

# ECAS 2013

5<sup>th</sup> European Conference on African Studies (Lisbon)

June  
27-29



African Dynamics in a Multipolar World

ISCTE - Lisbon University Institute

## **ECAS 2013**

5<sup>th</sup> European Conference on African Studies

*African Dynamics in a Multipolar World*

©2014 Centro de Estudos Internacionais do Instituto Universitário de Lisboa (ISCTE-IUL)

ISBN: 978-989-732-364-5

## **A COMPARATIVE PERSPECTIVE OF THREE AFRICAN FEDERAL SYSTEMS: THE CASES OF NIGERIA, ETHIOPIA AND THE UNION OF THE COMOROS**

**Jose Adrian Garcia-Rojas**

Universidad de Ciencia Política y de la Administración

Centro de Estudios Africanos (CEAULL)

Universidad de La Laguna, Tenerife, Canary Islands, Spain

[jagro@ull.es](mailto:jagro@ull.es)

## **Abstract**

*Federalism is one of the most common solutions are offered to solve the problems in divided societies. Only a few countries have federal experiences conducted in Africa. Among them, Nigeria is the only one maintained in its Constitution federalism since its independence. These institutional arrangements are slowly extended to other countries from the mid 90s. Ethiopia and the Union of the Comoros. Ethiopia and the Union of Comoros introduced federalism in their constitutions as a way to end secessionist trends that had led these countries to situations of state collapse. Nigeria and Ethiopia are deeply divided societies religiously and ethnically. However, Comoros is a homogeneous society in ethnic and religious terms, but strongly divided for reasons of being an archipelagic State. In all three cases offer different institutional arrangements, ranging from the creation of ethnically homogeneous member states, as in Nigeria, to the rotation between the different member states of the presidency, as in Comoros, or opening the institutional channels for possible independence of any of the member states, such as Ethiopia. Nevertheless, none of these three African federal experiences seems to solve successfully all the problems of their divided societies on its configuration as nation states, not seem to put an end to the centrifugal tendencies of certain parts of their territories. Either way, his remarkable institutional differences, these countries seem to have channeled, with varying success, some of the problems that prevented them from living without the constant threat of rupture of the State.*

**Key-words:** Federalism, ethnic accommodation, political decentralization

## **Summary**

Introduction: federal experiences in Africa or how trying to accommodate diversity in Africa since independence. Three african case studies: federalism in Nigeria, Ethiopia and the Union of the Comoros. The Federal Republic of Nigeria: 50 years in search of an ethnic federalism formula. The Democratic Federal Republic of Ethiopia: a case of ethnic federalism in Africa. Federalism in a microstate: the case of the Union of the Comoros. Some preliminary conclusions. Bibliography.

## **Introduction**

### **Federal Experiences in Africa or how trying to accommodate diversity in Africa Since Independence.**

Federalism has not had too much success in the African constitutionalism, despite being proposed at various times as a possible solution to accommodating African cultural, ethnic and religious diversity. In fact, some of the countries that had in the beginning, at the time of emancipation, a federal constitution, as was the case of Cameroon, quickly opted for a centralized unitary state formula, despite the opposition of the former territory that had formed part of the British mandate after the first world war, that decided to join with the Francophone mandate of the Cameroon to form a new African country, but under a federalism political system (Emmanuel Anyefru, 2010, and Susan Dicklitch, 2011). Federalism also was tested in any of the peace agreements of the old pre-partition Sudan before 2011, which resulted in two new federal African countries: Sudan and South Sudan. Federal system have persisted in Nigeria, virtually since independence, in Ethiopia, since the 90s as a solution of decades of civil wars, and in the

Union of the Comoros, since the beginning of the 21 century (2001). But we should note that, despite their constitutional proclamation, the degree of political decentralization of the African federal states in most of these countries is scarce. Michel Burgess observed that "*Federalism in Africa does not have a positive image. Its record of success is patchy while its failures seem manifest*" (M. Burgess, 2012: 3). For this author, there are currently only 3 countries with a federal political system among the 54 African countries: Nigeria, Ethiopia and South Africa<sup>1</sup>. I think we must differentiate between formal or constitutional federalism, as in a lot of African and Latin American countries, and true nationalism, that is, federalism in the constitution and in practice, as in the United States. Despite such little success in the African continent, federal solutions are still present in the political and academic discourse as well as in the recommendations of various international organizations as a solution to resolve the problem of how to accommodate ethnic, cultural and religious diversity in African countries. Following Burgess, we establish four basic conceptual categories that have left their mark on the African continent:

A) Territorial Unions formed by political and administrative convenience of the colonial administrations. In this category the federal idea consists in joining various local colonial authorities coordinated or directed from a center or capital, as it is the case of the French Western Africa (AOF) and French Equatorial Africa (AEF), who rallied under the leadership of a Governor-General, who ruled these territorial administrative unions from Dakar and Brazzaville.

---

<sup>1</sup> I am not sure South Africa is a Federal political or constitutional system. If we read the South African constitution it doesn't define the country as a federal state. I think South Africa is one of the most decentralized African countries, but its provinces seems like the Spanish Autonomous Communities more than of federated states members. Nigeria and Ethiopia constitutions define their respective countries as a Federal Republics, their official names are Federal Republics, although they aren't in fact as decentralized as South Africa.

The remaining colonies in these two territorial administrative unions were governed by a Lieutenant-governors. In the Anglophone colonial Africa also lived experiences of this kind in the regional division of Nigeria into three regions, held in 1914, which would be the foundation of the first Federal Republic of Nigeria; or, later, the ephemeral creation of the Central African Federation (CAF), which lasted from 1953-1963, that was born as a possible federative formula of the colonies of the two Rhodesia (now Zambia and Zimbabwe) and Nyasa (now Malawi), and lasted until the independence of two of these countries (Zambia and Malawi) in 1963.

B) The federations or unions to maintain ties with the colonial power. Such is the case in the British Empire of the Commonwealth attempt to create an East Africa federation, consisting of Uganda, Kenya and Tanganyika; and especially the French Union, during the Fourth Republic, and the French Community, in the early years of the V French Republic.

C) Another formula was and is the commercial unions, based on economic and trade issues. Burgess gives us the example of the East Africa Common Services Organization (EACSO), which lasted until 1977, but it languished since its inception.

D) The state and (multi)national building process in Africa, as are the three cases to which we will refer below.

The independence era began with several federal experiments those did not end well, they were the "unhappy marriages" in Paul Nugent's words (2004: 435). The unions between the British Southern Cameroons and the French Cameroon mandates, the British and Italian territories in

Somalia, or the union of the British mandate of Tanganyika and the colony of Zanzibar, called into question the border tracings of the colonial era, as well as the union of Eritrea to Ethiopia, but in most cases, the territorial unions have lived with growing frustration those, in the case of Somalia and Eritrea, ended in civil wars or armed insurrections in search of secessionism. In these cases, the imprint of the colonial culture and the process of colonization seems to be stronger than belonging to the same ethnic and religious group, as in Somalia. The case of Tanzania is a successful case because the broad powers that the Tanzanian Constitution grants to Zanzibar. After independence, Nigeria, Kenya, Uganda, Zaire, Cameroon, Ethiopia, on its relationship with Eritrea, the Mali Federation, that was the union of Senegal and French Sudan, now Mali, and Tanzania, to reach the union of Tanganyika and Zanzibar, formed federal states. We note that with federalism some African countries tried to establish relations between former different colonies. Some of which reached success in its attempts for building a new country, as is the case of Tanzania and Cameroon, but in other cases, as the Mali Federation, it was a failure. Dean E. McHenry, Jr. (1997) identifies ten cases of African countries that opted into their first Constitutions by federal structures: Cameroon, between 1962-1972, the present Democratic Republic of Congo (Zaire and Belgian former Congo), between 1960 and 1965, Ethiopia, between 1952 and 1962, Kenya, between 1963 and 1965, Senegal and French Sudan (Mali), from July to August 1960, Sudan, from 1972-1983, Tanzania, and Uganda, between 1962 and 1966. As it can be seen, the federal experiences were few and temporary short range, but some of them, with small or large setbacks, have survived, such is the case of Nigeria, since 1960, Ethiopia, since 1991, South Africa, since 1994, and the Union of the Comoros, since 2001. These countries, along with Tanzania, product, as I said before, of the special relationship between the mainland, the former colony of Tanganyika, and the island of Zanzibar. But I estimate that this

case is moot, despite its degree of administrative and political decentralization, as well as the case of Sudan and South Sudan, which McHenry, Jr., failed to include in his article because he wrote it twelve years before the partition of Sudan. As it is well known, as a result of the peace agreements, the new formally federal states of Sudan and South Sudan are composed of 25 and 10 states respectively. Also in recent years has joined the club of Africa countries which has chosen this federal formula for accommodating diversity to solve conflicts between different ethnic or religious groups or parts of the state territory, the Union of the Comoros, and has opted for other forms of political and administrative decentralization, Kenya.

### **Three african case studies: Federalism in Nigeria, Ethiopia and the Union of the Comoros.**

#### **The Federal Republic of Nigeria: 50 years in search of an Ethnic Federalism Formula.**

The current Federal Constitution of Nigeria, approved in 1999, has had several constitutional antecedents in his history. The most significant ones, during the colonial era, are the 1951 and 1954 Constitutions, and, during the independent period, the Constitutions of 1963 and 1979. Nigerian Pan-Africanism was stronger in the south than in the Muslim north, where the Hausa-Fulani emirates remained virtually unchanged in the administration of public affairs during the British colonization (Alemseged Abbay, 2010). In 1947, it was established in Nigeria a Legislative Council with very limited powers. These powers were regulated by the so-called Richards Constitution. To the north was the first time they accepted to be represented in a legislative assembly of the entire colony with the other two territories of the colony. Since then, political parties developed strong electoral and political basis in each one of the three major regions of Nigeria, although some of them tried to overcome regional boundaries and encompass the entire territory of Nigeria. In Nigeria, unlike in other African countries, there was not an only

political party or leader who lead the independence movement with the support of the majority of the Nigerian population of the three regions. Moreover, with few exceptions, political parties tended to have an ethnic or ethnic-regional basis. The Action Group (AG) was a Yoruba basis political party, as it also was the Northern People's Congress (NPC) for the northern Hausa-Fulani. The Yoruba representatives of Western Nigeria and the Ibo representatives of Eastern Nigeria demanded an immediate independence, but not the northerners representatives. In 1953, the NPC rejected a motion of the Yoruba AG for greater self-government. The northern representatives came to advocate the separation of the north of the rest of the country and the creation of a future independent country in Northern Nigeria.

The Constitutions of 1951 and 1954 laid the groundwork for future federal Nigeria. Article 5 of the 1951 constitution stated that "*Nigeria will be divided into three regions, which are known respectively as the North Region, Western Region and Eastern Region*". In these three regions, which the Constitution allowed to subdivide into new geographic areas, which could call provinces, or new administrative divisions. The southern regions of the English Cameroons, who opted to joined Nigeria and not Cameroon, and the capital city of Lagos, which was called Federal Territory in his article, joined those three traditional regions in the Constitution of 1954 as new regional territories of the colony of Nigeria. Along with the central political institutions of the entire colony, the Constitutions of 1951 and 1954 created regional parliaments in each of the new regional entities. To the North and West, because of their tradition, they picked a two chamber parliament: an upper chamber, called the Council of Chiefs, and a lower one, called the House of Assembly. For the Eastern region, with a majority of Ibo people more Christianized and Westernized, only provided one lower chamber. The lower chambers were chaired by members of the same chamber, not so the high chamber, that was presided by the Lieutenant-

governor of each of the two North and West regions of Nigeria. The Constitution of 1954 regulated only a single federal legislative chamber, the House of Representatives, and an executive with broad powers. Obafemi Awolowo wrote in 1947, as Paul Nugent reminds us, that "*Nigeria is not a Nation. It is a mere geographical expression*" (cited by P. Nugent, 2004: 89). In each region was established a different ruling party, but also the Nigerian plural reality brought out another ethnic based parties those represented the interests of minority ethnic groups within each region who are different than the hegemonic political party in each of the three regions. These intra-regional political parties were supported by each one of the other three major parties outside the region as a way to limit the power of each of those three parties in their respective region (Wale Adebani and Ebenezer Obadare, 2010). Especially, to limit the power of the NPC in the North, due to weight and extension of this region in the future Nigeria Federal Assembly. The last parliamentary election in colonial Nigeria, held in 1959, were won, but not with sufficient majority of the votes, by the NPC, who joined the leading Eastern region party, the National Council of Nigeria and the Cameroons (NCNC), led by Azikiwe, to form the Nigerian Executive. These two parties shared the Nigerian Presidency for Azikiwe of the NCNC, and the post of Prime Minister for Abubakar Balewa Tafala of the northern NPC.

The first Constitution of independent Nigeria dating back to 1960. Its article 2 stated that the "*Federation of Nigeria consist of Regions and a federal territory*". Collected article 3 regulated, as prescribed both colonial Constitutions, that the regions were three: North, West and East. The Federal Territory was the federal capital, Lagos. In its article 5 noted that each region would have a regional Constitution. As a member of the Commonwealth and its subsequent conversion to Republic, Nigeria gained independence with her Majesty Queen of England as Chief of State. Her representative in the Nigerian Federation and Commander in Chief of the

Army was the General Governor. The form of government that was established following the British Westminster model, was a parliamentary political system, that is, a Prime Minister, member of the federal parliament and elected by it, a federal parliament consisted of two Houses or chambers, the Senate, chamber of territorial representation, and the House of Representatives, where it is represented the people of Nigeria as a whole. The Senate is made up of 12 Senators from each region, who were elected by the legislatures of each regional entity, 4 Senators of the Federal Territory (Lagos) and 4 selected by the Governor General on the advice of the federal Prime Minister (article 37 ). The lower House was composed of 305 deputies. The Parliament official language was English, which is consistent with the fact that Nigeria is speaking over 200 languages and dialects and none of the three major communities languages of the country (Hausa-Fulani, Yoruba and Ibo) would allow to prevail over the other two languages. The parliamentary office term was set at 5 years, which could be extended or dissolved in advance by the Governor General. To dissolve it first needed the agreement of the Prime-Minister. The executive power rested nominally in the Governor-General, as the Queen's representative, and in the Prime-Minister. This one selected the members of the Council of Ministers. The Constitution stated that in the regions should have a governor, a legislative chamber, an executive council, and a high court. The Constitution didn't say how many chambers should compose the regional parliaments or their names, as so it did the previous colonial Constitutions.

The first years of independent Nigeria, as it will subsequent to this day, are characterized by political instability, because the regional conflict resolutions, and ethnic and religious conflicts. In short, the problem was how could the country solve the accommodation of plurality or diversity constitutional and politically. We can say that, in general, the North and their representatives, either in the military or in politics, will give their support sometimes to Ibos and

sometimes to Yorubas in order to maintain their power control over the Nigerian Government. In 1963 began to unravel the regional, ethnic, cultural and religious distribution which had founded the new country in 1959. Its article 3 prescribed the existence of one more region (four regions plus the Federal Territory of Lagos). The fourth region, the Midwest region, was the product of the division of the Western Yoruba region to meet ethnic rivalries within that region. In Chapter IV, the 1963 Constitution regulated the Federal President. The Federal President had to be elected for members of the two Federal Chambers, those formed a Federal Electoral Assembly composed of Deputies and Senators. The President was elected for 5 years term. Parliament was covered with the same two chambers as in the 1960 Constitution. The executive branch is set up as a dual executive, in which the Head of State was the President, and Prime-Minister was elected by the House of Representatives from among its members. It constituted a Republic with a parliamentary form of government Westminster style, and federal and regional institutions as designed in the previous 1960 Constitution. In January 1966, came the first one of a series of military coups that mark Nigerian political life to this day (P.O. Agbese, 1992, Toyin Falola and others, 1994, and J.O. Ihonvbere, 1998). In this *coup d'état* were killed several of the various regional leaders, as the northerners Bello and Balewa, or the Yoruba leader Akintola. The army had already been involved in several regional conflicts, called by the regional governors or the Federal President. This *coup d'état* has been interpreted as an Ibo coup. Major Nzeogwu, Ibo, tried, literally, to get rid of politicians that had led the country to chaos. The army chief, Ironsi, Ibo, survived the coup and did give up and surrender to the rebels. Ironsi became the new President and initiated steps to end with federalism, because, in his opinion, federalism exacerbated ethnic divisions. To do this, he began abolishing the regions, but, at the same time, Ibo officers were promoted to higher positions of responsibility in the army, which broke with

the army ethnic quotas system. The North began to rebel against the situation through massacres of Ibo immigrants in that region. In July, Hausa soldiers mutinied and killed their Ibo officers. One of their victims was President General Ironsi. The mutineers asked for maintain the Northern Region or to segregated from the rest of the country. General Gowon, a northern, took over the power, placing a Constitutional Conference for the month of September 1966. The Ibos, those have a higher educational level, were more and better represented in the Nigerian army and public administration, and were persecuted in the North, where thousands died at the hands of the mob. The colonel, of Ibo origin, Ojukwu made the decision to segregate the Eastern region of Nigeria, which led to the beginning of the bloody Biafra war, when Biafra took theoretical independence as a new African country, in 1967 (H. Ekwe-Ekwe, 1991). To attract minority ethnic groups in Biafra, General Gowon divided the 4 regions into 12 new regions. The war lasted from July 1967 to January 1970 and had more than a million deaths. Internationally<sup>2</sup>, war appeared as a struggle of Northern Muslims against Christians Ibos of Biafra, but it was not true, as many Yoruba army officers, as Obasanjo, future President of Nigeria, supported federal troops against Biafra secession.

The military regime, with a federal structure, of Gowon lasted until 1975, which will be overthrown by General Murtala Muhammed, who will succeed the general Yoruba Obasanjo between 1976 and 1979, which will return the power to civilians in the year 1979. In 1978, the militaries lifted the ban on political parties, which made it to the surface to old leaders who had survived the political massacres of 1966. The 1979 Constitution is important because it will change the course of the parliamentary Westminster style form of government to a presidential

---

<sup>2</sup> United Kingdom supported, like most African countries, the maintenance borders of the former colony, but not France, Tanzania and a few other African countries, taking sides with the Biafrans. The French case demonstrates the foreign policy of General de Gaulle and his successors to end the role of the United Kingdom in Africa.

regime, strongly influenced by the US Constitution. The regions were called states in the new Constitution and increased their number of federated states in 7 more new states, which went to 19 and one Federal Capital Territory. The Parliament was bicameral and took the name of National Assembly. This National Assembly was formed by two chambers: a Senate and a House of Representatives. The legislatures of the member states had a single chamber: the Assembly chamber. The Constitution also introduced that, along with English, could be used, but after a formal agreement, the three main Nigerian languages (article 51). Federal representatives had a 4 years term. The Federal Electoral Commission divided each member state into 5 districts for the election of one of the 5 Federal Senators who belonged to each member state, and in 450 constituencies the whole territory of Nigeria for the election of the House of Representatives. The provisions relating to the Assemblies of the states, one chamber per member state, indicated that each one should have three times the number of seats in the state Assembly than the number of Deputies of each state in the federal House of Representatives. In these regional chambers, the official language was English and any language of the member state where so provided the Assembly. The mandate of this state chamber was also 4 years term. The Federal Executive was the Federal President, who also chairs the Government and is Commander in chief of the Nigerian Armed Forces. The election was done directly by the Nigerian people through general elections held every 4 years; but he also had to reach the majority of the votes in at least two thirds of the member states. This Constitution created the post of Vice-President. In the regions, the Governor was elected by simple majority, at least, a certain percentage in each member state's local governments. As in the case of the Federal executive, the Constitution also provided the office of Deputy-Governor.

The 1979 general elections were won by the northern candidate Shagari and the National Party of Nigeria (NPN). Ibos and Yorubas have their own ethnic political parties, those political bases, as the winner party, were in one of the three former regions. Shagari disastrous and corrupt government triggered another coup, leaded by General Buhari, which lasted a year in power, and General Babngida, who was in power between 1985 and 1993 (P.O. Agbese, 1992, and Larry Diamond, A. Kirk-Green and O. Oyediran, 1997). Both were Muslims. The period opened by Babangida and his successor, General Abacha (J.O. Ihonvbere, 1998), both also Muslims, Paul Nugent calls it "the eternal transition period in Nigeria" and "Abachange and Babangidocracy" (Paul Nugents, 2004: 421). In 1990, the Electoral Commission established that only two parties could contest next elections: the Social Democratic Party (SDP) and the National Republican Convention (NRC), who gave of their programs or manifestos, resulting in all respects unthinkable in a modern democracy (A.A. Akinola, 1990). Primaries were established, which won, against the Government's willingness to SDP presidential candidate, Yoruba leader, Abiola (A. Awofeso, 1990). The unexpected victory of Abiola made Government to conclude the elections without finishing the electoral process, because Abiola did not like the military regime. Abiola supporters began civil disobedience in most South-West and Eastern states, and Abiola went into exile for two months. The military deposed Babangida and put a civilian and Yoruba in power, Shonekan. But the real power was held by Defense Minister, General Abacha. This Interim National Government, that will last, but under the direct command of Abacha as President, from 1993-1999. During this period Government banned political parties and Abiola was imprisoned as a traitor. Abacha died in 1998 and took office General Abubakar, who distanced Abacha regime. During his tenure, Abiola died under mysterious circumstances. Finally, it was adopted the Constitution of 1999 and general elections were held. During military

rule were created new member states, continuing the process of adaptation of new states to areas dominated by a particular ethnic, religious or linguistic group.

Basically the 1999 Constitution follows the 1979 Constitution (J.O. Ihonvbere, 2000). In any case, this Constitution deepened into the presidential form of government. Nigeria defines its shape as a Federal Republic, but, as in other earlier Constitutions, it is defined as an "*indivisible and indissoluble sovereign country*", which shows the commitment of the Nigerian legislators to close up the discussion, which degenerated into civil ethnic riots on the possible division of the country as it was in its early years as independent nation. It establishes the existence of 36 member states of the federation, which cites each one of them alphabetically. Separately refers to the Federal Capital Territory, Abuja, that replaced Lagos since 1991 as the capital city of Nigeria. It also was introduced in the Constitution, which is certainly striking, the number of local government areas, which are 768 in all the whole nation. The powers of the Federal Republic begin regulating by the federal legislature, called the National Assembly of the Federation, which continues having two chambers: the Senate and the House of Representatives. For the state legislatures prescribe only the existence of a single legislative chamber: the Chamber State Assembly. The federal and state legislature powers are listed in the Constitution. The Federal executive powers resides in the President, Vice-President and the Federal Ministers. The executive of the member states is composed of the state governor, the deputy-governor and the commissioners of the state governments or state officials serving members. The federal judiciary is based on federal and state courts<sup>3</sup>.

---

<sup>3</sup> The courts are the Court or Supreme Court of Nigeria, the Court of Appeal, the High Court of Appeal, the High Court of the Federal Capital Territory of Abuja, the Supreme Court of a state, the Court of Appeal of Sharia of the Capital Territory of Abuja, the state Appeal Court of Sharia, the Customary Appeal Court of the Federal Capital Territory, the same Courts of the member states and other lower Courts.

The composition of the Senate reduced the number of Federal Senators to 3 of each state and 1 of the federal capital, Abuja. The House of Representatives is made up of 360 Deputies, who represent constituencies of similar population, but no constituency can cover more than one state. Each chamber shall have a president and a deputy-president. In the Senate, the president is elected from among its members, and a speaker and a deputy-speaker in the lower House also elected from among its members. The official parliamentary languages are English and Hausa, Ibo and Yoruba when it is approved by the respective chamber. Federal representatives are elected for a 4 years term. The age to be Senator is set to 35 years old and that of MPs to 30. For the election of the representatives of the Federal National Assembly, the Independent National Electoral Commission shall divide every state of the federation into 3 senatorial districts and the territory of the federation in 360 electoral districts. The Assembly of each of the 36 states will consist of 3 or 4 times the number of seats each state has in the House of Representatives; in any case, it is established that there may be a number less than 24 nor more than 40 members. It will be chaired by a speaker and a deputy elected from among its members. The districts are based in single-member constituencies and will be established by the Independent National Electoral Commission for a period of 10 years. Each of them should be proportional to the number of their inhabitants. The President of the Republic is the Head of State, Chief Executive of the Federation and Commander in Chief of the Nigerian Armed Forces. He must be Nigerian by birth, aged not less than 40 years, and must have not less than training school certificate or equivalent. Nigerian electoral body elects the President directly and not, as in the United States, through state delegates. If two candidates who win the most of the votes and will not achieve less than a quarter of the votes in at least two thirds of all member states and the Federal Capital Territory.

If more than two candidates will win the one with the most votes and win at least one quarter of the votes in at least two thirds of all states. If none exceed specified, a second election is held between the most votes nationwide and a second candidate would be one that had achieved most votes in a larger number of states. The winner will get the majority of the national vote and at least a quarter of the vote in two-thirds of the states. If no candidate can claim victory, the Independent National Electoral Commission will raise a third election between the two most voted candidates. At this time, winning the candidate who obtain the highest number of votes nationwide. The President only can run once more for a second term, as the President of the United States<sup>4</sup>. A governor must be a Nigerian by birth, of at least 35 years and have an educational level of, at least, school certificate or equivalent. The constituency for governors elections are set of electors in each state. The conditions for winning are practically the same as for the case of the Federal Presidential elections, but by calculating the percentages of local state governments. His term is for 4 years. Beside him, a deputy-governor must be elected. It can only be re-elected for 2 more terms, making a maximum of 12 years in office possible. The state government members, named commissioners of the state government, must be ratified by the state Assembly chamber, as in the case of Federal Ministers. Its regulation is virtually identical to the Federal Government. Article 297 and following of the first part of the eighth chapter of the Constitution specifically regulate the Federal Capital Territory, Abuja. They determined that

---

<sup>4</sup> The 1999 Constitution also regulates the figure of the federal Vice-President and of the state deputy-governor. In both cases, those figures must always accompany the candidate to the Federal President. The President appoints the Ministers who must be ratified by the Federal Senate, and must appoint at least one Minister from each one of the 36 Nigerian states, which must be a citizen of that member state. Ministers can't reconcile his position with that of federal deputy or senator, in addition to having to meet the conditions laid down in the Constitution to be a deputy of the House of Representatives. The President may assign his Vice-President or any Minister responsibility for any matter that he estimates appropriate, including a ministerial department.

Abuja is the federal capital city and seat of the Federal Government. Prescribing covered everything regarding the Federal Capital Territory as if it were a federated state. The Federal Capital Territory elects 1 Senator and members of the House that correspond it according to its population.

The extensive regulation that makes the Constitution of the Nigerian Armed Forces is because their important and decisive role in the country political life (P.O. Agbase, 1992). Within the Nigerian ethnic federalism, the Constitution regulates the body military composition and other senior officers of the armed forces those reflect the character of Nigeria (Article 217.3). The appointments of senior army, navy and air commander belongs to the Nigerian President. The National Assembly shall have the power to legislate on the powers of the head of state as Commander in Chief of the Armed Forces and on the appointment, promotion and discipline of the Armed Forces members. The 1999 Nigerian Constitution also performs an exhaustive regulation of political parties. It prohibits an association, whatever its name and function as a party, unless it meets a set of rigid requirements of national official register Independent National Electoral Commission, that its membership is open to all Nigerians, regardless of their place of origin, birth, sex, religion or ethnic group membership. The party names, their symbols or logos, may not contain any ethnic or religious connotation or give the appearance that its business focuses exclusively on a geographical area of the country. In addition, the party headquarters must be in the Federal Capital Territory of Abuja. It also requires that the parties have an democratic internal structure and selection of their leaders. Also its executive committees should reflect the federal and plural character of Nigeria<sup>5</sup>.

---

<sup>5</sup> It also requires that the parties have an internal structure and selection of democratic political positions. Also their executive committees should reflect the plural federal character of the country.

The judiciary consists of a Supreme Court or Federal Court, composed of a maximum of 21 members, whose chairman is appointed by the President, with the recommendation of the National Judicial Council, and must be ratified by the Senate<sup>6</sup>. Other courts are federal in nature: the court of appeals, the federal high court, the high court of the Federal Capital Territory, Abuja, the appellate court of the Federal Capital Territory, Sharia and Customary Court of Appeal of the Federal Capital Territory. The state courts are: the High Court or State Court, the Court of Appeal of a state Sharia and customary appellate court of a state. The State Council is composed by the Federal President, who presides, the Federal Vice-President, who is its vice-president, all former Federal Presidents and former Federal Prime-Ministers of Nigeria, all former Presidents of the Federal Supreme Court, the Senate President, the Speaker of the House of Representatives, all the States governors of the Federation and the Federal Attorney General. It shall have power to advise the President in the exercise of his duties with regard to the development of the population census, the right of pardon, the national honors award, and also on the Independent National Electoral Commission, including the appointment of its members, and the National Population Commission, and advise on those matters of public policy of the federation who can demand the President.

Since 1999, there have been four Presidential elections. They have succeeded in the presidency three Federal Presidents, one of whom died during his term and he was succeeded by his vice-president and current federal president. Since 1999, the Popular Democratic Party of Nigeria (PDP) led by general Obasanjo<sup>7</sup>, Yaruba, got most of state governments, the majority in the Senate and in the House of Representatives, and also won the Presidency with Obasanjo as

---

<sup>6</sup> The members of this court are appointed by the President of the National Council court and must have practiced as a lawyer for a period not less than 15 years.

<sup>7</sup> Obasanjo had strong support in the North, where his running mate was from, and had the approval of the main political actor in Nigeria: the Army.

candidate. The main opposition party is the All Peoples Party of Nigeria (APP), that has its political base in the Northern states. In the next presidential election, the nominees for the two major parties were two generals and former Presidents: Obasanjo (PDP) and Buhari (APP). Obasanjo won again with his vice-president candidate, the Muslim Sehehu Yar'Adua, Katsina state Governor. Thus, continued the tradition of Nigerian political patronage or "godfatherism", as noted Adekunle (2011: 95-97), namely that political leaders are placed under the political and economic protection of a powerful political leader in the state or federal level. Yar'Adua, who came to the federal presidency in 2007, will die before the end of his first term, so he was replaced by his vice-president, the Christian Goodluck Ebele Azikiwe Jonathan, which won again the Presidential elections in 2011 with his party, the PDP.

### **The Democratic Federal Republic of Ethiopia: A Case of Ethnic Federalism in Africa.**

As Hashim Tewfik writes, what characterizes Ethiopia is his great cultural, linguistic and religious diversity (Hashim Tewfik, 2010: 4). In this country live more than 80 ethnic communities who speak different languages. Except in a few urban centers, most of these communities live in their respective geographic areas. None of these groups represents 50 percent of the country's population, although there are relatively large ethnic groups, such as Amhara and Omoro people. The two country's major religions are Islam and Ethiopian Christianity. Ethiopia was never colonized by Europeans, although the Italians came to invade the country, which they called Abyssinia, in the 30 (1936-1941) during the Italian Fascist political regime of Mussolini. In the late nineteenth century, the Empire Amhara, which is the second Ethiopian ethnic group in number, expanded north and south of present-day Ethiopia. Its borders were agreed with the colonial powers in 1896, when Ethiopian troops defeated the

Italians at the battle of Adwa. The hegemony of the Amhara Empire, and the imposition of his language and culture to the other Ethiopian ethnic groups, was completed rapidly during the long reign of *Negast Negus* (King of Kings, in Amhara language), Emperor Haile Selassie, who was on the Ethiopian throne from 1930 to 1974, when he was overthrown by a military coup. The imperial period of Selassie is seen by Amhara Christians people as a period of splendor, but by the other ethnic groups, subjected during that time, is considered an historic epoch of Amhara and Christian colonialism (Tegegne Teka, 1998).

During World War II, Eritrea, an Italian African colony, was occupied by British troops. After the postwar period, United Nations (UN) tried to give a satisfactory solution to this territory and the Eritrean people. In 1952, UN became convinced that the best solution to the Eritrean problem was to join Eritrea to Ethiopia. This solution gave satisfaction to the Ethiopians desires of having access to the Red Sea, but hardly satisfied the wishes of the Eritrean people of more freedom and self-government, because their new country, Ethiopia, has a mere formal democratic Constitution and was ruled by an authoritarian Emperor, Selassie, in a country without tradition of political decentralization and respect of political and civil rights. Ethiopia is characterized for being a highly centralized Unitary State, which was not conceived his plural ethnic, cultural and religious realities. During the early years remained the status of respect for the constitutional agreements, though, little by little, making power transferred from Eritrea to Addis Ababa (Nugent, 2004: p. 74). In 1955, the *de facto* Ethiopian Federation was broken, which shows the new name given to the autonomous government of Eritrea, which is now called Regional Government of Eritrea. In 1958, this process was finished with the disappearance of the Eritrean flag, which will be replaced by the Ethiopian flag, and the beginning of the Amharazation and the predominance of the Christian Ethiopian church on a predominantly

Muslim Eritrean people. In November 1962, the Eritrean Regional Assembly voted, under the supervision of the Ethiopian army, their integration in Ethiopia, which will end to the federal experience. In 1962, it started the war in Eritrea, first led by the Eritrean Liberation Front (ELF) and later by the Eritrean People's Liberation Front (EPLF). In 1974, a military coup, preceded by various student and union protests, established the Coordinating Committee of the Armed Forces, the Police and the Territorial Guard, which is known as the *Derg* (committee in Amharic language). After bitter disputes and struggles within the *Derg*, was imposed as strongman Mengistu Haile Mariam, who deposed, in September of 1974, the Emperor Selassie and his dynasty. The *Derg* nationalized all land and began a radical political reform, also nationalized banks and private companies, changing the previous Selassie's pro-Western and American alliance by a new one with the Soviet Union. The "Afro-communist" regime of Mengistu received military aid during the Ogaden War with Somalia (1977-1978). The adoption of Marxism-Leninism as an ideology and political organization of the Ethiopian State, reinforced the previous centralist tendencies in a country deeply pluralistic and diverse. Mengistu continued war in Eritrea and spread to other regions of the country, as Tigray, where he fought against the Tigray People's Liberation Front (TPLF), and Oromo, against the Oromo Liberation Front (OLF). Between 1989 and 1990, the Eritrean EPLF and the Tigray TPLF had important military advances, which brought down the Derg regime in May 1991.

Between 1991 and 1994, it was established a transitional government until the constitution of the current Federal Democratic Republic of Ethiopia (Jhon Abbink, 2011). The TPLF reached an alliance with other regional and ethnic rebel groups when it sees victory was achieved. So TPLF joined the Ethiopian People's Democratic Movement (EPDM), the Oromo People's Democratic Organization (OPDO) and the Southern Ethiopia Peoples Democratic Front

(SEPDF) to create the current hegemonic political party in Ethiopia: the Ethiopian People Revolutionary Democratic Front (EPRDF) (Jean-Nicolas Bach, 2011, and Jörg Haustein and Terje Ostebo, 2011). The EPRDF invited all ethnic opposition parties to a transition conference in Addis Abbeba, in 1991. This conference, which was joined by about 30 groups and political parties, adopted a temporary Constitution, called the Fundamental Law, created a Representative Council of 87 members, and a Transitional Government led by the EPRDF. The Eritrean EPLF not broke immediately ties with Ethiopia. It decided, in accordance with the new Ethiopian authorities to hold a referendum of self-determination. After Eritrea achieved its independence, this new independent African country entered in a new war with Ethiopia, in 1998, for a border demarcation dispute between the two countries. During the transition period in Ethiopia, it was to lay the pillars of the Ethiopian ethnic federalism (Kdane Mangisteab, 1997 and 2001). The Transitional Constitution or Fundamental Law was passed establishing the principle of freedom, equal rights and self-determination of all Ethiopian communities or ethnic groups as a main principle of government, which guaranteed each nation or Ethiopian people their right to segregate of Ethiopia and creates a new independent country. It also established federal levels of government during the transition period. Therefore, the devolution of powers period, referred by Tewfik (2010), was initiated during the political transition from Dreg to the Democratic Federal Republic of Ethiopia. The Transition Charter also stipulated that the Head of State, the Prime-Minister, the Vice-Chairperson and Secretary of the Council of Representatives shall be from different nations or nationalities, as prescribe article 9b. The 87 member Council of Representatives (COR), comprising "representatives of national liberation movements, other political organizations and prominent individuals" (article 7). The COR acted as the national parliament for the two-and- half-year transitional period. EPRDF had the largest voting bloc with

32 seats, followed by the Oromo Liberation front (OLF) with 12 seats. The radical departure from the unitary policies of the two previous political regimes provoked immediate opposition from pan-Ethiopian nationalists.

In December 1994, the Constitutional Assembly approved the new Ethiopian Constitution that's characterized by its federalism, its commitment to participatory democracy and human rights. The 1995 Ethiopian Federal Constitution recognizes and institutionalizes the right of the ethno-linguistic communities of Ethiopia to self-determination. What makes the Constitution is a recognition of the constitutional provisions contained in the interim Constitution (Fundamental Law). Nations, nationalities, peoples and ethno-linguistic communities, which in all these ways the Constitution refers to the subject of the right of self-determination, have the unconditional right to self-determination, as required by article 39, including the right to secession. The structure of the Ethiopian State is divided between Federal and Regional or member-states Institutions. Ethiopian ethnic federalism, in each of the two entities, the federal and federated states, has assigned legislative, executive and judicial powers in their respective fields of constitutionally defined autonomy. The Federation powers are contained in articles 51 and 55 of the Constitution, and for the states-members are include all matters not specifically assigned or concurrently to the Federation. The Constitution recognizes the existence of 9 regional or members states: Tigray, Afar, Amhara, Oromiya, Somali, Benishangul-Gumuz, Southern Nations, Gambella and Harar, with Addis Ababa and Dire Dawa as federally administered States-Cities.

The Ethiopian Constitution affirmed the unrestricted right of all ethnic groups to self-determination up to secession, when the large article 39 says: "*Every nation, nationality and people shall have the unrestricted right to self- determination up to secession*". The act of

secession requires a two-thirds of the vote in the legislature of the seceding ethnic group to be followed three years later by a referendum in the seceding region. It does not require the approval of the federal legislature. This right to self-determination and secession of every nation, nationality and people of Ethiopia is included in Part Two, named *Democratic Rights*, of Chapter Three, that regulated *The Fundamental Rights and Freedoms*, after the article 38, that regulated *the right to vote and to be elected*, and before article 40, that regulated *the right to property*. This article 39 recognizes three subjects who can exercise the "right to self-determination, including secession: every Nation, Nationality and People of the country. They have *"an unconditional right to self-determination, including the right to secession"*. For the purpose of this Constitution, as article 39.5, says, *"a Nation, Nationality or People (...) is a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory"*. The self-determination process shall come into effect, as article 39 prescribes, when a demand for secession has been approved by a two-thirds majority of the members of the Legislative Council of the Nation, Nationality or People concerned, as I have said before; when the Federal Government has organized a referendum which must take place within 3 years from the time it received the concerned Council's decision for secession; when the demand for secession is supported by majority vote in the referendum; when the Federal Government will have transferred its powers to the Council or regional legislature of the Nation, Nationality or People who has voted to secede; and when the division of assets is effected in a manner prescribed by a federal law.

The House of Federation (the Upper House) is the guardian and interpreter of the Federal Constitution. It is the chamber in which "nations, nationalities, and peoples" are directly and

proportionately represented. The House is composed of at least one representative from each of the 67 ethnic groups in the country, and one additional representative for every one million population of each ethnic group. The Federal Constitution provides important executive, legislative and judicial authority to regional states. As I said before, the Constitution prescribes “*All powers not given expressly to the Federal Government alone, or concurrently to the Federal government and the States are reserved to the States*” (article 52). Article 39 recognizes the right of every Nation, Nationality and People in Ethiopia to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history. Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments. In the Chapter Fore of the Ethiopian Constitution is regulated the State Structure. Article 46 mandates that “*States shall be delimited on the basis of the settlement patterns, language, identity and consent of the peoples concerned*”. The Ethnic Ethiopian Federalism allows every Nations, Nationalities and Peoples within the States, those have been enumerated in article 47.1, that is, the States of Tigray, Afar, Amhara, Oromia, Somalia, Benshangul/Gumuz, the Southern Nations, Nationalities and Peoples, Gambela Peoples and Gambari People, to have the right to establish, at any time, their own States. This right of any Nation, Nationality or People to form its own state is exercisable under the following procedures: when the demand for statehood has been approved by a two-thirds majority of the members of the Council of the Nation, Nationality or People concerned, and the demand is presented in writing to the State Council; when the Council that received the demand has organized a referendum within one year to be held in the Nation, Nationality or People that made the demand; when the demand for statehood is supported by a majority vote in the

referendum; when the State Council will have transferred its powers to the Nation, Nationality or People that made the demand; and when the new State created by the referendum without any need for application, directly becomes a member of the Federal Democratic Republic of Ethiopia. The Federal Constitution observes that all the member States of the Federal Democratic Republic of Ethiopia shall have equal rights and powers. Article 49 establishes "*Addis Ababa shall be the capital city of the Federal State*". The residents of Addis Ababa shall have a full measure of self-government. Particulars shall be determined by law. The Administration of Addis Ababa shall be responsible to the Federal Government. Residents of Addis Ababa shall in accordance with the provisions of this Constitution, be represented in the House of Peoples' Representatives. The special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia, shall be respected. Particulars shall be determined by law.

Each of the 9 regions has its own Constitution, flag, government, legislature, and judiciary Institutions. It chooses its own working or official language, and as I said, they have the right to secession. The Constitution also allows further decentralization from regional State to zonal and *woreda* (district in Amharic language) levels. Some constituent parts (for instance, ethnic areas) want their statuses upgraded to that of regional state, primarily because that is where executive power lies. The Constitution provides little guidance to the federal-regional relations. Dealing with inter-state border disputes, article 48 stipulates settlement by bilateral agreement among the disputant region-states. All State border disputes shall be settled by agreement of the concerned States. Where the concerned States fail to reach agreement, the House of the Federation shall decide such disputes on the basis of settlement patterns and the

wishes of the peoples concerned. The House of Federation shall, within a period of 2 years, render a final decision on a dispute submitted following the before explained method. Article 50 only stipulates the general need for mutual, reciprocal respect between federal and regional governments. The Federal Government mediates among regional states in case of controversy. Relations between the Federal Government and regional governments and among regional governments have been relatively smooth, because the hegemonic party, albeit, as I said before, a multiethnic coalition, and dominates almost all levels of government directly or indirectly through its allied ethnic parties. The ruling coalition, EPRDF, enjoys a monopoly of power at all almost all levels of government. Despite the solemn declaration that all unspecified powers to the Federation correspond to the regions, they remain weak.

Article 50 says that the Federation and the States shall have legislative, executive and judicial powers. The House of Peoples' Representatives is the highest authority of the Federal Government. The House is responsible to the People. The State Council is the highest organ of State authority. It is responsible to the People of the State. Chapter Six of the Ethiopian Constitution regulates the Federal Houses. Members of the House of Peoples' Representatives shall be elected by the People for a 5 years term by direct and universal suffrage in free and fair elections held by secret ballot. Members of the House shall be elected from candidates in each electoral district by a plurality of the votes cast. Provisions shall be made by law for special representation for minority Nationalities and Peoples. Members of the House, on the basis of population and special representation of minority Nationalities and Peoples, shall not exceed 550; of these, minority Nationalities and Peoples shall have at least 20 seats. Particulars shall be determined by law. The House of Peoples' Representatives shall have the power of legislation in all matters assigned by the Constitution to Federal jurisdiction. It shall ratify international

agreements concluded by the executive, approve the appointment of Federal judges, members of the Council of Ministers, commissioners, the Auditor General, and of other officials whose appointment is required by law to be approved by it. It also shall establish a Human Rights Commission and determine by law its powers and functions, establish the institution of the Ombudsman, select and appoint its members, and determine by law the powers and functions of the institution. It shall, on its own initiative, request a joint session of the House of the Federation and of the House of Peoples' Representatives to take appropriate measures when State authorities are unable to arrest violations of human rights within their jurisdiction. It shall, on the basis of the joint decision of the House, give directives to the concerned State authorities. It has the power to call and to question the Prime Minister and other Federal officials and to investigate the Executive's conduct and discharge of its responsibilities. It shall, at the request of one-third of its members, discuss any matter pertaining to the powers of the executive. It has, in such cases, the power to take decisions or measures it deems necessary. It shall elect the Speaker and Deputy Speaker of the House.

With the consent of the House, the Prime Minister may cause the dissolution of the House before the expiry of its term in order to hold new elections. The President may invite political parties to form a coalition government within one week, if the Council of Ministers of a previous coalition is dissolved because of the loss of its majority in the House. The House shall be dissolved and new elections shall be held if the political parties cannot agree to the continuation of the previous coalition or to form a new majority coalition. If the House is dissolved pursuant to sub-Article 1 or 2 of this Article, new elections shall be held within six months of its dissolution. The new House shall convene within thirty days of the conclusion of the elections. Following the dissolution of the House, the previous governing party of coalition of parties shall

continue as a caretaker government. Beyond conducting the day to day affairs of government and organizing new elections, it may not enact new proclamations, regulations or decrees, nor may it repeal or amend any existing law.

The House of the Federation is composed of representatives of Nations, Nationalities and Peoples. Each Nation, Nationality and People shall be represented in the House of the Federation by at least 1 member, and by 1 additional representative for each one million of its population. Members of the House of the Federation shall be elected by the State Councils. The State Councils may themselves elect representatives to the House of the Federation, or they may hold elections to have the representatives elected by the people directly. Article 62 regulates the Powers and Functions of the House of the Federation. The House has the power to interpret the Constitution, as I said before. It shall organize the Council of Constitutional Inquiry, and in accordance with the Constitution, decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession, as we saw before. 4. It shall promote the equality of the Peoples of Ethiopia enshrined in the Constitution and promote and consolidate their unity based on their mutual consent. It shall exercise the powers concurrently entrusted to it and to the House of Peoples' Representative. It shall strive to find solutions to disputes or misunderstandings that may arise between States, determine the division of revenues derived from joint Federal and State tax sources and the subsidies that the Federal Government may provide to the States. It shall determine civil matters which require the enactment of laws by the House of Peoples' Representatives. Finally, it shall order Federal intervention if any State, in violation of this Constitution, endangers the constitutional order. It shall elect the Speaker and the Deputy Speaker of the House, and it shall adopt rules of procedure and internal administration. The Speaker of the House of the Federation shall preside over the meetings of the

House. He shall, on behalf of the House, direct all its administrative affairs and enforce all disciplinary actions the House takes on its members. The House of the Federation shall hold at least 2 sessions annually. The term of mandate of the House of the Federation shall be 5 years, as the House of Peoples' Representatives. No one may be a member of the House of Peoples' Representatives and of the House of the Federation simultaneously.

Articles 69 to 71 refer to the figure of the Head of State: the President of the Federal Democratic Republic of Ethiopia. The House of Peoples' Representatives shall nominate the candidate for President. The nominee shall be elected President if a joint session of this House and the House of the Federation approves his candidacy by a two-thirds majority vote. A member of either House shall vacate his seat if elected President. The term of office of the President shall be six years. No person shall be elected President for more than two terms. His powers and functions are: to open the joint session of the House of Peoples' Representatives and the House of the Federation at the commencement of their annual sessions; proclaiming in the *Negarit Gazeta* laws and international agreements approved by the House of Peoples' Representatives in accordance with the Constitution; to appoint ambassadors and other envoys to represent the country abroad, upon recommendation by the Prime Minister, to receive the credentials of foreign ambassadors and special envoys. He also shall, upon recommendation by the Prime Minister and in accordance with law, grant high military titles, and, in accordance with conditions and procedures established by law, grant pardon.

Articles 72 to 77 regulates the Government and the Prime-Minister. Article 73 says that the highest executive powers of the Federal Government are vested in the Prime Minister and in the Council of Ministers. The Prime-Minister and the Council of Ministers are responsible to the House of Peoples' Representatives, as in a parliamentary form of government. In the exercise of

State functions, members of the Council of Ministers are collectively responsible for all decisions they make as a body. Unless otherwise provided in this Constitution the term of office of the Prime-Minister is for the duration of the mandate of the House of Peoples' Representatives. The Prime Minister shall be elected from among members of the House of Peoples' Representatives. Power of Government shall be assumed by the political party or a coalition of political parties that constitutes a majority in the House of Peoples' Representatives. The Prime-Minister is the Chief Executive, the Chairman of the Council of Ministers, and the Commander-in-Chief of the national armed forces. The Prime-Minister shall submit for approval to the House of Peoples' Representatives nominees for ministerial posts from among members of the two Houses or from among persons who are not members of either House and possess the required qualifications. He leads the Council of Ministers, coordinates its activities and acts as its representative, he exercises overall supervision over the implementation of policies, regulations, directives and decisions adopted by the Council of Ministers. He exercises overall supervision over the implementation of the country's foreign policy. He selects and submits for approval to the House of Peoples' Representatives nominations for posts of Commissioners, the President and Vice-President of the Federal Supreme Court and the Auditor General. He supervises the conduct and efficiency of the Federal administration and takes such corrective measures as are necessary. In accordance with law enacted or decision adopted by the House of Peoples' Representatives, he recommends to the President nominees for the award of medals, prizes and gifts. He shall submit to the House of Peoples' Representatives periodic reports on work accomplished by the Executive as well as on its plans and proposals. He shall discharge all responsibilities entrusted to him by this Constitution and other laws. Article 75 regulates the figure of the Deputy Prime Minister. It shall carry out responsibilities which shall be specifically

entrusted to him by the Prime Minister and act on behalf of the Prime Minister in his absence. The Deputy Prime Minister shall be responsible to the Prime Minister. Finally, article 76 regulates the Council of Ministers. It comprises the Prime Minister, the Deputy Prime Minister, Ministers and other members as may be determined by law. The Council of Ministers is responsible to the Prime Minister. In all its decisions, the Council of Ministers is responsible to the House of Peoples' Representatives. Its Powers and Functions are: to ensure the implementation of laws and decisions adopted by the House of Peoples' Representatives, to decide on the organizational structure of ministries and other organs of government responsible to it, it shall coordinate their activities and provide leadership; to draw up the annual Federal budget and, when approved by the House of Peoples' Representatives, it shall implement it, to ensure the proper execution of financial and monetary policies of the country. It shall formulate the country's foreign policy and exercise overall supervision over its implementation. It shall ensure the observance of law and order. It has the power to declare a state of emergency, in doing so, it shall, within the time limit prescribed by the Constitution, submit the proclamation declaring a state of emergency for approval by the House of Peoples' Representatives. It shall submit draft laws to the House of Peoples' Representatives on any matter falling within its competence, including draft laws on a declaration of war. It shall carry out other responsibilities that may be entrusted to it by the House of Peoples' Representatives and the Prime Minister. It shall enact regulations pursuant to powers vested in it by the House of Peoples' Representatives<sup>8</sup>.

The structure and powers of the Courts ( Assefa Fishea, 2011) are collected from article 78 to 81. Article 78 establishes the independence of the Judiciary. The Supreme Federal judicial

---

<sup>8</sup> It shall administer the National Bank, decide on the printing of money and minting of coins, borrow money from domestic and external sources, and regulate foreign exchange matters. It shall formulate and implement economic, social and development policies and strategies.

authority is vested in the Federal Supreme Court. The House of Peoples' Representatives may, by two-thirds majority vote, establish nationwide, or in some parts of the country only, the Federal High Court and First-Instance Courts it deems necessary<sup>9</sup>. The House of Peoples' Representatives and State Councils can establish or give official recognition to religious and customary courts<sup>10</sup>.

The Federal Supreme Court shall have the highest and final judicial power over Federal matters. State Supreme Courts shall have the highest and final judicial power over State matters. They shall also exercise the Jurisdiction of the Federal High Court. The Federal Supreme Court has a power of cassation over any final court decision containing a basic error of law. Particulars shall be determined by law. The State Supreme Court has power of causation over any final court decision on State matters which contains a basic error of law. State High Courts shall, in addition

---

<sup>9</sup> Unless decided in this manner, the jurisdictions of the Federal High Court and of the First-Instance Courts are hereby delegated to the State courts. States shall establish State Supreme, High and First-Instance Courts. Special or *ad hoc* courts which take judicial powers away from the regular courts or institutions legally empowered to exercise judicial functions and which do not follow legally prescribed procedures shall not be established. Judicial Powers, both at Federal and State levels, are vested in the courts. Courts of any level shall be free from any interference of influence of any governmental body, government official or from any other source. Judges shall exercise their functions in full independence and shall be directed solely by the law. No judge shall be removed from his duties before he reaches the retirement age determined by law except under the following conditions: when the Judicial Administration Council decides to remove him for violation of disciplinary rules or on grounds of gross incompetence or inefficiency; or when the Judicial Administration Council decides that a judge can no longer carry out his responsibilities on account of illness; and when the House of Peoples' Representatives or the concerned State Council approves by a majority vote the decisions of the Judicial Administration Council. The retirement of judges may not be extended beyond the retirement age determined by law. The Federal Supreme Court shall draw up and submit to the House of Peoples' Representatives for approval the budget of the Federal courts, and upon approval, administer the budget. Budgets of State courts shall be determined by the respective State Council. The House of Peoples' Representatives shall allocate compensatory budgets for States whose Supreme and High courts concurrently exercise the jurisdiction of the Federal High Court and Federal First-Instance Courts.

<sup>10</sup> Religious and customary courts that had state recognition and functioned prior to the adoption of the Constitution shall be organized on the basis of recognition accorded to them by this Constitution.

to State jurisdiction, exercise the jurisdiction of the Federal First-Instance Court. Decisions rendered by a State High Court exercising the jurisdiction of the Federal First-Instance Court are appealable to the State supreme Court<sup>11</sup>.

Article 82 regulates the structure of the Council of Constitutional Inquiry. It shall have 11 members. They are: the President of the Federal Supreme Court, who serves as its President, the Vice-President of the Federal Supreme Court, who serves as its Vice-President, 6 legal experts, appointed by the President of the Republic on recommendation by the House of Peoples' Representatives, who have proven professional competence and high moral standing, and 3 persons designated by the House of the Federation from among its members. Article 83 says that in the interpretation of the Constitution, all constitutional disputes shall be decided by the House of the Federation. The House of the Federation shall, within 30 days of receipt, decide a

---

<sup>11</sup> Decisions rendered by a State Supreme Court on Federal matters are appealable to the Federal Supreme Court. The President and Vice-President of the Federal Supreme Court shall, upon recommendation by the Prime Minister, be appointed by the House of Peoples' Representatives. Regarding other Federal judges, the Prime Minister shall submit to the House of Peoples' Representatives for appointment candidates selected by the Federal Judicial Administration Council. The State Council shall, upon recommendation by the Chief Executive of the State, appoint the President and Vice-President of the State Supreme Court. State Supreme and High Court judges shall, upon recommendation by the State Judicial Administration Council, be appointed by the State Council. The State Judicial Administration Council, before submitting nominations to the State Council, has the responsibility to solicit and obtain the views of the Federal Judicial Administration Council on the nominees and to forward those views along with its recommendations. If the Federal Judicial Administration Council does not submit its views within three months, the State Council may grant the appointments. Judges of State First-Instance Courts shall, upon recommendation by the state Judicial Administration Council, be appointed by the State Council. Matters of code of professional conduct and discipline as well as transfer of judges of any court shall be determined by the concerned Judicial Administration Council.

constitutional dispute submitted to it by the Council of Constitutional Inquiry. The Council of Constitutional Inquiry have powers to investigate constitutional disputes. Should the Council, upon consideration of the matter, find it necessary to interpret the Constitution, it shall submit its recommendations thereon to the House of the Federation. Where any Federal or State law is contested as being unconstitutional and such a dispute is submitted to it by any court or interested party, the Council shall consider the matter and submit it to the House of the Federation for a final decision. When issues of constitutional interpretation arise in the courts, the Council shall remand the case to the concerned court if it finds there is no need for constitutional interpretation; the interested party, if dissatisfied with the decision of the Council, may appeal to the House of the Federation; submit its recommendations to the House of the Federation for a final decision if it believes there is a need for constitutional interpretation. The Council shall draft its rules of procedure and submit them to the House of the Federation; and implement them upon approval.

The first President of the Democratic Federal Republic of Ethiopia was Negaso Gidado, and the first Prime-Minister and strong man, the Tigray, Meles Zenawi. The Federal Parliament is bicameral, which make up the House of People's representatives and the House of the Federation. The House of the Federation equates to the second territorial Chamber or Senate in other federal countries, as in United States or Nigeria. It Is the Chamber of nations, nationalities and peoples that make up Ethiopia. Its aim is to maintain consensus and agreement among them. Its most important mission is to interpret the Constitution and resolve all constitutional disputes. The federal executive is composed of the Head of State or President and the Government and the Prime-Minister. The Constitution states that the political party or coalition that has a majority in the House of Representatives of the People will assume the Government. The Prime-Minister

must be a member of this Chamber. The real operation of the Ethiopian political system is subjected to the political hegemony of the EPRDF, in power since 1991, and under the leadership of the minority Tigray ethnic group (Berhanu G. Bacha, 2009). As we saw, this political party was the result of the strategy of alliances with other regional formations to conform a multi-ethnic political party in Ethiopia of EPRDF. This political structure is maintained and creates a parallel power structure that tempers the development with all the consequences of an authentic political decentralization as it was designed in the Ethiopian Federal Constitution. Its consequence makes Ethiopia a formal Federal State, with little real political weight of the federated or regional entities (John Ishiyama, 2010).

#### **Federalism in a microstate: the case of the Union of the Comoros.**

The Comoro Islands are an homogeneous county in terms of religion, ethnic, linguistic and colonial French historical past. Comoros have a rich independent history in a small islands micro-state. A country that has changed its Constitution. A nation who leaved the Unitary and uniform constitutional structure of the first years of its Independence to a federal and decentralised political organization, that was the political product of international and national agreements among the Comoro political parties and islands political leaders under the patronage and surveillance of African Union. And it seems to work out well, by the moment and among many problems. The Union of the Comoros hasn't ethnic, religious or linguistic cleavages who had divided the Comorian society, as in Nigeria and Ethiopia. It has been the Ocean who has divided this country. It has been Geography. It has been the mistrust among the three islands who conform the Union of the Comoros, or may be it has been its political elite, because its

incapability and incompetence of the leaders of the three islands to share power and to build a national spirit of being citizens of the same country (J.A. Garcia-Rojas, 2011).

The Union of the Comoros is the third smallest African country. Its population is 691.400 inhabitants. The majority of its inhabitants live in the two major islands and only a few live in the smallest one. The capital city is Moroni. Moroni is in the largest and most populated island, Grande Comore (*Ngazidja*, in Comorian language), the other largest and most populated island is Anjouan (*Nzwani*), and the smallest one is Moheli (*Mwali*). The Union of the Comoros (*Udzima wa Komori*, in Comorian Swahili language) is a Muslim country. The almost 100 per cent of its population practice the Sunni Islam religion. The fourth island of the Comoro archipelago is Mayotte. Mayotte was the first island colonized by the Frenchs and his capital city was the first Comorian capital under the French colonization. Moroni was elected capital of the *Territoire de Outr-Mer* (TOM in French) (Territorial Oversees Local Government) of Comoro Islands only a few years before the independence of the new nation by the first native elected local council. This decision was rejected by the majority of the Mayotte population and it was one of the causes, among others, of the non pro-independence majority vote of the people of Mayotte in the Independence plebiscite of 1975.

The Union of the Comoros Constitution recognizes three languages as official: Arab, French and Comorian. This language is mixed of Swahili and Arabic and has some dialectal forms in each island. In Mayotte, a French *department de outré-mer* (oversees province), the unique official language is French. As I said before, the people of the Union of the Comoros is predominantly homogeneous and it is the product of the successive arrivals of diverse groups from the Eastern African Coast, the Persian Gulf, the Malay Archipelago and from Madagascar. The Arab ancestors arrived to the Islands later and they came from Yemen and Oman in the

Arabian peninsula. These Arabs settlers brought with the Islamic religion, the oldest and most powerful Comorian families boast about their Arab origins. The first Europeans who arrived to Comoro Islands was the Portuguese, and later the Dutch, but the Omani expelled the first European settlers and then diverse and rivals Comoro Sultans dominated the Comoro Islands since the French conquer and political domination. The French Empire landed in Mayotte and signed a treaty with its Malagasy king of the island in 1841, which ceded the island of Mayotte to the French authorities. In 1866, the small island of Moheli and Grande Comore accepted French protection, but in this case, the Sultan of Grande Comore kept some kind of sovereignty until 1909. Anjouan was the latest islands to join the French Empire. It happened in 1909. In that year the Anjouan Sultan abdicated in favour of the French authorities. As we can see, Mayotte is the island with strongest ties with France, and it is also the island with a different group of inhabitants. All these specific characteristics explain the rejection of being a part of a free and independent country in the plebiscite of 1975. Comoro Islands reached its Independence by a plebiscite, celebrated in each of the four islands of the archipelago, in 1975. Before its Independence, and in the historical context of the beginning of the fifth Republic, they had a limited self local government through the administrative formula of the TOMs (*Territoire Français d'Outré-mer*) (French Overseas Territory). During those years before the Independence of France, Comoros has a two party system. These two parties represented the traditional island elites. The Comoro History since its Independence is one of the most unlucky and unstable one of the African Continent, because this small country has suffered many *coups d'état*, mercenary military intervention, the most of them commanded by the famous former French legionary Bob Denard, and secessionist attempts of some islands with the goal of being a new island country separated of the other two islands, and, over all, of the capital island of

Grande Comore. The most separatist island has been Anjouan, but Moheli have also claimed in the 90s for independence. Comoro has suffered 20 coups or attempted coups since its Independence of France (Jose Adrian Garcia-Rojas, 2012: 175).

In 1975, newly reached the independence, it was done the first *coup d'état*, and then took power Alis Solilih, who implanted a revolutionary political regime strongly influenced by the one party Arab nationalist regimes. This President remained in power three years until he was removed by a military coup done by the same mercenaries which have helped to win power in 1975. He was murdered by the mercenary troops. His successor was the first President of the Republic, Abdalah Abderramane. He established a new Constitution that defined Comoro Islands as a Federal Islamic Republic (Jean-Paul Negrin, 1980, and Michel Pineau and Lucien Audibert, 1984-1985). But he did not respect his own Constitution and he never implemented federalism and a multi-party system. He ruled the country as a one party state with no respect of civil rights. Abderramane returned to a pro-France foreign policy, but with the constant claim of Mayotte as a mere justification of the total dependence of the French economic and military aide. In 1989, President Abdalah Abderramane was murdered for rebel troops commanded by mercenaries in the Presidential residence. These mercenaries took power for a few months since French troops restored the Comorian power in the figure of the President of the Constitutional Court, Mohamed Säid Djohar, as interim President of the Republic. This interim President called for free elections and he was the winning candidate in these general elections. His candidature were not accepted by some opposition groups. During his presidency and the presidency of his successors, the Comoro Islands had some military and separatist attempts. In 1999, colonel Azali seized power in a bloodless coup that deposed the interim President Massounde. Azali failed to re-established control over the separatist islands those remained rebels to the central government of Azali in

Moroni. Anjouan and Moheli declared their Independence in 1997 and remained in a rebel position, because the Comorian Army was unable to control these two islands. The Azali coup was criticized for the international community, the French Government and the African Union (AU). With the mediation of the AU, under the leadership of South Africa President Mbeki, it was negotiated with political delegates of the three islands the basis of the new Federal Constitution. This Constitution has remained in a very unstable milieu since 2002. In this year was elected for the first time by the peculiar rotating system of presidential candidate primaries, the first presidential candidates in their home island of Grande Comore, and later the whole Comoro electorate voted Azali as new President of the Union of the Comoros, the new name done by the federal Constitution. Four years after, in 2006, the same process were implemented in Anjouan to choose the candidates for the Presidency who have to be voted for the whole people of the Union in a second round. The cleric Ahmed Abdallah Sambi ruled the country for 4 years as the Constitution prescribes. The last election begun in Moheli to choose the presidential candidates to be voted for all the Comorian electorate in the second round. These presidential elections suffered some delay because the interferences of the federal President, Sambi, and the President of the island-state or island-region of Moheli. The official candidate (the mohelian Sambi's candidate and his former Vice-President), Ikililou Dhoinine, won in this last presidential election and he is the first President of the Union of Comoros who was born in Moheli, because the other Comoro Presidents were native of Anjouan, the most of them, and Grande Comore.

Comoro Islands as an Independent nation has had different Constitutions. The late Constitution was approved by the Comorian people in the plebiscite of 2001. The Union of the Comoros is one of the few federal countries in Africa. As I said before, this Constitution was not the first federal Constitution of the Comoro Islands, but it was the first one who has remained

more than a few years and who has implemented some islands-states institutions and powers. The reason is that the federal idea was one of the solutions adopted by the island delegates who signed the political agreements those lead to the Constitution of 2001 and its political institutions. The type of its political system is a presidential Islamic federal Republic. The Union of the Comoros is a presidential regime. As a part of the federal agreement to resolve the separatist movements in two of the three islands, they adopted a very singular presidential electoral system. This system consists in two electoral processes. The first electoral process is based in a primary elections of presidential candidates. This election must celebrate in one of the three islands each four years. It begun in Grande Comore, in 2002, and continued in Anjuan, in 2006, and the last one was in Moheli in 2010. Then, the next presidential first round will be in Grande Comore and so on. The second round is the general presidential elections among the candidate chosen in the primary in an island, but in this case for the whole electorate of the three islands. With this rotating primary selection of presidential candidates, the Constitution tray to resolve the old problem of distrust between the three islands and it tries to guarantee the possibility of a Presidency who represented the people of each island through the participation in the selection of the presidential candidates each four years and in the conscience of the possibility of having a President native of each island who guarantee the peculiar island interest and a proportional distribution of the poor revenues of the federal government among the three islands. This peculiar electoral presidential system is reinforced by the election in the same ticket of the two vice-Presidents, who must have been born in the other two islands. The President can be elected for a second term but in this case he must be elected as a presidential candidate in the primary election that must celebrate in a different island than his native island (Jose Adrian Garcia-Rojas, 2011: 404-408).

The legislative is unicameral, despite its federal form of government. This is quite strange in a federal political system. In Germany, United States, or in Nigeria or in Ethiopia, as we have seen before, and in other federal or formal federal countries, generally they have two chambers or Houses, one who represents the country people as a whole, and the upper chamber that represented the territories. But Comoro Islands only has one chamber: the National Assembly. The representative mandate is 5 years term, but the President could call for new elections before these five years. In this case the President could dissolve the electoral mandate. This constitutional instrument is strange in a presidential regime (it does not exist in United State, for instance), and it is characteristic of the parliamentary regimes, as in United Kingdom or Spain. The number of National Assembly members is 33. 18 parliamentary members are elected in electoral districts by a majority system of two rounds, and the other 15 are elected by each Island Assembly (5 for each Island Assembly). These 15 parliamentary members represent the island interests in the National Assembly and it is the way the Constitution took to make islands participate in the elaboration of the federal laws and in the distribution of the federal budget between the islands. These parliamentary members represent the territories with the same number of members. It seems as a mixture of the US Senate (the same number of members for each state in the upper chamber) and the German *Rathaus* (in the German upper chamber, the Council, each state is represented by members chosen by the regional government) or the Spanish Senate (a part of the Spanish Senators are elected by the regional parliaments). The Union of the Comoros has a Constitutional Court to resolve the controversies about the constitutionality of the federal and regional laws and the conflicts among the island-regions and the Union (federation). It also has a Supreme Court for the judicial affairs. In the election of the members of the Constitutional Court participates the Island regional Assemblies.

The Union of the Comoro Constitution is brief, though it is a new Constitution of a federal State. It only contains 40 articles. In spite of all the Constitution of the Union of Comoros establishes some constitutional mechanisms to make possible the political participation of each island in the federal political decision making process. As I have said before, the Constitution establishes the way each island Assemblies elects 5 members (a total of 15) to the National Assembly. Likewise the islands participate in the national presidential elections through the peculiar two round system. First, choosing the presidential candidates by a primary system in one of the three islands by a rotating system. At the same time, the Ministers of the National Cabinet must be selected in a proportional way by the federal President in order to keep some balance among the three islands. And also the institutional charges must be elected in a similar way to keep that balance between the three islands in all the Federal Institutions. For instance, the article 32 of the Constitution expresses that the President and the Vice-presidents of the Union, the President of the National Assembly and the three Island Presidents will elect one Judge of the Constitutional Court. As many federal countries, the Union of the Comoros Constitution considers the states or regions, in this case islands, participation in the constitutional reform process. The article 37 of the Union Constitution establishes that the initiative in the constitutional reform process belongs to the President of the Union, the two third of the National Assembly members or the same number of members of the Island Assemblies or by direct vote of the people of Comoros. The Constitution also says that no Constitutional reform can affect the territorial unity of the country nor its international borders nor the islands political autonomy and self-government. Finally the Constitution establishes that each of the three islands will approve their respective Fundamental Law (Island or regional Constitution or Statue of Autonomy), and

also foresees the eventuality reunification of the island of Mayotte in the Union (Säid Mohamed Säid Hassane, 2005: 444-447).

The Fundamental Laws of Anjouan, Moheli and Grande Comore have a similar number of articles (61, 65 and 71 articles respectively). The Fundamental Laws were elaborated in 2002, one year after the sign of the Flamboni agreements (2001). The institutional organization of the three Fundamental Laws is practically the same, because the Constitution mentions that each island-state must have an elective executive and legislative. The judicial institution (an islands supreme court) was regulated in all the three Fundamental Laws. The Island Presidents must be elected via run-off voting to ensure that the Presidents always are elected by the majority vote. If no candidate obtains this majority at the first round, the two of them who had casted the higher scores are selected to compete in a second round. In all the three cases, the respective Fundamental Laws establish that the different candidates must be native or residents of the respective islands. The three Island Presidents are elected for 5 years. The Island Presidents nominate the Ministers. The number of Island Ministers varies between 5, in the case of the smallest island, Moheli, and 10, in the case of Anjouan. The type of island-state form of governments is a mixture between the French semi-presidential and the presidential political systems, because in some cases, as in Anjouan, the Island Government can call for a confidence motion about its performance, but in the other two islands, Moheli and Grande Comore, the type of regime is typically presidential, because the respective Fundamental Laws don't establish any parliamentary mechanism like the vote of confidence or the censure motion (Jose Adrian Garcia-Rojas: 417-421).

The name of the Island legislative Chambers is the Island Assembly. The number of their members varies between 10 in Moheli, and 25 in Anjouan. Their electoral mandates are 4 years,

1 year less than the presidential mandates. The Island Assembly members are elected in a single-member constituency through a two-round system. Each Assembly member must know the three official national languages (French, Arab and Comorian or Swahili Comorian). The three Fundamental Laws regulate the ways the Island Assemblies approve their laws. These laws can't exceed the federal Constitution or the National Assembly competences to legislate. The three Fundamental Laws regulate the same number of consultative chambers and in a similar way. They regulate an Economic and Social Council and an Ulama or Ulema Council. In this last case the spirituals or religious leaders in each island are members of the Ulama Island Council. In the Fundamental Laws of Moheli and Grande Comore are regulated a third consultative council: a Council of the Island Diaspora. These consultative councils give their political institutions advice in economic, political, moral, religious or migration political problems. The amendment processes of the Fundamental Laws are regulated in a similar way in the three cases. In Moheli and Grande Comore the initiative to change the Fundamental Law is in the hands of the Island President and half of the legal number of the Island Assembly members. The amendments must be voted by the majority of the chamber and afterwards this reform must be voted by the people of the island in a referendum. In Anjouan vary the number of Assembly members who it is necessary to propose and approve the reform, because it is of the two third of the Assembly members. In this last case is also necessary the people's vote in a plebiscite for the final approve of the Fundamental Law amendment.

### **Some preliminary conclusions.**

First, the three African Federal countries have different territorial extension, number of inhabitants, past colonial inheritances, and they also have a different geostrategic position.

Second, in all the three cases, they share some past federal political experiences those badly ended, one in Comoro Islands and Ethiopia, but, in the case of Nigeria, it hasn't interrupted federalism since its independence.

Third, two countries, Ethiopia and Nigeria, shares quite diverse ethnic and religious societies those speak different languages and prey to different gods; but, in the Union of the Comoros, the cause of communal division of their society is purely geographical, it is due to its island setting, because its people speak the same languages and professing the same religion: Islam.

Fourth, they share a common history of communal violence and civil ethnic wars (Ethiopia and Nigeria), which has left a mark on their Federal and Regional Political Institutions and on their constitutional engineering mechanisms those try to balance the various ethnic, religious or territorial groups into the federal Institutions and their decision-making process, with a theoretical or formal wide political decentralization and self-government, that was guaranteed in their respective Federal Constitutions, despite they also have other institutions to maintain national unity in their divided societies.

Fifth, those Institutions are the real power behind the curtain: the army, in Nigeria, the dominant political party, in Ethiopia, and the ambiguous negotiation between local elites, especially, of Grande Comore and Anjouan islands, to respect and ensure the rotation among members of these island elites in the Comoro federal institutions.