

FINAL REPORT

GOVERNANCE AND DEVELOPMENT OF ERITREA IN ITS REGIONAL CONTEXT

Introduction

On Wednesday October 01, 2014, Professors Joseph Magnet and Tolga Yalkin convened a day long colloquium for 26 scholars and leaders from around the world to discuss the possibilities for governance and development of Eritrea in its regional context. The conference was supported by the Social Sciences and Humanities Research Council of Canada, Human Rights Research and Education Centre, University of Ottawa Faculty of Law, Aga Khan Foundation Canada and Global Centre for Pluralism.

Eritrea gained independence from Ethiopia in 1991. Its great promise melted away. Eritrea today is a pariah state, ruled by an authoritarian regime that United Nations organs have condemned for human rights abuses and sanctioned for terrorism and adventurism in the region. Eritrea has never held an election. It lacks effective institutions of governance or civil society. It ranks 182 out of 187 countries on the Human Development Index. Per capita income declined from 1995 to 2013 by 21% to \$1147 USD. Refugees stream out of the country: twenty per cent of Eritreans now live in the diaspora. There have been recent coup attempts.

The colloquium's goals were to advance understanding about possible transitions from authoritarianism, governance options and pathways to development.

Themes and Model of the Conference

The colloquium was organized around five themes: (1) ethno-linguistic diversity; (2) indigenous and nomadic peoples; (3) natural and strategic resources; (4) geostrategic considerations; and (5) process / transition considerations. Each theme was introduced by an expert who highlighted areas of uncertainty worthy of discussion. This was followed by an interactive, moderated discussion of 90 minutes. The colloquium closed with a summary of the highlights provided by the conveners, and concluding thoughts from the participants.

This is a model for academic interchange that begins from the premise that scholars around the table are exceptionally well informed on the subject, and seeks to advance discussion into the unknowns. The moderator has read the major writings of the participants, and uses those insights to provoke discussion of the uncertainties. The colloquium is not a forum for sharing academic research, conclusions or hard positions; it is an opportunity to engage and advance understanding of the unknowns.

Ethno-linguistic diversity

Eritrea is deeply plural and diverse concerning ethnicities, languages and religions. The Tigrinya number 50% of the Eritrean population, the Tigre 30%. The nation's smaller ethnic minorities are territorially concentrated in relatively homogeneous enclaves.

Eritrea went through a Constitution making exercise in 1995-97. A Constitutional Commission drafted, and the National Assembly ratified a highly centralized Constitution. The document does not guarantee autonomy or minority rights for Eritrea's smaller ethnicities. While the 1997 Constitution has never been implemented, it has support among the larger nationalities in the country and in the diaspora, and produces antipathy from some of the smaller nationalities in the diaspora.

Both large and small nationalities were represented at the colloquium by well-respected activists and academics, including a former member of Eritrea's 1995-7 Constitutional Commission.

Colloquium participants recognized that the centralizing national liberation ideology that led to the 1997 Constitution marginalizes Eritrea's smaller nationalities to some extent. One participant, a leader of the Afar people, a smaller Eritrean nationality, stated that "the Afar would never accept the 1997 Constitution." This provoked exchanges with Tigrinya participants, which resolved in agreement that any future Eritrean Constitution should include protections of some kind for Eritrea's small minority communities.

Participants discussed the form that protections for minorities should take. Questions were raised about how best to organize a federal system and the potential mechanisms for political and legal representation of various regions if this model were eventually chosen. Participants noted the benefits of federalism in neighbouring Ethiopia in allowing minority groups to access the machinery of the state. Participants stressed the need for development of sufficient local political infrastructure and leadership to make a federal system work in Eritrea. Participants also stressed the importance of ensuring that federalism was not imposed but that it should be a true "agreement between existing groups".

Participants considered the government's policy of forcibly resettling Tigrinya into traditional minority areas. A consequence of this policy has been the creation of multiethnic communities. Participants considered how this would impact the organization of an Eritrean federal system.

Participants canvassed the minority rights that the Eritrean constitution should recognize to accommodate minority concerns and also the order in which these rights should be recognized. Some noted that there may have been legitimate nation-building reasons for advocating centralization at the time of the 1997 Constitution, but conceded that concerns over excessive centralization of power were legitimate. A few expressed the view that federalism would create too much infighting between the different levels of government and that Eritreans would do better to unite and focus on nation building and breaking down the barriers between the nation's different groups.

The desire of smaller nationalities for a federal model raised issues of secession in the minds of some Tigrinya participants. They observed that the Ethiopian Constitution contains a right of secession, which is mirrored in Afar documents in support of a federal constitution for Eritrea. The Afar representatives were challenged that autonomy plus a right of secession could be used to dismember the country. Tigrinya and Afar representatives engaged on this issue, narrowed their differences and agreed to meet again with the assistance of Professor Magnet's mediation to help them narrow these differences further.

Most Colloquium participants agreed that a more formalized method of decentralization should be constitutionally required. The exact nature of decentralization and its attendant territorial boundaries were difficult to envision given the heterogeneous composition of the current regions due to the government's administrative reorganization and resettlement policies. The participants agreed that this added a layer of complexity, but should not deter the final goal of finding a workable decentralization scheme.

Indigenous and nomadic peoples

Some of Eritrea's smaller nationalities, including the Kunama and Afar, satisfy the international law criteria for designation as indigenous peoples. The colloquium noted that these criteria had migrated from the Americas to Africa, with idiosyncratic results in application – notably in producing competing claims for indigenous status. To the claim voiced by Tigrinya participants that the large nationalities were equally indigenous as the small, participants rejoined that indigenous status required a degree of oppression. Diaspora leaders quickly pointed out that Eritrea today oppressed all nationalities.

Participants recognized the appeal of claiming indigenous status, given that international law provides only limited protection to national minorities. This dampened the appeal of national minority status, even if that paradigm fit Eritrea's nomadic peoples.

Some participants favoured a contextual analysis of each group's purported indigenous nature that included the group's position vis-a-vis the state and the power differential between the group and the state. Most participants concluded that international agreements protecting indigenous peoples provided a useful framework for analyzing the potential claims that could be made by Eritrea's nomadic peoples, including the Kunama and the Afar. Other participants noted that experiences from other African countries show that groups that would be classified as indigenous sometimes prefer to be seen as a minority group and not an indigenous group because this classification is more beneficial.

Participants agreed that the 1997 Constitution was problematic for Eritrea's nomadic peoples because it denied them autonomy, land and resource rights, language rights and effective participation in the central government.

Natural and strategic resources

All Eritrean land and natural resources belong to and are managed by the State.

This allows the State to resettle highlanders from land-scarce villages in the lowlands, to develop large scale agricultural and resource extraction projects and by so doing to displace traditional nomadic populations.

Participants agreed on the importance of addressing land and resources issues in the constitution.

The colloquium discussed gender issues interwoven with land tenure. Many women have become de facto heads of households as a result of the prolonged/indefinite national service required of men. Land tenures and customary law create variable opportunities and constraints for access to and ownership of land by women. The gendered and generational impacts of national service have also contributed to a loss of labor in rural areas.

Participants discussed the process of land expropriation. Participants recognized that while the 1994 *Land Proclamation* had provisions for due process before expropriation, these were not being respected. As a result, expropriation did not yield collective benefits to all Eritreans. Moreover, participants recognized that natural resource extraction was the cause of large scale displacement of local people and was particularly concerning where pastoralists were concerned. The discussion centred on who was benefitting from natural resource exploitation and who was suffering, and the implications for the State's human rights violations.

The participants discussed customary law and indigenous legal traditions as tools for managing land and resources. Participants agreed that the issue of land would remain a crucial problem that needed to be solved before a new model for Eritrean governance could be advanced.

Eritrea's ports in Assab and Massawa ports are strategic assets that have important international dimensions. Access to Assab is a point of conflict for relations between Eritrea and Ethiopia. Participants considered how to deal with resulting discord between the two countries.

Geostrategic considerations

Eritrea's geostrategic significance is heightened by its location in the Horn of Africa, a politically complex region beset by a history of political violence and today consisting of authoritarian and failed states. Neighbouring Ethiopia is in a process of significant economic development; its resulting appetite for regional assets, for example the Nile waters, adds complexity to the geostrategic analysis. Ethnic relations are securitized, internally as well as by kinship ties to ethnic groups in other states in the region. Terrorism, extremism and piracy are significant regional problems.

Since 2000 Eritrea has been in a perpetual state of low-level warfare with Ethiopia, partially as a result of Ethiopia's refusal to abide by the terms of the Algiers agreement on boundary demarcation. The international community has tolerated Ethiopia's rejection of this agreement. In turn, Eritrea treats the international community, particularly the United States, with deep distrust.

Participants discussed the geostrategic interests of the dominant regional powers, particularly Ethiopia, and their ability to shape Eritrean domestic and foreign policy.

Participants also discussed the role African and international organizations could play in pressuring Ethiopia to implement its international obligations. Some thought this could stimulate discussions between Eritrea and Ethiopia. Were these successful in cooling off the confrontation, Eritrea might be freer to improve its internal governance and correct its human rights record.

Participants considered that Eritrean stability would depend on acceptance by its neighbours as a country, rather than as a province in waiting of Ethiopia. Participants observed that Ethiopia's interest in maintaining a stable Eritrea and ensuring access to major ports could be leveraged to ensure it respects Eritrean sovereignty.

Participants discussed the importance of keeping Eritrea unified. Afar participants said that they did not seek secession from Eritrea that could lead to Ethiopian control of Assab, and said that they were hostile towards terrorism.

Participants recognized that geostrategic interests were linked to minority interests in self-determination.

Participants considered that a disintegrating Eritrea could lead to US/EU interests being jeopardized. All agreed that Eritrea's continued existence was in the best interests of both majority and minority Eritreans. Participants acknowledged a tension between the international community's focus on counter-terrorism and the call for autonomy for Eritrea's minority communities. All acknowledged that a viable transition plan was necessary to secure the geostrategic interests of all.

Transition and Process considerations, including the role of the Diaspora

The International Crisis Group has predicted the end of the present Eritrean regime. How this comes about will be critical to the constitutional design of successor regimes. Participants noted that it was impossible to have a conversation about options for constitutional design or governance within Eritrea in the current political climate. This increased the importance of fully debating these issues in the diaspora. However, some participants were concerned that Eritreans in Eritrea would not be able to participate actively in the discussions.

While there have been recent political upheavals in Eritrea, as demonstrated by the attempted coup in 2013 [the "Forto crisis"], the long-predicted fall of the regime did not materialize and Eritrea settled back into stasis. The participants recognized that the removal of the present regime could lead to greater short term instability, particularly given the potential for unknown actors to be installed as state leaders. This was complicated by the opaque nature of the domestic political scene, the unclear role the military plays in supporting and sustaining the present regime, and the military's designs. A smoothly executed coup d'état was considered unlikely (though not impossible), due both to disunity among top officers and officials and to the web of security mechanisms set up to prevent such moves.

Regardless of the form any transition would eventually take, participants recognized that the military would play a key role. Interests among different factions in the military were opaque to a certain extent, making engagement challenging, if necessary, for groups active in transitional processes.

Participants considered that it was important to plan for the transition process. Suggestions that a new constitution should be drafted were controversial. Some participants argued the existing

1997 Constitution should be implemented and used to manage transition to a new system of governance. Other participants, particularly those belonging to smaller nationalities, rejected the 1997 Constitution and called for a new process.

Participants considered the lack of political parties to be a major obstacle. Participants stressed that accordingly the diaspora, including those in Ethiopia, had to play a pivotal role in managing the transition process. Though the participants acknowledged divisions related to age, ethnic background, regional affiliation, experience and time of leaving Eritrea within the diaspora, its importance in charting the future of the country will likely be significant.

The participants recognized that removal of President Afewerki was not equivalent to a transition. There had to be a plan for the transitional process. This would require engagement with elements in the military which are likely to be critical in the transition. It would also require an attempt to enact reforms from within as part of the transition process. Ideally, in the participants' view, this would include a transitional justice program to account for the human rights violations.

Conclusion

Leading experts from around the world met with Eritrean diaspora leaders and academics to discuss Eritrea and its post-authoritarian possibilities. Representatives of Eritrea's large and small nationalities engaged in consideration of transitional processes, distribution of power and resources, governance models, decentralization and reconciliation.

Participants all emphasized that the rule of law, human rights and the security situation must be addressed by the diaspora. A secure state would be critical for multicultural democracy. The participants were all willing to work together post-conference to add detail to what a decentralized constitutional model would resemble. Leading Eritrean political and cultural figures reached broad agreement that they could work together within a decentralized model and expressed the desire to do so. They made a commitment to meet again to continue the discussion with Professor Magnet as a mediator or facilitator.