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BADME AND THE ETHIO-ERITREAN BORDER: THE CHALLENGE OF DEMARCATION IN THE POST-WAR PERIOD

Introduction

The Ethiopian-Eritrean 'border war' of 1998-2000 ended almost three years ago. This conflict was about much more than a stretch of relatively useless borderland, but in the subsequent negotiations this issue has come to dominate the agenda. While a UN mission is in place and has not met with serious problems in keeping the former belligerents apart, the border is still not demarcated. As evident from recent studies on the historical roots of the problem (Guazzini 1999, Ciampi 2001), the very idea of making a border between these two closely related countries will remain controversial, and the physical delineation itself will be fraught with problems.

In the Spring of 2003, a year after the publication of a Border Decision prepared by a commission at the Permanent Court of Arbitration in The Hague, there were signs of increasing tension. Eritrea claimed "...that peace with Ethiopia is 'unravelling' and accused Addis Ababa of 'sabotaging' implementation of an independent border ruling" (1). After many delays and disagreements, the process of actual demarcation (the 'pillar emplacement') was poised to start in July 2003, but in reverse order: not in the west, as originally planned, but in the east. The reason this seemed obvious: the situation on the western border is highly contentious, despite the April 2002 ruling of the Ethiopia-Eritrea Border Commission (EEBC), and has become the issue of a prestige battle between the two countries. Its focus is the village of *Badme*. This place — its correct spelling would rather be *Badimme* — was a major war zone and is now seen as a highly symbolic prize. No one knew for sure what country would be accorded the place until the EEBC gave a statement on 21 March 2003 on the controversy and rebuking Ethiopian scepticism. In it, the EEBC finally declared that *Badme* would be in Eritrea (2). However, the case is not closed yet with this statement. Ethiopia remains unconvinced and has called for a more realist and 'proper' interpretation of the issue in the spirit of the December 2000 Algiers agreement.

The actual demarcation is now anticipated with trepidation by both sides. *Badme* is the place where it all began on 6 May with an armed incident between Eritrean and Ethiopian militia, followed by a violent incursion on 12 May 1998 by Eritrean troops to revenge the killing of some of their soldiers and of a high-ranking officer by Ethiopians. The Eritreans displaced the local Ethiopian administration and town militia and occupied the place (3).

(1) See: http://www.irinnews.org/frontpage.asp?SelectRegion=Horn_of_Africa, a news message of 5 March 2003.

(2) See: <http://pca-cpa.org/PDF/Obs.EEBC.pdf> for the text.

(3) See, for instance, the news dispatch by Rosalind Russell: "Ethiopia says unprepared for

What ensued is history: one of the most intense and bloody wars that Africa has seen in recent years, with an estimated 80,000 to 100,000 deaths. It ended in a military defeat for Eritrea in May-June 2000 after a remarkable Ethiopian offensive, a peace negotiation agreement in December 2000 (the 'Algiers Agreement'), the installation of a 4200-member UN peacekeeping force (UNMEE) in early 2001, and the creation of the Eritrea-Ethiopia Border Commission, appointed and mandated by both enemies and working under the auspices of the Permanent Court of Arbitration (PCA) in The Hague⁽⁴⁾.

The EEBC gave its 125-page verdict on 13 April 2002⁽⁵⁾ and the two contestants had said beforehand that this decision would be taken as binding. While both countries in 2002 predictably claimed the ruling as a 'victory'⁽⁶⁾, the first differences of opinion were already evident a few days after the EEBC decision came out and have continued until this day. The primary flash point is the location of Badme, allegedly the *fons et origo* of the conflict. It was the first battleground and became the linchpin of national integrity on both sides. It will be recalled that president Isayas Afeworqi of Eritrea had said, after the conquest of the place in May 1998, that giving up Badme would be like saying that the sun would set in the east, and he claimed it had always belonged to Eritrea. For Ethiopia it was a humiliation that a place administered by them since its founding was usurped by Eritrea with force.

Badme thus became highly symbolic place, and whoever would be accorded it under the EEBC decision would carry the day and be perceived as the ultimate victor of the war. This may be the reason why the EEBC, in a rather strange move, excluded any reference to the location of Badme in its lengthy report. It is only mentioned once in passing (on p. 84). On the detailed maps in the Border Ruling, the Commission even refrained from indicating Badme. Its coordinates were not given either. This was delaying the truth and therefore a fruitless gesture. In addition, by neglecting to discuss Badme and the local situation as perceived by the people living on the spot, the EEBC also dispensed with an important jurisprudential convention (to which we will come back below). Meanwhile, the propaganda battle between Ethiopia and Eritrea has gone on⁽⁷⁾, both claiming Badme and thus being the moral victor of the war.

Eritrean invasion", 13 June 1998 (Reuters) The literature on the conflict is now quite extensive. See, for instance, Abbink 1998, Battera 2001, Gilkes & Plaut 1999, Paulos 1999, Brüne & Heinrich 1999, and Negash and Tronvoll 2000.

(4) A Claims Commission was also installed to deal with claims for war damage and lost, stolen or destroyed property.

(5) Available on the PCA website: <http://pca-cpa.org/PDF/EEBC/EEBC%20-%20Text%20of%20Decision.htm>.

(6) An Internet search in February 2003 yielded at least 4400 items dealing with 'Badme', most of them news items and mainly propagandistic comments from both sides, often in preposterous nationalist language.

(7) See: 'Border ruling vindicates Eritrea, Asmara says,' IRIN news message 14 April 2002; and 'Meles hails ruling of international court as victory of law over aggression', at www.telecom.net.et/~ena/Newsenglish/87010.1504.htm, accessed 20 January 2003. The Prime

Where is Badme, and what does it matter?

In focusing too much on the whereabouts of Badme in the final border demarcation exercise, it is easy to lose sight of the real issues of the war, which to most observers was quite senseless. These issues were a combination of personal arrogance of two regimes (and leaders) with authoritarian tendencies, political indecisiveness (especially on the part of Ethiopia), and the lack of clear-cut, statesman-like agreements on the mutual politico-economic relations of the two new states after 1991, when the two leaders came to power with a momentum of hope and promise (cf. Abbink 1998).

Meles Zenawi, Ethiopia's prime minister and the leader of the former insurgent movement Tigray Peoples' Liberation Front (TPLF), in power in Addis Ababa since May 1991 after the defeat of the Mengistu-regime, was long the close ally of Isayas Afeworqi, who was leader of the guerrilla movement EPLF that took Asmara in 1991. They had a closely allied political agenda, inspired by Marxist policies dating from the 1970s Ethiopian student movement. Their movements, the Eritrean Peoples' Liberation Front (EPLF) and the TPLF (later EPRDF or Ethiopian Peoples' Revolutionary Democratic Front), also had had close military cooperation in the field. EPLF had helped found and train the TPLF in the mid-1970s.

Relations between the Eritrean and Ethiopian regimes, however, turned sour in 1997 when rivalry emerged on regional hegemony, and when Eritrean president Isayas saw he could no longer dominate Ethiopian policy in all respects. Tensions rose, economic and political problems escalated, and Isayas gambled to restore dominance by forcing the Ethiopians on the border issue, similar to what he did with Yemen in the case of the Hanish Islands⁽⁸⁾. The border conflict is therefore to be seen as a means⁽⁹⁾ used to achieve wider ends: regional dominance, maintaining privileged economic relations between Eritrea and Ethiopia, and weakening of the Ethiopian regime, which was then in the midst of serious political problems and opposition from large sections of the public. Isayas gambled wrongly, as Meles, under great pressure from his party and the Tigray home base — hard hit by the invasion — as well as the wider public, did not de-escalate and had to respond by force. In February 1999, Eritrean forces were dislodged from Badme in a big Ethiopian offensive that cost of several tens of thousands of lives.

Minister did not mention Badme in this message. An Ethiopian official statement of 13 April 2002 saying that Ethiopia had received "...sovereignty over Badme" and "all areas in the Badme region" is incorrect or at least premature because it did not provide any evidence supporting this view (see: www.waltainfo.com/Boundary/Ethio_Eritrea/Boundary/Latest_Statement.htm, accessed 17 July 2002).

(8) I.e., first occupation, then negotiation. The International Court of Justice subsequently ruled that Hanish was Yemeni territory.

(9) And a rather insignificant one at that, because the outstanding border issues were being negotiated between them in a bilateral Border Committee since November 1997.

Badme is a village in the land of the Kunama, the ancient indigenous people in the area. It took its name from the Badumma plains, a stretch of land used mainly as pasture by the Kunama and more recently as cultivation area⁽¹⁰⁾. The village of Badme was founded in the 1950s under the auspices of the then administrator of the Tigray province, *Ras Seyoum Mengesha*, who was killed in the 1960 *coup d'état* attempt in Ethiopia. Over the years, Eritrean farmers and traders also came to settle in Badme. They were of the same language group (Tigrinya) as the local people. As Eritrea was then federated with Ethiopia, any border problem did not arise⁽¹¹⁾.

One big confusion has to be cleared up first and may hold the key to the solution of where the place is. On most maps there is a place called *Yirga*, which seems to coincide with the location of Badme. *Yirga's* geographic location is 14° 37' 60N latitude - 37° 55' 0E longitude⁽¹²⁾. In a news dispatch of 12 July 1999, an AFP reporter noted that local people spoke of 'Badme' when they meant the village formally named 'Yirga'⁽¹³⁾. In official Ethiopian documents, however, Badme is the name of a place in the *woreda* (or district) of Tahtay-Adiabo. In the Ethiopian census report of 1994 there is no mention of a town called *Yirga* but only of Badme, which confirms the idea that Badme and *Yirga* are one and the same. This would answer the question of where exactly Badme is, because under all projections and treaty lines *Yirga*, with the mentioned coordinates, is securely in Ethiopian territory, some 20 kilometres north of Shiraro town on the road to Eritrea (see, e.g., the popular Michelin road map of Northeast Africa and the map in the Macmillan Atlas). Also on the first map on the border area issued by the UN in September 2000 (Map no. 4150 Rev. 1, subsequently withdrawn from the UNMEE web site)⁽¹⁴⁾, *Yirga* is located in Ethiopian territory. There has, however, been a word play going on by both Eritrea and Ethiopia on 'Badme', because it can refer both to the village and to the Badme or Badumma *plain* extending across

(10) At least some 14,000 ha. of fertile land is available. See the report on Tigray Region on: www.sas.upenn.edu/African_Studies/Hornet/nrth1210.htm, p. 8.

(11) The border between Ethiopia and the Italian colony of Eritrea was never delineated, let alone demarcated. However, on the basis of actual presence and administration (tax records, civil services, etc.) by a government and its nationals, the practical borderline was quite clear.

(12) Source: www.calle.com/world/Ethiopia/Yirga.html. Note that there is no mention of Badme in this very extensive database while many smaller villages are included.

(13) *Life resumes in Badme*, AFP news dispatch of 11 July 1999. See also: *Badme and Zalambessa*, in: Addis Tribune, 26 April 2002 (at: <http://eri24.com/news889.htm>). Here it is mentioned that *Yirga* was named after the favourite horse of *Ras Seyoum*. As confirmed to me by a local source in Ethiopia, the latter's 'horse name' was indeed 'Aba *Yirga*'.

A nice but not likely solution to the whole problem might be the confirmation of the existence of two Badme's, as was creatively suggested in the article 'Border a geographer's nightmare', on BBC Online, 23 July 1999, (at: www.globalpolicy.org/security/issues/ethiopia/99-07-23.htm, accessed 11 February 2003).

(14) See for a copy: <http://www.ethiopiafirst.com/images/UNMEEmapEthiopia-Eritreaboundary.pdf>. It was replaced by map no. 3790, rev. 4, of November 2000, at: <http://www.un.org/Depts/Cartographic/map/profile/eritrea.pdf>, both accessed on 25 April 2003.

both countries. So 'Badme' in the wider sense, except for *Yirga* village, can legitimately be claimed as being in either country.

There are assertions in various sources that with Global Positioning System (GPS) reckonings Badme is in Eritrea (see, for instance, Fielding 1999: 93, who did not visit Ethiopia but only the Eritrean side). This cannot be ascertained as long as the *Yirga-Badme* confusion is not sorted out and if the issue is not seen from *both* sides of the borderline. Certain is that in the report of the Ethiopian nation-wide census of 1994, 'Badme town' is listed as a location in Tigray (CSA 1998: 10) and was stated to have 892 inhabitants. In various UN documents, Badme is also mentioned as an Ethiopian place and as a recipient of food aid⁽¹⁵⁾. People of Badme voted in all Ethiopian elections after 1991. Another indication is that until the moment of the outbreak of war in May 1998, Eritrean currency (the *naqfa*, introduced a year earlier) was never in use in Badme, only the Ethiopian *birr*.

The fighting around Badme

When Eritrean forces entered the Badme area on 12 May 1998, they neither were hailed as liberators nor did they behave as such. The nature of Eritrean military action was offensive and turned into occupation, as it did in the contested Irob country further to the east. Several Badme civilian residents were killed and abducted, and before retreating in the wake of the Ethiopian offensive of February 1999, the Eritrean army largely destroyed the town: the church, the primary schools, the hand pump, the clinics. Local residents stated that there were efforts to forcibly take their land and give it to Eritreans. All this would indicate that Eritrea had no administrative or other foothold in Badme, and was not recognized by local people as legitimately having one.

While the issue of the feelings of the Badme residents is indeed different from the legal issue of where the border is or should be on the basis of the 'colonial treaties', what seems sure is that the question of actual possession and peaceful administration (i.e., *effectivités*, if not *uti possedetis facto*, or 'Have what you have in fact had') was in Ethiopia's favour.

Before 1991, the area around Badme was sometimes in dispute. In the 1970s, it was the field of operations of the Eritrean Liberation Front (ELF). This movement now and then tried to establish administrative structures in the area, e.g. in Badme, but were resisted by the TPLF (founded in 1974), which saw it as part of Tigray. The TPLF was supported in this by the emerging EPLF, which declared at the time that Badme did not belong to Eritrea. In the 1970s the TPLF had a field base in the village of Bumbet, some 10 kilometers north of Badme. But after the TPLF and EPLF had combined in chasing out the ELF from the area in 1981, the EPLF gradually shifted to the position that Badme did belong to Eritrea

(15) See www.sas.upenn.edu/African_Studies/EUE/tigray0494.html.

after all. However, the TPLF and EPLF shelved the issue of borders to a later date, until they would form the government⁽¹⁶⁾.

In the international efforts since May 1998 at negotiating an end to the war (by the US-Rwanda mediators, by the OAU, by the UN), Eritrea was always asked to pull back from Badme, in line with the general principle of international law that border disputes cannot be resolved by resort to force. I.e., before the conflict Badme was simply not administered by Eritrea.

Badme and the 'triangle' surrounding it reverted to Ethiopian rule in February 1999 and have remained under it until today. After the big Ethiopian offensive of May 2000, which went deep into Eritrean territory, many former Ethiopian residents gradually returned to the village and started rebuilding their houses and demining their fields. The Eritrean migrants who had lived there stayed away.

History and treaties

There is a number of colonial treaties made between Italy (colonizer of Eritrea since 1890) and Ethiopia dating from the early 20th century: the one-page Italo-Ethiopian Treaty of 1900, the Italo-Ethiopian-British Treaty (or 'Note') of 1902, and the Italo-Ethiopian Treaty of 'Convenzione' of 1908 (which relates to the eastern border). These treaties or agreements carried annexes with unclear maps sketching the rough outlines of the border. As G. Ciampi — is probably the best analysis of the historical background of the border issue, based on all the relevant maps — confirms⁽¹⁷⁾, none of the proposed borders was ever marked on the ground because final agreement was reached on none of them. He also rightly remarks (ibid.) that there were probably differing conceptions of the very idea of 'border'. There was great ambiguity and confusion on the names of places and rivers on the maps, some of them occurring more than once. Ciampi's study has made it clear that even on the early Italian maps of the border region made in the first decade after the 1900 Treaty there was a great variety of proposed borderlines. Italy also steadily encroached on Ethiopian soil, and even marked up maps unilaterally⁽¹⁸⁾, probably in their contacts with the British. But its invasion of Ethiopia in 1935 automatically made all treaties and unilateral maps null and void⁽¹⁹⁾.

After the Second World War, Emperor Haile Sellassie confirmed the

(16) For some very interesting background material see: Belat Abbai, 'Ethiopia betrayed', at www.tisdj.net/ethiopia%betrayed%20-%20part1.pdf. I also thank Mr. Aregawi Berhe, TPLF leader at the time, for comments on this point.

(17) CIAMPI 2001, p. 15.

(18) *Ibid.*, p. 182-183.

(19) Another important and well-documented study of the border issue and its historical antecedents was made by Federica Guazzini (1999a, 1999b).

invalidity of the previous treaties⁽²⁰⁾, and Italy renounced them in 1947 with the Peace Treaty with Ethiopia. Eritrea became a UN Trust territory under Britain in 1942, was federated with Ethiopia in 1952 and in 1962 incorporated as a province, in a process of questionable legality.

The EEBC now has resurrected the three old treaties. This was done within the mandate given to it by the two warring countries, as agreed in their December 2000 Algiers Agreement. The Commission did not say anything on the very question of the legal or other status of these old treaties today. It is important to realize that the border decision is based on the agreement by Ethiopia and Eritrea to give the authority to decide to the EEBC and to respect its decision in principle as 'final and binding'. Also, under this mandate, a number of other legal considerations and norms were declared irrelevant, even though many are in theory valid. This scenario was understandable in the light of the political sensitivities, but it did not guarantee that objective justice was done. Indeed, the EEBC even said (EEBC 2002: 1) that it "... shall not have the power to make decisions *ex aequo et bono*" [= according to what is just and right]... Hence, on at least two accounts the Committee's work was problematic: 1. it disregarded political considerations and rivalry that governed state policy in both countries and might prejudice the outcome of a ruling on its own merit; 2. it neglected legal principles such as 'self-determination', or even hearing the voice, of local populations, and that of *effectivités*, a point on which Ethiopia's case on Badme/Yirga is quite strong.

Anyway, if the treaties are taken as the base, the 1902 treaty, an amendment to the unclear 1900 treaty between Emperor Menilik II and the Italians, seems to be crucial. There the western borderline, from the Mareb to the Setit (or Takkaze) rivers, is defined as a line going from the Maiteb-Setit junction up to Mai Ambesa-Mareb confluence. The EEBC had to decide from the treaties and the submissions by Ethiopia and Eritrea.

In pre-World War II treaties and documents of both Ethiopia and colonial Eritrea, the name Badme does not occur, because most of the area in question — the Badumma plains — was uninhabited and only occasionally used for pasture by the Kunama people, whose land it is. Apart from some text in the Appendices of the Border Ruling (pp. 111-115), the EEBC has not seriously considered any developments after 1935, when conditions in the area changed markedly: first of all, the Italian Fascist invasion, which by itself annulled any agreements between Ethiopia and Italy as regards its colony Eritrea, later the Ethio-Eritrean federation of 1952-62, the highly contested inclusion of Eritrea into Ethiopia, and the subsequent settlement and economic activities in the border areas. Omitting to assess the post-1935, and specifically the post-1941 situation, is a mistake.

(20) See Order no. 6, in the Ethiopian state gazette, "Negarit Gazeta", 11 September 1952.

The Eebc Decision and the western border: where has Badme gone?

After the EEBC Decision was published, Ethiopia's foreign minister in a press conference on 13 April 2000 said that Badme was awarded to Ethiopia. This was contested by Eritrea the next day, and indeed the ruling does not give any concrete evidence that it was, and neither country specified where Badme was located. What does the EEBC Decision actually say?

Remarkable in this ruling is that in the Western Sector it has retained the old straight border line between the two rivers Mareb and Setit, from the junction Mareb-Mai Ambesa in the north to the junction Setit-Tomsa in the south (a bit west of the Eritrean claim line). Although the Tomsa point is contested, this straight line is found on most recent maps of the Ethio-Eritrean border, including the map of provincial boundaries in the 1988 edition of the National Atlas of Ethiopia (insofar as can be guessed from the scale of the map). However, the three treaties of 1900, 1902 and 1908 did not prescribe a straight line as the border: they only indicated it as the provisional line to be decided upon and demarcated on the ground later, presumably according to local circumstances, settlement patterns, land use, etc. This never happened. In the meantime the local people went about their business not heeding any border, and local administration was established.

Thus, the facts on the ground, in the absence of a concrete border being marked — which anyhow lost much of its relevance after 1962 when Eritrea was absorbed by Ethiopia — have eminent relevance to any borderline decision of today. The EEBC, however, did not think so and just bypassed *uti possedetis* and *effectivité* principles, as well as local ideas of national belonging and, in the cases of the Irob people in the Central Sector and of the Afar people in the Eastern Sector, self-determination. Obviously, the Commission was restricted by the mandate. In its Eight Report, it expressed regret over the fact that the new boundary lines might result in new “physical divisions” and “...may adversely affect the interests of the local inhabitants”⁽²¹⁾. But it goes on to say that such things as the division of communities in such a case “...are by no means unusual” (*ibid.*).

In their submissions, Ethiopia and Eritrea were at variance about the location of the line between the small rivers Mai Ambesa and ‘Maiteb’ (or Meeteb, or Maiteb). There was no disagreement about the northern Mai Ambesa-Mareb point, but all the more about the southern point. This reflects the enormous diversity in the early 20th-century maps (even the Italian ones) on the western border, especially the location of the Maiteb. In its submission to the EEBC, Eritrea pretentiously claimed that the ‘Maiten’ (*sic*) stream, due east, was the Maiteb of the 1902 Treaty (see EEBC 2002: 14). Ethiopia claimed that the ‘real’ Maiteb was located far in the west, about 20 kilometres east of the town of Umm Hajer. The names were indeed on the old Italian and other maps (there are at least two, possibly three, Maitebs or Meeteb, cf. the maps in figures 1, 5, 6, 8, 9 and 11 in

(21). See *Progress Report of the Secretary-General on Ethiopia and Eritrea*, UN (UN, S/2003/257, 6 March 2003, p. 11.

Ciampi 2001), but both claims were wrong - at least they were never finally decided upon. Looking at the available maps and the confusion on geographical names, the question of deciding on where the ‘real’ Maiteb is located is up to a certain extent arbitrary. There was thus no compelling logic in the extant documents for the Commission to follow.

This fact made it all the more important to look at actualities, feelings of belonging of the local population, *effectivités*, etc. that evolved in the last fifty years, especially since the end of Italian occupation in 1941 (The mandate of the EEBC made this even possible, because the basis for its decisions would not only be the “pertinent colonial treaties”, but also “applicable international law”, cf. EEBC 2002, p. 1). The Commission decided not to do so. It put the southern border point at the Setit-Tomsa junction, east of the most eastern Maiteb. Remarkably, and for reasons that are unclear, the Commission took over the Tomsa point from the Italians, who had unilaterally claimed it as definitive in the 1930s, though it was never formally agreed upon in any treaty between Ethiopia and Italy.

While the Border Decision argued that Ethiopia had not adduced sufficient evidence on actual possession of Badme and environs, the final border ruling does not pinpoint Badme anywhere, neither in the text nor on the map. The Decision casts aside the record of Ethiopian *de facto* administrative rule and possession of the territories west of the straight line (indicated on the unofficial map of the Region of Tigray⁽²²⁾). However, on the basis of what was said above, Badme village is not included in the area accorded to Eritrea; only a part of the Badumma plains and the environs of Badme village.

Under the Decision, Eritrea has the advantage of having a questionable border internationally guaranteed and its precarious national identity reinforced. Ethiopia, despite having won the war and the battle of prestige, has not gained an inch of territory, nor any right to the free use of Assab port on the Red Sea. It did not take advantage of the fact that, historically and legally speaking, the entire relationship with Eritrea, from borders to port use, was up for negotiation again, due to the unilateral resort to armed force by Eritrea. The only thing the Ethiopians did was to evict the enemy from its uncontested territory. That a war became ‘necessary’, however, was partly the result of the Ethiopian regime’s ambiguous and perhaps naive political dealings with the Eritrean government and of giving it too many political and economic advantages after 1993.

Ethiopia contested the EEBC decision on 13 May 2002, but this came too late. It had no military positions any more to back up its borderline claims, and, in any case, had made insufficient claims in the negotiations themselves. Regarding this latter issue, it is remarkable that no claim whatsoever was submitted to the EEBC for an outlet to the sea (Assab port). In paragraphs 4.69-4.71 (p. 50) of the Border Ruling it is also shown that Ethiopia gave up contested areas like Tsorona and Fort Cadorna without any counter-claim. Apparently, even the claim to Badme came very late, as par. 5.92 of the Border Ruling shows: “The Commission notes that no

(22) See: www.waltainfo.com/Conflict/BasicFacts/2002/June/fact_01.htm.

evidence of such activities [i.e., long-time presence, effective administration, etc. in the Badme area] was introduced in the Ethiopian Memorial [= the submission to the EEBC] The evidence to be examined only appeared in the Ethiopian Counter-Memorial. It was not added to or developed in the Ethiopian reply”.

It seems that Ethiopian policy on this matter followed the old TPLF ideological line — or dogma — that Eritrean independence within borders that were already agreed upon in the late 1970s in covert agreements between EPLF and TPLF — is to a large extent being carried out (cf. the paper by Belai cited in note 16). This is also testimony to the fact that the underlying political alliance between the two regimes in Addis Ababa and Asmara, despite the insults and the bloodshed, might still be there, or might be revived. However, the irony is that Italy — and Eritrea — never had any exercise of administration or control in the Badme area and beyond.

Conclusion: a Cold War in the Horn of Africa?

It is amazing that such an apparently simple question as to where Badme lies is so controversial and so hidden in a smoke screen of propaganda and nationalist talk by the two protagonists. It only shows how deeply this unfortunate conflict has blighted Ethio-Eritrean relations. It is also amazing how the two regimes were prepared to let the issues of this disagreement blow up into a devastating war with huge economic, environmental, and human consequences.

The wider background of this is probably the familiar fear of losing power and the ingrained politics of secrecy and distrust in the Horn of Africa, maintained by elite manoeuvring. There is a long-standing crisis in African political culture, faced with enduring conditions of resource scarcity, poverty, and zero-sum game power politics. As in many places in Africa, in the Horn one deals with an insecure and contested leadership that wants to retain its power at any cost. Compromise politics, power sharing, or taking into account opposition forces emanating from the wider society, is seen as a personal defeat by leading elites on both sides. Among the leading strata in the Horn countries, there also seems to be a continued insecurity about national identity and the state interest. As long as the culture of envy and authoritarianism predominates, in the absence of sufficiently entrenched citizen's interest groups and 'civil society' institutions, there is little hope for improvement as to democratization, the building of a 'lasting peace', sustainable economic development and other such fictions. Assessing the new political landscape in Ethiopia in 1995, Marina Ottaway already remarked that the conditions for democracy, a proper justice system or balanced development were not promising⁽²³⁾.

The prediction is this: if Badme/Yirga village is finally given to Eritrea, whatever the legal argument made in the highly contestable PCA ruling, there will continue to be perennial tension between the two countries, with a danger for

(23) Ottaway 1995: 75-76, 81.

additional violence though not large-scale war. If it remains with Ethiopia, it will not lead to a normalization of relations between the two countries, but would reduce to chance for future violent conflagrations. This tension will not be resolved in the lifespan of the current two regimes and their leadership. At most, there will be a cold peace (or a cold war). After its rejected appeal to the EEBC of 13 May 2002⁽²⁴⁾, Ethiopia — in view of the bad news — has been preparing itself to defend its position to its population. The Ethiopian government indeed has to walk a tightrope, because its home base of Tigray can no longer be counted upon. And if Badme is retained, many other areas have to be ceded, notably in the Central Sector. The EEBC missed a great opportunity to make face-saving compromises. Giving Badme/Yirga to Eritrea would be a quite contestable decision, wholly beyond what the treaties would allow. It would slash away the legitimacy of the Ethiopian regime among its population to act in the national interest. For outside observers it is striking to see how weak the Ethiopian presentation and arguments to the EEBC have been on matters related to the national territory, all because of a *parti-pris* towards Eritrean independence within borders that were defined in an off-hand deal between two insurgent movements many years ago. The minor territorial 'gains' made by Ethiopia in the Central Sector (Zalambesa area) will not make any impression on the population, because these territories were already under Ethiopian administration. There are growing indications that Ethiopia is regretting the stance it took — it may have been a historic mistake. The dismay of the Ethiopian leadership came out in the open during April and May 2003⁽²⁵⁾ and there is manoeuvring to influence the actual demarcation of the border. Ethiopia will also drag its feet as long as possible in vacating settlements now declared to be in Eritrea⁽²⁶⁾.

(24) See: <http://home.planet.nl/~hans.mebrat/greater-tigray.jpg>, accessed 24 February 2003.

(25) See *Ethiopia urges Commission to rectify mistakes in Ethio-Eritrea border delimitation process*, at: <http://www.waltainfo.com/EnNews/2003/Apr/12Apr03/Apr12e6.htm>, and the IRIN news message of 16 April 2003, 'Ethiopia: Border Commission accused of 'belittling' calls for change'. See also "Government won't resort to force over Badme, Minister says", IRIN news message of 14 April 2003, at <http://allafrica.com/stories/200304140349.html>

On 2 May 2003 the Ethiopian published a major paper with its comments on the EEBC border decision. See: <http://www.geocities.com/EthOnlinePublication/CommentsToEEBC.html>.

(26) See: IRIN, 'Eritrea-Ethiopia: Ethiopia told to comply with border decision', at: www.irinnews.org/report.asp?ReportID=30850&SelectRegion=Horn_of_Africa. See also the press release of 24 June 2002 by the EEBC, The Hague, on the PCA website: <http://pca-cpa.org/PDF/EEBC/Decision24June2002.pdf>.

At the time of final editing of this paper, the Border Commission accused Ethiopia of appearing "... to undermine the peace process", because in its comments on the finalized demarcation map submitted in December 2002 Ethiopia "... went far beyond the scope" of comments on the map. "The main thrust of the Ethiopian comments is that the boundary should be varied so as to take better account of human and physical geography." (See the *Progress Report of the Secretary-General on Ethiopia and Eritrea*, UN (UN, S/2003/257, 6 March 2003, pp. 10-11). See also the IRIN news report of 10 March 2003 ("Eritrea-Ethiopia: Border commission accuses Ethiopia of undermining peace").

Observing Ethiopian-Eritrean relations of the past decade one notes that 'normalization' is not in the cards. There is disunity within the Ethiopian leadership as to the course to follow toward Eritrea, which prevents normal relations, there is a danger of small-scale proxy war being waged, and there is deep irritation if not hatred between large sections of the Eritrean and Ethiopian peoples, fuelled by the appalling abuse of and cruelty towards ordinary citizens in the war. In addition, dramatic economic and social problems structurally affect these countries, not in the least disastrous food insecurity and violent 'ethnic' conflicts, exacerbated by dubious policy choices. There also have been mounting domestic problems in the wake of the war. Notably, some Eritreans are beginning to wonder — in muted voices — whether this kind of independence, with a highly authoritarian leadership in a stifling surveillance state of militarist signature, was really worth it⁽²⁷⁾. The Ethiopian people, and especially those in Tigray, feel betrayed not only by Eritrea, but — judging from many independent press reports — also by their own leadership, which has not reaped the benefits of war after its victory and its shattering of the army of the opponent. In both the domestic field and international relations, the post-1991 record of both regimes that took over power from the disastrous Mengistu-regime with such a groundswell of support and promise, has been a deception in many respects.

From what they say, it seems clear that the inhabitants of Badme/Yirga want to stay with Ethiopia⁽²⁸⁾. It is perhaps symptomatic of the dire state of local politics — this time supported by the legality of a dubious border decision the constraints of which were set by the Ethiopian and Eritrean regimes — that they have not been listened to. Unfortunately, the demarcation problems in store will show, if it still needed showing, that the war has not solved anything.

JON ABBINK

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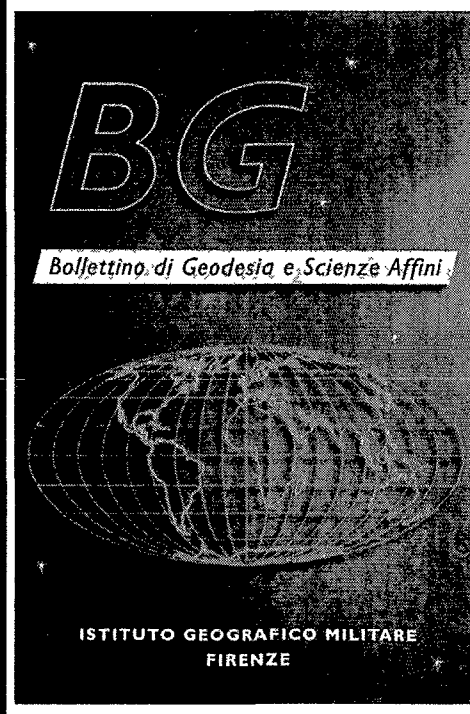
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(27) See Adam JEHAR, *Maybe Eritrean independence was wrong idea!*, on the Eritrea website Asmarino.com, accessed 11 September 2002, at: http://news.asmarino.com/Comments/September2002/AdamJehar_4.asp.

(28) See: Nitha BALLA, *Badme: village in no-man's land*, BBC news, 22 April 2002, at: <http://news.bbc.co.uk/2/hi/africa/1943527.stm>, accessed 16 February 2003.

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