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Editorial

Annexation by Ethnically Cleansed Ballot: How Ethiopia's Electoral Board is Legalising the Ethnic Cleansing of Western Tigray:

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After the Ethnic Cleansing of Western Tigray, the Invaders are Preparing to Vote. The Unconstitutionality of the Electoral Commission's Decision to Unilaterally Reassign Constituencies from the Tigray Region

Preamble: Context and Scope of Analysis

This legal analysis by TADAUK editorial examines the constitutionality and procedural legality of the decision by the National Electoral Board of Ethiopia (NEBE), subsequent to a ruling or instruction by the House of Federation (HoF), to conduct elections in the constituencies of Humera, Raya (specifically Raya Alamata), and Tsegede (including Tselemti and other disputed districts) outside the administrative and political framework of the Tigray Regional State. This memorandum argues that this action constitutes a fundamental breach of the Federal Democratic Republic of Ethiopia (FDRE) Constitution, a violation of the principles of federalism, a procedural overreach by federal institutions, and a material breach of the Pretoria Peace Agreement. The analysis will be structured into five parts : (1) the specific constitutional articles violated; (2) the procedural failures and lack of consultation; (3) the unconstitutional restriction of Tigray's representation; (4) the violation of the Pretoria Agreement; and (5) the consequences of this action, highlighting institutional biases by the HoF, the NEBE, and the Executive, including the historical context of the HoF's approval of the 2020 invasion of Tigray

*After the Ethnic Cleansing of Western Tigray, the Invaders Prepare to Vote:
A Legal cover of Constitutional Arson*

Part 1: Which Part of the Constitution is Broken? The Specific Articles Violated

The decision to administratively sever territories constitutionally belonging to the Tigray Regional State and place them under direct federal electoral administration violates multiple, interconnected provisions of the FDRE Constitution. This action strikes at the heart of Ethiopia's Multi -Ethnic-Regional Federal Structure.

1.1 Violation of Article 48 (1) and (2): The Principle of Border Demarcation by Consent or Referendum

The most direct violation stems from Article 48, which governs State border alterations.

- Article 48 (1) states: "All State border disputes shall be settled by agreement of the concerned States. Where the concerned States fail to reach agreement, the House of Federation shall, within a period of two years, decide the dispute on the basis of settlement patterns and the wishes of the people."
- Article 48 (2) adds: "The House of Federation shall, within the said period, determine the disputed territory on the basis of the settlement patterns and wishes of the people for unity or secession."

The decision by the HoF and NEBE effectively pre-judges the outcome of a border dispute that has not been settled according to this constitutional process. There is no evidence of an "agreement of the concerned States" (Tigray and Amhara) regarding these territories. Furthermore, the HoF bypassed its own mandate to "decide the dispute" based on "settlement patterns and the wishes of the people." By ordering elections to be held under federal administration outside Tigray's jurisdiction, the HoF has imposed an administrative reality that predetermines the "wishes of the people" before return of IDPS and a constitutional referendum or binding dispute resolution mechanism has been held. This is a de facto border change without due process, transforming a temporary electoral arrangement into a permanent annexation. Our TADA Legal experts, credible justice Advocates and opposition parties within Tigray have labeled this "administrative annexation" or a "blatant attempt at Administrative Annexation (the seizure of regional administration by force)".

1.2 Violation of Article 39 (1), (2), and (3): The Right to Self-Determination

Article 39 is the cornerstone of Ethiopia's federalism, granting every Nation, Nationality, and People in Ethiopia the unconditional right to self-determination.

- Article 39 (1): "Every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession."
- Article 39 (2): "Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history."
- Article 39 (3): "Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in the federal and the federal and state governments."

The people of the Tigray Nationality have a constitutionally entrenched right to territorial integrity and self-government "in the territory that it inhabits." The areas of Humera, Raya, and Tsegede have been historically and constitutionally recognised as part of the Tigray region since the establishment of the Tigray Regional State in 1991 and the ratification of the 1995 Constitution. By removing these territories from the administrative control of the Tigray government for electoral purposes, the federal government is denying the Tigray people their right to a "full measure of self-government" over that territory. This action fragments the territorial base of the Tigray people, directly undermining the collective right enshrined in Article 39. It presumes that the Tigray Nationality no longer has a legitimate claim to govern those territories, a presumption that only a constitutional amendment or a lawful border referendum could justify.

1.3 Violation of Article 52 (2) (b) and (d): The Powers of States

Article 52 delineates the powers of regional states. Clause 2 reserves specific powers to the states, including:

- (b): "To formulate and execute economic, social and development policies, strategies and plans of the State."
- (d): "To administer land and other natural resources in accordance with Federal laws."

Elections are the foundational act of political administration. By removing these woredas (districts) from the Tigray electoral roll and placing them under federal administration, the federal government is effectively stripping the Tigray Regional State of its power to administer these territories. This means the Tigray government cannot provide governance, administer land, or execute development plans in areas that are still, de jure, part of its territory. This creates a legal paradox where the region is responsible for the welfare of its people but is denied the jurisdictional authority to conduct the most basic act of political organisation: voter registration and elections. This is a direct usurpation of state power by the federal government.

1.4 Violation of Article 62 (1), (3), (6), and (9): The Misuse and Overreach of the House of Federation's Powers

The House of Federation is not a legislative body but a custodian of the Constitution and the rights of nations, nationalities, and peoples. The decision violates its constitutional mandate in several ways:

- Article 62 (1): "The House has the power to interpret the Constitution." However, the HoF did not issue a formal constitutional interpretation. It issued a political directive to the NEBE. Instead of interpreting the law, the HoF acted as a political arbiter that created a new administrative reality outside the bounds of the Constitution.
- Article 62 (3): It decides on issues relating to the rights of Nations, Nationalities and Peoples to self-determination. The HoF failed to protect the self-determination rights of the Tigray people. By unilaterally deciding that elections would be held outside Tigray, it effectively decided a self-determination issue without the consultation of the affected nationality.
- Article 62 (6): "It shall strive to find solutions to disputes or misunderstandings that may arise between States." The HoF did not "strive" to find a solution; it imposed a solution that favoured one party- (a non-state actor- Tekeze milita & some Amhara regional officials claims) over the other (Tigray's constitutional territory). This action exacerbates the dispute rather than resolving it.
- Article 62 (9): "It shall order Federal intervention if any State, in violation of this Constitution, endangers the constitutional order." By usurping the administrative functions of a state, the HoF itself is endangering the constitutional order. The body designed to protect the federation is being used to destabilise it.

1.5 Violation of Article 102: The Independence of the National Electoral Board

Article 102 (1) states: "In the entire electoral process, the National Electoral Board shall be independent and shall not be subject to any interference by government organs, political organisations or any other entity."

The NEBE's compliance with the HoF's directive to administer elections in disputed territories without a prior constitutional settlement of the border dispute constitutes a loss of independence. The NEBE is acting as an instrument of federal policy rather than an impartial

administrator of constitutional law. Its role is to administer elections within established constitutional units; it does not have the authority to redefine those units. By doing so, it violates its own mandate of independence and becomes a party to a political and constitutional conflict. It's role in delegitimising the TPLF as a functioning party is part of this grand conspiracy.

First, They Cleansed, Now They Vote: The Unconstitutional Land Grab in Humera, Raya, and Tsegede is consequential to all regions in Ethiopia

Part 2: Procedural Failures by the House of Federation (HoF) and Lack of Consultation

The process by which the HoF reached its decision was fundamentally flawed and violated established legal procedures and constitutional principles.

2.1 Failure to Exhaust Dispute Resolution Mechanisms

As noted in Part 1, Article 48 mandates that border disputes be settled by agreement of the states or, failing that, by the HoF based on settlement patterns and the wishes of the people. The procedural failure lies in the fact that the HoF short-circuited this process.

- Lack of a Prior Referendum: The "wishes of the people" were not formally ascertained through a referendum. The HoF appears to have relied on political pressures from Amhara prosperity party groups and the security situation on the ground, rather than a constitutionally mandated fact-finding mission or a referendum .
- No Formal Border Determination: The HoF has not issued a formal decision determining the status of these territories. Without such a determination, these areas remain constitutionally part of Tigray. Holding elections under federal auspices pre-empts this determination, making it a procedural fait accompli.

2.2 Violation of the Right to Be Heard (Audi Alteram Partem)

A fundamental principle of justice, embedded in the rule of law, is that no party should be judged without a hearing. The Tigray Regional Government (including its Interim Administration) was not a party to the decision.

- The decision was made "in a House where there is no representation or voice for the people of Tigray," as stated by the Tigray Interim Administration. At the time of the decision, the HoF lacked legitimate representatives from the Tigray region who could advocate for the region's constitutional position.
- While the HoF has the power to interpret the constitution, exercising that power on a matter of such vital importance to a specific nationality without consulting that nationality's government is a grave procedural violation. It renders the decision illegitimate not only in the eyes of the affected population but by all regional states in Ethiopia.

2.3 Failure to Utilize the Council of Constitutional Inquiry (CCI)

Article 82 and 84 of the Constitution establish the Council of Constitutional Inquiry (CCI) to investigate constitutional disputes and submit recommendations to the HoF. The CCI is designed to provide the technical and legal expertise necessary for the HoF to make informed decisions.

- There is no public evidence that the HoF referred the complex constitutional questions regarding the electoral status of these territories to the CCI for an advisory opinion. By bypassing the CCI, the HoF ignored the institutional mechanism designed to prevent arbitrary political decisions and ensure that its interpretations are grounded in legal expertise .

The Jurisprudence of Annexation: How the NEBE and HoF Violated the FDRE Constitution and the Pretoria Agreement in Western Tigray is a litmus test not only to Ethiopia, but the African Union.

Part 3: The Restrictions on Tigray: Lack of Representation in the HoF and Executive Organs

The electoral decision did not occur in a vacuum. It is a consequence and a cause of the systematic exclusion of Tigray from federal institutions, which renders the federal government unrepresentative and unconstitutional.

3.1 The Absence of Tigrayan Representatives in the House of Federation

The HoF is composed of representatives of Nations, Nationalities, and Peoples, elected by the State Councils .

- Since the war began in 2020, the Tigray State Council has been non-functional or unable to elect representatives to the HoF in a manner recognised by the federal government. This means the HoF has been operating for years without the constitutionally mandated representation of the Tigray people.
- The recent decision on the electoral districts was made by a HoF that excludes the very nationality whose territory is being redrawn. This violates the principle of "equitable representation" guaranteed in Article 39 (3) and undermines the legitimacy of the HoF's decisions regarding Tigray. It is a textbook example of disenfranchisement through institutional paralysis.

3.2 Exclusion from the House of Peoples' Representatives and the Executive

The same exclusion applies to the House of Peoples' Representatives (HoPR) and the Executive.

- Tigray has had no effective, recognised voting bloc in the HoPR since 2020. This means federal laws, budgets, and policies affecting the region are passed without the input of its elected officials.
- The Executive branch, including the Prime Minister's office and the Council of Ministers, has operated without legitimate Tigrayan participation. While individuals from Tigray may serve in a personal capacity, the region as a political entity is excluded from the consensus-building that federalism requires.

3.3 The Result: Taxation Without Representation and Governance Without Consent

This situation creates a constitutional crisis where the federal government makes decisions binding on the people of Tigray—including the removal of their territory from their regional administration—while denying those people any voice in the federal decision-making process. This is a fundamental violation of the social contract and the federal compact.

From Pretoria to Partition: Procedural Failures, Institutional Biases, and Constitutional Violations in the Redrawing of Tigray's Electoral Map is failure of the African Union.

Part 4: Violation of Key Articles of the Pretoria Agreement

The Pretoria Peace Agreement (November 2022) is not just a political document; it is a legally binding commitment endorsed by the federal government and the TPLF. The electoral decision directly violates its core provisions.

4.1 Violation of the Preamble and Article 1: Commitment to Constitutional Order

The Preamble reaffirms the parties' "commitment to the Constitution." Article 1 commits to "respect for the federal system of government elected by the people." By unilaterally altering the electoral map without following the constitutional procedures for border changes (Article 48), the federal government is violating its pledge to uphold the constitutional order.

4.2 Violation of Article 2: Restoration of Constitutional Rule and Services

Article 2 outlines the restoration of the rule of law and services in Tigray. A key component of constitutional rule is territorial integrity. By administratively detaching parts of Tigray, the federal government is actively preventing the restoration of constitutional rule in those areas. It is not restoring Tigrayan governance; it is dismantling it.

4.3 Violation of Article 7: Sovereignty and Territorial Integrity

Article 7 reaffirms "respect for the sovereignty and territorial integrity of the Federal Democratic Republic of Ethiopia." While the federal government argues it is upholding territorial integrity, the Pretoria Agreement specifically refers to the integrity of the federal structure. By fragmenting the Tigray region, the federal government is undermining the internal territorial integrity of one of the federation's members, which ultimately weakens the entire federal structure.

4.4 Violation of the Dispute Resolution Mechanism

The Agreement sets up a framework for resolving differences through dialogue and the constitution. The unilateral decision by the HoF, without consultation with the Tigray Interim Administration, is a violation of the spirit and letter of the peace process. It substitutes political negotiation with administrative fiat, undermining trust in the entire agreement.

Voting Under the Shadow of Genocide: The Illegality of the 2026 Elections in Occupied Tigrayan Territory is a serious concern to the UN

Part 5: Consequences of This Action and Institutional Biases

This decision is not an isolated legal error; it is the culmination of systemic institutional bias against the Tigray region, with profound and dangerous consequences.

5.1 Consequences of the Action

a) Destabilization and Renewed Conflict:

The decision delegitimises the Tigray Interim Administration, which was a partner to the Pretoria Agreement. When a government is seen as complicit in the dismemberment of its own territory, it loses all credibility. This fuels armed opposition groups who argue that peaceful

constitutional means have failed, leading to a resurgence of insurgency and instability in northern Ethiopia .

b) Permanent Disenfranchisement:

The people of Humera, Raya, and Tsegede are being disenfranchised from their regional state. They are being forced to vote in a federal election without clarity on which regional state will ultimately govern them. This creates a stateless class of voters within the federation, which is the core objective of the Prosperity Party .

c) Erosion of the Rule of Law:

The decision sends a message that the constitution is a political tool that can be ignored or reinterpreted at will by the majority. It demonstrates that the rights of nations, nationalities, and peoples (Article 39) are contingent on political favor, not constitutional guarantees. This destroys respect for the rule of law.

d) Humanitarian Crisis:

The decision creates a new wave of displacement. Populations in these contested areas, unsure of their political future, are at risk of renewed violence and ethnic cleansing, undoing any progress made since the Pretoria Agreement.

5.2 Institutional Bias by the House of Federation (HoF)

The HoF has shown a clear bias by acting as a political arm of the executive rather than a neutral constitutional arbiter.

· **The 2020 Invasion Approval:** A critical historical example of this bias is the role of the HoF in the lead-up to the Tigray war. Following the Tigray regional elections in September 2020 (which the federal government deemed illegal), the House of Federation, under Article 62 (9), is the only body constitutionally empowered to order federal intervention if a state endangers the constitutional order. However, the decision to launch the full-scale military invasion in November 2020 was made by the Council of Ministers (the Executive) and the Prime Minister, and then retroactively justified. The HoF failed in its duty to act as a check on the executive. Instead of mediating the dispute, it enabled the military solution. This historical bias—choosing confrontation over constitutional mediation—is the direct predecessor to the current bias, where the HoF again chooses a unilateral, punitive measure against Tigray rather than a negotiated settlement.

5.3 Institutional Bias by the National Electoral Board of Ethiopia (NEBE)

The NEBE has abandoned its constitutional independence .

· **Bias by Compliance:** By obeying the HoF's unconstitutional directive, the NEBE has shown it is not an independent arbiter but a tool of the federal executive and legislative branches.

· **Bias in Voter Registration:** The NEBE's decision to create separate electoral rolls for these territories outside the Tigray framework is an administrative act that carries profound political consequences. It demonstrates a bias towards the claims of the Prosperity Party Amhara regional government and federal centralism over the constitutional rights of the Tigray region.

5.4 Institutional Bias by the Government (Executive Branch)

The executive branch has consistently used state institutions to pursue a policy of containment and fragmentation against Tigray.

- Institutional Messaging: The bias is evident in the actions of other federal ministries. For example, the Tigray Interim Administration accused the Ministry of Agriculture of "deliberately misrepresenting" Tigray's boundaries by referring to Western Tigray (Humera, Tsegede) as part of the Amhara Region in an official social media post. The Bureau stated this was "not merely a reporting error... but a deliberate use of institutional and structural means to hand over the constitutional territory of Tigray to another entity" . This shows that the bias is not confined to the HoF or NEBE but is a systemic policy across the federal government.
- Withholding Representation: The government's failure to facilitate the restoration of Tigray's full representation in the HoF and HoPR is the foundational bias. By keeping Tigray politically voiceless at the federal level, the executive ensures that decisions detrimental to Tigray can be made without opposition.

First They Cleansed, Now They Vote: The Unconstitutional Land Grab in Humera, Raya, and Tsegede: The decision by the NEBE, authorised by the HoF, to hold elections in Humera, Raya, and Tsegede outside the administration of the Tigray Regional State is an egregious violation of the FDRE Constitution and the Pretoria Agreement. It violates the specific provisions of Articles 39, 48, 52, and 62. It was reached through procedurally flawed mechanisms that denied the Tigray people their right to be heard. It perpetuates the unconstitutional exclusion of Tigray from federal institutions. Finally, it is the logical outcome of deep-seated institutional biases within the HoF, NEBE, and the Executive, biases that have been evident since the HoF's failure to prevent the 2020 invasion.

The consequences of this action are dire: it legitimises the use of administrative power to alter constitutional boundaries, destroys the fragile trust established by the Pretoria Agreement, and paves the way for a return to armed conflict. It transforms Ethiopia from a multinational federation based on consent to a centralized state based on coercion, setting a precedent that the rights of any nation, nationality, or people can be revoked by the unilateral action of federal institutions. This decision is not only illegal; it is a threat to the very existence of Ethiopia's Federal System. The Prosperity Party in Addis Ababa is planning to use illegal ballots as a Weapon: Legalising the Annexation of Western Tigray

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