



The Ethiopia-Eritrea Border Conflict and the Role of the International Community

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Abstract

It may be a war no one wants, over land rich in dust, between people who until recently regarded each other brothers and sisters in arms (*The Washington Post* 1998).

Five years after signing a peace agreement which established the United Nations Mission in Ethiopia and Eritrea (UNMEE) and set in motion the implementation of the Algiers Comprehensive Peace Accord (ACPA), the peace process between Eritrea and Ethiopia is deadlocked. Ethiopia has refused to abide by

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the ruling of the Eritrea-Ethiopia Boundary Commission (EEBC) as agreed at Algiers, and Eritrea laments the disregard of agreements, especially by the international community that witnessed them. The Boundary Commission, charged with adjudicating a ruling on the border on the basis of colonial treaties, has left the local scene in despair. The war of words is fast turning into words about war. A war is looming in the region which is in the process of ending conflict in Sudan and Somalia. Just what constitutes the stand-off, what interventions have been made and what are prospects for peace or war are some of the questions that this article explores.

The Eritrea-Ethiopia Border in Historical Perspective

The origins of the border conflict are controversial. But it is certainly part of continuities in the imperial and colonial histories of the two territories. A full history of the phenomenon of ethnic diversity, cohabitation and conflict in the area covering the two countries is well recorded and thus falls outside the ambit of this paper.¹ However, a few historical precepts can be laid out in brief. Both modern Ethiopia and Eritrea are products of a reconfiguration of ethnic entities in the region occasioned by the arrival of Asiatic and Semitic peoples. This led to the emergence of the Ethiopian empire through conquest and incorporation, where Eritrea was among the last to be assimilated. The ascendance of the Amhara king, Menelik, to the throne as emperor in 1889 shifted the centre of power away from its traditional base in Tigray to Amhara further south at the time when modernity was gaining ground in central Ethiopia. The Menelik state had a standing army, a codified law, a bureaucracy and boasted taxation and a nascent market system. But it was so administratively centralised, so dominated by feudal ethnic elites, and the periphery was so marginalised that diversity gave way to absolutism. The ruling elite imposed Amharic, their mother tongue, as the lingua franca and built an Amhara cultural supremacy.

1 Some useful historical works on Ethiopia include Zewde 1991 and Travaskis 1960.

The centripetal forces had its advocates in the periphery – such as the unionists in Eritrea during the first half of the 20th century. But absolutist centralisation also sparked centrifugal impulses epitomised by the rise of what became a secessionist Eritrean People's Liberation Front (EPLF) and the Tigray People's Liberation Front (TPLF). Through history, this hegemony was challenged by various peoples seeking regional autonomy within the empire and asserting their nationalist identity within the whole. During the Menelik Empire, Eritrea was ceded to the Italians, thus giving the region a territorial distinctiveness to buttress the nationalist sentiments further in the direction of self-determination. Under Emperor Haile Selassie and during the military rule of Mengistu Mariam, absolutism intensified and so did nationalist resistance (Abbay 2004:593-614). Armed resistance, co-driven by secessionist Eritrean nationalist and 'accommodationist' Tigrayan nationalists, intensified after 1975 and scored a number of victories culminating in the defeat and fall of the Mengistu regime in 1991.

It is significant to note that the EPLF marched to Asmara, the capital of Eritrea, three days before Addis Ababa actually fell to the TPLF. While the new government in Addis Ababa sought to build ethnic federalism in Ethiopia albeit under Tigrayan dominance, it accepted the independence of Eritrea proclaimed by the EPLF as *de facto* without questioning (Tegegn 2004:46). Therefore, the secession of Eritrea was not handled properly in that the two states did not work out a process and programme to ensure that separation was without hurdles and that there would be no hang-overs. For instance, no process was put in place to resolve potential and existing border disputes, administration of overlapping populations, the status of each other's nationals living on both sides, and the nature of state-to-state relations. While post-1991 relations between the two states led by erstwhile allies and relatives were warm, underlying tensions had long existed. TPLF accepted the principle of self-determination leading up to and including secession as part of Leninist tactics to broaden their front by including the Eritreans. The ascendance of Leninism and the acceptance willy-nilly of the principle of self-determination divided the TPLF and fuelled secessionist impulses elsewhere. The EPLF saw self-determination as a colonial question leading to independence rather than a national question resolvable with a democratic united and poly-ethnic Ethiopia (Zewde 2004:10-11).²

These and other differences between the TPLF and EPLF moved from a war of words to armed clashes in the 1980s.

With this background in mind, the tensions that developed between 1995 and the beginning of the war in 1998 are understandable. For instance, Eritrea unceremoniously expelled Ethiopians who happened to be of Tigrayan descent, to the chagrin of Ethiopians. Eritrea alleged that Ethiopian battalions had invaded Dada and Badme in July 1997. Both sides dramatically redrew administrative divisions including those lying on the undefined border, thus raising fears of expansionism and encroachment. The publication by Ethiopia of a redrawn map of Tigray annoyed Eritrea who saw this as part of a colonist dream of a Greater Tigray incorporating parts of Eritrea. Eritrea retaliated by introducing its new currency, the Nacfa, and in turn, Ethiopia required hard currency for trade transactions to undermine the new currency.³ Diplomatic interventions initiated by the Ethiopian Prime Minister and driven by the Organisation of African Unity (OAU) as well as the forming of the Joint Eritrea/Ethiopia Commission and the taking of other measures sought to address the specific concerns of the parties and to investigate alleged incidents, but failed to deal with deep-seated historical continuities and tensions behind the observable symptoms. All these attempts, therefore, failed to prevent what would be a devastating two-year war between the two countries in 1998-2000. The war caused losses of millions of lives, decimated the infrastructure and economies of both countries, and left a wall of mistrust between two former allies.

Borders were distorted, in the first place, by colonial treaties that the Ethiopian emperors signed with the Italian and British empires. Territorial reconfigurations arose out of the Italian occupation of Eritrea in 1890 and of Ethiopia in 1935. After Italian occupation of Eritrea in 1890, the frontier was loosely based on the Mereb-Belesa-Muna Rivers. The treaties (1900, 1902 and

2 See also Behre 2004:569-592.

3 A list of these incidents in their sequence were sourced from a British Government's Foreign and Commonwealth Office research paper put together from eyewitness accounts by the EEBC. See Africa Research Group 1999.

1908) fiddled with the borderline, seeking to solve geographic and demographic mix-ups. The border changed again when the Eritrea-based Italians occupied Ethiopia in 1935, incorporating the whole of Tigray in the north of Ethiopia into Eritrea, an attempt to bring Tigrayans together. When the British took over both territories in 1941, after the defeat of Italy in World War Two, they also redrew the frontiers. While the Allied powers handed Eritrea over to Imperial Ethiopia in 1952, prescribing a federation to allow some autonomy, the imperial government forcibly dissolved the federation and forced unification, causing Eritrea to lose her sovereignty. This sparked revolts in Eritrea, Bale and Ogaden. Ruthless suppression of discontent strengthened resistance, leading to the formation of the Eritrean Liberation Front (ELF) which declared an armed resistance calling for the right of self-determination for Eritreans. Oromos followed suit and Tigrayans entered the fray.

Over the next three decades, the armed resistance by, among others, the ELF, the EPLF of Isaias Afwerki and the TPLF now led by Meles Zenawi, made Ethiopia and border areas ungovernable. Ultimately, the military regime of Mengistu was defeated in 1991 and the TPLF-led coalition government that took over gave Eritrea a chance to hold a referendum about their independence, but on the basis of the same vague imperial demarcation of the border. The new governments on both sides adopted interventionist approaches to the political geography of their countries, and especially the border areas, in a manner that was bound to raise tempers given the historical distortions of the borderline.

The release of a map in October 1997 by Ethiopia redefining border lines was part of the 1997-1998 incidents that are important in this tapestry of history. A skirmish between Eritrean and Ethiopian soldiers over Badme (mainly) and other areas along the disputed border, led to a full-scale two-year war. Badme was a miniature copy of the larger complexities. It was administered by Ethiopia before the war. It was economically part of Ethiopia, using the Ethiopian currency rather than the Eritrean Nafca. Its residents had participated fully in Ethiopian politics, including voting in large numbers in that country's elections. But Eritrea argued that colonial treaties located the town within their borders.

The UN-led International Intervention

After a flurry of diplomatic interventions by various players including the OAU, in June 2000 the two parties signed a ceasefire agreement in Algiers, Algeria, creating a security buffer on the contested border until proper adjudication. The agreement and the Comprehensive Peace Treaty which followed six months later also called for a UN peacekeeping mission to monitor its implementation, to redeploy forces to agreed upon positions and to man the 1000 km-long border and a 25 km-wide Temporary Security Zone (TSZ). Thus, the UNMEE was created. It mapped out a route to a final resolution of the border, primarily through arbitration by the Eritrea-Ethiopia Boundary Commission (EEBC).⁴ At the very outset, a problem had been created in that while the agreements put the UN system firmly in charge of the conflict management environment, it also installed an independent legal entity in the EEBC to resolve the crux of the conflict. Even though UNMEE has worked in a manner that has been sensitive to the work of the commission and sought to engage the two parties beyond narrow security issues, the problem did not go away. Although the UN Security Council Resolution 1430 amended the UNMEE mission mandate to oblige the mission to assist the Boundary Commission in the implementation of its delimitation decision, the two institutions continued to work independently of one another. Their roles are complementary, but substantially and strategically different.

In the five years of its existence, UNMEE has been relatively successful in its peacekeeping mandate under difficult conditions. It effectively monitored the cessation of hostilities, co-ordinated security through the Military Coordination Commission (MCC) and has carefully managed the security zone. The MCC helped the two parties meet at a military leadership level to resolve security incidents on both sides of the border, thus preventing direct confrontation. However, from the very onset to date, the UNMEE operations were hampered

4 The EEBC is one of three independent commissions established in the framework of the Algiers Comprehensive Peace Agreement by Eritrea and Ethiopia. The other two were set up to look into the causes of war as well as war damages.

by the lack of a political settlement. This manifested itself in the tensions over the boundaries of the buffer zone, a territorial mandate of UNMEE. The head of UNMEE, Legwaila Legwaila, consulted with both parties, but still sweated to get the boundaries proposed by UNMEE accepted by 2001-2002.⁵ Even after their acceptance, UNMEE spent the next four years trying to dissuade the parties from heavy military deployments along the buffer zone's boundaries.

This – in particular restrictions that Eritrea placed on UN transport in 2005 – hampered UNMEE's freedom of movement, at times even in the temporary security zone itself. The UN Security Council has had to intervene several times to keep the air corridor between Asmara and Addis Ababa open. Time and again, the UN Secretary-General lamented the lack of co-operation with the UN system, particularly by Eritrea, as a major challenge to the work of UNMEE.⁶

The Conundrum of the Boundary Commission Ruling

The Boundary Commission, as the legal sub-route of the peace process, had a tough task delimitating a border fraught with heated dispute, historical distortions and nationalist wrangling. Based in The Hague, and under the direction of the Permanent Court of Arbitration, the Boundary Commission was set up by the two parties precisely in order to arbitrate their respective land claims. In its mandate, the Commission was asked to *interpret the controversial colonial treaties signed in 1900, 1902 and 1908 by the Italian and British colonial governments and the Ethiopian Emperor*. In the Algiers Agreements, the two parties had agreed to accept the Boundary Commission's ruling as final and binding with no right of appeal. The five members of the Commission are jurists of international repute nominated by both parties. Each party has directly selected two lawyers each, who in turn have named a president to chair the Commission. The Commission is composed of:

5 See UN statements on this, <<http://www.un.org/Docs/sc/presidency/ps0805.htm>>.

6 See UN Security Council reports in <<http://www.un.org/Docs/sc/presidency/ps2506.htm>>.

- Sir Elihu Lauterpacht, CBE QC (President – appointed by lawyers from both sides)
- Professor W. Michael Reisman (appointed by Eritrea)
- Judge Stephen M. Schwebel (appointed by Eritrea)
- His Excellency, Prince Bola Adesumbo Ajibola (appointed by Ethiopia)
- Sir Arthur Watts, KCMG QC (appointed by Ethiopia)

Over several months, both parties stated their respective cases and provided all necessary evidence as exhibits for their claims. But when the Commission made its final ruling on 13 April 2002, Ethiopia raised objections to certain aspects of the ruling. Eritrea accepted the ruling wholly. In her submission, Ethiopia raised questions regarding the interpretation of evidence leading to the ruling and pointed out challenges that would confront its actual implementation on the ground. The Algiers Agreement did not provide space for the Commission to hear appeals against the decision, thus the Commission reached a dead-end, as it were. There lay another problem: the parties hoped that the ruling would be such that it would not be contested. But the gamble was wrong.

Fearing a resumption of hostilities as arbitration failed, the UN Secretary-General turned to good offices by naming the former Foreign Minister of Canada, Lloyd Axworthy, as his Special Envoy to urge the two parties towards a negotiated settlement. Without a political settlement and therefore a demonstrable political will from the conflicting parties, this too proved a non-starter. Eritrea refused to co-operate with him. Eritrea argued that Axworthy's mission was not only illegal, but it also allowed Ethiopia to ignore a ruling she had promised to accept as final at Algiers three years earlier. Consequently, Axworthy seemed unlikely to make headway where UNMEE head, Legwaila Legwaila, had failed.

The Role of the African Union

The African Union (AU), which had been actively involved from the very onset in preventing the war and securing the ceasefire, has also failed to rescue the situation. The AU's weakness is its high regard for one party – Ethiopia.

The high status of Ethiopia among AU member states as the host of the AU headquarters has imposed limits to AU intervention. Further weakened in the period by its internal transition from the OAU to AU, the AU has offered very few fresh initiatives besides the same diplomatic missions as the UN had offered and which Eritrea had rejected at the outset as showing their (AU and UN) lack of confidence in international law. Thus, Eritrea has virtually lost faith in the AU as a forum for furthering its strategic regional interest and recalled its ambassador to the AU in November 2003.

The stalemate draws from two sets of realities. First, the choice of an instrument of dealing with conflict by the parties with international assent. Second, the failure to bring on board in-country imperatives. Regarding the first, in opting for arbitration the parties actually picked conflict settlement above conflict management and resolution. Conflict resolution hinges on an analytical approach to get to the root of the problem and bring about a permanent solution that is acceptable to both parties. Thus, conflict resolution tends to seek a win-win ending. Conflict settlement or arbitration, on the other hand, relies on authoritative legal processes usually imposed by an entity granted such powers by the parties. Consequently, arbitration allows the vindication of a winner and the humiliation of a loser. This latter option has a zero-sum basis. It does not allow the use of alternative methods to reach an accommodation between parties' interests or a reconciliation of tensions. In this particular case, arbitration hinged on an expectation that the ruling might well be just, fair and, therefore, acceptable to the parties. Although simpler and more straightforward at face value, the winners-losers route was bound to prolong rather than end the conflict. Eritrea, already the winner in this case because of the decision on the contested Badme, has no incentive to search for a common ground by other means because her advantage is unlikely to be replicated.

'Put off democracy until the Weyane is off our backs': Understanding Eritrea's Position

Eritrea sees the commission ruling as a step towards complete freedom from the domineering influence of the Ethiopian government, alias the Weyane.

Eritrea finds herself stuck in a war mode. Eritrea has an estimated 300 000 of its 3,6 million population serving in the military and a defence budget making up some 17% of the gross domestic product (GDP). Large numbers of people are still displaced, the infrastructure is devastated and landmines still remain in some of the most fertile land. The multi-million dollar exports trade with Ethiopia remains suspended, to the benefit of Djibouti.

The transition to democracy in Eritrea is incomplete. In 1993, celebrating the independence vote, a jubilant Eritrean businessman was quoted as saying, 'Everybody is very happy about the end of the war, about freedom and independence. But now we must see whether this government will really give us a multiparty system, as it has promised, and the other expressions of democracy. That will be the real test'.⁷ Today the premonition of these words could not be clearer. The new state started brightly with a range of progressive political and economic reforms towards a fully democratic state. The Isaias Afwerki government unveiled ambitious infrastructural renewal programmes to improve the transport system and modernise the ports to boost regional trade. It streamlined the state architecture and provided new opportunities to women and ethnic minorities. Most importantly, it began a grassroots national consultation on the new constitution. After the war, the government abandoned democratic reforms. The postponed national elections have been abandoned, instead the government reacted ruthlessly to those demanding continuation of the pre-war reform agenda. It arrested critics, shut down independent media and imposed a repressive regime over the entire population. Eritrea has become hostile in her foreign relations too, considering her neighbours to be hostile to struggle. Eritrea reasons that Eritreans are not ready for electoral democracy while the Weyane is on their back. An old tyranny, latent during the liberation struggle and submerged in the euphoria of independence, has reared its fierce head. The war and stalemate have become convenient pretexts for postponing democratisation and for rampant repression.

7 *The Washington Post*, 28 April 1993.

Understanding Ethiopia's Intransigence

The culture of extremism inherited from the liberation struggle years persists in Ethiopia too, but in more subtle ways. After the war, Ethiopia did not abandon democracy, but simply manipulated it. The ethnic federalism, meant to promote plurality and devolution of power to different ethnic regions, is influenced by the ruling coalition with some regions controlled by its proxies. The hostility to opposition parties and public dissent, as seen in the handling of the Gambella ethnic tensions in 2003-2004 and the repression of discontent during and after the May 2005 elections, indicate the resilience of the culture of intolerance (similar to what prevails in Eritrea) within the ruling former liberation movement. However, as the border stand-off intensified, the Ethiopian government has made calculated concessions such as allowing international observers a greater space in the 2005 elections, reforming the electoral commission and engendering inter-party dialogue. The strong showing by opposition parties in the last two elections have augured well for a competitive political culture. But Ethiopia has used this positive outlook to bolster her position on the ruling.

Ethiopia cites internal political difficulties to explain her position – such as the fact that if implemented as it is, the ruling will split families and communities and separate them from their cultural heritage. She reasons that if communities are forced to fall under Eritrea, violence will break out. Indeed, leaders of the Tigray region, to be affected by the ruling, have vehemently opposed the ruling, warning the Ethiopian government that the ruling will lead to the demise of the ruling coalition, especially the Tigray element that constitutes the centre of power. Hardliners promise armed resistance, an eventuality the Ethiopian government would want to avoid as it contends with armed resistance in the Oromia and Ogaden regions. The ruling party, dominated by Tigray elite, fears losing a paramount political constituency and would not sacrifice the Greater Tigray nationalist cause. So, the commission ruling presented a nightmare for the ruling party and government's ability to hold things together internally.

Another major difficulty is the fact that conflict between the two states left Ethiopia landlocked. The hardliners within the power circles in Ethiopia still blame the Meles Zenawi government for refusing to allow the army to run over Eritrea up to the Red Sea port of Assab to secure access to the sea before the

ceasefire agreement. The Meles Zenawi regime was able to ignore this after the Eritrean referendum because friendly relations between the two governments facilitated thriving bilateral trade. However, the closure of the border forced Ethiopia to use the Djibouti port instead. Hence, implementation of the ruling as it would be seen by hardliners as yet another form of capitulation to Eritrea.

To resist implementation, the Meles Zenawi government has taken advantage of its perception as democratising and of its extensive diplomatic space in the war of minds over the border dispute. It has exploited its esteemed role at the AU, NEPAD⁸ and recently at the UK's⁹ Commission for Africa. In the war of words, Ethiopia has portrayed herself as a reasoning state, that is, she argues that she is not opposed to the commission ruling per se, but foreseeing practical difficulties in certain areas, she wants its implementation negotiated with Eritrea. In November 2004, to weaken Eritrea's legally-correct stance, Ethiopia formally announced that she accepted the border ruling 'in principle' and proposed modalities for dialogue on the implementation which Eritrea outrightly rejected. In the process, Ethiopia made Eritrea look like a tactless state, obstinately holding to a position in disregard of the interests of the other party. This diverts attention from its internal challenges. In this regard, Eritrea's lack of patience and openness, necessary to win diplomatic mileage during deadlock, has played into the hands of an Ethiopia that is playing shrewd. Increasingly outplayed in the diplomatic circles, feeling deserted by the international community and frustrated by her own weaknesses as a small young state, Eritrea's protests have grown grey.

Perhaps, the worst consequence of this frustration on the part of Eritrea is her withdrawal from both actual and metaphorical diplomatic spaces. The international community, faced with a choice to support a diplomatically strategic, economically stronger state or one that is hostile, young, small and turning away from democracy, is abandoning the latter. Ironically, while the erring party in terms of the Algiers Agreement, Ethiopia, grows in stature internationally, the aggrieved party is shrinking. In that context, the legalistic questions of abiding or

8 New Partnership for Africa's Development

9 United Kingdom's

non-abiding by an independent commission's ruling pale into insignificance. This has reinforced authoritarian tendencies internally and a siege-state mentality in her external relations. This has created conditions for implosion internally or explosion in the form of another war with Ethiopia.

As media reports continue to surface about the movement of Ethiopian troops closer to the border, and about the discovery by the UN of newly planted landmines and intensifying local violence on the border, war looms on the horizon. As a war of words is transforming into words about war, a rethinking of the manner in which the border dispute has been dealt with by the international community and regional players is urgently needed. Ethiopia must be chastised for not abiding by the agreement she signed. But both sides need to accept that the stalemate is hurting them, especially their populations and economies, and opt for mediated dialogue.

The international community, including the AU, should seek to remedy the situation, by understanding that a whole new process, predicated on a search for accommodation and a common ground rather than final rulings, needs to be initiated. The Secretary-General must begin a concerted effort towards that end. Eritrea must be convinced that after two years its legally-correct position is unfortunately not bearing fruit – the complexity of the problem requires a negotiated political solution rather than a legalistic one. She must be persuaded to table conditions to safeguard her interest in negotiations, beginning with talks about talks. Noting Ethiopia's pursuit of access to the sea, the international community should use Ethiopia's guilt about not abiding by the ruling, to persuade her into a negotiation process with strong safeguards for the interests of the weaker, smaller and younger Eritrea built into it. The AU must entice Eritrea back into its fold and, together with the international community, provide incentives of economic assistance, security guarantees and an allocated position in the AU.

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