

**THE ROLE AND MANDATES OF POST ELECTION  
COMPLAINTS INVESTIGATION PANELS IN THE MAY 2005  
ELECTION IN ETHIOPIA: CRITICAL ANALYSIS OF THE RESULT**

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**ADVISOR: Dr. SOLOMON NEGUS**

**BY: LAKE ALAMIREW EJIGU**

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*Paper not to be  
kept in the  
library*

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## **Acronym**

1. ACCORD – African Centre for the Constructive Resolution of Disputes
2. AU – African Union
3. CIPs – Conflict Investigation Panels
4. CRB – Complaint Review Body
5. CUD – Coalition for Unity and Democracy
6. EPRDF – Ethiopian People Revolution Democratic Front
7. EU – EOM-European Union Election Observation Mission
8. FDRE – Federal Democratic Republic of Ethiopia
9. ICCPR – International Covenant on Civil and Political Rights
10. ICESCR – International Covenant on Economic, Social and Cultural Rights
11. IDEA – International Institute for Democracy and Electoral Assistance
12. NEBE – National Electoral Board of Ethiopia
13. OAU – Organization of African Unity
14. OFDM – Oromo Federalist Movement
15. OLF – Oromo Liberation Front
16. ONLF – Ogaden National Liberation Front
17. PDRE – People’s Democratic Republic of Ethiopia
18. TOR – Terms Of Reference
19. TPC – Transitional Period Charter
20. TPLF – Tigrian People’s Liberation Front
21. UDHR – Universal Declaration of Human Rights
22. UEDF – United Ethiopia Democratic Front
23. UN – United Nation
24. WPE - Workers' Party Of Ethiopia
25. PMAC - Provisional Military Administrative Council
26. UN HRC - United Nations Human Rights Committee
27. SNNP - Southern Nation Nationalities and Peoples
28. ONC - Oromo National Congress

## **Introduction**

Holding of election is a decision making process whereby people vote to the best of their choice to political candidate or party to act as their representatives in government. Thus, it has got universal acceptance worldwide as a mechanism not only for selecting representatives in government but also to bring democratic rule and governance. However, mere provision of election for holding government power in a country's constitution would not be a sufficient mechanism to bring democracy, rule of law and good governance.

There fore, it has to be held in the presence of independent free and non-partisan institutions like the election monitoring board, the judiciary and other related bodies like the Complaint Investigating Panels (CIPs) in the one hand and electoral laws and procedures which enable to create a level playing field for all stake holders on the other. Nowadays election has become a medium of holding of government power in every corner of the globe, yet not all elections are held in a democratic manner. Thus, it would be a healthy assumption to consider irregularities as a feature of any election at this stage of human development.

Thus, the degree of irregularity greatly varies from country to country depending on the level of civilizations both in socio economic and political conditions the country has attained. Therefore nations with civilized socio-economic and political traditions are supposed to hold elections on free and fair manner and the vice-versa would be the reality in emerging democracies.

The ultimate goal of any democratic nation is to conduct election which by international standards is qualified to be free and fair. The simple fact that an election is regularly held does not make the nation a democratic one. One aspect of a living and functioning true democracy is judged by

the legal mechanisms and institutional set ups put in place to counter balance any tendency towards manipulating the outcomes of a given election process. To this end, different countries resort to different mechanisms of ensuring the fair and free nature of election processes.

In Ethiopia the proclamation providing for election in clear terms rules that the measuring rod of any successful election is its being fair and free. Thus, it has introduced both legal and institutional mechanisms that would enable to pursue this goal. In this regard, we have always to bear in mind that there are two distinct and independent processes at stake. The mechanisms to ensure:

1. A given election is conducted with as little mishaps as possible. In effect this is a pre-emptive mechanism to rule out any possible election irregularities.
2. But as I have noted earlier no election is absolutely immune to a measure of irregularity. Thus, the other role of the said mechanisms is to mend irregularities once they have occurred to ensure maximum confidence in the process among the electorate and other stake holders.

In this respect the May 2005 election is characterized both by the mishaps and the attempt to avoid the possibilities of irregularities that might come about and of course to provide for means of rectifying them once they did. To begin with the election proclamation law much as it deals with establishing the institutions of democracy, and defining the powers and mandates of the organs of elections, it does provide for means and procedures of rectifying irregularities of elections once they occur.

The Amended Electoral Law of Ethiopia, under Chapter -8 provides for mechanisms and procedures of entertaining complaints relating to an

election process. Unlike the preceding proclamations, procl.532/2007 makes distinctions among different categories of election complaints.

Article 96 of Proclamation 532/2007 deals particularly with vote counting and results.

The major theme of this paper is basically about complaints pertaining to vote counting and results. Though the proclamation is all rounded in this respect, that of May 2005 Election is fundamentally limited to vote counting and results. However, this in no way implies there have never been complaints relating, complaints relating to election registration, candidate registration, and voting process.

The May 2005 Election is going to be a landmark phenomenon in the annals of contemporary Ethiopian history in many respects. So much so that, the after effect is still defining the trends and orientations of political parties to date. Among the factors that characterized this particular election as such are the complaints arising from vote counting and tabulation of results by the NEBE.

Discussing complaints pertaining to vote counting and results is impossible with out taking in to account the establishment and functioning of CIPs. Indeed the fall out in the May 2005 election was basically owing to establishment and functioning of CIPs. Thus, this study in large part tries to identify, discuss and suggest recommendations regarding the role and mandates of CIPs in Ethiopia.

## **Chapter One**

### **1. The Role and Mandate of CIPs in May 2005 Election of Ethiopia**

#### **Introduction**

The May 2005 election has come to characterize the extent and dimension of democracy and election as it is practiced in Africa the so called emerging multi-party democracies of Africa. The undeniable progress is the level of popular participation signaling to all interested the fact that the democratic process is irreversible. Much as the May 2005 election indicated the power of the electorate to unseat governments, the way it was handled was by most accounts a humiliating set back to democracy in Ethiopia.

This election put the ability, capacity, will and nature of all players with regard to democracy to test particularly that of the ruling party, the major oppositions and of course that of ENEB. Resulting in a post election crisis never seen before in the country and the country came to virtual standstill for as long as the crisis lasted; thousands were arrested and many lost their lives.

Following this unrest, the ability and credibility of institutions of democracy to control damage, was once again came under spot light. The electoral law providing for election conflict resolution mechanism was put to practice with few consensuses in the outcomes.

This study is in a way about the latter phase of the election process i.e credible election dispute resolution mechanisms, where the CIPs come in to play. In an effort to correct alleged electoral misconduct and breach of election laws and regulation CIPs were constituted.

The CIPs were constituted in accordance with TOR for the operation of complaints investigation panel to be established by the ENEB (14 June 2005).<sup>1</sup> (TOR) Election complaints investigation panel working laws was issued by the ENEB based on the joint agreement and declaration by UEDPF, CUD and EPRDF effected on June 10 and June 13/2005 respectively.<sup>2</sup> Thus, under this chapter I tried to highlight the background of the study formulated the object, significance and relevance of the study, the problems of the study and the research questions are also formulated under this chapter.

To enable the readers to have a general idea of the source materials I have consulted, I have tried to do some selected literature reviews. In this connection, I have indicated the manner of data collection as well as the manner of conducting the study.

Obviously owing to the nature of the study (the role and mandate of CIPs) being relatively a new phenomenon in Ethiopia, there happens to be some limitations having some bearing on the quality of the study, and I have characterized under this chapter.

### **1.1. Background of the problem**

The prevalent philosophy in the modern world that election is regarded as a basic element of democracy and the medium in the foundation and functioning of good governance in the majority states of the world. On the basis of universal principles of governance, elections are becoming key mechanisms in the holding of power of government and a means to bring democratic governance. Making them free, fair and more transparent could help to strengthen the institutional foundations of good governance in Africa.

The ultimate purpose of a democratic election is to enable change of government when it does not suit the people who elected it or call it to

account whenever they think that it doesn't maintain the promise the government made during election. As election is a process where by change of government becoming a reality, strategies should be established to promote electoral processes and so as to make elections the most legitimate means of changing governments. So that all participants can have an equal chance and entrusting the administration of the elections to an independent election monitoring body in order to enhance trust and confidence to all stakeholders in the whole process of election.

As election is a process towards good governance and democracy, it can be considered as a means towards these ends but not an end by itself. So there might occur an impediment in the meantime. That is election irregularities unless handled by efficient mechanism, which in the end may lead to insecurity and disorder in a state.

Therefore, to avoid this possible danger, the establishment of institutions like election board, courts and dispute settlement bodies like CIPs on an impartial manner would be of high importance. With this in mind particular emphasis will be given as to how dispute settlement mechanisms were organized in May 2005 elections. And again the writer wants to give due emphasis as to the importance of these CIPs if at all they are mandatory to have these ad-hoc bodies as a means to settle election complaints among the contestants. Moreover, the writer of this paper tries to show whether these organs are constitutional or not vis-à-vis with the judiciary which was established on the basis of the constitution to interpret the laws of the country.

## **1.2. Statement of the problem:**

As stated before election is a key mechanism in the modern times in the majority states of the world to assume government power. It is believed to

be not only a means for maintenance of law and order but also it is firmly taken to be a bridge towards democratic governance. That is why it is becoming a universal agenda and philosophy of governance in the modern world. To this end, election should be held on the basis of pre-determined laws and procedures to achieve the above desired goals.

Thus, a nation can achieve the aforementioned desired goals only and only if election could be held freely and fairly on the basis of those laws. To this end, the establishment of non-partisan and independence organs of key electoral institutions with a view to winning the confidence of the people in the electoral process would become extremely important. Conversely, one can't think of free and fair elections in a country where courts and election commissions are established in a partisan manner. There fore, the writer of this paper tries to investigate the establishment of the NEBE, CIPs and their role and mandates under the established laws in light of May 2005 election of Ethiopia.

As we know, election results are sometimes disputable even in older democratic counties like USA, and other Western European countries. So it should not be taken as a surprise when disputes arise in election in Africa and especially in Ethiopia. But what importantly matters here is that the commitment of states in establishing constitutional mechanisms to handle such conflicts through non-violent means so that good governance and democracy could flourish to preserve and protect fundamental human rights and freedoms.

So the writer of this thesis tries to investigate the nature and background, meaning, the political developments, the need which led for their establishment and composition of the complaints investigations panels, their degree of neutrality and independence in giving remedies to the May 2005 election crisis. The nature of the working laws (TOR), and procedures of complaints investigations panels (CIPs), its make up or

composition and whether or not the CIPs properly addressed the complaints allegedly forwarded by all stake holders will be discussed in detail. Accountability, transparency and above all constitutionality of CIPs would be another major area of concern to be discussed. The importance of CIPs as a dispute resolving mechanism and major challenges faced by them would be given due emphasis in the thesis.

### **1.3. The objectives of the study are:**

- a) To analyze the legal foundations and constitutionality of complaints investigations panels (CIPs), their mandate, accountability, and composition in Ethiopian May 2005 elections.
- b) To analyze what discrepancy (if any) exists between CIPs and the judicial system with regard to dispute settlement mechanisms among the interested groups like opposition parties, independents and the incumbent.
- c) The writer will explore major event about the election crisis created in Ethiopia's following the May 2005 third general election and tries to examine the basic role the CIPs played in maintaining the democratic rights of the people for the sustainability of peace and security in the country.
- d) The writer ultimately tries to explore the major challenges the CIPs faced as an institution when carrying out their functions and the reasons.

### **1.4. Significance and relevance of the study**

The significance of this study can not be overemphasized. The May 2005 election was a landmark in Ethiopia for a number of reasons. Apart from the huge popular mobilization commanded by political parties, and by many accounts the unprecedented popular interest and participation in

the entire election process, the May 2005 election is significant in the enormous election dispute it generated.

The active and in some respects decisive participation of the international community as observers and some kind of watchdog highlighted the importance attached to this particular election. The roles of political parties, election monitoring organs, the NEBE and government agencies had been paramount in making this election as much controversial and disputed as it had been unprecedented in engaging huge popular participations.

The election dispute was such that it involved personally individuals in the highest office of the government. Prime Minister Meles Zenawi in his own words saw a 'break in tradition' to pen a lengthy almost book size article a response on preliminary statement on the elections' appeals process, by EU-EOM in the Ethiopian Herald to justify the actions of NEBE and speak for that of his party.<sup>3</sup>

A simple glance through his writing reveals the significance and relevance attached to the CIPs, and indeed the decisive role they had come to play in determining the ultimate outcome of the elections.

Let us remember that the CIPs were the major fundamental aspects of the settlement reached by major contending parties on Sene 3/97 E.C after the Sene 1, 1997 E.C riot and loss of lives following the considerable discontent generated by the 'result' of the election.<sup>4</sup>

In an attempt to quell the uprising and general boycott of business, the opposition counted on the CIPs to do right to the alleged wrongs perpetrated by the NEBE. Likewise EPRDF sought the service of CIPs to lend legitimacy to the outcome of the election.

After the CIPs, were constituted and began reviewing contested election results, in their turn they became central grounds of dispute between the ruling and opposition parties. Thus, the role the CIPs come to play in a way caused the major opposition party, the CUD, to boycott parliament and eventually handed the leaders of the coalition in prison.<sup>5</sup>

### **1.5. Literature Review**

To the extent possible I have tried to benefit from books both published and unpublished and journals dealing with election dispute settlement mechanism in Africa and Ethiopia. In the latter case in part owing to the short duration of time since the election and the aftermath, there is not much published material to consult, I tried to make up for it by trying to use secondary source such as interviews particularly with officials of the NEBE.

Otherwise where it comes to covering general literature, there are plenty of materials and I tried to use them selectively to the extent of their relevance and importance to the study.

Multi-party Election in Africa (edited by Micheal Cowen and Liisa Laasko, 2002) is a very interesting collection of articles by different distinguished scholars and it enabled me to have a general grasp of current and post colonial election as practiced by different African countries at different time including that of Ethiopia. As the book deals with cases of the particular African countries, it gives a good comparative perspective to benefit from.

Of similar significance is the African Journal on Conflict Resolution, (Vol. 4 No 2, 2004), Published by the African Centre for Constructive Resolutions of Disputes (ACCORD). This journal also features different articles by different writers on different African countries on different aspects of election disputes and mechanism of resolving same.

Likewise a compilation of digests from a seminar conducted on Democracy in Africa in Bonn from June 1, 1992 to June 3, 1992 is instrumental to learn how the elites of African political landscape view democracy and election in Africa, Published by Friedrich Ebert Stiftung in 1993.

Coming to the particular case of Ethiopia, I have tried to highlight the historical significance and perspective of election in Ethiopia and in this regard books dealing with political history of the country were of tremendous assistance.

A History of Modern Ethiopia by the celebrated historian Bahru Zewdie has become some kind of standard guide to navigate the political history of modern Ethiopia and I was able to benefit from it. It was published in 2002 and dealing with successive Ethiopian governments beginning from 1855 to 1991. It gives us a lucid political history of modern Ethiopia including that of the incumbent. Class and Revolution in Ethiopia by John Markakis and Nega Ayele, Published in 2006. This book is also of similar importance with the added benefit of its extensive coverage of the 1974 revolution and that of the Derg.

Ethnic Federalism in a Dominant Party State 1991 - 2001, the Ethiopian Experience (Published in 2002 by Norwegian Chr. Michelsen, CMI Reports,) by Lovise Aalen, and Ethiopia Since the Derg (edited by Siegfried Pausewang, Kjetil Tronvoll and Lovise Aalem, Federalism and the Accommodation of diversity - a comparative study (Published 2005) by Asseffa Fisseha, and competing Ethnic Nationalism and the Quest for Democracy 1960 - 2000, (published in 2003) by Merera Gudina are some of the books that deal with democracy and election having a direct bearing to Ethiopia. Particularly that of Lovise Aalen is of special interest and significance as it directly relates to the subject of this study.

As the central theme of the study is the May 2005 election, it is inevitable that I should use Reports of observers and other stakeholders such as Amnesty International. To this effect the following are the most important and relevant reports that helped me to come up with summaries of the reactions to the May 2005 election in general and to the roles of CIPs in particular. These are;

- EU- EOM final Ethiopian Legislative Election Report of 2005
- Final Statement of on the Carter Center Observation of the Ethiopian 2005 National Elections, September 2005.
- The Norwegian Centre for Human Rights- NORDEM Ethiopia Parliamentary Election Report 9/2006.

### **1.6. Research Methodology**

The research is conducted using both primary and secondary sources. I had the opportunity to benefit from direct access to the archives and personnel of the NEBE. I chose interview in lieu of questionnaire as I was looking for informed and expert opinion and as the pertinent data are more or less readily available.

### **1.7. Limitation of the study**

The study of CIPs is relatively unfamiliar subject and the lack of particular similar studies conducted by scholars is really a set back.

The May 2005 election and the following events are still fresh in the minds of many people. The effect of the election and the way the disputes were handled are still affecting the country. Thus, I have tried to come out as impartial as possible, and did every thing to consider both sides of the story. However, if a measure of lack of impartiality is felt, I would very much like to underline it is neither intended nor deliberate.

## **Conclusion**

The May 2005 Election truly put to test the alleged democratic transformation the country has been undergoing since 1991. Unlike the preceding ones this particular election, formidable opposition groups rose to the occasion and put the governing coalition off balance. For/once it looked like; the dominance of the EPRDF is not something taken for granted. This being the general scenario, the election also brought to fore front some fundamental questions pertaining to election laws, processes and institutions.

One of the hitherto unheard of institutions of any given election process is the complaint investigation panels. Though ad-hoc by nature and definition, the CIPs more than any organs of election characterized the May 2005 election being at the centre of the election dispute. At the end of the day, all hopes depended on how well the CIPs would perform as independent election dispute settlement organs. Here lies the importance, significance and relevance of the study.

The object of this study is thus, to underscore the role, and mandates of the CIPs in the May 2000 election and how significant factors they had been in determining the outcome of the election. In addition this chapter summarized the limitations and methodology of the study complete with selected literature reviews.

### **Foot notes**

1. Terms of Reference for the Operation of Complaints Investigation Panels Established by the NEBE, June 2005.
2. Joint Agreement, UEDF, CUD and EPRDF, June 10, 2005.
3. Letter to the Editor, by Prime Minister Meles Zenawi, The Ethiopian Herald, Vol. LXI, N<sup>o</sup> 304, Wednesday, August 2005.
4. Supra at note 2.
5. Federal High Court File N<sup>o</sup>. 423/98 Federal Prosecutor Vs. Hailu Shawel et al., Tahsas 1998 E.C.

## Chapter Two

### 2. Historical and conceptual backgrounds of Election with particular reference to the case of Ethiopia

#### Definition

As usual it is not an easy task to define in an exhaustive manner such words like election and what real election is all about. It is defined for the sake of common understanding in some books as follows.

*"Etymologically, the word 'election' denotes choice or selection out of the number of those choosing."*<sup>1</sup>

And again, election might be defined, *"as a form of procedure, recognized, by the rule of an organization, whereby all or some of the members of the organization choose a smaller number of persons or one person to hold office of authority in the organization"*.<sup>2</sup> Or, it is defined as *"a decision making process by which population choose an individual to hold formal office"*.<sup>3</sup>

As defined above, it is the usual process where by contemporary democracies fill offices in the legislature sometimes in the executive and judiciary and for regional and local government. Again this is a process also used in many other private and business organizations, in direct democracy and referendum. However, as the writer's goal is basically limited to elections for representative democracy, no need to go to the details of others.

As defined above election is a process of selecting the officers or representatives of an organization or group by the vote of its qualified members. Being a process, election is regulated by a set of rules called electoral law. Electoral Law is defined as *"the aggregate of juridical norms which establish and regulate the principles and procedures for the organization and conduct of elections to representative organs of state*

power and the relations between deputies and electors".<sup>4</sup> Similarly as election is an aspect of democracy it will be important to elaborate though not defined in short what democracy is.

*Democracy is not a mere form, a mere mechanism, as some seem to think, to be worshipped as an idol. Democracy is a spirit, an attitude toward our fellow-men, a mode of political co-operation through which the human personality may find the finest and richest expression of human values. The form is not the end; it is the means toward an end—the happiness of mankind.* <sup>5</sup>

## **Introduction**

*Much was made in the literature of the electoral facts, that election after election removed as many as one-half of incumbent MPs, and that this number would often include at least one-quarter of government ministers. Although the voters could not change the regime, it was argued that the electoral process was competitive because voters had a choice between candidates in most constituencies, and the turnout was relatively high. Hayward ... for instance, claimed that voters could and did 'punish politicians' they did 'not like.'*<sup>6</sup>

Political power could be assumed using different means and methods. Beginning from the hereditary one the list could go on to include coup'd'e'etat and election. Through out history, however no one country is solely identified with either one of them. At the same time, it doesn't mean hereditary kingdoms and Empires are unacquainted with the concept of election. Nor elected democracies are immune to the usurpation of political power by means other than election.

As a matter of fact some of the established mature democracies in Europe are Kingdoms such as the UK, Norway, Belgium and the Netherlands. It simply means all Republics are not democracies and all Kingdoms are not dictatorships.

The system of elected democratic governments at least subscribes to the principal idea that the political power originates from below and goes up by way of representation. And not the vice versa. However, the world has seen different versions of the origins of political power. From the one ascribing it to divine inspiration to that of proletariat dictatorship.

Ethiopia indeed truly shows cases the alternating theories of origins of political power. The last Emperor claimed that he was divinely anointed. The Derg was a military cum proletariat dictatorship and currently Nation, Nationalities and People are the origins of political power under the FDRE constitution.

In the Ethiopian context, this study is chiefly about 'General Election' as defined by Articles 27 and 28 of Proclamation 532/2007. Under these Articles the said proclamation defines the types of election in Ethiopia as follows. These are;

1. General Election
2. Local Election
3. By election
4. Re election, and
5. Referendums

As the major subject of this study is about General Election, it is better to have a look as to how it is defined under Article 28 of Proclamation 532/2007.

1. General Elections shall be elections to the house of peoples' representatives or state councils conducted every five years.
2. General Elections shall be conducted through out the country simultaneously, however, where the Board finds it necessary and

decided by the House of peoples' representatives it may be conducted at different times

3. Only a single representative shall be elected to the Federal House of peoples' representatives from a constituency.
4. The number of representatives elected to the state councils shall be decided by the Constitutions of the respective States. If State Councils decide to change the number of their members, they shall give political parties sufficient time for preparation.<sup>7</sup>

Under Chapter one of this paper, I will try to illustrate how election came to characterize assumption of political power at the highest level in different times and places. Particularly in the case of Ethiopia, I will try to discuss how the concept of election began to take root and shape starting from the 1931 constitution until the FDRE Constitution.

## **2.1. Brief Review of Electoral Principles, Systems and Standards**

As the major theme of this study is about election grievances and its handling mechanisms, it is important to come up with a summery of international standards and legal frame works that define the basis of a free and fair election. To this end, I will try to review the internationally recognized standards as provided for by Article 25 of the ICCPR and as expounded by the UN HRC and that of AU and principles and standards of elections as defined by Article 25 and 26 of Proclamation 532/2007.

The General comment on Article 25 of the ICCPR is said to be relevant and applicable to virtually every election elements. Generally it characterizes the rights to participate in the conduct of public affair. The standards as indicated in paragraph (b) of Article 25 of ICCPR read as follows.

1. Periodic Election
2. Genuine Election
3. Stand for Election
4. Universal Suffrage
5. Voting in elections on the basis of the right to vote
6. Equal Suffrage
7. Secret Vote
8. Free expression of the will of the voters.<sup>8</sup>

The African Heads of States and governments of the OAU at the 38<sup>th</sup> Ordinary session of the Assembly had adopted a Declaration that outlines principles governing Democratic Elections in Africa (Last paragraph of the preamble).

Part II Article 4 of the Declaration, lists the following standards as requirements to conduct democratic elections. Accordingly, election should be conducted:

1. Freely and fairly;
2. Under democratic constitution, and in compliance with supportive legal instruments;
3. Under a system of separation of powers that ensures in particular, the independence of the judicial;
4. At regular intervals as provided for in Nation Constitutions;
5. By impartial, all-inclusive, competent, accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics.<sup>9</sup>

The Electoral Law amendment proclamation 532/2007, under Articles 25 and 26 defines the principles according to which any election should be conducted. These are;

1. Universal suffrage;
2. Direct and secret ballot;
3. Equal participation;
4. Non-discriminatory participation of voters;
5. The right to elect and be elected;
6. Equality of vote;
7. The right not to be compelled to elect or be elected.<sup>10</sup>

## **2.2. Electoral System: An Overview**

Different countries adopt electoral system that best suits their respective particular situations and interests. Electoral systems are believed to be principal instruments that are used to effect optimum representation to all sections of the society. Particularly, in Africa where the diversity of the community is such that unless an electoral system is wisely chosen to accommodate conflicts would engulf the continent.

Electoral system is defined as method a given country adopts to choose its leaders. It encompasses rules, procedures and regulation for the electorate to exercise their right to vote and determine how elected members of parliament occupy their allocated seat in the legislature.<sup>11</sup> In other instance electoral system predominantly distinguishes between First Past the Post (FPTP) system and Proportional Representation (PR). The former is a system where by a candidate, the party or coalition of political parties which win the majority vote assumes leadership, where as in the latter case effort is made to represent all sections of the society by way of proportional representation. A major case in point is the case of South Africa, where proportional representation is chosen over that of simple majority. In this regard it is noted.

*-- there is no particular reason to believe that South Africa would adopt proportional representation. The ANC realized that the disparities of*

*winner takes all electoral system would be fundamentally destabilizing in the long run for minority and majority interests.<sup>12</sup>*

In Ethiopia as indicated under Article 56 of the 1995 constitution and Article 25 and 26 of Proclamation 532/2005 of the Electoral Law the simple majority election system is chosen. Perhaps assuming the Federation Council would represent the idea of proportional representation. However, given the fact that the Federation Council is not actively involved in running the government, one can argue that proportional representation is not implemented in Ethiopia.

### **2.3. Election and Democracy: An Overview**

*Introducing his remarks Schneider said that democracy is not a perfect system but "a make-shift solution" or arrangement adopted only for the reason that there is no better one. The details of his understanding of democracy may be summarized as follows:*

- (i) Democracy is not only a system of majority rule but also a method of consensus building. This means that in a democratic system decision making process necessarily involves seeking a consensus.*
- (ii) Democracy is not majority rule regardless of the interests of the minority. In fact the protection of minority rights is an important aspect of democracy.*
- (iii) Democracy implies free elections, which presupposes choice between various parties. The latter in turn presumes freedom of association.*
- (iv) Democracy means not only legitimization of power but also limitation and control of power.*
- (v) Democracy denotes the availability of real chance of change or succession of power.*
- (vi) Finally, democracy connotes participation not only of political parties but of all the components of the Civil Society.<sup>13</sup>*

As noted above the concept of democracy has not won universal acceptance and understanding towards its application and usage even in

the beginning of the 21<sup>st</sup> century. The very openness of democracy means that in many states it is a possible event for voters to vote to get ride of democracy itself.<sup>14</sup> "A number of officials and settlers claimed that African political culture involved its own source of accountability and that a 'Western' if not 'European' conception of political participation through the electoral process was alien to Africans... quoted from Sir Donald Cameron, Governor of Tanganyika, who argued in 1925 that it was a British colonial duty 'to do everything to develop the native on lines which will not Westernize him and turn him into a bad imitation of a European'. Others since then, especially during the 1980s, have queried the supposed merits of a Western-designed electoral system, not least since it might be feasible to create a more workable form of African political accountability."<sup>15</sup>

Because democracies have proven in the negative or failed many times in the history of man beginning from ancient Greece to 18<sup>th</sup> and 19<sup>th</sup> century France and perhaps most famously in 20<sup>th</sup> century Germany.<sup>16</sup> Where the Nazi's initially came to power by democratic means through popular vote, but ultimately led the country to its demise. This was the worst recent event happened in human history in the planet. Even today, in most of the developing world democracies remained unstable, often collapsing to military coups or other forms of dictatorship.<sup>17</sup> That may be the reason for thinkers like Aristotle and many others long believed democracy to be inherently unstable and always quickly collapsed.

However, today it seems that peoples of developing nations in general and people of Africa in particular have no other choice than having poplar vote and multi-party elections based on democracy as the socialist ideology is being demolished.<sup>18</sup>

*It was the hope the various reform movements that appeared in most African countries from the late 1980s that authoritarian one-party regimes were to be succeeded by 'the restoration of democracy' or 'multi-party democracy', the platforms from which the first opposition parties were mostly launched to contest the elections of the early 1990s. Simultaneously, from the standpoint of international donor agencies, political liberalization was regarded as a condition of economic liberalization for improved economic performance, growth and development. This second continent-wide transition towards liberal democracy has raised at least as much interest among political scientists as independence did. To a large extent, the recent 'wave' of research has concentrated on the struggles for multi-party politics, the way that this was introduced and the external and internal pressures behind the transitions.<sup>19</sup>*

Most democracies have some form of separation of powers mandated by the constitution. This in effect meant a device limiting the power of elected body with the aim of preventing elected representatives from changing the characteristics of the government as they wish. So elections and electoral systems are getting momentum in today's world and has become a crucial issue in building democracy though they are not the sole factors for good governance and democracy.<sup>20</sup>

### **2.3.1. Qualification of the Electorate: Historical perspective**

A crucial issue in the history of elections is the question of suffrage. That is as to who is allowed to vote, whether the electorate comprises the entire citizen of a nation or a subset of it. Thus, the question of suffrage has undergone several changes and development in the history of elections beginning from its inception to the modern day. At earlier times states adopted electoral laws and procedures on extremely different basis as to their qualified electorate.<sup>21</sup> However, this situation changed gradually and it has shown a pragmatic change on the universal level

from the very rigid and strict base to a broader and better and ultimately towards a more uniform and universal ones. As an instance, women, children, foreigners and slaves were not allowed to vote in ancient democracies of Athens.<sup>22</sup> Similarly, only white property holders were entitled to elect their representatives and had the right to be elected in United States of America at the coming in to being of the constitution in 1789.<sup>23</sup>

"At the time of the adoption of the Constitution, most of the adult white male population of the United States could vote. The states normally required that a man own a certain amount of real estate or that he pay a small amount of taxes to be eligible to vote."<sup>24</sup> African Americans, in Southern USA, did not have full right let alone to participate to being elected for government office but to vote or to elect their leaders until the civil right movement of the 1960.<sup>25</sup> African Americans had been disfranchised on different grounds of property and duration of residence. In our case, however, we have an ancient state but with short lived constitutional and electoral history.<sup>26</sup> So election itself is a recent phenomenon as a basis for formation of government which began in the 1931 first constitution of Ethiopia. Though electoral laws were adopted, voting right was not given to the majority of the electorate. It was a privilege given to some sections of the society, like the nobilities, priests and chief of armies who were loyal and nearest to the ruling classes.<sup>27</sup>

Though Emperor Haileselassie's adoption of election and electoral laws as a mechanism to bring government by people's choice was a good beginning the presumption they were considered inefficient to elect their leaders seemed a paradox. Even in this modern day in countries like ours the right to elect and being elected was not a right that can be obtained by simple citizenship but strictly limited to some groups by the free will of the sovereign.<sup>28</sup>

Generally, election as a means of government making system by the people's choice has undergone several developmental changes. To this end, people both in developed and emerging democracies have made a great struggle against the rulers to expand the franchise to exclude groups based on color, sex, property etc qualifications.<sup>29</sup> Election in the present day becomes one of the basic democratic rights of the people in the majority of states without any discrimination through the principle of universal and equal suffrage.

"International Encyclopedia of Social Sciences states that, to qualify for elections as "democratic", it had to be not only universal and equal but also secret type of election is important."<sup>30</sup> However, there are some restrictions yet in place by law in election both in voting and in the right to be elected. Thus, persons serving a term of imprisonment by court's verdict, mentally incapable persons and children are unanimously prohibited from voting every where though the minimum voting age varies country from country.

*The electoral process, with its franchise qualifications, was the main constitutional means by which the African majority was excluded from legislative and executive power. It was also the source of the nationalist demand for majority rule, one man, one vote', as it was then called with limited gender consciousness, especially in the post-1945 years. African nationalist renewal also played no small part in determining the degree to which Africans, and 'non-whites', were included in voters' registers for electoral participation. <sup>31</sup>*

### **2.3.2. Election in a Single Party State**

Regardless of the fact that people now live under representative democracies where the elected bodies are accountable to the electorate,

there are a number of countries which are undemocratic and hold endorsement election in a system of one 'vanguard' party rule.

*When one-party rule appeared functional to social scientists, they were more often than not impelled towards non-critical analysis by their optimism for the democratizing potential of new national state order. Optimism for democracy was evident in Immanuel Wallerstein's Africa: The politics of Independence (1961) and, differently, in Ruth Morgenthau's works. The latter, however, made a distinction between 'mass' and 'patron' parties. According to Morgenthau, 'single patron-party states' were 'moving towards military dictatorship' whereas 'the mass party states rest on popular consent, strengthen procedures and institutions on a scale essential for accomplishing the tasks of the modern democratic state,' reflect egalitarian values and leave room for the expression of opposition.<sup>32</sup>*

Hence, elections are not held on universally accepted principles of electoral matters based on the laws formulated by UN on ICCPR in 1966.<sup>33</sup> As it has been witnessed on a number of occasions, elections are held on undemocratic basis, where by governments employ "behind the scenes" means of candidate selection organized through veiled process. That appears to be a genuine electoral contest in order to gain popular consent and legitimacy from its own subjects and continuity of acceptance from the international community.<sup>34</sup> In such election, there may only be one candidate for any one given position, with no alternatives or choice for voters beyond voting yes or no to this candidate.<sup>35</sup>

Or such election may offer several individual candidates for each office.<sup>36</sup> However, in both cases, the government used intimidation or vote-rigging process to ensure a high yes vote or that only government approved candidates are chosen.<sup>37</sup>

### **2.3.3. Election in Emerging Democracies**

The 2<sup>nd</sup> World war brought up decolonization in every part of the world in general and in most African countries in particular. Most of the newly independent states, whatever may be the type of the political system they adopted, were in a position to have a system of government based on nominal democratic constitution.<sup>38</sup> Especially, after the pitfalls created by the economic crises that arose in 1980s contributed to the collapse of the Soviet Union and the communist camp that led for the emerging of democratization.<sup>39</sup>

Thus, the number of democracies currently stand at all time high, and has been growing without interruptions. As such it has been speculated that this trend may continue in the future to the point where democracy may become the universal standard form of human society.<sup>40</sup> As free elections are not the sole factor for a country to become a true democracy, the political cultures and traditions of a country along with other key sector of political institutions must go through a series of improvement towards this end.<sup>41</sup> This being the case, to a varying degree it becomes a big challenge in emerging democracies like Ukraine, Brazil and Russia. This is because in these emerging democracies due to the absence of a long living democratic culture made peaceful means of transitions of political power difficult. Same happened in their African counter parts.

"The historical context of the struggle for multi-party elections is significant in Swaziland because the issues are basically about a decree, which King Sobhuza enacted in 1973. This decree, which bans all political parties, is still in force... emerged with a 'traditional' monarchy which was soon to transform itself into an absolute monarchy. The chieftaincy retained all its supposed 'traditional' powers, including those

of mobilizing tribute labor, holding courts, punishing offenders, allocating and withdrawing land from cultivation and calling on armed force to coerce the peasantry to provide unpaid labor, cash or produce for state, chieftaincy, or an individual chief's needs. Also, chiefs played an administrative role as well as a central role in rural development. These awesome powers are still in force today, leading to what I have called the 'institutionalized plunder' of the rural population."<sup>42</sup>

Therefore, most emerging democracies of the world and their counterparts in Africa have experienced a slow transition from the military and a dominant party rule, to more open multi-party political systems.<sup>43</sup> It is not easy and smooth process as this transition has been faced by new political and social forces. "When you talk about democratic culture, it can become very vague, very abstract, very disconnected. I think what is also very important, and part of democratic systems, is the way in which you relate such things as a democratic culture to the functioning of democratic institutions."<sup>44</sup>

So a number of countries are still going through a period of civil war and armed conflicts. However, almost all emerging democracies like most African countries are signatories to the various international human rights conventions and instruments. Nevertheless, there remains a gap between the way government institutions are functioning and the way they are supposed to function under the law for the implementation and protection of these rights. This along with authoritarianism, perpetual rule and the personalization of the state for the interest of the ruling elites has become a major problem of most emerging democracies.<sup>45</sup> So the major tendencies have been towards institutional decay rather than a triumph towards sustainable peace and developments. Ultimately, in the majority of cases, democracies in Africa failed to meet the basic needs of

the population. As a result, this failure leads to the erosion of state legitimacy in the eyes of the people.

#### **2.3.4. Election as Means of Seeking Endorsement and Legitimacy.**

Here election is held in the presence of a number of candidates or multiparty all of which are not established in a truly democratic basis to the best interest of the electorate. "In practice it might seem obvious that all national elections are organized in order to gain legitimacy for state authority, if not internally, then certainly internationally..."<sup>46</sup>

Instead all of which are for the support of the status quo. On the whole, in such election, it can only be manipulated by incumbents by using rules of the game to reduce or avoid free and fair election through electoral fraud.

So these types of elections are held in political systems of totalitarian regimes, where the system of government in which there is only one dominant political party, the incumbent, usually demanding the people of the state to submit to the demands of the state.<sup>47</sup>

Thus, in such systems, unlike democratic ones neither the process of making community decisions nor the principle of diversity of opinions is potentially open to all citizens and their interest. But the institutions are responsible for fostering the belief of the party which merely disseminates the official ideology related to the events of the day.<sup>48</sup> That ideology which provides for a single-minded political conformity and continual prohibitions and absolute restrictions of fundamental human rights and other basic freedoms.<sup>49</sup>

Thus, in contrast to the methods used in systems where competitive elections predominate, in totalitarian systems a process of co-option where persons already in the choice of the system which verified their

loyalty to the ideology and the leadership at the expense of the liberty and freedoms of the people of a nation hold office.<sup>50</sup> As stated by a Nazi agitator; "We don't want lower bread prices, we don't want higher bread prices, we don't want unchanged bread prices, we want socialist bread prices."<sup>51</sup>

As indicated above the problem was not the ups and down of the price of bread but commitment and loyalty towards the ideology, i.e. Socialism.

### **2.3.5. Election in Old and Functioning Democracies**

*One of the practical rules of politics which works out in normally functioning democracies is that when there is open party competition and free elections, both parties, government and opposition, seek the support of the large middle spectrum of voters [...]. Hence the importance of free party competition - it does not divide where all political parties are responsible - but instead exerts a constant pull on the parties drawing them together. It neutralizes the extremists. Thus party competition is basically not divisive, as is commonly thought, but most often unifying instead.<sup>52</sup>*

However even in countries of older democracies like USA elections sometimes are disputed. That was a recent phenomenon during the 2000 American presidential election between the republican candidate George W. Bush and the democrat candidate, Albert Gore, which was eventually settled by the Federal Supreme Court.<sup>53</sup> There was a heated debate for about a month as to the irregularities of counting of ballots in US in general and the state of Florida in particular. That brought up a high level of disappointment on both sides.<sup>54</sup>

Mechanisms of handling of election conflicts completely vary in different democracies. Thus, when election disputes appeared in democracies like USA, the political tradition is not to resort towards violence and bloodshed as a means of changing government. Rather they respected

the rule of law and both camps are bound by the ultimate decision of the US Supreme Court, as it is empowered by law to have a final say.<sup>55</sup>

Finally, the dispute was resolved peacefully by the verdict of the US Supreme Court which gave decision in favor of Bush to be the US President by reversing the decision of the Florida State Supreme Court which ordered the recounting of undervotes.<sup>56</sup>

Likewise, presidential election was held in an emerging democracy Ukraine in 2004 which was bitterly contested.<sup>57</sup> But it was criticized by the opposition Yushchenko and international election observers as biased and marred by widespread irregularities.<sup>58</sup> Eventually, the opposition leader, Yushchenko, demanded a reshuffle of the central election commission, which he said “betrayed” the nation by endorsing the fraudulent vote which declared Yanukovych the winner. The opposition leader, Yushchenko and tens and thousands of the people of Ukraine refused to accept the election outcome, which favored Yanukovych, who is backed by the then incumbent President, Kuchma’s government. The opposition waited continuously in the streets of the capital and battled not only the government in power but also the freezing cold temperature. That was an event experienced for weeks by blocking key government offices. That brought up the rival candidate, Yanukovych, reached a compromise to be abided by the court’s ruling. So the Supreme Court has put a big final stop for the holding of new election that Kuchma wanted but declared the new run off by recognizing Yushchenko’s claims of election fraud.

Accordingly, the new run off vote conducted by the order of the Supreme Court which ultimately proved the opposition leader, Yushchenko to have won the election and become the president of the country. Here, the writer is not deeply interested to show the history of elections in

emerging democracies like Ukraine. Rather the author's central aim is to show on how functioning democracies like USA and others on the one hand and emerging ones on the other like Ukraine could handle election disputes. As have been seen above these countries employed constructive election conflict resolution mechanisms which enabled them to handle the dispute in a non-violent manner and the holding of political power by peaceful means. Basically owing to the independence of the judiciary and other institutions.

#### **2.4. Historical Background and Development of Election in Ethiopia**

"Irrespective of the existence of constitutionally significant documents in traditional Ethiopia, no written constitution formed the basis for the constitutional process. Ethiopia being an ancient state marked for long by the rule of the monarch and kings, its traditional politics was dominated by monarchical rules which are guided by ancient laws."<sup>59</sup> These were the Fetha Nagast, Kebra Negast and the Serate Mengiste of the 19<sup>th</sup> century. However, neither of these documents were constitutions in themselves though they were instrumental in serving specific purposes.<sup>60</sup>

##### **2.4.1. Under the 1931 Constitution**

The first Ethiopian constitution was promulgated in 1931. This constitution was conceived of as gift from a benevolent Emperor to his people; it was also explicit in that the power of the Emperor was absolute. Thus, "even the additional rights bestowed on the Ethiopian subjects by Emperor Haile Selassie could be abrogated at his will."<sup>61</sup>

As already mentioned before, Ethiopia as an ancient state is not known for long lived constitutional history. Therefore, it would be safe, to say

that prior to 1931, Ethiopia had no written constitution.<sup>62</sup> So the 1931 was marked an era where the ancient state had its own written constitution for the first time.<sup>63</sup> As it was brought in to being based on the former experience it incorporates very much of the principles of the unwritten constitutions. Therefore, though the event took the country one step ahead towards modernization on the world stage, yet it was a document that harmonizes divine rights of the Emperor enabling him to claim that political power was derived from God and not from the electorate.<sup>64</sup>

"With the 1931 Constitution, a parliament with two deliberative chambers was instituted. The members of the Senate were appointed by the Emperor himself, from the nobility and local chiefs, and the members of the Chamber of Deputies were chosen by the nobility and local chiefs. No universal elections were involved."<sup>65</sup> Thus, the ordinary people were not allowed to elect and to be elected on the electoral law adopted on the basis of this constitution.

As stated in the electoral law of Article 30 of this constitution;

*Until the people can elect by themselves, the right to elect and to be elected was given to regional nobilities, priests, and warlords.*<sup>66</sup>

#### **2.4.2. Under the 1955 Revised Constitution**

In 1955, the Ethiopian Constitution was revised. In its new form, there were many provisions for greater influence for individuals and democratic institutions such as an independent judiciary, as well as an acceptance of many of the human rights adopted by the United Nations.<sup>67</sup> The revised constitution of 1955 like any other constitution concerned with the definition and distribution of powers rights and duties within the Ethiopian empire. Likewise, it seemingly was

formulated in the manner of the adoption of liberal democratic constitutions in the Western world. So it was intended to incorporate principles which recognized basic rights and fundamental freedoms of the people of Ethiopia though it remained to be merely declaratory.<sup>68</sup> Because, the emperor was given pre-eminent place in the constitution having the powers and functions of the executive, the legislative and the judiciary. So, it was more or less a replica of the 1931 constitution with minor differences whereby there was no separation of power.<sup>69</sup> "The most radical change in the revised constitution was the introduction of universal suffrage. The member of the Senate were still appointed by the Emperor but the members of the chamber of deputies were to be elected through direct elections with secret ballot."<sup>70</sup> However, there had never appeared any democratic change in the country as there were no democratic forces and institutions to implement even those accepted and recognized rights of the people in practical matters. Thus the adoption of universal suffrage did not bring any change in the day to day life of the people on one hand and in decision making process of the country's politics on their own affairs on the other. Consequently, the feudal family remained to be the dominant decision makers on affairs of the country.

### **2.4.3. Under the Derg Regime**

"In 1974 a change of regime stopped any further attempts at parliamentary change. It was not a peaceful, constitutional transition of power from one party to the next, but a military *coup d'etat*. This violent take-over of the government was not new in Ethiopian history; state power has repeatedly been captured by armed warlords. However, the coup in 1974 was directed by the military and supported by civilians and sought an end to feudal relations of property and power."<sup>71</sup>

Ethiopia had no constitution for about 12 years from 1967 – 1979. During this period the provisional military administrative council (PMAC)

assumed full government power until a permanent government was established. It says "the Armed Forces, the Police and Territorial Army Council have hereby assumed full government power until a legally constituted people's assembly approves a new constitution and a government is duly established."<sup>72</sup>

Later the 1987 PDRE Constitution was established. According this constitution;

1. *In the People's Democratic Republic of Ethiopia power belongs to the working people.*
2. *The working people exercise their power through the National Shengo and local Shengos they establish by election. The authority of other organs of state shall derive from these organs of state power.*
3. *The working people exercise their power also through referendum.*<sup>73</sup>

According to this the constitutional legislative power was given to the National Shengo, which is elected by universal suffrage. However, candidates of the Shengo were nominated by organs of workers party of Ethiopia (WPE) which was the only party for the government established by the 1987 constitution. "Democracy defined as choice between individuals, even if not between parties, thus became a very short experience in the time of the Derg."<sup>74</sup> So multi-party election was out of the question. Nominees for the Shengo were required to be a member of a single party, WPE. So election for power was not conducted by multi party politics and in the presence of opposition groups. But it was a choice made between men of the same uniform, WPE. Hence, election was a choice of individuals only based on their personality.

#### **2.4.4. Under the Transitional Charter Period and the FDRE Constitution**

In May 1991, EPRDF along with other liberation fronts defeated the military dictatorship rule of the Derg regime.

Finally the leading EPRDF with the allied groups in July 1991 adopted a Transitional Charter as a constitutional framework based on multi-party democracy. By then electoral law was issued in 1993 and it has been amended several times.

Different elections were held during this period. In June 1992, less than a year after the establishment of the Transitional government, the first elections were held. "Shortly before election day, however, the major parties complained that their candidates were being harassed and even arrested and that it was impossible for them to carry out an election campaign. According to them, their only choice was to withdraw from the elections."<sup>75</sup> There fore, this election was criticized for being not competitive and not free and fair.<sup>76</sup>

The next elections, carried out by the Transitional government in 1994, were for a Constituent Assembly which would discuss, amend and ratify the new Constitution. "This election was again boycotted by the major opposition groups in Ethiopia for the same reasons mentioned earlier, namely harassment and arrest of candidates and supporters. Again the EPRDF with its various coalitions took an overwhelming majority of the seats."<sup>77</sup>

The May 1995 elections implied an end to the Transitional government and an implementation of the new Constitution, which had been ratified by the Constitutional Assembly. Based on this a federal system of government on ethnic arrangement was introduced in Ethiopia for the first time by the adoption of the 1994 FDRE constitution.<sup>78</sup> In this election 545 representatives were elected to the Federal parliament, which the EPRDF and its affiliated parties took all the seats except the two.<sup>79</sup>

The next election was held in 2000. It was neither competitive nor free and fair in the eyes of foreign observers. However, EPRDF was declared winner in following manner.

"In the May 2000 Parliamentary elections, EPRDF has secured a landslide victory. According to NEBE's report;

*Ethiopia's four-party ruling coalition, EPRDF, emerged victorious in 479 constituencies out of 548 seats. This scooped that 85 percent of the seats. Furthermore, eight opposition parties, and five independent candidates won 15 seats. These are Ethiopian Democratic Party (two seats), All Amhara People's Organization, Oromo Liberation United Front and Oromo National Congress got one seat each and also four ethnic based parties in Southern Ethiopian Region won five seats in Parliament.<sup>80</sup>*

The May 2005 Ethiopian election was the third National election following the elections in 1995 and 2000. And it was the most contested one in the presence of challenging opposition parties with the incumbent. As it is the major concern of this study, its over all nature will be discussed in detail in the proceeding chapters.

Despite some improvement and progress towards the competitiveness of the elections held on successive terms, none of them were witnessed by observers to be fully democratic or free and fair by international standards.

## **Conclusion**

Under this chapter of the study I tried to give the overall background to the principal theme of the study i.e the role and mandates of CIPs in the May 2005 election. It is imperative that discussing the CIPs, one should try to relate them to the entire democratic process and specifically to elections.

This chapter addressed issues of elections and democracy from historical perspective as well as in different electoral systems. In an effort to be as comprehensive as possible under the circumstances, I have tried to discuss how election came to feature in Ethiopian political landscape beginning from the coming in to being of the 1931 constitution. Taking in to account landmark phenomena as stages of development, I have discussed election under the 1955 constitution that of the Derg regime and of course under the Transitional Charter and the FDRE Constitution.

Though the issues are addressed in a rather general way, one can't fail to understand election as a civilized democratic means of effecting regime change is yet in its infancy and the historical millennia isn't working to its advantage. Successive Ethiopian governments paid little more than lip service to election and democracy.

## Footnotes

1. Mandefro Eshetu, Election Principles and Systems as Envisaged in Procl. No. 64/93, Addis Ababa University, Faculty of Law, undergraduate senior essay, Unpublished, 1994 P. 1.
2. Sills, David, "Election" International Encyclopedia of the Social Science, Vol. 5, Macmillan Company, 1968 P. 2.
3. Graner, Brian, Blacks Law Dictionary, 7<sup>th</sup> Ed., West Publishing Company, St. Paul M.NN., 1993.
4. Supra at note 1 P. 10.
5. Blaich, Theodore and Joseph Baumgartner, The Challenge of Democracy, 3<sup>rd</sup> revised ed., McGraw Hill Book Co., 1956 P. 1.
6. Cowen, Michael and Liisa Laasko "Elections and Election Studies in Africa", Multi-party Election in Africa, James Currey Ltd, Oxford, 2002, P. 2.
7. Proclamation No. 532/2007, Electoral Law of Ethiopia (Amendment) Proclamation, Article. 28.
8. European Commission, Compendium of International Standards for Election, Nov. 2007.
9. OAU/AU AHG/Dec/(XXXVIII), Declaration on the Principles Governing Election in Africa, 2002.
10. Supra at note 7 Art. 25 and 26.
11. Matlosa Khabela "Electoral Systems, Constitutionalism and conflict Management in South Africa", African Journal on Conflict Resolution Vol. 4, No 2, ACCORD, 2004 P. 24.
12. South Africa: Electoral Systems, Conflict Management and Inclusion available at WWW. acer project. org.
13. Schneider, Hans-Peter, "Democracy, Power Control and Federalism" Democracy in Africa - A New Beginning? International Conference, Selected Peppers and Discussions, Friedrich Ebert Stiftung, Bonn 1 - 3, June 1992, P. 59.

14. Watson, Alan, The Germans-Who are they now?, Thames Methun, London, 1992 P. 42.
15. Cowen, Michael, Liisa Laakso, "Elections and Election studies in Africa", Multi-Party Election in Africa, James Currey Ltd, Oxford, 2002 P. 4.
16. Supra at note 14, P. 43.
17. Supra at note 11, P. 8.
18. Ibid P. 12.
19. Supra at note 15, P. 12.
20. Supra at note 11, P. 12.
21. Penniman, R. Howard, The American Political Process, D. Van Nostrand Co., INC., New jersey, 1962, P. 10.
22. Supra at note 5, P. 56 - 57.
23. Supra at note 21, P. 13.
24. Ibid, P. 11.
25. Ibid, P. 13.
26. Fasil Nahum, Constitution for a Nation of Nationalities, The Redsea Pres, Laurensville New Jersey, Preface, 1997.
27. James, C.N. Paul and Christopher Clapham, Ethiopian Constitutional Development, Faculty of Law, Haile Selassie I University, Addis Ababa, 1972, P. 328.
28. Ibid, P. 11.
29. Supra at note 5, P. 8
30. Ashenafi Merid, Elections and Political Parties in Ethiopia: The case of May 2000 Election, undergraduate senior Essay, Unpublished, AAU, Department of Political Science and International Relation, July 2001, P. 9
31. Supra at note 6, P. 3
32. Ibid, P. 6
33. ICCPR, UN T.S., №. 14668, Vol. 999, 1976
34. Supra at note 6, P. 2

35. Ibid, P. 2
36. Ibid, P. 2
37. Ibid, P. 2
38. Ibid, P. 15
39. Ibid, P. 31
40. Supra at note 13, P. 22
41. Ibid, P. 22
42. Supra at note 6, P. 29
43. Supra at note 13, P. 22
44. Ibid, P. 64
45. Supra at note 6, P. 15
46. Ibid, P. 2
47. Ibid, P. 11
48. McNiven, Khan, An Introduction to Political Science, 3<sup>rd</sup> ed, 1990, P. 33
49. Ibid, P. 51
50. Ibid, P. 52
51. Ibid, P. 52
52. Supra at note 6, P. 7
53. United States Presidential Election 2000, available at <http://en.wikipedia.org>. as visited on Nov. 25, 2008.
54. Ibid.
55. Ibid.
56. Ibid.
57. Ukraine Presidential Election 2002, available at <http://en.wikipedia.org>. as visited Oct. 20, 2008.
58. Ibid.
59. Supra at note 26, P. 2
60. Ibid, P. 2
61. Supra at note 27, P. 336 - 339
62. Supra at note 26, P. 2

63. Ibid, P. 19
64. Supra at note 27, P. 326
65. Supra at note 6, P. 62
66. Supra at note 27, P. 11
67. Supra at note 6, P. 62
68. Supra at note 27, P. 8
69. Ibid, P. 8
70. Ibid, P. 19
71. Supra at note 6, P. 63
72. Proclamation № 1/1974, Proclamation to Provide for the Establishment of a Provisional Military Government of Ethiopia, Article 6
73. Proclamation № 1/1987, Proclamation of the Constitution of the People's Democratic Republic of Ethiopia, Article 2
74. Supra at note 6, P. 63
75. Ibid, P. 64
76. Ibid, P. 62
77. Ibid, P. 62
78. Aalen, Lovise, Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991 - 2000, Chr. Michelsem CMI Reports, 2002, P. 39
79. Supra at note 30, P. 38
80. Ibid, P. 38

## **Chapter Three**

### **3. CIPs as a Mechanisms of Election Dispute Settlements in the May 2005 Ethiopian Election**

#### **Introduction**

Complaint investigation panels (CIPs), as ad-hoc bodies are established to entertain election complaints, were one of the characteristic features of the May 2005 election, particularly they were featured largely in these aspects of the election, which were disputed and contested.

The foreign election observation missions devoted a considerable part of their respective reports to cover how well the CIPs performed. The response to one of them (The Eu-Mission) by the prime Minister went in to minute details of how the CIPs functioned in some cases.

The CIPs, unlike any previous election, dominated the post election period owing to the unprecedented level of popular participation (both organized and otherwise) and the overwhelming number of contested declared election results. This wouldn't come as a surprise since by some accounts 90% of the declared election results were contested.<sup>1</sup>

Being ad-hoc bodies, these tribunals are known by different designations in different countries still different countries adopt different mechanisms of election related dispute settlement. The point here is not their official designation. What matters is the function they are charged with. For the purpose of this study;

1. Any ad-hoc body by whatever name it is known so long as it is charged with the task of entertaining election related disputes and dispensing rulings is taken as a CIP.

2. Any permanently institutionalized body which is charged with the task of entertaining election related dispute either by way of appeal (the Federal High Court in the case of Ethiopia) is considered as acting temporarily as a CIP.

Under this chapter with particular emphasis on the ad-hoc bodies mention is made of the judiciary as CIP since by law appeal from the ruling of the CIPs lies to it.

The meaning, and legal basis as well as a general overview of CIPs is dealt with. Equally the composition, mandate role and challenges of CIPs are considered. In all cases particular reference is made to the case of Ethiopia.

As I have tried to high light under chapter one, CIPs are indeed necessary component of any given electoral process. Even when missing, they are, as the saying goes, "prominent by their absence."

Election by its very nature involves the multitudes, as the nations eligible electorate are taking part in the process. No legal system could from the outset establish an electoral system that could render the possibility of electoral complaints impossible. By any standard even those countries which have established enduring and functional democracies via a successful trustworthy free and fair election could not hold election without any compliant. The standards are not necessarily means that scale the number of complaint a given electoral process is generating. Assuming the inevitability of these, the mechanisms investigate the means, viability and efficiency of the CIPs established and run to address the grievance.

Unless otherwise the CIPs are rendering prompt response and remedies to complaints and appeals of interested groups, deterioration of law and

order may follow. This ultimately results in human rights violations through mass arrest and detention that leads to the instability of a country.

Another example could be the November 2007 presidential election of Kenya, where the failure of the CIPs in giving an effective remedy to the complaints and appeals of opposition groups, among others, turned the countries in to chaos. Therefore, the CIPs in an election are very instrumental for securing peace and order in a nation.

### **3.1 Meaning and Legal Basis of CIPs**

As election is a process which can be accomplished through a given period of time and as it involves millions of people irregularities would remain to be unavoidable phenomenon.<sup>2</sup> Because no state even in the modern world can hold election without any defect.

So what matters is not presence or absence of vote rigging and complaints, but the way how the existing system could manage it to give effective remedy.<sup>3</sup> With this in mind, let us have some highlights as to how the CIPs established in the May 2005 Ethiopian election handled election complaints, and above all the rational behind establishing the CIPs. Moreover, the legal basis for their formation and its corresponding procedure will be discussed in detail in order of their sequence.

The Amended Electoral Law of Ethiopia proclamation 532/2007 introduced principles resolving election disputes by way of amending proclamation 111/95.

Article 92 of the proclamation deals with the fundamental principles pertaining to the founding of the CIPs, their compositions and working procedure. Sub-article 1 of the said provision reads as follows:

"The Board shall establish at every level, political parties' joint forum that enables to resolve disputes relating to the election process through dialogue and understanding."<sup>4</sup> Among others this proclamation took in to account the crisis that followed the May 2005 Election and seems to rectify past misdeeds, particularly Article 92(1) seems to have been directly taken from a joint agreement declared by the ruling and the major opposition parties on 10 June 2005. Under item number 2 of the said agreement the parties agreed to resolve election disputes through joint forum of political parties through mutually constructive means on fair basis.<sup>5</sup>

Chapter 8 of the proclamation is dedicated to Complaints and Disputes Arising from the Electoral process. Accordingly, Election Disputes are categorized in to complaints relating to;

- Electors registration (Art. 93);
- Candidate registration (Art. 94);
- Voting (Art. 95); and
- Vote counting and results (Art. 96).

The May 2005 Election Disputes by most accounts is basically limited to those arising from vote counting and result. The CUD, one of the major contenders both in terms of participation and number of complaints lodged admitted that relatively speaking the registration and voting process went a long fairly well.<sup>6</sup>

Likewise, the EU-EOM in its Final Report on Legislative Elections of 2005 summarized the execution of the election as follows;

*The 2005 parliamentary elections were the most competitive election Ethiopia has experienced, with unprecedented high vote turn out. However, while the pre-election period saw a number of positive developments and voting on 15 May was conducted in a peaceful largely orderly manner, the counting and aggregation process were marred by irregular practices, confusion and lack of transparency.*<sup>7</sup>

Almost all of the disputes were owing to counting and tabulation of results. To this effect one of the most active observers mission, the Carter Centre had the following to say. "While pre-election and election day processes were generally commendable, the post election period was disappointing. The period following May 15/2005 was marked by highly charged political tensions, several days of protests and electoral violence, delays in vote tabulation, a large number of electoral complaints and a prolonged problematic electoral disputes resolution process."<sup>8</sup>

Thus as most of the complaints and irregularities arose from the vote counting and result tabulation, this study is limited to Article 96 of Proclamation 532/2007. Following the 8 June 2005 mass revolt and the popular dissatisfaction with the NEBE, and the results of election declared by it, major contending parties and the ruling party agreed to establish CIPs to quell the revolt. The agreement was signed on 10 June 2005 by the CUD, UEDF and EPRDF. The agreement was titled, Election Dispute Investigation and Review Process, and basically it established the frameworks under which the NEBE was going to entertain election disputes and how it was going to resolve them. This agreement made direct reference to the two independent process i.e investigation, and review.

Accordingly the CRB (Complaints Review Board) and the CIPs (Complaints Investigation Panels) came in to being. The designation of these organs is misleading. The Review Board is actually involved in the preliminary 'investigation' processes and the results are actually reviewed by the CIPs. These 'Misnomer' has created a significant mix up of role and mandate confusing the organs, taking one for another.

The CRB is actually an exclusives NEBE organ founded and staffed by NEBE personnel.<sup>9</sup> Whereas the CIPs are composed of representatives of the complaining and responding parties as well as two representatives of the NEBE.<sup>10</sup>

### **3.2. Composition and Organization of CIPs**

The proclamation to make the electoral law of Ethiopia conform with the FDRE Constitution of Ethiopia number 111/95, principally categorizes the mandate and power of the NEBE in to two parts as election execution office and as dispute settlement organ.<sup>11</sup>

Article 52(2) reads as follows; "Where the Board as a result of its own investigation or complaints submitted to it by candidates or political parties which have presented candidates finds sufficient evidence to believe that the scope and nature of any fraudulent practice is such that it is bound to determine the outcome of the election *it may freeze the election process, invalidates the results of the election and order re-election*"<sup>12</sup> (emphasis added).

On the other hand, chapter four of this proclamation dealing with 'complaints and disputes' arising from electoral process suggest that "any person" could lodge a complaint every time he deems a grievance has occurred pertaining to 'counting of ballots'.<sup>13</sup> The preceding article which defined the powers and duties of the Electoral Board clearly identifies the parties which are capable of lodging complaints. Accordingly, the Board on its own initiative, or political parties.<sup>14</sup>

When we speak of CIPs, their composition and organization parties who are qualified to lodge complaints are important in more than one respect. Apart from being complainant they or their representatives become member of the panel. Thus, according to Article 72 "any person" could become member of the panel by choosing to lodge complaints contrary to what is intended and defined by article 52 (2). Reading the pertinent provisions of the proclamation dealing with electoral dispute resolution mechanisms, there is nothing to imply the dispute settlement is outside the domain of the NEBE. Though the hierarchies might vary it is entirely

within the legally defined 'power and duties' of the NEBE to entertain and resolve electoral disputes and except that appeal could be made to the 'central high court'.<sup>15</sup>

However, perhaps giving in to the pressures of opposition parties and the International community as indicated above following the crisis in the May 2005 election, the CIPs were composed and organized in such away as to involve parties and candidates not just as complainants but also as members of the panel.

To this effect, the Terms Of Reference (TOR) issued for the working and functioning of CIPs by the NEBE in part reads as follows; "the NEBE shall appoint a CIP for each constituency where it has decided that a complaint submitted by a political party under the provisions of Article 52 (2) of the proclamation No 111/95 warrants investigation to determine the scope and nature of an alleged irregularity (ies) where such that they were bound to determine the outcome of the election in that constituency"<sup>16</sup>

Just the same the CIPs, are still established by the NEBE. The involvement of complainants and respondent parties or candidates as members of the CIPs are owing to the "choice and will" of the NEBE and not the electoral law. Be that as it may the June 10/2005 agreement of the parties could be invoked as the fundamental instrument behind the organization and functioning of CIPs in the May 2005 election.

Accordingly, 44 CIPs were organized in 178 Constituencies across the country especially in Amhara, Oromia, SNNP and Harary Regional States.<sup>17</sup> Out of the 547 constituency for parliamentary seats, 299 were contested.<sup>18</sup> Generally, however, through its filtering mechanisms CRB of the NEBE recommended for consideration by the CIPs only complaints in 178 constituencies. Finally, based on their findings, the CIPs recommended to the NEBE to re-run elections only in 32 constituencies.<sup>19</sup>

The NEBE is composed of seven members appointed by the house of peoples representatives up on the recommendations of the prime minister.<sup>20</sup> Regardless of their nomination and appointment of this organ it is supposed by law to be non-partisan and operate its duty on equal basis to all parties. However, opposition parties not only in May 2005 election but in elections that were held before that brought serious allegations against the institution for its partiality. But the party in power did not accept such accusation. The reason for the later is nothing but the existence of laws to leveling the ground by the impartial establishment and operation of the commission.<sup>21</sup> However, this doesn't guarantee its actual operation on the ground as the major pitfalls are not the absence of laws, but failure to abide by the laws.<sup>22</sup>

Regardless of the contentions issue of its impartiality, it is the NEBE itself whose decision is contested that established the CIPs as a complaint hearing body to review complaints. This being the case, the composition of the CIPs seemed adequate (one member of the election administration, one of the complaint and the defendant party on the other hand).

In effect, though, the CIPs worked in general in accordance with the Terms Of Reference, the trend emerged to be a 2:1 majority in favor of the ruling party.<sup>23</sup> This eventually brought doubt as to NEBE's impartial standing where by most CIPs recommendations and NEBE's respective decisions upheld EPRDF's position and most complaints filed by the opposition parties have been rejected.<sup>24</sup>

### **3.3. Significance and Importance of CIPs**

In 2000 presidential election in USA, to win the election in the Electoral College, the candidate eventually came to a final show down in the state of Florida.

*It is possible for a candidate to win the presidency without a majority of the popular vote. All of the electoral votes of each state go to the candidate receiving the largest number of popular votes in that state. Whether the candidate wins by a large or a narrow margin is irrelevant. It is obvious, therefore, that if a candidate wins in a few states by a very wide margin but loses in the remaining states by a very narrow margin, he can win the popular vote while losing the electoral vote and the presidency to his opponent.<sup>25</sup>*

At one point, Florida was declared for Gore. Later, the secretary of state of Florida who doubled as election commissioner back tracked and re-declared that Bush was the actual winner. This created an overwhelming grievance among the electorate. Many believed by an artificial operation of a given state's electoral system, they were practically de-franchised.

What makes the election process free and fair is not the absence of complaints but the ability and willingness to entertain them and render valid solutions. Here, it shows that sometimes the electoral system could effectively be used in such a way as to make the electorate feel cheated of their votes.

Here what came out as a bone of contention was that the system installed to count votes mechanically was found to be visibly flawed. So the democratic candidate doubted a manual recount; where as his republican counter part challenged his move.<sup>26</sup>

Ultimately, the State Supreme Court of Florida claimed jurisdiction and ordered a manual re-count which was sadly quashed by the Federal Supreme Court which rejected the order of manual re-count.

Eventually submitting to the decision of the ultimate judicial body of the country, the democratic candidate conceded to the republican one. This indicates, no matter how unjust the outcome of the solution might be the

fact is a grievance has occurred, was entertained and eventually the grievance was addressed and the Federal president, George Walker Bush was elected. This shows, in a functioning democracy, a trust worthy mechanism of election dispute settlement contains any discontent arising from an electoral process.

In stark contrast, the opposite happened in the November 2007 presidential election of Kenya where complete and total breakdown occurred, where the failure of giving remedies for complaints led to the killings of thousands and many more human casualties and for the displacement of hundreds of thousands from their homes. This was a tragic recent event that happened in a relatively peaceful and democratic country in the Horn of Africa.

Here, one naturally wants to know why?

1. Is it because democracy is an alien concept forced up on Africa? Or something Africans tried to ape from the west and miserably failed? "Democracy is the new utopia or the new gospel in Africa; there is a new beginning of democracy in the continent. But there have been many new beginnings and new utopias. We had tried several new utopias and panaceas in the past. In many cases the problem was that democracy in Africa was just an imported commodity. It should not be. If democracy is to flourish it should be fashioned in light of the country concerned and also considering the external situation." <sup>27</sup> Or
2. Is it because there was no efficient, trust worthy, viable CIPs in place? Or
3. Is it because the magnitude of the discontent was so huge as to make it unmanageable? Or
4. Is it because Africans are so unruly as to disobey the supremacy of the law and respect institutions of democracy?

To begin with the first question let me try to identify some views towards the concept of democracy in general and election practices in particular

Some African scholars argue in the manner that the holding of power of government through election via democratic means does not bring any effective remedy to the dark content as it is not a tradition developed over years with in it as it is "... an alien system of idea, that is once again imposed up on them from without." **28**

As noted above, these concepts of democracy and election are no doubt not an inherent systems for Africa. But purely the philosophy of western states taken to be standards of legitimate means of holding government power in the modern world. And hence nowadays there seems to have a universal trend in many states to hold election in a democratic manner. As indicated in the introductory section of this chapter, the Florida State Supreme Court and the Federal Supreme Court in this particular context (by resolving the election dispute) in a way acted as a CIP. Of course considering the CIP broadly as a system of election dispute settlement mechanism.

Similarly, to the writer's opinion, it would not be reasonable to think of post electoral crisis in Africa is due to the hugeness or unmanageability of the discontented electorate. And again it is not because inability of Africans to abide by laws and respect institutions. Because as we have seen in the recent electoral practices in Ethiopia and Kenya voters more than ever had shown incredible inclinations and firm beliefs in respecting electoral laws and institutions.

So lastly, the reason for the break down of the post electoral process is due to the absence of efficient, trustworthy and viable CIPs to give prompt remedies for appeals and complaints. The simple fact that almost all Nations, International and regional organizations subscribe to

democratic values proves that there is no other alternative to it. Hence blaming the failure of democratic election on the 'alien' nature of democracy doesn't hold water. Particularly since, even where it has failed the declared intentions of the said governments is to hold free and fair election. Because;

1. To begin with in the countries where election could be said to have failed, there is at least in principle a commitment to democracy. To say, it has failed, it must have been expected.
2. In almost all such cases the winners legitimately or otherwise claim free and fair election is conducted. Therefore, failures of democratic elections could only be discussed in a country where there is a legal ground to expect it.

In the recent political history of Ethiopia the transition from monarchical to revolution was merely a change from autocratic emperor to totalitarian dictatorship of the military rule.<sup>29</sup> So it could be ridiculous to talk of pluralistic politics and multi party election as both systems were designed to confer unlimited power to the emperor and military Derg regime. Therefore, in the absence of competing political parties, and competitive elections it would be absurd to talk of electoral disputes and dispute settlement mechanisms like the CIPs.

Therefore, though the 1991 conference may not have resulted in a one party government its convention reflects to a larger degree a one party dynamic.<sup>30</sup> The dominant nature of the existing party system greatly reduced the chance in establishing a lasting democratic governance in Ethiopia. In such system, regardless of the interests and wishes of the opposition parties, in the majority of cases, nominations and appointments of Board members and judges would be determined by the free will of the party dominated the parliament seats. This minimizes

trust and confidence in opposition parties in the nominees and appointees for conducting such offices. This in reality denies them the chance to a voice of their own that brings a sort of balancing mechanism in providing efficient remedies in cases like election disputes.

Nevertheless, the election held in the transitional period was far from being free and fair and the major contending political parties like All Amhara People's Organization and OLF withdrew from the process and hence the EPRDF won a landmark victory without any challenge and achieved its goal of gaining a mandate to rule and consolidate its power in the name of peace and stability.<sup>31</sup>

Thus, as the EPRDF won the election without almost no challenge from the opposition, CIPs were not there as they did not have any role to play. As the election was held without any contending group, the EPRDF took the usual victory to adopt the Federal constitution. So there was no need for CIPs in the election as there was no place for any complaint.

Thus, the election that was held in 1995 marked the end of the Transitional Period in Ethiopian. However, as the major opposition continued its boycott, there was no competition. So there was no complaint and no need to have investigating panels too.

The next elections for the federal and regional assemblies were conducted in 2000. None of the legal and registered opposition parties boycotted the election. Thus, this election could actually be seen as the first seriously contested election where the opposition won nominal seats in the federal parliament.<sup>32</sup> However, as the process was not so much disputed and contended by the opposition CIPs were not necessary element at that moment.

### **3.4. The Role and Mandates of NEBE vis-à-vis CIPs**

The role of NEBE in election dispute settlement could not be overemphasized as indicated under article 5 and 52 of proclamation 111/95 and basically the role and mandate of the NEBE pertains both to executing elections and resolving disputes arising from the election process. As indicated at the beginning of this chapter, basically, the CIPs are to be established by the NEBE. In the May 2005 election, to win legitimacy or otherwise, the CIPs were established pursuant to a joint agreement and declaration of the ruling and major opposition parties on 10 May 2005. Among others apparently this had prompted the House Of Peoples' Representatives to amend proclamation No 111/95, which included 'forum of political parties' as part of the dispute settlement mechanism.<sup>33</sup>

The CIPs are ad hoc bodies established by the NEBE as per Article 52(2) of proclamation No. 111/95 in order to recommend for the latter whether or not the alleged irregularity or irregularities which can change the outcome of the election in a given constituency.<sup>34</sup>

As I have explained earlier no legitimate election was conducted in Ethiopia before 2005 as it is a short-lived process in the history of the country.

Thus, election and election complaints as such were not important issues before May 2005 election. Therefore, the absence of well developed mechanisms to resolve election disputes at that time was not surprising. Unlike others the May 2005 election was a much contested one. Thus agreement was signed on 10 June 2005 between the ruling party and major opposition parties to solve the election dispute.<sup>35</sup>

Two bodies were established to handle complaints. These were complaint review body and complaints investigation panels (CIPs).<sup>36</sup> The complaint review body (CRB) was a three member body of the NEBE tasked to review complaints lodged and recommend to the NEBE whether further investigation was necessary or not.<sup>37</sup> Therefore, unless this review body of the NEBE recommend further investigations to the NEBE, CIPs are not supposed to take up investigations at all. And if at all they are called up on to carry out further investigation and whatever may be the result they are by law not decision makers by themselves. But rather they are supporting organ supposed to give mere opinions as to their findings.

### **3.5. The NEBE as Election Executive Body**

1. *The National Electoral Board, (hereinafter referred to as "the Board"), accountable to the FDRE House of Peoples' Representatives is hereby established as an independent and autonomous organ for conducting elections having its own legal personality.*
2. *The Head Office of the Board shall be in Addis Ababa. For the purpose of conducting elections, the Board shall have permanent and temporary branch offices from federal down to polling station level.<sup>38</sup>*

And again,

1. *The Board shall have nine members appointed in accordance with Article 102 of the Constitution by the House of Peoples' Representatives upon recommendation by the Prime Minister.*
2. *The prime Minister shall, before nominating Board members who fulfill the criteria, ensure that there has been sufficient consultation forum for political organizations that have seats in the House of Peoples' Representatives to ascertain that the nominees are independent and impartial.*
3. *The composition of Board members shall take into consideration national contribution, and gender representation, and at least one member of the Board shall be a lawyer. The members shall:*
  - a) *be loyal to the Constitution;*

- b) be non-partisans;*
  - c) have professional competence;*
  - d) be known for their good conduct.*
4. *The term of office of the Board members shall be five years. However, a Board member may serve for only one additional term.*
  5. *Without prejudice to sub article (4) of this Article, the House of Peoples' Representatives may terminate the term of a Board member if he resigns for personal reasons or if the House of Peoples' Representatives believes that*
    - a) the Board member is unable to properly carry out his duties due to illness;*
    - b) the Board member has committed serious misconduct.*
  - 6) *The House of Peoples' Representatives shall, upon making decision in accordance with sub article (5) above, give instruction to the prime minister to recommend another nominee in accordance with the Constitution.*
  - 7) *The Chairman and Deputy Chairman of the Board shall be appointed by the House of Peoples' Representatives from among the members upon the recommendation of the Prime Minister.*
  - 8) *The Chief Executive of the Secretariat of the Board shall be a non-voting member and secretary of the Board.*<sup>39</sup>

Article 5 of proclamation No. 111/95 defines the powers and duties of the election board of Ethiopia. Accordingly, the Board shall have the following powers and duties:

- a) to conduct any election carried out in accordance with the supreme law of the country and this Proclamation;*
- b) to issue regulations and directives necessary for conducting elections as under this Proclamation and ascertain the implementation thereof;*
- c) to prepare and distribute documents and provisions necessary for conducting election;*
- d) to widely provide to the public civic education relating to elections;*
- e) to organize and train the manpower required for conducting elections;*
- f) to analyze the conduct of elections held from time to time, cause studies to be carried out, collect and compile statistical data;*

- g) *to submit, to the Council of Representatives or its successor, recommendations concerning improvements on electoral conduct where it finds it necessary;*
- h) *to investigate, cancel election results and order re-election where it has evidence to believe that the scope and nature of any fraudulent practice in the course of election held under this Proclamation is such that it is bound to determine the outcome of the elections;*
- i) *to rectify electoral irregularities and decide on complaints submitted to it in accordance with stipulation made under this Proclamation;*
- j) *to confirm electoral results and officially announce same;*
- k) *to prepare and submit its budget and utilize same upon approval;*
- l) *to submit, to the Council of Representatives or its successor, periodic reports on its activities;*
- m) *to perform such other duties as help enhance the execution of this Proclamation.*<sup>40</sup>

Under this provision the Board has been given power to conduct elections both at the federal and regional states. Similarly, it is authorized to submit recommendations for improvements of electoral laws where necessary. At the same time it does have power to investigate, cancel election results and order re-election whenever it has evidence to believe that electoral malpractice could change the outcome of the elections. Likely, it has power to rectify election irregularities and decide on complaints submitted to it to be reviewed or not. Finally it is given power to confirm and officially announce the election result.

These all show us that the NEBE as an institution has been granted wider power concerning election and electoral process.

### **3.6. The Role of NEBE in Election Dispute Settlement**

As stated above, the powers and duties of NEBE are listed out in Art 5 of the aforementioned proclamation. Contrary to this, under Article 52 of same proclamation the NEBE was supposed by law to restrain unlawful

acts either by its own motion or upon complaints submitted to it by stakeholders. With this regard, the Board is entrusted the following power and duties:

1. *Where the Board, as a result of its own investigation or complaints submitted to it by private candidates or political parties which have presented candidates finds sufficient evidence to believe that an act which violates this Proclamation has been committed in the course of elections, it may issue an order of injunction restraining such unlawful act.*
2. *Where the Board, as a result of its own investigation or complaints submitted to it by candidates or political parties which have presented candidates finds sufficient evidence to believe that the scope and nature of any fraudulent practice is such that it is bound to determine the out-come of the election, it may freeze the election process, invalidate the results of the election and order re-election.*
3. *For the purpose of implementing the powers vested in the Board under sub-articles 1 and 2 of this Article, the Board shall have power to supoena any person who is in possession of evidence to appear before it as well as to order the concerned individual or government organ to produce before it any written evidence or any other evidence.*
4. *Any party may appeal to the competent court against the orders of the Board given under this Article, provided, however, that the orders of the Board shall remain valid until they are set aside or quashed by the competent court.*
5. *The Board may refer to the competent authority for legal action any cases of acts where it believes that they are committed in violation of the Penal Code or are of such a nature as to constitute obstructions of the electoral process.<sup>41</sup>*

Therefore, in the above case, where the Board finds sufficient evidence in either case and believes any act violates this law and a possible correction might alter the outcome of the election, it can cancel the election and can order re-election.

Finally, any party can lodge an appeal on the decision of the Board to the competent court as regards to complaints relating to counting of ballots. It reads as follows;

1. *Any person with grievances on the counting of ballots, and the results thereof shall have the right to lodge a complaint with the Woreda electoral office, immediately upon the occurrence of such event, and to receive a reply thereon.*
2. *Complaint may be made to the Board upon objection to the reply given under sub-article (1) of this Article.*
3. *The Board shall examine and render final determination on the complaint.*
4. *Appeal may be taken to the Central High Court, upon objection to the determination of the Board.*<sup>42</sup>

Therefore, here we can conclude that the Board is functioning as CIP not as election executive body.

Under proclamation no. 111/95 the NEBE is in a way granted dual personality for the reasons mentioned before. Therefore, the duties of NEBE as provided under Article 5 of the proclamation are subject to review and variation according to Art. 52 (2). In effect, the CIPs are being organized and run by NEBE which makes them derivatives of the board. There fore, it is very unlikely for the NEBE to entertain complaints against the decisions of its own offices and staff.

Because, the NEBE's discretionary power to create CIPs is so paramount as to make their existence in the first place less probable. The Complaint Review Boards (CRB) which were solely mandated to screen all complaints and select those complaints which are worthy of consideration by CIPs. As the CRB a three member body of the NEBE, is totally under the control of NEBE. Ultimately, therefore, the establishment of CIPs is subject to the will of the NEBE.

As indicated in the terms of reference that defines the operation of CIPs the NEBE is the sole organ to determine whether or not a given complaint and its resolution is likely to vary the outcome of a given station centre.<sup>43</sup> Similarly as the NEBE is credited or disrepute by the number and magnitude of complaints brought against it, naturally it has no inclination or no desire to encourage parties to come forward with their respective complaints. As the Carter Center observation of the Ethiopia 2005 National Elections noted in this respect, the CIPs did not provide 'a fair' resolution of electoral dispute, as it reads "... the CIP process did not provide an adequate means for a fair resolution of all electoral disputes." <sup>44</sup>

Therefore, one can conclude that in May 2005 election the complaints and the exercising of the power to execute election and election results was exercised by the same office. Hence, whatever the outcome of any CIPs decision might be, it is per-determined. Because the NEBE naturally defends its position as an executive organ unless it has any particular reason and motivation to change it.

The outcome is predetermined fundamentally owing to the compositions of the CIPs. In the Preliminary Statement of European Union Election Observation Mission Ethiopia 2005 stated as follows; "while the composition of the CIPs seemed adequate (one member of the election administration, one of the complainant party and one of the defendant party), de facto there was no level plying field" and "... the trend emerged of a 2:1 majority for the ruling party."<sup>45</sup> Some observers actually contended that the very fact that President of the Federal Supreme Court as Chairman of the Board jeopardized the impartiality of the latter.

In this regard, the EU, EOM with its final findings draw a conclusion that the same personality, Ato Kemal Bederi, as head of NEBE, either as an

executive organ or as a complaint review body, in one hand and president of the Supreme Court on the other, though he tried his best to be an independent one none produced public trust by claiming the absence of separation of power between by the judiciary and the executive.<sup>46</sup> This was a contentious issue by opposition parties who charged the ruling party or the government since the beginning of the election that NEBE was not independent though worsened at the stage of investigation complaints.

However prime minister Meles Zenaw, who is at the same time chairman of the ruling party in his letter to the editor of the Ethiopian Herald damned the final report of the EU, EOM on the assessment that the questionability of impartiality of the NEBE.<sup>47</sup> He admitted the existence of coincidence of offices but argued other wise by citing examples of older democracies, as element of international electoral standards. There, he raised an event in older democracies where by government ministers at the same time manage elections.<sup>48</sup> Then he reached to a conclusion that the President of the Supreme Court, who by law is forbidden from being member of a party, chairs the Board (NEBE) does not in any way jeopardize the impartiality of the Board.<sup>49</sup>

However, the manner of justifications and comparison to prove the impartiality of the NEBE imply 'untrustworthiness' of foreign observers, especially EU - EOM was not reasonable enough to attract the attention of either the observers themselves or most scholars both at home and abroad. Because even though there is an event of coincidence of offices in older democracies, the very arrangement of the institutions in such democracies are trustworthy and there exists an independent judiciary whenever the need arise the recourse to such institution is available. This could be implied from the number of complaints lodged to the CIPs and those rejected by both CIPs and the Board in comparison to that of

the ruling party. In this regard, let us have some statistical data from the complaints lodged by opposition groups and EPRDF and the reaction of the NEBE and CIPs. In this regard the EU-EOM concluded the following based on their findings;

Political party	Complaint	Accepted	As % of filed complaints	Rejected	As of % filed complaints
EPRDF	23	16	70%	7	30%
CUD	95	3	3%	91	96%
UEDF	45	4	9%	41	91%
OFDM	6	1	17%	5	83%
SHPDO	3	1	33%	2	66%

As the quantitative finding of the EU - EOM about the CIPs recommendations prove most CIPs recommendations and NEBE's decisions upheld EPRDF positions. <sup>50</sup> Again it stated; "the EPRDF was involved both as complaint and respondent; in all the complaints filed in 36 constituencies (out of 38) observed. The recommendations issued by the CIPs in 35 out of the 38 of the observed constituencies have been given in favor of the ruling party's claims. That ultimately accounts for almost 92% of all the recommendations given by the CIPs.<sup>51</sup>

The CIPs made extensive use of the key qualifier 'affecting the outcome of the election' to reject most of the complaints with out bothering to go in to the merits of the cases.<sup>52</sup> The other weakness is blamed on the opposition parties as noted by the Carter Center "... observers saw little evidence of effective use of established complaints procedures in the polling stations observed. The NEBE reported that the ruling party did avail itself of this system. But opposition parties appeared to have difficulty navigating the complaints process. Some opposition complaints were dismissed due to a lack of information or evidence. In other cases,

the complaints were not addressed by the relevant local authority. Ultimately the established complaints resolution process did not prove effective for many of the cases."<sup>53</sup>

Similarly, the mission outlined the following remarks. "CIPs which were established under NEBE as per the electoral law recommended re-elections in five out of the seven observed constituencies, where the ruling party filed complaint which account for 71% EPRDF complaints. Among these constituencies four were initially won by CUD candidates. These were Albuko, Bati, Chilga-2 and Gonji and Iteya by UEDF. Finally the NEBE decided re-runs of elections in 31 constituencies, with the EPRDF as complaint accounting for 62% of these cases. Likewise 27 out of the 28 recommendations affecting the EPRDF as respondent have upheld the ruling party requests. Conversely, 96% of the complaints brought by the opposition against the EPRDF have been rejected by the NEBE."<sup>54</sup>

In this regard EU-EOM states . . . "CIPs made recommendations against the opposition parties in 80% of the complaints in which they were involved. On the other hand, CIPs made recommendations in favor of EPRDF in 87% of the cases. Lastly, when the NEBE considered these cases, it followed same trend as the CIP recommendations."<sup>55</sup>

Under such condition it is no wonder if one asks why such a big gap was made by the recommendations and decisions of CIPs and NEBE respectively between the complaints of the ruling party and the opposition. And it would not be a surprise again if one asks a question as to who would be more likely to rig election and the vice-versa. It was at the same time a question raised by opposition parties, CUD and EUDF in the following manner;

"... who is more likely have the competence and chance to rig elections? the ruling party, whom, all the security forces, arms, prison administrative, the police force etc in its own command or the oppositions without any apparatus in their control?"<sup>56</sup>

In other words they are saying that who is the stronger one in all aspects to have the upper hand in affecting the outcome of the elections either positively or the vice-versa.

It is no doubt that the ruling party which leads the government with all sources of power and resources at its disposal is more likely to unfairly exploit the system and have its way.

Conversely it is the opposition parties who probably are vulnerable to being cheated and hence more legitimate complaints would come from their side. More remedy is expected from both CIPs and NEBE in such complaints in election crisis. But the opposite happened in May 2005 Ethiopian election where the complaints of the EPRDF were accepted and the complaints of the opposition groups were rejected.

### **3.7. The Role of the Judiciary in Election Dispute Settlement Mechanism**

Under Article 72 of proclamation No 111/95 the judiciary is empowered to review the decisions of the NEBE with regard to election dispute claims.<sup>57</sup> The revised election law of 532/2007 with some variation entitles the judiciary to review the decisions of the Board. In this connection, Article 92 (6) 532/2007 reads as follows; "... Except for Articles 79, 90 and 91 of this Proclamation, any candidate of a political organization or private candidate may object to the decision or order given by the Board and appeal to the Federal Supreme Court."<sup>58</sup>

A truly independent court and Election Board could be established not just by the mere declaration of the supreme law of the land (the constitution), but by a functioning and strong institutions. In the latter case, the composition has to be representative of all political parties. Because non-partisan institution like these win the trust of not only by the opposition but also by that of the public at large. Otherwise in a dominant party state like ours it would be simply unrealistic to think that judges would be confident to give decisions with impartiality. This was practically seen during the May 2005 election by the claim brought to court by CUD against Prime Minister Meles Zenaw.<sup>59</sup>

The role of the judiciary is not limited to reviewing the decisions of the NEBE or that of the CIPs. As witnessed following the declaration of the state of emergency, parties took cases to the judiciary to decide on a much broader issue as court of first instance as well.

The plaintiff, CUD, brought the case to court to be lifted the suspension of democratic rights to demonstrate in Addis Ababa. CUD alleged that the state of emergency declared by the Prime Minister contravenes the Constitution and other proclamations. However, both the decision of the federal first instance and federal high courts evaded the central issue raised by the CUD allegation. Rather both courts seemed to have given the decisions by shifting the responsibility, without bothering to give a lasting solution to the matter as they were supposed to do.

Apart from this, coincidences of office were another problem that challenged the free and fair nature of the May 2005 election. Because the chairman of the election board which conducts the election, Kemal Bedri, was at the same time the president of the highest judicial body of the country. Thus, the merging of these offices in the person of Ato Kemal Bedri greatly minimized the confidence of the opposition parties and the electorate in the judicial rulings rendered by courts acting as CIPs.

Because in one way or another, it would be less likely for the judiciary to reverse the decision rendered by the Board when both institutions are headed by one individual.

Again, the huge work loads of courts would make them unable to give timely solutions for these sensitive political issues of a national agenda which need urgent and immediate decisions.

No doubt that the judiciary is manned by better skilled and experienced man power in handling such complex cases like election matters. However, for reasons mentioned above it would be difficult to expect the judiciary to function as CIPs effectively and meaningfully. However, following the May 2005 election parties failed or refused to take use of the judicial recourse as they boycotted the process midway.

## **Conclusion**

CIPs are relatively little studied and less discussed in conjunction with election and democracy. Perhaps their being ad-hoc bodies with no permanent institutional back up, might have contributed to such state of affair. Thus, this chapter tries to give meaning and legal basis to the CIPs beginning from the basics. The electoral law doesn't go in to the details of giving meaning, role, mandate and operational set ups of the CIPs.

When it comes to setting up and organizing the CIPs the role of the NEBE is extraordinarily paramount. So much so that one is persuaded to believe the CIPs are but a complaint reviewing body with in the NEBE. Actually, it is one of the accusations leveled at the Board signifying its partiality and tendency to side with the ruling coalition. In this connection the coincidence of offices of the election executive and complaint hearing body in the NEBE is too conspicuous to miss and is much pronounced than desirable by any standard.

## **Footnotes**

1. Final Statement on the Carter Center Observation of the Ethiopia 2005 National Elections, September 2005.
2. Matlosa Khabel, "Electoral Systems, Constitutionalism and Conflict Management in Africa", African Journal on Conflict Resolution, Vol. 4, №. 2, ACCORD, 2004, P. 12
3. Ibid, P. 12
4. Proclamation № 532/2007, Electoral Law of Ethiopia (Amendment) Proclamation, Article 92
5. Joint Agreement of CUD, UEDF and EPRDF, June 10, 2005.
6. Press Release by CUD on 9 Ginbot 1997 E.C.
7. Ethiopia: Legislative Election 2005, European Union Election Observation Mission Final Report, P. 11
8. Supra at note 1,
9. Terms of Reference for CRBs, Article 3
10. Ibid, Article 5
11. Proclamation № 111/1995, Proclamation to Make the Electoral Law of Ethiopia Conform with the Constitution of the FDRE, Article 5
12. Ibid, Article 52 (2)
13. Ibid, Article 72
14. Ibid, Article 52 (2)
15. Ibid, Article 72 (4)
16. Supra at note 10, Article 2
17. Supra at note 1
18. Supra at note 7, P. 25
19. Ibid, P. 27
20. Proclamation № 438/2005, Proclamation to Make Electoral Law of Ethiopia Conform with the Constitution of FDRE (Amendment), Article 2 (3) (1)

21. Merera Gudina, Ethiopia: Competing Ethnic Nationalism and the Quest for Democracy, 1960 - 2000, Shaker Publishing, the Netherlands, 2003, P. 204
22. Ibid, P. 204
23. EU - EOM, Preliminary Statement on the Election Appeals' Process the Re-run of Elections and the Somali Region Elections 25 August 2005, P. 4
24. Ibid, P. 4
25. Penniman, R. Howard, The American Political Process, D. Van Nestrand Company INC., New Jersey, 1962, P. 127
26. United States Presidential Election of 2000, available at <http://en.wikipedia.org>. last visited an Nov. 25, 2008.
27. Schneider, Hans. Peter, "Democracy, Power control and Federalism", Democracy in Africa - A new beginning? International Conference, Selected Papers and Discussions, Friedrich Ebert Stiftung, Bonn 1 - 3 June 1992, P. 60
28. Anteneh Takele, The Declaratory Nature of the UDHR: A critique on its Integration in to the Supreme Law of the Interim Government of Ethiopia, AAU, Faculty of Law, Undergraduate Senior Essay, Unpublished, 1995, P. 1
29. Bahiru Zewdie, The History of Modern Ethiopia 1855 - 1991, 2<sup>nd</sup> edition, James Currey Ltd., 2002, P. 249
30. Aalen, Lovise, Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991 - 2000, Chr. Michelsen, CMI Reports, 2002, P. 8
31. Ibid, P. 8
32. Ibid, P. 7
33. Supra at note 4, Article 92 (1)
34. Supra at note 10, Article 2
35. Supra at note 5
36. Supra at note 10, Article 1

37. Supra at note 9
38. Supra at note 4, Article 4
39. Ibid, Article 6
40. Supra at note 11, Article 5
41. Ibid, Article 52
42. Ibid, Article 72
43. Supra at note 10, Article 2
44. Supra at note 1
45. Supra at note 23, P. 3 - 4
46. Ibid P. 28
47. Letter to the Editor, by Prime Minister Meles Zenawi, the Ethiopian Herald, Vol. LXI, №. 304, Wednesday, August 2005.
48. Ibid.
49. Ibid
50. Supra at note 23, P. 4
51. Ibid, P. 4
52. East Gojjam, Debre Elias constituency dissenting opinion to the CIPs Recommendation, Sene 29, 1997 E.C.
53. Supra at note 1
54. Supra at note 27, P. 5
55. Ibid, P. 4
56. Joint Press Release by CUD and UEDF, Hamle 20, 1997 E.C.
57. Supra at note 11, Article 72
58. Supra at note 4, Article 92(6)
59. Federal High Court Ruling on File № 39812 between Appellant CUD and Respondent Prime Minister Meles Zenawi, Sene 9, 1997 E.C.

## **Chapter Four**

### **4. Legal and Practical Challenges of CIPs in the May 2005**

#### **Election**

##### **Introduction**

In principle, the need and importance of CIPs to handle disputes arising from election and electoral matters is unquestionable. Nevertheless, the need and importance of these bodies is highly dependant up on the nature of their establishment i.e., on the clarity of laws and procedures according to which they are supposed to carry out their duties and the extent of power vested on them in the one hand, and on the commitment of composition of their members on the other. In other words, their importance greatly depends on the nature of the government in allowing them freedom of action. By the same token, the circumstances and conditions of time in which they are operating is another issue to be taken in to account to measure the degree of their meaningful contributions.

Neither of the dominant stakeholders, (mainly EPRDF, and the opposition parties) contested the coming in to being of CIPS. However, the frame work of their establishment was seriously debatable. The oppositions were suspicious of the independence of NEBE. They were not enthusiastic to see the CIPs established under it. Rather they suggested the CIPs to be established outside the frame work of the NEBE, by the joint agreements of parties. Though this was a continuous and serious demand of the opposition, like the issue to reform the NEBE, to become a jointly composed body, it was not an issue considered by the government for discussion. Thus, the proposals of the oppositions were rejected by the ruling party and CIPs were established by the NEBE without the full consent and participation of opposition parties as to the manner of their formation.

This brought immense disappointment on the part of the opposition which cast doubt on the investigation process insisting that the outcomes were pre determined. Ultimately, the CIPs were established in such away that to become a mixed NEBE /political parties/ composition. Accordingly, two members of NEBE, the compliant party, and the party affected by the complaint were the parties in the formation of CIPs.<sup>1</sup>

Therefore, the voting members of CIPs would be; one member of NEBE and a representative of the compliant and a representative of the other party.<sup>2</sup> Though the composition of the CIPs seemed fair enough, the oppositions didn't have trust in voting panelist assigned from NEBE taking them as being loyal to the incumbent, as the trend in decision making process emerged to be a 2:1 majority for the ruling party.<sup>3</sup>

This justified the arguments of the opposition as to the impartiality of NEBE in general and CIPs in particular and made the impartial arbitration of the latter questionable not only in the eyes of the opposition, but also in that of foreign observers like EU-EOM and the public at large.

Apart from the dissatisfaction and reservation on the part of the oppositions as to the composition and impartiality of CIPs, they had been entrusted little or no power in giving solution in their own to the problem at hand. Rather, they were supposed simply to report to the NEBE as to the findings of their facts regarding an alleged compliant.<sup>4</sup> It is once again the NEBE which has a final say based on the CIPs findings and recommendations.

#### **4.1. Transparency and Constitutionality of CIPs**

According to the FDRE constitution, the NEBE is supposed to be independent of any influence and is tasked to conduct its business in an

impartial manner. Article 102 (1) of the FDRE Constitution defines this impartiality in the following manner;

- "1. There shall be established a National Election Board independent of any influence, to conduct in an impartial manner free and fair election in Federal and State constituencies.
2. Members of the Board shall be appointed by the House of Peoples' Representatives upon recommendation of the Prime Minister. Particulars shall be determined by law." <sup>5</sup>

The electoral laws promulgated based on the constitution consider the NEBE to have both the power and obligation to make the conduct of election free and fair. Here, the likely possible issue would be, does the constitution simply impose obligation or empower the NEBE to make sure that the election is free and fair?

If we said, it is solely an obligation imposed on the NEBE, the CIPs are supposed to be established and function outside the framework of the NEBE and by ad hoc committees or, by the judiciary. Basically under normal circumstances pursuant to and in accordance with Article 37 of the FDRE constitution every one and every association has the right to bring a *justiciable* matter to a court of law.<sup>6</sup> The CIPs formed and functioning under direct control of the NEBE to some extent jeopardizes this fundamental right by denying individuals and associations to choose a direct judicial recourse. Particularly when the impartiality and independence of the NEBE is constantly doubted. Had this been the case, the NEBE would be on equal footing and terms with all concerned parties and its decision could be easily overturned for the sake of making the election 'free and fair'.

Thus, as in the normal course of events judging a given contested election process free and fair or otherwise would be reserved to the

judiciary. And the NEBE wouldn't be in a position to pronounce its own venture as free or otherwise. It would only be duty bound to make sure that all and every election process is free and fair. Though, the opposition did not articulate its claim in such manner, their position is clearly implied in their argument for the establishment of CIPs outside the administrative frame work of the NEBE. In this regard the African Commission on Human and Peoples' Rights characterizes the duty /obligation/of authorities such as NEBE in the following terms;

"In order for citizens to participate freely in elections, the authorities are responsible for ensuring that all the rights that are pivotal to such participation can be enjoyed by all without discrimination."<sup>7</sup>

Because they argued that the NEBE is not given such a sweeping power to establish CIPs. In a restrictive manner, it is obliged to ensure the holding of a credible election. In other words, the opposition concluded that the electoral laws which provide such extended power to the NEBE to entertain complaints (on issues formerly decided by itself) would in the end contradict the supreme law of the land, the constitution. CUD and UEDF joint press release of Hamle 12/97 E.C denounces this tendency of the NEBE to abuse its power by acting not as impartial authority but as 'cadres' of the incumbent.<sup>8</sup> However, as consensus couldn't be reached as to the manner of composition of CIPs between the opposition and the ruling party, there was no choice for the former but to join the complaint investigation process. This was not the only challenge facing the CIPs in the May 2005 election crisis. As stated by EU-EOM:

*The process took place in the context of serious violations of human rights and freedoms, particularly that of the opposition leaders and their suspected supporters. This greatly undermined the opposition's ability to participate effectively, in the process. As witnessed by the EU-EOM, it was very difficult for the opposition to find material evidence because detained or fearful witnesses were unable to testify freely in front of CIPs for*

*obvious reasons. Eventually, the EU-EOM clearly reported in its final findings that the worsening condition of threat and intimidation was maintained through out the complaints investigation process. There was an occasion where militia, police or armed forces were present around the location of the hearings. Though, it was prohibited by the working procedure of CIPs.<sup>9</sup>*

However, Prime Minister Meles in his letter to the Ethiopian Herald challenged the findings of the EU-EOM that Ethiopia is a country where millions of automatic guns are in the hands of civilians and that carrying them in such areas would not have any deterrent effect on the process.<sup>10</sup> Nevertheless, this is not a sound justification even in the eyes of the writer of this paper. Because though carrying gun is the tradition in most parts of the country, the degree of intimidation varies depending upon the situation where these guns are being carried. In case like this, where election crisis and complaints investigation process are conducted, there is no doubt that a detained witness who is arrested in relation with the crisis, would be intimidated to give freely his/her testimony. In this connection the Amnesty International Recommendation regarding the May 2005 election makes the following report.

*Several opposition parties, such as the UEDF and CUD coalitions, the Southern Ethiopia Peoples' Democratic Coalition (SEPDC), the All Ethiopia Unity Party (AEUP) and the Oromo National Congress (ONC), have reported that they have encountered politically motivated restrictions on their activities in recent months. They say that candidates and members have been intimidated or suffered human rights violations on account of their peaceful and lawful political activities, and that civil servants have been dismissed from their jobs or threatened with dismissal on account of opposition party membership.<sup>11</sup>*

The opposition parties presented complaints in the vast majority of the constituencies where EPRDF was declared winner. This was admitted even by the Prime Minister in his letter to the Ethiopian Herald that the

reason for his party being a winner was not the favor they got from the CIPs, but poor representation and weak arguments of the opposition, and the substantiated evidence and well organized and above all better representation of his parties by saying that:

*The procedure of the CIPs which was agreed upon by all parties was designed to give them a level playing field. Every party that had a case to be presented before any CIP was given one seat in the CIPs, and every one had the right to appoint whoever they wished to represent them in the CIPs... the EPRDF assigned the best people it has to represent it on the panels.<sup>12</sup>*

The opposition argued otherwise. The cases presented by them were not given the same weight by CIPs and consequently not addressed in a clear and transparent manner.<sup>13</sup> They claimed that though they proved their cases in a better and sufficient way than the evidence produced by the ruling party, the CIPS ruled against them by taking advantage of the 2:1 majority in their favor resulting from the composition of the CIPs.

This in effect minimizes the CIPs as semi-judicial bodies, to render decisions in an independent and transparent manner in such a way to bring accountability for their defects towards the contenders. Rather they were criticized for being missions set to gain lost seats for important members of EPRDF, where by the then Minister of Information, Bereket Simon and the then Minister of Justices, Harka Haroye gained their lost seats in the May 2005 election.<sup>14</sup> In the end, the opposition boycotting the process.

#### **4.2. Procedural Pit Falls Faced by the CIPs**

The NEBE, as a basic institution in the course of elections, has long been a bone of contention between the EPRDF and opposition parties. On account of the loss of public 'trust' towards its impartiality, since the beginning of May 2005 election and even before.

Eventually, the election began with this great ambiguity as the contending groups did not reach an agreement as to the impartiality and the composition of this core election administrative body, NEBE. Later, as crisis was beginning to unfold, a body was required by both parties to settle election irregularities nation wide, in order to bring back peace and stability following the disorder in large areas of the country, including the capital, Addis Ababa, where hundreds were killed and many more were arrested.

The paradox in this context was the complaint review bodies (CRB) and CIPs were established by the NEBE about which the oppositions had reservation on their make up in the first place. Under normal circumstances, a body which gives decision under its first instance jurisdiction in no way is given power by law to review its own former decision on another jurisdiction at a higher level. But this was what happened in our country where by the NEBE is an election administrative body under Article 5 of the 1997 proclamation and at same time it is a review body to investigate its own decisions on another jurisdiction under Article 52 of this proclamation.

On the other version, since these ad-hoc bodies were established following the occurrence of the problems, they were not well supported by detailed laws and procedures for their operations. Again they were criticized by opposition parties and even by observers on the manner stated:

*They don't follow uniform working procedures for all cases under investigations. Though in a number of cases, procedures were followed according to the terms of reference (TOR), they were observed mostly where international observers were present. This was the case in East Shewa in Ada 1, Ada 2 and Adama 2, where EU - EOM observers noted that three complaints had been considered in just 4 days before their arrival while afterwards each complaint took at least three days to debrief all witnesses. This implies that before the observers appeared at the scene things were un procedurally rushed through.<sup>15</sup>*

Regardless of the coincidences of offices of NEBE as election executive body and as CIPs, the laws that stipulate the working procedures of the CIPs i.e., the Terms of Reference lacks clarity as to who is eligible to bring complaint to the complaints investigating bodies and which issues could be brought to it.

Article 4 of the TOR determined the compositions of the compliant investigating bodies. Accordingly, two members of the NEBE and an authorized representative of the political party or independent candidate considered as a complaint, and an authorized representative of a political party or independent candidate that would be affected by the compliant or "the other party" are taken to be parties of the complaints investigations process.<sup>16</sup>

Here a question could be raised what would happen if a complaint is brought by an individual electorate or an observer? There the TOR did not say any thing and these bodies were not probably allowed to bring complaints to the CIPs. But as both the electorate and observers were parts of the process, no doubt that they were equally susceptible to the problems.

#### **4.3. Inaccessibility of CIPs to Opposition Parties and Interest Groups:**

CIPs were established under the frame work of the NEBE. Like the NEBE, CIPs establishment were seriously contested by opposition parties, especially by CUD and UEDF who seriously challenged the ruling party in the May 2005 election. That was because like their founder, NEBE, they were taken for granted as EPRDF loyalists that at any cost favor the incumbent.

Nevertheless, this was not the only problem with regard to the CIPs and their decisions. They did not have as such wider power to review all complaints raised by either parties (i.e. the majority of complaints were brought by the oppositions), as they did not have first hand authority in reviewing these complaints. <sup>17</sup>

All complaints lodged to the NEBE would not be directly recommended to the CIPs to effect investigation. But they were supposed to go through other NEBE body, the Complaint Review Body (CRB). The latter was tasked to review all complaints lodged and recommend to the NEBE again whether further investigation was necessary or not. <sup>18</sup>

As clearly stipulated by the EU-EOM final report data, "a total of 426 complaints were made against election results in 299 constituencies. Among these, only 150 complaints were recommended and a greater number of complaints i.e. 234 were rejected by the CRB." <sup>19</sup> At the end of the day as the NEBE was a final decision maker decided to hold re-election only in 31 of the investigated upholding the recommendations issued by the panels. <sup>20</sup> Conversely, complaints lodged in 268 constituencies, the majority of which belonging to the opposition, were rejected by NEBE.

This in turn assures us that complaints were not accessible to CIPs. Because they were disqualified by the NEBE review body (CRB), or by the NEBE itself before they were presented to CIPs for investigation without the right to appeal from such rulings.

#### **4.3.1. The Role of Opposition Political Parties in the functioning of CIPs**

Though not specifically provided for under proclamation 111/95, in the May 2005 election the CIPs were composed and organized in such a way to involve the opposition parties. To this effect, the 10 June 2005

agreement between the ruling and major opposition parties and the TOR worked out following it are outlined the role and representation of opposition parties. As to the composition of the CIPs, article 5(2) of the TOR reads as follows;

*"... one authorized representative of the political party or independent candidate submitting the complaint in that constituency ('the complainant')"*<sup>21</sup>

Regarding the role of the contending parties, the 10 June 2005 agreement under article 2 defines it as fair and constructive (foot note 10 June 2005 CUD, EUDF and EPRDF agreement) <sup>22</sup>

As repeatedly expressed before, CIPs investigations were taking place not in peaceful and stable conditions. It was held in a state of disorder and instability in almost every corner of the country where fundamental human rights and freedoms were violated. The first to take such risks were opposition party leaders and their supporters. This highly minimized the opposition parties' performance to participate effectively in the process.

On the other hand, neither the electoral laws nor the TOR provides sufficient room for the opposition political parties in the establishment of bodies like CIPs to address election complaints on an independent and impartial manner. Though CIPs were supposed to have a mixed (NEBE political parties) composition, level playing field was far from being realized on the ground as the presence of NEBE members in the formation of CIPs believed by the opposition to make a 2:1 majority rule for the ruling party. Because they were established by the NEBE, which is not trusted by them being the ruling party loyalist made the composition of the CIPs unbalanced.

However, this was what happened in May 2005 Ethiopian election. The NEBE had a prominent role in the complaint investigation process where its former decisions were contested and brought to the CIPs. How could NEBE whose decisions were contested in its first jurisdiction, become a voting member in the CIPs in another jurisdiction? And how can it impartially review and decide on matters which were previously decided by it?

The answer is simply it would not. Thus, the trend emerged to be a to 2.1 majority in favor of the ruling party and vice-versa in the case of opposition groups. This implies that there was no equal chance for all the concerned parties. So one can safely conclude that opposition political parties played little role in the composition of CIPS which ultimately ended up giving no meaningful solution to the crisis.

This process helped the EPRDF to clinch a final two-third majority in parliament, a result that was overwhelmingly rejected by the opposition. Consequently, the NEBE released official result of the May 2005 election that ended up with the usual victory of EPRDF for majority seats in parliament to assume government power in the following manner.

House of Peoples Representatives: HPR, by political organization	HPR by regional allocation of seats	Winner in state councils
EPRDF 327	Tigrai 38	EPRDF/TPLF
CUD 109	Afar 8	ANDM
UEDF 52	Amhara 138	EPRDF/ANDM
OFDM 11	Oromia 178	EPRDF/OPDO
BGPDUF 8	Somali 23	SPDF
ANDP 8	Benshangul Gumuz 9	BGPD
GPDM 3	Southern 123	EPRDF/SEPDP
SPDP 24	Gambella 3	GPDO
HNL 1	Harari 2	Coalition
ANDO 1	Dire Dawa 2	Unclear
Independent 1	Addis Ababa 23	CUD
Total 547	Total 547	

### **4.3.2. The Legal Ground of Election Observers**

In connection with observers the fact that their constructive role is given recognition by the electoral laws of Ethiopia and that their role and mandate is clearly defined is commendable. Thus, Art. 23 of proclamation No. 111/95 of the election law provides that legally recognized organization and non-governmental bodies may through their respective representatives observe the electoral process.

As stated above, however, the law did not clearly stipulate the structural legal arrangement to which they would be accountable. As it was not indicated by the law, observer's mission would most likely be accountable to their respective organization and not to the election board.

The representatives fielded by the said observer organization missions are answerable and accountable to their respective organizations. According to the law, if they wish they are entitled to give a copy of the report to the NEBE.<sup>24</sup> Thus, they have no legally warranted power or any mechanism that would enable them to affect or vary a given election outcome. Their role is merely of giving or denying their moral judgment on the outcome of the election. That is why an election process that is lauded and admired by the AU as fair and free is denounced by others. With this regard, the assessments of different observer's missions towards the recent 2005 electoral process were quite different on this same issue and it provoked divisions among them. For instance, the Carter Centre and the African Union considered the election as credible and competitive, defining it as an important development in the country's efforts at democratization.

On the contrary, observers from the European Union, EU-EOM strongly condemned the election as not free and fair, further denouncing the lack of impartiality by the National Electoral Board of Ethiopia (NEBE).

To this end, the EU-EOM concluded that the May 2005 Ethiopian election was manifestly rigged and manipulated by an openly partisan and sympathetic election board. The role of observers in election is so important as to be one of the controversial aspects that characterized the May 2005 election in Ethiopia.

*The May 2000 election was also observed by both foreign and local observers. However, unlike the previous election, which was held in 1995, the Ethiopian government had not invited international observers arguing that election is democratic and that there was no reason to have foreign observers. The government said it had nothing to hide from foreigners in the Country. Hence, in the May 2000 election there were about 1,580 election observers. Out of these, 1,510 of them were Ethiopians while the remaining were foreign journalists and resident diplomats.<sup>25</sup>*

Article 23 of proclamation 111/95 doesn't distinguish between domestic and foreign observers. However in the prelude to the May 2005 election, the NEBE issued a regulatory edict denying local observers the right to observe the elections on the ground that they didn't have the said function included in their respective memorandums of association.

Contrary to what scholars on the subject suggest the May 2005 election was primarily observed by foreign observers as stated "the election observers should be primarily nationals of the state concerned. After all, we have to "localize democracy". Though international observers are necessary they play only secondary roles".<sup>26</sup>

#### **4.3.3. The Role of Election Observers**

Eventually, apart from extending a measure of credibility or otherwise, to the election process observers have no tangible impact in the real outcome of the election. To this effect, Prime Minister Meles's letter to the Ethiopian Herald would be an excellent example. He had written, "---It

was abundantly clear to her (Ana Gomez) and to all concerned that she has no business making recommendations, and that rather her mandate was to observe and report".<sup>27</sup> Except, perhaps for the sour relation between the incumbent and the said organization (EU) election observation mission for sometime. Nothing of consequence had happened. As was evidenced in the notorious bickering between the government of Ethiopia and the EU-EOM following the May 2005 election.

Even this very limited roles of observers were curtailed by legal road block introduced by the revised electoral law of 523/2007. Again this law requires every observation mission (organization) to have a license by the government in power which was not a criterion in the previous proclamation №. 111/1995. <sup>28</sup>

Therefore, this implies that at the end of the day observers who could take part in the process are only those which are most likely sympathetic to the ruling party. Under the revised election law of 2007 foreign observers in particular are required to operate with in a hostile environment of sovereignty.

To this effect, Article 81 sub-Article 2 reads as follows; "without prejudice to sub-article (1) about a foreign observer may observe election process impartially and by respecting the sovereignty of the state and its different laws in accordance with the directive issued by the board."<sup>29</sup> As evidenced from the saying of the law, no one can safely conclude what acts amount to infringing the sovereignty of the state or not where as the incumbent could at will declare any activity not to his liking as a threat to its sovereignty and summarily disqualify a foreign observing mission at any time it wishes. From this we can deduce that no observing mission could freely and independently carry out its duties without inviting the curse of the government in power.

Nevertheless, the impartiality of election observation mission is crucial to carry out their duties defined by the pertinent law. Otherwise an observing mission with a vested interest primarily tries to serve its own interests. Depending on the circumstances it may declare a given election unfair and not fair just to deny a given party the chance to assume government power and enforce policies that may possibly affect the interest of the observing mission or its affiliated agencies. In this connection just because Hamas of Palestine conducts its campaign in recent election on markedly anti-western platform the outcome of the election which favored it was not welcomed by the donor Western community. Eventually, the Hamas led government was subjected to ranges of pressures that emasculated it.

#### **4.4. Selected Practical Assessments of the Outcomes of the Role and Function of CIPs**

As noted above the role of CIPs had been one of the major characteristic features of the May 2005 election. Major opposition parties and the ruling party made them the core component of the settlement they reached after the June 8/2005 atrocity. Again later when the CUD boycotted parliament principally it was owing to the alleged partiality and ill-functioning of the CIPs.<sup>30</sup>

This study wouldn't be complete without trying to review some of the practical cases as presented to the CIPs allegation made by political parties and election malpractices observed by foreign missions. The cases could generally be categorized as human rights violations, partiality of the NEBE, inability of the opposition to present their cases on account of intimidation and imprisonment of witnesses, observers etc and mass arrest and extra judicial execution of civilians.

In most instances the cases are reported by Amnesty International, opposition political parties, the Carter Center, NORDEM Report, the ruling party and the NEBE. Amnesty International released a detailed report entitled 'Ethiopia: the 15 May 2005 Elections and Human rights recommendations to the Government, Election Observers and Political Parties'. In this report, Amnesty defined and underlined its mission in the following terms;

*Amnesty International's concerns are during election as other times basic human rights should be respected and protected such as the right not to be arbitrarily detained, torture, ill-treated, disappeared or extra-judicially executed, economic, cultural and social rights, and the right to be free from discrimination.*<sup>31</sup>

Accordingly, it noted that as a spill over from the 2000 election when the EPRDF and its affiliates controlled the federal and regional states, city councils, the situation in the May 2005 election was in a way rife for partiality on the part of NEBE and coincidence of offices.<sup>32</sup>

Being specific the organization (Amnesty International) reported that "... in the Amhara Regional State (East Gojjam Zone), where two members of the opposition party had recently been killed by local government militias, and the Southern Reional State (Hadiya and Wolaiyta Zones) where there were reports of arrests and intimidation of opposition members:"<sup>33</sup> Such incidents were more pronounced in rural areas which accounts for 85% of the population as the incumbent almost entirely controls these areas.

However, it made its assessment going back in time and by generally reflecting on the conditions under which the May 2005 election was conducted. In this connection, the organization considers the human right abuses such as disappearance of political party members arrest

and unfair trials of journalists and government opponents' harsh prison condition, extra judicial execution of civilians etc, preceding the May 2005 election as being part of the human rights violation pertaining to the 15 May 2005 election.<sup>34</sup>

Thus according to the Amnesty International in the course of the election process members of political parties and civic associations were intimidated, the NEBE was partial to cases presented by the ruling party, and above all opposition party members were killed.<sup>35</sup>

Out of the 426 complaints lodged against the election results declared by the NEBE, the latter through its CRB and CIP mechanisms selected only 31 cases on grounds that only those are of such nature as to vary the outcome of the election.<sup>36</sup> One of the defining characteristic of the May 2005 election was the defeat suffered by prominent candidates of the ruling party, such as Ato Bereket Simon (the then Minister of Information), Ato Junedin Sado (the then President of Oromia Regional State) and Ato Harka Haruye (the then Minister of Justice).<sup>37</sup> This in a way gave the people a sense of the power they wielded to effect regime change through election. However, this was short lived as the NEBE conducted re-runs after the CIPs recommended that in the said constituencies, (Bugna, Iteya, Hageremariam) there had been ample instances of irregularities as to warrant re-runs of election. As indicated under chapter 3 of this study, the compositions of the CIPs were such that to which ever party the NEBE sides win the recommendation of the CIPs in its favor. Thus, in the above noted cases, it so happened that the NEBE representatives sided with the ruling party and the effect was canceling the election results and ordering a re-run the outcome of which reinstated those high profile EPRDF members to win their respective constituencies.

It was such instances that impelled observing missions like NORDEM to report in constituencies such as Ambo "... the polling station chairman was reluctant to give a signed copy of the results to the ONC representative present but eventually did so. The posters announcing the results weren't displayed outside the polling station as stipulated in the rules and the polling station chairman stated in private due to the result of the election."<sup>38</sup> About which he had allegedly been instructed by party colleagues to declare it (the result) "invalid."<sup>39</sup>

On its part the EU-EOM observing mission noted that in some instances the CIPs went out of their ways to cancel election results where candidates from the opposition parties won the election. On another perspective complaints forwarded by the opposition were dismissed by the CIP on flimsy grounds such as alleged 'forgery.' In this connection the EUEOM reported that "... the complaint was dismissed so that the EPRDF candidate retains the seat."<sup>40</sup>

#### **4.5. The Effects of Failure of CIPs as Election Dispute Settlement Mechanisms**

As repeatedly noted above the CIPs are introduced in the first place to give prompt and effective solutions to disputes relating to a given election process. However, the May 2005 election is characterized among other by the complete breakdown of the election dispute settlement mechanisms on the part of the major oppositions who had negotiated the coming in to being of the CIPs (i.e CUD and UEDF).

As indicated under chapter 3 of this study the CIPs were supposed to quell the mass unrest following the declaration of election results by the NEBE. Thus, obviously one of the prominent effects of the failures of the CIPs was the withdrawal of CUD from the process and the eventual arrest and conviction of its leaders on grounds of mainly;

- Provoking the public to mass riots,
- Usurpation of power by unlawful means,
- Challenging the outcome of the election unlawfully,
- Accusing the NEBE of inefficiency, partiality and unwillingness to run a free and fair election
- Failure to observe the emergency declaration,
- Responsibility for the death and injury of people on June 8/2005,
- Trying to destabilize the government by violence and persuasion.<sup>41</sup>

The CIPs were meant to avert such as the charges mentioned above. With failure of the CIPs, the credibility of the election process was vastly questioned as the major opposition coalition (the CUD) was declared by the incumbent as resorting to unconstitutional means of assuming power and the latter plainly accusing the former of hijacking the election process by using the office of the NEBE to its advantage. The spillover effect of which is still haunting the country.

The effect of boycotting the investigation process by the CUD was meant denail of the people's constitutional right of representation. This was more apparent in the case of the city of Addis Ababa which had been ruled by unelected administration. Eventually, by the re-run for the parliamentary seats won and boycotted by CUD were filled in by EPRDF and this has hugely compromised the proportional and effective representation of the different and multi-ethnic sections of the society through the parliament.

Contrary to the huge popular participation in the election that nothing of significance has come by following the May 2005 election and this has a direct bearing on the meaning and level of the practice of multi-party democracy in the country and effectively cemented the dominant party system.

## **Conclusion**

Principally the CIPs had their primary legal challenges in being at the mercy of the NEBE in one way or another. To begin with the filtering mechanism put in place to identify complaints worthy of consideration by the CIPs is totally under the control of the NEBE. Thus, any qualified interested party who lodged a complaint, couldn't count on its being reviewed unless the NEBE wishes it. This particular procedure was one of the accusations opposition parties leveled at the NEBE suggesting the latter's impartiality. Thus, though the complaining party is represented in the panel it has no means to make sure that its complaint is put through to the CIP.

Once the complaints were put through to the CIPs, judging by the statistics they had a marked tendency to favor the ruling party as almost in all cases the NEBE representatives in the panels voted against the oppositions and in favor of the ruling party. Thus, the role of opposition parties in the CIPs was minimal at best and not at worst. No wonder, when the major opposition party boycotted parliament in part they blamed the CIPs as being partial and untrustworthy. By same token the observer missions were also keenly interested in the CIPs and found them to be inefficient and easily manipulated. By contrast, it is noteworthy to consider the premier's lengthy account of the CIPs to counter the said accusations.

## **Footnotes**

1. Terms of Reference for the operation of Complaints investigation panels established by the NEBE, June 2005, Article 5
2. Ibid, Article 10
3. EU-EOM, Preliminary Statement on the Election Appeals' process, the Re-run of elections and the Somali Region Elections, August 2005, P. 4
4. Supra at note 1, Article 2
5. Proclamation No. 1/1995, the Constitution of the Federal Democratic Republic of Ethiopia, Article 102
6. Ibid, Article 37
7. Amnesty International Report, Ethiopia: The 15 May 2005 elections and human rights-recommendations to the government, election observers and political parties.
8. Press release of CUD and UEDF, Hamle 12/97 E.C, P. 2
9. Supra at note 3, P. 3
10. Letter to the Editor, by Prime Minister Meles Zenawi, The Ethiopian Herald, Vol. LXI, No 304, Wednesday, August 2005.
11. Supra at note 7
12. Supra at note 10, P. 8 - 9
13. East Gojjam, Debre Elias Constituency, dissenting opinion to the CIPs Recommendation, Sene 29, 1997 E.C
14. Supra at note 3, P. 6
15. Ibid, P. 5
16. Supra at note 1, Article 5
17. Ethiopia: Legislative Elections 2005, European Union Election Observation Mission Final Report P. 27
18. Terms of Reference for CRBs, Article 2
19. Supra at not 17, P. 25
20. Ibid, P. 25 - 27
21. Supra at note 1, Art. 5(2)

22. Joint Agreement of CUD, UEDF and EPRDF, June 10, 2005
23. The Ethiopian Herald, NEBE Official Election result declaration, August 2005.
24. Proclamation № 532/2007, Electoral Law of Ethiopia (Amendment) proclamation, Article 80.
25. Ashenafi Merid, Election and Political parties in Ethiopia: The case of May 2000 Election, undergraduate senior essay, unpublished, AAU, Department of Political Science and International relation, July 2001, P. 39.
26. Schneider, Hans. Peter, "Democracy, Power control and Federalism", Democracy in Africa - A New Beginning? International conference, selected papers and Discussions, Friedrich Ebert Stiftung, Bonn 1 - 3, June 1992, P. 61
27. Supra at note 10, P. 24
28. Supra at note 24, Article 78
29. Ibid, Article 81(2)
30. Supra at note 10
31. Supra at note 7
32. Ibid
33. Ibid
34. Ibid
35. Ibid
36. Supra at note 17, P. 25
37. Ibid, P. 29
38. NORDEM Report 2006, Ethiopia: Parliamentary Election May 2005.
39. Ibid
40. Supra at note 3, P. 6
41. Federal High Court File №. 423/1998 between Federal Prosecutor Vs. Hailu Shawel et al., Tahsas 1998 E.C

## **Conclusion and Recommendation**

Expecting a flawless election in any one system is being unreasonably idealistic. That is owing to the fact that election just like any human enterprise tries to accommodate varying and or conflicting interests. To begin with election laws are needed in the first place because the election process can not be conducted with out any problem. The law establishes the rule of the game for different contestants. Because, just like any competitive situations there would not be a win - win scenario. One can say this process is to some extent a zero sum game where one wins because the other loses.

The central point we could deduce from this study is elections especially in emerging democracies are flawed basically because of the lack of political will by the incumbent towards achieving a fair and free election.

That democracy is a relatively new concept which is still being tested in the grounds of developing countries as turned the process in to acrimonious battle field where contestants exhaust their will power and resources fighting amongst each other. This question obliges one to inquire if there are different stages of democratic process one that could be achieved differently in different countries, which by extension makes one adopt different standards to calibrate the level of fair and free elections of representative democracies in different stages of development.

However, once the standards adopted are said to be in tune with the international one, it has to be followed up. In this regard, the situation in Ethiopia leaves much to be desired. So in practice the NEBE is the ultimate arbiter of election irregularities. This by itself would not have been a problem had the NEBE been a truly independent and impartial organ constituted outside the mandate of the government. Being a multi party democracy, opposition parties need to have a level of understanding

that they are partners in democracy with the incumbent. The fact that these parties had historical roots in the political history of the country makes them susceptible to break up and organizational difficulties that eventually weakened their ability to combat and overcome any possible manipulations on the part of the incumbent. The fact that the NEBE recruits its personnel on the strength of their loyalty to the ruling party has made the gradual re-generation of the organ towards achieving fair and free election less likely. The reduced role of CIPs in calming down of complaints in the May 2005 election periods and observers and the lack of readiness to accommodate them have resulted in a defensive position adopted by the ruling party that by far retarded back the infant democracy of the country.

### **Recommendation**

1. The composition of board members of NEBE has to be constituted in such a way as to win the trust of the electorate in general. So long as the electorate loses its confidence regarding the impartiality of the board its decisions are looked up on with suspicion even when it acts impartially and independently.
2. The CIPs need to be constituted independently of the structure of the NEBE. Because they are not permanent institutional offices, the probability of their being impartial would be greater if they are allowed to function independently of the NEBE.
3. Opposition parties and observers need to have a role and a part in the compositions and functions of the CIPs to challenge the incumbent with full confidence on the electoral processes, which eventually enables to minimize the occurrence of election irregularities to the maximum possible.
4. The media in Ethiopia is dominated by the government in power. Though there was a bold move on the part of the government as to

*Political will of elite!  
the ruling*

allow the opposition limited air time and access to public broadcasting services at the beginning of the election until the polling day. Immediately after Election Day the scenario reversed. And the state media not only gave sole coverage to the EPRDF led government positions without providing access to oppositions and other dissenting opinions, but also opened negative campaign, accusing some opposition parties likening them to the infamous Hutu faction, Enterhamway. That marked the beginning of the back sliding of the immature democracy of the country. So the media, both print and electronic, should be conducted and established independently of any particular affiliation. Without free and independent media, free and fair election and democracy would not be possible.

5. In keeping with international standards the government in power (EPRDF) should commit itself at least to be abide by the Constitution and other laws.
6. It has been quite recently that Ethiopia embarked on multi party election. Given the relative inexperience of multi party democracy in the country, it would be understandable if some major irregularities keep recurring and some are left unresolved. Democracy even in the established Western countries is said to be unstatic and an ever reforming phenomenon. With this in mind both the ruling party and the opposition should constantly work towards a shared common goal of seeing democracy take firm root in the country. They should develop and nurture the readiness to sincerely and earnestly take one another as partners in democracy and not enemies.
7. The opposition should be able to work out a meaningful and sustainable organizational scheme, where it is founded on principles and not personalities. By doing this they would be able to survive the curse of multiplicity and break ups that have come to characterize most opposition parties.

## **Bibliography**

### **Table of books and Journals**

1. Gerwel, Jakes and Janniie Malan, (eds.), African Journal on Conflict Resolution, ACCORD, Durban, South Africa, vol. 4, No. 2, 2004.
2. Ake, Claude, Democracy and development in Africa, Washington, Brookings institution, 1996.
3. Alan Watson, The Germans: Who are they now? Thames Methuen, London, 1992.
4. Ashenafi Mered, Elections and Political parties in Ethiopia: The case of May 2000 Election, Addis Ababa University, Department of Political Science and International Relation, Undergraduate Senior essay, unpublished, 2001.
5. Assefa Fiseha, Federalism and the Accommodation of Diversity in Ethiopia: A comparative study, Utrecht, May 2005.
6. Bahiru Zewdie, A History of modern Ethiopia 1855 - 1991, 2<sup>nd</sup> ed, James Currey Ltd., 2002.
7. Blaich and Baumgartner, The Challenge of Democracy, Mc GRAW HILL Book company, INC. 3<sup>rd</sup> ed., 1956.
8. Berhanu Nega, Yenetsanet Goh Seked, Likelebes Yetemokerew Ye Ethiopia Democracy; Kality Iser Bet, Genbot, 1998 E.C.
9. Bryan A. Graner, Black's Law Dictionary, 7<sup>th</sup> ed., West publishing company, ST. Paul, MINN, 1999.
10. Burke, Reflections on the Revolution in France, ed., Cruise O'Brien, Penguin Books Ltd, 1969.
11. Carony Martin, The State and Political theory, Princeton University press, 1984.
12. Christopher Collier, Decision in Philadelphia: The Constitutional Convention 1787, Valantine Book New York, 1987.
13. David L. Sills, International Encyclopedia of the Social Sciences, vol. 5, MacMillan Company, New York, 1968.

14. David Turton editor, Ethnic Federalism: The Ethiopian experience in comparative perspective, 2006.
15. Erfried Adam, Democracy in Africa - A new beginning? International Conference, Selected papers discussions, Fredrick Ebert Stiftung, Bonn, 1 - 3 June 1992.
16. European Union Election Observation Mission (EU-EOM), Legislative Elections in Ethiopian Final Report 2005.
17. Fasil Nahum, Constitution for a Nation of Nationalities, the Red Sea Press, Lawrensvile, Newjersy, 1997.
18. Howard R. Penniman, The American Political Process, D. Van Nostrand company, INC., 1962.
19. International Institute for Democracy and Electoral Assistance, (International IDEA), Democratization in Indonesia: An Assessment, Stockholm, 2000.
20. Isaac Deutscher, The Unfinished Revolution: Russia 1917 - 1967, Oxford University Press, 1967.
21. James C.N. Paul and Christopher Clapham, Ethiopian Constitutional Development, Faculty of Law, Haile Selassie I University, 1972.
22. Jerusalem Amedmariam, Constitutional Development of Ethiopia, Addis Ababa University, Department of Political Science and International Relation, Undergraduate Senior essay, unpublished, 1992.
23. John Markikas and Nega Ayle, Class and Revolution in Ethiopia, Shama Books, 2006.
24. Lovise Aalen, Ethnic Federalism in a dominant party state: The Ethiopian experience 1991 - 2000, Chr. Michelsen, CMI reports, 2002.
25. Margaret C. Lee (ed.), The State and Democracy in Africa, Harare, AAPs Books, 1997, Lawrenceville, NJ, Africa World Press, 1998.

26. Mandefro Eshetu, Electoral principles and systems as envisaged in proclamation No. 64/1993, A.A.U Faculty of Law, Undergraduate Senior essay, unpublished, 1994.
27. Merera Gudina, Ethiopia: Competing Ethnic Nationalisms and the quest for Democracy, 1960 – 2000, the Netherlands, 2003.
28. Michael Cowen and Liisa Laakso eds., Multi-Party Elections in Africa, James Currey ltd., 2002.
29. Negede Gobeze, Hege Mengist Mercha Ena democracy Be Ethiopia (Ketlant wodia eskenega, 2004).
30. Nzongola – Ntalaja, Georges, Nation – Building and State Building in Africa, Harare, SAPES Books, occasional paper No. 3, 1993.
31. Peter Mair, Wolfgang C. Muller, Sritz Plasser, eds., Political Parties and Electoral Change: Party Response to Electoral Change, SAGE publication, London, 2004.
32. Letter to the Editor, by Prime Minister Meles Zenawi, the Ethiopian Herald - A response to the European Union Election Observation Mission (EU-EOM) preliminary report, Addis Ababa, 31 August 2005.
33. R. Kenneth Carty, Political Turbulance in a Dominant Party System, vol. 37, issue 4, October 2006 available at [http:// Journals. Cambridge. Org](http://Journals.Cambridge.Org).
34. Rals Akhan, and James D.Mcniven, An Introduction to Political Science, 3<sup>rd</sup>, ed., 1990.
35. Rosa Luxenmberge, Selected Political writings, New York, 1971.
36. Siegfried Pausewang, Kjetil Tronvoll and Lovise Aalen, Ethiopia Since the Derg, A Decade of Democratic Pretension and Performance, Zed Books, London and New York, 2002.
37. Teshale Tibebu, The Making of Modern Ethiopia 1896 – 1974, The Ethiopian experience, Lawrenceville New Jersey, the Red sea press inc., 2000.

38. United Nations Conference on Governance in Africa: Consolidating the institutional foundations: Governance: The African experience, UN Department of Economic and Social Affairs and Economic Commission for Africa, A.A, Ethiopia, 2 – 6 March, 1988.
39. United Nations Research Institute on Social Development, States of Disarray: Social Effects of Globalization, Geneva, UNRISP, 1995.
40. Winston S. Churchill, A History of English Speaking Peoples: The Great Democracies, Bantam Books, INC., New York Vol. IV, 1963.

## Laws and Proclamations

1. Charter of the United Nations as amended to December 31, 1961.
2. American Convention on Human Rights, O.A.S, Treaty series No. 36 1144 O.N.T.S 123, entered in to force July 18, 1978, reprinted in basic documents pertaining to Human Rights in the inter American system, OEA /Ser,LV/ II. 82 doc. 6 rev. 1 at 25 (1992).
3. Universal Declaration of Human Rights, General Assembly of the United Nations Resolution 217A (III), U.N. DOCA/810 at 71 (1948).
4. International Covenant on Civil and Political Rights, U.N.T.S, No. 14668, vol. 999 (1976).
5. International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200 A (XXI), 21 U.N. GAOR supp. (No. 16) at 49 U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered in to force Jan. 1976.
6. Optional Protocols to the International Covenant on Civil and Political Rights Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 2200 A (XXI) of 16 December 1966 entry in to force 23 March 1976.
7. European Social Charter, Turin, 18. X. 1961.
8. Constitutive Act of the African Union, OAU Doc. CAB /LEG/ 23. 15, entered in to force May 26, 2001.
9. African (Banjul) Charter on Human and Peoples Rights, adopted June 27, 1981, OAU Doc. CAB /LEG/67/3 rev. S, 21 I.L.M. 58 (1982), entered in to force Oct. 21, 1986, (excerpts)...
10. The 1931 Constitution of Ethiopia.
11. Proclamation No. 149/1955, The Revised Constitution of Ethiopia year 15 No. 2.
12. The Provisional Military Government of Ethiopia Establishment of Proclamation No. 1 of 1974 34 year No. 1.
13. The Constitution of the People's Democratic Republic of Ethiopia Proclamation 1987, 4<sup>th</sup> year No. 8

14. Transitional Period Charter of Ethiopia, 50<sup>th</sup> year No. 1 July 1991.
15. The Constitution of the Federal Democratic Republic of Ethiopia proclamation No. 1 1995.
16. Electoral Law of Ethiopia proclamation No. 64/1993.
17. Electoral Law of Ethiopia Amendment proclamation No. 96/1994.
18. Proclamation to make the electoral law of Ethiopia conform with the Constitution of the Federal Democratic Republic of Ethiopia No. 111/95.
19. Proclamation to make Electoral Law of Ethiopia conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) proclamation No. 438/2005
20. Electoral Law of Ethiopia Amendment proclamation no. 532/2007.
21. African Journal on Conflict Resolution, Vol. 4. No. 2, 2004, Durban, South Africa.
22. Terms of Reference for the Operation of Complaints Investigation panels, established by the National Electoral Board of Ethiopia, June 2005.
23. Working Procedures for the Complaint Investigation Panels formulated by NEBE.

## **Attachments**

1. Joint agreement of CUD, UEDF and EPRDF, June 10, 2005.
2. Terms of Reference for CIPs.
3. CIPs Recommendation format.
4. Federal High Court ruling File Nº 41161 between CUD Vs. NEBE  
Nehase 16, 1997 E.C.

በኢ.ዲ.ሪ. ቅንጅት ለአንድነትና ለዲሞክራሲና በኢህአዴግ መካከል  
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የዚህ የጋራ ስምምነት ሰነድ ፊርማዎች፡-

- በአገራችን የተካሄደው ምርጫ የሀዘቡን ፍላጎት ሙሉ በሙሉ በሚያረጋግጥና የሀገን የበላይነትና የአገሪቱን ህገ መንግስታዊ ስርአት ባከበረ ሰላማዊ መንገድ የተሳካ ፍፃሜ ላይ እንዲደርስ ለማድረግ ያላቸውን ዝግጁነት አረጋግጠዋል፤

- ማንኛውንም የአመፅ ለአመፅ የማይሳሳት ተግባር በማውገዝና ለአመፅ የማይሳሳት ተግባር ለማስቀረት ማድረግ ያለባቸውን ጥረት ሁሉ ለማድረግ፣ እንዲሁም ከማንኛውም ለአመፅ የማይሳሳት ተግባር ለመቆጠብና ለሁሉም ጉዳዮች ህጋዊና ሰላማዊ መፍትሄ ብቻ ለማረጋገጥ ያላቸውን ቁርጠኝነት አረጋግጠዋል፤

- በምርጫ እፈፃም ላይ የታዩ ጉድለቶችን በማስመልከት በሚቀርቡ አቤቱታዎች ላይ ውሳኔ የሚሰጠው በምርጫ ህገ መሰረት በተበጁ የውሳኔ አሰጣጥ ስርዓቶች አማካኝነት እንደሆነና በዚህም ስርአት በተወሰኑ ውሳኔዎች ለመገዛት ዝግጁ መሆናቸውን አረጋግጠዋል፤

- በእነዚህ ስርዓቶች ውስጥ የምርጫ ቦርዶችንና የፍርድ ቤቶችን ህጋዊ ስልጣን በመቀበል፣ ማንኛውም ወገን በህገ መንግስት በተከበረለት መሰረት የመጠቀም ችሎታው እንደተጠበቀ ሆኖ እነዚህ አካላት በአገሪቱ ህጎች በተሰጣቸው ሙሉ ስልጣን መሰረት በሚወስኗቸው ውሳኔዎች ለመገዛትና፣ የውሳኔዎቹን ተፈፃሚነት ለማድናተፍ ታስቦ ከሚካሄድ ማንኛውም ህገወጥ እንትሰታሉ ለመቆጠብ ተስማምተዋል፤

ከዋናው ጋር ተመሳሳይ  
ፊርማ



የፓርቲዎች የጋራ መድረክ በፓርቲዎች መካከል የሚነሱ አለመግባባቶች በስምምነት እንዲፈቱ ለማድረግና የሂደቱን ግልፅነት በማጥበብ በኩል የሚዳወቀውን አዎንታዊ ሚና ተገንዝበዋል።

ብሄራዊ የምርጫ ቦርድ የምርጫ ችግሮች ናቸው በማለት በፓርቲዎች የፋረቡለትን 299 አቤቱታዎች ለመመርመር መወሰኑን ተቀብለዋል።

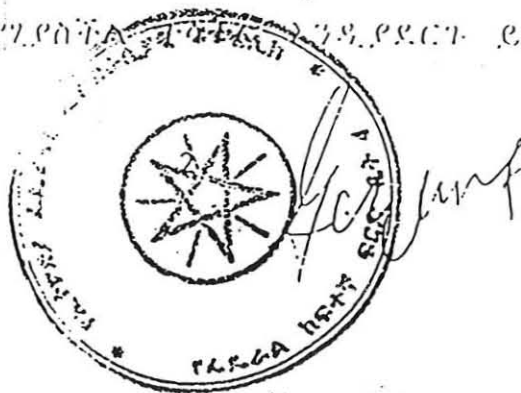
በውሳኔ አስጣጥ ስርዓቱ ላይ ግልፅነትና የሀዘብ አመኔታ እንዲኖር ማድረግ አስፈላጊ መሆኑን አረጋግጠዋል።

የፋረቡ አቤቱታዎች በሚመረመሩበትና በሚጣሩበት ጊዜ ለመላተፍ ፍላጎት እንዳላቸው አሳውቀዋል።

አሁን አቀፍ ታዛቢዎች የኢትዮጵያ ብሄራዊ ምርጫ ቦርድ የአቤቱታ አቀባበልና ውሳኔ አስጣጥ ስርዓቱን እንዲታዘቡ ያቀረቡላቸውን ግብዣ እንዲቀበሉ በአዕገላት አሳሰቧል።

በቀን 22 ቀን 1997 ዓ/ም በተካሄደው የፓርቲዎች የጋራ መድረክ ላይ ያደረሰበት መግባባት መሰረት የዚህ የጋራ ስምምነት ሰነድ ፈራሚዎች የምርጫ ድቅፊታዎችን ለማጣራት ባቋቋማቸው አጣሪ አካላት በገንቢና ሚዛናዊ አግባብ ማሳተፍ ዝግጁ ሆነዋል።

ሬዊ የምርጫ ቦርድ የህግ ሙያተኞች ያለበት ጊዜያዊ የቅሬታ መርማሪ አካል ቋሙ መሆኑን በመገንዘብ የዚህ የጋራ ስምምነት ሰነድ ፈራሚዎች ይህ መርማሪ ለ ምርመራውን አጠናቀቅ የመጨረሻ የውሳኔ ግሳቡን ለብሄራዊ የምርጫ ቦርድ ተረቡ በራት በቅሬታ መስማቱና በማጣራቱ ሂደቶች ላይ በመገኘት እስካሁን በቅሬታ ማስረጃ ላይ ተጨማሪ ማብራሪያ ለመስጠትም ሆነ አስፈላጊ ሆኖ ሲገኝ ለመረጃ ለማቅረብ የሚያስችሉ ደንብ ለማድረግ ይጠይቃል። ይህ ሚና



ከዋናው ጋር ተመሳካሪ።  
ፊርማ



-1

**of Reference for the Operation of ~~Complaints Investigation Panels~~ to be established by  
the National Election Board of Ethiopia**

*[DRAFT - 14 June]*

Under the powers granted to it by the Proclamations on the Electoral Law, the National Electoral Board of Ethiopia (NEBE) may establish ad hoc Complaints Investigational Panels (CIPs).

The NEBE shall appoint a CIP for each constituency where it has decided that a complaint submitted by a political party under the provisions of Article 52(2) of the Proclamation No. 111/1995 warrants investigation in order to determine whether the scope and nature of an alleged irregularity or irregularities were such that they were bound to determine the outcome of the election in that constituency.

A CIP shall:

- i. operate fairly, inclusively, impartially and in conformity with the Code of Conduct for Election Officials;
- ii. determine facts so as to establish whether the alleged irregularity or irregularities occurred or not, and to record such facts;
- iii. make a recommendation to the NEBE on the decision it should take in relation to the complaint.

Where the CIP has determined that an irregularity or irregularities occurred, it shall assess whether their scope and nature were such that they were bound to determine the outcome of the election in that constituency.

The members of a CIP will be:

- i. two members of the NEBE secretariat;
- ii. one authorised representative of the political party or independent candidate submitting the complaint in that constituency ('the complainant');
- iii. one authorised representative of the political party that would be affected by the complaint (i.e. the political party or independent candidate who, according to the provisional results declared by the constituency, appears to have won the election in that constituency) ('the other interested party').

Where more than one political parties have submitted complaints in a constituency and the NEBE has decided that more than one complaint in that constituency warrants investigation, the CIP shall include authorised representatives of each complainant whose complaint is being investigated.

The CIP may also include representatives of any other political parties and independent candidates contesting the election in the constituency that, according to the provisional results in that constituency, won more than five per cent of the valid votes cast in that constituency.

In order to determine the facts of an alleged irregularity, the CIP may decide to examine any witness or any documentary evidence that is identified by the NEBE, the complainant or the other interested party as relevant to whether the alleged irregularity occurred or not. Where appropriate, the CIP may decide to visit the constituency in question.

shall operate by consensus but, where consensus is not possible, a majority vote shall be taken. The CIP record shall indicate where a vote was taken.

The voting members of the CIP shall be:

- i. one member of the NEBE secretariat
- ii. the authorised representative of the complainant
- iii. the authorised representative of the other interested party

Where a CIP has more than one complainant as a member, the voting members of the CIP shall be:

- i. the two members of the NEBE secretariat
- ii. the authorised representatives of the complainants
- iii. the authorised representative of the other interested party

The NEBE shall inform the complainant and the other interested party of its decision to appoint a CIP in a constituency no later than two working days before the CIP commences its work. The complainant and the other interested party will have 24 hours from receipt of the decision of the NEBE to nominate their authorised representative for membership of the CIP and to inform the NEBE of their name and contact details. Where the complainant or the other interested party fail to inform the NEBE of the name and contact details of their authorised representatives within the specified deadline, they may forfeit their right to representation on the CIP.

Where the complainant or the other interested party has forfeited their right to representation on a CIP, the two members of the NEBE secretariat will be voting members of the CIP.

The NEBE Constituency Electoral Office will be responsible for informing the other political parties or independent candidates who may, under the provisions of Section 7 of this Terms of Reference, be members of a CIP.

All voting members must be informed of the date, time and location of CIP meetings. All voting members must be present for a CIP to meet and operate. However, a CIP can meet and operate with two members where one or more voting members have chosen not to attend the meeting. The CIP record shall indicate where a CIP meets in the absence of any voting member.

Representatives of the NEBE and international observers can be present at all meetings of a CIP.

All meetings of a CIP will be chaired by the NEBE voting member. All meetings will be recorded by the NEBE and the record will be signed by the voting members present. All CIP members are entitled to copy the CIP record.

A CIP should perform its duties within three days of when it commenced its work unless a request to extend its period of operations is agreed to by all voting members.

Within three days of concluding the performance of its duties, the CIP will submit a Summary of Facts and Note of Recommendation to the NEBE, which must be signed by at least two voting members, along with the CIP record. Where appropriate, a voting member may choose to submit a dissenting opinion attached to the Summary of Facts and Note of Recommendation. Copies of the documents will be provided to all members of the CIP.

seven days of the receipt of the Summary of Facts and Note of Recommendation, the NEBE will decide on whether to accept the recommendation of the CIP and on whether to accept or reject the complaint. If the NEBE decides against following the recommendation of the CIP, it will indicate in writing the reasons for its decision. The decision of the NEBE will be published.

አብራሃም ገብረ

የውሳኔ ሐሳብ መስጫ ቅጽ

የም/ቦ/መ/ቁ.ደ/አ/ም/ክ/001/97

ቀን 28/10/97

ክልል:- አማራ  
ዞን:- ምስራቅ ጉጃም  
የምርጫ ክልል:- ደ/ኤሊያስ

- 1ኛ. አቶ ወንድወሰን ውቤ ሰብሳቢ
- 2ኛ. አቶ አሰራት መኮንን በአቤቱታ አቅራቢ የተሰየመው
- 3ኛ. አቶ ደመቀ መኮንን በሌላኛው ወገን የተሰየመው

ፀሐፊ:- አቶ ሐብታሙ ቢሆነኝ  
ድምጽ የመስጠት መብት የሌላቸው አባላት

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

አቤቱታ አቅራቢ ቅንጅት ለአንድነት ለዲሞክራሲ  
የአቤቱታ አቅራቢ ወኪሎች

- 1ኛ. ሻምበል ሙሉየ ግ/አብ ዋና ተጠሪ
- 2ኛ. ይልቃል ፀጋየ ምህረቱ ወኪል
- 3ኛ. ያየህ አያሌው ዘለቀ ወኪል

የሌላኛው ወገን ብአድን (ኢሀዲግ)  
የሌላኛው ወገን ወኪሎች

- 1ኛ. አለልኝ ሰጋላ ዋና ተጠሪ
- 2ኛ. አለባቸው ደመቀ ወኪል
- 3ኛ. ደመቀ ብርሃኑ ወኪል

የጉዳዩ ፍሬ ነገር

አቤቱታ ለቦርዱ የክብረባቤት ቀን በ15/9/97  
የጉዳዩ ታይዘት

- የፓርቲ ታዛቢዎች እንዲወጡ ተገደዋል
- ህዝብን በማስገደድ የምርጫ ምልክት ላይ ምልክቱ እንዲደረግ ተደርጓል።
- አንድ ፓርቲ ይመርጣሉ ተብለው ተገመቱ ሰዎች እንዳይመርጡ ተከልክለዋል
- በምርጫው ቀን ህገ ወጥ ቅስቀሳ ተደርጓል

የአቤቱታው ይዘት ጠቅላላ ባለ መልኩ ይህንን ይመስላል።

አቤቱታ ያቀረቡ ማስረጃዎች ብዛትና አይነት ለፓርቲ አባላትና አቅራቢና ከሌላኛው ወገን በርካታ የጽሑፍ ማስረጃዎችና የሰው ምስክር በአቤቱታ አቅራቢው የመከላከያ ምስክር ከሌላኛው ወገን ቀርቧል። የሰው ምስክርና የደብዳቤው/ቁጥር በገጽ 11 ላይ ተገልጿል።

- 1. አቤቱታ አቅራቢው በኩል የቀረበው የሰው ምስክር ብዛት 12
- በጽሑፍ ቀረቡ ማስረጃዎች ገጽ ብዛት 52
- 2. ከሌላኛው ወገን የቀረበ ማስረጃ (መከላከያ) የሰው ምስክር ብዛት 11
- በጽሑፍ የቀረቡ ማስረጃዎች ገጽ ብዛት 210



ታቶ

ለኢትዮጵያ ብሔራዊ ምርጫ ቦርድ ጽ/ቤት  
III አዲስ አበባ

መግቢያ:-  
በደ/ኤሌያስ ምርጫ ክልል

• አገልግሎት አቅራቢ የሰው ምስክር አቅርቦት ተደምጧል  
በዚህ መሠረት የአቤቱታ አቅራቢ የሰው ማስረጃ እንደሚያስረዳው ከሆነ በአብዛኛው ምርጫው ፍትሐዊ አለመሆኑን በአንድ ድምጽ የገለጹ ሲሆን

• በሌላኛው ወገን በኩል የሰው ማስረጃው እንዳስረዳው ከሆነ ምርጫው ፍትሐዊ መሆኑን ያረጋገጠ ሲሆን። አጣሪ ቡድኑም የውሳኔ ሐሳብ ለመስጠት የምርጫ ክልሉን የምርጫ ውጤት ይቀይራል አይቀይርም የሚለውን የሰነድ ማስረጃዎችን መርምሯል።

• በዚህም መሠረት:-

1. በምርጫ ክልሉ የሚወዳደሩ 2 (ሁለት) ፓርቲዎች ናቸው

እነሱም:- ሀ. ብአድን (ኢህዲግ)

ለ. ቅንጅት ለአንድነት ለዲሞክራሲ ናቸው

ሁለቱ ተወዳዳሪ ፓርቲዎች ለግንቦት 7/1997 ዓ.ም ለሚካሄደው የህዝብ ተወካዮችና ለክልል

ምርጫ ቤት ለሚወዳደሩ እጩ ተወዳዳሪዎች ምርጫውን የሚከታተሉ ወኪሎች (ታዛቢዎች) የተመደቡበት ማስረጃ ተገኝቷል።

1. ለምርጫ መሰረት ብአድን ( ኢህዲግ) በዋናነት 37 በተጠባባቂነት 37 በድምሩ 74 የእጩ ተወዳዳሪ ወኪል አቅርበው ወደ ምርጫ ጣቢያ እንዲገቡ በምርጫ ክልሉ ጽ/ቤት ተፈቅዶላቸዋል።

ዋናነት በብአድን ለዲሞክራሲ በዋናነት 37 በተጠባባቂነት 34 በድምሩ 71 የእጩ ተወዳዳሪ ወኪል አቅርበው ወደ ምርጫ ጣቢያ እንዲገቡና ምርጫውን እንዲከታተሉ በምርጫ ክልሉ ጽ/ቤት ተፈቅዶላቸዋል።

2. ተንቀሳቃሽ ታዛቢን በተመለከተ:-

ሀ. ብአድን (ኢህዲግ) 5 ተንቀሳቃሽ ታዛቢ

ለ. ቅንጅት ለአንድነት ለዲሞክራሲ 5 ተንቀሳቃሽ ታዛቢ

ሐ. ቤተ ክህነት 37 ተንቀሳቃሽ ታዛቢ

መ. የሴቶች ማህበር 37 ተንቀሳቃሽ ታዛቢ

ሠ. የወጣቶች ማህበር ታዛቢ 37 ተንቀሳቃሽ ታዛቢ

ረ. ነልማ 1 ተንቀሳቃሽ ታዛቢ

ሠ. የአውሮፓ ህብረት ታዛቢ ምርጫውን እየተዘዋወሩ ሲከታተሉት ውለዋል።

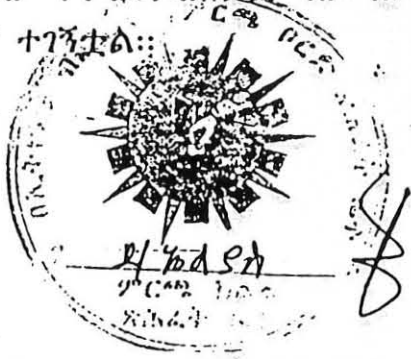
በድምሩ 124 ተንቀሳቃሽ ታዛቢዎች ምርጫውን በመንቀሳቀስ ሲታዘቡ ውለዋል።

3. ቅንጅት ለአንድነትና ለዲሞክራሲ በ6/9/97 ዓ.ም የተፃፈና በ7/9/97 ዓ.ም ከምሽቱ

12 ሰዓት በምርጫ ጽ/ቤት የቀረበ ማመልከቻ ተገኝቷል።

የማመልከቻው ይዘትም:-

1. በየሚዘኝ አታንጎ 02 ምርጫ ጣቢያ
2. በየሳሰር ምርጫ ጣቢያ
3. በጎፍጭማ ምርጫ ጣቢያ



ቃቀ

- 4. በሃቲጋት ምርጫ ጣቢያ
- 5. በሃገወጥ የደማት ምርጫ ጣቢያ

6. በአብሽብ ምርጫ ጣቢያ አሁንም ወከባው ተጧጠፎ የፓርቲውን ወኪሎች በመታፈን እንዲሁም በመሻረር ላይ በመሆናቸው በምርጫው ፍትሐዊነት የማናምን ስለሆነ ጣቢያዎቹ እንዲሰረዙልን በትህትና እንጠይቃለን። አፋጣኝ ምላሽ እንዲሰጠን እናሳስባለን በማለት ያቀረቡት ማመልከቻ ተገኝቷል። ከምርጫ ጽ/ቤቱ የቀረበለትን ማመልከቻ ምርጫው ከተጠናቀቀ በኋላ ከምርጫው መውጣት እንደማይቻል የተነገራቸው መሆኑ ተረጋግጧልናል።

4. በ9/9/97 ዓ.ም በ37 ምርጫ ጣቢያዎች የምርጫ ጣቢያዎች ቁሳቁሶች ለምርጫ ክልሉ ጽ/ቤት ገቢ ሲደረጉ ቃለ ጉባኤ ተይዞ የሁለቱም የምክር ቤት አባልነት አሸናፊው ብአድን (ኢህዲግ) ለመሆኑ የታያዘው ቃለ ጉባኤና የተወዳዳሪ እጩ ወኪሎች የተፈራረሙበት ማስረጃ ተገኝቷል።

5. ቅንጅት ለአንድነትና ለዲሞክራሲ በ8/9/97 ዓ.ም ማመልከቻ ለምርጫ ጽ/ቤቱ አቅርበዋል። የማመልከቻው ይዘትም

- 5.1. ለ. በደ/አ.ሊ.ያስ ከተማ 01 ምርጫ ጣቢያ
- 5.2. ለ. በደ/አ.ሊ.ያስከተማ 02 ምርጫ ጣቢያ
- 5.3. ለ. በየሳስር ምርጫ ጣቢያ የተካሄደው ምርጫ ፍትሐዊና ነፃ በመሆኑ ተቀብለንዋል ይላል።

6. ቅንጅት ለአንድነትና ለዲሞክራሲ በ9/9/97 በምርጫ ክልሉ ጽ/ቤት ማመልከቻ አቅርበዋል።

7. የምርጫ ክልሉ ጽ/ቤት የአቤቱታ ሰሚ ኮሚቴ በ10/9/97 ዓ.ም የማመልከቻውን ፍሬ ሐሳብ በመመርመር የቅንጅት ለአንድነትና ለዲሞክራሲ ወኪል የሆኑት አቶ ወርቅነህ ሰማነ በተገኘበት ሁላላ ተሰጦ የውሳኔው ግልባጭ ተሰጧቸዋል።

8. በ10/9/97 ዓ.ም የድምጽ ቆጠራ ውጤት ማጠቃለያ በምርጫ ክልል ደረጃ የሁለቱም ተወዳዳሪ የፖለቲካ ድርጅት የእጩ ተወዳዳሪ ወኪሎች የምርጫ ክልል የምርጫ አስፈጻሚዎች እና የምርጫ ክልል የህዝብ ታዛቢዎች በተገኙበት ለህዝብ ተወካዮች ምክር ቤት አባልነት እና ለክልል ምክር ቤት አባልነት ብአድን (ኢህዲግ) አሸናፊ ለመሆኑ ቃለ ጉባኤ ተይዞ ተፈራርመዋል።

9. በምርጫ ክልሉ ባሉ 37 የምርጫ ጣቢያዎች የመክፈቻና ደጋፊ ቃለ ጉባኤ ተይዞ ተመልክተናል።

10. በ22 የምርጫ ጣቢያዎች በመክፈጫ ደጋፊ ቃለ ጉባኤ የብአድን (ኢህዲግ) እና የቅንጅት ለአንድነትና ለዲሞክራሲ እጩ ተወዳዳሪ ወኪሎች ተፈራርመውበታል።

11. በምርጫ ጣቢያ ደረጃ በ19 ምርጫ ጣቢያዎች ቅንጅት ለአንድነትና ለዲሞክራሲ የእጩ ተወዳዳሪዎች ወኪሎች መተማመኛ ፈርመው ተረክበዋል።

12. የቅንጅት ለአንድነትና ለዲሞክራሲ የእጩ ተወዳዳሪ ወኪሎች በአራት የምርጫ ጣቢያዎች የሙቁጠሪያ ሰንጠረዥ ላይ ፈርመዋል።

13. በቀሪዎቹ 14 የምርጫ ጣቢያዎች ላይ ከምርጫ ክልሉ የሁለቱም ተወዳዳሪ የፖለቲካ ድርጅት-የእጩ ተወዳዳሪ ወኪሎች የተገኙ ቢሆንም የብአድን (ኢህዲግ) እጩ ተወዳዳሪ ወኪሎች መተማመኛቸውን ፈርመው የተረከቡ ሲሆን የቅንጅት ለአንድነትና ለዲሞክራሲ መተማመኛቸውን አላመጡባቸውን አረጋግጧል።



Signature

14. መጨረሻም በ13/9/97 ጊዜያዊ ምርጫ ውጤት ለህዝብ ይፋ መሆኑን ለማረጋገጥ ትላል።  
በዚህ መሠረት፡-

ሀ. ለህዝብ ተወካዮች ከተወዳደሩት አቶ ጌታቸው ታየ አንሰይ የብአዲን

ኢሐዲግ እጩ ተወዳዳሪ በ19002 ድምጽ በማግኘት 1ኛ ደረጃ

- አቶ ይልቃል ፀጋዩ ምህረቱ የቅንጅት ለአንድነትና ለዲሞክራሲ እጩ ተወዳዳሪ 7907 ድምጽ በማግኘት 2ኛ መሆናቸውን አረጋግጠናል።

ለ. ለክልል ምክር ቤት አባልነት ከተወዳደሩት

አቶ አስማረ ፀሐ አዳነ የብአዲን ኢሐዲግ እጩ ተወዳዳሪ 18501 ድምጽ በማግኘት 1ኛ ደረጃ

- አቶ አባትሁን ስራው ሞሴ የብአዲን ኢሐዲግ እጩ ተወዳዳሪ 17745 ድምጽ በማግኘት 2ኛ ደረጃ

- አቶ መላክ ድልነሳ አየነው የቅንጅት ለአንድነትና ለዲሞክራሲ እጩ ተወዳዳሪ 7732 3ኛ ደረጃ አቶ ያየህ አያሌው ዘለቀ የቅንጅት ለአንድነትና ለዲሞክራሲ እጩ ተወዳዳሪ 7362 ድምጽ በማግኘት 4ኛ ደረጃ ለመሆናቸው በቅጽ 07 ለህዝብ ይፋ ተደርጓል።

### የውሳኔ ኃሳብ

-ፓናሉ በተቀመጠው ጭብጥ ዙሪያ በርካታ የጽሁፍ ማስረጃና የሰው ምስክሮቹን በቀኝ በግራ የአቤቱታ አቅራቢውና በሌላኛው ወገን ያለውን የማጠቃለያ (የመፋረጃ ሀሳብ) ጉዳዩን ማየት ከጀመረበት ከ24/9/97 - 28/10/97 ቀናት ከመረመረ በኋላ በደብረ ኤ.ሊ.ያስ የቀረበውን ምርጫ ክልል ጉዳይ በጥልቀት ተመልክቷል።

ስለሆነም ፓናሉ በምርጫው ላይ ከታዩት ጥቃቅን ጉድለቶች ውጭ የምርጫውን ውጤት የሚያስተዋድህ እንዲሁም ከአቤቱታው አቅራቢው ወገን የቀረበው ማስረጃ አቤቱታው መሰረት እንዲሁ የሚያሳይ ጭብጥ ፓናሉ አላገኘበትም። ስለሆነም አቤቱታው አቅራቢው የምርጫ አፈጻጸም ጉድለት መኖሩን ለማስረዳት ሳይችል መቅረቱንና ብሎም አቤቱታው ውድቅ ሊደረግ የሚያች መሆኑን ለኢትዮጵያ ቢሄራዊ ምርጫ ቦርድ ጽራትቤት ፕሮፖሳል (የውሳኔሀሳብ) ያቀርባል።

ለለሁለቱ ተከራካሪ ፓርቲዎቹም የዚህ ግልባጭ እንዲሰጣቸው ፓናሉ ትእዛዝ ሰጥቷል። ፋይሉን ዘግቶ ችሎቱ ተነስቷል።



ሐምሌ 28/1197 ዓ.ም

ደብረ ኤ.ሊ.ያስ ምረጫ ክልል

አቤቱታ አጠራ ቡድን

*[Handwritten signature]*  
የደንበኞች ጉዳይ ማኅተም ማኅተም ማኅተም

ፊርማ \_\_\_\_\_ (በአቤት ባይ የተሰየመው) \_\_\_\_\_ (ሰብሳቢ) \_\_\_\_\_ በሌላኛው ወገን የተሰየመው



የኢትዮጵያ ጠቅላይ ሚኒስትር  
የሥራ ማህበረ ሰባት

የኮ/ቁጥር 41161

16/12/97

ዳኞች:- ኑሩ ሰይድ  
መኮንን ገ/ሕይወት  
ሰለሞን አረዳ

ከላኝ ..... ቅንጅት ለአንድነትና ለዲሞክራሲ ጠበቆች የኔህ ሙላቱ እና ዘበነ ፍቅሬ  
ቀርበዋል።

ተከላኝ ..... የኢትዮጵያ የምርጫ ቦርድ ጠበቆች ሚሊዮን አሰፋ አዳም ሰገድ  
በላይ፣ መብራቱ ዮሐንስ እና ኮ/ል መላኩ ካሣዬ ቀርበዋል።  
መዝገቡን መርምረን የሚከተለውን ውሳኔ ሰጥተናል።

ው ሣ ኔ

ከላኝ በ1/12/97 ዕጩ ባቀረበው ክስ ከላኝ ግንቦት 7 ቀን 1997 ዓ.ም በተደረገው  
3ኛው አገር አቀፍ ብሔራዊ ምርጫ ተሳትፎ አል ይባል እንጂ የምርጫውን ውጤት  
በሚመለከት በከላኝና በተከላኝ መካከል እንዲሁም በፖርቲዎች መካከል አለመግባባት  
በመፈጠሩ ይህንኑ አለመግባባት ለመፍታት ሰኔ 3 ቀን 1997 ዓ.ም ፖርቲዎች ስምምነት  
አድርገዋል። በዚህ ስምምነት መሠረት የምርጫውን ውጤት የሚያጣሩ በተከላኝ  
አማካኝነት ሁለት ቅሬታ ሰሚ አካሎች ተቋቁመዋል። እነዚህ ሁለቱም ቅሬታ ሰሚ  
አካሎች የሚሰጡት ውሳኔዎች በተከላኝ ከዐደቀ በኋላ በእነዚህ ውሳኔዎች ቅሬታ  
ያደረገበት ወገን የይግባኝ ቅሬታውን ለፌዴራል ከፍተኛ ፍ/ቤት ማቅረብ አይችልም  
በአዋጅ ቁጥር 111/89 የተደነገገ በመሆኑ ከላኝ ደግሞ ተከላኝ የምርጫ ማጣራቱ ሂደት  
መሰረት አድርጎ በሰጣቸው ውሳኔዎች ላይ ከፍተኛ ቅሬታ ስላለው ቅሬታውን ስልጣኑ  
ለሚፈቅደው ፍ/ቤት አቅርቦ የተከሰሰበት ውሳኔ ማሻር ይፈልጋል ይህን ለማድረግ  
እንዲቻል ተከላኝ የሁለቱንም ቅሬታ ሰሚ አካሎች ማቅረብ የቅሬታ ሰሚ አካላትን

13 12 97



ቃለጉባኤና የካሌት ኮፒዎች እንዲሁም ይፋ የምርጫ ውጤቶችን የሚገልጹ ውሳኔ ቅጂዎች እንዲሰጡት ከላሽ ተከላሽን በተደጋጋሚ ቢጠይቅም ተከላሽ እነዚህን ነገሮች ለመስጠት ፍቃደኛ አልሆነም። በመሆኑም፤

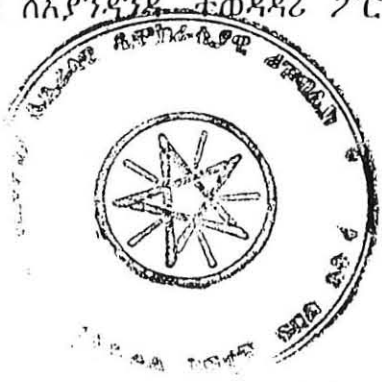
1. ተከላሽ ይፋ የምርጫ ውጤቱን ለከላሽ እንዲሰጥ እንዲወሰንልን
2. የቅሬታ ሰሚ አካሎቹ የሰጡትን ውሳኔዎች የውሳኔ ግልባጭ ቃለጉባኤዎች ፣ ማስረጃዎች፣ የካሌት ኮፒዎች ተከላሽ ለከላሽ እንዲሰጥ እንዲወሰንልን፤
3. ተከላሽ የቅሬታ ሰሚ አካሎቹ የሰጡትን ውሳኔዎች ያፀደቀበትን የራሱን ውሳኔዎች ግልባጭ ለከላሽ እንዲሰጥ እና፤
4. ከላሽ በዚህ ክስ ምክንያት የወጣውን ወጪና ኪሣራ እንዲሁም ለጠበቆች የክፈለውን አበል ጭምር ተከላሽ ለከላሽ እንዲተካ እንዲወሰንልን በማለት ክላቸውን አቅርቦዋል።

ወ. ከላሽ ከክሱ ጋር የተያያዩ የሰነድ ማስረጃዎችን አያይዞ አቅርቧል።  
እነርሱም፤

1. በኢዲጋጎ፣ ቅንጅት ለአንድነትና ለዲሞክራሲና በኢህአዴግ መካከል ብሔራዊ የምርጫ ቦርድ ቅሬታ ስለሚሰማበትና ስለሚያጣራበት ሂደት የጋራ ሰኔ 3 ቀን 1997 የተደረገ የጋራ ስምምነትን የሚገልፅ 3/ሦስት/ገፅ ኮፒ፤
2. በኢትዮጵያ ብሔራዊ የምርጫ ቦርድ ስር የተቋቋመው አቤቱታ ሰማ አካል የአሠራር መመሪያን የሚገልፅ 5 /አምስት/ገፅ ኮፒ ፤
3. ድጋሚ ምርጫ እንዲደረግባቸው በኢትዮጵያ ብሔራዊ የምርጫ ቦርድ የተወሰነባቸውን ቦታዎች ተገልጾ በአዲስ ዘመን ጋዜጣ የወጣበትን የሚገልፅ 4/አራት/ ገፅ ኮፒ፤
4. ከላሽ የቦርዱን ይፋ የምርጫ ውጤት ውይይትና ውሳኔ ቃለ ጉባኤ እንዲሰጠው ተከላሽን የጠየቀበት በ20/11/97 የተፃፈ ደብዳቤ 1/አንድ/ገፅ ኮፒ፤
5. ከላሽ የቦርዱን ይፋ የምርጫ ውጤት ውይይትና ውሳኔ ቃለ ጉባኤ በድጋሚ እንዲሰጠው ተከላሽን የጠየቀበት በ29/11/97 የተፃፈ ደብዳቤ 1/አንድ/ገፅ ኮፒ፤
6. ከላሽ የቦርዱና የፖሊስ ተቆይቶ ውሳኔ ፣ ቃለ ጉባኤና ካሌት እንዲሰጠው ተከላሽን የጠየቀበት በ3/12/97 የተፃፈ ደብዳቤ 1/አንድ/ገፅ ኮፒ፤ እና
7. በምርጫ ማጣራት ሂደት አባል ምስክር በመሆናቸው ስለገጠማቸው ችግር በሚመለከት ከላሽ ለተከላሽ በ9/12/97 የጻፈው ደብዳቤ ናቸው።

ተከላሽ በ13/12/97 ፅፎ ባቀረበው መልስ ተከላሽ የውሳኔ ግልባጭ ለከላሽ አልከለከለም። ተከላሽ በሕግ በተሰጠው ስልጣንና ተግባር ውሳኔውን በይፋ ለህዝብ ገልጿል። ከዚህ አልፎ ለአያንዳንዱ ተወዳዳሪ ፖርቲ በጽሑፍ ውሳኔውን የመስጠት

†  
19-12-97



ግዴታ አልተጣለበትም። ተከላሽ ክርክር ያስነሳውን እና የቦርድ ውሳኔ የተሰጠበትን ሰነድና የቴኝ ቅጂዎች ለከላሽ ለመስጠት አልከለከለም ከላሽ የውሳኔ ቅጂ እንዲሰጠው ነሐሴ 3 ቀን 1997 ዓ.ም የመጠየቂያ ደብዳቤ ካስገባ ወዲህ ከውሳኔዎቹ እና ከቅጂዎቹ ብዛት እንግር ተከተትሎ መውሰድ ሲገባው ይህን ክስ ማቅረብ እጅግ አስገራሚ ነው። ተከላሽ ለከላሽ ብቻ ሳይሆን ለሌሎች ድርጅቶችም በየጊዜው እያዘጋጀ ሰጥቷል። ተከላሽ በድጋሚ ነሐሴ 9 ቀን 1997 ዓ.ም ማስረጃ እንዲሰጠው ጥያቄ እንዳቀረበ አድርጎ የቀረበው ፍፁም ሀሰት ነው። የቀረበውም ማስረጃ ይህን አያመለክትም። በመሆኑም ከላሽ በተከላሽ ሰይ የቀረበው ክስ የፍሬ ነገርም ሆነ የሕግ መሠረት የሌለው መሆኑን ፍ/ቤቱ ተረድቶልን ክሱን ውድቅ በማድረግ ከበቂ ወጪና ኪሣራ ጋር እንድንሰናበት በማለት ጠይቀዋል።

ተከላሽ ከመልሳቸው ጋር የሰነድ ማስረጃዎችን አቅርበዋል።

እነርሱም፣

1. ተከላሽ የአጣሪ ቡድን በተለያዩ የምርጫ ክልሎች ስራውን ያከናወነበት ቃለ ጉባኤ፣ ለቦርድ የቀረበው የውሳኔ ሀሳብ እና ቦርዱ የሰጠውን ውሳኔ ግልጻዊ ለኢትዮጵያ ዲሞክራሲያዊ ኃይሎች ኅብረት የላከበት በ10/12/97 የተጻፈ ሸኚ ደብዳቤ ኮፒ እና፣
2. ተከላሽ የቅሬታ ሰሚ አካሎች የኢትዮጵያ ብሔራዊ የምርጫ ቦርድ ውሳኔ የሰጡበትን ለአሮሞ ፌዴራሊስት ዲሞክራሲያዊ ንቅናቄ በ4/12/97 የላከበት ሸኚ ደብዳቤ ኮፒ ናቸው።

ይህን በሚመለከት ከላሽና ተከላሽ የቃል ክርክር ያደረጉ ሲሆን ይህም አጠር ባለ መልኩ ሲቀመጥ ተከላሽ በቃል ክርክር ወቅት ለተጠየቀው ሲመልስ ከላሽ በመጀመሪያ የጠየቀው የ435 የምርጫ ክልሎችን ውጤት ነው። ተከላሽ ደግሞ የመስጠት ግዴታ ያለበት ቅሬታ የቀረበባቸውን የምርጫ ውጤቶችን የሚመለከት ብቻ ነው። ተከላሽ የምርጫ ውጤት በይፋ ለህዝብ መግለፅ እና ለፖርላማ ማቅረብ ብቻ ሪፖርት ማቅረብ ብቻ እንጂ ለተወዳዳሪ ፖርቲዎች በፅሁፍ መስጠት ግዴታ ስለሌለበት ሊጠየቅ አይገባም። በተጨማሪ ቅሬታ የቀረበባቸውን የምርጫ ክልሎች በሚመለከት አቤቱታ አጣሪ እና ሰሚ አካላት ያዘጋጁአቸው የውሳኔ ሀሳቦች በሂደቱ የተዘጋጁ ሰነዶችና የድምፅ ቅጂዎች ለከላሽ ደርሶአቸዋል። አጠቃላይ ለይግባኝ የሚሆን የውሳኔ ግልጻዊ ለሚመለከት ከነሐሴ 10 ቀን 1997 ጀምሮ አዘጋጅተንላቸዋል። አልከለከልናቸውም በስልክም እንዲወሰዱ ነግረናቸዋል። እነርሱ ግን ተከታትለው አልወሰዱም በማለት ተከራክረዋል።

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12-12-97



