

Reflections on Expanding Ethiopia's Democratic Space

MONDAY, DECEMBER 31, 2018

Andreas Eshete and Samuel Assefa

1 Background

Since imperial days, Ethiopians continually waged struggles to find release from authoritarian rule and a stifling public culture. Of late, in the wake of protracted public protests and a change in the leadership of EPRDF, there are signs, warmly and widely welcomed, of a turn to a more open and freer political space, among them: the release of imprisoned dissident journalists and leaders of the political opposition, a relaxation of restrictions on public expression, decriminalization of opposition parties, and a public commitment to honor human rights.

These steps, bold as they are, aim at rectifying glaring faults of the past. It is important to ascertain that they are also expressive of a standing aspiration to create an enduring democratic space of wider scope. Does the release of dissidents and the decriminalization of opposition parties demonstrate a full commitment to the rule of law, essential to the creation of a free and open democratic space?

To understand the importance of this question it would be useful to take a glance at change and continuity in Ethiopian political life. All who previously proclaimed change in Ethiopia set free dissidents and other prisoners deemed unjustly victimized by their predecessors. These acts, however, did not usher in a new dispensation where similar abuses became uncommon, much less unthinkable. It also helps to recall significant moments under EPRDF rule that may well have given rise to expectations of a new era of respect for the rule of law: the reasonably fair trial of senior members of the military regime, the flourishing press during the transition, the vigorous electoral contests of 2005.

What, then, is required by way of institutional design and public engagement to create a lasting public democratic space that is not hostage either to the magnanimity of public authorities or to transient passions of the populace?

2 Aspirations, Possibilities, Choices

Political pluralism requires rights and capacities to free expression and a free press as well as unrestricted assembly and organization of citizens and groups. The law should guarantee free and impartial play of vigorous political opposition and contestation. There is no doubt a great deal that can be done in this regard, starting with revision of draconian legislations, now already underway. Yet, the most enduring support for democracy is likely to come from institutional checks and balances on governmental authority.

An independent and impartial judiciary enjoying public legitimacy is a basic requirement of a democratic Ethiopia. Tight executive control over the judiciary, both through calculated appointments of loyalists to the bench and through laws or directives that curtail the powers of the judiciary, has for long been a linchpin of authoritarian rule in Ethiopia. Overcoming this legacy, then, requires a system for the selection of judges and terms of their tenure that would effectively shield the courts from executive power. In addition, it calls for restoration of judicial powers that, over the course of nearly half a century, have been placed under government administrative jurisdiction. In this connection, the arrangement whereby the legal administration is headed by an attorney general answerable to the prime minister should perhaps be revisited in order to ensure that it does not unduly compromise the judiciary's capacity to check the executive.

A meaningful realization of the rule of law would also require that the country's poor and culturally marginalized are confident that their rights will be vindicated by the judicial system. Many will be eager to see legal arrangements guaranteeing that their land will not be appropriated or their houses torn down by political and administrative fiat. These provisions are important not just for personal security, but to create citizens not beholden to incumbent political parties. The establishment of the rule of law matters not just to impose principles and institutional limits on the powers of government, but also to create a sense of citizenship and belonging to the political community unmediated by political affiliation or membership in ethnic communities.

Building an efficient and independent judiciary, however, is a longer-term endeavor. In view of the fast approaching general elections, there is pressing need for bold measures to boost the independence and

stature of the National Election Board, including procedures for robust public vetting of its officials. The same holds for other key constitutional institutions such as the Human Rights Commission and the Institution of the Ombudsman.

Are these steps for greater political pluralism, fair and impartial elections and a robust rule of law practicable under present circumstances? In other words, is it possible for the ruling party to carry out these ambitious aims without incurring risks of fostering instability or loss of power? To sustain the requisite commitment to see the democratization process through, the ruling party will need some assurance that this is not a high-risk undertaking, either in terms of its continued incumbency or the country's stability.

Here it is important to remember that the current leadership of EPRDF rose to ascendance as a result of the prolonged public unrest in the two most populous regions of Ethiopia. The new leadership's ascent to national power was welcomed as an end to the public protest which appeared to threaten overall political stability. Thus, if anything, embarking on measures to enhance political competition and the rule of law are likely to be seen as, not weakening, but rather strengthening the political stability secured by the rise of the new leadership from the regions which were formerly the source of instability. Moreover, in view of the absence of a viable, alternative national coalition at the present time, such reforms may not pose a high risk to the dominance of the ruling party in the immediate future, rather serving to enrich its political legitimacy across regions and among citizens.

Should the ruling party embark on this path to stretch the democratic space, it is worth noting that there are choices the party can make in order to make these reforms more or less ambitious. For instance, a judiciary with greater independence and public legitimacy may require courts that adjudicate disputes of constitutional rights, now generally left to the Commission of Constitutional Inquiry and the House of Federation. More ambitiously, the ruling party may consider the possibility of establishing a standing constitutional court – a measure that would require constitutional change. Given that the House of Federation will sit in judgment over disputes in which its presiding members have stakes, and that the decisions will be majoritarian

favoring larger states, it may be wise to consider a standing constitutional court. The rise in numbers and intensity of regional and interregional disputes magnifies the liabilities of the House of Federation as the final court of adjudication.

There are other checks and balances on public authority that would further expand the democratic space. Previously, on account of democratic centralism in the ruling party, the legislature was by and large a rubber stamp for decisions of the ruling party and the executive. A more expansive democratic space would need a legislature that can serve as a meaningful check on the executive. Otherwise the gains from political pluralism and fair elections for a more open and freer democratic politics would be marginal. In order to strengthen the legislature, its deliberations and decisions, it would be important to hear more diverse voices from the ruling party itself. In the interest of a more expansive democratic space, can the ruling party not only allow more room to the opposition but also encourage pluralism within its own ranks?

The risk to the ruling party of relaxing the rigorous discipline of democratic centralism would now be mitigated by the fact that the emergent leadership has a strong chance of commanding a plurality and, in coalition with others, a reliable majority of the seats in parliament. Accordingly, in these circumstances, the possible threat to the party's dominant power would be compensated by gains in political legitimacy owing to the growth of democratic space in parliament.

Thus far, the suggestion is that the majoritarian assets of the ascendant leadership of EPRDF would enable extension of Ethiopia's democratic space without sacrifice to political stability or the powers of the ruling, dominant party. There are, however, extensive powers accorded by the Constitution to cultural communities, including many minority communities, that can serve as a firm check on political authority, and, hence, as a firm basis for a free and open democratic space. Beyond linguistic and cultural autonomy, Ethiopian federalism confers extensive powers of self-government on regional states. On account of the division of sovereignty between federal government and regional states, there is a great deal that the central government cannot do in the regions. And much of what the federal government seeks to

accomplish in the regions requires the cooperation of regional governments. Moreover, in an impoverished population, federalism allows citizens with limited capacities and competence for democratic citizenship to enjoy their entitlements to free expression, deliberation and decision in their own communities, using their own languages and with a leadership that is directly elected and answerable to them. Federalism, therefore, serves to limit the power of government while opening democratic space for ordinary citizens, under otherwise unfavorable conditions, for a democratic public life.

Here, too, the ruling party would face choices which would make for a more or less robust federal arrangement. For example, if federalism is allowed freer play so that some regional states are ruled by parties in opposition to the dominant party or by coalitions which include opposition forces, the democratic space as a whole may grow richer than before.

The above remarks stress the importance of limits on public authority for principled, standing expansion of the democratic space. It should be clear that the limits imposed by institutional constraints and public engagement will prove effective with growing release of citizens and communities from the incapacities of poverty. So the fate of democratic expansion in Ethiopia in the end turns on success in the fight against poverty. In sum, in the absence of a resolute commitment to development, the hope for a democratic Ethiopia is ultimately hollow.

3 Obstacles and Challenges

On offer, so far, is a comparatively benign scenario of the path toward a more democratic space. Are there any foreseeable circumstances where a more expansive democratic space would jeopardize either the dominance of the party or public peace and security?

The chief obstacles and challenges would come from populisms animated by rival nationalisms, and their possible entanglements with organized politics. It is important to remember that the present leadership of EPRDF was propelled to power by a populist youth movement marching under the banner of Oromo nationalism. The present leadership also enjoyed the support of another youth movement stirred by Amhara nationalism. The new leadership, in turn, embraced a

form of pan-Ethiopian nationalism, helping consolidate its legitimacy as a national authority. The three nationalisms were held together for a time by a shared rejection of what was characterized as TPLF hegemony within EPRDF. But with the marginalization and self-marginalization of TPLF, the harmony among the three types of nationalisms seems to prove short-lived.

The emergent state of affairs indicates a growing divide among the nationalist populisms and an effort by regional parties or their rivals to win the support of populist movements. For instance, the new leadership, despite its championing a form of pan-Ethiopian nationalism, in order to assure its base in its party, ODP (formerly, OPDO), and to ensure the continuing support of the youth movement, is obliged to turn more towards Oromo nationalism. In this new effort it also faces competition from its rival, OLF. The ruling party in the Amhara region, ADP (formerly, ANDM), is compelled to placate the Amhara youth movement in order to stay in power in the region. The Amhara regional party also faces competition from a newly arrived rival, Ginbot 7, which upholds pan-Ethiopian nationalism that may prove attractive to Amhara nationalist populism as well as to Ethiopia's comparatively small cosmopolitan population.

It is not easy to tell where these ties, contests and conflicts among political parties and varied populist, nationalist movements will lead. However, it is plain that a more expansive democratic space and a resultant vigorous electoral contest would encourage the political parties to vie for the allegiance of more inflamed populist movements.

For example, the Amhara ruling regional party, ADP, could be hostage to the "Amhara first" populist movement gaining ground in the region, initially prompted by deep hostility to perceived TPLF hegemony, including border disputes with the Tigray region. Similarly, the fate of ODP and of OLF in Oromia may well depend on their success at winning the support of Oromo nationalist populist movements. Finally, the particularist populist movements in these regions may face a contest with pan-Ethiopian nationalisms, chiefly from Ginbot 7, but also from the newly emergent EPRDF leadership. This strand of nationalism may find itself at odds with other cultural communities such as those of the border regions. The impact of illiberal, populist nationalisms may well

be greater polarization among the constituent parties of EPRDF with a rising possibility of fragmentation and even confrontation. The upshot might be a challenge to EPRDF dominance or, indeed, its viability.

These threats to EPRDF will have wider consequences for the country as a whole and its significant standing commitments. With many regions turning inward and with hostility towards other regions, the federal arrangement which held the country together would be increasingly strained. And should this trend go far enough, it is not obvious how the center can hold. Moreover, it is not clear how one could avoid the sacrifice of Ethiopia's developmental ambitions on the altar of these disintegrating impulses.

4 Beyond Populism

Against this grim backdrop, how can EPRDF secure its survival? To answer this question, EPRDF has to take stock of its standing in Ethiopia's present political landscape.

As the elections approach and EPRDF proceeds to cobble together its electoral platform and strategy, it needs to take a measure of its assets and liabilities. For instance, despite the commendable expansion of the democratic space, and the resultant invitation to hitherto illegal parties to join the contest, there is little likelihood that the elections would yield a viable alternative to EPRDF as a ruling national coalition. Indeed, it seems the greater threat to EPRDF's survival arises not from its competitors but from within its own ranks. Each regional party appears to be preoccupied with its own fate at the expense of EPRDF's collective fate, and even Ethiopia's collective fate.

In this connection, perhaps most alarming, is the influence exercised by populist nationalist movements on constituent parties of the EPRDF coalition. As indicated above, these forces tend to polarize members of the coalition and thus fragment EPRDF as a whole. In preparing for the elections, EPRDF, in the interest of self-survival, must check or tame the populist movements. It is important to remember that the present EPRDF leadership rose to power and won initial public approval because it was widely believed this would serve to stem the popular unrest of the populist movements. A resurgence of the populist movements is

likely to undermine EPRDF's fortune and legitimacy in the forthcoming elections.

Despite EPRDF's large institutional and organizational capacity, to tackle this challenge effectively may prove difficult and delicate. The use of unrestrained power would undermine the very aspiration to extend the democratic space. It may also draw the public to EPRDF's regional competitors. Further, the elections are too near to expect liberal institutional constraints to be in place to safeguard against illiberal tendencies of the populist movements.

In order to guard against these liabilities, EPRDF may have to rely on rather limited assets. For one thing, the leadership gradually can make clear that it does not countenance or acquiesce in the extremes of populisms. It could also be significant if EPRDF's electoral platform and strategy gave greater focus to the interests rather than the passions of the public, particularly by giving due stress to Ethiopia's pressing developmental agenda.

Though, no doubt, of central importance to check rising populism, this shift of focus to interests may prove problematic for the present EPRDF leadership. The present leadership seems ambivalent about the developmental agenda. It often avoids the subject or undervalues the significant achievements made so far. This ambivalence is palpable in EPRDF's most recent Congress where it proclaimed its commitment to something called "all-rounded prosperity".

There are many reasons for this ambivalence. One may be a relic of the Cold War whereby any advance in democracy is regarded as a retreat from concerns about material inequality. Another may be the new intensified strategic alliance forged with the West, which may not welcome a developmental state. In any case, the new leadership's ambivalent stance towards development is a sharp departure from Ethiopia's recent past such that it might be regarded as ushering a post-left era.

All post-imperial Ethiopia has manifested an explicit commitment to do away with hunger, poverty and gross material inequality. EPRDF, especially after it embraced the idea of a developmental state, is distinctive within this tradition by freeing Ethiopia from prolonged

economic stagnancy. The state under EPRDF extended wide public services in education, health, communications, and infrastructure to the rural population. These contributions together with extensive modern inputs and extension services to the agrarian sector opened the hope for eventual structural transformation and industrialization. Accomplishing this following persistent stagnation, and in the wake of a devastating civil war, won EPRDF national and international recognition and acclaim.

A noteworthy aspect of this achievement was to temper nationalist passions. It would be a pity to squander these achievements of EPRDF and to underestimate the great potential in restraining nationalist passions and in building national cohesion. It would also be a tragedy to abandon Ethiopia's commitment to the poorest, the marginalized, and the determination to do away with the indignities of poverty.

Beyond the Cold War, it is essential to remember release from poverty and the promotion of material betterment and equality is critical for a genuine, sustainable democracy. Furthermore, without a focus on development, a democracy in an impoverished country would lack substance, a shared common ground and a basis for public deliberation and reasoned, open debate. Put differently, rivalry among desperately poor cultural communities and militant nationalist movements cannot be a fertile ground for cultivating a democratic public culture.

It is often observed that the politician looks to the next election, the statesman to the next generation. In Ethiopia's present peculiar conditions, fixing on a vision of development, and hence on the next generation, might be the optimal path to a sober and meaningful election, as well as to a result that would safeguard the political and material fortunes of the nation's future generations.

A recommitment to development would now have to contend with a transformed distribution of power between federal and regional governments. The transition to democracy and political pluralism will very likely yield a more devolved federal arrangement as hitherto dormant constitutional powers of the regional states begin to acquire real significance. Consensus building, both within EPRDF and in the general public, is vital to strike a balance between federal and regional

power that is sufficiently mindful of the country's developmental agenda.

Striking such a balance may not be so straightforward. For example, though it may seem counter-intuitive, the inclusion of the emergent regional parties as full-fledged members of EPRDF, and, hence, of the federal government, could bolster the support of a strong federal state, and this for two reasons. First, these peripheries have been historically marginalized from central government and may therefore prize their role in federal decision-making. Second, the said regions rely heavily on support from the federal government such that they cannot easily be advocates of diminished federal power.

There are of course other more immediate steps that may help to constrain populist movements and passions. One such step would be to encourage and support a lively free press that can clearly and openly report on the beliefs, deeds, and misdeeds of the populist movements. Limited media coverage of recent pogroms and dislocations of large populations has already created public apprehension, in both urban and rural areas, over the impact of populist nationalism, which may help to check populism's sway.

Finally, it should be clear to EPRDF's constituent parties seeking the support of the populist movements that winning regional power at the expense of EPRDF's survival would be a hollow, Pyrrhic victory. More generally, it may prove essential to move away from the question of identity, "Who truly represents Ethiopia", and turn to the rather existential question "What can ensure Ethiopia's survival and flourishing". This is no doubt a burning concern not only for EPRDF, but for all political parties. Accordingly, well before the elections, there should be a consensus within EPRDF and among the electoral competitors that the electoral process and its outcome would in no way compromise the survival of the Ethiopian state, a cause for which all its nationalities have sacrificed greatly.

In addressing these challenges, one should avoid a parochial perspective which regards these problems as merely local afflictions. Of late, the United States and much of Europe have come under the sway of diverse populist nationalisms. We witness a growing tendency

to demonize, and to display open hostility, to migrants, refugees and minorities across the West, thereby manifesting a loss of confidence in a deep formative and background value of modernity and democracy: toleration.

Institutions of limited government - toleration, rule of law, checks and balances - are indispensable to create, over time, enduring democratic reform. In the meantime, for a political authority that champions such arrangements to emerge from the approaching elections, organized political groups must find independence from populist movements, with little regard for the public values upheld by such arrangements.