

**CONTRA BORDER DEMARCATION:
REJECT THE ARBITRATION DECISIONS
No Land Locking of Ethiopia and Alienation of Ethiopian Citizens**
By Tecola Worq Hagos

Conclusion - Abstract:

a) High jacking the Prime Minister

The popularity of PM Dr Abiy Ahmed across all members of the Ethiopian society is quite impressive and uplifting. On a closer look of the phenomenon, I see some bizarre development in this unusual positive reaction to a leader rooted in the EPRDF. In the Diaspora communities of Ethiopians, the most enthusiastic supporters of PM Abiy in such groups seem to come from former Derg supporters and possibly Red Terror participants, ex-members of Mengistu's security personnel, members of subversive movements, disfranchised economy-immigrants, aging expats who see Ethiopia in terms of their own lives, and naive and politically hate-filled young men and women mostly from Addis who could only tangentially hold on to their *Ethiopiawinet*.

PM Abiy inadvertently is adding to the frenzy by pardoning criminals along with tens of thousands innocent Ethiopians who were detained by the previous cockeyed EPRDF Governments. I would note here that most of the harm to Ethiopians was done by Meles Zenawi in his twenty years of despotism that only ended in 2012 at his death. [I have written on the subject poor governance of Meles Zenawi no less than ten lengthy articles posted in popular Ethiopian websites over the last twenty years.] Those aging EPRDF leaders that shored up Meles Zenawi against the few TPLF Leaders who tried to effect some reform, are putting up now some form of pathetic resistance against the popular wave of change in support of PM Abiy. I am very supportive of PM Abiy even if he did let go some rotten individuals such as former Derg Officials who had committed unspeakable atrocities against tens of thousands of Ethiopians.

At times I feel that PM Abiy has been kidnaped or highjacked by the opposition Diaspora. Looking at the number of articles, interviews, radio and TV presentations controlled by Diaspora opposition groups et cetera, I am forced to conclude that the Opposition has already won without running a single political campaign in Ethiopia. Now they seem to have drafted PM Abiy as their political leader. This form of development is my great concern, for we are ending up with great appeasers who will not stand to preserve historic Ethiopia but end up as tools of foreign interests picking on Ethiopian territories all around. I would have welcome such popular and almost universal support for the new Ethiopian leader had it been genuine and not self-serving. Sooner than later the whole edifice of support will start to coagulate displaying its ugly flawed ideology of elitist dominance. I caution PM Abiy never to lose sight of his base political foundation in the EPRDF. If he tries to play around some form of political game, he will lose both. There are some bruised egos in the EPRDF Leadership, which translates to the effect that the PM must fix such fried relations with some of the TPLF leaders as well as those Amhara leaders from ANDM.

Above all else, I urge and insist that PM Abiy stop the scheme to accept the Boundary Commission's decisions. Period. The famous legal Scholar Prof Makau wu Mutua wrote years back suggesting the redrawing of the boundaries of African nations, for they simply inherited from their colonial boundaries that was counter intuitive and irrational, but in his new Map of Africa, he kept the historic Ethiopia intact as one unit. Do we see any less? [See Makau w. Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 Mich.J. Int'lL. 1113 (1995). Available at: <http://repository.law.umich.edu/mjil/vol16/iss4/3>]

b) First Order Solution

Raising the issue of professional responsibility (conflict of interest, corruption et cetera) is a very sensitive and complex matter for anyone. It should not be a point of contention without solid ground. I have first-hand experience of good intentions going sour and affecting the judicial system. The psychology of the individual involved is not that important in determining such issues. After all, the history of mankind's failure is littered with good intentions. Neither accusing the messenger of personal misdeeds nor giving examples of the trespasses of others can mitigate the harm done because of practices by a couple of Commissioners that undermined the integrity of the arbitration process and the rule of law in general in our case of *Ethiopia vs. Eritrea* border conflict. It is with great concern that I have addressed the issues discussed in this article. I have addressed these issues thoroughly in my previous papers that I have used extensively in this article too.

The Government of Ethiopia has every right to void all agreements, especially the Algiers Agreement of 2000 that revived long dead international instruments in order to benefit one



Party namely *Eritrea*. There never was any legitimate delimitation or demarcation of any sort where Ethiopia and Italy were represented on a team to delimit the border between the Italian colony of Eritrean and Ethiopia—none took place during the colonial period or later. The delimitation attempted in 2002 by the Commission seems to be *de novo*. Ethiopia must reject the entire decision of the Commission. It cannot be obliged to accept a decision by a Commission that is corrupted where some members of the Commission have compromised their duty to exercise "independence" and "high moral" standards. It is not important to show that all and every member of the Commission is involved in such conflict of interest. If one can show at least one member is involved in such conflict of interest, the entire proceeding and all decisions thereof, which flowed from such process, are tainted, thus void. Ethiopia should demand the

disqualification of the President of the Commission, Elihu Lauterpacht, for conflict of interest and corruption. This individual was council/attorney to the United States at the same time he was President of the Boundary Commission.

I believe the invalidation and nullification of the 2000 Algiers Agreement is the first step in protecting the territorial integrity of Ethiopia that would insure Ethiopia's continued existence. We hear and read also the words of legal and political "experts" admonishing Ethiopia for not accepting fully the decision of the Boundary Commission. This is all part of the same corrupted process of power game; it has nothing to do with justice or equitable and fully and properly negotiated settlement of disputes between Ethiopia and Eritrea. It is in fact quite shameful for anyone to try to impose such underhanded and totally corrupt process and decision on Ethiopia. One must heed the outstanding commentary by Kaikobad, an outstanding international law scholar in his recently published unique book about border

dispute cases. [See K. H. Kaikobad, INTERPRETATION AND REVISION OF INTERNATIONAL BOUNDARY DECISIONS. New York: Cambridge University Press, 2007] His reviewer Professor Enrico Milano, succinctly put the problem we are all faced with due to the pronouncements of overzealous and unscrupulous, maybe even corrupt individuals who end up becoming members of international courts or international arbitration tribunals or commissions.

It is clearly stated by a joint statement of Secretary General Kofi Annan of the United Nations and Secretary General Amara Essy of the Organization of African Unity that the Boundary Commission is not a creation of the United Nations.

“Six months later, they signed a comprehensive peace agreement, also in Algiers, providing, among other things, for a permanent cessation of hostilities and **the establishment of an independent commission** to decide the border question. The continued commitment of the two countries to the spirit of these agreements has been encouraging. Welcome too is their commitment **to work closely with the United Nations and the Organization of African Unity** in implementing the agreements. The peoples of both countries can now look forward to peace and security within their borders and, once again, to cordial relations with each other.” [Kofi Annan and Amara Essy, “*Securing a Lasting Peace Between Ethiopia and Eritrea.*”] [Emphasis added]

In connection with the involvement of the United Nations and the United States in the peace process, the fact that their representatives were present and countersigned the Algiers Agreement as witnesses does not create some special contractual right to force either Ethiopia or Eritrea to accept the decision of the Boundary Commission. The literature on “countersignatures” or signatory witnesses is focused mainly on business activities and for verification of factual matters. In boundary conflicts, the role of such third parties’ signatures does not spillover into the creation of substantive rights to such third parties beyond giving formality and gravity to the peace process. Countersignatures do not seem to create substantive legally enforceable rights to the signers in international agreements. The creation of a Fund to assist in financing the Arbitration Commission to carry out its mission does not create any such right that supersedes the rights of Ethiopia and Eritrea as parties in arbitration pursuant to the 2000 Algiers Agreement. In fact, such an outside Fund, beyond the control of the Parties in arbitration, is a source of corruption because it allows third parties to direct the outcome of the arbitration violating the norms and practices of international law and arbitration.

The main reason for all the controversy surrounding the decisions of the Boundary Commissions has to do with immature and rushed process of adjudicating a controversy that had its origin in hundreds of years of history and rivalry, and recently in the esoteric Leaders of Guerrilla Fronts. Temporary peace would have been maintained without the rush to settle the controversy in a legal forum. The Framework Agreement of 1999 and Agreement on Cessation of Hostilities of 2000, even with their limitations did provide such breathing space. The creation of the Boundary Commission was a serious failure of statesmanship. I insist that the use of arbitration process in itself is suspect *ab initio* because of the secretive nature of the process, *and* I strongly object to the use of arbitration tribunals or commissions in cases of border conflicts. In the case of the Governments of Ethiopia and Eritrea, the choice of arbitration seems to have been adopted solely to hid material facts from the Ethiopian public.

c) Concerning People of Irob and Coastal Territories

Ethiopian people especially in the Diaspora who are mostly supporters of all kinds of subversive organizations such as Ginbot-7, OLF et cetera and anti “Tygreans” seem to think

of the border dispute in a very cursory and shallow manner overlooking the very core of the issue of the acquisition of coastal territories and territorial waters. Ethiopia must have its coastal territories and territorial waters even if it means perpetual fight with "Eritrea". No question that the problem was created by Meles Zenawi and his gang of supporters in the TPLF Leadership. However, that initial nefarious act does not justify later acquiescence by other Ethiopians. There can be no valid international agreement or treaty or decision by the ICJ or by an arbitration commission that would jeopardize the national security and vital interest of Ethiopia. There are several instances where national governments rejected fully or partially the decisions of ICJ affecting their national interests, although the noncompliance on boundary or frontier dispute is less than ten percent of such total decisions of the ICJ. Among several articles and books written the general opinion seems that non-compliance in frontier dispute cases seems to be the case where some vital national interest is at stake, such as vital national resource, the alienation of citizens. The Demarcation if allowed would cut communities in halves et cetera especially historic Irob will be destroyed for its Ethiopian people will be divided and fragmented.

I need not remind you the fact that the people of Irob are the most ancient of the people of Ethiopia, Children of Levi/Aaron on one side and descendants of the great Beja/Agews (Soho, Afar) on the other, founders of the Ethiopia of antiquity and the Axumite civilization around over three millenniums ago that eventually evolved coming all the way down to us unbroken always free and Ethiopian. Emperor Sertse Dingel's unparalleled great commander Dehregot is claimed to be from Irob and Lasta. Without Irob, there cannot be an Ethiopia. It is obvious that the Commission has erred in its decision and in its interpretation of the norms of international law. Not even the ICJ, let alone an arbitration tribunal such as the Boundary Commission' could take away the national identity or civil and political rights of the people of Irob by a decision in a process settling a border dispute. Thus, I fully support the people of Irob and others in the region resistance against the decision of the Boundary Commission.

d) National Security

Almost all foreign insurgency came into Ethiopia through the Red Sea coastal territories. Our last confrontation with Fascist Italy occurred Italy using Eritrea as its launching space into Ethiopia. There is no doubt that we need a naval presence in the Red Sea, but we have no home port. May be there is a possibility in Somaliland. "Ethiopia's interest in Berbera certainly makes sense from a strategic perspective. It is closest to Ethiopia and will connect the eastern, primarily Somali region of Ethiopia to Addis Ababa. It will also provide a much needed outlet for trade, particularly the export of livestock and agriculture." [See Brandon Cannon, "Ethiopia-backed port is changing power dynamics in the Horn of Africa," Global Security Review, 10 May 2018; <https://globalsecurityreview.com/how-ethiopia-backed-port-changing-power-dynamics-horn-of-africa/>]

This insurmountable difficulty of illegally losing coastal territories is what Meles Zenawi left us as his dubious legacy. But we must solve it at all cost. To begin with, we could offer Somaliland to become part of Ethiopia in a federal structure. That will provide Somaliland a recognition, which it lacked to date, as part of a Federal Ethiopia by all international organizations and by Members of such organizations, such as the United Nations. This form of federation may be considered by Somalia/Mogadishu as an extremely hostile act and might trigger war, but Somalia is a very weak state and the challenge is not that frightening to the Federated Ethiopia. The other possibility is to include Djibouti in such federal structure. Of course, the best solution is to unify Eritrea with Ethiopia first and attempt to federate the rest of the Horn countries. How realistic are all these schemes I am suggesting?

Some months ago, I wrote, "better to light a candle than curse the dark" against our tendency to become rigid or stubborn in the face of overwhelming problems. Such sentiment still holds true *afortiori* today. Moreover, while we persist with our endeavor on recovering illegally alienated coastal territories, we should go ahead and reconstitute our naval force and deploy it to patrol all hostile naval or civilian forces in our neighborhood. Having said that, I am worried about the trajectory of our new leader after watching and listening to PM Abiy's address of Ethiopian Representatives [on June 18, 2018] about his defense of the decision by his Government to accept without any precondition the arbitration decision of 2002. He also stated that Ethiopia does not have boundaries because colonial powers were the ones that drew African countries boundaries and that we do not know our boundaries is totally false. There is a world of difference between being colonized with loss of sovereign power on one hand and maintaining one's freedom even if our territorial expanse had been encroached upon, in our case. Ethiopian leaders perfectly knew the expanse of their domain and maintained their taxation power effectively. My other concern is why do our Ethiopian leaders, including Abiy, are always willing to compromise on the territorial integrity of Ethiopia and the rights of citizenship of Ethiopians, and politically motivated murderers. [See PM Abiy's speech on <https://www.youtube.com/watch?v=6vi9PgOzwEQ>]

What is also both humiliating and alarming to me is the fact of Issaias Afeworki's complete silence for a week without any response ignoring the obvious goodwill offer to abide by the decision of the Boundary Arbitration Commission without preconditions made by PM Abiy. I believe when Issaias finally responds, he will be demanding billions of dollars as some form of compensation for the economic loss as well as expenses for security for the period after the Boundary Commission entered its decision in 2002. It will not surprise me if the Ethiopian Government decides to negotiate on the amount of compensation rather than rejecting such demand by Issaias Afeworki right away. As far as I am concerned, now that Issaias Afeworki has declared his intention to send delegation to Addis Ababa; I claim that we are heading into a treacherous situation. PM Abiy may not use the slow response or silence from the Eritrean side as a good excuse to withdraw his earlier offer and void away the entire decision of the Boundary Commission. The act that there may be future wars in the area should not be an excuse not to develop the area and improve public services. The Ethiopian Government should establish a subsidy system for future loss due to Eritrean military attacks. More importantly Ethiopia must establish a military industrial and agricultural economy system in those border areas. Remember the parable of fire in every home, when dealing with any international crises.

e) Future Perfect

Ethiopia has every right to keep claiming its lost territory of Eritrea in whole and certainly the Afar Coastal territory and the Red Sea territorial water and the islands thereof. Neither "federation" nor "confederation" will bring about lasting peace and prosperity to the people of Ethiopia and Eritrea. The only marriage that could work between the diverse tribes and ethnic groups that shared what common history has forged and molded into one people is a unitary state modeled in the name and identity of the historic Ethiopia. Now, in imaging a Unitary Ethiopia, Ethiopian Moslems as much as Christian Ethiopians have a stake in the survival of Ethiopia; they must take the challenge very seriously. The relationship between people, especial in matters that would end up having long term effects on the life of a nation, is a sacred matter.

I have been bitterly critical of Saudis and Arabs in general because of the genocidal violent persecution of poor Ethiopians (illegal immigrants fleeing abject poverty and brutal local Leaders) by the Saudi Government and the Saudi general population since 2012 to date. Thus, at one point I expressed my bitterness by writing that "the Arabs are not our destiny"

that they have failed to bring about democratic governance, even with all that obscene wealth, among themselves. They simply do not have the grace or capacity to be affluent—problem of the new disease called *affluenza*. So far as a group, Arabs to a great extent represent the worst social and political structure in the World giving birth to most of the deadliest terror groups (ISIS, al-Qaeda, Hizbul Mujahideen, Taliban, Muslim Brotherhood et cetera). Why would anyone want to be under their sway and dominance?

May be the new Saudi Crown Prince Salman might bring about profound democratic changes in the region. And the generosity of the Gulf States to Ethiopians, such as the UAE are the exceptions, for their hospitality of Ethiopians is far more humane than that of Saudi Arabia. The recent infusion of billions of dollars by UAE into the hard-currency strapped Ethiopian economy is a great example that clearly contradicts the rule.

“Abiy Ahmed was very successful in terms of securing some solid investment deals with the prince. His administration got US \$2 billion as Foreign Direct Investment deal with United Arab Emirates and another US \$ 1 billion in financial aid to help ease Ethiopia’s struggle with chronic shortage of foreign currency and it is to be deposited to the national bank, according to sources from the office of the prime minister.” Source: BORKENA

At any rate, Ethiopia must be united with all its historic parts and develop its great human and natural resources to benefit all of its children. I am not suggesting here that only a certain kind of people produce horrible national leaders, but that history places us at a disadvantage where we are caught in downturn spiral of incredibly difficult economic, social, and political problems. But all that difficulties facing us may have lent us also character. We need to seek our salvation through our own devices, as we are doing now through individual communication and building solid close relationships in our common survival goals. Even with the obvious error of giving our version of the famed Arabian horse breed to Crown Prince Sheikh Mohammed bin Zayed, which is like giving an Eskimo a measure of snow as a gift or coffee beans to an Ethiopian Leader, the reception to bin Zayed was profound and sincere.

History ought to be our guide, but it need not put us in a straightjacket. We should be able to fashion our own future after our ideal of a responsive, democratic, and humane nation. In a way Ethiopia is a very lucky country despite its horrendous life-history, for in every past generation there had been potentially great men and women. Throughout our history, there never was a single generation without great personalities. Right now, we have at least two such great Ethiopians: our new Prime Minister Abiy Ahmed who is an enlightened, brilliant and humane leader with great gifts of eloquence and untainted noble soul, and we also have Lemma Megersa, a towering true statesman, a person of universal vision and exceptional courage. These two great Ethiopian leaders are from Oromo families who are married into Amhara and diverse ethnic families, and very much representative of the people of Ethiopia in their uniquely beautiful Ethiopian diversity.

With the risk of being accused as opportunistic and racist, nevertheless, I will say my gut feeling and accept all admonishment here and now. For I say the Oromos of Ethiopia have done us all Ethiopians greatness in the world throughout our history of struggle of the last two hundred and fifty years. And in our own contemporary time, they are probably the most well educated and far more well-adjusted group for modern life. I am not even mentioning Oromo world-class athletic high achievements that truly allowed me to soar indescribable heights of joy and pride. As long as Oromos are all-inclusive in their political and economy leadership, I do not particularly hold any grudge or reservations if they dominate Ethiopian politics for the next one hundred years, but by then we will be such great people that we hardly notice “ethnicity” except as a curiosity as class-room Subject.

In summing up, I borrow from my previous article a paragraph: Our Ethiopia, the cradle of Mankind, the home of great warriors, the playground of incredible athletic World Champions, the incubator of world-class intellectuals and scientists, and the hub of beautiful people will still be there for generations to come, and also for us of the now and the present. Thus, the issue for us ought to be for us to focus on how best we can use these great gifts we have in Ethiopia. It is the responsibility of each of us to promote social harmony by separating the seed from the chaff, the constructive from the destructive, and the unitary from the divisive. Our life is our destiny, indeed; it is not around the corner, but right within our grasp in our own hands, and we mold our future by ourselves with the help of our faith in each other and in God. Blessings to All Ethiopians. Long Live Ethiopia.

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NB: To be continued...

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