

The question of Nations and Nationalities in Eritrea!

State = ግዛት-ሃገር/ሃገር
Nationalities = ብሄራ-ሰባት

Nation(s) = ብሄር/ብሄራት
Tribe(s) = ቀቢላ/ቀቢላታት (ቀባይል)

ንኣረዳድኣ ዝሕግዝ ትርጓሞ ቃላት ኣብ ላዕሊ ተመልከት

(According to the dictionary, a Nation — is defined as a self-identifying people who share a common history, often language, a common culture and a homeland).

Before delving directly to the question of “**self determination up to and including secession**” of Nations and Nationalities – within the Eritrean context, it is important to ground our discussion on some relevant political theories, which argue both for, and **against** the concept.

While in essence and content the principle of “**self determination up to and including secession**” is an inseparable political concept and in a nutshell affirms people’s unrestricted right to freely make a decision about their destiny, the relative weight or emphasis people place on the phrase “**up to and including secession**” is highly skewed. Such a skewed view could markedly be observed in the Eritrean current political discourse. And so, concise assessments of two political paradigms, which argue both **for** and **against** the concept of the **right to secede**, are hereby given below.

The English philosopher, Thomas Hobbes, is one among many leading liberal democratic philosophers, who argued **against secession**. According to the Hobbesian paradigm, the state is the result of a consent or social contract among the people themselves to be ruled by a sovereign monarch or democratic legislative body. Therefore, not only is the power of such a political authority “indivisible, infallible, and irrevocable”, but also is the supreme arbiter of law and justice, including those that must disallow the right of secession (Thomas Hobbes, Leviathan, published in 1651).

As Livingstone describes it, the Hobbesian paradigm involves a contract among “egoistically motivated individuals” within a state of nature, who unanimously consent to transfer their individual sovereign wills to that of a third party ruler. The sovereign ruler’s power over individuals is considered to be “indivisible, infallible, and irrevocable” (Donald Livingstone, “The Very Idea of Secession,” Society, July – August 1998, Volume 35, Number 5, P38).

Alternatively, the Dutch philosopher, Johannes Althusius, is one among many pioneer libertarian philosophers, who argued **for the right to secession** (libertarian thinkers are largely affiliated with the Austrian school of economics). The Althusian paradigm conceives political order as federative in nature. A single state institution does not monopolize political authority. Rather, government is pluralized, with the sovereign power shared by multiple social units, starting at the lowest level of authority, namely the family. Families consent to become members of guilds and colleges. Guilds and colleges consent to forming cities and provinces, which consent, to uniting in a universal common wealth (Johannes Althusius, Politica, published in 1603).

Political authority in Hobbes conception is unitary and irrevocable. Put it differently, once the citizens of a state consent and enter into a social contract to form a central political authority,

then membership in such a state is permanent and irrevocable. As such, the likelihood of incorporating a legal right of secession into the constitutional framework of the state is at best problematic. Whereas, consent for Althusius is, “continuous and may be withdrawn at any time.” Any of the social units having the means to do so may legally secede from the higher social units to which it has delegated authority. The social units of authority in the Althusian paradigm are able to unite and secede at will because they enter into higher levels of social units by compact, as entities that do not lose their sovereign character at the time of the political union (Thomas O. Hueglin, “Politica – (book review)”, *Publius*, Winter, 1997, Vol.27 No.1, p150).

When faced with the question: - should the right of secession be ever constitutionalized in a democratic state? The late philosopher, John Rawls, argued that any state that entrenches fundamental civil and political rights in its constitution is a just state. Not only does it protect basic human and political rights equally for all citizens, but also possess the institutional structures to distribute its economic wealth among members of the state. Therefore, why would any one want to secede from such a state? (John Rawls 1999, “A Theory of Justice,” Revised Edition, Harvard University Press).

Allen Buchanan, by and large, agreed with Rawls assertions, but qualifies it with a condition. For Buchanan, if the democratic state, Rawls is describing, is a “perfectly, or reasonably just” state that protects human rights and democratic participation, then that state has the right to exercise its jurisdiction over clearly defined territory. If, however, a liberal democratic state imposes unjust (i.e. undemocratic) policies on any minority of its citizens, that state loses its legitimate right to control that portion of territory where the oppressed minority lives. As a result, that minority has a corresponding moral right to secede (Allen Buchanan, “Theories Of Secession,” *Philosophy and Public Affairs* Vol. 26, No. 1. pp. 30-61).

The two liberal democrats, Rawls and Buchanan, are from the Hobbesian school of thought. And yet, one can see that the two philosophers held slightly different views on the limits of the state authority. Interestingly enough, the more one assesses the works of several liberal democratic philosophers, the more one observes that these theorists are split on the issue of whether secession should be recognized in a constitution.

In a stark contrast, libertarian political theorists are unanimous, and all agree on constitutionalizing the right to secede. For libertarian theorists, the wish of a state’s inhabitants super-cedes to that of the existence of a state’s fixed territorial integrity (i.e. people’s right should come over land integrity). To them, the state is not the only arbiter of law and justice; and that the unitary state exists not by coercion or imposition, but only by the free will of its inhabitants.

Ludwig Von Mises, neatly summarizes the fundamental requirements for secession:

Whenever the inhabitants of a particular territory, whether it be a single village, a whole district, or a series of adjacent districts, make it known, by a freely conducted plebiscite, that they no longer wish to remain united to the state which they belong at the time, but wish either to form an independent state or to attach themselves to some other state, their wishes are to be respected and complied with.

(Ludwig Von Mises. (1985). *Omnipotent Governments: The rise of the Total State and Total War*, Spring Mills, Penn: Libertarian press, pp46-47).

Likewise, Robert W. Mcgee has taken it a step further, thus succinctly concluding as follows:

Who should be able to secede and how should secession be accomplished?... First, secession should be built into the constitution, and second, secession should be unilateral. The group wishing to secede should not need the permission of the political entity it wants to secede from... Third, the method by which secession can be achieved should be clearly spelled out.

(Robert W. Mcgee, "Secession Reconsidered". *Journal of Libertarian Studies* 11, No. 1 (fall 1994), p23).

Unlike the liberal democratic theorists, libertarian theorists do not differ fundamentally, but only on matters that are procedural and technical in nature. Some say that the right to secede in a constitution should be stated unconditionally requiring only a simple majority vote (50% + 1) in a referendum; and that that referendum outcome should only be obtained from the seceding group. Others say that the qualifications of the right to secede ought to be conditional, requiring a detailed procedure that includes a super-majority vote (2/3 or 66.7%).

Here, suffice it to cite few countries that have incorporated the right of secession into their constitution; and that these countries can be categorized into 3 as follows:

1. Countries with Express Constitutional Rights of Secession

- a) St. Kitts and Nevis - are two adjacent islands located in the Caribbean that currently form a two-island political federation. They became independent when the British moved out in 1983. Section 113 of the constitution (enacted since 1983), gives the island of Nevis the right of secession. Under the constitution, a two-third - majority vote of the Nevis legislative assembly, and a two-third - majority vote of the Nevis electorate in a nationally organized referendum are required for secession to pass. In 1997, the legislative assembly of Nevis voted unanimously for secession. However, the referendum vote of the Nevis electorate was 61.7%, just short of the two-third (66.7%) required to pass. Consequently, both islands are federated to-date.

- b) Ethiopia - the Constitution of Ethiopia was ratified on December 8, 1994 (and was enacted on August 22, 1995). Article 39(4) reads:

4) The right to self-determination, including secession, of every nation, nationality and people shall come into effect:

- a) *When a demand for secession has been approved by a 2/3-majority vote of the members of the Legislative Council of the Nation, Nationality or people concerned,*
 - b) *When the Federal Government has organized a referendum which must take place within 3 years from the time it received the concerned council's decision for secession,*
 - c) *When majority supports the demand for secession vote (50% +1) in the referendum,*
 - d) *When the Federal Government will have transferred its powers to the council of the Nation, Nationality or people who has voted to secede, and*
 - e) *When the division of assets is effected in a manner prescribed by law.*
- c) European Union - EU – is a voluntary union of multinational democratic states and could be viewed as a large super-state. Article I – 59 of the EU constitution, gives member states the right to withdraw/secede and re-join again at will (the EU constitution was drafted in 2003 and enacted in 2004).
- d) The Sudan - after decades of a bloody war that claimed the loss of millions of lives including devastation's of resources, the government of the Sudan and the Sudan People's Liberation Movement (SPLM), have signed a **Peace Accord** in Kenya on January 9, 2005. The essential elements of the Accord were later incorporated into the constitution. According to the constitution:
- 1) *There will be a transitional period of 6 years,*
 - 2) *At the end of the 6 years, a plebiscite/referendum will be held only in Southern Sudan (SPLM Territory), and depending on the result of the referendum Southern Sudan will:*
 - a) *Either secede, becoming an independent state, or*
 - b) *Continue to form a voluntary union with the rest of the Sudan.*

The government of the Sudan has tackled one of its political challenges; and it will be interesting to see whether the **Peace Accord** will be followed through accordingly.

2. Countries with Procedure for Changing Territorial Borders

- a) Austria – the constitution recognizes the existence of 9 autonomously federated states. According to the constitution, the federal government determines the secession referendum question and the national population (including both the seceding and non-seceding groups) is eligible to vote on the question. A simple majority (50% +1) is enough to bring the matter to negotiations between the seceding territory and the national government, followed by a constitutional amendment requiring a 2/3 or 66.7% majority vote of the Austrian House of Representatives. As part of the

negotiation secession package, the boundaries' of the newly seceded territory requires the agreement of both the national government and the seceding government.

- b) Singapore – in light of its secession (some would say expulsion) from Malaysia in 1965, it is interesting to note that the constitution of Singapore, while not expressly recognizing secession per se, does contain a provision governing the surrender of its sovereign territory. The constitution states that no part of the “sovereignty of the Republic of Singapore” can be surrendered or transferred in any way whatsoever (including joining another sovereign territory, - i.e. a reunion with Malaysia) unless approved for such a surrender or transfer is given by a 2/3 majority vote from the people of Singapore in a nationally organized referendum.

- c) Switzerland - the Jura Procedure – in Switzerland, Canton Jura are French speaking districts while Canton Berne are German speaking districts. In the constitution, Cantons are recognized as strong sovereign territories. Therefore, a procedure exists in the constitution to facilitate the peaceful secession of smaller districts from existing Cantons within the Swiss State. The “Jura Procedure” offers a workable solution to boundary disputes. Two plebiscites (in 1974 and in 1975) were held. In the later referendum, the majority of these districts voted overwhelmingly to remain with Canton Berne.

3. Countries with Quasi-Constitutional Rights of Secession

- a) Canada – the federal constitution of Canada recognizes 8 provinces and 2 Territories. The inhabitants of Quebec are French speaking (and Quebec is one of the 8 provinces). The rest of Canada is English speaking (the inhabitants, by and large, are Anglo-Saxons). The French speaking Quebecers are the minority in Canada (approximately 5:27 million).

The federal government of Canada requested a legal and constitutional opinion from the Supreme Court of Canada on Quebec's right of **unilateral secession**. The Supreme Court's decision was that (Supreme Court report, 1998):

- 1) *No province has the **unilateral right** to secede from the rest of Canada*
- 2) *Secession requires three things:*
 - a) *A referendum that shows a clear majority vote in favor of secession that express the will of the Quebec citizens to secede, based on a clearly worded question,*
 - b) *A duty on the part of the remaining federal and provincial government (meaning English Canada) to enter into negotiation with Quebec guided by four fundamental principles (democracy, federalism, constitution and the rule of law, and protection of minority rights), and*
 - c) *The passage by the federal and provincial governments of a constitutional amendment ratifying the secession of Quebec.*

On June 29, 2000 (two years after the Court's rulings), the federal government of Canada adopted a statute known as the Clarity Act; and that **Act** essentially reaffirms all the

elements of the Supreme Court's rulings stated above. Nevertheless, there are a lot of ambiguities in the Clarity Act itself.

The province of Quebec conducted two plebiscites (in 1980 and in 1995). The results of both referendums were 40.44% and 49.42% respectively, just short of the 50% + 1 required. Hence, the province of Quebec continues to be part of Canada to-date.

In light of the theoretical background given, let us now proceed on to the foreground, which is the Eritrean political context. So, how could the political theories so far discussed be relevant to the political predicament that Eritrea is in today?

Today, in Eritrea, both Nations of the Kunama and the Afar, respectively led by the Democratic Movement for the Liberation of Eritrean Kunama (DMLEK), and the Red Sea Afar Democratic Organization (RSADO), are waging their struggle to ensure that the democratic principle of "self determination up to and including secession" be incorporated into the constitution of democratic Eritrea.

Granted, there are also other Eritrean Nations and Nationalities in Eritrea today, whose aspirations are to see, the same principle be included (as a guarantor) in the constitution. The difference is that they have not yet explicitly expressed it in an organized manner. Add to it, the Jeberty people's claim for a formal ethnic recognition, thus further complicating it.

Obviously, the issue under discussion has split the Eritrean opposition forces into the opponent and the proponent camps. Therefore, in the pursuit of advancing their position, the antagonists within the opponent's camp - argue in the following manner:

Deliberately or not, some antagonists altogether deny the existence of Nations in Eritrea. Instead, they argue that there are Tribes in present day Eritrea. Moreover, others attempt to trivialize, or at least distract people's attention by demeaning, belittling, or sensationalizing the issue as follows:

- a) The theory of "self determination up to and including secession" is an ancient Leninist/Marxist theory that has already failed in the socialist block, and*
- b) That the concept is a recently borrowed concept from neighboring Ethiopia.*

Hobbes' paradigm considers "citizens' consent" as a pre-requisite for establishing the unitary and irrevocable central political authority. The antagonists' argument, however, is that regardless of whether there is or there isn't the Eritrean people's will and consent in place, there must be a highly centralized central political authority, in Eritrea, to keep the territorial integrity of the country together.

That, in their view, is the only way to keep Eritrea unitary and indivisible (an iron cast and stone model).

Yet, other antagonists who hold a reformist view argue that if: a) individuals' rights are entrenched into the constitution and protected by it, and b) equality of nations is recognized in the constitution, then the incorporation of the principle of "self

determination up to and including secession” into the constitution, as is being claimed by some Nations and/or nationalities in Eritrea today, must be rejected.

At present, there is a concerted effort being made by some member organizations of the Eritrean Democratic Alliance (EDA) to remove Article (3) and (4) from the charter. In part, Article (4) reads, “We shall ensure that Eritrean national and nationalities have the right to self determination founded on the principle of equality and mutual respect.”

In return, the protagonists within the proponent’s camp - advance their rebuttal as follows:

We all know that Africa had to undergo through the “non-capitalist path of development”. As a starting point, referring to, and self-refreshing on the concepts of the “non-capitalist path of development” might be helpful to comprehensively understand whether or not there are nations in today’s Eritrea. Understood, such recommendation is only going to be relevant for those who either have not had the chance to read these concepts, or need to refresh their memories on the historical developments (pre & postcolonial periods) of African states. Some of those who are trying to confound the issue with such kinds of denial tactics, however, are those who were teaching (as political cadres) about the existence of nine nations (**ጠላራት**) in Eritrea, during the armed struggle. Whether these people deliberately deny the existence of nations, or intend to take them as tribes instead, has no relevance to the issue on hand whatsoever.

What is real and an objective issue in Eritrea today, is that both the Kunama and the Afar nations have been making it abundantly clear to us that they know who/what they are and what they are struggling for; and that no one else has either the moral or legal right to tell them who/what they are and they are not. Suppose the principle of “self determination up to and including secession“, was say claimed by an Eritrean tribe (instead of by a nation) - would the solution be any different? If so, what would the antagonists’ proposed solution be? Whatever their proposed solutions may be, one would hope that applying force to impose a solution would not be one among the antagonists’ preferred option. As they say, “you may be able to kill the messenger, but you can not kill the message.” Unless and until we democratically find a just solution to it, the issue will constantly keep haunting us now and well into the future. Besides, if imposing a solution by force has not worked for the PFDJ, why should it work for any one else?

The Dutch philosopher, Johannes Althusius (in 1603), and the English philosopher, Thomas Hobbes (in 1651), respectively argued for and against secession. Therefore, the assertion that the Leninist/Marxist philosophy is the only theoretical foundation for the principle of “self determination up to and including secession” is not well founded. In the era we live in (i.e. the 21st century), there are many sovereignist /secessionist movements all over the world. For instance, democratic western states such as: France, Canada, Spain, Italy, the United Kingdom, Belgium, Germany ...etc. have all sovereignist movements. Some countries (such as the once cited above plus others) have already incorporated the right of secession into their constitution, while others are still grappling with it. That is why that libertarian and liberal democratic contemporary theorists are constantly debating for and against the issue today. So, the philosophy (as the antagonists

would like to demean or belittle it), may have ancient origins, but continues to be a contemporary one.

The selective allegation of the “borrowed concept from Ethiopia” is another attempt by the antagonists to stir emotions and sensationalize the issue (at least among certain segments of the Eritrean population). The context or background they use to inflame public sentiment is the current border conflict between the two countries. Emotion aside, however, there are many countries in the world today that have inserted the right of secession into their constitution, long before Ethiopia did. Here, the readers can clearly observe that the antagonists are deliberately trying hard to play the guilty by association card, or attack by proxy tactics (for some opposition organizations currently exist in and operate from Ethiopia). What they are failing to understand, however, is that the readers are much more sophisticated than what the antagonists think they are. Not only do people know where the origins of the philosophy came from, but also they do know that there were countries out there that have inserted the right of secession into their constitution, long before Ethiopia did. Let’s assume for a moment that it was necessary for the opposition organizations to barrow a “political concept or theory”, why do the antagonists think that they had to barrow it only from Ethiopia – when in fact there are many other countries with similar constitutions that they can refer to? Besides, don’t they know that many countries in the world today constantly barrow ideas, information, and technological know how ...etc! If everything Ethiopian, by their line of thinking is bad, then, it means that they should also stop buying Teff, Coffee, and Zuria ...etc. from Ethiopia.

At this juncture, we would like to remind the readers that there is a rapidly emerging **elitist and chauvinistic view** in both the Eritrean Diaspora and inside the country today. Those who hold that elitist and chauvinistic view come from a narrower circle of social base, and are not many in number. Nevertheless, they are capable of, and know how to effectively utilize, propagation media such as the radio, cable, the cyber space (internet), networking on a one to one, or between groups, and including public gathering forums ...etc.

Note here! The Kunama and the Afar people are simply advancing the claim that the principle of “self determination up to and including secession” be inserted into the Eritrean constitution (as a guarantor). To our knowledge, there is no evidence that show that these two nations are planning to secede from the country. On the contrary, they have time and again reaffirmed it clearly that they are advancing the claim, for it to be included in the constitution of democratic Eritrea; and that they do not have any plan to break up the country. Like their Eritrean brothers and sisters, they care about the unity of their country, Eritrea. They have a mutual vested interest to see peace, harmony, stability, sustainable social and economic growth in the country. But the way in which the proprietors’ of the elitist and chauvinistic view exploit the claim is - as if it is certain that these two nations will secede from the country the day after the dictator is removed from power. The only way to stop from that happening, according to Buchannan, is to establish a “perfectly or reasonably just democratic state” that could live in harmony within itself and others.

True, the end result, which both the opponents and the proponents of the claim, want to see is the unity of Eritrea. But the approach or methodology that each camp uses to get there are quite different. The proprietors' of the elitist and chauvinist view want to see a unitary state of Eritrea through coercion and imposition. They argue that in order to keep the territorial integrity of the unitary state of Eritrea together, there must be a highly centralized state political authority at the center. And according to them, those powers should remain supreme and irrevocable. For them, the wish and the will of the people are irrelevant. In fact not only do they act as if they and they only exclusively own Eritrea, but also they believe that they are the benevolent givers of the solutions to Eritrea's current political predicament; and that the rest of us, according to them, are simply passive receivers of their solutions (giver/receiver relationship model).

Using Mcgee's argument, such a unitary political order is too coercive with power monopolized at the center; and that this type of state monopoly of power is the breeding ground for the emergence of sovereignist/secessionist movements. For the ultimate purpose of secession, is to break or undo the compulsory ties between the secessionists and a government that they no longer accept.

Alternatively, the approach, which the proponents of the claim use - heavily emphasizes on ascertaining the unity of the country democratically. For them, the ascertainment of the people's consensus and consent founded on the principle of equality and mutual respect is a pre-requisite for establishing the unity of the country. In support of this model, Mises argue that a country can enjoy domestic peace, only when a democratic state constitution provides the guarantee that the adjustment of the government to the will of the citizens can take place without friction.

At least, Hobbes' paradigm considers "citizens' consent" as a pre-requisite for establishing the unitary and irrevocable central political authority. In a sharp contrast, the Eritrean elitists do not include any public input into account - in establishing the unitary and irrevocable state of Eritrea.

These two draconian views were refuted by the Althusian paradigm. The Althusian paradigm conceives political order as federative in nature. A single state institution does not monopolize political authority. Rather, political authority is decentralized in such a way that lower levels of authority are able to retain their sovereign power. The social units of authority in the Althusian paradigm are able to unite and secede at will because they enter into higher levels of social units by compact, as entities that do not lose their sovereign character at the time of the political union.

The elitist/chauvinist view and the reformist view held by the Eritrean elitists, may on the surface level look different, but are in essence and in actual fact identical twins. The way how these reformists advance their argument is that they can allow a) individual right b) equality of ethnic groups (not even nations and nationalities) to be enshrined in the constitution of Eritrea, but that they will not allow or accept the entire principle of self determination as is being claimed by the Kunama and the Afar peoples. Note here! The

reformists are the benevolent givers and the rest of us are passive receivers (the giver/receiver model).

If the reformists truly accept an individual right, then it follows that the collective right of people is the logical outgrowth of the individual right. The United Nations Charter and Human Rights Law have both recognized the individual as well as the collective right of people to freely determine their own affairs. Furthermore, the International Court of Justice refers to the right of self-determination as the right held by people rather than by governments. So, who then gave these elitist groups the mandate to be the sole arbiters of law and justice in the country? Aren't they trying to shove down our throats the solution that they and only they see it fit? Where does the people's say via referendums fit in all of these?

Currently, it is our understanding that there are some member organizations of the Eritrean Democratic Alliance (EDA) who are campaigning for the removal of Article (4) from the EDA charter. In part, Article (4) of the charter reads:

“We shall ensure that Eritrean national and nationalities have the right to self determination founded on the principle of equality and mutual respect”.

It certainly will be interesting to see – what the rationale or theoretical arguments for removing it would be? In our view, there is no sound theoretical or practical basis for removing it; hence, they may not have the required vote that enables them to do so. However, let's assume that they are able to get the required vote and are able to remove it – does that then mean that the issue is dealt with once for all? Absolutely not! It is one thing to try to shrug the issue under the EDA carpet temporarily, but it is quite another to be able to erase it from the minds and psyche of those who claim and support it. Make no mistake about it, the issue, will still be there, for as long as there are people who claim and support it.

In conclusion, not only does the giver/receiver relationship model contravene with the right of peoples to freely make decisions on their own affairs, but also it undermines the principle of equality and mutual respect. In so doing, it is also ultimately contravening with the UN Charter, Human Rights Law, and as well as International Law. Hence, this model is not and cannot be the right model to apply in solving the state of Eritrea's (or any other state for that matter) current political predicament. According to the libertarian theorists, the wish of a state's inhabitants super-cedes that of the existence of a state's fixed territorial integrity. Therefore, the unity and territorial integrity of the state of Eritrea can't be maintained by the use of coercive force, but only by the consent and the free will of its entire people.

ERITREAN PEOPLE'S DEMOCRATIC FRONT (EPDF)
Region (Zoba): – North America, Information & Culture Branch.

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