

# Ethiopia's Experiment in Accommodating Diversity: 20 Years Balance Sheet

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*In 1991, after years of centralized rule that emphasized unity at the expense of diversity, Ethiopia adopted a federal system that aims at accommodating diversity. This article assesses Ethiopia's experiment with federalism in achieving the promised goal of managing diversity and ensuring stability. The assessment is made, not in the abstract, but using well established indicators that are familiar in the comparative federal literature as adapted to the Ethiopian context (institutions and policies adopted to address age-old grievances being the key). While there has been a significant move in terms of addressing the 'nationality question', improving the socio-economic sector and infrastructure, such as roads and telephone services - so much so that Ethiopia plans to be the 'energy giant of the Horn'- there are also growing concerns. The Federation's entanglement with the ruling party, its reliance on soft institutions of democracy and narrowly-based institutions of power-sharing are some of its chief challenges. Furthermore, although states are given broad mandates to design policies that fit their local context, in actual terms, their role is limited to the implementation of policies designed at the centre. Regional states have yet to assert their powers as proclaimed in the Federal Constitution. The Federation also lacks clear institutional and policy options that deal with 'inter-ethnic or boundary disputes' and regional state minorities.*

## Introduction

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2, Among the PhD dissertations see Solomon Negussie, *Fiscal Federalism in the Ethiopian Ethnic-based Federal System*, Nijmegen: Wolf Legal Publishers, 2006; I make no attempt to address fiscal issues here; Assefa Fiseha, *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study*, Nijmegen: Wolf Legal Publishers, 2006); Yonatan Tesfaye Feseha, *Institutional Recognition and Accommodation of Ethnic Diversity: Federalism in South Africa and Ethiopia*, University of Western Cape, 2008; Christophe Van der Beken, 2007 (University of Ghent, written in Dutch and not yet published; and Asnake Kefale, *Federalism and Conflict in Ethiopia: Comparative study of the Somali and the Benishangul- Gumuz Regions*, University of Leiden, 2009.

3, Regrettably, as far as the case studies from Ethiopia are concerned, the Conference was more of a public relations exercise, notable experts on Ethiopian federalism either missing or playing little part.

4, See for example Minase (1996: 1-8) and Brietzke (1995: 19-38); a notable exception is Jon Abbink (2009 and 2006) who has written extensively on the challenges of democratization and the nature of political culture in Ethiopia. Crucial points to our understanding of federalism in Ethiopia, are considered towards the end of this essay.

Unlike the early period of the 1990s, Ethiopia's federalism has of late attracted a good deal of attention,<sup>2</sup> so much so that, in 2010, the Fifth International Conference that is coordinated by the Forum of Federations was conducted in Ethiopia.<sup>3</sup> There were a few studies made immediately after the adoption of the Federation in 1995.<sup>4</sup> These studies were limited to analysis of constitutional clauses but were very detached from reality and lacking relevant empirical detail. Written within a year or so after the adoption of the Constitution, it was too early to make a sound judgment. Two categories of writers, though divergent in their interpretations, emphasized the design of a peculiar federal system (nicknamed 'ethnic federalism') either as a curse leading to fragmentation along the lines of failed former communist federations such as Yugoslavia and the Soviet Union (Maimire 2003; Alemante 2003: 88)<sup>5</sup> or thought of as a magic remedy that will solve all Ethiopia's political ills. (Fasil 1997; Alemseged 2004). Yet many objective observers have already concluded that the design of a federal system in itself, of whatever type 'on its own..., is not a panacea for conflict, nor, however, is it simply the next step on the road to secessionist conflict. It is at once a problem and a solution. Whether it is one or the other depends a great deal on other factors...' (Erk and Anderson 2009: 199; Watts 2008). We will come back to these factors, but for the moment it is vital to indicate that both groups mentioned above, by focusing only on the design of the Federation as either a

5, On the contrary, Kymlicka rightly demonstrated that 'evidence of the last forty years of multiculturalism in the west shows that those that adopted it never descended to civil war, anarchy or faced military coups or suffered economic collapse. On the contrary they are peaceful, stable and prosperous. This refutes some of the argument about the destabilizing effects of multiculturalism, as the first step on a slippery slope towards ethnic strife, balkanization and local tyranny.' Kymlicka (2007: 135-136).

6, The secession clause is embodied in Article 39 of the 1995 Ethiopian Constitution. It is one of the most contested provisions of the Constitution, on which much has been written. Article 39 is, however, a broad one, not limited to the right to secede. It establishes the right to self-government of ethno-nationalist groups including fair representation at all levels of government, and lays down the procedures for secession. Its inclusion in the Constitution - apart from the fact that it was a long held view of the current ruling party owing to its leftist inclinations - was justified as a means of bringing national liberation fronts such as the Oromo and the Ogaden National Liberation Fronts to the negotiation table. Yet the experience of Eritrea, (Eritrea seceded from Ethiopia in 1993 and is currently neither internally peaceful nor at peace with neighbours) and other new states suggest that secession is not the right means to address a crisis of governance. It replicates the same old normative political issues in the new state. Hence experts put forward more accommodative political solutions such as federalism, power-sharing and decentralization as a way out. (Horowitz 2003).

problem or a solution, did not help greatly to our understanding of federalism, particularly the Ethiopian one. They do not go far enough to explain the crucial factors and circumstances that affect the operation of the Federation to go one way or the other. Besides, the critics' main argument that the Federation may lead to fragmentation is based on evidence from failed communist federations which according to close observers were neither genuine nor democratic from the outset (Elazar 1987; Stepan 1999; Roeder 2009). One could thus counter their argument by pointing to federations such as India, Canada and Switzerland that, at least so far, continue to work well. It should also be noted that 'it is not so much because they are federations that the countries have been difficult to govern but because they were difficult to govern in the first place that they adopted federation as a form of government' (Watts 2008: 180). But even on a normative level (see below, Section 3, 'The Pillars of Ethno-nationalist-based Federations') if there are certain factors related to a territorially grouped and politically salient mobilized diversity in a polity, it seems that there is little choice other than federalism to manage them.

More relevant studies on Ethiopian federalism are those that focus on specific cases. Some of these are on the background to the federal process, focusing more on why the secession clause<sup>6</sup> was included in the Constitution, with a conclusion that 'the future of federalism in Ethiopia is unclear... if this federal experiment fails no one knows the alternatives' (Alem 2005: 332). Among the other useful case studies one can refer to those that identify the fluid nature of ethnic identity and its problems with rigidly defined ethnic-based boundaries (Asnake 2010). However, useful as these studies may be, no one can predict whether or not all ethno-nationalist-based mobilizations in Ethiopia will prove to be as fluid as the studies suggest. Another study, though largely descriptive, points to an important missing variable: the lack of a clear policy and institutions to deal with territorially dispersed diversity, and recommends non-territorial autonomy to complement the existing federal structure (Van der Beken 2010). Anthropological studies focused more on the contested, and at times contradictory narrations of various contenders for power at local level (Dereje 2006). As such some of the studies are vital for an understanding of the fears and concerns of such groups, as the centre often lacks such understanding, but the studies often fall short of investigating the institutions and policy alternatives to address such deep rooted concerns.

As indicated above, albeit briefly, either the studies lack empirical detail or refer to specific cases and do not show the operation of the Federation at a macro level. The aim of this paper is to assess, on the basis of years of accumulated data, whether Ethiopia's experiment with federalism is achieving

the promised goals of managing diversity and ensuring stability, or whether it is exacerbating regional/ethnic-based conflicts, as many of its critics have feared since its establishment. The assessment is made not in the abstract but using well established indicators that are familiar in the comparative federal literature as adapted to the Ethiopian context. This brings us back to where we stopped earlier, namely the need to review what those ‘great deal of factors’ are. They are not wholly separate from federalism, on the contrary, they are strongly intertwined with it. Certainly, the first parameter is to look into constitutional principles of federalism particularly the institutions, policies used to accommodate diversity, and powers allocated between the two levels of government. These constitutional principles are discussed in the first section, following a brief background analysis of the Ethiopian federal system. At the end of the day, whether groups will remain loyal to the overarching federation or will prefer to walk away from it, depends on whether we have designed appropriate institutions of ‘shared rule and self- rule’<sup>7</sup> and language and other policies to address their demands. It is also about whether constitutionally proclaimed powers of regional states are practiced in reality or whether this is constrained by the political process. The logic is simple.

Why would ethno-nationalist groups<sup>8</sup> prefer to stay in the Federation if they do not think they are part of it? The hard lesson emerging from relevant comparative studies (Horowitz 1985; Lijphart 1977) is that the more ethno- nationalist forces see their image at the federal level, the more they think they are part of it and the less they want to move away. This is crucial factor and perhaps the top one among the great deal of ‘other factors.’

The second set of ‘a great deal of other factors’ relate to the impact of party politics and democratization on the Ethiopian federal system. The party system in place plays a crucial role because it matters whether the political parties

7 Federalism as defined by the late Daniel Elazar (1987: 12) is a combination of ‘shared rule and self-rule.’ A more elaborate definition would include five elements: 1) two levels of government (one for the whole federation and the other, for individual states or constituent units) rule the same land and people; 2) each level has some area of action in which it is autonomous, guaranteed by the Constitution and not subject to unilateral change; 3) the states are represented in the federal policy-making, usually, but not exclusively, in the second chamber; 4) the polity provides some form of interaction, formal or informal, for joint action at both levels of government on common issues; and finally 5) it has an institution, or institutions, for mediating intergovernmental conflicts. Watts, *supra* (2008: 9).

8, The phrase ethno-nationalist groups refers to groups found regionally concentrated that conceive of themselves as a nation within a larger state and are mobilized behind an ethno- nationalist party to achieve representation/recognition of its nationhood either in the form of an independent state or through territorial autonomy within a larger federation. Compared to other forms of social mobilization, such as class and gender, the mobilization of such ethio-nationalist groups is more prominent. Kymlicka (2007: 68); Hale (2008: 2-3).

in Ethiopia are regionally-based or centrist. Both are extremes not favourable to a stable federal system (Riker and Schaps 1987). Centrist ones want to return to a unitary system, now an outdated choice in Ethiopia's current context. The background section highlights why Ethiopia went through political turmoil in the 20<sup>th</sup> century as a result of the extremely centralized regimes of Haile Selassie (1930-1974) and the Military Junta (1974-1991) otherwise known as the *Derg* ('Committee' in Amharic). Exclusively regionally-based parties, particularly if identity-based (either ethnic or religious) are also risky because, unless they are counterbalanced by multi-ethnic-based parties bridging them at the centre, can lead to deadlock - as is the case in Belgium - or even to fragmentation, as was the case in the failed communist federations. The nature of the party system in Ethiopia and its impact on the Federation is discussed in the last section.

Democracy and federalism are also strongly linked. Indeed, it is difficult to envisage genuine federalism's success without democracy. The adoption of the Federation, the adaptation process of federal constitutions to changing circumstances, the continuous interaction between the two levels of government through forums of intergovernmental relations, among others are very much affected by the democratic process. Multiple centres of decision-making, political pluralism and not least democratic institutions, such as the parliament at federal and regional state level, are affected one way or the other depending on whether the system is democratic or not. These issues, too, are briefly discussed in the sections on division of powers and institutions, as well as on the challenges of democratization.

The way a federation responds to newly emerging challenges and the status of minorities at regional state level are also vital components of the 'great deal of other factors.' Primarily it is about whether the Ethiopian Federation puts in place some safeguards in the form of relevant institutions and policies to address such issues, but it is also about how responsive the system is to these challenges. Otherwise the Federation will sooner or later face stress. The wave of pro-national minority rights in the west in the form of federalism, or by other means in the last four decades, was possible because empowering national minorities at local level was conditional on whether such new majorities in their territories were also ready to respect the rights of both individual citizens and new kinds of minorities (Kymlicka 2007). These two points (the new set of challenges and the position of local level minorities) are crucial variables in Ethiopian federalism and are part of this essay.

### ***1. Brief Background***

Ethiopia is widely known as a country that succeeded in defeating Western

colonial domination in the African continent. Ethiopia is the second largest country in Africa (after Nigeria) in terms of population size, and is highly multicultural and multi-religious. It is home to more than eighty ‘nations, nationalities and peoples,’ as defined by the Constitution. Of these, four nationalities - the Oromo with 34.5 percent (25.5 million), the Amhara 27 percent (19.8 million), the Somali 6.2 percent (4.5 million), and the Tigray 6.1 percent (4.5 million) - constitute about 74 percent of the total population.<sup>9</sup> While language is a key defining feature of each group, clan (as in the lowland states of Afar and Somali), provincialism/regionalism (as in the Oromo, Tigray and Amahara Regional States), and religion are also important factors in inter-group and intra-group relations.

Ethiopia is also religiously diverse - with 44 percent of its population professing Orthodox Christianity, an estimated 34 percent being Muslim, and the rest belonging to Protestant, Catholic and various indigenous religions. The two oldest religions, Christianity (since the 4<sup>th</sup> Century) and Islam (since the 7<sup>th</sup> century), although sometimes at odds with one another, have served as unifying factors cross-cutting ethno-linguistic boundaries. The more than 2000 years of long-standing independent history,<sup>10</sup> common civilization ethos, as well as a shared history of resistance against colonial aggression, also left a strong unifying legacy that serves as a tool for federal integration. Indeed, the preamble of the Constitution, while acknowledging the historically unjust relations among the groups, emphasizes common interests and a common outlook resulting from centuries-old interaction. The existence of cross-cutting as opposed to reinforcing cleavages is one of the ‘*great deal of other factors*’ identified by many experts of comparative federalism (Watts 2008:180; Linder 1998).

The long years of independence do not mean that Ethiopia’s territory and provincial arrangements remained stable for centuries. Ethiopia expanded and shrank depending on the strength of its rulers. It has also undergone various elements of ‘integration and disintegration’ in its history (Maimire 2006:14). Provincial boundaries have also been restructured several times. In the twentieth

9,15 million (20 percent of the total population) of which are found in the Southern regional states, an amalgam of some 56 ethnic groups. The total population estimate of 2007 is 74 million. See Summary and Statistical Report of the 2007 Population and Housing Census Results issued by the Central Statistical Agency (CSA) at [http://www.csa.gov.et/pdf/Cen2007\\_firstdraft.pdf](http://www.csa.gov.et/pdf/Cen2007_firstdraft.pdf) as accessed on August 29, 2011. 10,The Ethiopian State, in its loose sense, begins with Axum (first century AD to approximately 1150.) (Bahru 2001), Levine (2000: 90-110).

11,The exceptions include Yodit/Gudit’s attack on the Christian empire in the 10<sup>th</sup> century; the campaign of Imam Ahmed (1527-1543) and the Age of the Princes (*Zemene Mesafint* 1769- 1855). The power at the centre had to subject itself almost completely to regional forces.

century alone, nearly all the emperors and the military divided and subdivided provinces several times. The country was reorganized again after the overthrow of the military regime in 1991 with a view to ensuring self-rule for the major nationalities. However, unlike other African states, the boundaries of the Ethiopian state are largely the result of internal processes of power expansion and consolidation, particularly at the end of the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup> century.

Except for the 20<sup>th</sup> century and barring a few earlier exceptions,<sup>11</sup> Ethiopia existed for the most part of its long and independent history, principally under a monarchy with the Orthodox Christian faith serving as pillars of unity and various kinds of regional forces representing diversity and exercising important powers such as taxation on some economic activities, maintenance of local security and regulation of trade (Bahru 1991).

The decentralized feudal state structure changed dramatically with the emergence of a strongly centralized unitary state towards the last quarter of the 19<sup>th</sup> century. It was further consolidated during the reign of Haile Selassie (1930- 1974), and the Military regime (1974-1991) that replaced it which gave rise to a protracted civil war and political instability (Gebru 1991). Even after the 1974 sweeping Revolution, except for the change of ideology from Solomonic genealogy<sup>12</sup> to Socialism, the centralist character of the state and its assimilationist policy remained intact and was even strengthened to a degree that far exceeded that of the imperial regime (Clapham 2002).<sup>13</sup>

The process of centralization - some preferring to call it ‘nation building’ - was not without consequences. Firstly, the incorporation of the South, the Southwest and Eastern areas from their previously semi-autonomous position to complete absorption meant that the notion of the state, its values, institutions

12, Ethiopian legend has it that Menelik I, son of the Queen of Sheba of Ethiopia and of King Solomon of Israel is the founder of the Ethiopian State that was based in Axum. All other Emperors had to claim this legend to legitimize their power. See Markakis 1974.

13, See also J. Young 1996 and Ivo Strecker, ‘Glories and Agonies of the Ethiopian Past’ review article at <http://ntama.uni-mainz.de/~aau/glories.html> as visited on 2/11/01.

14, The meaning of this notion is far from clear. Young university students in the 1960s and 70s, influenced by Marxism-Leninism and frustrated by the age-old monarchy, argued in favour of liberating “oppressed nationalities” from an oppressor group but as later events indicate, it meant different things to different groups. For some it meant respect for diversity but to be implemented under a class perspective. For the current ruling party, Ethiopia is nothing but the outcome of the free will of the nationalities, rather than abstract individuals, and the nationalities have not only the right to self-rule but also the right to self-determination, secession included. See Articles 8, 39, 46 and 47 of the 1995 Ethiopian Constitution. For details, see Young 1997.

and culture were imposed on the incorporated kingdoms. Secondly, the state became extremely centralized at the expense of regional rulers. The political marginalization of the bulk of the community led to civil wars whose cause fundamentally differed from earlier ones (Gebru 1991). This time resistance not only called for state reform but even at times challenged the state itself (Clapham 1993). Several studies point out that conflict in traditional Ethiopia was mainly an instrument for asserting some level of regional autonomy and not for upsetting the whole system, nor was it for separation (Gebru 1991; Mesfin 1999:140). ‘God cannot be blamed, the King cannot be accused’ was the main tenet. The opposition, whatever form it took, looked mainly for adjustment and restoration of violated rights such as better administration, lower taxes, respect for local autonomy and reduction of corruption. By and large the legitimacy of the monarch and its ideological roots were not attacked. In the 1960s, however, things started to change. The new forms of resistance that took shape largely in the form of ‘national liberation fronts’ changed significantly in terms of leadership, social composition, motivation and ideological orientation (Clapham 1993:29).

Thirdly, it brought about all sorts of diversity in terms of religion, language, tradition and culture. However, as the state failed to accommodate this diversity, religious, linguistic, cultural as well as political and economic dominance gave birth to the ‘question of nationalities.’<sup>14</sup> This notion had its origins in the former USSR under Stalin, when the diverse nationalities enjoyed cultural and limited administrative autonomy under the hegemony of the Communist Party (Clapham, 2002: 21). The consequence was that Ethiopian clandestine political debate of the 1960s and early 1970s focused mainly on resolving this issue. The ruling party, the Ethiopian People’s Revolutionary Democratic Front (EPRDF),<sup>15</sup> itself a product of the movement that overthrew the military junta in 1991, as a main architect of the transition (1991-1994) and the 1995 Constitution, had long been advocating the right to self-determination of ‘nationalities’ ‘up to and including secession.’ EPRDF claims that the key source of political crisis in Ethiopia is ethnic domination, that is, a ruling élite predominantly from one nationality, controlling power, resources and narrowly defining the values and institutions of the state. As a result, the key features of the Federal Constitution

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15, Ethiopian People’s Revolutionary Democratic Front (EPRDF) was established in 1989 is a coalition of four ethnic-based organizations—the core and founder, the Tigray People’s Liberation Front (TPLF), the Amhara National Democratic Movement (ANDM), the Oromo People’s Democratic Organization (OPDO) and the Southern Ethiopian People’s Democratic Movement (SEPDM). It came to power in 1991 and is still the ruling party today. (Vaughan 1994).



are heavily influenced by the idea the right to self-determination of ‘nations, nationalities and peoples’ and their right to self-rule as a solution to the ‘question of nationalities’.

## **2. Varying Interpretations of Ethiopia’s Political Crisis**

With the emergence of centralized administration, Ethiopia faced a serious state crisis. Attempts at explaining the causes of the state crisis have not only been less satisfactory but are also diverse. There are those who even today consider that it was all a normal process of ‘nation building’ (*hager maknat* in Amharic) and hence construe the ethno-nationalist-based ‘liberation struggle’ as a form of tribalism.<sup>16</sup> Next are the instrumentalists<sup>17</sup> that focus on the concentration of political and economic resources at the centre as a core source of tension and emphasize the proliferation of ethnicity as an erroneous comprehension of political and economic deprivation. The third is the position of the ruling party mentioned earlier. A few political élites even went further, stating that ethno- nationalism must be seen as a response to ‘internal colonialism.’<sup>18</sup>

Certainly the advocates of the ‘nation building’ process and the instrumentalists fail to grasp some of the central issues of the debate in diverse societies such as Ethiopia (Clapham 1994). The idea of the ‘nation state’, a strategy that many post independent African states borrowed from Europe, has serious problems in diverse societies. When the idea of ‘nation state’ was put in place in Europe (perhaps Belgium, Switzerland and the United Kingdom are exceptions), the underlying assumption was that there was a dominant (single) nation that established a state, hence the expression nation-state (Kymlicka 2007: 62). In many African states, including Ethiopia, there remained many ethno- nationalist groups instead of one. Thus the context under which it was meant to apply was entirely different. Besides, while western Europeans combined the nation state with democracy based on individual liberty, and were able to ensure economic development, in most parts of Africa, including Ethiopia, these favourable conditions were missing (Peter Anyang’ Nyong’o 1992). The ‘nation state’ in Ethiopia based on the Orthodox Christian religion and the Amharic language with the slogan ‘one country, one flag, one language, one religion’ then became a mask for the ‘majority’s’ culture, language or religion to become the

<sup>16</sup>Nearly all centrist and main stream Ethiopian writers fall into this category. Bahru (1991: 60- 71); see also Teklesadik Mekuria *Atse Yohannes ena Ye Ethiopia Andinet* (Amharic, 1982 E.C.: 296); Maimre, *supra* (2005/2006, 2(1/2):1-32).

<sup>17</sup>Such thinkers are called instrumentalists because they view religious and ethnic-based mobilization by groups as a means to achieve some political and economic goal and have no relevance thereafter. Included in this category are Markakis 1998; Christopher Clapham (1994: 30-35); Jon Abbink, (1998, 50(1): 60).

<sup>18</sup>See for example Assefa Jaleta (2002, 20: 43).

national culture, language or religion.<sup>19</sup> In other words, the group which controls the state, however narrow its base, uses it not only to deprive others of power and resources but also uses state institutions and policies to ‘promote, consolidate and create a privileged position with respect to its identity and its manifestations. The state is defined as the expression of the group’s nationhood’ (Kymlicka 2007: 62). The assimilationist policy further had its own inherent limitations as it was based on class and hierarchy, so much so that even those who assimilated non-Amhara elements were constantly reminded of their ethnic origin. A good example was General Tadesse Biru, a Showan Oromo who, in the 1960s, assumed key positions during the imperial regime, and, when he joined the Oromo-based *Mecha–Tulema* Association, turned from a champion of Ethiopian nationalism to a main critic of the Ethiopian State (Merera 2003). It is not surprising, then, that the legitimacy of the government, its institutions and the values upon which it was established remain one of the sources of tension and at times of serious crisis.

There is an additional crucial point that the ‘nation builders’ and the instrumentalists fail to grasp: post-Cold War development, as well as empirical evidence from multicultural societies hint that identity does not necessarily vanish from the face of political discourse even if political and economic situations are favourably accommodative, let alone when they are a state target of destruction<sup>20</sup> under the guise of ‘nation- building.’ Thus, while the nation builders have a point when they emphasize the shared values and the difficulties of integration, and the instrumentalists by focusing on the more objective variables: economic and political factors, two of the core causes of political instability, they often fail to consider the identity factor as a cause of tension in multicultural societies. They fail to recognize the ‘passions and emotions’ involved in inter-group conflict. As Walker Connor pointed out, ‘Men do not allow themselves to be killed for their interests; they allow themselves to be killed for their passions’ (Connor 1994: 206). Those that put too much emphasis on the objective (resource conflict) factors often have trouble understanding the role of identity, prestige, social and political status in a conflict. Those who place too much emphasis on primordial/identity factors also have trouble understanding the fact that political and economic factors are often part of the political game. As is repeatedly stated

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19, Kymlicka, *supra* (2007: 61-63). For details on the failure of the nation state see C. Young (1974: 507).

20, This reminds us of the prominent article by Connor (1972) where he argues that modernization, industrialization and respect for individual rights do not necessarily minimize ethnic loyalty, and nation building may in the end be nation destroying in diverse societies.

21, See Horowitz, *supra*, 1985; Zartman 2000.

in the literature,<sup>21</sup> diversity in itself is not a threat to stability nor is it necessarily a cause of conflict. It becomes so when the political system fails to accommodate it through appropriate institutions and policies.

### 3. *The Pillars of Ethno-nationalist-based Federations*

This is not the place to discuss how several states reacted to demands of ethno-nationalist groups. But in brief in the last sixty or so years, states have responded quite differently to demands of ethno-nationalist groups (Simeon 2008). For countries with deep divisions<sup>22</sup> where ethno-nationalist groups are politically mobilized and identity is politically salient, the two well recognized alternatives are power-sharing and federalism.

The works of Arend Lijphart (1979) and of late O’Leary and McGarry (2004: 1-51) have articulated the circumstances under which consociational democracy, as opposed to majoritarian democracy, works well. What is to be shared and to what extent,<sup>23</sup> is often highly controversial but power-sharing, unlike federalism, often takes a non-territorial form.<sup>24</sup> In other words, it is often recommended for societies that are deeply divided by identity differences but are geographically intermixed. Through a combination of power-sharing at the centre that enables them to influence policy-making, and autonomy that entitles them to decide issues related to language, education and culture, groups are believed to contribute to political stability.

As we will see later, power-sharing could remain vital in some areas but its applicability at macro level in Ethiopia remains highly contested. First and foremost, it assumes that each segment is internally cohesive and hence, if there is intra-segment competition, then the grand coalition may be in trouble. Indeed the biggest risk of this model of dealing with minorities is that the coalition formed after difficult negotiations may easily collapse and thus the polity will have a fragile government. Trust and cooperation among the key actors is also a precondition, a factor that is missing in Ethiopia, as there is strong mistrust among the political class owing to differing historical narratives and varying conceptions about the future. It is hardly possible to have effective power-sharing unless the political élite shows clear commitment to it and is willing to ‘give and

22, This expression refers to cases in which identity-based politics have a high degree of prevalence exceeding that accorded to alternative forms of political mobilization such as ideological, class, gender, and the relationship between groups is affected by deep levels of mistrust, making it less cooperative. See Horowitz 2002.

23, Is it political power, resources, the military that is to be shared? See for example Mehler 2009.

24, McGarry and O’Leary, *supra*: (10-12); Simeon, *supra*: (64).

take.’ In reality, this factor is also missing within the political élite in Ethiopia. For example the different ethnic groups are represented by different political parties that indicate that the groups are not necessarily internally cohesive.

Furthermore, power-sharing also assumes that each segment is loyal to the state beyond its segment. While it acknowledges that double loyalty is possible (loyalty to the state and to the group - be it ethnic or religious or even both), for power-sharing to be effective the loyalty to the state must somehow prevail over the loyalty to the group. Some of the ethno-nationalist parties in Ethiopia, such as the Oromo Liberation Front and the Ogaden National Liberation Front, do not necessarily share this viewpoint. More importantly, power-sharing falls short of demands by ethno-nationalist elements that are territorially grouped, where identity-based mobilization is high and there is a clear interest to exercise territorial autonomy or self-government. In Ethiopia some of these ethno-nationalist forces have been strongly mobilized, and the claim for self determination is quite visible. Yet, as illustrated in later sections, power-sharing complements federalism. In reality, diversity within a polity, as in Ethiopia, is at times territorially grouped and at other times is dispersed.

The highest form of accommodating ethno-nationalist groups is through federalism. The diversity we intend to accommodate may not necessarily exhibit similar features:<sup>25</sup> in some cases the groups may be territorially dispersed while in others they may be geographically concentrated. Thus the type of federalism and the institutions and policies we design may differ in response to the nature of diversity. The Ethiopian federal system is designed under the explicit assumption that it is the outcome of the ‘free will of nations, nationalities and peoples’ that are territorially grouped. One can identify some of the key features of this arrangement, both from comparative federalism and from the Ethiopian Federation, which has some of the key features of this arrangement.

Firstly, it is a federation in which at least some, if not all the constituent units are ‘homelands’ controlled by their respective ethno-nationalist groups. In other words, the federation establishes a federal or quasi federal sub-unit in which the ethno-linguistic group forms a local majority and can thereby exercise meaningful forms of self-government in matters that are the minorities’ exclusive concern. This is the self-rule aspect of federalism. Ethiopian federalism (Articles 46/47) expressly organizes at least six (out of nine<sup>26</sup>) of the regional states on the

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25,According to Simeon (2008:55), the diversities are diverse in themselves owing to their historical origin, manifestation and type of diversity, numerical size, territorially grouped or found dispersed, difference in level of mobilization and gravity of repression committed by the state.

26,The exceptions are see *infra*, Benishangul-Gumuz and Gambela and partly the Southern Nations, Nationalities and Peoples regional state (SNNPRS).

basis of ‘language, identity and consent.’ Indeed the regional states are named after the ethnic group that dominates the respective regional state. Language in particular plays a key role in drawing internal political boundaries not only for establishing the regional states but also in the establishment of local level self-rule as manifested in the Southern Nations, Nationalities and Peoples Regional State (SNNPRS) in Ethiopia.<sup>27</sup> In other words this form of federalism, takes politically salient ethno-nationalist- based sub-state identity seriously compared to homogenous federations. As shown in the introductory section, Ethiopian age-old political history and experience of decentralized system, as well as the presence of more than a dozen politically mobilized ethno-nationalist liberation forces during the struggle against the military regime (1974-1991) is symptomatic of the fact that ethno-nationalist-based identity is a factor that can hardly be ignored. Indeed the transition from a centralized unitary state to the present federal arrangement was brought about by these liberation movements who forcefully dismantled the institutions of central government and rebuilt them again along federal lines.

Adoption of this form of federalism, particularly as a conflict management device, entails serious state restructuring to create new political units that enable ethno-nationalist groups to gain a majority at regional state level. As indicated in the section on inter-group conflicts this has implications and complications. Nevertheless, such an approach is not only about addressing power and resource issues. As Kymlicka has rightly pointed out the new arrangement ‘is not just about recognizing a particular identity group...but also about building institutions around that identity so that it becomes a source of economic opportunity, political power and social prestige/status. It seeks to transform the economic opportunity, political powers and social status available to bearers of that identity.’<sup>28</sup> This explains not only why ethno-nationalist-based mobilization is often associated with the pursuit of material ends and why it is frequently fraught with emotion and passion (Hale 2008: 2).

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27,The SNNPRS is peculiar in some respects with an estimated population of 15 million (20 percent of the total population). This is a constituent unit with extraordinary heterogeneity and relatively smaller ethno-linguistic groups in which local governments (in the form of zones, *weredas* or special *weredas* sub-state level local governments), not regional state as in the six other states, are designed as means for ensuring self-rule to the various groups. There is also the effort to share power and resources among the various groups in the regional state institutions. It is a kind of federation within a federation (Assefa and Mohammed (2010: 155-56); (Vaughan 2006).

28,Kymlicka (2007: 81); the same explanation has also been stated by Horowitz (1985: 131- 134).

Secondly, through the institutions of shared rule and representation in federal institutions, ethno-nationalist groups are given the opportunity to influence decision-making at the centre. Here the second chamber plays a key role but the idea of shared rule is broad enough to cover regional state representation in the federal executive and other key institutions such as the civil service, the army and the judiciary. The logic of this form of federalism is that ethno-nationalist groups can only respect the institutions of governance and democracy - and thus contribute to stable federation - only when they are granted a satisfactory combination of *influence* at the central level and *meaningful autonomy* at sub-state level with regard to their own affairs.<sup>29</sup> Though there are varieties among the different federations that attempt to accommodate the rights of ethno-nationalist groups, this form of accommodation works best for groups that are territorially grouped, that is, if found occupying a kind of 'ethnic homeland,' instead of being territorially dispersed. This is also recommended for societies where there has been élite-based ethno-nationalist political mobilization to redress structural problems in a state (unfair power and resource sharing). A related point is claimed by ethno-nationalist groups to regain lost social status (dignity), in response to historical traumas regarding their identity.<sup>30</sup> After the end of the Cold War it became particularly clear that federalism and ethno-nationalism were not necessarily antithetic. It is possible to accommodate such sentiments at sub-state level without necessarily eroding the loyalty to the state, given that federalism is a means to forge unity in diversity.

Thirdly, this form of federalism - repudiating the 'nation-state,' ideology and acknowledging the historic injustices done to non-dominant groups<sup>31</sup> through policies of assimilation and exclusion - opens ethno-nationalist groups access to institutions to participate in political life without having to deny their ethno-cultural identity (Kymlicka 2007: 65-66). As a manifestation of identity-based pluralism, the group's language is recognized as an official state language at least within their federal subunit, if not throughout the country.<sup>32</sup>

The 1995 federal Constitution (Article 5) attempts to balance the interest of maintaining national unity, on one hand, and the ethno-linguistic groups' demand for cultural preservation and distinctiveness, on the other. It declares Amharic as the working language of the Federal Government but does not spell

29, Lijphart, *supra*, (1979: 500).

30, Kymlicka (2007: 81); Horowitz, *supra* (1985:131-4) Hale, *supra*: (2-3); Simeon, (2008:63).

31, The preamble of the Ethiopian constitution stipulates 'Fully cognizant that our common destiny can best be served by rectifying historically unjust relationships. ....'

32, Kymlicka (2007: 69,177) examples include Spain (Catalans and Basques), Canada (Quebec), Switzerland (French and Italian minorities), Scots and Welsh in the United Kingdom and partly India.

out the working language for communication between the Federal Government and the states, although as a matter of practice, Amharic remains the principal intergovernmental language.

The Constitution gives equal recognition to most languages and entitles member states to determine by law their respective working languages. Education policy, too, dictates the use of the mother tongue in elementary schools. These approaches open the way for the states to adopt their own working languages. Looking at the practical records of the regional states, three different approaches are discernible. First, some five states have adopted their own majority's language as the working language of their regional administration. Three other states, which do not have a majority ethnic group, have chosen Amharic as their working language. The third trend is the one adopted by the state of Harari, where Harari and Oromiffa have been chosen as working languages. The position taken by the Federal Constitution is criticized from two perspectives. Some political parties, notably the Oromo opposition parties, want to include Oromiffa as a second working language while other pan-Ethiopianist elements want to maintain Amharic as a national language as used to be the case (Minase 1996: 11).

More troublesome issues related to the politics of language in Ethiopia are those about scripts, and the possibilities of learning more than one language. Constitutionally the Federal Government is mandated to ensure national standards across the country and that should certainly include which scripts groups should use in exercising the right to use their language. There is no clear implication so far that hints that the right to use one's language also includes the right to choose scripts. In practice, however, there is widespread confusion in this regard. Equally worrisome is the fact that local élites have shown strong resistance to learning the federal working language and hence it is now difficult, for instance, for students to communicate in higher learning institutions. Nor have élites at higher level (at least from the hitherto dominant political ones) shown any interest in learning languages other than the federal working language. Both are major obstacles in the effort to promote understanding and cross cultural cooperation. To achieve this goal, it is imperative that the Federal Government legislate/design a language policy that requires every citizen to learn at least one Ethiopian language other than their mother tongue.

It is vital to mention one last point: successful multi-ethnic/nation federations often combine federalism with power-sharing, and there is very good reason for that. Groups are often intermixed in some places and geographically concentrated in other places. The strength of their claims and the *historico-political* situation of the groups may also be different. Combining federalism

and power-sharing offers the best solution for dealing with group rights in a flexible way. This is not to imply that this form of federalism in general, and group rights in particular, are risk free.<sup>33</sup> As illustrated in sections on inter-group conflicts and the position of minorities, both from comparative federalism and from Ethiopia's own experience there are critical issues that the system poses to the political process. Indeed the success of the Federation is dependent upon whether it responds to these challenges *adequately and in time*. As shown above, Ethiopia's response in this regard has so far brought mixed results.

#### **4. Division of Powers and Institutions**

##### **4.1 Division of Powers**

Although some observers contend that Ethiopia is a 'coming together'<sup>34</sup> federation, it appears, textually, to reflect aspects of both 'coming together' and 'holding together.' The Constitution's preamble, which begins with 'We, the Nations, Nationalities and Peoples of Ethiopia: [...] Strongly committed in full and free exercise of our right to self-determination . . .' along with the placing of sovereignty (Article 8) in these entities and the subsequent reorganization of the units (Articles 46/47) according to ethno-linguistic criteria, imply the 'coming-together' type of federation. If the Federal Government abuses the right to self-rule of the nationalities, the nationalities are entitled to reassert their powers of sovereignty by seceding from the centre. This collective right of nations, nationalities, and peoples is clearly spelled out as the right to self-determination (Article 39). This right is not even subject to derogation during a national emergency (Article 93). Thus, the foundations of the Ethiopian State, as well as its continuation, require the ongoing consent of each 'nation, nationality, and people' (Andreas, 2003:161). This gives one the impression that the federal polity is a union formed through the free consent of the various groups.

However, there are also 'holding together' aspects, and it would be an exaggeration to say that Ethiopia is a federation built from its nationalities. As illustrated later in the section on inter-group conflicts, this has serious consequences for the newly established regional states. To be sure, the present state organization does not reflect the pre-1991 organization of the provinces.

33,The risks are well known in the literature on comparative federalism. The existential secession threat by weakening institutions of the centre in favour of the units; that local level majorities may turn themselves into autocrats and terrorize minorities under them; frequent claims for border adjustments and various forms of local self-rule issues (Nigeria and SNNP in Ethiopia); emphasis on the politics of difference over cross cutting values by ethnic entrepreneurs that may then aggravate conflicts. For example 'two solitudes in Canada; three groups with their backs to each other in Switzerland, hard and open ethnic identities in Ethiopia. See Roeder (2009: 204- 208); Brown (2007: 57-78).

34,The terminology was coined by Alfred Stepan (1999: 19-3).



Provinces were then arranged merely either on the basis of administrative convenience and consisted of an amalgam of nationalities or, as in the cases of Tigray, Gojam, Gonder and Wello, were historically constituted and hence one group was sub-divided into several entities. In the post-1991 development, states are designed with a view to ensuring the right to self-rule of the nationalities. Thus, Ethiopia is a federation established from a formerly unitary state, and the regional states (unlike those in the United States) had no prior existence as states. Even if any one existed, it was only as a province in a highly centralized imperial state, a military dictatorship, or during the brief transition period of 1991-1994. In fact the SNNPRS was established after the transition.

With a view to addressing the age-old cause of the state crisis, the establishment of the federal system was intended to decentralize power and resources, and resolve the 'nationalities question' by accommodating the country's various ethno-linguistic groups in public institutions. Among other things, the Constitution (Article 50) states that the Federal Government and the constituent states have legislative, executive, and judicial powers. The Federal Government is granted enumerated and limited powers (Article 51);<sup>35</sup> the regional states retain residual powers (Article 52). The Constitution also comprises a brief account of some powers of the states in addition to the reserve power. It is also worth noting that the Constitution provides neither 'a necessary and proper clause' as in the United States Constitution, nor a comprehensive list of shared powers as in Germany's<sup>36</sup> Basic Law. Even those powers that appear to be exclusive federal powers seem to have some limitations in terms of the extent of their scope.

The Constitution (Article 51) empowers the Federal Government to 'formulate and implement the country's policies, strategies and plans in respect of overall economic, social and development matters [and] establish and implement national standards and basic policy criteria for public health, education, science and technology.' This is perhaps more than a 'necessary and proper' clause because it grants the Federal Government wide powers over economic, social, health, and education matters. It places primary responsibility on the Federal Government to determine major policy directions and standards. However, if one follows the terms closely, the powers of the Federal Government, even in these vital areas, do not seem to be exclusive. The Constitution also empowers the states, among other things, 'to formulate and execute economic, social and

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35, For a more comprehensive treatment on the division of legislative and executive power between the federal and state governments in Ethiopia, see Assefa (2006).

36, For a more comprehensive treatment on the division of legislative and executive power between the federal and state governments in Ethiopia, see Assefa,(2006).

development policies, strategies and plans for the state' (Article 52). There is obviously much overlap between the powers of the Federal Government and the states concerning economic, social, and development plans, as well as health and education. It seems clear from the provisions that the Federal Government cannot exhaustively and exclusively legislate on all these matters. The wording of Article 52(2) seems to suggest that the states are endowed not merely with administrative powers but also with the power to formulate and execute economic, social, and development policies. Compared with the states in India and Nigeria, the regional states in Ethiopia enjoy wide constitutional powers of self-rule. However, as illustrated in the section on federalism and party politics, as well as in the sub sections indicated below, in practice the autonomy of regional states is very limited.

### **Risks with the Recent Practice of Upward Delegation**

Despite relatively clear provisions specifying which powers go to which level of government, recent developments indicate that delegation is also employed when one level of government 'wishes' to transfer its power albeit temporarily to the other level of government. Yet at times this brings crucial issues to the fore concerning the risks involved in using such a practice that is seldom debated in public. The federal principle of constitutionally enshrined and guaranteed division of power implies that federalism is rigid and that decisions need the participation of not only both levels of governments but also of the citizen to amend it (One can note that a similar experience of delegation exists in federal constitutions elsewhere).<sup>37</sup> Indeed, this is stated as follows under the Federal Constitution: 'the Federal Government may, when necessary, delegate to the states powers and functions granted to it by Article 51 of this constitution.'<sup>38</sup> But would not an open clause authorizing delegation contradict the federal principle enshrined in the Constitution? And, more seriously, would not this go against the rigid procedure of amendment prescribed in Articles 104 and 105? The constitutionally guaranteed division of power is likely to be endangered if both the Federal Government and the states have the right to change this distribution at will.

Apparently, the Ethiopian Constitution seems to provide for downward delegation only. It is silent as to whether the states can delegate their powers to the Federal Government. There is no express clause permitting the states to delegate their powers to the Federal Government. An express clause included in 37, See for example Indian constitution Arts. 258(1), 154.

38 Article 50(9) and for the record of the debates see *Ye Ethiopia Hige Mengist Gubae Kale Gubae* (Minutes of the Constitutional Assembly) v. 4 *Hidar* 14-20, 1987 E.C. (November 1994) discussion on Art. 50.

the draft permitting the states to delegate some of their powers, was rejected on the basis that the powers and functions of the states need to be protected.<sup>39</sup>

However, delegated power, particularly if it is upward, is not without problems. It raises the central issue of whether it is possible to change by legislation the basic tenet of the federal compact. A telling example is the emerging issue of the delegation of regional state powers to the Federal Government on the administration of land. The Federal Government induced regional states to delegate the power to administer land in their respective territories to the Federal Government in 2010/2011.<sup>40</sup> While the minutes of the Constitutional Assembly openly hinted at the fear of Federal Government taking away powers of states, and hence agreed only on vertical delegation, regional states now have without any contest given up this power in favour of the centre. It is hardly possible to do this in a context of political pluralism and where one or more of the regional states are under the control of opposition political parties. In such a context, it is normally expected that the regional state-based political party will try to defend its constitutionally guaranteed autonomy. Yet in Ethiopia this was achieved without any opposition from any of the regional states, as if it were a unitary decentralized system where the centre can take away what it gave by law. In a federal context, this is a serious violation of constitutional principle. This fact, added to the nature of the political party in Ethiopia, forces one to doubt the implementation of constitutionally stipulated principles.

#### ***4.2 Institutions***

The federal system (Article 45) operates within a parliamentary form of government. At the federal level, there are two federal houses in Parliament: the House of Peoples Representatives (HoPR) and the House of Federation (HoF) (Article 53). The former is composed of members elected by the people for five-year terms in direct and fair elections. It contains 547 seats, 20 of which are allocated to minorities that do not fulfil the size of a constituency (100,000 population). The members of the HoPR are believed to be representatives of the Ethiopian people as a whole, not of specific groups (Article 54). Although

<sup>39</sup>See Minutes mentioned above.

<sup>40</sup>According to Article 52/2d regional states are mandated to ‘administer land and other natural resources in accordance with federal laws.’ Based on this clause regional states have been providing land for lease to investors in their jurisdiction. Allegedly, the Federal Government claims that regional states have not been efficient in providing land to investors and complained about wide spread corrupt practice across regional states and hence the need for upward delegation. Interestingly, such wide spread corrupt practice is also common at federal level as openly presented to the public through the government owned Ethiopian television on various occasions. Thus some doubt the plausibility of the Federal Government’s argument.

on appearance one may get the impression that the two-chamber Parliament is responsible for federal policy-making, the HoPR has the sole power of legislation on all matters assigned to the Federal Government. The HoPR is the highest authority in the Federal Government (Article 50). The second or upper chamber (HoF) is not part of the federal law-making process. A federal bill does not need the consent of the HoF to become a law. The lower house (HoPR) has exclusive power for federal law-making.

In terms of composition, Article 61(2) of the Constitution stipulates that ‘each Nation, Nationality and People shall be represented in the House of Federation by at least one member. Each Nation or Nationality shall be represented by one additional representative for each one million of its population.’ The provision does not even indicate any rational upper limits as does the German Basic Law. As a result, the nationality with the largest number of people has as many seats as its size may allow in the HoF. The HoF currently has 135 members representing 69 nationalities, while the two cities - Addis Ababa and Dire Dawa - have no representation in the HoF. Thus, in effect, not all nationalities are represented in the HoF. As of 2005, state governors have been among the key members sent to represent the states and nationalities in the HoF and to decide crucial issues such as the federal subsidy to each state. As a matter of practice, members of the HoF assemble only twice a year unless extraordinary circumstances require a meeting. This has given the impression that it is ‘a part-time house’ with many issues awaiting its decision. As for the selection/election process, Article 61(3) envisages two possibilities: Members of the HoF may be elected indirectly by the state legislatures, or the state legislatures may decide to allow the members to be elected directly by the people. So far, all members are indirectly elected by the state legislatures (Article 61).

Federal practice elsewhere suggests that a genuine federation should not only guarantee autonomy to the states but also incorporate the states in the national decision-making process (Watts 2008:9). Ethiopia’s federal system departs from this pattern and grants the HoF, among other things, the power to interpret the Constitution, resolve disputes among the regions, and decide on intergovernmental subsidies and joint taxes. This implies that the judiciary’s role in settling and interpreting constitutional disputes is minimal (Assefa 2011).

An overall assessment of the performance of the HoF in adjudicating constitutional issues reveals that it has played an important role, particularly in cases of high political significance -cases of the nature where in the U.S.A. the U.S. Supreme Court would refuse to decide, citing the ‘political question doctrine.’ An example in Ethiopia is the *Silte* case.<sup>41</sup> Central to the *Silte* case was

41, The HoF also settled the dispute between indigenous ethnic groups and non indigenous groups in Benishangul-Gumuz see *infra* the section on the position of minorities in regional states.

their claim to have a distinct identity (distinct from the *Guraghes*), although both groups were widely considered to belong to the same ethnic group, and to have a right of self-rule in local governments within SNNPRS. The case resulted in a complex process of finding out who the ‘self’ was that was entitled to administer itself, the respective role of federal and state institutions in the process, and the procedures to be followed. The HoF, after a long process of consultation with the regional state, concluded that determining the identity issue is part of its mandate. The HoF then decided that a referendum be held in SNNPRS. The referendum was held in March 2001. Only the *Silte* community participated, and the referendum resulted in the establishment of a separate zonal structure for the *Silte* after seceding from the *Guraghe* within SNNPRS.

The HoF’s mandate for deciding delicate political issues is linked to its quasi-political nature. However, this is not without possible implications as to its impartiality, as Ethiopia is venturing into multi-party politics. So far, the federal system has operated under one dominant party, and the HoF’s impartiality has not been brought to the test. With emerging multi-party politics, it remains to be seen how far the HoF will serve as an impartial adjudicator on important intergovernmental conflicts. Furthermore, the institutional competence of the HoF in terms of experts and regularity of sessions is far from satisfactory.

The federal executive consists of a ceremonial president and a powerful prime minister, along with his cabinet whose members are largely elected from among the members of the HoPR/HoF. In this sense, the prime minister is not necessarily the party leader.<sup>42</sup> Since the establishment of the federation, both as a result of constitutional principle (Article 39(3)) and practice, there is every attempt to reflect the country’s diversity in the establishment of the executive. The federal president, who is the head of state, is nominated by the HoPR from among its members but is approved in a joint session of the two houses by a two-thirds-majority vote for a term of six years. The president’s powers are nominal and symbolic. The president opens a joint session of both houses of Parliament every September, signs a draft law before its promulgation, and receives credentials of foreign ambassadors.<sup>43</sup>

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42, See Articles 72, 73 and 74.

43, See Articles 70 and 71.

44, Asymmetry in federal state relations implies that either the Federal Government enjoys more powers in some regional states than others or some of the regional states enjoy more powers than other regional states as in the case of Quebec in Canada or Catalonia in Spain. See Watts (2008: 125-127).

*Partly Tutored Federalism: Asymmetry and the role of the Ministry of Federal Affairs (MoFA)*

As noted already, the Ethiopian Constitution (Article 47/4) declares that all units of the federation shall have equal rights and powers. Despite such a declaration however, the Federal Government has more powers with respect to some regional states than others.<sup>44</sup> Because of historical factors such as extreme marginalization from the political process and less mobilization on ethno-nationalist basis, some of the regional states though constitutionally equal with other regional states (article 47/4) have so far been modest in terms of articulating regional interests as political entities. Some of the constituent units, notably Afar, Somali, Gambella, and Benishangul-Gumuz (often described as less developed states), have not yet been able to evolve into viable entities as expected, even after two decades of federal experience. For instance, the Afar Regional State was not able to exercise the right to use the Afar language until 2011 owing to lack of skilled manpower and resources.

Certainly, there are many contributory factors to this state of affairs.<sup>45</sup> It must be noted that the federal system was introduced after the fall of a highly centralized regime that had neglected the interests of the bulk of the ethno-linguistic groups. Thus, from inception, most of the constituent states, due to historic marginalization, lacked skilled manpower and resources to staff the newly established local institutions. Historic marginalization also meant that there was little or no infrastructure in the less integrated regions, making self-rule difficult. Less integration in historic Ethiopia also implies that the inhabitants of lowland regional states, in relative terms, being mostly pastoralists, lacked the tradition of an indigenous settled administration and a disciplined ruling party capable of articulating a regional interest. Thus, not only are disciplined and institutionalized local parties non-existent but local politics also operate under a socially fragmented and sectarian political élite (Samatar 2004; Hagmann 2005). As some of these lowland regions are also located on the borders with neighbouring states, local politics are very much interlinked with regional politics (the Somali region being the classic case) and thus subject to manipulation and manoeuvring by internal and external forces. These and other factors facilitated governmental and party interference from the centre. The low-level of political development in these regions means that

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45, The two-tier nature of the federal system (those with relatively better experience in self-rule versus marginalized ones) has been made clear in a number of studies. See for instance Young (1999); Jon Abbink as well remarked that in the constituent states under discussion, there have been dismal failures. See his article 'Ethnicity and Constitutionalism,' *Journal of African Law* (1997, 41(2): 173).

the national ruling party plays a greater role in their local administrations than in other constituent states.

The key federal institution in this respect has been the Office for Regional Affairs within the Prime Minister's Office that later evolved into the Ministry of Federal Affairs (MoFA), which, until 2001, used to 'hire and fire' the governors and other key office-holders of the less-developed states. Since 2001, its role has been moderated and limited to 'enhancing the capacity of the less developed states.' Thus, it seems to have a mandate to bring the less developed regional states to a par with the other regional states. However, the view from the less developed regional states have a different viewpoint. They feel that their dependency on the centre is increasingly and significantly affecting their autonomy (Samatar 2004; Hagmann 2005). Following the third national elections held in 2005, MoFA, in addition to its 'equalizing' function, was mandated to coordinate intergovernmental activities between the federal and state governments, although, in reality, its activities are still limited to its old mandate. Thus, there is practically no institution for intergovernmental interaction other than the political party machinery. Close observation of the performance of some of the states suggests that they have not yet been able to articulate distinct regional interests or to develop a viable political unit that can compete with the Federal Government in intergovernmental relations. Whether this calls for a *de jure* asymmetric arrangement with greater powers for the Federal Government, so far undertaken through the MoFA, or whether it should be seen as a transitory challenge, is a thorny issue, but in the short run, it seems to legitimize the greater intervention of the Federal Government in the less-developed states than in the other states. Yet the unstable situation, particularly in the Somali Region, echoes what Kymlicka pointed to as one of the preconditions for stable federation: the de-securitization of ethnic relations – that is, the state no longer perceives certain ethnic groups as disloyal and a threat to national security. Kymlicka (2006:58) judged Ethiopia as a 'fragile experiment under the condition under which it [the de-securitization of ethnic relations] has been implemented'.

Despite daunting challenges, since the introduction of the federal system there has been an improvement in several sectors. Minorities and historically marginalized groups have been given political and institutional recognition so much so that one can state that, when it comes to cultural and linguistic diversity, Ethiopia's political context is fundamentally re-shaped. Ethiopia has used its own budget and donor aid effectively in securing a consecutive economic growth (10 percent) and a huge expansion in infrastructure. Although it is overshadowed by a high rate of inflation and corruption, the 10 percent economic growth has for a number of years been the fastest growing non-oil economy in Africa. Ethiopia is

the second country to take delivery of Boeing's new 787 passenger jet. The share of Ethiopia's population living under poverty has fallen from 62 per cent in 1991 to 29 per cent in 2011. Export has risen sharply and a series of hydroelectric dams have boosted its economy so much so that it plans to be the energy giant of the Horn Region exporting electricity to some neighbouring countries such as Djibouti, Kenya and the Sudan.<sup>46</sup> Nearly every child in Ethiopia can now go to school for free. The change in this respect is remarkable: from 19 per cent in 1991 to 96 per cent in 2011.<sup>47</sup> During the last decade, some thirty-one new universities have been built. This has significantly increased their enrolment from a few thousand to more than 110,000 every year. The new universities are fairly well distributed throughout the regional states.<sup>48</sup> Access to health centres also improved, significantly reducing child mortality. Furthermore there have been major improvements in infrastructure such as roads (only 18,560 Km. in 1991 and now more than 100, 000 km. - still a small number but expanding fast) and telephone services. These developments are important preconditions to building one economic community. Leaving aside the challenges stated below, Ethiopia in 2011 is richer, more accommodating to cultural and linguistic diversity, relatively more stable and peaceful - but far from democratic.<sup>49</sup>

### 5. *Emerging Challenges*

The Federation is also facing some challenges and it is here that a great deal of flexibility and dynamism is required. So far, the federal system was preoccupied with addressing 'the nationality question' and as a result, has not responded well to the newly emerging issues. Failure to respond to these adequately and in time may lead to severe problems that it may be difficult to address at later stage. There are emerging tensions and conflicts related to border demarcation, inter-group rivalry, minorities within the regional states and claims to have new regional states or other forms of local government. Because of the Constitution's

46, See Aaron M. 'Ethiopia plans to sell power to Sudan, Yemen, Kenya and even Egypt'. Addis Ababa — Reuters <http://www.theglobeandmail.com/report-on-business/international-news/african-and-mideast/ethiopia-plans-power-exports-to-neighbours/article2080108/> as accessed on June 30/2011.

47, A major dividing issue in this respect is that of mass education at all levels without necessary preparation in terms of qualified personnel, library and other necessary inputs has compromised quality significantly.

48, See for details *Ethiopia ye 2001 Ametawi Metshaf* (in Amharic) *Ethiopia 2001 E.C. Annual Book*. Addis Ababa: Master Printing House.

49, See *The Economist*. 'Ethiopia's Prime Minister "The man who tried to make dictatorship acceptable"' <http://www.economist.com/node/21560904> as accessed on August 25/2012; *Africa Confidential* 'Ethiopia After Meles', August 24, 2012.



rigidity and emphasis on the question of nationalities, individuals living outside their homeland (this applies to all regional states), minorities within the regional states, and those found territorially dispersed as in some regional states such as Benishagul-Gumuz, and cities with intermixed identities are least addressed in the Constitution and in practice. The following case studies attempt to address these issues:

### ***5.1 Boundary Disputes, ‘Inter-ethnic’ Conflicts and the Pitfalls of Referendum***

The way a federation evolves as a polity has to some degree an impact on the territorial boundary of the units and the subsequent competence of the states. In coming together, federations like the United States (1789) and Switzerland (1848) the units that desired to unite, had all had a previous existence. In both cases, awareness of being a separate territorial community preceded the federation. As a result, they tend to be major contenders for powers in the federal bargain, compared to the non-existing units in centrifugal federations (Watts 2000). It is not surprising, therefore, to observe that in such federations at least during the first phases of their existence, there is a strong urge for more centralization of power, since the states remain relatively powerful. The boundaries of the units are also established and settled, though that does not rule out new claims and adjustments.

On the other hand, one finds federations resulting from either a previously unitary state or a retiring colonial state. For want of a better term, these states are called centrifugal or ‘holding together’ federations. The case of the Indian Federation of 1950, the Nigerian Federation of 1960 and the 1995 Ethiopian Federation belong to this category.

What is common to this group of federations is the fact that the states are by and large new creations of the federal bargain or even the result of a unilateral decision of the centre at later stages, rather than entities having a prior existence. In short, the centre pre-dates the units. A consequence of this is that the regional states are often weak in asserting their powers, at least during the early phase of the federation. Furthermore, as the regional state boundaries are reorganized to address various demands of ethno-nationalist groups (for instance Nigeria started with three states in 1960 but now has 36, India went through similar challenges and Ethiopia is now going through the process) the boundaries of the units are less stable and often face frequent claims for adjustment or even claims for establishing new regional states or local governments. This may lead to a complex process as the federation tries to learn from it.

In Ethiopia the ‘holding together’ aspect of the federation and the emphasis on right to self-rule of nationalities has brought new challenges. For

one thing it has imposed the need for a clear territorial demarcation on peoples who, as is very commonly the case throughout Africa and elsewhere, had become interspersed through diverse and long-standing patterns of settlement, migration and overlapping identities. As a result, it became clear that to demarcate geographical borders physically between the various ethnic groups was difficult since there had been considerable population movements in many parts of Ethiopia. In redrawing the regional states, the issue of where the physical border between nationalities should be drawn has aroused immense concern.

Although some of the conflicts between communities over grazing land, water and resources had a long history that predates the new federal system, the post-1991 political development seems to have changed the dimensions of the conflict. The fact that the disputed areas coincided with the boundaries between regional governments seems to have transformed the conflict between local communities to conflicts between regional states (Asnake 2004). Instances include the claim of ownership over Babile and Moyale (towns between Oromia and Somali Regional States), the Borona and Gari conflict, again between the same regional states (Shide 2003); the Afar and Issa<sup>50</sup> i.e. between the Afar Regional State and the Somali Regional States; between the Gedeo in the SNNPRS and the Guji Oromo in Oromia, and the Guji Oromo in Oromia and the Sidama of SNNPRS around the Wondogenet area. Oromia, with its geographically extensive territory and adjoining several regional states, has many of the disputes. Making matters worse, these hot spots are also often subject to manipulation by domestic opposition forces as well as by neighbouring countries, with a potential to destabilize the whole region.<sup>51</sup>

The greatest danger in this respect is that most of these conflicts have been portrayed in the media and even in some studies as though they were 'inter-ethnic conflicts' (the titles of many undergraduate and graduate level essays are telling in this respect). But detailed studies hint that every conflict has its own peculiar features as well as sharing some common ground. With the Afar and Issa, for example, leaving aside the regional character and the role of the local political élite (that now has considerable resources at its disposal to use for the conflict), it is scarcely possible for the pastoral and nomadic communities to understand the meaning of fixed borders between regional states. All they need 50, In addition to the competition over resources between the Afar and Issa which is more or less the same as with the Borona and the Gari, the tension between the Afar and Issa becomes more complex because it is much interlinked with the geopolitics of the Horn. In Djibouti, which now provides Ethiopia's only access to the sea, the Issa have the political upper hand, and the Afar are a minority. Intervention by neighbouring Somalia and Eritrea, complicate the traditional conflict between the two ethnic groups. For more on this see Markakis 2003.

51, For instance, several separatist parties backed by neighbouring Somalia interfere in the Somali Region and the OLF does a similar job in other areas.

is access to water and grazing land and it does not matter to them whether these resources are found in this or that regional state. In any case, in order to contain a traditional conflict from transforming into a boundary dispute, it is necessary that the Federal Government, the HoF, the Ministry of Federal Affairs and the concerned regions set up a regime for joint ownership of scarce resources. These government offices should also consult with local elders in order to integrate customary dispute-handling mechanisms. Government institutions at various levels are often involved in dealing with such conflicts. Yet in inter-group and intra-group conflicts the use of formal laws and institutions alone is rarely effective. It often fails to *restore severed relations* although it may be effective in restoring law and order, albeit for a short term. Effective resolution of the disputes, and transforming them into peaceful and productive interaction between groups requires an integrated approach that combines the efforts of the various government institutions, and customary dispute resolution mechanisms. On border conflicts and claims for new political administration within regional states, one could state that they are conflicts of low intensity and are not threats to the Ethiopian state, compared, for example, to the situation in 1991. But they still need to be managed carefully and should not have happened in the first place. The Constitution envisages possibilities of border conflicts between state governments and attempts to regulate them. To that effect it stipulates ‘Border disputes shall be settled by agreement of the concerned states. Where the concerned states fail to reach agreement, the HoF shall decide such disputes on the basis of settlement patterns and the wishes of the people concerned.’<sup>52</sup> However, as in many other cases, constitutionally stipulated principles are not given due emphasis or are ignored, and border conflicts are not adequately handled.

There is already enough experience to be learned from the case studies to make appropriate policy interventions. As already noted, so called border/ inter-ethnic conflicts happen to be key issues related to either a demand for local government, fair representation, or power and resource sharing at various levels, local political élites manipulating identity-based differences. Border re-drawing does not necessarily address such conflicts head on. As border/boundary demarcation is conducted in the context of polarized situations under an uneven number of ethnically divided groups, every time we try to draw borders, there emerge new majorities and new minorities and the problem replicates itself after the new redrawing. It is now clear that even after the referendum conducted in 2004 to resolve border conflicts between the Oromia and Somali Regions,

<sup>52</sup>,Article 48(1). The HoF is expected to render a final decision within a period of two years. Often it tries to create a forum for negotiation between the states but if that fails it facilitates a referendum. See Article 62.

there are, for example, Gerri Somali left within the *Kebeles* (lowest level local government unit) that were transferred to Oromia Regional State. There are also Jarso (Oromo) minorities in the *Kebeles* assigned to the Somali Region. The same holds true in the other contested borders: there are Sidama minorities in the *Kebeles* assigned to Oromia Regional State and there are Guji Oromo in the *Kebeles* assigned to Sidama zone of SNNPRS around the *Wondogenet* area.<sup>53</sup> The same could also be said of the conflict between Gedeo (of SNNPRS) and Guji (of Oromia). In the Gedeo zone of SNNPRS, there are significant numbers of Guji Oromo and in the Borona Zone of Oromia, there are sizeable number of Gedeo. In 1995, the Guji minority in the Gedeo zone, alleging that they were dominated by the Gedeo, their ancestral land grabbed by the same groups, called for territorial adjustment that would help them join their ‘mother state’ in Oromia Regional State. This triggered a serious conflict in 1995 that forced both regional states to conduct a referendum with unsatisfactory outcomes to both groups because even after the referendum (which required only a 50 plus 1 majority) there remained Gedeo in Borona and Guji in Gedeo. The outcome of the referendum was never put into effect and the same issue caused conflict in 1998. Many observers think that the relationship between the two groups in the area is still thorny and conflict could erupt at any time.<sup>54</sup>

In other words, unlike the claim made by the government that ‘referendum is the sole and best option of settlement’<sup>55</sup> the referendum ‘did not achieve the elusive task of matching ethnic and regional state boundaries’ (Asnake (2010: 629)). Thus border demarcations, if inevitable, need to come with packages: anticipating that they will give rise to new tensions, minorities at all levels, however small they may be, need to be allowed to share power/resources, get fair representation in local institutions and, more importantly, need to have some autonomy so that they can decide issues related to language, culture and education. This is the way to ensure their rights and if done appropriately and in time, it will not matter whether they belong to this or that regional state and in many cases this measure may make unnecessary the conducting of expensive occasional referendums. In a nutshell, it is about making the Federation dynamic, not merely concerned with the age-old ‘nationality question’ but with newly emerging challenges that came after the federation was put in place, or have changed their dimensions thereafter.

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53, This referendum was conducted in 2008. I am grateful to Tekle Didu who brought this case study to my attention in 2009, while he was working on his MA thesis on this area.

54, See Abeba Tadesse 2011

55 See Alem Habtu 2010.

### ***5.2 Position of Minorities in the Regional States***

One serious challenge emerging as a consequence of the emphasis on the rights to self-rule of ethno-nationalist groups concerns the treatment of minorities within the constituent units. The issue here is about deciding whether Ethiopia is a federation that has space both for groups, minorities and ordinary citizens or whether it is a federation only for ethno-nationalist groups where individual citizens and minorities are enslaved by ethno-nationalist forces. This issue is vital because, with growing foreign and domestic investment, inter-regional migration is expected to increase, thereby enlarging the new regional state minorities. Thus the Federation has inherent tensions, as it fails to strike some balance between the right to self-rule of the various groups on the one hand, and the need to promote free movement of labour and capital, on the other.

The preamble (and Articles 8, 39, 46/47) with its emphasis on ‘we the nations, nationalities and peoples of Ethiopia’, along with Article 8 that places sovereignty on them, and in which the citizen is not expressly mentioned as founder of the Constitution, must indicate that minorities and citizens are left out from the process of establishing the Federation.

Experience from other federations with diverse societies like ours indicate that ethno-nationalist groups should not be allowed to govern their own regional states unless a clear guarantee for minority rights is stipulated and enforced Kymlicka (2007:93). There is the fear that once national minorities acquire self-governing powers at sub-state level, they might use it to prosecute, dispossess, expel or kill anyone who does not belong to those minorities (ibid:94). In other words, the wave of post-Cold War minority rights in the west ensured that national minorities in the new arrangement were not going to become autocrats at sub-state level. As the discussions in this section indicate, Ethiopia’s case proves that the process of empowering ethno-nationalist group at sub-state level was conducted without putting in place relevant institutional and policy mechanisms to minimize this major risk. As a result some category of minorities and citizens as individuals seem to be disenfranchised and the issue is what should be done to bring them back into politics.

Although what constitutes a minority has been contested, according to the widely recognized author Capotorti, it implies that it has fewer adherents compared to the rest of the population of the country, and as a result of the democratic game of numbers, is in a ‘non-dominant position.’ The minority are nationals of the state of residence and possess ethnic, linguistic or religious characteristics that distinguish them from the rest of the population. They are interested in preserving their identity instead of integrating into the dominant group, if there is one (Capotorti 1977).

In the Ethiopian case we have at least two groups of minorities that deserve serious attention. The first group relates to the minorities and individuals in the regional states of Oromia, Amhara, Tigray, Afar and Somali, where the regional state is expressly designated as belonging to a particular ethnic group. These states are even named after the ethnic group on whose behalf they are established. The groups dominate the political process in their respective states. Other ethnic groups in each of these regions are, therefore, minorities that have implications when understood in the context of an ‘ethnic-based’ federalism. The groups that control the state determine the set of values, command the local public institutions and resources, and are the ones represented in the institutions. Under the present arrangement the minorities and individual citizens are invisible in the political process.

The Constitution of the Oromia Regional State is peculiar in this respect. Both its preamble and the provision on sovereignty declares that ‘the Oromo nation’ is the owner of its Constitution and the Oromia Region, expressly excludes non-Oromo residing in it. There are no express clauses for representation in the regional state institutions such as the legislature, judiciary and the executive nor does the Constitution provide for territorial or non-territorial autonomy to non- Oromo.<sup>56</sup> The situation is particularly worrisome in urban local governments where non-Oromo are believed to be relatively more numerous than in the rural areas. The Regional State executive can reserve up to 70 percent of the city council for the Oromo (50 percent for the Oromo residents of the city and 20 percent for Oromo coming from adjacent rural Kebeles) to make sure that the institutions of urban local government are dominated by Oromo. This makes elections for urban local governments nearly meaningless. The mayor is also appointed directly by the Regional State President.<sup>57</sup> Not surprisingly, frequent conflicts between the Oromo and the minority Amhara (according to the 2007 census more than 3.2 million non-Oromo are believed to dwell in the Oromia Region) living in Oromia have led to loss of life and destruction of property in 2000. Bedeno, Arba Gugu, and Gara Muletta are clear instances. In 2002, as a result of mobilization orchestrated by local political élites, a large number of Amhara were evicted from southwest Oromia and transferred to the Amhara Region, and their quest for reparation remains as yet unsettled.<sup>58</sup>

The Amhara Regional State recognizes non-Amhara ethnic groups

56, Non-Oromo here implies either smaller ethnic groups that exist within Oromia Regional State or individuals from ethnic groups other than Oromo. For details see Zerihun 2009.

57, See Proclamation numbers 65/2003, ‘Proclamation of Urban Local Government of the Oromia Regional State’. *Megeleta Oromia* 9<sup>th</sup> year No. 2) Adama (2003), and Proclamation 116/2006, ‘Proclamation to amend the former *Megeleta Oromia* 14<sup>th</sup> year No. 12) *Finfine* (2006). 58, See Tesfaye Tafese 2007.

residing in the regional state and provided local self government at the zone level for three ethno-linguistic groups (Agaw- Awi, Agaw-Hemra and Oromo). Though in practice such nationality-based local governments have not exercised much of their powers, in theory they are entitled to enact laws and design policies on matters of their own, including the use of language in public institutions.<sup>59</sup> Yet even this arrangement, though a step forward compared to the situation in Oromia, fails to ensure that such groups have the right to be represented in the regional state institutions such as the legislature, the executive and the judiciary. The groups are only represented in the Regional State Constitutional Interpretation Commission which to date is not operative. The Amhara Regional State Constitution like the Oromia Regional State one, closes its eyes to minorities other than the Agaw and the Oromo.

Regional states such as the Afar and Tigray,<sup>60</sup> although they recognize the existence of group-based minorities within their boundaries, do not specifically grant such minorities local self-government (the exception being the Irob of Tigray) as is the case in the Amhara Region. Nor is there an express right to representation in key regional state institutions.

Harar City State<sup>61</sup> represents a peculiar arrangement, given the distinct history of the Harari ethnic group as a centre of Islamic civilization where only 9 percent of the regional state population nearly commands the regional state institutions.<sup>62</sup> Some think, wrongly, that Harar is a case of a Lijphartian type of consociation<sup>63</sup> but despite the multicultural character of the Harari Regional State and the evident numerical majority of the non-Harari, no satisfactory measures have so far been taken to secure the political participation of the non-Harari and non-Oromo residents of the city. The Oromo that constitute more than half of the population do to some extent participate in the political process but other sizeable groups of minorities are excluded from the political process. It is hardly possible to envisage long-term political stability in the Harari Region given the

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59, See for details Sisay Mengiste Addisu 2009.

60, For example the Kunama minority in Tigray are found in two districts of two different *weredas* dominated by the Tigrayans. The Irob have their own *wereda* but have not yet started using their Saho Language.

61, According to the 2007 census, the population of the Harari Regional State was 183,344 of whom 103,421 were Oromo and 41,755 were Amhara.

62, See Harari State Constitution Arts. 26 and 29. Only the Harari and Oromo can participate in the region's politics.

63, See Alem Habtu (ed.) 2010: 202-203. At the core of Lijphartian type of consociational democracy is that every relevant group *shares power and resources in proportion to the size of the vote* and hence does not believe in exclusion of any group whatsoever.

64., For the historic-political background of both regions see James 2002.

large size of the population marginalized from the political process. Harar, then, does not seem to have taken into account the city's multi-ethnic character.

In the second category of regional states such as Gambela and Benishangul-Gumuz<sup>64</sup> there are two sets of unresolved issues. They are regional states more marginalized than the other parts of Ethiopia in the last century (Young, 1999; Dereje, 2006). To redress this historical injustice, these regional states were structured to favour the dominant ethnic groups within their territories. What is distinct about these regional states however is that not only are the 'indigenous ethnic groups'<sup>65</sup> diverse but there are also sizeable 'non-indigenous' groups that were forced to settle in both regional states as a result of the *Derg* policies of villagization and resettlement of in the 1980s.<sup>66</sup> As a result, two sets of frequently recurring issues have emerged in the two regional states. One relates to the challenge of establishing institutions of self-rule in the form of local government for the 'indigenous ethnic groups' that were long marginalized. As such there is a genuine fear of extinction among the indigenous ethnic groups emanating from domination of the political process from the centre. The second issue is related to the fate of the sizeable non-indigenous groups settled in both regional states. These groups, too, have a genuine security concern as well as a strong interest in participating in the political process of their region. There is a tendency by the indigenous ethnic groups to limit the political role of the non-indigenous groups that are, at least to date, economically more powerful

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65,According to the CSA census of 2007, Gambella is home to five indigenous ethnic groups namely Anuak 21.2 percent; Nuer 46.6 percent; Majengir 4 percent; 'Opo and Komo 0.4 percent. Benishangul-Gumuz is equally home for Berta 26 percent; Gumuz 21 percent; Shinasha 7.6 percent, Komo 0.96 percent and Mao 1.9 percent.

66,In Gambella the highlanders constitute about 27 percent while in Benishangul-Gumuz the same category of people constitute nearly half of the population of the region.

67,The decision ensured the right of non-indigenous minorities to be elected to public offices, as they had been excluded from the process by local parties. See decision of the HoF of *Megabit 5*, 1995 E.C (March 2003) that, in a nutshell, upheld the then existing law (Proclamation 111/1995) as constitutional, but declared unconstitutional the decision of the Electoral Board that excluded the non-indigenous groups from running for office This decision was hence of no effect. It established that Art. 38 of the proclamation was not in violation of Art. 38 of the Constitution. However, it also stipulated that any person wanting to run as a candidate was required to know the working language of the *regional state, and not one of the local vernaculars*.

68,For a detailed account of the human rights crisis see 'Targeting the Anuak: Human Rights Violation and Crimes Against Humanity in Ethiopia's Gambella Region', *Human Rights Watch* 17: 3(a), March 2005.



and politically active. Further confusing this delicate position of non-indigenous minorities are provisions of the constitutions of some of the regions, issued even after the decision of the HoF<sup>67</sup> in the Benishangul-Gumuz case, decided in March 2003. For example, the revised Benishangul-Gumuz Constitution and that of Gambella, Article 34, distinct from what is provided in other state constitutions, ensure the right of non-indigenous minorities only to work and live, and do not ensure the right to be elected to public office.

The inability of the regional as well as the Federal Government to reach an acceptable formula for power and resource sharing among the indigenous ethnic groups, on the one hand, and among the indigenous and highland residents on the other, has caused tension in Benishangul-Gumuz and serious conflicts in Gambella between 2000-2003.<sup>68</sup>

The question then is how can one ensure that there is a role for the non-indigenous groups in the regional state political process without significantly affecting the right to self-rule of the indigenous ethnic groups. For those familiar with the theory of federalism and power-sharing both in the Lijphartian and the Horowitzian model, in theory the solution is rather easy. Yet, as the Federation was preoccupied with the question of nationalities during the constitutional design, the institutions do not seem to be responding well to the new challenges at various levels.

Four types of complementary measures can address the issues and strike an appropriate balance. Primarily, the federal as well as the regional states should establish local government for self-rule where the indigenous groups are territorially grouped. This will address the concerns of the indigenous groups.

Secondly, the regional state institutions at all levels should reflect the diversity on the ground, albeit tilted in favour of the indigenous ethnic groups. In particular, the establishment of second chambers in these regional states can play a crucial role by balancing the interests of both the locally dominant groups and the non-indigenous minorities. The idea of rotating the regional state president's office among the key contenders every fixed period of time is also crucial to reduce the fear of domination by any one group. Through this measure federalism becomes, not only a means of forging unity in diversity at federal level, but also even at unit level.

Thirdly, in areas where the indigenous ethnic groups are territorially dispersed (which is the case in most parts of Benishangul) person-based federalism or a non-territorial form of cultural autonomy. Cultural and linguistic autonomy can be sought by these territorially dispersed identities, including those members of the homeland minority who have moved elsewhere in the

country without necessarily achieving territorial autonomy in the form of zones and *weredas*. (Yash Ghai, 2002:163). The aim is to strengthen the identity of minorities-based on language and culture. The claim is that it supports political stability by providing non-dominant groups with a mechanism that enables them to minimize the effects of their inferior position in the larger society. A council may be established 'if the community so wishes' which could legislate binding laws related to personal matters such as marriage and the family, customary law, religious rights, use of language in education and cultural affairs.

Fourthly, these measures should also be complemented by 'cast iron' laws and institutions that ensure the rights of individuals to participate in the political process. The federal and state judiciary, the Human Rights Commission, and the Ombudsman need to be well organized throughout the country, if the bulk of human-rights provisions enshrined in the Constitution are to be meaningfully enforced. They should also design mechanisms for monitoring human rights at sub-state level with a specific concern. This, it is hoped, will take the Federation a huge step forward. Otherwise the present reality - as evidenced by reports issued every year by the U. S. State Department, Human Rights Watch and Amnesty International - echoes John Markakis's long time worry indicated in his classic book *The Anatomy of a Traditional Polity* that human rights in Ethiopia are a luxury which the government does not take seriously and that their inclusion in constitutions is simply a formality.<sup>69</sup>

### ***5.3 Federalism, Party Politics and Challenges of Transition***

#### *Federalism and Party Politics*

In the introduction section, we noted a set of 'great deal of other factors' and such factors have been discussed in previous sections. This section builds on two crucial 'great deals' of factors: party politics, and the challenges of transition to democracy, both of which have a serious impact on the fate of the Federation.

A clearer picture of the federal system can be drawn if one looks at the operation of the party system, its links with democracy and its impact on the federal system. Many critics point to the operation of the party system as the most obvious limitation of Ethiopia's federalism, particularly the paradox that constitutional powers are generously granted to the regional states but in practice a centralized federal system is in operation, which arises from centralized policy-making by a dominant ruling party.<sup>70</sup> Consistent with previous practices, recent records reinforce the fact that most policies are generated through the party's central apparatus. Those policies then become the basis of five-year plans for

69,Markakis 2003. First published in 1974 and reprinted several times.

70,See Merera (2003:119); Assefa Fiseha, *supra* pp.131-162; Clapham (2009:187); Abbink (2009:6).

both the federal and state governments. The implication is that the autonomy of the states is limited in practice, and the party structure overshadows the federal and regional government institutions. Regional states that are supposed to play a crucial role in the design of policies at the central level are missing, as the second chamber (HoF) has no role in this respect. Besides, owing to lack of institutions for intergovernmental relations, regional states have not been able to establish forums for negotiation and bargaining with the Federal Government. This is so because the Federation operates under the circumstances in which EPRDF controls not only the institutions of the Federal Government but also all the regional state governments, either directly through its member parties or indirectly through affiliated parties that appear to be autonomous, but have strong links with the EPRDF.

Some of the instances mentioned below are symptomatic of a deep-rooted centralized decision-making process within the ruling party. The centralized party system, not federalism, is a crucial variable in policy-making.<sup>71</sup> Vivid examples are the party conferences within EPRDF, held in the summer of 2010 following the 2010 parliamentary and regional state elections, but just before the establishment of the parliaments at federal and state level. The leaders of the regional states were announced at the party conferences and before regional state councils convened to 'elect them'. The Growth and Transformation Plan<sup>72</sup> (GTP in short) an over ambitious EPRDF plan of development for Ethiopia's next five years (2010-2015) was first discussed at party level before being presented and approved by the Federal Parliament and regional state councils. The condominium projects (widely known as Arkebe's projects, named after a former mayor of Addis Ababa who introduced the project in Addis Ababa before it was replicated in other areas) that address chronic housing problems in urban areas were designed in the same way and implemented rigidly. Regional states were not allowed any flexibility. The projects were implemented as blueprints across the country and yet they remained under-utilized except in Addis Ababa and some regional state capitals. The irony is that some regional state capitals such as Makelle (of Tigray) are suffering from acute shortage of clean water and the resources could have been shifted to address this problem. The danger is that such an approach kills regional state initiatives to address their own issues <sup>71</sup>.According to Jan Erk the study on federalism can be evaluated by four benchmarks: the links between federalism and democracy; federalism's role in accommodating territorially grouped diversity; federalism's impact on policy making and lastly, the design of federal institutions in responding to the three preceding issues. See Erk (2007: 262-263).

<sup>72</sup>The GTP is based on an estimated annual economic growth of 11-15 percent: achieving the Millennium Development Goals, and transforming Ethiopia to the category of middle income countries by 2020-2023, among others. For details see <http://www.mofed.gov.et/English/Resources/Documents/GTP%20English2.pdf> as accessed on August 20, 2011.

according to their own priorities.

The above cases, which are only some of the instances, indicate that the role of democratic institutions such as the Federal Parliament and the regional state councils that are expected to reflect ‘the will of the people’ are reduced to approving party programmes and party nominees. In a democracy power ultimately emanates from the people served through democratic and elected institutions. In Ethiopia, the party dictates institutions of democracy so that the party, not the people are sovereign. In this regard, Ethiopia is not as federal as promised by the Constitution, and hence the contention that the centralized federal practice is merely a continuation of the traditional form of ‘political control’ by the centre.<sup>73</sup>

On the positive side, given Ethiopia’s diverse society, a coherent and disciplined party in the federal and state arenas appears to be an asset, compared for example to what happened in Nigeria during the 1960s and what transpired in Mwai Kibaki’s government in Kenya after Daniel arap Moi stepped down as president in December 2002.<sup>74</sup> However, in Ethiopia, the ruling party seems to be exceeding acceptable limits and is contradicting the constitutionally proclaimed principles of self-rule and state autonomy by practicing democratic centralism.<sup>75</sup> The party structure and its decision-making procedures undermine the federal division of power and subordinate the regional governments to the centre. A more serious concern is in the impact that the party system may have on the evolution of the relevant institutions in a multi-party context. As witnessed in the 2010 fourth national and regional state election campaigns, the merger between government institutions (that are supposed to serve competing parties fairly) and ruling party machinery became so visible that this gave rise to serious complaints from opposition parties. The party structure, along with its impact on the process of policy-making, therefore, explains the centralizing trend in the federal system. This factor also appears to explain the fact that intergovernmental conflicts are rare, perhaps absent, because most issues are decided behind closed doors within the party machinery. Government institutions in general and institutions for intergovernmental relations in particular, as distinct from party

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73, While many of the ethnic-based opposition parties agree on the federal option, they criticise the ruling party for failing to deliver as promised in the Constitution.

74, Nigerian federalism in this period was a parliamentary one, where leaders of regional parties chose to head their respective regional governments and send deputies to the federal level, thus resulting in weak Federal Government and strong states, finally resulting in the attempted Biafran secession of 1967-1970. Among examples of leaders of regional parties heading their respective regional governments were Chief Awolowo, Premier of the West, Dr. Nnamdi Azikiwe Premier of the Eastern region and Sir Ahmadu Bello remaining Premier of the North. See J.A. Ayoade 1996: 52. Barkan 2004; Mueller 2008.

75, See Medhane Tadesse and J. Young 2003: 394.

channels, are, therefore, not only important for day-to-day co-ordination of joint responsibilities but are also conditions for maintaining federal stability. These institutions should be permitted to evolve as autonomous government bodies so that they survive, regardless of party change or any party bickering.<sup>76</sup>

The large role played by the political party that has run the Federation since its inception naturally leads to the question of its prospects. There are those who argue that once the ruling party loses control of power, the fate of the federal system will be uncertain or will wither away with it.<sup>77</sup> Indeed, in many federations that relied more on a centralized party system than on the 'federal compact and federal institutions,' the withering away of the party has led to the withering away of the federation.<sup>78</sup> However, the Indian federal experience offers another, more positive scenario. Here the weakening of the once dominant Congress party was expected by many to lead to a reform of the federal system in favour of an increase in state power. However, there has been no significant change in the system, despite the fact that several different parties ruled India by turn.<sup>79</sup> This seems to counterbalance the 'withering away' hypothesis somehow, but depends largely on an improved democratic process from which Ethiopia is moving away, as indicated below. That makes the fate of the federal system uncertain, as pointed out by many observers, However, return to a unitary system does not seem to be feasible, given Ethiopia's diverse context. Despite the uncertainties, it seems that there is little alternative to some form of federalism.

**Federalism and the Challenges of Transition to Multi-party in Ethiopia** That it is difficult to sustain a federation for long unless it exhibits some elements of democracy has become a point of view that is no longer strongly contested. When democracy is combined with federalism, it takes a different form because the process of decision-making involves not only individuals but also regional states. The requirement in most federations that individuals and regional states should participate in constitution-making is a manifestation of this principle. A related point is that federalism moderates to some extent the effects of majority rule through a differentiated representation in the federal institutions, particularly the second chamber, and through empowerment of minorities in the form of local

76,Some have already hinted that 'while federalism may survive the EPRDF, the present political framework is so dependent on the regime that created it and its survival is unlikely.' Clapham 2009: 191 'Post War Ethiopia: The Trajectories of Crisis' *Review of African Political Economy* (2009; 191).

77,Clapham (2009: 191); Minase, *Supra*; Abbink (2009: 4-5) argued that 'it is a political model that is risky...'; the ethnic-based federalism does not work and produces ethnic-based local conflicts'.

78,Failed former communist federations are examples.

79,See Adeney 2007.

self-rule. At its core, however, is that federalism and democracy combined create multiple centres of decision-making and bring power closer to the people.<sup>80</sup> How does Ethiopian federalism fare in this regard? The discussion below that focuses on the challenges of transition tries to consider this basic question. The point is that the challenge of transition to multi-party democracy is strongly linked to the incomplete process of transition and a political culture characterized by the twins of hierarchy and authoritarianism with their emphasis on obedience to the higher level within the political élite, both of which affect the federal experiment.<sup>81</sup>

Very diverse in itself, the opposition,<sup>82</sup> ever since it came into existence in 1991/1992, preferred to withdraw from the process, claiming that the transition had not been open and inclusive enough, thereby hoping to undermine the legitimacy of the process. The ruling party, on the other hand, argues that the transition to democracy has been affected by the absence of what it calls a 'loyal and peaceful opposition,' an opposition that is committed to respecting 'the rules of the game.' Added to this is the authoritarian and exclusionist political culture within the political élite on both sides of the spectrum that long reigned in the country and still hangs over the present. Thus, the incomplete process of transition (1991-1994) resulting from the disengagement of the opposition, shrinkage in the political space,<sup>83</sup> and divergent perspectives with little political accommodation, has made the transition to democracy more challenging and protracted.

The cumulative effect of such an unhappy transition reached an ugly turn in the third national election of May 2005. The process commenced with historically unprecedented, positive pre-election debates in which a certain section of society that felt marginalized from the process made a significant comeback. For the first time in the country's history, significant numbers of opposition party members participated in the election that witnessed an unprecedented opening up of political space and media freedom. Later opposition party members joined both the federal and regional parliaments. Yet this positive political development

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80, Ronald Watts 2008 *supra* p.155.

81, Ottaway 1995: 73, 81-83; Abbink 2006 and 2009: 3-28.

82, On what constitutes the opposition in Ethiopia see Kefale 2011,

83, According to Abbink 2009: 12, after 2005 'traditional authoritarian culture was confirmed, closing the space for republican democracy.' See also European Union report on the 4<sup>th</sup> national and regional state council elections that concluded that, seen from two angles - lack of a level playing field for all contesting parties, and the narrowing of political space - it failed to meet international standards. European Union Election Observation Mission. 2010. 'Ethiopia Final Report on the House of Peoples Representatives and State Council Elections May 2010'. <http://www.eucom.eu/ethiopia2010/reports> as accessed on August 22, 2011.

was followed by a post-election crisis. The Coalition for Unity and Democracy (CUD), a coalition of four opposition parties, alleged that the ruling party had rigged the election. CUD also maintained that parliamentary procedures were being used in ways hostile to the opposition, and questioned the impartiality of the Electoral Commission. For these reasons, CUD decided not only to boycott the Parliament in October 2005<sup>84</sup> but also (according to the claims of the ruling party) to unseat it by calling on its supporters to mount a ‘coloured revolution’ similar to Ukraine’s 2004-05 Orange Revolution and Georgia’s 2003 Rose Revolution.

Adding fuel to the conflict, the ruling party, following the election outcome, used the out-going parliament to amend several laws so as to transfer authority from the Addis Ababa City Government, which had been won by the CUD, to the Federal Government. The transfer had significant impacts on revenue sources for the city. This action aggravated the tension and led to violent demonstrations in June and November 2005, which resulted in losses of life, destruction of property, and imprisonment of CUD’s principal leaders, who were released in the summer of 2007 after a series of negotiations initiated by prominent Ethiopian elders. Also aggravating this development was the intra- party politics and power rivalry among the different factions of the CUD. The crisis resulted in a deterioration of human-rights protection, a refusal of CUD members to take the seats they had won in the federal Parliament and in the Addis Ababa City Council,<sup>85</sup> and a political atmosphere more or less reminiscent of the upheavals that occurred in 1974 and 1991.<sup>86</sup> Despite Ethiopia’s rich tradition of dispute-resolution mechanisms and culture of tolerance in the society (Pankhurst and Getachew, 2008), the political élites on both sides of the political spectrum manifested a *militant political culture* that seems to be the product of a deep- rooted hierarchical and authoritarian notion of governance

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84,The National Election Board stated that the ruling party and its allies secured 347 seats in a parliament with a total of 547 seats, and declared it as a winner. The CUD secured 109 seats while the UEDF obtained 52 seats. 11 seats went to an Oromo opposition candidate and one 1 for an independent candidate. See ‘NEBE announces official results’ at <http://electionsethiopia.org/Whats%20new40.htm> as accessed on June 15, 2006. A majority of the members of the CUD boycotted the new legislature’s first sitting, but 93 of them later joined the HoPR. Members of the United Ethiopian Democratic Forces (UEDF), the second largest opposition, and other smaller opposition parties, however, joined Parliament from the outset.

85,In Addis Ababa, the opposition CUD won 137 (99.3 per cent) in the 138-seat parliament. By some twist of history, the April 2008 bielections resulted in 137 (99.3 per cent) seats going to the ruling party and only one seat going to the opposition.

86,See Comments by Clapham on the Ethiopian crisis written in mid November 2005 at [http://www.ethiomeia.com/fastpress/Clapham\\_on\\_Ethiopia\\_crisis.html](http://www.ethiomeia.com/fastpress/Clapham_on_Ethiopia_crisis.html) and Abbink (2006:187; also Lyons 2006.

with its emphasis on obedience inherited from the previous regimes. Many of the political parties were products of the Ethiopian Student Movement of the 1960s and the liberation movements of the 1970s, a culture further reinforced by Marxist Leninist organizational principles such as ‘democratic centralism,’ ‘revolutionary democracy’ and ‘one party dominated political process’ (nick named Vanguard/*Awra* Party in Amharic). Such a culture stands in sharp contrast to a *federal political culture*. In the latter, parties and major actors are expected to work together to achieve common goals while respecting their differences, but this has not been the case for long in Ethiopia. Such a cooperation of this kind is not in line with the political values and attitudes that can lead to federal democracy. It also makes Ethiopia’s public sphere risky and less predictable.

Thus, despite a third parliamentary election that was openly contested by multiple parties, Ethiopia’s political process did not produce a happy outcome for all parties in 2005. The post 2005 election crisis, has left its own sad legacy. If we look at the 2010 national and regional state elections, Ethiopia’s transition to genuine multi-party democracy is far from achieved. The ruling party’s aggressive campaigns emanating from fears related to the 2005 election crisis; advantages of incumbency (use of government institutions and resources such as the media to its advantage); better organizational structure down to grass root level (party structure, mobilized mass and ruling party affiliated organizations such as women, youth, farmers); improved service delivery at grass roots level, coupled with controlled freedom for the fragmented opposition (owing to pressure from outside, lack of internal democratic practice and power rivalry within itself) yielded a one party dominated electoral outcome.<sup>87</sup> Only one seat went to the opposition and another to an independent candidate. As a result, some have gone to the extent of concluding that the era of a multi-party system in Ethiopia has gone, giving way to a one party state.<sup>88</sup> This conclusion is perhaps harsh and too early to make, but it does certainly foreshadow where Ethiopia’s democratization process is heading.

Relevant discourse in this regard is the thin line that distinguishes hegemonic parties from dominant ones. The ruling party – EPRDF - claims,

<sup>87</sup>, See European Union Report, *supra*. 88,

See Tronvoll 2010

<sup>89</sup>, See Addis Raey 2002. *Bulletin of EPRDF* 3(3): 30-38, and Tsehaye Debalkew 2010. ‘Whither Ethiopia; towards a Dominant Party System or a Single Party State?’ where he concludes, following the 2010 elections and its outcome: ‘This phenomenon, held under a multi-party contestation, wherein several political parties vie for power and culminating repeatedly by the victory of one party drawing the overwhelming support of the electors, and indeed of the population at large, is called a dominant party system.’ ‘The EPRDF, is emerging as a dominant political party’. [http://aigaforum.com/articles/dominant\\_or\\_single\\_party.htm](http://aigaforum.com/articles/dominant_or_single_party.htm) parts I and II, August 10, as accessed on Aug 18, 2012.



particularly following the 2010 national and regional state elections, that Ethiopia needs an *Awra/vanguard/dominant party*.<sup>89</sup> This claim is maintained in various documents of the ruling party, citing examples from other countries such as Japan (from 1954 to 1993).<sup>90</sup> In Japan the Liberal Democratic Party (LDP) succeeded in winning consecutive elections for nearly four decades. A prominent political scientist, Giovanni Sartori<sup>91</sup> makes a useful distinction between a dominant party system and a hegemonic one. As the case of Japan's post WWII development shows, in a dominant party system, the political system is not against multi-party as such but it happens that the voters, satisfied with the performance of the LDP continued to elect the same party in consecutive elections. In this system there are regular, free and competitive elections in which opposition parties take part. There are few, or no complaints of vote irregularity or fraud in the electoral process. The outcome of the elections is also respected by both winners and losers. There was no fear that if the LDP lost an election it would engage in 'extra-legal measures' to stay in power, and when it did lose an election in 1993, it handed over power peacefully.

Hegemonic party systems are somewhat different. To a large extent this type of system is not competitive and yet it is not the same as a one party state

.<sup>92</sup> Often associated with the idea of a 'developmental state' it aims to create a political and economic hegemony which does not bode well for multi-party democracy. The top political elite in the leadership retains control of the political process and the economic sector. As such it is not against competition as in a one party state. However the government plays a *central* role in the market. Indeed the strategy is a state led development, and capitalism.<sup>93</sup>

There are various restrictions made on political parties that want to engage in elections. Complaints of the electoral process are very common as either of the parties might engage in various kinds of election rigging. Political pluralism is also far from ascertained. As many authors assert, competition and uncertainty of outcome are vital elements of a democratic electoral process.<sup>94</sup> In

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90,See Sartori 1976: 109.

91,Sartori 1976. 'Party and Party Systems' cited above; see also Cheibub 2007: 29-30.

92,In this regime incumbents hold elections because they know they will not lose them. Yet in a democracy, un-certainty of electoral outcomes is considered an important indicator of popular participation, that is, the outcome of an election remains unknown before it takes place, providing a suggestion that there is level playing field and every competitive party has a chance of winning. Another indicator is the requirement of alternation in power, as well as regular, fair and competitive elections. See Cheibub cited above..

93,See, for details, Chalmers 1982.

94,See Cheibub cited above.

the hegemonic party type, there are indicators to suggest that the outcome is a foregone conclusion: the hegemonic party will retain power. More importantly there is no guarantee that if the hegemonic party loses an election it will transfer power peacefully. It is a least uncertain.

EPRDF claims that post 2010 Ethiopia has a dominant party system and not a one party system. The analysis is largely based on the comparison with post WWII Japan. Yet the analysis does not mention the various election irregularities that occurred in Ethiopia, noted by several international observers and, more importantly, does not address the problem of hegemonic parties that stand somewhere between a dominant party system and a one party system. Our observation is that the Constitution and the electoral laws by and large ensure a multi-party system; EPRDF claims it is a dominant party one but the reality is that Ethiopia's is a hegemonic party system. True or not, in nearly all four elections held between 1995 and 2010, various kinds of electoral irregularities were reported.<sup>95</sup> As noted, EPRDF plans to have control over the political process and the economy, and that certainly creates hegemony. This will surely result in emboldening the political leadership in dominating institutions of governance created by the Constitution, and in sidelining political pluralism (Anyang' Nyong'o 1992: 93).

This outcome is undoubtedly not good for multi-party democracy in Ethiopia as it has the risk of isolating moderates within the opposition while emboldening hard-liners. Ethiopia may have opened space for ethnic diversity which is vital, given its history, but political pluralism and accommodation of political differences – which are equally vital for the consolidation of democracy – are least nurtured. So far Ethiopia's record in this regard is dismal. The transition to multiparty democracy remains fragile and less predictable.

### ***Conclusion***

From the preceding discussions it is possible to draw some overall conclusions. One can see that the federal system has had mixed results. If federalism is viewed as a means of calming down or taming ethno-nationalist forces through recognition and empowerment at federal and sub-state level, Ethiopian federalism has played a positive role, as it has opened a political space for the ethno-nationalist forces - hitherto marginalized groups particularly in the areas of language, culture and local self government, including the promotion of their history. The Federation has diffused various conflicts by taking them into local arenas, making them less a threat to the centre, compared for example, to the political situation in 1991. Also promising is the Federation's ability to deliver

<sup>95</sup> ,European Union, Carter Center and other authorities (see note 92) issued critical shortcomings.

services such as access to education, health (albeit at the risk of compromising quality) and infrastructure (roads, telephone, electricity). It is this factor that gives the peripheral regional states a high stake in the system. There is a hope that networks of economic infrastructure and age-old *cross cutting bonds* will cement unity among the several groups.

However, these are not the only promises and declarations stipulated in the Federal Constitution. David Cameron, one of the experts on comparative federalism, stated that 'federalism is unlikely to hold an unjust regime together but equally it is unlikely to pull a just regime apart. Justice rather than glorified governing instrument is surely closer to the heart of the matter than federalism.' (Cameron. 2009: 319). Yet one is forced to ask whether the notions of justice and federalism are not inter-twined. Through power-sharing institutions combined with institutions of self-rule and appropriate policies in the realm of religion and language, is not federalism responding to issues of justice as such? The establishment and strengthening of the power-sharing institutions from the local to the federal level seems a precondition for cementing unity in diversity at all levels. This principle can be broadened to state that federal institutions should reflect the existing diversity on the ground. Apart from the current trend of inclusion of various groups in the executive branch - albeit in a limited sense, as the practice is restricted to members of the ruling coalition - this can be broadened to include parties and notable figures outside the EPRDF circles. The same principle should guide the other branches of the Federal Government such as the legislature, the judiciary, the civil service and the army. The logic is simple but vital: the more ethno-nationalist forces see their image at the federal level, the more they think they are part of it, and the less will they want to move away. It is naïve to expect that various ethno-nationalist forces will remain loyal to the system unless the major contenders of power are in some manner absorbed into the political process.

In the area of democratization and political pluralism, sad to say, it is regression. Seen in retrospect, it is not even comparable to the short-lived but good start of the transition period, particularly the early phase (1991-1992). Although the situation deteriorated towards the end,<sup>96</sup> the kind of political debates among political parties in the transitional council, the broad based nature of the transition and the mushrooming news papers simply created hope for the future. Presently the EPRDF controls all federal and regional state institutions and press freedom is restricted. This is a severe hindrance to the success of the Federation

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96, Ottaway 1995:73 'The Ethiopian government was more narrowly-based and had less legitimacy in 1994 than in 1991. The major opposition movements had moved outside the legal political process'.

and unless some reforms are introduced, it is hardly possible to predict the fate of the Federation after the departure of the EPRDF. Federal and state institutions are for the moment instruments of a hegemonic party system: the party, not the people as such are supreme. The constitutional and parliamentary supremacy has given way to party hegemony.

Very much linked to this point is the impact of the political atmosphere on the federal system. As illustrated already, constitutionally granted autonomy of regional states is kept under the tight control of the centralized party system. Although regional states are given broad mandates to design policies and plans that fit their local socio-political contexts, in actual terms, their role is limited to implementation of policies designed centrally in Addis Ababa. Like the old days of the unitary state, Addis Ababa is not only the federal capital but also the political, cultural and economic capital. It is about time to revisit constitutionally proclaimed principles and respect regional state autonomy. One cannot think of federalism without regional state autonomy. A telling example is the issue of delegation of regional state powers to the Federal Government on the administration of land. While the minutes of the constitutional assembly clearly hinted at the fear of Federal Government taking away powers of states and hence agreed only to vertical delegation, regional states have, without any contest, given up this power in favour of the centre. It is hardly possible to do this in a context of political pluralism and where one or more of the regional states come under the control of opposition political parties. In a federal context, this is a serious violation of constitutional principle.

Resolving interregional or 'inter-group' conflicts through a referendum, which was the general trend in the last decade, may at times work, as in the Silte - Guraghe case to the extent that the outcome reflects the elusive task of matching ethnic groups with a specific boundaries. However, as reflected in many of the case studies, conducting a referendum does not ensure this goal. Even after the referendum there are minorities within minorities that defeat the whole purpose of conducting an expensive referendum. This situation forces one to look for other options, such as power and resource sharing in various levels of administration, and considering the territorial and non-territorial autonomy (depending on the nature of the groups at local level) so that local minorities can determine issues related to use of the local language in schools and the promotion of culture.

The promotion of one or more regional state languages to the federal level should not be ruled out in the long run, though this should be complemented by a federal policy on language that requires every citizen to learn at least one additional Ethiopian language other than the mother tongue as a means to

promote understanding and cross cultural cooperation.

With respect to issues related minorities within the regional states and the tension between indigenous and non-indigenous groups, the federal as well as the respective regional states should establish local government self-rule where the indigenous groups are territorially grouped. This should address the concerns of the indigenous groups. In areas where the indigenous ethnic groups are territorially dispersed (which is the case in most parts of Benishangul-Gumuz Regional State), the federal and regional state governments should employ the notion of person-based federalism. The regional state institutions at all levels should also reflect the diversity on the ground, albeit tilted in favour of the indigenous ethnic groups. In particular, the establishment of second chambers in these regional states can play a crucial role by balancing the interests of both the locally dominant groups and the non-indigenous minorities. The idea of rotating the regional state president's office among the key contenders every fixed period of time, if adopted, would reduce the fear of domination by one group over others.

Finally, it is vital to remind the authorities that the bulk of rights stipulated in the Constitution have not so far been taken seriously. There should be a mechanism for monitoring human rights at sub-state level in a manner that ensures the right of individuals to participate in the political process. This is hoped to take the Federation a huge step forward. Otherwise the present reality as evidenced by reports issued every year by international human rights institutions echoes John Markakis's long time worry indicated in his classic book *the Anatomy of Traditional Polity* that human rights in Ethiopia are a luxury which the government does not take seriously, and their inclusion in constitutions is simply a matter of formality.

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