stand with the people to straighten up the process."[34]

The government was not willing to recognize the conference or its recommendations and dismissed it as a demand by a limited number of intellectuals.[35]

The government's approach to potential input from critics on the constitutional dialogue, and its response to calls for reconciliation in the press or demands for additional conferences, reflect the EPRDF's view of the "elites" as remnants of the previous regimes, discredited ideologues from the student movement. After a long struggle, the EPRDF felt little need to justify its policies and certainly not to those who had opposed it in Addis Ababa. The government only engaged in reconciliation to the extent it deemed necessary and on its own terms. In a 1991 interview, Prime Minister Meles stated his views in these terms: "[w]e believe in a democratic and peaceful transition. But the WPE [Workers Party of Ethiopia][36] rejected peace until the last minute and suffered a defeat in the end. I don't think there is any reason why we should extend an invitation to a party, which, after fighting against peace and democracy … to come out of the grave and make an attempt to participate in restoring peace and democracy."[37]

The EPRDF appeared to assume that those who opposed them would dissipate and the majority of critics would eventually come to support the EPRDF's nation and state-building vision. The unwillingness to tolerate dissent and debate among intellectuals and those in Addis Ababa also stemmed from

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34 Council of Alternative Forces for Peace and Democracy in Ethiopia "Press release" (1994).

35 M Price, I Al-Marashi and N Stremlau "Media in the peace-building process: Ethiopia and Iraq" in P Norris (ed) *Public Sentinel: News Media and Governance Reform* (2010, World Bank) 221 at 226.

36 This was the main political party under the Derg and many of the journalists working for the government media had to belong to it.

37 "Ato Meles Zenawi replies to questions by reporters" (7 June 1991) *The Ethiopian Herald* at 5.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

a belief that this was not their constituency in any case, so there was little need to expend political capital either repressing or engaging them. Ahmed Hassan, an MP and chair of the Information and Cultural Affairs Standing Committee, dismissed the need to engage with these opposing voices because "there is no middle ground in Ethiopia" and "the culture of dialogue is not there".[38] The EPRDF and Meles, who were on the receiving end of many of the attacks, made a clear decision to "just ignore" the adversarial media.[39]

Tolerating criticism within the media was further rationalized as part of the political project. It both legitimized the ruling party and supported the EPRDF's aspirations to have a ruling coalition that could operate within the framework of single party rule. As Meles noted, Scandinavian countries and others, including Japan, have had long-lasting dominant parties:

> "The ruling coalitions in these countries have had regular, free, open and fair elections, and the basic political and human rights have been respected. They thus fully qualify as democratic regimes. But they have won elections repeatedly and have been in power for long-stretches. In the case of Japan the ruling coalition has been in power for almost 50 years. A critical issue is therefore can such a stable, democratic and at the same time developmental coalition be established in a developing country."[40]

Consolidating single party rule with the TPLF as the core of the EPRDF has been part of the EPRDF's democratic vision. Meles argued that "there is every reason to suggest that if a developmental state were to also be democratic the 'hegemonic' nature of its development project would be achieved faster and held more deeply because it would emerge from free debate and dialogue".[41] However, it is also clear through his arguments on defining "fundamental policies" that debates were to centre around issues of development, not the constitution or issues of secession, federalism or land that had the potential significantly to derail the EPRDF's political project.[42] The EPRDF

38 Interview with Ahmed Hassen (13 June 2008), on file with the author.
39 Ibid.
40 Zenawi "African development", above at note 25 at 12.
41 Id at 14.
42 While the system of land tenure has experienced dramatic changes in the past several decades, there was little change from Derg policies to the EPRDF. Similar to the Derg, the present government still maintains a statist system that is characterized by the following: land is held by the government on behalf of the people, resulting, in effect, in state ownership of land; each household has only usage rights over the land in its possession; land cannot be sold, mortgaged or transferred to others on a long-term basis (although a household may now lease the land to others on a short-term basis, which was not allowed during the Derg); and, in order to ensure rights of use over land, the land user has to reside in a rural kebele, so a household cannot have access to land in more than one kebele. See D Rahamato "Land tenure in Ethiopia: From the imperial period to the present" in T Olika, Y Arsano and O Aadlan (eds) "Towards a research agenda in the framework of DPSIR-NIHR research programme (1998–2003)" (Graduate School of

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

primarily focused on mobilizing and gaining legitimacy through the peasantry, a tactic that increasingly became a priority as the government gradually realized that the urban elite would be difficult to win over.

A POLICY OF AGGRESSIVE IMPLEMENTATION

Since the EPRDF's attempts to gain legitimacy through adopting a liberal approach to the press have been problematic, and negotiation with opposition voices has been absent or unsuccessful, the EPRDF has pursued a policy of aggressive implementation of the constitution and ethnic federalism. Information communication technology (ICT) has had a role in this process but implementation itself has also been a powerful communicator, expressing the new national project, particularly targeted at the "masses" or "peasantry". This approach has also reflected the TPLF's needs to consolidate power and the EPRDF's attempts to bring the "peripheries" fully under control of the "centre" of the state. With more than 70 million people, almost all rural and living in highly varied and mountainous terrain, state and nation-building has been a challenge.

The approach taken by the EPRDF towards the peasantry can be understood through the prism of its political ideology of "revolutionary democracy", which emphasizes the role of the central party to set policies and agendas. The masses may be "consulted", and are free to express their views, but the centre is not necessarily obliged to change policy or address their comments and concerns. Revolutionary democracy both refuses the focus on the individual that characterizes liberal democracy, preferring to stress group rights and consensus, and similarly favours a populist discourse, claiming a direct connection between the leadership and the masses, reducing the need to negotiate with other elites. This conceptualization had concrete repercussions for how priorities were set and resources allocated. As described in the previous section on negotiation, very little was invested to increase and improve the channels to communicate with dissenting voices, but substantial efforts were made to consolidate and reinforce relationships with those who were perceived to be the base of political power.

If the EPRDF ignored the elite in drafting the constitution, engaging and communicating with the peasantry in realizing the implementation *was* a key political strategy. Bereket Simon, the former minister of information, described the contrasting approaches:

> "There were problems with the practical perception of what we were doing. With the new constitution there were people who were not happy with the idea of ethnic federalism. They were thinking that ethnic federalism would

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contd
Addis Ababa University, Department of Political Science and International Relations, Addis Ababa University, research paper, 2000). This policy was entrenched in the constitution.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

> have endangered the unity of this country. And we had to reply to them with the practice … The elites in the urban areas did not like us for the handling of the national question. So we decided that we were going to deal with this with time. Not immediately. We wanted to address this issue by showing it. And we were also busy addressing all other issues: agriculture, education, everything that was needed to rule a country. And our being busy addressing all these issues also gave the opportunity to the opposition to hammer us constantly. But we were ready to accept these hiccups. We did not have to explain. We were doing."[43]

As is typical of populist discourses, the culture of "doing" pursued by the EPRDF was opposed to a culture of just "talking", of which the opposition and elites have been accused.

This strategy of prioritizing engagement and communication with the masses was developed in the bush in the 1970s and 1980s for convincing the population to join the struggle. The approach emphasized economic development rather than political ideology. Local organizations were established to focus on disseminating best practices; experts in agriculture, education or medicine would explain how villages could improve standards in these areas. The dissemination of ideology was one component, but priority was given to the delivery of clear, tangible and concrete benefits and reforms. This approach was seen as a central tool for communicating and convincing the peasantry that they had more to gain by joining the struggle than not.

The experience of engaging and mobilizing Ethiopians during the struggle contributes to an understanding of why the EPRDF chose to communicate the constitution-making process through "doing" or implementation, rather than explaining the new and different vision of Ethiopia that it was seeking to advance. When the EPRDF did try to use media or technology for communication, it often had the political project of ethnic federalism at its core. Examples of this are Woredanet and Schoolnet, two systems set up in Ethiopia between 2002 and 2004.[44] Woredanet[45] is a large-scale project which, on one level, links the prime minister's office (the servers are even physically located) with the regional governments through plasma television and conferencing facilities. It is indicative of the larger process of state reform aimed at implementing ethnic federalism and increasing the government's presence in the peripheries of the country. This is one of the most ambitious ICT projects on the continent and has parallels with the Chinese efforts to establish a closed, national and sovereign internet.[46]

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43 Interview with Bereket Simon, above at note 26.

44 For extensive research on Woredanet and Schoolnet, see I Gagliardone "The socialization of ICTs in Ethiopia: Re-shaping technology for nation-building" (2009) 1/4 *International Journal of Sociotechnology and Knowledge Development* 13.

45 *Woredas* are the regional governments that were created by the ERPDF in an effort to implement ethnic federalism.

46 I Gagliardone, N Stremlau and D Nkrumah "Partner, prototype or persuader? China's new media engagement with Ghana" (2012) 45 *Communication, Politics and Culture* 174.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

Closely related to the approach taken by Woredanet was the Schoolnet project, where every secondary school had plasma television screens, similar to those used for Woredanet, installed in classrooms to disseminate standardized lessons. While this had the laudable goal of providing equal access and standards of education across the country and to all ethnic groups, correcting the historical negligence of some communities, it also had the consequence of limiting the active role of teachers, who have been some of the more politicized members of their communities. Schoolnet has been highly controversial and the results and impact on the quality of teaching to which students have access have been mixed.[47]

Projects like Woredanet and Schoolnet represent an evolution of the efforts to increase the government's ability to communicate with, and receive information from, the peripheries of the state while preventing other actors from doing so. Woredanet was designed to offer a privileged channel for key figures in the government to be in contact with local administrators, in ways that could reassert the power of the centre over the decentralized nodes of the state.

Woredanet, but also Schoolnet, have essentially functioned as intranets, offering communication channels for the government that are partially invisible to a large component of Ethiopian society. Woredanet has allowed exclusive and routine communication between nodes of the state, while Schoolnet has ensured that new generations are exposed to messages decided at the centre, without the mediation of possibly critical teachers, allowing the EPRDF to reach wider constituencies discretely. The use of these new channels has provided the government with a strong competitive advantage over opposition forces and has limited opportunities for the populace to engage with them.

CONCLUSION: THE IMPACT OF THE EPRDF'S APPROACH 20 YEARS LATER

The EPRDF's nation-building project remains unstable and the problems of the constitution-making process, including legitimacy and implementation, have had a lasting legacy. These challenges were brought to the fore in the 2005 election period. While the elections were recognized as the "the most democratic" in Ethiopia's history, they exposed fundamental rifts in Ethiopian society, the government, and the identity of the nation.[48]

The government media and the private press enjoyed extensive freedoms during the campaign period and on voting day, but the situation took a dramatic turn after it became clear that the opposition Coalition for Unity and Democracy had made unexpected and unprecedented gains. Subsequent months saw the outbreak of violence as approximately 200 people were killed,

47 I Gagliardone "Virtual enclaves or global networks? The role of information and communication technologies in development cooperation" (2005) 3/3 *PsychNology Journal* 228.

48 For an analysis of the 2005 elections, see J Abbink "Discomfiture of democracy? The 2005 election crisis in Ethiopia and its aftermath" (2006) 105 *African Affairs* 173.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

hundreds more wounded and tens of thousands arrested. 15 journalists were among the more than 100 opposition party leaders and civil society leaders who were arrested and later tried in court. The journalists were primarily charged under the penal code with crimes of "treason" or as "conspirators" of the opposition who were accused of "attempted genocide", "armed rebellion" and "outrage against the constitution". A few journalists were charged with violations of the press law. At the core of this was the threat the EPRDF felt towards the undermining of the constitution.

After the November 2005 violence, the majority of the newspapers that were opposed to the government were closed (and remain so to this day). SMS service on mobile phones was shut down for more than a year in the post-election period, and oppositional blogs, mostly by Ethiopians based in the US or UK were blocked, a practice that continued after the unrest that followed the elections. The private press today is significantly weaker than it was before the 2005 elections.

The ERPDF was caught off guard by the success of the opposition and the press, which continued to be the most significant space for expressing concern about contested issues such as ethnic federalism or the legitimacy of the government. However the crisis also had deeper roots that can be traced back to the EPRDF's inability to reconcile very divergent views on what Ethiopia should be, some of which are legacies of the ideological debates from the Ethiopian student movement in the 1960s. It also reflects the problems with the process of constitution-making itself and the EPRDF's failure to engage the media and elite during this critical period in the early 1990s. Believing that the peasantry, not the elite, was their constituency, the EPRDF never managed to take the independent press seriously. It repeatedly missed opportunities to engage and foster a dialogue or negotiate within the media space.

In some respects the questions of legitimization and negotiation are no longer as significant as they were in the 1990s; the EPRDF still receives substantial international aid, signalling that international politics prevails and granting to the ruling party the necessary legitimacy of a trusted international partner. Similarly, while there has been pressure on the EPRDF to liberalize the space for the media, the government has strongly resisted these demands and calls for dialogue and reconciliation. In the 2010 parliamentary elections, the EPRDF and its affiliated parties boldly announced their win, taking an unprecedented number of seats (534), with opposition parties taking only two, shunning any real effort to project a genuine electoral contest. In contrast, the implementation project has had even greater importance placed on it since the 2005 post-election period; this has been coupled with a push to expand party membership significantly. Before the 2005 elections, only 760,000 Ethiopians were members; by the 2008 local elections there were more than four million.[49] Bereket Simon, who was closely involved in the

49 L Aalen and K Tronvoll "The end of democracy? Curtailing political and civil rights in Ethiopia" (2009) 36 *Review of African Political Economy* 193 at 203.

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

mass mobilization effort, stressed that the EPRDF's goal was not to communicate with everyone but only with the "advanced part of rural society".[50] As he described, local governments would identify the farmers who would be receptive to the EPRDF's teachings and be able to implement them, serving as an example for others. These individuals would also act as the eyes and ears of the party at the most local level, further reflecting the government's efforts to centralize and consolidate political power. This strategy continues to exhibit the approach to communication and mobilization that the TPLF practised during the struggle.

The use of media during the 2005 elections exposed another reality: liberalizing the media to allow for participation in political processes such as constitution-making or elections does not always have the intended effect. For example, before the 2005 elections in Ethiopia there was an unprecedented level of political confrontation on the broadcast media. For the first time, the media broadcast about a dozen long debates between senior personalities from the regime and the opposition. Some preliminary studies have shown that the debates had an unexpected impact in some rural communities. In the communities where Rene Lefort researched, he found that the few farmers who owned a radio did not follow the debates, because "they were too complicated for us".[51] They said they had "forgotten it all" except for one revelation: "this government is so weak that it must sit with its enemies".[52] The EPRDF didn't realize that its absence in the face of mounting opposition would be interpreted as proof that it had resigned itself to defeat and demise. For a number of Lefort's informants, "God has decided that this government has had its time" and they thought the EPRDF was falling.[53] This was certainly not something the EPRDF had anticipated.

Simply liberalizing the media, or allowing for as many private newspapers as possible, is not sufficient for either legitimating a flawed process or encouraging participation and engagement. Broader questions must be explored about how people make decisions in very different contexts and which communication technologies or information flows are best understood and received. New technology offers unprecedented opportunities for engagement. Diverse experiments are underway. For example, recent constitution-making exercises in Iceland have encouraged citizen participation in drafting the document through crowd-sourcing.[54] After events in Tunisia, a leading social media activist was appointed to the government as a concession to the youth. A similar project of online collaborative drafting of the

50 Interview with Bereket Simon, above at note 24.

51 R Lefort "Powers – mengist – and peasants in rural Ethiopia: The May 2005 elections" (2007) 45 *The Journal of Modern African Studies* 253 at 265.

52 Ibid.

53 Id at 264–65.

54 M Brown "Icelanders turn in first draft of crowdsourced constitution" (1 August 2011) Wired, available at: <http://www.wired.co.uk/news/archive/2011-08/01/iceland-constitution> (last accessed 20 May 2013).

https://doi.org/10.1017/S0021855314000138 Published online by Cambridge University Press

constitution, this time using PiratePad, was also attempted but it faced more significant challenges partly due to low internet penetration rates in Tunisia.[55] Technology will not, however, necessarily legitimize the process. In Somaliland, for example, constitution-making took several years (from 1991 to 1997) and, while it occurred in an environment almost entirely devoid of mass media or new technologies, the process has been seen as legitimate and the constitution is widely accepted. While negotiations over the specific content of the charter or constitution did not occur at the grassroots level, constitution-making was intertwined with peacemaking and state-building efforts which did engage the wider population.[56] News of the process flowed through local elders who participated and regularly communicated the developments to key clan members who were waiting outside the negotiations and who would then convey the message back to their communities. Since there was little telecommunications infrastructure in the early 1990s, oral communication was central and even poetry played a role.[57] This brought to the process trust and legitimacy, in significant contrast to the new draft constitution in South Somalia where millions of dollars have been spent on selling a constitution to a sceptical public that has felt largely excluded from the "expert"-led drafting process.

The specific role of media in constitution-making processes, as well as the most appropriate media tools, vary significantly depending on the society in question. The challenges of engaging a population affected by violence in constitution-making are significant. While communications may have a critical role in increasing legitimacy, providing a space for the elite to debate a constitution and even helping in its implementation, much of a constitution's success will rest on the extent to which citizens believe that their voices, and communities, have participated and been represented.

55 M Sifry "Meanwhile, back in Tunisia, they're drafting a constitution on PiratePad" (9 March 2011) Tech President, available at: <http://techpresident.com/blog-entry/meanwhile-back-tunisia-theyre-drafting-constitution-piratepad> (last accessed 20 May 2013).

56 IH Jama "Making the Somaliland Constitution and its role in democratisation and peace" (2010), available at: <http://www.c-r.org/accord-article/making-somaliland-constitution-and-its-role-democratisation-and-peace> (last accessed 20 May 2013).

57 BY Ducaale "The role of the media in political reconstruction" in Academy for Peace and Development (ed) *Rebuilding Somaliland* (2002, Interpeace) 76.

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