

The Challenges to Free and Fair Election in the Horn of Africa: The Case of Ethiopia (1990-2010)

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Abstract

Since the end of Cold War, countries of the Horn of Africa have introduced competitive multi-party election. The examination of election, however, proved that elections in these countries are marred by irregularities. In this study, Ethiopia was selected as a case study. The study identified many shortcomings of elections in the country, including intimidation, harassment, and detention as well as arrest of members and supporters of opposition which was inimical to free and fair elections. The investigation of election and practical actions of the leaderships in Ethiopia proves that the country became mired in a system that dressed an essentially authoritarian or 'one-party' system in the garbs of democracy. The study analyzed the major factors responsible for the failure of free and fair election and identified the ideology and nature of the ruling party such as the lust for dominating power, the attempt to democratize without reaching national consensus, and lack of good faith; the failure of the system in providing a leveled field for all legitimate player; the enactments of restrictive laws, the absence of strong and independent civil society, opposition groups, judiciary, and media; and the lack commitment as the major ones. The study concluded that the legal orders of the country need to be revised through negotiated compromise for free and fair election to flourish.

Keywords: *Free and Fair election, liberal democracy, challenges to free and fair election, political system, party system, political party*

1. Introduction

Democracy is a 'system of government that allows the citizens to decide its desires and necessities via free, fair, and periodic multiparty elections.' (Bradley, 2005, p. 407). Free and fair election is fundamental in any democratic state. It is one of the most significant ways people can participate in decisions that affect their lives and hold their elected representatives responsible. Indeed, democracy is impossible without free and fair election. In democracy, elections have three major functions: First, they serve as a means for people to choose their representatives; second, they are a means of choosing governments; and third, they give legitimacy to the political system (Wondwosen, 2009a, p. 363).

Like most other parts of the world, in the Horn of Africa too, a "third wave" of democratization has been taking shape since the end of the Cold War. Hence, the countries of the Horn recognize, at least theoretically, competitive election. However, an examination of what these states do in practice paints a different picture. As Thomas Carothers (cited in Bradley, 2005, p. 423) rightly noted, the democratic transitions in the "third wave" are 'more illusory than real because most countries in this category have positioned themselves somewhere between authoritarianism and a kind of quasi-democratic rule.' In the same vein, Wondwosen (2009a, p. 363) contented, 'though the multi-party elections appeared to be competitive they failed the acid test of democracy' in many countries of Sub-Sahara Africa. This also held true in the counties of the Horn. Djibouti, Ethiopia, Kenya, Sudan and Uganda held multi-party elections where the ruling party "won" the elections through violence, involving manipulation, intimidation, torture, detentions of political opponents,

and political assassinations. The process faced several challenges as a result of human interference. Accordingly, this study tried to identify and investigate the factors that were responsible for the failure of free and fair election in Horn of Africa since the end of the Cold War by using Ethiopia as a case study. There was no general agreement over the definite geographical setting of the Horn of Africa. This study simply referred to 'the Horn' as IGAD members comprising Djibouti, Eritrea, Ethiopia, Kenya, Somalia (including what is now known as Somaliland), Sudan, South Sudan, and Uganda.

In this study, the following research questions were posed: How elections were held in the Horn of Africa? Was here free and fair election? What were the salient features of election in Ethiopia? What were the major problems encounter in relation to free and fair election? What were the major factors responsible for the impediments to free and fair election in Ethiopia? What possible measures should be taken to address the challenges of free and fair election in Ethiopia?

This study employed a descriptive research approach to assess the challenges of free and fair election. Theoretical framework was used to evaluate election in the Horn and Ethiopia. The main data gathering instruments were secondary sources such as books, articles, research reports, newspaper articles and newsletters. It covered the period 1990-2010. Though the Ethiopian government claimed to follow revolutionary democracy, this study's theoretical framework of analysis was liberal democracy. The rationale for this was that electoral provisions of the constitution and other ordinary electoral laws of the country were more on the basis of liberal concepts. Hence, as David Held (cited in Bradley, 2005, p. 419) suggested, democracy in modern times could be defined in terms of a set of liberal democratic tenets, including (1) the centrality in principle of an impersonal structure of public power, that is, a constitution to help safe-guard rights, and (2) a diversity of power centers within and outside the state or, in other words, an institutional arena that promotes open dialogue and deliberation between alternative viewpoints and agendas. Democracy as a liberal political system is based on freedom; its main vehicle cannot legitimately be used to impose tyranny or foment violence. In such instances, elections are not signs of democracy, but rather serve as a facade to mask authoritarian political structures. The study also examined the challenges of free and fair election in Ethiopia in the post 1991 period in light of national and international standards (pillars) of free and fair election discussed here under the section entitled 'conceptual framework'.

2. Conceptual framework: Free and Fair Election

Conceptually, democracy is a 'system of government that allows the citizens to decide its desires and necessities via free, fair, and periodic multiparty elections' (Bradley, 2005, p. 407). If consent of the governed is the most fundamental concept of democracy, its most essential right is that of citizens to choose their leaders in free, fair, and regular elections. Other rights are fundamental to democracy. Indeed, elections alone are insufficient to sustain it (ibid). Yet the right to elect one's representatives and to influence the political direction of one's government is democracy's indispensable political foundation. Without free elections, there is neither the possibility for citizens to express their will nor the opportunity for citizens to change their leaders (business judgment rule – HOA Constitutional Government. <https://pvtgov.wordpress.com/tag/business-judgment-rule/>), address wrongs, or protest the limitation of their rights. Elections establish the citizenry's and the individual's political rights. They are the ongoing representation of the consent of the governed (Free, Fair, & Regular Elections: Essential Principles | Democracy Web. <https://www.democracyweb.org/elections-essential-principles>). Hence, the principles of holding free and fair elections are essential elements of democracy.

2.1 What is Free and Fair Election?

There are no precise definitions for free and fair elections. International human rights conventions have established a basic consensus, most importantly Article 21 of the Universal Declaration of Human Rights, which states that elections must be periodic, genuine, organized according to universal suffrage, and by secret ballot (Goodwin-Gill, 1994, p. 101). Free and fair means that elections offer equal opportunities for all competing parties and candidates (see Table 1). Such equality requires the ability of political parties and candidates to register for office without unreasonable requirements, balanced access to the media for all candidates, the absence of campaign finance abuse, and an independent electoral process.

Table 1: Ingredients of Free and Fair Election

A 'FREE' electoral process is one where fundamental human rights and freedoms are respected, including:	A 'FAIR' electoral process is one where the 'playing field' is <i>reasonably</i> level and accessible to all electors, parties and candidates, and includes:
<ul style="list-style-type: none"> • freedom of speech and expression by electors, parties, candidates and the media; • freedom of association; that is, freedom to form organizations such as political parties and NGOs; • freedom of assembly, to hold political rallies and to campaign; • freedom of access to and by electors to transmit and receive political and electoral information messages; • freedom to register as an elector, a party or a candidate; • freedom from violence, intimidation or coercion; • freedom of access to the polls by electors, party agents and accredited observers; • freedom to exercise the franchise in secret, and • Freedom to question, challenge and register complaints or objections without negative repercussions. 	<ul style="list-style-type: none"> • an independent, non-partisan electoral organization to administer the process; • guaranteed rights and protection through the constitution and electoral legislation and regulations; • equitable representation of electors provided through the legislation; • clearly defined universal suffrage and secrecy of the vote; • equitable and balanced reporting by the media; • equitable access to financial and material resources for party and candidate campaigning; • equitable opportunities for the electorate to receive political and voter information; • accessible polling places; • equitable treatment of electors, candidates and parties by elections officials, the government, the police, the military and the judiciary; • an open and transparent ballot counting process, and • Election process not disrupted by violence, intimidations or coercion.

Source: compiled from Common Boarder (2011) 'Free and Fair Election: What Constitutes a Free and Fair Election?' retrieved from http://www.comonborder.org/free_and_fair.htm

Democracies do not restrict freedoms and rights. In general, for free and fair election to occur in a given state freedom of speech and expression by electors, parties, candidates and the media; the free formations of political parties, civil society organizations (CSOs); freedom to register as an elector, a party or a candidate; freedom from violence, intimidation or coercion; secret ballot; the presence of an independent, non-partisan electoral commission, media, judiciary, universal suffrage, free from irregularities must be guaranteed and exercised. If any of the above freedoms and rights is absent or violated, the election is not to be taken as free and fair.

2.2 The Pillars of Free and Fair Elections

Free and fair elections require a level playing field for all political parties and candidates. This is important in view of the fact that incumbent ruling party normally wields considerable power and influence, which it can use to manipulate the electoral process (Abuya, 2010, pp. 143-44). Free and fair elections are best guaranteed if certain basic principles are accepted and fully adhered to in the relationship between the political parties, candidates, their supporters and other stakeholders. These principles include co-equality, good faith, integrity, mutual respect and tolerance, irreversibility, impartiality of public institutions, as well as commitments of elites and the public (Alemayehu, 2009; Bradley, 2005; Goodwin-Gill, 1994; Wondwosen, 2009a; Schedler, 2002). In order to conduct a free and fair election:

- Each competing candidate or political party should have equal opportunities, be it to equal access to public resources such as media, security, and funding
- There should be a well-founded infrastructure that includes free courts and legal system, a well-functioning bureaucracy, credible state apparatus and corruption-free environment.
- Everyone must agree to accept the results of freely held elections. This is what Schedler (2002, p. 3) called irreversibility. “Elections without consequences are not democratic.”
- Conducive political and election systems, and commitment to the principles of free and fair election

Meeting these objectives would ensure free and fair election.

3. Overview of Election in the Horn of Africa

Despite different historical experiences, the countries of the Horn of Africa had similarities in terms of failure in conducting free and fair elections. With the exception of Eritrea, all states of the sub-region introduced a multi-party electoral competition. As Joseph (2008, p. 100) noted: “While the holding of regular multiparty elections and the occasional defeat of incumbents are significant trends, the struggle to cross the frontier from personal rule-based governance is still far from over in much of Africa.” This held true also for the countries of the Horn of Africa.

According to Freedom House (2011), democracy governments were classified into three: electoral democracy, emerging democracy and restricted democratic practice. Democracy (Electoral Democracy) was defined as states with governments elected through generally legitimate, free, and fair elections that reflected the will of the people, a freely operating political opposition, and a climate that encouraged respect of both political rights and civil liberties. Accordingly, there were 20 democracies in Sub-Saharan Africa such as Benin, Botswana, Ghana, South Africa, Tanzania, and Zambia. However, no state in the Horn of Africa was considered as democracy.

The second category was emerging democracy which was defined as states that had governments which came to power though a more legitimate democratic process than those with a restricted system, however, factors such as a dominant political party, free but unfair elections, and a weak rule of law prevented it from being a fully democratic state. Eight emerging democracies were identified in Sub-Saharan Africa in which only Kenya and Somaliland fit in this category.

Restricted Democratic Practices were primarily regimes in which a dominant ruling party controlled the levers of power, including access to the media, and the electoral process in ways that

precluded a meaningful challenge to its political hegemony. There were 17 countries in Sub-Saharan Africa with a restricted democratic practice, including Djibouti, Ethiopia, Sudan, South Sudan, and Uganda in the Horn of Africa. Eritrea is the only country in Sub-Saharan Africa under one party rule (ibid).

According to Freedom House (2011), no country in the Horn of Africa was considered as ‘free’. Djibouti, Eritrea, Ethiopia, Somalia, and Sudan, were classified as “not free,” while Kenya, Somaliland and Uganda made it to the “partly free” category (See Table 2 below).

Table 2: Horn of Africa: Political system and Electoral system

Country	Electoral System	Political System	Form of Government	Political party	Legislature	<u>2011 Rating Status</u>
Djibouti	party block Two Round (Run-off).	Restricted Democratic Practice	Presidential Ismail Omar Guelleh (RPP) [UMP] in power since 1999	Multiparty		Not Free
Eritrea	party list	Authoritarian-One Party State	Presidential Isaias Afwerki (PFDJ) in power since 1993	One Party State	Unicameral (150 Seats)	Not Free
Ethiopia	first-past-the-post	Restricted Democratic Practice	Parliamentary Meles Zenawi (TPLF) [EPRDF] in power 1991-2014	Multiparty		Not Free
Kenya	first-past-the-post	Emerging Democracy	President (Semi) Mwai Kibaki (DP) [PNU] since 30 December 2002; Prime Minister Raila Odinga (ODM) [17 April 2008 -]	Multi party	Unicameral 224 Seats	Partly Free
Somalia	parallel: first-past-the-post	Transitional Government	President (semi): Sheikh Sharif Sheikh Ahmed in power since 31 January 2009. The President was elected by parliament. Prime Minister is appointed by the President.	Multi party	Unicameral	Not Free
Somaliland	First Past The Post.	Emerging Democracy	President: Ahmed Mohamed Mohamud Silanyo (KULMIYE) [Since 27 July 2010; elected 2010].	Multi Party	bicameral]	Partly Free
Sudan	first-past-the-post	Restricted Democratic Practice	President: Omar Hassan Al-Bashir (NCP) in power since 1989 (military coup) -	Multi party	bicameral	Not Free
South Sudan	Run-off. And-mixed system	Restricted Democratic Practice	President: Salva Kiir Mayardit (SPLM) [since 9 July 2011, president of the autonomous Government of South Sudan from 11 August 2005-9 July 2011; elected 2010]	Multi party	Unicameral	N/A
Uganda	first-past-the-post Two Round (Run-off).	Restricted Democratic Practice	President: Yoweri Kaguta Museveni (NRM) since 1986; seized power in 1986 military rebellion, Prime Minister is appointed by the President.	Multi party	Unicameral	Partly Free

Source: Author’s Compilation from African Election Data Base (2011), <http://africanelections.tripod/about.html>

In most of the countries of the Horn, there was no term limit. This was manifested in the number of years the leader stayed in power. Leaders such as Afwerki of Eritrea, Meles of Ethiopia, al-Beshir of Sudan, and Museveni of Uganda have or had been in power for about twenty years (see the Table 2 above) and it seemed that Museveni and Afwerki would not be retire any soon (Joseph, 2008, p. 102).

Another common characteristic of the Horn of Africa was the enactments of laws by the incumbent government with a view to limit the participation of citizen. For example, the countries of the Horn such as Uganda, Kenya and Ethiopia enacted new counterterrorism laws to restrict rights and repress freedom of expression with the aim of silencing those who opposed the government (Habimana, 2011, p. 1). These countries detained and arrested activists, journalists and members and supporters of opposition parties on terrorism charges. For example, Al Amin Kimathi, who was hailed as an outspoken activist, challenged governments to conduct lawful counterterrorism operations had gone to Uganda to advocate for the rights of those detained in connection with the July 2010 bombings; only to be told later that he was himself charged with terrorism, sent to Uganda's maximum-security prison (ibid).

There was indeed a real threat of terrorism. The attacks on American embassies in Nairobi and Dar Es Salaam in 1998 and the bombings in Kampala in July 2010 could be a case in point. However, as Habimana, Deputy Africa Director at Human Rights Watch rightly noted "no threat will ever excuse the hi-jacking of global anti-terrorism campaigns through the use of ambiguous legislation or law enforcement mechanisms that purposefully seek to intimidate or silence critics."

The Election process and its outcomes in the Horn countries were controversial and rejected by opposition parties. They were marred by irregularities. Some writers and reports (Abbink, 1997; Abuya, 2010; Bradley, 2005; Dagne, 2011; EU-EOM, 2010; EU, 2006; Habimana, 2011; Wondwosen, 2009) recognized that the principle of free and fair elections was compromised by acts of bribery, intimidation, harassment and violence in the Horn of African states.

4. Brief Ethiopian Election History

National elections in Ethiopia began in the 20th Century. The history of election in Ethiopia can generally be classified into pre-1991 and post-1991. The pre-1991 election is characterized either as a no party or a one party system whereas the post-1991 period is branded as a multi-party structure. This section highlights the basic features of election in the two periods. However, due emphasis is given to the post 1991 election which serves as the springboard for analyzing the challenges to free and fair election, the primary concern of this study.

4.1 Pre-1991 Election

For most of its history, Ethiopia did not have an electoral system. It was the 1931 constitution under chapter four (Articles 30-47) that introduced, for the first time, two deliberate chambers of parliament consist of the Senate (the upper chambers) and Chamber of Deputies (the lower chamber). Senators, made of all important noblemen, were appointed by the Emperor; and members of Chamber of Deputies whose membership also had to be from the nobility were elected through an indirect voting system in which only the nobility participated (Article 32). Hence, the 1931 constitution was only "a royal charter guaranteeing rights and privileges to the nobility."

There was no popular election of any of the members of the chambers and a representative government was not recognized under this constitution (Merera, 1997; Yacob, 1997).

With the revised 1955 constitution, a somewhat universal suffrage was introduced which gave the people the chance to elect their representatives (Articles 76-107). Though the Senators, like the 1931 constitution, were appointed by the Emperor for 6 year terms from among the nobilities, the election procedures for the Deputy chamber were revised. Earlier, members of the Chamber of Deputies were chosen by the Nobility (*Mekuanent*). Upon election procedures revision, the country was divided into 12 provinces. Each of the 12 provinces was divided into 20 elector's districts. All persons paying land-tax and all notables had the right to vote, and candidates had to be land or property owner (Desalegn and Meheret, 2004. P. 26). The 20 electors were to come together to the capital of the province and there, in the presence of the governor of the province, a church representative, a preventative of the Ministry of the interior and a sworn official recorder, they elected by secret ballot 5 of their number to be deputies. Those elected in this manner must be over 21 years of age, must be men versed in the public affairs of their regions and acceptable to the people, and of known loyalty and patriotism (Article 93).

The Deputies elected in this way were more progressive than those prior to them and started to take their legislative duties more seriously. Elections were held at five-year intervals from 1957 onwards and there were five elections between 1955 and 1974. But contested solely on an individual basis and the Deputy Chamber that resulted had little effective power (Clapham, 2002, p. xv), and there was no party system. Members to the Chamber of Deputies in the last assembly were mostly from the highly paid segments of the civil service, feudal lords and rich merchants. This disqualified the majority poor from being candidates. Hence, the election under the Haile Selassie was neither competitive nor open.

Following the overthrow of the Haile Selassie in 1974, the Derg regime suspended the Revised Constitution of 1955 and replaced it by Proclamation No 1/1974 which defined the Duties and Powers of the Provisional Military Government. The Provisional Military Administrative Council by suspending the Monarchical Constitution had in fact abolished the Monarchy itself once and for all. By the successive measures taken thereafter, the Derg made rural land, urban land and extra houses, and the major enterprises of production distribution and services “the property of the people”. Despite these measures ad a radically different structure replacing Haile Selassie’s version of indirect rule, a militarized Marxist-Leninist vanguard party-the Derg resumed the trend of top-down governance (Assefa, 2005; Scholler, 2005).

In 1987, after thirteen years of military rule, a new constitution was enacted by “referendum”, as the “supreme law” of the country which was regarded as the first republic constitution. The nation officially became the People's Democratic Republic of Ethiopia (PDRE) transforming itself into what was known as “the Worker’s Party of Ethiopia” – a misnomer of the military rule for a civilian rule. The constitution declared that all powers of government are derived from an elected national *Shengo* (Assembly) and the national *Shengo* having a term of five years was the supreme organ of the state.

The PDRE Constitution under Chapter seven provided fundamental freedoms, rights and duties of citizens such as the right to equality before the law as well as men and women, the rights to work, rest, education, and health care, freedoms such as freedom from arbitrary arrest, conscience, religion, speech, press, assembly, peaceful demonstration and movement. However, the practice

painted a different picture. During the Derg Period, the authorities killed more than 100,000 people (the red terror) and drove many more into exile in the U.S. and Europe (Bertelsmann Stiftung, 2009, p. 3). The political system was entirely subordinated to the ruling, one party- Worker's Party of Ethiopia. The political system under the Derg did not offer a competitive multi-party election. It failed to make choice between alternative candidates on the list of a single party. It established absolutism in centralization of all powers under one man, Mengistu Haile Mariam. Basic rights and freedoms were denied, and there was no genuine participation of the people. In early 1991, the socialist government crumbled. The victorious Ethiopian Peoples' Liberation Front (EPRDF) took over political power.

4.2 Post-1991 Election

Immediately after ousting the Derg from power in 1991, the EPRDF hazarded into a project of reassigning, reorienting and reorganizing the Ethiopian political landscape and state-society relations by adopting the principle of a federal system of governance based on ethno-linguistic considerations, liberal political economy, and the right of the country's ethnic groups to self-determination as the major drives. It has escorted in a multiparty competitive election, in principle at least. Both during the transition period and after, assumption of public office in the leading bodies of the Ethiopian political system at all levels (national, regional, and local) was legally determined to be based in the outcomes of periodic competitive elections. This sub-section provided a bird's eye view analysis of the nature of election in the period from 1991 to 2010. First let us deliberate on the political and legal framework of election.

4.2.1 Political and Legal Framework

The legal basis of the Transitional Government of Ethiopia (TGE) was established by Charter July 22, 1991. Under the Charter, an 87-seat Council of Representatives was appointed, dominated by 32 members from the EPRDF and 12 from the OLF (Young, 1998, p. 194). It was selected from among the leaders of the 27 political movements that met at the Transitional Conference and approved the Charter. Hence, there were no national elections at the start of the TGE. However, the Charter recognized the right of citizens to establish political parties in Ethiopia for the first time thereby resulting in the formation of political groups with varying orientations and programs.

Regional and *Wereda* (lower level administrative level) Council Elections were called for under Article 13 of the Charter, which states: "There shall be a law establishing local and regional councils for local administrative purposes defined on the basis on nationality. Elections for such local and regional councils shall be held within three months of the establishment of the Transitional Government, wherever local conditions allow." Accordingly, the TGE issued a Proclamation No. 6 of 1992 to provide for the election of national, regional, and *wereda* council members. It was amended shortly thereafter by Proclamation No. 12 of 1992 to provide for the Amendment of the Creation of Appropriate Conditions for conducting National/Regional Self-Governments Elections Proclamation." Later again Proclamation No. 46 of 1992 that provided for political parties' registration was proclaimed and based on proclamation No. 64/1993 the Ethiopian National Electoral Board was established declares that 'elections shall be based on free, direct and equal popular suffrage, voting to be secret, and decisions to be based on majority rule.

Under the 1995 constitution the Federal Government structure consisted of the House of People's Representatives, the Council of Federation, and the Council of Ministers, which were the supreme

legislative and executive organs. The national-level institutions of particular importance for election are the structure of the legislative-executive relations (including electoral rules for legislators) and the structure of the political party system. Article 54(1) of the constitution stipulates: 'Members of the House of Peoples' Representatives shall be elected by the People for a term of five years on the basis of universal suffrage and by direct, free and fair elections held by secret ballot.' The House of Peoples Representative is the highest legislative organ of the country (Article 50 (3)). It has up to 550 elected representatives out of which 20 are reserved for representatives of the minority groups whose population may not exceed 100,000. Despite the fact that the inclusion such a provision is commendable in terms of ensuring the representation of minority groups in parliament, there is a lack of clear legal or procedural documents regarding these special constituencies (EU-EOM, 2010, p. 1).

Members of the House of Federation are elected by the respective Regional Councils or by the people directly with each nation, nationality and people having at least one representative (Article 61(3)). So far, members have been elected by the state Councils. It can be argued that the legislature system in Ethiopia is a unicameral (only one law making body) albeit the existence of two houses (Assefa, 2005, p. 227). The reading of the Constitution and the practice reveals that House of Federation has very limited law-making power, but more of judicial power (interpreting the constitution and settling disputes between states).

Article 45 of the constitution declares the FDRE to have a parliamentary form of government, and there is fusion of power between the two branches of government. According to Article 56, 'A political party or a coalition of political parties that has the greatest number of seats in the House of Peoples' Representatives shall form the Executive and lead it.' Hence, the electoral system in Ethiopia is 'first past the post' system where the winning party takes all the council seats allocated through the election. The National Electoral Board of Ethiopia (NEBE) has also issued a number of specific directives and regulations covering relevant aspects of the process. The Directive Number 1/2009 on the Registration of Candidates which amended Ethiopian Electoral Law Proclamation No. 532/1998 states that the number of candidates running for election to the House of Peoples' representatives in a constituency should not exceed twelve.

To recap, some (Meheret, 2007; Tafesse and Akillu; 2007; Desalegn and Meheret, 2004; EU-EMO, 2010) share the view that both the federal and regional constitution provide that guarantee periodic elections and popularly elected councils at all levels of administration. Citizens at both the regional and *woreda* level vote for two types of candidates: independent candidates who are not affiliated to a party and individuals affiliated to a party. However, as the 2010 preliminary election statement by the European Union (EU-EMO, 201, pp. 1-2) noted, 'the implementation of the laws regulating elections deviates in certain cases from the spirit of these commitments, creating constraints on the electoral process, and more particularly on the full, non-discriminatory enjoyment of fundamental rights such as the freedom to campaign and other fundamental freedoms.' In the post 1991 period, a multi-party competition, in principle at least, was introduced. And elections of a kind were held in 1992 for regional assemblies, in 1994 for a constitutional assembly, and in 1995, 2000, 2005 and 2010 for the regional and federal assemblies. The introduction of multiparty competitive election by itself could be taken as a positive development in Ethiopian political system whose history was bedeviled by the absence of competitive electoral exercises. Despite the holding of several elections since 1992, nevertheless, the legitimacy of the electoral process in Ethiopia still remains to be a highly contested issue.

4.2.2 Salient Features of Elections Since 1991

The 1992 Election: Elections of members to the Council of regional states and Woreda (district) Councils and *Kebele* (the lowest level of government) were conducted in 1992 in two stages: “snap election’ conducted in Kebeles and during April and May, and national-regional election in June (Cohen, 1994; Pausewang, Tronvoll, and Aalen, 2002; Vestal, 1999). In the “snap elections” there were no formal campaigns or secret ballots. Voters selected three-member election committees in each *Kebele* by a show of hands in open meetings, the *Kebele* officials in return selected wereda committees who were delegated to handle the June elections (Vestal, 1999). Those selected at public kebele meetings were supposed to represent members of the three leading political forces, EPRDF, OLF and AAPO. The opposition parties charged that these snap elections were marked by serious irregularities and led to EPRDF domination of *kebele* election machinery. The TGE canceled or disallowed some of the results of these elections. In this connection, Pausewang, *et al* (2002, p. 31) points out: “Where the public did not comply with the wishes of the EPRDF, election results were declared invalid on formal grounds and the election were repeated, in some places up to three times, until the EPRDF candidates were installed.” Hence, the ‘snap elections’ were neither free nor fair.

On 20 June 1992, the regional elections were held in most of Ethiopia. However, the OLF, AAPO, the Islamic Front for the Liberation of the Oromia, the Ethiopian Democratic Alliance Group, and the Gedeo People’s Democratic Organization boycotted them after alleging intimidation, harassment, human rights violations and other irregularities (Cohen, 1994; Pausewang, *et al*, 2002; Vestal, 1999; Young, 1998). According to the study conducted by Pausewang, *et al* (2002), there is little difference between the June 1992 election and the one-party elections conducted during the Derg regime.

The 1995 Election: Following the 1992 election, the 1994 Constituent Assembly elections held to complete and ratify a new constitution, without major opposition parties. The oppositions were systematically excluded from the drafting process (*ibid*). In this election, there was also evidence of intimidation, harassment and human rights violations (Alemo, 2010; Pausewang, *et al* 2002; Bertelsmann Stiftung, 2009; Young, 1998). A constitution was then approved in December 1994 by the Council of People’s Representatives which led to the creation of a federal state of nine regions with the non-participation of many opposition parties.

After four years of transitional government (1991 – 1995), the first national elections held on 7 May 1995 in the absence of the major opposition parties, which produced a massive victory for the EPRDF and its allies. The elections resulted in the formation of a federal government under Prime Minister Meles Zenawi, however, it enjoyed only limited legitimacy because of its irregularities and unfair treatment of opposition parties. The elections were not competitive but exclusive, preventing many legal political actors from taking part in the process (Pausewang, *et al* 2002). Thus, the 1995 parliamentary election was neither free nor fair.

The 2000 Election: Elections were held again in 2000. The EPRDF officially allowed opposition parties to participate, but because of the national police’s intimidation, many opposition candidates decided not to run. Despite EPRDF’s rigging, intimidation and violence, the Hadiya National Democratic Organization (HNDO), became the first opposition party to ever win an election in an ethnic zone over the ruling party (Alem, 2003). In the end, opposition candidates only won 12 of the 547 seats in parliament. International observers did not deem the elections free or fair.

The 2005 Election: In 2004, the government, pushed by western donors who promised a substantial increase in official development assistance, opened up some limited political space for opposition and civil society (Bertelsmann Stiftung, (2009). Accordingly, the national parliamentary and regional council elections held in May 2005, the country's first truly multiparty ballot, have demonstrated a dramatic change in Ethiopian politics. The pre-election period offered a wide range of choices, the Ethiopian people expressed diverse political opinions and have thus shown their enthusiasm and commitment for multiparty democracy and the greater participation in governance that it implies. The two opposition coalitions made strong showings in the Parliament and the Amhara and Oromia regional councils and won a large majority in the Addis Ababa city council.

However, tensions rose in the post-election period as results were announced, analyzed and challenged. The 2005 electoral violence was the worst electoral violence in the country's political history. Nearly 200 protesters killed in the streets by security forces, more than 100 opposition leaders, arrested, convicted of treason and sentenced to life in prison before being pardoned, and thousands of supporters were arrested. EPRDF won only after elections in several constituencies were repeated. According to the official results, the EPRDF remained in control, winning 67.85 percent of the vote and 371 seats in parliament. Those leaders of the opposition party Coalition for Unity and Democracy (CUD) who refused to take their parliamentary seats were imprisoned with charges of sedition in November 2005 (Bertelsmann Stiftung, 2009; Wondwosen, 2009a). For Wondwosen, (2009a, p. 393), the major causes of the violence 'were the defeat of the ruling party in the election and its attempt to reverse the poll results by force; the Opposition's lack of decisive leadership; the absence of independent courts and independent electoral management body; and the ruling party's direct control over the army and police.'" EPRDF aborted the democratic transformation process immediately after the elections.

The 2010 Election: Ethiopia's cautious political transformation was abandoned after the 2005 elections when the ruling EPRDF party narrowly escaped defeat (through manipulations of the rural vote) Bertelsmann Stiftung, (2009), through preparing the legal, administrative and psychological ground for an undisputed win in the 2010 elections. The political leadership of EPRDF responded to this popular challenge by systematically closing down the public political space. In the post 2005 period with the revised or new laws regarding elections, the media and the participation of civil society in public life created a political arena tightly controlled by the government. How strongly EPRDF was back in the driving seat was demonstrated during the by-elections and local government elections in April 2008, and the 2010 national and regional elections. EPRDF won nearly 100% of the mandates at the local level and swept the by-elections for the Addis Ababa and Dire Dawa city councils and parliament, this scene for an undisputed victory also reflected in the 2010 national election.

One positive development was the establishment of the coalition of opposition parties, called Ethiopian Forum for Democratic Dialogue (FDD or Medrek in Amharic) in 2009 to oust at the general election in 2010 the regime of the EPRDF, which published a manifesto on October 10, 2009. The Forum insisted to engage in a pre-election negotiation on 10 key subjects, among which the issues of access to the media for campaigning, the supremacy of law, the free access of international observers, the establishment of an independent electoral board and a stop to harassment and pressure on opposition members, but in vain.

Table 3: No of Seats Won in 1995, 2000, 2005, and 2010 for National Assembly

Parties	No. of seats won in			
	1995 Registered Voters 21,337,379 Voter Turnout 20,068,508 (94.1%)	2000 Registered Voters 21,834,806 Total Votes 19,607,841(89.8%)	2005 Registered Voters 25,605,851, excluding Somali region Total Votes (N/A)	2010 Registered Voters 31,926,520 Total Votes (Voter Turnout) 29,832,190 (93.4%)
EPRDF	483	481	327	499
EPRDF's Affiliated Parties		37	45	46
Unconfirmed	11			
Others	46			
Independents	8	13	01	1
Opposition Parties		16	172 (CUD,UEDF, and OFDM 109, 52 and 11, respectively	1 MEDREK
Vacant			02	
Total	548	547	547	547

Source: Author's compilation from African Election Data Base (2011),
<http://africanelections.tripod/about.html>

Similar to the earlier elections, the 2010 pre-elections period were marred with irregularities. Hence, some opposition groups begun to hint a boycott, accusing the government of stepping up harassment against them. Despite growing claims of "harassment" and "undemocratic actions" perpetrated by the ruling party, however, the Forum for Democratic Dialogue (FDD), and other opposition parties took part in the 2010 election. On 21 June 2010, the NEBE released the final election results. In both the national and regional elections, EPRDF was the dominant party, having won 499 out of 547 seats in the House of Peoples' Representatives in the 2010 general election, with allied parties winning all but two of the remaining seats; this gave the EPRDF a voting bloc that controlled greater than 99% of seats in the legislature (Dickovick and Tegegne, 2010; see also Table 3). The opposition had filed appeals with the election board and the Ethiopian Supreme Court, but both appeals were rejected. On July 20, the Court of Cassation, Ethiopia's highest court, rejected the opposition's final appeal.

In all elections from 1992 to 2010, the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) used coercive tactics and manipulation of the electoral process, including harassment, intimidation, arrests, and killings of opposition party candidates and their supporters. As can be observed from Table 3, the seats of opposition and independents have been decreasing, except compare to the ruling parties and its affiliated parties, except 2005. The elections had not been competitive, free and fair. As Bertelsmann Stiftung, (2009, p. 9) noted, "Leaders at all levels are determined by the government and not by the people. Elections only provide a charade necessary to appease the donors." There is little hope that the elections in the near future will be free and fair. Hence, one can question why so? The next section tried to identify the factors responsible for the challenges of free and fair elections in Ethiopia.

5. Challenges to Free and Fair Election in the Post 1991 Ethiopia

With the coming to power, the EPRDF introduced a multi-party competitive election. Accordingly, local, regional and national elections were held in 1992, 1994, 1995, 2000, 2005 and 2010. This by itself could be taken as a positive development in a country where a multiparty competitive election had never been practiced before. However, the genuinely, freedom and fairness of electoral process in Ethiopia still remained to be a highly contested issue, and it failed to produce a democratic transition. This was mainly due to the ideology and nature of the ruling party; the failure of the system in providing a leveled field for all legitimate players (the absence of equitable principle and measures taken to limit the political space); the lack of credibility of the management of the electoral process as expressed in the mode and manner of instituting the electoral authority, which was widely believed to be the client of the EPRDF regime, the lust for dominion and lack of good faith on the part of the ruling party; the attempt to democratize without reaching national consensus; the absence of tolerance and the system of co-existence; and the absence of strong and independent civil society, opposition groups, judiciary, and media; and the lack commitment on the parts of the elites, civil society and the people. These all were challenges to the country's free and fair election with implications for the stability of political system in the future.

5.1 The Ideology and Nature of the Ruling Party

The Ethiopian constitution provided for political pluralism. Indeed, different political parties have been officially registered with the National Electoral Board of Ethiopia (NEBE), and have been taking part in the several elections so far made. The Ethiopian constitution is also premised on liberal democratic conceptions of community and individual rights (Articles 13-44). However, there is little evidence of liberal democratic practice on the part of the government. This has negative ramifications on free and fair election

Vestal (1999) identified party/state synonymy as one distinct feature of politics in post-Derg Ethiopia. In fact, he clarified that what underpins the EPRDF's rather dismal track record of human rights violations, its suppression of the opposition, its inimical position towards the free press, and its violations of due process is the confusion created between the party and the state. And, most of all, the leaders of the ruling party (who emerged from an insurgent group) did not seem to understand politics as an art of compromise and consensus building. Politics for the new leaders, Vestal asserted, was "a model of warfare against enemies." Revolutionary democracy advocated democratic centralism and tried to control the political life of the people.

In a similar vein, Alem (2003) contended that EPRDF undergone an organizational-cum-ideological crisis which was manifested in its employment of Leninist organizational practices while adopting pluralist principles. He ascertained the manifestation of mismatch between the liberal-democratic political-pluralist elements of the constitution and the political praxis of the dominant party. He postulated that political system was wedded to the modus operandi of democratic centralism which inhibited effective decentralization and democratization in the country. Given "democratic centralist" practice, he argued, democratization would be extremely difficult to realize, despite the principles of political pluralism enshrined in the constitution.

The ideological problem, as a dismal to democratization process in Ethiopia, was also shared by opposition parties. In the regard, let me quote what Merera said in an interview held in 2010 with VOA (VOA News, 2009)

"Our role is... to make sure this government cannot rule without accepting the rules of multi-party democracy. We are in a struggle. This government is not ready for change, and this government is cheating left and right and its ultimate agenda is revolutionary democracy. We know all these things, and in fact people who were with (Prime Minister) Meles, who used to play those games and clearly know these games, are now with us,"

Revolutionary democracy, Vestal (1999) argued, provided the EPRDF a safe retreat from its communist roots and its wartime strategies of the early 1990s. Essentially, however, revolutionary democracy was crafted as an ideology for the future, as a means for a minority group once preoccupied with the idea of creating a separate ethnic state in the north instead to rule a larger society as polyglot and as complex as Ethiopia. And in practice, revolutionary democracy became a recipe for ensuring ethnic oligarchy in Ethiopia rather than for fostering ethnic equality and power decentralization, as its architects would wish us to believe. Otherwise, revolutionary democracy was neither revolutionary nor democratic. At its heart revolutionary democracy, as Vestal (1999, p. 64) asserted, "is an adapted version of the old communist idea that the vanguard party, or more precisely its leaders, should direct all aspects of society on the basis of a supposedly superior knowledge of the nature of social development conferred on them by the party ideology." And its inherent dogma was the belief that citizens should exercise power and their human rights through or by their ethnicity, a complete reversal of the fundamentals of a liberal democracy that conferred rights first to individuals and not to any group as such.

The ruling party officially advocated democracy and good governance but practiced a highly autocratic style of governance with little room for democracy. Its advocacy of democratic reforms is to a large extent a smokescreen for the donors. EPRDF's elites used any means necessary to control power. Their action was against democracy. Bertelsmann Stiftung, (2009, p. 15) stated:

Anti-democratic veto powers are predominant in the top leadership of the ruling party. While Prime Minister Meles portrays himself as a moderator between various camps in the party, his closest advisors such as Bereket Simon ... are perceived as architects of the oppressive course against opposition, media and civil society. In reality, there are probably no differences in the top leadership; the consensus is power preservation at all costs.

The TPLF, EPRDF masked with liberal democracy. It pragmatically employed revolutionary democracy before and after assuming power in 1991. Such ideology and practice which deviated from the principle of liberal democracy was inimical to free and fair democracy. This remained to be the challenge for the upcoming election in Ethiopia

5.2 Democratization without the National Consensus

Democracy requires the involvement of all concerned groups in setting the basic political game and rules, without which it is unthinkable to have a fair and free election. However, this was not the case in Ethiopia. EPRDF had employed different tactics to exclude opposition parties, civil society and other groups since it came to power in 1991. Its exclusion policy began with the conference of 1991. In July 1991, a national conference was held, which included representatives from over 20 ethnic and regional groups, some of which were created overnight (Merera, 2011). However, it deliberately failed to include two groups– the Workers Party of Ethiopia, which disintegrated after

the fall of the Derg, and non-ethnic political parties which had united in exile, who were actual or potential real power competitors. The EPRDF remained in charge of the conference and kept participation and the agenda under its control.

EPRDF indeed restructure of the state and set the rule of the without reaching consensus with the major opposition groups. In this connection, Merera (2011 p. 182) postulated the problematic nature of the move to restructuring the state without a negotiated compromise. He notes:

“... the EPRDF quickly moved to the ‘remaking of Ethiopia without creating a national and/or a democratic consensus over the basics of state transformation, a badly needed action for countries like Ethiopia where there are contradictory perspectives regarding the interpretation of the past, the understanding of the present and the vision regarding the future. And, contrary to the expectation of many, the EPRDF set the rules of the game and invited others to a happening accept the rules fixed by one player. To date, neither there has been a real negotiation over the original rules set by the EPRDF nor did the EPRDF fully respect its own rules. What is happening is that, the EPRDF easily and continuously changes the goal posts at any stage of the game and at any time of its choice.”

Similarly, the 2010 country report prepared by Bertelsmann Stiftung (2009) indicated that hardly any consensus existed between the ruling party and its allies on the one side and the opposition camp and civil society on the other side with regard to the course of political transformation. However, he contended that there was a limited consensus about the goals of development, regarding a basic commitment towards poverty eradication and infrastructural development (roads, electrification, education and health) but the limited consensus ended where the role of the private sector vis-à-vis the public sector, privatization of parastatals and the land tenure system were concerned. He further posited that the government is in favor of a Chinese-style autocratic top-down approach with a strong role for the public sector while the opposition camp advocated a much stronger role for the private sector and a change in the land tenure system, which would allow for private ownership of rural land. The government perceived civil society as part of the opposition and thus as an enemy. It therefore excluded and suppressed civil society from political participation and engagement beyond relief efforts and certain aspects of development work. At the same time, it continued its attempt to create a government and ruling party-affiliated network of pseudo-CSOs operating at the provincial level. In spite of rights and freedoms sanctioned by the Constitution with regard to political and associational life, the EPRDF exhibited exclusionary tendencies by way of barring unwanted political organizations from participating in the political process.

The 2010 code of Election Conduct evolved not with the consensus of political parties themselves. It was not enlaced with the aim of providing a level playing field for all political parties and ensuring free and fair elections. As discussed in the previous sub-section, the ruling party was not willing to discuss Forum’s proposal and failed to reach consensus. The constitution, electoral law and other rules of the game were set without consensus. Given the ideology and the nature of the ruling party, consensus would not be reached between the ruling party opposition groups in the near future regarding the rules of the game, the challenge to free and fair election would continue.

5.3 Craving for Dominion

In all elections that were conducted from 1991 to 2010, the EPRDF emerged as a single dominant party and both at the regional (see Table 4) and national councils (see Figure 1), and its leader, Meles Zenawi were in power for the twenty years. The 1992 local election was dominated by EPRDF. There was no single MP representing the organized opposition in the first National/Regional Elections held in May 1995. The 2000 second multiparty National and Regional Elections, which resulted in EPRDF's winning of the overwhelming majority of seats in parliament, and the possibility for the opposition to pose serious challenges against the dominance of the EPRDF in parliament was marginal. The third round of national and regional elections which was held in May 2005 were markedly distinct from the preceding ones in the sense that public debates and electoral campaigns on the part of the contestants and the rallying of supporters and mobilization of constituencies of support was highly visible. As in the past, the EPRDF ostensibly continued to control almost all of the constituent regions of the Ethiopian federation through its member, affiliate, and client organizations. This was reflected in 2008 local and the 2010 national and regional election, having 100% and 99% control of the seats respectively. This was buttressed by the ruling party's uncontested grip on the security apparatus, the army, the electoral authority, the civilian bureaucracy, and the commanding heights of the economy.

Abbinck rightly argued (2009, p. 10) that elections did not give the opposition a chance; that is, until 2005, the most free round ever seen, but the results were deeply contested and quickly "revised". This was a turning point, away from the path of democracy, and full-blown monopolistic power was reinstated by the ruling party. The April 2008 elections for local councils also saw a serious setback in democratic practice, as ruling party cadres took no risk and pressurized the electorate to vote again, after the "mistake" of May 2005, for the EPRDF. Similarly, a Human Rights Watch field research on the 2008 local elections reported that the government's repression of opposition parties and voters largely prevented political competition in the elections.

Table 4: Breakdown of Council Seats by Party Membership (2007)

No	Regions	No. of woredas	No. of woreda council seats	No of Kebeles	Party won	No. of woreda won	No of woreda seats won	No. of kebeles won
1	Tigray	43	8517	694	TPLF/ EPRDF	43	8517	694
2	Afar	32	1820	365	ANDP/EPRDF	31	1,754	352
					APDP	1	65	13
					Independent			
3	Amhara	132	11,464	2972	ANDM/	132	1	2972
					EPRDF			
4	Oromia	261	20,367	6972	OPDO/	261	20,367	6789
					EPRDF			
5	Benishangul Gumz	20	2202	458	BGPDUF	20	2202	458
6	SNNPR	124+8 special woredas	11,421	3795	SEPDM/EPRDF	124+8 special woredas	11,415	3795
							6	
7	Gambella	12	636	212	GPADM	12	635	212
					Independent		1	

Source: Yilmaz and Venugopal (2008:9)

According to Bertelsmann Stiftung (2009, p. 8), the TPLF ‘believed itself to possess a special mandate to lead the country and was not willing to relinquish power even in democratic elections.’ Political power was organized in such a way that representatives of the small Tigray Peoples Liberation Front (TPLF) dominated the executive of the ruling EPRDF party and had veto positions in all strategically important state institutions. This was the violation of one of the basic principles of democracy, the rule of the majority.

For Pausewang, *et al*, (2002, p. 241), the problem of dominant party system lied in the political party structure where it controlled every resource. They contended, “As long as parties have no independent material base, the political interests have no independent means of expression. When all resources and means of communication, control, administration, distribution and taxation are in the hands of the ruling-party through the government, there is little room for free and fair competition.”

According to Merera (2011, p. 182), one of the challenges to democratic transition was attributed to the growing authoritarian culture of fixing election by the part of the ruling party. He argued, “The EPRDF leaders appear not to see electoral politics – sum – game and have developed a culture of fixing elections, which a manipulation of election result by using such mechanisms as massive tempering with vote counting, manipulation of numbers, damping or burning votes of opposition candidates, etc.” This could be one of the sources of the prevalence of dominating party in Ethiopia. Through fixing and manipulation election, EPRDF controlled the election process and its outcome.

The fusion of power between the executive was also responsible for the prevalence of dominant party. Yilmaz and Venugopal (2008, p. 7) argued that though the 1995 constitution allows multi-party system, EPRDF controlled the executive and legislative branches of the national and local governments. At the local level as well, they say ‘while the letter of the law is generally obeyed, the spirit of the law is mostly compromised’ and the separation of executive and legislature was blurred and all local government employees are beholden to the party administration.

The prevalence of dominant party in Ethiopia was shared by several scholars (Abbink, 2009; Kassahun, 2003; Yilmaz and Venugopal, 2008; Tafesse and Akillu; 2007; Alemo, 2010; Hagmann, 2005; Merera, 2011). It can, thus, be concluded that though in theory Ethiopia was a multi-party system, in practice the country operated as a single party system. EPRDF ensured dominance both at the national and local levels. As Kassahun (2003) and Adem (2008), (cited in Yilmaz and Venugopal, 2008, p. 9) rightly pointed out the ruling party, EPRDF, dominated the executive and legislative branches of the national and local governments and made sure that there was no room for a real political competition at the national and local levels. The fact that the EPRDF dominated the political scene narrowed the political sphere, leaving no space for alternative policies and programs for the people.

5.4 Absence of Equitable principle

In George Orwell’s *Animal Farm*, ‘All Animals are created equal but some are more equal than others.’ Not so if we are to have free and fair elections in Ethiopia (Alemayehu, 2009). Indeed, the examination of the constitution reveals that all parties are presumed to be co-equal. For example, Article 38 states every Ethiopian national, without any discrimination based on color, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the right to vote

and to be elected at periodic elections to any office at any level of government; and elections is by universal and equal suffrage and be held by secret ballot, guaranteeing the free expression of the will of the electors. Other provisions such as Articles 38, 56, 58, 60, 72, and 73 prescribe rules for equal access and participation and for the formation of party governance, scope of power during a period when elections are underway and coalition-building to form a government. However, the practice painted different picture.

George Orwell's *Animal farm*, 'All Animals are created equal but some are more equal than others.' is the rule, not the exception in Ethiopia. In the successive elections, what was witnessed was a one-man, one-party dictatorship in which the ruling 'EPDRF' party was astronomically 'more equal' than all of the other opposition parties combined (ibid.). The leaders of that party served as prosecutor, judge, jury and executioner in all matters relating to elections. The electoral laws made do not ensure a level playing field; they do not prohibit the ruling party official from combining their official visits with electioneering. According to Merera (2011, p. 183), "the EPRPF and the PDOs have little appetite to respect the rule of law as governing parties while demanding from others to respect it." Ethiopia's political leadership actively suppressed and excluded members of opposition groups, and civil society from participating in the political process.

There was a huge equity gap between the ruling party and its leaders and the opposition. As indicated in the 2010 EU-EOM (2010) election report, the ruling party used state's resources for campaigning in a number of regions notably in Amhara, Beneshangul-Gumuz, Oromia, Somali Region, and Tigray. In some of these communities, the report stated, "the freedom to campaign, and other fundamental freedoms, such as the freedoms of assembly, movement and speech were not always consistently respected in the run-up to the elections, thereby compromising the right of all political parties and candidates to campaign in equal conditions" (ibid, p. 8).

Beyond this, the rulers enjoyed extraordinary legal and political privileges, advantages, benefits and entitlements because they literally owned the political system. Their party members and leaders dominated the bureaucracies, the courts, the police forces and the local administrative structures. Most importantly, they owned the election commission. This was the violation of free and fair election. For a fair and free election to exist there should be a mechanism in place to ensure all parties and stakeholders to have equal opportunities to compete fairly for votes.

5.5 Lack of Good Faith

Good faith is another important ingredient of free and fair election. Good faith here would mean that no party to the agreement intends to deceive the other party that may lead to controversies. Political parties should trust each other that none of them would attempt to avoid the effect of agreement. It should be free from duress, and fraudulent misrepresentation. However, the history of EPRDF for the past 20 years from (1990-2010) indicates that there had been little done in this regard. The ruling party, EPRDF tried a little bit of good faith bargaining, negotiations, compromising and fair dealing with their oppositions.

Alemayehu (2009) noted "Good faith and fair dealing are two things missing from the ethical satchel of the ruling party." He argued:

They [EPRDF] have used ‘bait and switch’ tactics as evidenced in their recent attempts to finesse Medrek to sign a prefabricated ‘code of election conduct’. They have shown little honesty of intention in what they do or promise to do. They have a long history of bad faith dealing with opposition parties. They have relentlessly sought to outsmart, outfox, outwit, hoodwink and bamboozle the opposition through organized trickery, misrepresentation, duplicity, slyness and other underhanded techniques.

The failure to the principle of good faith had begun since it assumed power. As Alem (2003, p. 15) contended ‘the OLF bolted out of the transitional government in June 1992 and abandoned its participation in the upcoming district and regional elections, charging election fraud on the part of EPRDF and complaining that the provision for ethnic and regional autonomy enshrined in the Charter was not faithfully implemented.’

The then incumbent party EPRDF and opposition parties had signed Election Code of Conduct in 2009. Under article 5 Code it stated that all parties, shall in good faith ensured that principles of electoral code of conduct were respected. The practice, however, painted a different picture. In relation to this, the EPRDF and opposition parties agreed on time allocation of public media, though the opposition leaders were complaining the time allocated to them saying that it was unfair for the ruling party to take the highest share of the time (Bertelsmann Stiftung, 2009:6). In general, regarding the practical functioning of the electoral system, candidates from the ruling or the affiliated parties were supported by state resources in their election campaigns. These were serious impediments to a fair electoral system.

5.6 Lack of Tolerance and Co-existence

Political culture is very important for democracy in general and for free and fair election in particular. Political groups that run for elections must recognize that each holds their own differences and respect it. Hence, free and fair election requires trust, confidence, and co-existence among the political competitors. Respect and tolerance in the context of free and fair elections mean, first and foremost, respect for the rule of law; and secondly, respect for each other in the electoral process. The issue of respect, however, went deeper to the level of respect for the sovereign verdict of the people in a free and fair election (Alemayehu, 2009). Nevertheless, that was not the case in Ethiopia. The ruling party dis not respect its own constitution and laws which required compliance with basic standards in the conduct of free and fair elections. The evidence showed that the ruling party had been consistently paternalistic, disdainful and dismissive of the opposition.

One manifestation of its intolerance to dissent views and its authoritarian charter was its harsh measures taken against supporters and members of opposition parties during election. Indeed, as Hammerstad (2004) pointed out Ethiopia had a history of exclusion that spanned centuries. The intolerant relationship between the EPRDF and other political parties and rebel fronts began in the 1991 conference by its exclusion policy. Even with those invited to the conference such as OLF, its tolerance was short lived, and immediately started harassing them (Wodwosen, 2009:63-64). As a result of the lack of tolerance, violence, intimidation and harassment were particularly evident features of the 1992, 1994, 1995, 2000, 2005, 2008 and 2010 elections in Ethiopia, including murders, arrest and detention, and robberies. The ruling party harassed the opposition’s supporters and even economically sanctioned them by excluding them from government services and

subsidies. A number of people had also been sacked or forced to resign from their jobs just because they were suspected of supporting or being sympathizers of opposition political parties. The case in point is the dismissal of about thirty civil servants from the Ministry of Foreign Affairs in the aftermath of the 2005 election. They were suspected of being supporters and/or sympathizers of opposition parties mainly due to their ethnic background.

Another manifestation of lack of tolerance was the twisted perception of the EPRDF leaders towards the opposition. Merera (2011, p. 183) posited that the EPRDF leaders ‘have never considered opposition parties as partners in the building of democratic Ethiopia’, they rather tired their best ‘to divide and weaken them including by using illegal naked force.’ The EPRDF leaders were not ready to set the rule of the game through discussion with their counterpart. Though the EPRDF regime portrayed itself as a legitimate, democratically elected government that conformed to international norms free and fair election, its actions painted a picture of an authoritarian regime. Its policy of intolerant and exclusion would continue unabated. This hostile policy of the ruling party was the major cause for the country’s constant instability.

5.7 Laws Limiting the Political Space

The protection of political rights and respect for fundamental freedoms are essential conditions for holding democratic elections. In this regard, the proliferations of independent non-governmental groups and media are of paramount importance for building democracy. They can serve as the third branch of government in checking and controlling governmental activities. As Joseph (2008, p. 102) noted, “... one of the struggles for democracy in countries where the door to it has not been systematical barricaded involves a complex collaboration among political, civic, professional, and popular groups, as well as the strategic deployment of institutions of horizontal accountability”. Unfortunately, however, in Ethiopia, this door was systematically closed.

Especially in post-2005 election period, the ruling party, EPRDF revised or enacted new laws regarding elections, the media and the participation of civil society in public life which created a political arena tightly controlled by the government. These restrictive laws included notably, the amended Electoral Law Proclamation 532/2007, the Political Parties Registration Proclamation 573/2008, the Electoral Code of Conduct for Political Parties Proclamation 662/2009, the Anti-terrorism Law Proclamation 652/2009, the Freedom of the Mass Media and Access to Information Proclamation 590/2008, the Charities and Societies Proclamation 621/2009 as well as certain provisions of the 2004 Criminal Code.

Some of the laws were with the aim of silencing any dissident view. The case in point was the Anti-Terrorism Proclamation (Proclamation No 652/2009), the Charities and Societies Proclamation 621/2009, and the Freedom of the Mass Media and Access to Information Proclamation 590/2008. The Anti-Terrorism Proclamation contained an overbroad and vague definition of terrorist acts and made the publication of statements “likely to be understood as encouraging terrorist acts” punishable by imprisonment for 10 to 20 years. The government was exploiting the law’s overly broad language to accuse peaceful critics, journalists, and political opponents of encouraging terrorism. Under this law, suspects can be held in custody for up to four months without charge. This was contrary to the Ethiopian constitution, which provided that suspects in detention should be charged or released within 48 hours, and violates international due process standards.

Members of opposition parties, journalists and civil activists had been arrested by an anti-terrorism task force and were accused of having links with the groups such as the Oromo Liberation Front, and Ginbot 7. “The Ethiopian authorities’ increasing use of the overbroad terrorism law to detain and intimidate the peaceful opposition is alarming,” Ben Rawlence, senior Africa researcher at Human Rights Watch further said. “Filling up Ethiopia’s jails with political prisoners is not the solution to dealing with legitimate criticism.” (BBC, Sept 1, 2011).

The work of civil society organizations (CSOs) with regard to democracy, human rights and good governance had also been curtailed through a tightening of the legal space, the Charities and Societies Proclamation 621/2009. The proclamation excluded them from engaging in any issues pertaining to advocacy, human rights, conflict resolution, women’s and children’s rights. As a result, the number of advocacy CSOs that had been engaging in advocacy, voter education dramatically reduced. This has a serious implication for free and fair election.

In December 2008, parliament passed a restrictive media law, the Freedom of the Mass Media and Access to Information Proclamation 590/2008 that limited media activities to Ethiopians and criminalized transgressions of the law. The government arrested several journalists sued others for politically incorrect reporting and blocked critical websites. As a result, none of the remaining private newspapers dared to openly criticize the government; self-censorship replaced official controls. In general, these laws were used to silence critics and restrict freedom of expression and due process rights, which was inimical to free and fair election in the country.

5.8 Lack of Independent and Efficient Media

The mass media are essential to the conduct of democratic elections. As indicated in the theoretical framework, a free and fair election requires not only freedom of speech and expression by electors, parties, candidates and the media but also equitable and balanced reporting by the media so that voters can make an informed choice. A democratic election with no media freedom would be a contradiction in terms. Though the role of the media assumed increased importance following the 1991 regime change with the elimination of censorship, especially following the unrest that accompanied controversies surrounding the outcomes of the May 2005 Elections, state repression against the private media resulted in their diminished size and recourse to self-censorship (Alema, 2010). According to the Committee to Protect Journalists (CPJ), Ethiopia was the worst backslider in 2007 as far as freedom of the press was concerned. The recent restrictive law added to the dismay.

Media ownership being a key factor of their independence, one must acknowledge the fact that most so-called “public” media in Ethiopia are struggling to break free from the grip of governments. Even though the Electoral Law provided that the public broadcaster should insure an equal and fair coverage for all candidates and parties, the national media demonstrated flagrant unbalance in favor of the contending ruling party. This is even evidenced in the recent election preliminary report, the European Union Election Observation Mission (EU_EOM, 2010, p. 7). It stated “Despite a generally neutral approach, state-owned print and broadcast media failed to ensure balanced coverage by extensively reporting on ruling party activities. ... EPRDF coverage amounted to over 50% of political party coverage on news programmes.” Similar observation was made by the country report by Bertelsmann Stiftung (2009, p. 5). It posited that TV and radio stations were predominantly government-controlled; the few newly registered private radio stations avoid political topics and are owned by people close to the government. The government used its

virtual monopoly on information dissemination for propagandistic purposes. Such a situation is difficult to maintain free and fair election in Ethiopia where the media had almost no way of surviving out of the political arena along with limited scope and circulation. Media in Ethiopia failed to serve as the fourth branch of government.

5.9 Weaknesses of Oppositions

Another important aspect of profound importance in the democratic process is the presence of parties or factions whose absence makes liberal democracy null. According to Le Bas (cited in Wondwosen, 2009b, p. 60), “a strong opposition may be the most effective means of creating checks and accountability in hybrid regimes and, therefore, the most important prerequisite for democratic deepening.” Hence the presence of strong opposition parties was one of the requirements of liberal democracy. As Schedler (2002) correctly noted, ‘At times, authoritarian incumbents can emerge victorious from transitional elections thanks not to their own “cleverness but the ineptitude of [their] opponents’” This held true in Ethiopia.

Major explanations of the weakness of opposition groups in Ethiopia were their fragility, submissiveness, and failure to form strong alliance, lack of determination or commitment. Ethiopian opposition parties were diverse in terms of their structure, ideology, and goals. Some of the opposition parties were criticized for being submissive. UDJ’s (Unity for Democracy and Justice) submissive policy vis-à-vis the EPRDF, and some of its leaders’ controversial political background and the alleged appointment of some individuals who played a role in dismantling the former CUD (Unity for Democracy and Justice) in leadership position, can be cited as an example (Wodwosen, 2009b).

Some of the political parties were formed based on regional ethnic groups. This was not a problem by itself. However, it made their chances of becoming major players in national politics slim (Kidane, 1997). Another noticeable observation was the emergence of several competing parties within ethnic groups who were supposed to represent the same ethnic group. The case in point was the competition between parties who claimed to represent the interest of the Oromo people. In addition to the OLF, five Oromo parties, the Oromo National Congress, United Oromo People's Liberation, Oromo People's Democratic Organization, Oromo Abo Liberation Front and the Islamic Front for the Liberation of Oromiya, had been formed. This plurality of parties and competition among them that led to their fragmentation was a blessing for the ruling party.

Given the fragmentation of political parties in Ethiopia, it was not easy to have a strong party coalition that could replace EPRDF that had been in power for twenty consecutive years through free and fair election. There had been some attempts to form a coalition so as to challenge the incumbent government, but in vain. For example, the Joint Political Forum Party, CUD, and UEDF were formed by the merger of the different parties, but these coalitions were fragile and some did not survive. In 2009 another coalition of eight member parties, the Ethiopian Forum for Democratic Dialogue (FDD or Medrek in *Amharic*) was formed, which comprised the Oromo Federalist Congress (organized by the Oromo Federalist Democratic Movement and the Oromo People’s Congress), the Arena Tigray (organized by former members of the ruling party TPLF), the Unity for Democracy and Justice (UDJ), and the Coalition of Somali Democratic Forces. The parties that formed the coalitions had diverse history, ideology and party structure.

The oppositions were also beset by financial problems. Most of the opposition groups did not have their own sources of resources. In general, lack of consistency and commitment, absence of integrity, failure of reaching consensus among them together with meager resources were considered as some of the weaknesses of the opposition groups in Ethiopia. Without a strong and committed opposition parties, if not possible, it was difficult to have a competitive election in Ethiopia.

5.10 Absence of Independent Judiciary summary

A free and fair electoral system depends not only on voter registration, free campaigning, monitors and secret ballots; it must also be able to deal promptly and effectively with the different types of complaint that will inevitably arise (Goodwin-Gill, 1994). In this regard, the integrity of the system requires an independent and impartial court. However, the independence and impartiality of the judiciary is in Ethiopia controversial. According to Abbink (2007), the problem of the independence and impartiality of the court was connected to that of its relation with the legislative and the executive powers. He said that an independent judiciary cannot be created by decree as enshrined under Article 78(1) of the constitution. The balance in the relationship between the three branches governments was tilted strongly towards the executive. The Prime Minister's recommendation for appointing judges was made on the basis of screening and selection of nominees by the Federal Judicial Administration Commission (art. 81/2), whose chairperson for many years was a member of the politburo/executive committee of the EPRDF (Alemo, 2010). The record of the judiciary in dispensing justice and ensuring the rule of law and contribution to free and fair election was disappointing. As Merera (2011, p. 181) noted:

The two opposition groups, including the EFDUF, publicly rejected the results and requested a re-run under independent election officers. They appealed first to the Ethiopian National Election Board (NEBE) then to the country's Supreme Court and finally to the Cassation Court, as per the law of the land'. All rejected the opposition requests – at that without any investigation what so ever into the opposition claim. The opposition had no other recourse to law and it was here that the lack of independence by the judiciary was found to be most harmful for the democratization enterprise.

The partiality of the judiciary was also reflected in the 2010 election preliminary statement by European EU_EOM (2010). Hence, the credibility, effectiveness and independence of the judiciary seemed to have been undermined by the dominance of the executive, which commands leverage in terms of influencing the recruitment and promotion of judges. This is inimical to free and fair election.

5.11 The Limits of the Work of Civil Society summary

Civil society is a public space between the state, the market and the ordinary household, in which people can debate and take actions that try to do right and struggle to right wrongs non-violently (Paulos, 2006). And civil society actors play a vital role in the democratization process of a state. Joseph (2008, p. 102) "... one of the struggles for democracy in countries where the door to it has not been systematical barricaded involves a complex collaboration among political, civic, professional, and popular groups, as well as the strategic deployment of institutions of horizontal

accountability”. Unfortunately, this was not the case in Ethiopia; the door was systematically closed for the civil society.

The work of civil society organizations (CSOs) with regard to democracy, human rights and good governance, and specifically election was curtailed through intimidation (e.g., imprisonment of human rights activists together) and a tightening of the legal space (Bertelsmann Stiftung, 2009:10; EU_EOM, 2010, p. 8). The CSOs were prohibited from working in the fields of human rights and democratization, by reducing the possibility of foreign funding to 10% of their total revenue. This limited the scope and capacity for Ethiopian civil society organizations to carry out voter education programs and domestic observation. The attempt by the ruling party to limit the work of civil society was tantamount to becoming authoritarian. As Bradley (2005, p. 424) stated: “... without at least a tenuous civil society, the state may wield and exercise too much power (tyranny) at the expense of the citizens; without challenges, the state may in fact become more authoritarian.” This was a setback to free and fair election in Ethiopia.

6. Conclusion

There was no as such a tangible difference among the countries of the Horn, Djibouti, Eritrea, Ethiopia, Kenya, Sudan and Uganda. They tended to fare worse on most of the indicators of free and fair election. Elections in these countries had been marred by intimidation, and harassment. They had in common the problem that powerful political actors often operated outside the norms and principles of democracy. They had political leadership which lacked democratic credibility. Most of the regimes in the Horn of Africa were not ready to give up power voluntarily to an opposition party, regardless of its popular support or election victories. This seemed particularly clear in Ethiopia, where power transfers (except after the natural death of the leader) had never taken place peacefully.

As Alem (2003, p. 24) posited, given “democratic centralist” practice of the ruling party, democratization would be extremely difficult to realize, despite the principles of political pluralism enshrined in the constitution. This was mainly due to the failure of the system in providing a leveled field for all legitimate players as a result of the ideology and the nature of the ruling party, the lack of impartiality and integrity of the election board, and the judiciary.

In the aftermath of the 2005 election, the journey to the 2005 post-transition elections in Ethiopia had been the worst one. EPRDF responded to popular challenge by systematically closing down the public political space. It had entrenched itself in power. It displayed the typical traits of a liberation movement in power, a claim to absolute legitimacy. In this connection, the ruling party enacted restrictive laws such as the CSOs, media and anti-terrorism laws that limited political space. It accused and arrested arbitrarily members and supporters of opposition parties, civil activists and journalists. This resulted in setback the transition to democracy. To use the words of Merera (2011, p. 181): “... in light of the promised democratization project at the change of regime in 1991, it was a great leap backward.”

To ensure a level playing field, electoral laws should be revised, evolving with the consensus of political parties themselves with the view of addressing nearly every potentially disruptive and unfair election practice that could undermine confidence in an election outcome. Provisions to allow greater opposition party involvement in the composition of the board will go a long way toward building trust among political parties. Thus, the legal orders of the country should be

revised through negotiated compromise for free and fair election to flourish. Part of the solution lied in enhancing CSOs and the media. The culture and practices of multiparty democracy would be more widely understood and incorporated into media, the public dialogue, and the civil society. Civil society and the private press were significantly undermined, and yet they were of vital importance in protecting and deepening democracy. Hence, these sectors should become better equipped to advocate for policy positions.

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