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**Timothy Ubelejit Nte**  
Ph.D., Department of Political  
and Administrative Studies  
University of Port Harcourt,  
Nigeria

## Constitutional right to secession and ethnic nationalism in Ethiopia

**Timothy Ubelejit Nte**

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### Abstract

The recent devastating conflicts in Ethiopia (2020-2023) have brought to question the rationale and practicability of the 1995 Constitution of Ethiopia (ECS); with specificity to the right of secession and ethnic nationalism. The ECS was at the time of adoption exclusive in the world as the only constitution that unequivocally granted constitutional right to secession. The specific objective of the study is to examine the uniqueness of constitutional right to secession and ethnic nationalism of Ethiopia in the light of inevitable constraints and huddles. In accordance, the study is guided by the following research questions. What is the nature of ethnic nationalism in Ethiopia? Why is Ethiopia's constitutional secession unique? What are the constraints of Ethiopia's constitutional secession? The voluntarist theory of national self-determination as propounded by Harry Beran is the theoretical framework of this study. Qualitative method is the research methodology of the study. The study found out that secession is regarded as an aberration and unlawful atrocity that is excluded as well as prohibited in the constitution of other countries in the world but not in the ECS. The study concludes that the ECS is potentially a terminal-venom of disintegration for Ethiopia. However, the specification and procedures for ECS as embedded in Article 39 of Ethiopia's constitution, pose major constraints and impediments that would regulate the ulterior motive and shortcomings of the ECS. The study recommends that the constitution of Ethiopia should be respected to maintain the peace which the 'coming together' and 'holding together' equation provides.

**Keywords:** Ethiopia, constitutional secession, ethnic nationalism

### Introduction

Ethiopia is an East African country of the horn of Africa located at 3' and 14.8" latitude 33' and 48' longitude. It shares borders with Djibouti, Eritrea, Kenya, Somalia, South Sudan, and the Sudan Republic (Chemere & Gyamfi, 2022) <sup>[10]</sup>. Ethiopia is the only ancient African state that was not colonised and home to the only surviving indigenous African script. "The 1995 constitution of Ethiopia is the only constitution in the world that clearly allows the disintegration of the country by including a secession clause if the ethnic groups (nations, nationalities and people) in the country want it" (Shambel, 2020 p.3) <sup>[20]</sup>. Ethiopia's constitutional secession is exclusive in Africa and as at the time of adoption in 1995 it had no parallels anywhere in the world (Berhe & Gebresilassie 2021) <sup>[7]</sup>.

Ethnic-based federalism commenced in Ethiopia with the ratification of the 1995 constitution. The constitution eventually subdivided Ethiopia into eleven regional as well as two chartered cities. The ethnic nationalism of Ethiopia is a blend of the concept of nation, nationality and people as indicated in Article 39(5) of the 1995 Constitution. The regional states attached very high premium on ethnicity as the constitution made the regional states a reflection of the respective major ethnic groups, settlement patterns and consent of the concerned people.

The ethnic nationalism and the constitutional right to secession are peculiar to Ethiopia but shrouded with major constraints or huddles. The specific objective of the study is to examine the uniqueness of constitutional right to secession and ethnic nationalism of Ethiopia in the light of inevitable constraints and huddles. In accordance, the study is guided by the following research questions. What is the nature of ethnic nationalism in Ethiopia? Why is Ethiopia's constitutional secession unique? What are the constraints of Ethiopia's constitutional secession?

**Corresponding Author:**  
**Timothy Ubelejit Nte**  
Ph.D., Department of Political  
and Administrative Studies  
University of Port Harcourt,  
Nigeria

The voluntarist theory of national self-determination as propounded by Harry Beran is the theoretical framework of this study. The theory holds the view that a majority of people inhabiting a defined territory have the right to secede if that is their desire because the right of individual self-determination is the orbit on which liberalism revolves. Liberalism advocates voluntary membership of political community as a fundamental right. Invariably, there is the right of freedom of association and political community membership. Barren argues that the right to self-determination must be freely enjoyed after due process or when they meet its conditions. A new state that gains self-determination through secession must also recognise and accord that right to others when the need arises. This may generate the challenge of indefinite divisibility and the challenge of small states being more susceptible to conflict (Beran, 1998) <sup>[6]</sup>.

Qualitative method is the research methodology of the study. It consists of content and documentary analysis whereby data was gathered through mainly secondary sources like text books, journals, newspapers, internet materials etc. The gathered data were reviewed and critically analysed. The article is divided into five sections. We are already in the first section which is the introduction. Ethnic nationalism in Ethiopia is the second section while Ethiopia's constitutional secession is the third section. The constraints of Ethiopia's constitutional secession is the fourth section and conclusion and recommendations is the fifth section.

### **Ethnic Nationalism in Ethiopia**

Ethnic-nationalism is a pragmatic political conception that is almost synonymous with ethnic federalism. Also referred to as ethno-nationalism, it upholds the uniqueness of a certain people and liberty to rule themselves in their territory. Nationalism is a practical conception which adheres to the view that the nation should be harmonious with the state. Nationalism is of the opinion that every nation is a natural basis of a polity and should possess the right to govern itself, devoid of external interference (Hechter, 2000) <sup>[12]</sup>. "A nation is defined as a group of people sharing the same language, a common culture, and sense of identity" (Chemere & Gyamfi, 2022 p.5) <sup>[10]</sup>. It aims at maintaining a national identity that is exclusively dependent on variables such as: ethnicity, language, geographic location, religion, culture, traditions, common historical heritage and sense of identity (Triandafyllidou, 1998) <sup>[25]</sup>.

The ethnic nationalism of Ethiopia is a blend of the concept of nation, nationality and people as indicated in Article 39(5) of the 1995 Constitution. It reads: "A 'Nation, Nationality or People' for the purpose of this Constitution, is a group of people who have or share a large measure of a common...and who inhabit an identifiable, predominantly contiguous territory" (Berhe & Gebresilassie, 2021 p.2) <sup>[7]</sup>. Invariably, ethnic nationality in Ethiopia was designed to accommodate or project sovereignty to be an arrangement in the hands of the nations, nationalities, and peoples thereby making the federal setting to have an orientation of 'coming together' while at the same time having components of 'holding together' (Kreptul, 2003; Stepan, 2005; Berhe & Gebresilassie, 2021) <sup>[14, 22, 7]</sup>.

Ethnic-based federalism commenced in Ethiopia with the ratification of the 1995 constitution (Chemere & Gyamfi 2022) <sup>[10]</sup>. The constitution eventually subdivided Ethiopia

into eleven regional state namely:(1) Afar (2) Amhara (3) Benishangul-Gumuz (4) Harari (5) Gambella (6) Oromia (7) Sidama (8) Somali (9) Southern Nations Nationalities and People Region (SNNPRI) (10) South West Ethiopia Peoples Region (SWEPR) and (11) Tigray. There are also two chartered cities namely (a) Addis Ababa – the capital of Ethiopia and (b) Dire Dawa (Nte, 2022; Bethke, 2021) <sup>[17, 8]</sup>.

The creation of the regional states as enshrined in Article 46.2 of Ethiopia's constitution was part of the process of transforming Ethiopia from a unitary state into a federal state (Tronvoll, 2022; Nte, 2022) <sup>[25]</sup>. Article 8(1) of the Constitution stipulates all sovereign power resides in the nations, nationalities, and peoples of Ethiopia. The regional states attached very high premium on ethnicity as the regional states were a reflection of the respective major ethnic groups, settlement patterns and consent of the concerned people (Bethke, 2021; Addis, 2011) <sup>[8]</sup>.

It has to be noted that the regional states were not exclusivity ethno-linguistically aligned as there were tinctures of minority ethnic groups within the regional states. The Tigray regional state was for instance made up of ethnic groups such as Tigrea, Kunama, Erob, and Raya but overwhelming dominated by the Tigrea who account for more than 70% of the state population. In terms of ethnic diversity, the State of Southern Nations Nationalities and Peoples is the most diverse and accommodates more than 60% of the ethnic groups of Ethiopia. There are 81 ethnic groups in Ethiopia and 56 of these ethnic groups are in the State of Southern Nations Nationalities and Peoples. In terms of population the Oromo and Amhara ethnic states are the most populous, accounting for 35% and 28% respectively of the total population of Ethiopia. The Tigray ethnic group has been a major force to be reckoned with in the political landscape of Ethiopia for the past three decades but constitute only 7% of Ethiopia's population (Chemere & Gyamfi 2022) <sup>[10]</sup>.

The major objective of introducing ethnic federalism was to address historic ethnic grievances precipitated by the unitary government that was characterised by over centralisation of power (Kreptul, 2003) <sup>[14]</sup>. It was envisaged that confidence in the central government would receive a major boost when complete political autonomy is granted to the ethnic nationalities of Ethiopia (Tronvoll, 2022) <sup>[25]</sup>.

As is the case with federalism; ethnic-federalism advocates self-rule, shared rule, regional empowerment, regional autonomy, and unity in diversity. In sharp contrast with unitary government, federalism is decentralised and has the advantage of accommodating variant local interest (Alemante 2003; Watts 2008; Taye, 2017) <sup>[4, 28, 23]</sup>

To accommodate ethnic diversity; Ethiopia, Nigeria, and South Africa are the only countries that are practicing federalism in Africa as at the time of writing. The major ethnic groups of Nigeria are distributed in different states while some states have multiple ethnic groups. The same is applicable to South Africa which does not operate an ethnocentric federalism. In contrast, Ethiopia has been operating ethnic-nationalism or federalism by using ethnicity as criteria for self-government since 1995 (Alemante 2003; Taye, 2017) <sup>[4, 23]</sup>.

In the past two decades the practice revealed that there was a radical innovation that has transformed Ethiopia to a multinational country that reverses the rights of ethnic identities in contrast with past practices that portrayed a prison of nations that marginalized ethnic groups. The

reform gives impetus to rights of self-determination that lubricates unity in diversity (Berhe & Gebresilassie 2021)<sup>[7]</sup>.

The people responsible for this innovation were zealous Marxist-Leninists who are adherents of Soviet Communist ideology that advocate a substitution of ethnicity for a nationality that is endowed with rights of self-determination. Also the ethno-political rivalry and cleavages in Ethiopia at this time motivated ethnic-federalism to maintain the unity and forestall secession from the feuding and agitating ethnic groups (Ottaway, 2021)<sup>[18]</sup>.

### **Ethiopia's Constitutional Secession**

Secession is the act or practice of officially breaking-away from a political entity for purposes of establishing a new independent sovereign state. It may refer to the severance of central governments control over a defined territory and population (Birhanu, 2017)<sup>[9]</sup>. There is a recurrent discourse on the demand for secession *viz.* how to formally withdraw, split, leave, separate or break-up from the membership of a State. Central governments normally reject, oppose and thwart demands of secession because of its violation of territorial integrity and illegality. "Sometimes, a corollary of this —often with the intention to ridicule pro-independence ideas— is the assertion that not one single country has laws allowing secession." (Nationalia, 2021)

The maintenance of territorial integrity and unity of sovereign states is the fundamental objective of States in the international system. Conversely, secession is considered an aberration and illegality that is excluded or prohibited in the constitution of States. Notwithstanding, some countries in the past have granted the right to secession in their constitution (Birhanu, 2017)<sup>[9]</sup>.

At the moment, Ethiopia is an exceptional country that explicitly grants the constitutional right to secession. As opposed to the constitutions of approximately 99% of the countries in the world "the Federal Democratic Republic of Ethiopia (FDRE) constitution has granted secession right in a clause that talks and enumerates the procedure of secession." (Birhanu, 2017 p.1)<sup>[9]</sup>. "When we see the practice of states today, no country in the world constitutionally recognizes external self-determination right for sub-state groups except Ethiopia." (Shambel, 2020 p.2)<sup>[20]</sup>.

Ethiopia's system of ethnic federalism was first presented in the National Charter of July 1991 which served as the interim constitution in the aftermath of EPRDF takeover of government. As part of the formative processes a Constitutional Commission was constituted. The Constitutional Commission held various debates and public consultation to pave way for a ratification process that covered the views of different ethnic groups of Ethiopia for effective representation. Among other issues the commission deliberated and mediated the contentious issue of "coming together" and "holding together" issues of the Ethiopia's federation. Thereafter, the Commission submitted its report to the assembly for consideration. The Constituent Assembly of Ethiopia deliberated and voted on every article. The constitution was eventually adopted and ratified by the Constituent Assembly on 8 December 1994 but it came into force on 21 August 1995 (Berhe & Gebresilassie 2021; Bethke, 2021)<sup>[7, 8]</sup> The 1995 Ethiopia's Constitution has 11 chapters and 106 articles loaded with promises of liberty, human and democratic rights (Chemere & Gyamfi; 2022)

<sup>[10]</sup>.

More importantly, the Constitution makes provision for the right of self-determination to all the regional states with detailed procedures and application including the right to secession (Srdlawnotes 2017; Addis, 2011)<sup>[21, 1]</sup>. Article 39 (1) of the Ethiopian Constitution states that: "Every nation, nationality, and people in Ethiopia has the unconditional right to self-determination, including the right to secession" (Kreptul, 2003; Birhanu, 2017)<sup>[14, 9]</sup>.

The historical subjugation and oppression by the Amhara ethnic nationality is the motivating factor behind this exit clause or secession in the Constitution of Ethiopia (Tronvoll, 2022)<sup>[25]</sup>. Some people – especially radical political elites, are of the impression that the former regimes of Ethiopia conducted and practiced a form of internal colonialism wherein the Amhara ethnic nationality coerced and colonized other ethnic nationalities of Ethiopia (Shambel, 2020)<sup>[20]</sup>.

The narrative that there was oppression and the quest for liberty devoid of such oppression as well as the constitutional guarantee that Ethiopia will not go back to such ethnic oppression in the future is the justification for the inclusion of secession in the Ethiopian Constitution. The hitherto independent ethnic nationalities that were forcefully assimilated to Ethiopia are by the constitution willfully ethnic states of Ethiopia (Abate, 2004; Shambel, 2020)<sup>[1, 20]</sup>.

An evaluation of the procedures for secession in the constitution of Ethiopia indicates that the specification for it are straight forward and easy to achieve because of its simple percentage prerequisite. A very minute fraction of countries in the international system make space for secession in their constitution but with a very stringent conditionality like two-third majority referendum; however the requirement for Ethiopia is just a simple majority vote (Birhanu, 2017)<sup>[9]</sup>. The implication is that 51% vote for secession in a referendum can grant full independence to any of the ethnic-states of Ethiopia's federalism.

There are similarities between Article 39 (1) of the 1995 Constitution of Ethiopia and Section 113 of the 1983 Constitution of St. Kitts and Nevis because these constitutions have provision for the right of secession. However, the condition for secession in St. Kitts and Nevis is more stringent as two-third majority is required as opposed to Ethiopia's simple major. As a matter of fact if the constitution of St. Kitts and Nevis had presented a simple majority vote of the population as prerequisite for secession; Nevis would have attained independence through secession from St Kitts in the August 1998 referendum where 61.7% voted in favour of secession (Kreptul, 2003; Birhanu, 2017)<sup>[14, 9]</sup>.

### **Constraints of Ethiopia's Constitutional Secession**

Notwithstanding the high prospects of Ethiopia's Constitutional Secession (ECS) there are constraints to its seamless implementation and major criticisms of the norms and implementation feasibility. To this end some critiques are of the view that the ECS is an unrealistic symbolic decoration. The denial or inability of the Oromo Liberation Front (OLF), the Ogaden National Liberation Front (ONLF), and very recently the Tigray Peoples Liberation Front (TPFL) to achieve independence through the processes of ECS after several concerted efforts including armed struggles is a justification for the futility assertion (Tesfa, 2015; Berhe & Turton, 2006; Gebresilassie 2021)<sup>[25]</sup>.

27, 7].

Conversely, the ECS is a terminal cum fatal venom or recipe for the disintegration of Ethiopia (Kebede, 2003; Berhe & Gebresilassie 2021) <sup>[13, 7]</sup>. The ECS has recklessly added an easy and simple requirement that constitutes a very high threat to the sustainability of the unity of Ethiopia (Birhanu, 2017; Clapham, 2002; Shambel, 2020) <sup>[9, 12, 11, 20]</sup>. Pan-Ethiopianists' are not only skeptical with the ECS but totally oppose it for reasons that it is a recipe for the disintegration and fragmentation of the unity as well as the sovereignty and territorial integrity of Ethiopia – the only African ancient country that was not colonized (Birhanu, 2017) <sup>[9]</sup>.

The ECS is criticized as a false narrative that inhibits the peace and incites bloody conflicts in Ethiopia (Clapham, 2002; Shambel, 2020) <sup>[11, 12, 20]</sup>. Proponents of the false narrative thesis (PFNT) hold the view that forceful centralization by previous governments was all a normal procedure for State building that was not different from the state building processes of other States in the world (Abbink, 1998; Shambel, 2020) <sup>[2, 20]</sup>.

The PFNT claim that nation oppression narrative in Ethiopia is a false thesis formulated by TPLF *viz.* the initiators of the 1995 Constitution of Ethiopia. The PFNT accuse TPLF of having an ulterior motive of sovereign independence for Tigray which was disguised under the false allegation that the population of Amhara oppressed other ethnic groups of Ethiopia (Belete 2018; Shambel, 2020) <sup>[5, 20]</sup>. Apart from the normal processes of state-building, class oppression as opposed to ethnic domination was the trend in Ethiopia. It was such that the ruling class not an ethnic group oppressed and suppressed every element of opposition for effective governance. The ruling class was not exclusively Amhara and no single ethnic group was singled out for oppression (Merara 2003; Shambel, 2020) <sup>[15, 20]</sup>.

The Amhara ethnic nationality have been active in the struggle for power and liberation in Ethiopia culminating in the overthrow of different regimes including the overthrow of the Derg regime that paved the way for the emergence of Tigray ethnicity as head of the government of Ethiopia. Tigray ethnic nationality under the auspices TPFL organized the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), a coalition of ethnic movements including Amhara, Oromo, and southern Ethiopian people – who laid siege on Addis Ababa for the toppling of the Derg government of Mengistu Haile Mariam in 1991 (Tronvoll, 2022) <sup>[25]</sup>. For the PFNT, “there was no beneficiary single ethnic group rather all of the ethnic groups were the victims of the former systems but one ethnic group (Amhara) is falsely accused as the enemy of other ethnic groups” (Shambel, 2020 p.41) <sup>[20]</sup>.

It has to be recalled that the TPLF-led government of Ethiopia have created a narrative that portrayed the contradictions and problems in Ethiopia to be a product of the repression of nationalities by the Amhara ethnic group that held unto power in the formative stages of Ethiopia and used their vantage position to create a state that was a reflection of their language and cultural values as well as historical cleavages (Tronvoll, 2022) <sup>[25]</sup>.

This interpretation may be predicated on the fact that conquest was a major fundamental factor in the state formation of Ethiopia like other states in the international system. The Amhara ethnic group constituted the great majority of the conquerors. The Emperors of ancient Ethiopia were of the Amhara ethnic nationality and

adherents of Ethiopian Orthodox Christianity. Soldiers of other ethnic groups such as the Oromo etc. in the Emperor's army where Ethiopian Orthodox Christianity adherents and also learned and spoke Amharic. For this reason the government and military of ancient Ethiopia was perceived as Amhara in ethnicity. The losses, tribulations and hardship precipitated by the conquest is now attributed to the Amhara by some of the conquered ethnic groups (Prunier & Ficquet, 2015; Berhe & Gebresilassie 2021) <sup>[19, 7]</sup>. Sometimes, a few political elites even went further to state that the former regimes must be seen as a form of —internal colonialism in which Amhara colonized other ethnic groups in the country (Shambel, 2020) <sup>[20]</sup>. Predicated on this narrative, the 1995 Constitution of Ethiopia *viz.* the current constitution of Ethiopia as at the time of writing; unequivocally states that there was an unjust relation between ethnic groups (Shambel, 2020) <sup>[20]</sup>.

Using state-building ancient conquest as bases oppression narrative that is now engrained in constitution as justification for secession has been criticized by some scholars as the height of ethnic-primordial sentiment. “The net effect of these shortcomings is that politics became highly ethnicized. Almost all dimensions of public life were examined and discussed through the prism of identity politics” (Berhe & Gebresilassie 2021) <sup>[7]</sup>.

Because of ethnic-federalism the people of Ethiopia are now exclusively focusing on their ethnic state at the detriment of the country. Ethnic-federalism in Ethiopia has generated a new generation of people who are obsessed with their ethnic-state and can give their lives to it at the expense of the nation. This new generation literally worship their ethnic-state on the one hand and neglect elements that bond all ethnic groups to the Republic of Ethiopia such as national anthem, flag etc (Chemere & Gyamfi 2022) <sup>[10]</sup>. Ethnic-federalism in Ethiopia precipitated the ‘us’ versus ‘them’ perception predicated on exclusivist ethnic-nationalism with all the elements of tribalism.

Ethnic-nationalism and secession in the constitution of Ethiopia has the propensity of generating bloody conflict. There is ample evidence to indicate that ethnic federalism triggers conflict since it advocates tribal identity. This is especially so for the ancient country of Ethiopia whose multi-lingual and multi-cultural elements have assimilated in the aftermath of continuous interaction, migration, intermarriage, trade, and other social activities for thousands of years (Taye, 2017) <sup>[23]</sup>.

Secession as a constitutional right for a multi-ethnic country like Ethiopia can be a recipe for bloody conflict. “Historical experience suggests that secessionist politics tends to be a bloody and miserable business” (Birhanu, 2017) <sup>[9]</sup>. It is for this reason that intellectuals advocate non-inclusion of secession in a constitution no matter the justification. This is because inserting such a right in the constitution will make room for the dangers of blackmail as well as ethnic struggles and conflict (Birhanu, 2017) <sup>[9]</sup>. This explains the bloody conflicts of ethnic-based liberation fronts of Ethiopia such as the ONLF, OLF and recently TPLF.

Despite the apparent simple design for achieving secession in the constitution of Ethiopia, there are major constraints or huddles that are impediments in that same constitution which makes secession impracticable. The constitutional constraints with potential of obstructing the Ethiopia's constitutional secession are the procedures to be observed before secession. This is especially the case with the five

consecutive constitutional procedures listed in the sub-articles of Article 39 such as: (1) Getting two-thirds or 75% majority approval from the members of the legislative council of the concerned nation, nationality, and people. (2) The silent but intricate challenges of organising a referendum by the federal government (3) The challenges of getting a majority vote in a referendum organised by the federal government (4) The complex procedures of transferring power to an ethnic-state by the federal government if the referendum was successful (5) The conflict of interest and huddles associated with the division of assets from a common economic community by the federal government (Shambel, 2020)<sup>[20]</sup>.

### Conclusion and Recommendation

In conclusion the study found out that the nature of ethnic nationalism in Ethiopia is a blend of the concept of nation, nationality and people geared towards restoring sovereignty to the ethnic-states in a pattern of 'coming together' and 'holding together'. Ethiopia's constitutional secession is unique in our contemporary international system because it is only Ethiopia that categorically enshrined the right of external self-determination in its constitution. Secession is regarded as an aberration and unlawful atrocity that is excluded as well as unequivocally prohibited in the constitution of other countries in the world. There are multiple constraints to Ethiopia's Constitutional Secession (ECS). The ECS is potentially a terminal-venom of disintegration for Ethiopia. However, the specification and procedures for ECS as embedded in Article 39 of Ethiopia's constitution are major constraints and impediments for ECS that may defeat the ulterior motive of the ECS.

The ECS is criticized as a false narrative that inhibits the peace and incites bloody conflicts in Ethiopia (Clapham, 2002; Shambel, 2020)<sup>[11, 12, 20]</sup>. This may generate the challenge of indefinite divisibility and the fact that small states are more susceptible to conflict. The "forceful centralization by former regimes was all a normal process of 'nation building' which was not different from the nation building history of other countries in the world" (Shambel, 2020)<sup>[20]</sup>.

The study recommends that the constitution of Ethiopia should be respected to maintain the peace which the 'coming together' and 'holding together' equation has provided. The bottleneck procedures and huddles for secession as embedded in Article 39 of Ethiopia's constitution serves as adequate check for the disintegration of Ethiopia.

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