



The Status of Special Police in Ethiopia: Peace, National Security and Human Rights

Endrias Tekalegn*

College of Law, Dire Dawa University, Dire Dawa, Ethiopia

Email: etekalegn@yahoo.com

Abstract

The Constitution of the Federal Democratic Republic of Ethiopia (The FDRE Constitution) was adopted in 1994 and entered into force in 1995, entrenches a federal system which was de facto in place since 1991. The federal system was adopted to achieve unity through diversity and recognized the need to end the cycle of political crisis by decentralizing power and resources to nine constituent states and one autonomous city, thereby ensuring self-administration right to the ethno-linguistic groups at various levels. The FDRE Constitution provides for powers of both Federal and State governments. Article 51 (6) of the same empowers the federal government to establish Federal Police Force while Article 52(2)(g) provided that states have the power to establish and administer a state police force with the aim of maintaining public order and peace within states. This provision of the constitution allows States to have police forces with the necessary training and weaponry essential to enforce the law and maintain public order and peace. All states have established their own police force. Besides, States have established Special Forces (Liyu police) with special mandate. However, in recent years, increasing numbers of the wider population including high ranking officials are questioning the status of Regional Special Forces. This paper uses doctrinal and comparative methodology to examine the status, constitutionality, human rights abuses and national security issues resulting from Regional Special Forces. It argues that the FDRE Constitution has a loophole, which allowed states to establish special police whose operation resulted in human right abuses, arms race, and border conflict, endangering peace and national security of Ethiopia. It provides the way forward.

Key Words:

Liyu Police, National Security, Peace, Human Right

*Corresponding author: Endrias Tekalegn, etekalegn@yahoo.com

1. Introduction

Police is one of the actors in the security sector. The functions of the police are protection of human rights, prevention and detection of crime, and maintenance of public order. In the protection of human right regime, States have the obligations to respect, protect and fulfill rights.¹ One of state's machineries destined with fulfilling such obligations is the police. This is because police is required to enforce the law in compliance with the rights of persons recognized in FDRE Constitution and other international standards. Police has the responsibility to protect citizens from any kinds of violation of their right to life, the right to property, the right to liberty and security, and other rights of citizens that are guaranteed under international human rights instruments and other laws. Therefore, the obligation of police in relation to protection of human rights starts with safeguarding the people from any form of crime and maintaining social order to ensure effective social mobility.

The emergence of national states after the middle ages believed to have created an organized form of policing and there is evidence of formalized policing in ancient China, Egypt, the Greek city-states and Rome.² In Ethiopia, there was an institution serving as Police before the reign of Menelik.³ Menelik II has created a modern police administration in Ethiopia.⁴ There was also a massive increase in the number of police officials appointing police in every corner of the country during the reign of Haile Selassie I.⁵ The Dergue regime continued the system of placing police throughout the country although it gave more attention to the army than to the police.

The Federal system is adopted to achieve unity through diversity with the need to end the cycle of political crisis by decentralizing power and resources and ensuring self-administration right to the ethno-linguistic groups at various levels.⁶ Using this right to self-determination and the constitutional empowerment to establish regional police force, almost all States, except the newly established South West State, have established Special Forces (Liyu Police, Paramilitary

¹ Hakimi, M. (2010). State bystander responsibility. *European Journal of International Law*, 21(2), 341-385.; See also Lavrysen, L. (2014). Positive obligations in the jurisprudence of the Inter-American Court of Human Rights. *Inter-Am. & Eur. Hum. Rts. J.*, 7, 94.

² Kelly, A. (1973). *Decisions in the penal process*. London: Lloyds of London press. P. 38.

³ Mogos, B. 1970. Gizena Police. Ethiopia: Addis Ababa, Artistic printing press cited in Tulu, A. S. (2010). Evaluating the application of human rights principles in crime investigation in Ethiopia: a case study of the Addis Ababba city police (Master's thesis). Tulu here provided that this position of Mogos is not proven by historians.

⁴ Although Tulu rejected the position of Moges on the existence of institution serving as Police before the reign of Menelik as not proven and supported by historians, he has admitted the fact that Police in Ethiopia formally established by Menilik II.

⁵ Ibid

⁶ Fiseha, A. (2012). Ethiopia's Experiment in Accommodating Diversity: 20 Years' Balance Sheet. *Regional & Federal Studies*, 22(4), 435-473.

Militia⁷ with special mandate).⁸ However, in recent years, increasing numbers of the wider population including high ranking officials and scholars are questioning the status and constitutionality of Regional Special Forces. Human Right abuses by these forces and arms race are endangering National Security and integrity of the nation as a whole.

This article has been presented in four parts. Part I discusses the overall Status, history and constitutionality of Regional Special forces. Part II discusses the major concerns raised in relation to human right abuses, the arms race and explains how the Special Forces are alleged to be in violation of human rights, thereby endangering peace and security of Ethiopia. Part III examines the need to revisit the status of Regional Special Forces taking into account the problems resulting from the establishment and operation of such forces. Finally, Part IV provides the concluding remarks.

2. The Status, History and Constitutionality of Regional Special Forces

The Federal Democratic Republic of Ethiopia (FDRE) is comprised of the Federal Government on the one hand and 11 regional states and two city administrations including the newly formed States.⁹ The FDRE Constitution has also divided legislative, executive, and judicial powers among the two tiers of the Government (Federal and Regional). Accordingly, Article 51 of the FDRE Constitution lists exclusive powers of Federal government. Similarly, Regional States have also their own powers provided under Article 52 of the FDRE Constitution. Similarly, Regional States have also their own powers provided under Article 52 of the FDRE Constitution. These powers include all powers, not only the powers given expressly to the Federal Government and concurrently to the Federal Government and the States but also such powers listed under Article 52/2/ of the FDRE Constitution.

With regard to the structure, the FDRE Constitution has decentralized the power to administer and establish police forces. In so doing, both the Federal and State Governments are mandated to establish police forces with the objective of maintaining public order and peace.

⁷ Kelecha, M. (2018). Protest, Repression and Revolution in Ethiopia. *African Political Economy*. P. 6

⁸ Brook Abdu, The Reporter, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> Last Accessed 3/2/2021

⁹ See Article 50/1/ of the FDRE Constitution

The Federal government has established Federal Police Commission, which is accountable to the Ministry of peace previously¹⁰ and is now accountable to the prime Minister¹¹. And also Article 52 sub article 2(g) of the FDRE Constitution gives power to states to establish and administer state police with the aim of maintaining public order and peace within the states. The constitution is too broad concerning the role and nature the police forces, providing the states the leeway to form their own special forces with heavy weaponries and special training. Regional Special Forces were first established in Somali State in 2007.¹² Special Force in the Somali region was established in order to control the Ogaden National Liberation Front (ONLF) insurgency in the region. It was born from ONLF atrocities upon the innocent civilians (tortures, rapes, kidnappings, and killings). It is believed that Ethiopian authorities created the Liyu (“special” in Amharic) Police for the Somali region due to an escalated armed conflict between the insurgent ONLF.¹³ The immediate cause for its establishment was an attack by the ONL rebel group on a Chinese oil exploration that killed 74 Ethiopians and nine Chinese workers.¹⁴

Following the formation of Somali State Special force, almost all States including Dire Dawa City Administration and Sidama Regional State have established their own special forces in addition to the ordinary police. The Sidama region was officially formed in June 2020 and it inaugurated its first batch of Special Forces in August 2020 within two months of its formation.¹⁵

¹⁰ Ethiopian Federal Police Commission Establishment Proclamation, Proclamation No. 720/2011, Federal Negarit Gazeta No. 2 28th November, 2011. See also Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Proclamation No.1097/2018, Federal Negarit Gazette No. 8, 29th November, 2018 Article 13/1/j/ and Article 33/4/d/.

¹¹ Article 79/7/, Definition of Powers and Duties of the Executive Organs Proclamation No. 1263/2021, Federal Negarit Gazette No. 4, 25th January, 2022

¹² In fact, there were differences regarding the date of establishment of Somali special force. For more on this see, Ethiopia: COI Compilation November 2019, https://www.ecoi.net/en/file/local/2021013/ACCORD_Ethiopia_COI_Compilation_November_2019.pdf Page 53 Last Accessed 12/3/2021; Daniel Mumbere, <https://www.africanews.com/2018/06/01/amnesty-asks-ethiopia-to-disband-controversial-liyu-police-unit/> Last Accessed 12/3/2021; See also Norway: Landinfo - Country of Origin Information Centre, *Ethiopia: The special police (Liyu Police) in the Somali Regional State*, 3 June 2016, available at: <https://www.refworld.org/docid/57bd3ea14.html> accessed 2/3/2021 For some, the establishment year was 2008. See Aiga Forum, <http://aigaforum.com/article2016/Liyu-Police.pdf> Last Accessed 11/3/2021.

¹³ Sisay Sahlu, Minister Labels Regional Special Forces “Unconstitutional”, The Reporter <https://www.thereporterethiopia.com/article/hpr-labels-peace-efforts-ministry-futile> Last Accessed 2/3/2021

¹⁴ Bamberger, J. G., & Skovsted, K. (2016). *Concessions and conflicts: Mapping oil exploration in Somalia and Ethiopia* (No. 2016: 02). DIIS Working Paper.

¹⁵ The Reporter, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties> Last Accessed 3/2/2021

Although Article 52 (2) (g) is clear in giving States the power to establish and administer a state police force with the aim of prevention of crime, maintaining peace and order in the state, and all states have established their own police force, it is debatable whether or not they have power to establish police force with special training just like special military and acquire heavy weapons. Those who argue in support of constitutionality of the Regional Special Forces always raise Article 52 (2) (g) of the Constitution as their legal basis.

There is however growing number of persons who are questioning the constitutionality of Regional Special Forces including high ranking officials. Muferiat Kamil, the Minister of Peace herself, in her statement, , questioned the constitutionality of Regional Special Force.¹⁶ During the Evaluation of the first quarter performance report by the Foreign, Defense and Security Affairs Standing Committee, the House of Peoples' Representatives (HPR), it was reported that the minister told the HPR that Special Forces established by regional states are 'unconstitutional' and asked lawmakers to either formulate a legal package/means/ or seek other means to solve the predicament.¹⁷

On the other hand, Dr Sisay Mengiste's, position on the issue is that Article 52 (2) (g) of FDRE Constitution is open for interpretation and is difficult to argue categorically that the formation of Regional Special Force as either unconstitutional or illegal.¹⁸

General Adem Mohamed (former Chief of the General Staff of National Defense Forces) also rejected the legality of Regional Special Force. He said that the establishment of the Regional Special Forces does not have legal basis and is unconstitutional.¹⁹

On the other hand, looking to the minutes of the draft constitution and the discussions held among members of the drafting committee reveals that the intention of the drafters of the constitution in incorporating Article 52/ (2) (g) into the constitution is not to give regional states the power to establish additional police force which replaces or assumes the role of the National Defense Force; rather it is simply to give them power to establish normal police force with the power to maintain law and order within the states.²⁰ This is because for military-related functions and manner of controlling arms, the drafters have mandated the federal government

¹⁶ Sisay Sahlu, Minister Labels Regional Special Forces "Unconstitutional", The Reporter <https://www.thereporterethiopia.com/article/hpr-labels-peace-efforts-ministry-futile> Last Accessed 2/3/2021

¹⁷ Ibid.,

¹⁸ Dr. Sisay Mengiste, Lecturer of Federalism and Human Right at Addis Ababa University, cited in BBC Amharic, August 20, 2020 <https://www.bbc.com/amharic/news-53763558#content> Last Accessed 2/3/2021

¹⁹ Ibid.,

²⁰ Minutes of the draft Ethiopian constitution, volume 4 ,1994 cited in Tiruneh Endeshaw (2020), Assessment of the Establishment of Liyu Police in the Ethiopian Federation: The Case of Selected Regional Liyu Police, Addis Ababa University

to organize the National Armed Force,²¹ and to enact laws relating to possession and bearing arms.²²

This tells us that the Constitution together with the intention of the drafters empowers regional states to establish police force to the extent necessary to maintain public order and peace within the states and let them undertake the normal functions of the police in relation to enforcement of laws which includes crime prevention and investigation.²³ The constitution neither meant to allow regional states to establish military kind force nor to empower the bearing of heavy arms which are unnecessary for administration of justice and ensuring law and order in the states.

What characterized the regional security sector today is not just their establishment but rather, it is the bolstered numbers and sophistication of these contingents, state-of-the-art of training, specialized equipment, and their association with anti-government sentiments. This may lead to conflicts.²⁴ An example is the attack by Tigray Special Forces, which possessed sophisticated armaments that pose the greatest threat ever to the country's federal unity.²⁵

3. Experience of Other Federal States

For the purpose of analyzing the power of States in regulating their own police force and its relation with other states in a Federation and the Central Government (Federal government), experiences from Switzerland, India and Nigeria have been considered. Switzerland and India are selected based on the notion of subsidiarity as it gives powers to their respective regional states to establish their own police force just like Ethiopia; while Nigeria is selected to show how centralization of police force is creating problems in the federation.

3.1. Police in Switzerland

In Switzerland, the administration of justice is vested in the member units, 26 cantons whose sovereignty is laid down in Swiss Constitution, while responsibilities of the Federal office of police (Fedpol) are mostly limited to a small number of crimes: economic spying, terrorism

²¹ See Article 51 (6) of FDRE Constitution

²² See Article 51(21)

²³ Tiruneh Endeshaw (2020), Assessment of the Establishment of Liyu Police in the Ethiopian Federation: The Case of Selected Regional Liyu Police, Addis Ababa University

²⁴ It is reported that there are border conflicts between Oromiya and Somali, Amhara and Tigray, Special forces resulting many deaths. For more on these conflicts see See Supra note 10,13, 14, 17 & 18

²⁵ Kelecha, M. (2018). Protest, Repression and Revolution in Ethiopia. *African Political Economy.*; See also Norway: Landinfo - Country of Origin Information Centre, *Ethiopia: The special police (Liyu Police) in the Somali Regional State*, 3 June 2016, available at: <https://www.refworld.org/docid/57bd3ea14.html> accessed 2/3/2021;

and political crimes, border protection, complex and organized crimes.²⁶ According to Swiss Constitution, the cantons can establish their own police forces as they wish as long as they comply with federal constitution and the penal code. There is no national Police force in uniform. The constitution tries to regulate the division of powers and responsibilities of each Cantons on the one hand and the Federal government on the other based on the principle of subsidiarity as provided under Articles 3 and 5 of the Federal Constitution of Switzerland. According to this principle, all those powers that are not explicitly assigned to the federal level belong automatically to the local level.²⁷

Based on the principle of subsidiarity the balance of policing clearly favors the local level and in so doing, public order and investigation of crimes are entirely distributed to cantons where cantonal Police departments are not subordinate to Federal authorities. Cantons can themselves further devolve policing powers to municipalities and cantonal Parliament defines the legal and financial framework.

The organization of cantonal police forces generally reflects the primary language of that canton. In the French speaking Part (Romandie) police has two main sectors the gendarmerie (performs the tasks of police patrol) and Sûreté 'security' or 'safety') vested with civil and criminal investigation. In German speaking cantons, the police are divided into three sections: *Kriminalpolizei* (criminal police) which conducts criminal investigations (similar to the *sûreté* in French Speaking Cantons), the *Schutzpolizei* ('security' or 'protection' police), which responds to emergency calls and conduct patrols (similar to the *gendarmerie*²⁸), and the *Autobahnpolizei*, which enforces traffic laws and investigate road traffic accidents. In Italian speaking cantons, the police are divided into geographical Sectors as the cantons of Bern and Graubünden.²⁹

Each canton cooperates through regional agreements. There is also an association of cantonal police departments and an association of municipal police departments for each canton, which are established to strengthen the cooperation. As Switzerland presents one of the highest percentages of gun ownership per household in Western Europe, there is also strong national

²⁶ Fluri, P., & Urscheler, M. (Eds.). (2011). *Policing in federal states*. DCAF. P 104

²⁷ Roché, S. (2011). Federalism and police systems. *Geneva: Centre for the Democratic control of Armed Forces*. P. 26

²⁸ A gendarmerie is a police force with a formal military status, and which is at least partly answerable to the ministry of defence. In Western Europe this applies, for example, to the French Gendarmerie, the Italian Carabinieri and the Spanish Guardia Civil. For more on this type of police force, its history and the countries that has established gendarmerie see Lutterbeck, D. (2013). The Paradox of Gendarmeries: Between Expansion. *Demilitarization and Dissolution, The Geneva Centre for the Democratic Control of Armed Forces*.

²⁹ Ibid., p. .40

weapon management Act which clearly regulates firearms possession for both private individuals and police.³⁰

Switzerland police system (both cantons and central police), therefore, is characterized by cooperation, respect, proper arms management and control for both private and armed forces. It is diverse ethno-linguistically and there are no boarder conflicts with each other. Thus, it is different from the Ethiopian regional States police relations.

3.2. Police in India

In India, there are three categories of government powers. The first specifies the powers of the Central government; the second belongs to the states; and the last one is the shared power between the Federal and States. The Indian Constitution lists the powers and functions of the central government and the state governments.³¹ However, primacy is given to Union laws over state laws. This indicates that the union government has supremacy over the state governments in matters related to legislation. The Indian Constitution makes it mandatory for every state to comply with laws made by parliament and mandates the central government to issue directions to states if necessary under Article 256. It also obliges states not to impede or prejudice the power of the union in which case the central government is still empowered to issue directions under Article 257.³² This supremacy exists not only in legislative powers but also in administrative and financial matters.³³

Despite this, each of the 28 states and 7 union territories of India have their police force over which each state legislature has exclusive power to make laws relating to the police force and its functioning.³⁴ The central government and states have two types of police forces (i.e. civil police and armed police). The armed police are used as a striking reserve to deal with emergency law and order situations while the remaining part of the state police force is the civil police empowered for day-to-day investigation of crime.³⁵ Rules and regulations governing the state police forces are framed by the state governments and contained in their Police Manuals. The same holds true for the Central Police Organizations (CPOs) whereby the central police is also composed of para-military and the civil police.

³⁰ Markwalder, N., & Killias, M. (2012). Homicide in Switzerland. In *Handbook of European Homicide Research* (pp. 343-354). Springer, New York, NY.

³¹ See Article 246 of Indian Constitution

³² Roché, S. (2011). Federalism and police systems. *Geneva: Centre for the Democratic control of Armed Forces*. P. 33

³³ Ramakantan, "Federalism, Decentralization and Democratization in a Multicultural Polity," p.2.

³⁴ Fluri, P., & Urscheler, M. (Eds.). (2011). *Policing in federal states*. DCAF. P 6

³⁵ Ibid, See also Gregory, F. E. C. (1981). The Indian Police System and Internal Conflicts. *Journal of Conflict Studies*, 2(1). P. 18

Although there exist several states police with their own laws and manuals regulating their own forces, there is uniformity in Indian police in function and structure. This is because; the structure and function of work by each police is governed by the Police Act of 1861 which is applicable to most parts of the country or each State Police Acts modeled on the 1861 legislation; major laws such as laws of evidence, procedural laws and penal laws are uniformly applied all over states; the state senior police officials are trained and recruited based on “all India Service System”, a system established and lead by the central government to recruit and train senior police officials for the center and each states; the reliance of states on the central paramilitary although they have their own armed police is because the Federal one is more equipped with human and material resources; and lastly, there are specific provisions in the constitution that give coordinating and counseling role to the center.³⁶

3.3. The Nigerian Police

The power of the Federal Republic of Nigeria is divided between the central government called the federal government and the 36 states of the federation.³⁷ Law making function in the center is the responsibility of the national assembly while the state houses of assembly perform similar functions subject to the limit permissible by the legislative list contained in the second schedule to the constitution. Each of the states constituting Nigeria is meant to be a complete government on its own with powers to make laws, enforce them and punish offenders through the judicial arm.³⁸ Yet under the Nigerian legal system, the only institution burdened with the responsibility of enforcing law under Article 214 of Nigerian Constitution is the Nigerian Police Force.³⁹ Although section 215 (4) of Nigerian Constitution is unequivocal that a State Commissioner of Police shall be at liberty to refer a directive given by a State Governor before acting on them, most government decisions are influenced by politics, a governor’s directive to the State Commissioner may be subject to veto.

Some Nigerian commentators have advocated for the creation of separate police forces for each state. According to Adedeji, Nigerian Federal Police is characterized by abuse and misuse of power and is engaged in serious crises of confidence with Nigerians who see them as agent of oppression.⁴⁰ The author recommends police decentralization to each state.⁴¹ In fact, the

³⁶ Fluri, P., & Urscheler, M. (Eds.). (2011). *Policing in federal states*. DCAF. P 8

³⁷ See Section 2 and 3 of the 1999 Constitution of the Federal Republic of Nigeria

³⁸ Adedeji, O. A. (2012). State police in Nigeria: Issues and challenges. *SSRN Electronic Journal*, 1. P. 3

³⁹ Ibid.,

⁴⁰ Inyang, J. D., & Abraham, U. E. (2013). Policing Nigeria: A case for partnership between formal and informal police institutions. *Merit Research Journal of Art, Social Science and Humanities*, 1(4), 53-58.

⁴¹ Ibid., p.13

constitution offers a tool to address this issue, in the form of the Nigeria Police Council, a body which is supposed to bring State Governors and the Presidency together to oversee the police, but which is currently moribund. Others have opposed this on the grounds that they could become politicized, or would have inadequate resources, or would fail to collaborate.⁴²

4. Regional Special Forces Vis-a-vis Human Rights, Peace and National Security

Police, the largest and the most important law enforcing agency, has, no doubt, *a special responsibility* for the protection of peace, human rights and national security. This role of police may fall in vain if not properly managed or police has acted in violation of proper policing. Sometimes, failure to critically examine the of the type of policing a nation requires, the determination of recruitment and selection, the types of armament required to conduct police works and so on may affect peace and stability.

Thus, given the current state of policing and what is required for the police mission to succeed, it is important to examine the status of special police in Ethiopia in contributing to the protection of human right peace and national security

4.1 Policing Models

Across different countries with different polities, there are different police systems. There are different models of policing. These are fragmented models of policing, centralized models of policing, and the integrated models of policing and democratic models of policing. Fragmented model of policing is dominated by autonomous local governments. The centralized model of policing is a more orderly and efficient model of policing but felt to be less democratic, empowering the central government.⁴³ The integrated model of policing is viewed as a compromise by a number of police scholars.⁴⁴ It is more efficient than the fragmented model and more democratic than the centralized model, and it has less potential than the other two models for police abuse and systemic corruption. It is a kind of police model that gives the power to both the central and local governments. Democratic policing refers to the police's abidance to the rule of law, the existence of accountability of the police and procedural fairness by the police in service of the public.

Recent Police doctrines contribute to democratic policing or the good governance of the police system.⁴⁵ Most countries of the world are making political transitions to democracy and those

⁴² Owen, O. (2014). The Nigeria Police Force: Predicaments and Possibilities. *Nigeria Research Network (NRN) Working Paper No. 1*.

⁴³ Ibid.,

⁴⁴ Ibid.,

⁴⁵ Osse, A. (2016). Handbook on police accountability, oversight and integrity. P.9

engaged in genuinely deepening democracy, are adopting a democratic model of policing, in their police structures.

As Sklansky noted, even though the meaning of democratic policing will remain in flux because of our flux ideas about democracy, the democratic model of policing is founded on principles of equity and equality, accountability, transparency, participation, respect for diversity, the accommodation of dissent, protection of individual and group rights, and encouragement of human potential.⁴⁶ Community policing philosophy has also a strong presence, and order maintenance/peacekeeping models have emerged as a method of crime-fighting, using problem-oriented policing and intelligence-led policing.⁴⁷

A study conducted in 2014 to examine the weapons and equipment generally at the disposal of law enforcement police officers in countries around the world revealed that police officers may use their firearms only in self-defense or defense of others, and only if it is proportional to the threat.⁴⁸ However, unlike police forces with special mandate of controlling terrorist activities, equipment generally at the disposal of law enforcement police officers is something different from the military; and almost every country in the study has enacted laws and rules relating to the types of equipment and arms that police officers at central or local level can possess.⁴⁹

4.2 Human Rights

Human rights organizations, political observers, and activists have accused the Regional Special Police of numerous human rights violations and atrocities against civilians, against the principles of democratic policing, if we could really say that the Regional Special Forces are police within the meaning of the constitution.

The Somali Regional State Special Force, for example, has frequently been implicated in extrajudicial killings, torture, rape, and violence against people in the Somali region, as well as in retaliatory attacks against local communities.⁵⁰ Deadly clashes between ethnic Oromos

⁴⁶ Ibid; See also Sklansky, D. A. (2005). Police and democracy. *Michigan law review*, 103(7), 1699-1830.; Bonner, M. D. (2020). What democratic policing is... and is not. *Policing and society*, 30(9), 1044-1060. P.1045-48

⁴⁷ Cortright, C. E., McCann, W., Willits, D., Hemmens, C., & Stohr, M. K. (2020). An analysis of state statutes regarding the role of law enforcement. *Criminal justice policy review*, 31(1), 103-132.

⁴⁸ The study conducted in 2014 to examine the weapons and equipment generally at the disposal of law enforcement police officers in countries around the world such as Argentina, Australia, Brazil, Canada, China, Estonia France, Greece, Israel, Italy, Mexico, Netherlands, New Zealand, Portugal, Russian Federation, South Africa, Spain and United Kingdom

⁴⁹ Police Weapons in Selected Jurisdictions, (2014) Council of Europe September 2014, the Law Library of Congress, Global Legal Research Center

⁵⁰ Hagmann, T. (2014). *Talking Peace in the Ogaden: The search for an end to conflict in the Somali Regional State in Ethiopia*. Rift Valley Institute.P. 26; Ethiopia: COI Compilation November 2019, https://www.ecoi.net/en/file/local/2021013/ACCORD_Ethiopia_COI_Compilation_November_2019.pdf Page 53 Last Accessed 12/3/2021;

and ethnic Somalis resulting in thousands to flee were, among other things, principally perpetrated by Somali Special Forces.⁵¹ As Mebratu noted, since the beginning of 2017, many Oromo public figures have spoken out against a marked increase in attacks by the Regional Special Force in Oromiya region.⁵² Amnesty International and Human Rights Watch called on the Ethiopian authorities to immediately demobilize the *Liyu* Police and replace them with police that abide by international human rights law; Amnesty International's call came after Somali Special Forces attacked four neighborhoods in the Chinaksen district of East Oromia on 23 and 24 May 2018.⁵³

A report shows that Afar Special Forces attacked Somali State Liyu Police camp in Danlalahelay, near the town of Garbe Isse killing Somali Special Police members.⁵⁴ The conflict is based on three Somali territories that the previous government, according to Somali State, has annexed to the Afar administration in 2014. The situation is further complicated after the Electoral Commission suspended 30 Somali Regional polling stations. A Statement from Somali regional State government discredited the reports about the injuries among members of its Special Forces, but it denounced the act of the Afar rebels and the Afar Regional State's Special Forces for using heavy weapons and the casualties in the disputed areas.⁵⁵ This tension, between the Afar and Somali Special Forces on the one hand, and the Somali and Afar regional states on the other still exists and may result in full-scale confrontation, endangering the peace and security of the regions and also the country at large.

The inauguration of special police force by Oromiya regional state creates some kind of suspicion on Amhara activists as witnessed from social media.⁵⁶ The same reaction can be envisaged from activists of Oromiya, Tigray and Benishangul side when the Amhara state inaugurated its special forces. This shows that there is clear mistrust and rivalry between

⁵¹ Bamberger, J. G., & Skovsted, K. (2016). *Concessions and conflicts: Mapping oil exploration in Somalia and Ethiopia* (No. 2016: 02). DIIS Working Paper. P.23

⁵² Kelecha, M. (2018). Protest, Repression and Revolution in Ethiopia. *African Political Economy*. P. 6

⁵³ Report of the Amnesty international, 31 May 2018, <https://www.amnesty.org/en/latest/news/2018/05/ethiopia-police-unit-unlawfully-killing-people-must-be-stopped/> Last Accessed 2/4/2021; News Release, July 4 2018, Human Rights watch, 'We are Like the Dead' Torture and other Human Rights Abuses in Jail Ogaden, Somali Regional State, <https://www.hrw.org/report/2018/07/04/we-are-dead/torture-and-other-human-rights-abuses-jail-ogaden-somali-regional> Last Accessed 2/4/2021

⁵⁴ **Bileh Jelani**, Addis standard 2020-12-28, <https://addisstandard.com/news-afar-somali-regions-trade-serious-accusations-after-renewed-violence-leaves-scores-dead/> Last Accessed 2/3/2021

⁵⁵ Ibid.,

⁵⁶ See for example the following report by Ethio reference. <https://ethioreference.com/archives/26112> Last Accessed 3/12/2021; Watch also the following video <https://s.shabakngy.com/go/g.php?q=PQRa5qiSo5c> Last Accessed 3/12/2021

different regions which, among other things, are created after the establishment of Special Forces in different regions.⁵⁷

It is also said that gun ownership has escalated in Kemise, Oromo Special Zone of the Amhara State, partly as a reaction to the threat posed by Amhara militarization and actions taken by the Amhara *Liyu* Police⁵⁸ which in effect could be one of the reasons for the recent attack in Ataye and its destruction. In addition, there are similar accusations against the Amhara Special force relating to Metekel Zone, Benishangul-Gumuz State. Addressing a congregation of the Tigrayan diaspora on 6 August 2018 (broadcast on Tigray TV), the chairman of the TPLF said:

“We had not been prepared for defending ourselves from external attack, but when we found out that they [the antagonists in Amhara Region] were working to bring us to our knees, we fast girded ourselves. But when they saw us preparing, they turned the table on us and said, “We didn’t see this coming,” and got militarized even more.”

This captures the Tigrayan-Amhara security dilemma.⁵⁹ Then the TPLF forces attacked a federal military base in Tigray in what they called a pre-emptive strike against federal forces preparing to attack them from a neighboring Amhara region.⁶⁰ As a result of this, on 4 November 2020, the federal government ordered a military offensive against the regional forces in Tigray and Special Forces from Amhara region and other regional states also fought in support of federal troops during the two-year war in Tigray.⁶¹ Since the fighting begins, millions has displaced form the regions in conflict, human right abuses form both sides are reported and national security is at risk.

5. The need to revisit the status of Regional Special Forces and the way forward

True, Ethiopia is home to over 70 ethnolinguistic communities with over 200 dialects, different historical backgrounds and cultures. Despite their diverse historical origins and with several points of interlinkage over the centuries, they coexist and had warlike contacts.⁶² It is also

⁵⁷ Amnesty International Report 2020/21; The State of the World's Human Rights; Ethiopia 2020 <https://www.ecoi.net/en/document/2048680.html>

⁵⁸ Yusuf, S. (2019). Drivers of ethnic conflict in contemporary Ethiopia. *Institute for Security Studies Monographs*, 2019(202), v-46.

⁵⁹ Yusuf, Semir. "What is driving Ethiopia's ethnic conflicts?." *ISS East Africa Report* 2019, no. 28 (2019): 1-16., P. 9

⁶⁰ Moses Tofa, Alagaw Ababu, and Hubert Kinkoh, (2022). European Institute of peace political and media analysis on Tigray conflict in Ethiopia. P. 19 https://www.eip.org/wp-content/uploads/2022/02/POLITICAL-AND-MEDIA-ANALYSIS-ON-THE-TIGRAY-CONFLICT-IN-ETHIOPIA_-finalised.pdf Last Accessed 19/2/2013

⁶¹ Ibid

⁶² Lubo Teferi (2012). The post 1991 ‘inter-ethnic’ conflicts in Ethiopia: An investigation *Journal of Law and Conflict Resolution* Vol. 4(4). DOI: 10.5897/JLCR11.045.

characterized by long-drawn-out civil wars, social and human right abuses and crises and border conflicts among its constituents. This must be managed seriously to control disturbances to peace, security and integrity of the people and the nation as a whole. One of the areas which needs due consideration is the status of Regional Special Police, who are responsible for, as it is shown above, different atrocities, abuses, security and national integrity issues in which these Forces are taking part.

The constitution has a loophole used by states to create Special Forces. It is not unconstitutional to establish a special force in the regional police as States have the power to do so under the constitution. However, the States have used this power to acquire different weapons, resulting arms race, and violation of human rights, border conflicts and endangering national security. It is true that these problems are symptoms of our multi-layered, multi-faceted and complicated problems. In addition, however, the formation of special police force triggers conflicts or arms race among states. This is because the mere existence of Special Police is not a problem as seen from other countries, especially Switzerland and India.

There are three options based on the above discussion as the way forward until the multi-layered, multi-faceted and complicated problems are solved politically and legally, which would at least reduce the role of the Regional Special forces in fueling the existing problem.

The first option is to centralize the police force taking the Nigerian experience. However, this is unrealistic and unconstitutional which needs the amendment of the constitution and consent of states for such amendment.

The second option is to use the experience of Switzerland which is somewhat similar to the current Ethiopia Regional Police structure where regions in Ethiopia, just like the cantons of Switzerland, have the power to establish their own force and have exclusive jurisdiction and reliance over that police force. Implementing option two will require the government to enact laws that regulate police weapons, demarcating the extent to which police could possess arms. And also needs reconciliation and transitional justice processes to overcome border conflicts and enhancing national unity by creating a sense of belongingness among citizens that could result in trust among citizens Security forces. This definitely will need more time, institutions, cooperation and synergy among many actors and more specifically it needs utmost good faith between different nations and nationalities and government officials.

The third option is to take the experience of India. As said above, in India there are two types of police forces (Civil and Armed) both in federal and in each state just like that of regional States in Ethiopia. But although Indian states have exclusive jurisdiction over the states and their police, and also each region has established both civil and armed police, the police system

followed there is quasi-federal character. That is to say, regions use uniform manual, standard, law, recruitment of officials of the police forces and even in time of emergency and unrest they use the Federal police despite the existence of their own armed police. There are no border disputes among Indian states and arms races resulting in competition among states unlike the Ethiopian situation. Thus, taking some of the Indian experiences of Federal Armed Police, the Ethiopian Federal Police too may establish a separate Special Armed Police composed of Special Armed Police contributed from different regions' Special Forces and manage it centrally. In so doing, such special armed police formed in Federal police will be mandated to give responses in time of emergency, riot and disturbance. The rest of the Regional Special Forces may be shifted to ordinary police of such region and given the power to patrol and control the regions with limited number of forces and arms to decrease the grievances against the Special Forces and ease tension of arms race among Regional States.

From the options provided above, the writer recommends the third option as best, but this requires works recommended in the second option to reach Switzerland's experience where each regional forces and its member citizens coexist in dignity and harmony.

References

Laws

- The FDRE Constitution, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazeta-No. 1 21 11 August 1995
- Ethiopian Federal Police Commission Establishment Proclamation, Proclamation No. 720/2011, Federal Negarit Gazeta No. 2 28th November, 2011.
- Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia, Proclamation No.1097/2018, Federal Negarit Gazette No. 8, 29th November, 2018

Books, Journal Articles and other materials

- Adedeji, O. A. (2012). State police in Nigeria: Issues and challenges. *SSRN Electronic Journal*, 1. P. 3
- Bamberger, J. G., & Skovsted, K. (2016). *Concessions and conflicts: Mapping oil exploration in Somalia and Ethiopia* (No. 2016: 02). DIIS Working Paper.

- Cortright, C. E., McCann, W., Willits, D., Hemmens, C., & Stohr, M. K. (2020). An analysis of state statutes regarding the role of law enforcement. *Criminal justice policy review*, 31(1), 103-132.
- Fluri, P., & Urscheler, M. (Eds.). (2011). *Policing in federal states*. DCAF.
- Fiseha, A. (2012). Ethiopia's Experiment in Accommodating Diversity: 20 Years' Balance Sheet. *Regional & Federal Studies*, 22(4), 435-473.
- Gregory, F. E. C. (1981). The Indian Police System and Internal Conflicts. *Journal of Conflict Studies*, 2(1).
- Haggmann, T. (2014). *Talking Peace in the Ogaden: The search for an end to conflict in the Somali Regional State in Ethiopia*. Rift Valley Institute.
- Hakimi, M. (2010). State bystander responsibility. *European Journal of International Law*, 21(2), 341-385.; See also Lavrysen, L. (2014). Positive obligations in the jurisprudence of the Inter-American Court of Human Rights. *Inter-Am. & Eur. Hum. Rts. J.*, 7, 94.
- Inyang, J. D., & Abraham, U. E. (2013). Policing Nigeria: A case for partnership between formal and informal police institutions. *Merit Research Journal of Art, Social Science and Humanities*, 1(4), 53-58.
- Karkoszka, A. (2003). The concept of security sector reform. *Security sector reform: its relevance for conflict prevention, peace building and development*, UNOG.
- Kelly, A. (1973). *Decisions in the penal process*. London: Lloyds of London press.
- Kelecha, M. (2018). Protest, Repression and Revolution in Ethiopia. *African Political Economy*;
- Lutterbeck, D. (2013). The Paradox of Gendarmeries: Between Expansion. *Demilitarization and Dissolution*, The Geneva Centre for the Democratic Control of Armed Forces.
- Lubo Teferi (2012). The post 1991 'inter-ethnic' conflicts in Ethiopia: An investigation *Journal of Law and Conflict Resolution* Vol. 4(4). DOI: 10.5897/JLCR11.045.
- Markwalder, N., & Killias, M. (2012). Homicide in Switzerland. In *Handbook of European Homicide Research* (pp. 343-354). Springer, New York, NY.
- Mogos, B. 1970. Gizeba Police. Ethiopia: Addis Ababa, Artistic printing press cited in Tulu, A. S. (2010). Evaluating the application of human rights principles in crime

investigation in Ethiopia: a case study of the Addis Ababba city police (Master's thesis).

- Minute of the draft Ethiopian constitution, volume 4 ,1994 cited in Tiruneh Endeshaw (2020), Assessment of the Establishment of Liyu Police in the Ethiopian Federation: The Case of Selected Regional Liyu Police, Addis Ababa University
- Norway: Landinfo - Country of Origin Information Centre, *Ethiopia: The special police (Liyu Police) in the Somali Regional State*, 3 June 2016, available at: <https://www.refworld.org/docid/57bd3ea14.html> accessed 2/3/2021;
- Owen, O. (2014). The Nigeria Police Force: Predicaments and Possibilities. *Nigeria Research Network (NRN) Working Paper No, 1*.
- Osse, A. (2016). Handbook on police accountability, oversight and integrity. P.9
- Ramakantan, "Federalism, Decentralization and Democratization in a Multicultural Polity,"
- Roché, S. (2011). Federalism and police systems. *Geneva: Centre for the Democratic control of Armed Forces*.
- Sklansky, D. A. (2005). Police and democracy. *Michigan law review*, 103(7), 1699-1830.; Bonner, M. D. (2020). What democratic policing is... and is not. *Policing and society*, 30(9), 1044-1060.vPolice Weapons in Selected Jurisdictions, (2014) Council of Europe September 2014, the Law Library of Congress, Global Legal Research Center
- Tiruneh Endeshaw (2020), Assessment of the Establishment of Liyu Police in the Ethiopian Federation: The Case of Selected Regional Liyu Police, Addis Ababa University
- Yusuf, S. (2019). Drivers of ethnic conflict in contemporary Ethiopia. *Institute for Security Studies Monographs*, 2019(202), v-46.
- Yusuf, Semir. "What is driving Ethiopia's ethnic conflicts?." *ISS East Africa Report* 2019, no. 28 (2019): 1-

Web documents, News and Reports

- Aiga Forum, <http://aigaforum.com/article2016/Liyu-Police.pdf> Last Accessed 11/3/2021 See also Norway: Landinfo - Country of Origin Information Centre, *Ethiopia: The special police (Liyu Police) in the Somali Regional State*, 3 June 2016, available at: <https://www.refworld.org/docid/57bd3ea14.html>

- Brook Abdu, The Reporter, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties>
Ethiopia: COI
- **Bileh Jelani**, Addis standard 2020-12-28, <https://addisstandard.com/news-afar-somali-regions-trade-serious-accusations-after-renewed-violence-leaves-scores-dead/> Last Accessed 2/3/2021
- Compilation November 2019, https://www.ecoi.net/en/file/local/2021013/ACCORD_Ethiopia_COI_Compilation_November_2019.pdf
- Daniel Mumbere, <https://www.africanews.com/2018/06/01/amnesty-asks-ethiopia-to-disband-controversial-liyu-police-unit/>
- Ethio reference, <https://ethioreference.com/archives/26112> Last Accessed 3/12/2021;
- Ethiopia: COI Compilation November 2019, https://www.ecoi.net/en/file/local/2021013/ACCORD_Ethiopia_COI_Compilation_November_2019.pdf Page 53 Last Accessed 12/3/2021;
- News Release, July 4 2018, Human Rights watch, "We are Like the Dead" Torture and other Human Rights Abuses in Jail Ogaden, Somali Regional State, <https://www.hrw.org/report/2018/07/04/we-are-dead/torture-and-other-human-rights-abuses-jail-ogaden-somali-regional>
- Report of the Amnesty International Report 2020/21; The State of the World's Human Rights; Ethiopia 2020 <https://www.ecoi.net/en/document/2048680.html>
- Report of the Amnesty international, 31 May 2018, <https://www.amnesty.org/en/latest/news/2018/05/ethiopia-police-unit-unlawfully-killing-people-must-be-stopped/>
- Sisay Sahlu, Minister Labels Regional Special Forces "Unconstitutional", The Reporter <https://www.thereporterethiopia.com/article/hpr-labels-peace-efforts-ministry-futile>
- Sisay Mengiste, Lecturer of Federalism and Human Right at Addis Ababa University, cited in BBc Amharic, August 20, 2020 <https://www.bbc.com/amharic/news-53763558#content> Last Accessed 2/3/2021
- The Reporter, Regional Special Forces: threats or safeties? <https://www.thereporterethiopia.com/article/regional-special-forces-threats-or-safeties>
Last Accessed 3/2/2021



Harla Journal of Law and Governance gives access to this work open access and licensed under a Creative Commons Attribution-NonCommercial 4.0 International License.

[\(Creative Commons Attribution-NonCommercial 4.0 International License\)](https://creativecommons.org/licenses/by-nc/4.0/)