

The New Federal Experiment and Accommodation of Diversity in Ethiopia: Exploring a Novel Experience

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After the collapse of the military regime in 1991, Ethiopians embraced a “new political vision” of ethno-linguistic diversity. Constitutionally, Ethiopia began federalizing its political landscape in 1994, with adoption of the federal constitution¹. For the incumbent regime, the “national question” was the fundamental driving force behind the federal structure. The new political experiment is basically organized along ethno-linguistic and cultural lines, and the right of self-determination is recognized, including the right to secede. I also highlight the issue of the trade-off between centripetal and centrifugal forces dealing with the politics of diversity in an inclusive manner. The Ethiopian experiment is quite unique in this regard, inasmuch as it accommodates centripetal forces by assuring unity in diversity, yet it also accommodates centrifugal forces (e.g. separatist forces) by providing them the constitutional right to separate from the federation (Art. 39 of the FDRE constitution). This paper will examine these experiments in federalism in terms of their ability to offer a sustainable solution to the problem of diversity accommodation.

Key Concepts: Accommodation of Diversity, Ethno-linguistic Federalism, National Question and Secession.

1. BRIEF HISTORY OF THE ETHIOPIAN STATE FORMATION AND THE NATURE OF THE STATE

Ethiopia is a distinctive in modern Africa as the recognizable successor to an ancient indigenous African state, and the starting point for any analysis must, therefore, be the historic Ethiopian state and the social base on which it rested (Clapham, 1994: 28) because the past history shapes the present conditions and the future as well. In this regard Abdullahi stated that ‘Ethiopia as a state endured and triumphantly resisted “outside” aggression and occupation [but] the same cannot be said of “internal” challenges it faced from the various ethnic nationality that collectively form the Ethiopian state (1998: 440). Even some writers call the historically mosaic Ethiopian state as a *‘prison of nationalities’* which is characterized by lack of internal legitimacy.

Ethiopia hosts more than 80 different ethnic groups, most of them, with their own unique culture, custom, belief and peculiar ways of doing things. Some language and Anthropology scholars like Carlo Conti- Rossini, termed the country as a “museum of peoples” (Levine, 1974:19-20). The history of state formation in Ethiopia is a source of profound, even bitter contention (Alem Habtu, 2003:8) not only its interpretation but

¹ The Federal Democratic Republic of Ethiopia’s Constitution is not only a legal document but also a ‘Political Covenant’ among the various ethnic groups the validity of which is dependent upon the ethnic-based federation (Tewodros Alefe :1). There may still be room for improvements, but in principle this constitution sets the legal foundation for a fully fledged democracy (Pausewang, Tronvol and Aalen, 2002: 230). This constitution was adopted by the constituent assembly on December 8, 1994, made effective as of 21st August 1995, and gazette in Federal *Negarit* Gazeta in December 1996. For Berhanu Gutema (2009: 7) Ethiopia’s federal constitution, which is rich and overflowing in freedom vocabularies but the actual performance is very far and opposite to the declarations.

also on the very historical facts themselves. Mythology traces the origin of Ethiopia to the days of the Old Testament, and that of its Kings to King Solomon of Israel and Queen of Sheba of Ethiopia (10th century BC). This mythology has long been propagated by both church and the state and served as a powerful source of legitimization by the Ethiopian monarchs (Merera Gudina, 2003:57).

However, contemporary Ethiopia takes its shape and includes diverse and independent communities during the reign the Emperor Menlik² II (1889-1913). It is because of this, Emperor Menlik II is credited with founding the modern state of Ethiopia.

In 1916 a noble man from the province, *Ras Tafari Mekonnen* seized power and became the effective ruler as crown prince... and was enthroned as *Emperor Haile Selassie* in 1930, with the program of modernizing the feudal nature of the society. But his modernizing ambitions were halted by the 5 year (1936-41) Italian occupation (Tetzlaff, 2008:105). Following Ethiopia's "liberation by allied forces" in 1941, Haile Selassie returned from Britain, and hence tried to establish more firmly his power (ibid.). It is at this stage of Ethiopian political history that centralization of power reached its climax.

Towards the end of the imperial regime, the centralization political power and the tension between the traditional forces backing the regime and the modern elite was gaining momentum. Opposition to the regime took many forms (Assef Fiseha, 2006:37). It was in 1974 that the imperial regime of Haile Selassie came to an end and replaced by the then military committee called the *Derg* (*Amharic word for committee*). Though the *Derg* continued to consolidate power by crushing all sorts of opposition (ibid.) ethnically rooted liberation movements were resisting the rhetorically Marxist-Leninist government of Colonel Mengistu Hailemariam. And it was these national liberation movements who finally brought down the Mengistu regime in 1991 and established a transitional government. Since then Ethiopia is under the rule of EPRDF.

Despite the change of rulers and regimes there are some elements of continuity in the practice of power beginning from emperor Tewodros (1855-1868), who is believed to be the beginner of the formation of modern Ethiopian state up to the present government. Emanuele Fantini summarizes this continuity of the nature of the modern Ethiopian state in the following manner:

In the process of state formation, the central power... shows certain degree of continuity in the attempt of controlling a vast and instable territory by the means of (i) a structure of administrative and bureaucratic

² As one form of defense mechanism in this [assimilation and ethnic domination] process, the dominant elite group [Amhara added] appeared to reject ethnic labeling and thus downplaying or hiding its own ethnicity in favor of what one social scientist calls the 'official nationalism'. This has allowed the dominant elite to define its group, its culture and even its language as non-ethnic while in reality imposing its ethnicity on the others. This cynical approach had a role in confusing the distinction between "chauvinists" and democratic unionists, thereby delaying the formation of a lasting alliance of democratic forces from both the dominant and dominated ethnic groups (Aregawi Berhe, ND: 5). But it has to be reminded that this dominant elite from the Amhara ethnic group in practice also exploited and oppressed its own ethnic masses.

control, through which the power of the central government is maintained and enforced...; (ii) a system of extraction and distribution, through which resources are extracted from the economy and distributed according to the priority of the government-“mostly of course for the maintenance of the state itself” (iii) a strategy of extraversion of external resources to utilize technical, financial, military international assistance to legitimize and reinforce the central government; (iv) an ideological apparatus to legitimize these practices and encourage adhesion and support by the population (Fantini, ND:3).

In terms of the nature of the historic Ethiopian state, few things can be added to what Fantini have described. The political establishment of the modern Ethiopia is characterized as repressive, highly centralized and basically “singular personal rule system” (Tetzlaff, 2008:106), that does consider the aspiration of its citizens. It was fundamentally undemocratic establishment with powerful coercive apparatus, that can muzzle any opposition to the regime, and little legitimacy; even in terms of the literal and highly classical meaning of democracy i.e. rule by the people.

With the collapse and demise of the military government of the *Derg*, Ethiopia starts to departure from its past ways of socio-economic and political governance, at least in principle. The advent of EPRDF to the saddle of power demonstrates not only a regime transition but also re-orientation in the spheres of state structure, ideology and policy directions. In terms of state structure the shift was from a unitary to federal, ideologically from Marxism-Leninism to Revolutionary Democracy and policy wise from command economic system to some sort of free market. For some, it is paradoxical to vision a free market society via revolutionary democracy, insofar as revolutionary democracy is a leftist political and economic orientation.

The quest for a permanent democratic change in Ethiopia began with the adoption of a provisional Charter in July 1991 that gave birth to the Transitional Government of Ethiopia (TGE) (Walle Engedayehu, 1993:30). In this regard Andreas Eshete, the former president of Addis Ababa University, optimistically argued as follows:

A new political vision now guides Ethiopia ---Since 1991, Ethiopia has embarked upon a bold experiment in the conduct of public life. The hallmark of the experiment is a readiness to face the fact of ethnic diversity. New political arrangement aims to shape Ethiopian political identity around the countries constituent nations and Nationalities. Even in this era of the politics of identity, Ethiopia resolves to extend full public recognition to her varied National communities is unique (2004:142).

In the other side of the debate there are scholars and practitioners who conceive the federal arrangement as a divide and rule strategy of EPRDF and according to them the fate of the system will be nothing but fiasco. The fiasco is predicted to be a state of ethnic fragmentation and ethnic civil war. According to the opponents, ethnic based federalism has the propensity to divide the people ethnically and elevate normal competition for resource to the level of ethnic strife and inter and intra ethnic mistrust. Especially, Article 39 of the constitution, which allows unconditional secession, is seen as a time bomb to erupt some day in the near future.

2. THE COMING OF THE NEW FEDERAL EXPERIMENT IN ETHIOPIA

The overthrow of the military dictatorship that had ruled the country for more than seventeen years in May 1991 broke new ground for reorganizing state power in Ethiopia. The EPRDF expressed its intension to reconfigure the Ethiopian state to reflect the composite sovereignty of each ethnic group. At a national “Peace and Democracy” conference, a Transitional period Charter for Ethiopia was drafted, with reference to the UDHR, including a provision for power-sharing through a broad coalition government. The transition charter in chapter I, Article two, sub articles a, b and c stated:

The right of nations, nationalities and peoples to self-determination is affirmed. To this end, each nation, nationality and people is guaranteed the right to: a) preserve its identity and have it respected, promote its culture and history and use and develop its language; b) administer its own affairs with in its own defined territory and effectively participated in the central government on the basis of freedom and fair and proper representation; c) exercise its right to self-determination of independence, when the concerned nation/ nationality and people is convinced that the above rights are denied, abridged or abrogated.

Accordingly, the “National/ Regional self- Governments Establishment proclamation No 7/1992 was promulgated” with a view to giving effect to the right of Nations, Nationalities and peoples to self-determination. This proclamation institutionalized the establishment of two parallel systems of government; namely, the Central Transitional Government and the National/ Regional Self-governments and distributes legislative, executive and judicial powers between the two. The self-governments were vested such powers with in their geographic areas in all matters that were not expressly given to the central government (Proc. No 7/ Art 9 c1).

After four-year transitional period, the organization of state power along territorially based ethnic communities has been reinforced and elevated to Constitutional level. The new Constitution of FDRE requires that any state administration to be established by a regional state must be that type which best advances self-government, provides for a democratic order based on the rule of Law, and protects and defends the federal Constitution (Aberra, 2008:117 and Art. 52(2) (a) of the FDRE Constitution).

The nine National Regional Self-governments, which were established during the transitional period, are incorporated in to the new Constitution and renamed regions that make up the Ethiopian Federation (Art. 46 (1)). These regions are:1) the Region of Tigray, 2) the Region of Afar, 3) the Region of Amhara, 4) the Region of Oromia, 5) the Region of Somalia, 6) the Region of Benshangul-Gumuz, 7) the Region of the Southern Nations, Nationalities and peoples, 8) the Region of Gambela Peoples, 9) the Region of Harari People (Art. 47, (1), (1-9).

3. PECULIAR FEATURES OF THE ETHIOPIAN FEDERATION

3.1. THE ROLE AND PLACE OF ETHNICITY AND ETHNIC IDENTITY

The demise of the Mengistu government in May 1991 amounted to more than the collapse of a particular regime. It effectively marked the failure of a project, dating back to Menilek’s accession in 1889 of creating a ‘modern’ and centralized Ethiopian

state around the Shoan core. This project, which provided the unifying theme of Haile-Silassie's long reign, was tested to self-destruction by a revolutionary regime which provoked a level of resistance that eventually culminated in the appearance of Tigrean guerrillas [TPLF added] on the streets of Addis Ababa (Clapham, 1994:37). It was after such history of failed 'nation building' projects that the leaders of EPRD have been very quick to recognize the pressing demand of different ethnic groups for self-determination and related privileges. Clapham strongly argued that 'the attempt to create a strong and centralised state in one of the poorest countries in the world proved to be economically unsustainable as well as politically disastrous (ibid.).

The Ethiopian federation is unique in many aspects, if viewed from the existing dominant understanding of federalism³. Though it is obvious to observe some sort of novelty in a given political system some of the trends that Ethiopia has followed are interesting both academically and politically insofar as it departs radically from the usual fear of African states to 'play with the fire'⁴ i.e. ethnicity. For the purpose of this paper we will focus on some peculiar and debating issues of Ethiopian federation.

Ever since decolonization in the 1950s and 1960s, the belief that ethnic identity⁵ should be denied public expression in political institutions has been conventional wisdom in the continent [Africa] (Alem Habtu, 2003:4). Recognition of the importance people attach to ethnic identities and interests informs the Ethiopian experiment that accommodates the institutional expression of ethnicity in public life. Similarly Abdullahi (1998:452) eloquently argued that 'The killer disease of state in Africa has been the inability of the state to give a legal address or dimension to ethnicity or the national question within its constitutional structure. According to the same author 'Not one country in Africa has attempted to address the consequences or multi-ethnic dimension of the state, juridically.

Ethiopian ethnic federalism encourages political parties to organize along ethnic lines, and champions an ethnicized federal state (Alem Habtu, 2003: 5). For Turton the Ethiopian political transition has been radical and pioneering for the following reasons. 'It has been radical because it has introduced the principle of self-determination for federated regional units in a formerly highly centralized and

³ According to Ronald L.Watts the common structural characteristics of federations are: 1. At least two orders of government, one for the whole federation and the other for the regional units, each directly acting on its citizens; 2. A formal Constitutional distribution of legislative and executive authority and allocation of revenue resources between two orders of governments ensuring some areas of genuine autonomy for each order; 3. Provision for the designated representation of distinct regional views with in the federal policy making institutions, usually provided by the particular form of the federal second chamber;4. A Supreme written Constitution not unilaterally amendable and requiring the consent for amendments of a significant portion of the constituents units; 5. An umpire (in the form of courts, provision for referendums or an upper house with special powers); and Processes and institutions to facilitate intergovernmental collaboration for those areas where governmental responsibilities are shared or inevitably overlap (2008; 9).

⁴ Any academic examination of the nature and role of ethnicity in Ethiopia is peculiarly difficult (Christopher Clapham, 1994:27).

⁵ "African political leaders, experiencing it as destructive to their ideas of national unity, denounce it passionately. Commentators on the left, recognizing it as a block to the growth of appropriate class awareness, inveigh against it as a case of 'false consciousness'. Apologists for South Africa apartheid, welcoming it as an ally of continued white dominance, encouraged it. Development theorists perceive it as a check to economic growth, deplore it. Journalists, judging it an adequate explanation for myriad of otherwise puzzling events, deploy it mercilessly. Political scientists, intrigued by its continued power, probe at it endlessly. If one disapproves of the phenomenon, 'It is 'tribalism'; if one is less judgmental 'it', is 'ethnicity'." *Leroy Vail*, Introduction: Ethnicity in Southern African History 1, in: *Leroy Vail*, (ed.), *The creation of tribalism in Southern Africa* (1989) as cited in Abdullahi, 1998.

unitary state. It has been pioneering because Ethiopia has gone ... probably further than any state worldwide in using ethnicity as its fundamental organizing principle' (2005:88). That is why the Ethiopian style of considering ethnicity⁶ was called a 'bold experiment' by some writers such as Andreas Eshete.

With the new constitution Ethiopia starts to departure from its past ways of handling the issue of National question⁷. The new re-structuring considers the national question/ oppression of nationalities as the core of all problems. This assertion can be found in many parts of the constitution. For instance, preamble of the FDRE constitution of 1994 states 'We the Nations, Nationalities and People of Ethiopia... Fully cognizant that our common destiny can best be served by **rectifying historically unjust relationships** (emphasis added) and by further promoting our shared interests; Have therefore adopted, on 8 December 1994 this Constitution ... as an instrument that bind us in a mutual commitment to fulfill the objectives and the principles set forth above.' The word '*rectifying historically unjust relationships*' is self-explanatory of the past history of ethnic treatment.

The same constitution in Article 8, sub-Article 1 stated that 'All sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia'⁸. The affirmation of the basis of organizing the state structure is clearly stated in Article 39, sub-Article 3. It says '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.

⁶Messay Kebede strongly claimed that 'The venture into a revolutionary path is the direct product of the infatuation of Ethiopian students and intellectuals with Marxism-Leninism... [T]he ethnicization of Ethiopian politics is directly connected with the ideological hegemony of Marxism-Leninism among Ethiopian students and intellectuals in the 60s and early 70s. The impatience generated by the long postponement of necessary reforms could not but favor the adoption of radical positions' (Messay Kebede, 2008:1). Though it is an established fact that the leftist orientation was dominant within the student movement the explanation of the situation in terms of ideological *infatuation* is inherently reductionist and ignores the very contradictions that gave birth to the ethnicization of politics in Ethiopia. According to Messay Kebede, ethnicity was politicized only after the fall of Emperor Haile-Silassie, however as we can observe from the history of modern Ethiopian state, the politics has been always the game of ethnic exclusion and assimilatory inclusion, which is fundamentally ethnic in its nature.

⁷ The term *National Question/ the question of nationality* began to occupy the Ethiopian political discourse with the radicalization of Ethiopian Student movement in the 1960s. It is a Marxist analysis of the then Ethiopia and it is a culmination of different attempts to understand the situation of nationalities in Ethiopia. According to *Walleigne Mekonnen*, the known author of the famous Article 'on the Question of Nationalities in Ethiopia', to quote him directly" in Ethiopia there is the *Oromo* Nation, the *Tigray* Nation, the *Amhara* Nation, the *Gurage* Nation, the *Sidama* Nation, the... *Wolayta* (he used alternative name but omitted by the author of this piece), the *Adere [Harari]* Nation, and however much you may not like it the *Somali* Nation. This is the true picture of Ethiopia. There is of course the fake Ethiopian Nationalism advanced by the ruling class and unwillingly accepted and even propagated by innocent fellow travelers. What is this fake Nationalism? Is it not simply *Amhara* and to certain extent *Amhara-Tigre* Supremacy?... In short to be an Ethiopian, you will have to wear an *Amhara* mask (to use Fanon's expression). Start asserting your national identity and you are automatically a tribalist, that is if you are not blessed to be born an *Amhara*". For Messay Kebede the reason why the students are inclined to leftist idea is tactical and the aim of the students was "to gain the support of the masses that talked the educated elite into espousing the Marxist-Leninist ideology... Because liberalism was not enough to question the Amhara political and cultural hegemony, the first weapon to be used against the system was to get rid of the nobility and the imperial state by advocating a socialist society." (2008: 6-7).

⁸ According to Berhanu Gutema (2009:14) This [Article 8] may be tantamount to say that individuals or people are not recognized without their ethnic domain which can also contradict with the fundamentals of human rights provisions of the same constitution which declares: 'Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable' (Article 10).

Politically, the century old unitary state was transformed in to a federation of cultural groups, in which the constituent parts are meant to be fundamentally organized along ethnic identities. The radical adoption and the transformation of the state making ethnic nationalities the center of the state organization perhaps evince the bankruptcy of the preceding modes and structures of the Ethiopian state and is a precursor to new but desperate attempt to make the state relevant in African political scene (Abdullahi, 1998:442-43). This process of ethnic empowerment can be also seen as a process of halting the cold-hearted *Amharization* process. An illuminating instance that shows the extent to which being Amhara was important is described by Clapham. According to him,

‘Emperor Haile Selassie’s father’s father was Oromo; his father’s mother was Amhara: his mother’s father was Oromo; and his mother’s mother was Gurage. In a patrilineal society he would have been classed as Oromo, in a matrilineal one as Gurage; but to all intents and purposes he was Amhara, and it was his descent from his father’s mother (Amhara added), a member of the Shoan royal house, that provided the genealogical basis for his claim to the imperial throne (1994:29).

The intentional ethnic line choice made by the emperor is clear demonstration of the relevance of being Amhara during that time and it is also a good manifestation of the nature of the then system which favors one ethnic group over the other. The main reason for making ethnic identity the core of political restructuring is to reverse this historically rooted politics of segregation, which somehow have employed racial discourse and brutal measures of assimilation.

However, from the point of view of instrumental understanding of ethnicity Aregawi Berhe forwarded a strong argument against the claim that ethnicity can be rational tool for organizing a state. He continued saying “ethnicity helps opportunist ethnic entrepreneurs to manipulate the legitimate movement of the people in the direction that satisfies the ethnic elite’s parochial interest of which the crux of the matter is the appropriation of power and resources.”(Aregawi Berhe, ND:10).

Similarly Messay Kebede (2008: 7) stated that ‘Only by propagating an ethnicized polity could these marginalized elites successfully vie for power. Only as representatives of oppressed ethnic groups rather than of oppressed classes could marginalized elites pursue the political ambition of enthroning regional elites at the expense of the cosmopolitan or Ethiopianized elite’. The same author continue arguing that ‘Ethnicity is thus a construct of disgruntled and marginalized elites whose ambition for political prominence could not be achieved by means of liberal institutions’. For Messay ethnicity is actually a product of elite competition.

For critics, Ethiopian ethnic federalism has never allowed democratic participation of the constituent units but served as a mechanism of divide and rule for the ruling elite of the TPLF/EPRDF (Aregawi Berhe, ND: 14 and Merera, 2003). There are those who regard federalism based on ethno cultural consideration as dangerous and destructive. In this regard Daniel Elazar (1996, 167) contends that “Ethnic nationalism is at odds with the principle of federalism. In federalism consent should be the basis of division and sharing of power not language, religion or national myth”. For some critics the fluid nature of ethnicity makes political outcomes unpredictable. Aregawi Berhe (ND;13) argued that “[t]o maintain the dominance of the political

group that seized power through sheer military force, it [The EPRDF] devised a kind of 'ethnic federal system' without the participation or consent of the concerned people on the necessity for and application of such a structure. It was a top-down directive and imposed in such a way that only the TPLF would cling to and remain in power". The same author continues:

Politicized ethnicity, which could easily evolve to ethnic-nationalism, is, therefore, a risky enterprise in a society where resources are scarce and power has been contentious ever since. ...In the absence of institutional mechanisms to regulate or resolve interest-group differences and where traditional mechanisms are receiving staggering blows from all directions, the carving out of a federal structure based on ethnic identity may invite risks of protracted instability that could end up in violent conflicts (Ibid:3).

Since the establishment of the modern Ethiopian state the country was characterized by over centralization of power, oppression and assimilation of various identities to the culture of the then ruling *Amhara* elites. The system of decentralization [federalization] in Ethiopia is anchored on the very idea and principle of self-determination of the group⁹. Regional states are viewed as the expression of the self-governance of the ethnic groups and as such they have to be entrusted with all elements of power, responsibilities and functions (Tsegaye Tegenu, 2006:1). It is believed that the fundamental obstacle that hinders the democratic and developmental progress of Ethiopia was excessive concentration of political power and public services at the centre of political power, in other words there was centre-periphery tension. Efforts to decentralize Ethiopia were justified as a medication to this century old problem. This seems the reason for giving the residual power to the constituent parts of the federation¹⁰.

According to Elazar ethno-nationalists are the strongest forces against federalism. Similarly Basta Fleiner (2000:4) as cited by Asnake and Hussien (2007:71-72) argued that in federal polities every Constitutional conflict could easily turn into ethnic conflict at times with total consequences for internal peace. They further contends that ethnic federalism tends to be anti-liberal and anti-majoritarian; prone to conflicts and fragmentation; and frustrate country wide free mobility of citizens (ibid). For Messay Kebede (2008:7-8) an ethnicized political system does not easily lend itself to democratization. It would obviously be wrong to claim that the planting of democracy in Ethiopia has been fruitless. The establishment of democratic administrative structures is significant in itself. People have begun to understand what democracy can mean (Pausewang, Tronvol and Aalen, 2002: 238).

This grand political transformation consequentially alters the place of social and cultural attributes such as ethnicity in the country's political set up. For Chabal

⁹ A "Nation, Nationality or People" for the purpose of this Constitution, is a group of people who have or share a 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 (Article 39, sub Article 5 of the FDRE Constitution). However, some observers criticize the application of this Article and the imbalanced weight given to these values. For instance Aregawi Berhe argued that 'the practical application of the Article takes language as the only defining feature' and he also argued that ethnicity is inherently in contradiction with federalism insofar as, he argued, federalism is a rational political order and ethnicity is elusive and not rational. He also strongly concluded that the use of ethnicity by EPRDF is aimed at installing a one party rule by using the 'vagaries' ethnicity.

¹⁰ 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, sub Article 1 of the FDRE Constitution).

(2009:5) ‘the current [Ethiopian] regimes insistence on organizing political representation on an ethnic basis derives from a notion of the ‘*natural*’ organization of African peoples in today’s Africa- even if, like Museveni’s template, it can also be seen as self-serving.’ The same author continues arguing that ‘More broadly, there is a school of thought arguing that ethnicity in Africa is more than mere relic from the past. It is at the heart of the everyday realities of morality, accountability and representation and as such needs to form the bedrock of any realistic political theory of the continent’ (ibid: 5-6). ‘[T]he institutionalization of ethnonational identities is not illiberal or undemocratic – on the contrary, it is the outcome of liberal democracy in action, and it would be illiberal or undemocratic to preclude this as a possible outcome of politics (Kymilcka Cited in EZEKIEL GEBISSA Review).

Currently, diversity is viewed as a virtue that has to be managed with the aim of creating unity within diversity. The existence of various cultures no longer viewed as a burden and problem that must be avoided. This shift in political trajectory is accompanied by value changes on the very nature of the Ethiopia state. However, the constitutional role of ethnicity in Ethiopian politics is still the center contestation. With all the critics and the problems associated with the system, the Ethiopian path is peculiar for its determination to use ethnicity as a fundamental form of political organization. In this regard Abdullahi, after making critical analysis, concluded that ‘It [*ethnic federal experimentation added*] has reinvented the state in Africa, adopts an indigenous form of governance whereby the various ethnic nationalities have an overwhelming power over the central government and gives the state in Africa for the first time an “African look”¹¹’ (1998: 455).

3.2. THE RIGHT TO SELF-DETERMINATION UP TO AND INCLUDING SECESSION¹²

The FDRE constitution included crucial human and democratic rights provisions based on the Universal Declaration of Human Rights of the United Nations, which declared for unconditional respect of human rights. Notably, it claimed to have the beginning of a new chapter in Ethiopian history in which ‘each nation, nationality and people have the right to administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom, and fair and proper representation’ (Berhanu Gutema, 2009: 1).

With the advent of the federal arrangement the country has been redivided in to regional states, within borders generally following ethnic boundaries, to implement the idea of ‘self-determination’ for the nationalities’. Both the federal and the regional governments have their own legislative, judiciary and executive powers (Pausewang, Tronvol and Aalen, 2002: 231). Another unique feature of the Ethiopian federal system is the constitution right of secession, which is a constitutional right of ‘every

¹¹ It [the FDRE constitution added] is not a constitution for ‘African democracy’ or for a specific Ethiopian model. The constitution follows a modern ‘Western’ understanding of democracy. It provides for a division of powers and for the protection of human rights, and it declares all human rights covenants and instruments ratified by Ethiopia as integral part of Ethiopian law (Pausewang, Tronvol and Aalen, 2002: 230). However, it has to be reminded that it is the Ethiopian path to employ ethnicity as a base of state structure and future democratization of the state and society that the peculiarity lays.

¹² Secession means ‘simply the formation of a new political association among individuals who repudiate the existing state’s authority over them. It is a taking of territory that is claimed by an existing state, accompanied by the assertion that those doing the taking have a right to attempt to exercise over that territory the kind of control that only legitimate states have’ (Buchanan, 2004: 24–5 as cited in Wayne Norman, 2006:171).

nation, nationality and people'. According to Article 39, sub Article 1 of the FDRE Constitution, 'Every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession'¹³.

For some the secession clause was tantamount to state disintegration and collapse while the proponents considered it as an ultimate expression of collective right. Similarly the projections range from the optimist view that this secession clause will prevent the tendency of 'some' centralizing and assimilatory political forces and their thinking, therefore, it will be a bedrock for establishing and consolidating democracy to the pessimist conclusion that Ethiopia will follow the footsteps of former Yugoslavia and USSR i.e. state disintegration and the possibility of civil war.

The right of peoples to secessionist self-determination is by its very nature a radical right. Even more radical is the inclusion of such a right in to the constitution of African state. Ethiopia has definitely brought a new novelty to the constitutional foundation of the state in Africa (Abdullahi, 1998: 443). By externalizing the source of the secession right Aberra Jembere stated that 'The so-called "right of self-determination up to secession" ... seems to have been derived from the Constitution of the former Soviet Union and have no nomenclatural base and similarity with the international legal instruments of human right (1998:78). Contrary to the above assertion, Abdullahi (1998:444) 'from an international law perspective it [the right to secession added] incorporates a fundamental but radical norm of international law... Article 39 (1) is a restatement of international law's position on the right of nations, nationalities and people to secession and self-determination'.

For Messay Kebede (2008) the venture in to revolutionary and radical choice is the direct consequence of the infatuation of the Ethiopian students and intellectuals with Marxism-Leninism. For some it is an idea whose time may have passed (Aberra Jembere, 1998: 80). Whatever may be the source the official justification is that Article 39 is a manifestation of the voluntary union of the federation, where any group can join voluntary and withdraw peacefully.

Modern Jacobinism definitely rejects ethno federalist forms, as it believes that "The extra rights given to these ethnic groups lead to discrimination that divides people and the state institutions ensuring their territorial segregation destroy the unity of the

¹³ 1. Every Nation, Nationality and People in Ethiopia has an **unconditional** [emphasis added] right to self-determination, including the right to secession; 2. Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history; 3. 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; 4. The right to self-determination, including secession, of every Nation, Nationality and People shall come into effect: (a) 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; (b) When the Federal Government has organized a referendum which must take place within three years from the time it received the concerned council's decision for secession; (c) When the demand for secession is supported by a majority vote in the referendum; (d) When the Federal Government will have transferred its powers to the Council of the Nation, Nationality or People who has voted to secede; and (e) When the division of assets is effected in a manner prescribed by law. 5. A "Nation, Nationality or People" for the purpose of this Constitution, is a group of people who have or share a 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 (Article 39 of the FDRE Constitution).

nation and state and threaten with secession” (Juhasz, 2005:250). For Duchacek (1987: 207), the inclusion of the rights for secession in the federal bargain would facilitate the dissolution of the federal framework by encouraging centrifugal tendencies, but the right of secession would go along more with a confederal arrangement in which parts are completely autonomous to leave the confederation with very less difficulties and insignificant harm to each other. However, the point here is *why do we fear secession?*¹⁴

The historic mistreatment meted out to the right of peoples secession and self-determination was mainly due to the fact that the species of rights can only be exercised **by people against their state** (emphasis added)(Abdullahi, 1998:447). States being the main players on the international plane, a plane where much of international is legislated are naturally hostile to any right exercisable against them especially when the same impinges on their sovereignty and territorial integrity. States have in this regard exercised all blockages against the right to secede, after all they have skeletons in their closet to hide (ibid.).

In the Ethiopian context the overall nature of the criticism seems to emanate for many purposes and concerns. The dominant fear of the opponents is that it will lead to disintegration and state collapse. In terms of political force configuration this group of opponents is largely dominated by the unitarist Amhara and their fellow men. Their opposition is also a reflection of their rejection to the federalist solution which based itself centering ethnicity. The denial of past ethnic domination and inequality, the geographic conception of state which gives no regard for the wellbeing of the citizen is the defining characteristics of this centralist and nostalgic force. The dominant position this group used to have together with their wrong assumption as the defenders of Ethiopian unity puts them in confrontational line against the constitutional right of secession. Inherent in the constitutional stipulation of the right to secede is the concept of equality. Similarly Wayne Norman (2006) succinctly stated that ‘One of the dilemmas of recognition in multinational states is that if only a small number of groups are recognized, the others will feel slighted; but if many groups are recognized, the significance of the recognition will seem diminished for the groups who feel themselves to be more ‘fundamental’. It is this dilemma which blocks the heart and mind of the Amhara’s from accepting the equal status that the constitution provides.

The more genuine opposition seems to emanate from the fear that ethnic entrepreneurs may use it for their self-serving interest and against the fundamental interest of the state and the group they say represent. Once common legacy is rejected, no reason remains to condemn secessionist movements. An equally valid way of getting rid of oppression, however, would have been the struggle for democratization. But since Ethiopia must be redesigned, the recognition of the right

¹⁴ It is now common to distinguish three rival moral theories of secession (there are also a few hybrid theories mixing elements of these three theories): 1. **Nationalist theories of secession**, which hold that a territorially concentrated group may secede if and only if it is a nation and the majority of members of the nation (or inhabitants on the territory it proposes to take with it) want to secede. 2. **Choice theories of secession**, which hold that (with certain caveats) any geographically defined group may secede if and only if the majority of its members choose to. 3. **Just-cause theories of secession**, which hold that a group has a right to secede only if it has ‘just cause’; for example, if it has been the victim of systematic and continuing discrimination or exploitation, or if its territory had been illegally incorporated into the larger state against its will (within recent memory) (Vincent Norman, 2006: 183).

to secede to resolve what is but a democratic issue is a forced component of the revolutionary project (Messay, 2008:1). One Ethiopian observer argued that the clause (Article 39 Added) is meant to prevent domination. Many agree that it was [the] monolingual, monocultural, monoreligious, and political domination ... of the Ethiopian state that has been causing secessionist movements in the country. This implies that if there is no national domination and suppression, whether the right to secede is constitutional or not, secession does not become a serious political agenda (Milkessa Midega, 2011). There are some commentators who questioned the practicality of the right to secede. Berhanu Gutema stated that 'the constitutional pledges for a right to self-administration or secession is more of rhetoric than an achievable promise for many of the ethnic groups, as the long and complex procedures seem difficult to fulfill'(2009:9). According to the same author the secession right has produced two challenges:

First, it becomes an incentive for various ethnic groups to demand for a separate self-administrative constituency and separate regional state that has resulted for bloody conflict, displacement and ethnic hostility. Second, the rhetoric has generated a big voice that denounced the 'secession right' as a hidden motive to destroy the Ethiopian state. However, such big denunciation has created confusion among many ethnic groups who are suspicious regarding the motive behind the denunciation. And the ruling group successfully maneuvered the denunciation as an opposition to the rights of ethnic groups for self-administration, thus it restlessly worked for deepening the suspicion in order to capitalize political support from various ethnic groups for its hegemonic interest (ibid.).

Yet democratic multinational federations have succeeded in taming the forces of nationalism (Kymlicka, 2004: 267). Federalism helps to reconcile the conflicting demands of forces of integration and forces of separation (Aberra, 2008:79). In this regard Will Kymlicka argued that "democratic federalism has domesticated and pacified nationalism, while protecting individual rights and freedoms. It is difficult to imagine any other political system that can make the same claim." (2004:267).

The tension within Ethiopia between the forces of centralism and those of fragmentation has not been fully resolved in favor of the latter by the collapse of the Mengistu regime, but remains intricately balanced even with in the current political structure (Clapham, 1994). The political structure that keeps the balance is the FDRE constitution by accommodating both centrifugal forces (by providing them the right to self-determination, including and up to secession) and centripetal forces (assured them that it is possible to establish a democratically unified state via federalism, *unity in diversity*). The concomitant value transition in Ethiopia is from the state of mind which considers cultural diversity as antithesis of national unity towards a view which respects the virtue of diversity as a source of democratic unity.

3.3. The Nature and Responsibility of The Second Chamber: The House of The Federation

The FDRE constitution established a parliamentary system of governance with a two-chamber parliament at the federal level, namely House of People Representative

(HPR) and House of Federation (HF) (Article 45). The first House is the federal legislative body, which has the supreme authority in the federation.

The HPR is granted a full power of legislation in all matters assigned to the federal jurisdiction by the constitution (Article 55). The second chamber, which is called the House of Federation (HF), is composed of representatives of Nations, Nationalities and Peoples' (Article 61). The nature and function of this house can only be understood if and only if the political history associated with it is understood. This house is also called the house of nationalities or house of ethnic groups. According to the constitution 'Each Nation, Nationality and People shall be represented in the House of the Federation by at least one member. Each Nation or Nationality shall be represented by one additional representative for each one million of its population' (Article 61). There are some commentators who argue that the Ethiopian federation is uni-cameral insofar as the second chamber has no legislative role as it is the case in many federations. For some commentators the inability of this house to legislate is making the house very weak in functional term.

In generic sense the House of Federation has the power to interpret the Constitution¹⁵ and organize the council of constitutional inquiry (Article 62). Other major powers and functions of this house include, making of decision on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession; promote the equality of the Peoples of Ethiopia enshrined in the Constitution and promote and consolidate their unity based on their mutual consent; make every effort to find solutions to disputes or misunderstandings that may arise between States or between states and the federal government; 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; determine Federal intervention if any State, in violation of this Constitution, endangers the constitutional order (Article 62 of the FDRE Constitution).

The way members of the house are elected is also another point of debate. According to Article 61 (3) of the FDRE Constitution, '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'. Practically the dominant practice is that the state councils send representatives to the house. It is because of this that the house is criticized for being dependent on the executive bodies of the constituent parts, while the house is endowed with big responsibilities such as interpreting the constitution, which is usually the prerogative of Supreme or Constitutional courts in other federations. Berhanu Gutema claims that 'the power to interpret the constitution can certainly fall down into non-independent and partisan arm of a government. ...that could undermine its independence and impartiality' (2009:13). [T]his system of non-judicial constitutional review has resulted in a lack of human rights jurisprudence, severely weakened the judiciary's power to check the constitutional excesses of the other branches of

¹⁵ **Article 83 of the FDRE constitution: Interpretation of the Constitution** 1. All constitutional disputes shall be decided by the House of the Federation. 2. The House of the Federation shall, within thirty days of receipt, decide a constitutional dispute submitted to it by the Council of Constitutional Inquiry.

government, and resulted in an inefficient system that precludes access to justice (Report, 2008).

The assignment of the right to interpret the constitution to the House of the Federation is a unique experience which emanated from the past historical circumstances of the Ethiopian state, which was characterized as highly centralized, assimilatory, and oppressive.

Conclusion

Though Ethiopia is known for its uninterrupted sovereignty and non-colonized existence externally, it was, paradoxically, oppressive and assimilatory for its own people. The coming of EPRDF to the saddle of power heralds the advent of federalism which is believed to give solution to the century old undemocratic nature of the Ethiopian state and society. It was radical departure from the previous regimes approach, at least in principle. In doing so the Ethiopian experience exhibits some peculiar features.

The first peculiarity, at least from the African political tradition, is the role given to ethnic identity. The contemporary government, which is also the founder of the current federal system, believed that the main problem of the Ethiopian state was over centralization of power by the Amhara ethnic group who forcefully impose their identity on dozens of other ethnic groups and define Ethiopia in their image. It was this claim which justifies why the new system focuses on empowering the previously disadvantaged and forgotten ethnic groups. Therefore, as part of the ethnic emancipation processes the federal system was made to structure itself according to the ethno-linguistic settlement pattern of different ethnic groups. The new constitution declared that sovereignty lays in 'nation, nationality and people of Ethiopia'. Unlike other African states, which were denying the very factual existence of ethnic form of identity, the Ethiopian federal arrangement accepts ethnic identity as a genuine form of state arrangement and base for organizing administrative organs.

In related terms, the Ethiopian federal system, again exceptionally¹⁶, gives the right to self-determination up to and including secession for every nation, nationality and people. This stipulation was meant to prevent future assimilatory and oppressive trends of some political forces. It is also, as the founders claim, a manifestation of the voluntary union of 'nations, nationalities and peoples' to live together in peace and prosperity. However, there are critics who questioned the genuineness of inserting the right to secede.

Finally, the Ethiopian second chamber has the power to interpret the constitution. Though criticized for high probability of partiality and independence, the framers of the constitution argued that insofar as the constitution is a political covenant between and among different ethnic groups the final power to interpret the constitution shall be given to an institution which is home for every nation, nationality and people. However, it is too early to pass the final verdict on Ethiopian federalism and the prospect of these new trajectories accommodating diversity.

¹⁶ The 1983 Constitution of St. Kitts and Nevis have also a secession clause.

BIBLIOGRAPHY

- Abdullahi, Ahmednasir M (1998) "Article 39 of the Ethiopian Constitution on Secession and Self-determination: A Panacea to the Nationality Question in Africa?" in **LAW AND POLITICS IN AFRICA ASIA AND LATIN AMERICA** 31 Jahrgang-4. Quartal 1998.
- Aberra Dagafa (2008) "The Scope of Rights of National Minorities under the Constitution of the Federal Democratic Republic of Ethiopia" in **Serious of Ethiopian Constitutional Law**, Faculty of Law. Addis Ababa: AAU Press.
- Aberra Jembere (1998) 'Citizenship and respect of the minorities under the [E]thiopian constitution' in Kante and Pietermaat- Kros (eds.) **Towards the Renaissance of Constitutionalism in Africa**. Goree, Senegal: Goree Institute.
- Alem, habtu (2003) "Ethnic federalism in Ethiopia: Background, Present Conditions and Future Prospects" paper Submitted to the **Second EAF International Symposium on Contemporary Development Issues in Ethiopia**, July 11-12, 2003, The Ghion Hotel Addis Ababa, Ethiopia.
- Andreas Eshete (2004)"Ethnic federalism: New Frontiers in Ethiopian politics" Paper prepared for the first national conference on **Federalism, conflict and peace building**, Addis Ababa,5-7 May 2003.
- Aregawi Berhe (ND) 'Ethnic Federalism in Ethiopia: Genuine Federalism or Divide and Rule?'
- Asnake kefale and Hussien Jemma (2007) "Ethnicity as a basis of Federalism in Ethiopia: cases of the Harare National Regional state (HNRS) and Dire Dawa Administrative (DDA)" in Kasahun et.al(eds.) **Electoral Politics,decentralized Governance and Constitutionalism in Ethiopia**. Addis Ababa: AAU Press.
- Assefa Fiseha (2007) **Federalism and The Accommodation of Diversity in Ethiopia**. Wolf Legal Publisher (WLP): Netherlands.
- Berhanu, Gutema Balcha (2009) 'Constitutionalism in the Horn of Africa: Lesson from the new constitution of Ethiopia' DIIPER RESEARCH SERIES WORKING PAPER NO. 15.
- Chabal, Patrick (2009) **Africa: The Politics of Suffering and Smiling**. London and New York: Zed Books.

- Clapham, Christopher (1994) "Ethnicity and the national question in Ethiopia" in Peter Wood Ward and Murry Forsyth (eds.) **Conflict and Peace in the Horn of Africa: Federalism and its Alternatives**. Great Britain: Dartmouth.
- Duchacek Ivo D (1987) **Comparative federalism: The territorial dimension of politics**. America: University Press of America (Lanham, MD and Philadelphia).
- Ezekiel Gebissa (2008) **The Journal of African History**. Vol.49 Issue 02: pp 335-338
- Elazar, Daniel J (1996) "Federalism, Diversity and Rights" in Ellis and G. Alan Tarr (eds) **Federalism & Right**., USA :Rowman and little field publishers.
- Fantini, Emanuele (ND) "State Formation and Capacity in Ethiopia: between the legacy of a centralized past and the promises of a federalist present". Department of political studies: Turin.
- JUHÁSZ József (2005) 'ETHNO-FEDERALISM: CHALLENGES AND OPPORTUNITIES' Vol. LVII, br. 3, pp. 245-263.
- Kymlicka, Will (2004) "Justice and Security in the accommodation of minority nationalism" in May Modood and Suqites (eds.) **Ethnicity, Nationalism and Minority Rights**. Cambridge: Cambridge University Press.
- Levine, Donald (1974) **Greater Ethiopia: The evolution of multi-ethnic society**. Chicago and London: University of Chicago press.
- Merera Gudina (2003) **Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy**, 1960-2000. Netherlands: Shaker Publishing.
- Messay Kebede (2006) 'The Ethnicization of Ethiopian Politics: Origins and Significance'. Sudan Tribune, Thursday 30 November.
- Milkessa, Midega 'Constitutionalizing the right to secede: Does it threaten the unity of Ethiopia?' www.thereporterethiopia.com/politics-law/ Saturday, 09 April 2011.
- Norman, Wayne (2006) **NEGOTIATING NATIONALISM: NATION BUILDING, FEDERALISM, AND SECESSION IN THE MULTINATIONAL STATE**. New York: Oxford University press.
- Pausewang, Tronvol and Aalen, (2002) "Conclusion: Democracy Unfulfilled?" in Pausewang, Tronvol and Aalen (Eds.) **Ethiopia Since the Derg: A decade of Democratic Pretension and Performance**. Uk and USA: Zed Books Ltd.
- Report (2008) 'SILENCING THE ETHIOPIAN COURTS: NON-JUDICIAL CONSTITUTIONAL REVIEW AND ITS IMPACT ON HUMAN

RIGHTS' Nineteenth Annual Philip D. Reed Memorial Issue,
Fordham International Law Journal, December, 2008.

Tetzlaff, Rainer (2008) "Committed leadership matters! Ethiopia under Prime Minister Meles Zenawi and the question of continuity of political leadership" in Bruchhaus, Eva Maria and Monika M. Sommer (eds.), **Hot Spot Horn of Africa Revisited: Approaches to Make Sense of Conflict**. Berlin: LIT VERLAG.

Tewodros Alefe Meles (2008) 'RHETORIC OR REALITY: SECESSION AS A HUMAN RIGHTS APPROACH TO ACCOMMODATION IN MULTIETHNIC ETHIOPIA' Paper Submitted to the **International Summer School on Federalism**, Fribourg University, Institute of Federalism, Switzerland.

Tsegaye Tegenu (ND) 'The Model and Making of Ethnic Federalism: Problems for Consideration'. An Article extracted from Tsegaye Tegenu, (2006), **Evaluation of the Operation and Performance of Ethnic Decentralization System in Ethiopia**. The Case of the Gurage People, 1992-2000. Addis Ababa University Press.

Turton, David (Ed.) (2005) Ethnic federalism: The Ethiopian experience in Comparative Perspective., Athens, Addis Ababa: Oxford.

Walle Engedayehu (1993) "Ethiopia: Democracy and the Politics of Ethnicity". **Africa Today**, Vol. 40, No. 2, The Horn of Africa: Reconstructing Political Order (2nd Qtr. 1993), pp. 29-52.

Walleigne Mekonnen (1969) 'On the Question of Nationalities in Ethiopia' Arts IV, HSIU Nov. 17.

Watts Ronald L (2008) **Comparing Federal Systems**. McGill Queen's University Press: Montreal and Kingston. London, Ithaca.

Legal Documents

1. Constitution of the Federal Democratic Republic of Ethiopia, adopted on 8th of December 1994 and came in to force on 21 August 1995,(Proclamation No.1/1995,**Federal Negarit Gazeta**, First year No. 1 Addis Ababa, 21 August, 1995).
2. National/ Regional self- Governments Establishment proclamation No 7/1992.
3. The Transitional Charter of Ethiopia, Addis Ababa, Ethiopia
4. The 1983 Constitution of St. kits and Nevis.