The Legality of Self Determination Right: The Case of Kemant People in Amhara National Regional State

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List of Acronyms

ANRS…………………….. Amhara National Regional State

ONRS ……………………Oromia National Regional State

SNNPRS……………….. Southern Nation Nationalities and People of Regional State.

CSA……………………..Central Statistics Agency

EPRDF……………………Ethiopian People’s Revolutionary Democratic Front

FDRE……………………..Federal Democratic republic of Ethiopia

TGE ……………………..Transitional Government of Ethiopia

TPC……………………..Transitional Period Charter

ART……………………..Article

HF……………………..House of Federation

KDA……………………..Kemant Development Association..
ABSTRACT

The purpose of this study is examining the legality of self-determination right, the case of kemant peoples; in Amhara National Regional State; in the study both Primary and secondary data are used. Under Primary Sources the FDRE and ANRS Constitutions, Proclamations and data that are acquired through semi-structural interview and Questionnaire are included. Similarly under Secondary sources, books, articles, and electronic journals are used. Accordingly the study follows a mixed approach of qualitative and quantitative data that are believed to show the actual situation of the kemant people.

Furthermore, the findings of the study from the analysis both data sources indicated that; (1) since the actual situation of the kemant people is not conform with the legal requirements of article 39(7) and article 39(5) of ANRS and FDRE constitution respectively, kemant peoples identity recognition is found unconstitutional, (2), during the assessment of the objective requirements, parties in the case i.e kemant peoples committee was allowed to assess the fulfillment such objective criteria by claimant people, (3), on the same article of the constitution some members of the H.F and ANRS councils have different understanding, (4) to all of my informants the meaning and exact demarcation of Nation, Nationalities and People of Ethiopia is obscure . Finally based on the above stated major findings and conclusion, generally the following recommendations are forwarded, (1) the objective and subjective criteria of the constitution should be interpreted commutatively, and assessed by neutral party and referendum respectively. (2) Since the first 43 kebelas were simply granted by the decision of ANRS council to the kemant people, at least the voice and the interest of the people should be heard. (3), since there is confusion on the meaning and exact demarcation of nation, nationalities, and peoples of Ethiopia clarification should be done,

Key Word: Identity, Self-Administration
CHAPTER ONE

1. INTRODUCTION

1.1. Background of the study

Ethiopia is the oldest state with a long history and is the home of people that have different linguistic, cultural, and ethnic background\textsuperscript{1}. But in its long history there were successive monarchial and dictatorial governments that had been oppressive in nature particularly in the area of respecting the individual and group rights of the citizen as well as the laws of the state\textsuperscript{2}.

In 1991 the military government Dergue who ruled Ethiopia from 1974 to 1991 overthrow by the collaboration effort of the current ruling party known (EPRDF) and others nationalists movement who were struggling to form their own sovereign state\textsuperscript{3} and then in order to determine the future fate of Ethiopia the major nationalist movements and the current ruling party engaged in discussion, at the end of their discussion, Transitional Period of Charter (TPC) which laid down base for the 1995 FDRE constitution adopted\textsuperscript{4}. Transitional government which was established up on transitional charter come up with promise for the respect of individual and group right.

On 8 December 1994 the Federal Democratic Republic of Ethiopia (FDRE) constitution approved by a constitute assembly and it became effective on 21\textsuperscript{st} day of August 1995. But in the concept of self-determination right there is strong similitude between the Transitional period charter and the 1995 FDRE constitution. The basic question is what makes the FDRE constitution unique from its predecessors in the area of self-

\textsuperscript{1}Taddesse Tamerat, charch and state in Ethiopia Ph.D. thesis published at Claredon press in (1972;5);
\textsuperscript{2} Belay Shebeshi ; Minority right protection in ANRS ; The case of Kemant people in North Gondar
\textsuperscript{3}Zeraywoldesenbet; the legality of the Wolqait question; issues to worry about; Wlqait .com/pdf
\textsuperscript{4}Ibid
determination? The response is that; the later come with defining criteria to constitute ‘Nation, Nationalities and people’ of Ethiopia.

Art 47(1) of the FDRE constitution\(^5\) clearly stipulates the member states that are forming the FDRE. The state of Amhara is listed as one of the federative state of FDRE; it covers 15.4% from the total area of the country\(^6\). According to the 2007 population and housing census, the region has above 17 million people, which makes the region the second largest federative state next to Oromia National Regional State of Ethiopia (ONRS).

Although as per article 9 (1) of the FDRE constitution\(^7\), each regional states’ are being subordinate to the federal government, according to article 50(5) of the FDRE constitution\(^8\), they are allowed to have their own constitution which is ideally compatible with the constitution of the FDRE. Because of this Amhara National Regional State of Ethiopia (ANRS) adopt its own constitution and includes the concept of self-determination up to secession in its constitution known as proclamation No 59/2001. In this constitution on article 39 (7) like the FDRE constitution, it also includes the objective and subjective criteria to constitute ‘nation’.

On the other side, despite there are legal and institutional remedies at the federal and regional level, formally the kemant people since 2001 were struggling to get recognition for self-administration. As the result of their struggle on June, 10, 2015 Amhara national regional states council (ANRS) officially recognize and grant this right to the kemant people.

1.2 Statement of the problem

According to Fredrik Barth, “an ethnic group is the one who designate a population which is largely biologically self-perpetuated, share fundamental cultural values, realized

\(^5\) Article 47(1) of Proclamation No. 1/1995.
\(^6\) ANRS first study on the kemant people on page 1/Pdf
\(^7\) Article 47(1) of Proclamation No. 1/1995.
\(^8\) Article 47(1) of Proclamation No. 1/1995.
in overt unity cultural forms, have a makeup of a field of communication and interaction, has a membership which identifies itself and identified by others as constituting a category distinguishable from others categories of the same order. “9

Similarly by Yeshiwas Degue (2014) language, religion, history, and culture are stated as essential element in the formation of ethnicity10. In addition to the above stated personalities, Belay Shibeshi (2010) also describe about the component of ethnicity as follows; even though language and religion are an essential element to ethnic identity, there are peoples who are inclined to their common assistors.11 As I observed from these and others individuals’ perspective, instituting the concept of ethnicity based on the language, culture, religion, and the capability of identify oneself and identified by others had not been difficult centuries ago, but in this modern world in which freedom of beliefs is respected and the concept of secularism is prevailed, to institute the concept of ethnicity, religion should not be taken in to account, because there are Christian, Muslim and others religion followers irrespective of their ethnic and racial background in every corner of the world. The issue is in this diverse and multi lingual society’s how one ethnic group is differentiated from others? In connection to this issue, the federal and the regional governments of Ethiopia, in their own constitutions stipulate remedy by which claims of identity entertained.

According to the FDRE and ANRS constitutions, recognition for self-hood status is given in two ways such as recognition before presenting identity claim and recognition up on identity claim12.

When we see from article 47(1) of the FDRE constitution13, at the federal level the nine regional states of Ethiopia are granted recognition for self-administration in the absence

9 Fredrik Barth (peage 5)“Ethnic Groups and boundaries”
10 Yeshiwas Degu(2014, 14 & 159), “From melting pot to questfor recognition; the kemant people in Ethiopia.
11 Belay shibeshi (2010) “ Minority right protection in the Amhara regional state;the case of Kemant people in north Gondar”
12 Zeraywoldesenbet; the legality of the Wolqait question; issues to worry about; Wlqait .com/pdf
13 Article 47(1) of Proclamation No.1/1995.
of their claim of identity. In the same manner, in regional state of Amhara, according to art 45(2) of its constitution the people of Oromo, Awi and Wag himera are recognized as a nation without the presentation of their claim of identity.

Recognition based on a claim of identity is another procedure by which recognition for self-hood status is obtained. In the FDRE and ANRS constitution there are clearly stipulated criteria that are expected to be fulfilled by those people who want to obtain self-hood status. When these criteria as they are stated on art 39(5) of the FDRE or art 39 (7) of ANRS constitution fulfilled, it is possible to grant this right. The Seletie and Aregoba peoples’ claim for identity recognition in the SNNPRS and ANRS respectively are a good example in this regard.14

Regarding the self-hood status of the kemant people, by referring the past Ethnic, religious, cultural and linguistic uniqueness of this people, different researchers’ like Belay Shibeshi15, Zinabu Yirega16 and Yeshiwas Degu17 on their separate research paper strongly argued that; since the people of Kemant is eligible to the constitutional requirement, they have to be recognized as a nation. On the contrary of their arguments, based on the finding of the successive survey studies of ANRS council and article 39 (5) and (7) of FDRE and ANRS constitutions respectively; constitutional lawyers18 and political activist19 strongly argued that; the identity recognition of the Kemant people is not constitutional. So in this research I am trying to examine the eligibility of the kemant peoples’ identity recognition with reference to article 39 (5) of FDRE and article 39 (7) of ANRS constitutional requirements of “nation”. Therefore since the recognition of the

14Aregoba Nationality WoredaEstablishement and determination of its power and duties Proclamation No.130/2006 ANRS Zikre Hig.-15 April 18 2006
15Belay Shebeshi; Minority right protection in ANRS; The case of Kemant people in North Gondar
16ZinabuYirega; Practices and challenges of house of Federation in resolving claim of identity case study of kemant community in ANRS
17Yeshiwas Degu; From "Melting pot" to Quest for recognition; The Kemant People in Ethiopia.
18Informal discussion with Ato Getahun Tesfaye and Ato Abuhay.
19Ato Chushu Dsaligne; term paper on the decision of ANRS council (June 15/2015).
Kemant people is recent case, this research will be the first to study the legality of self-determination right; in the case of Kemant people in ANRS.

1.3. The objective of the study

1.3.1. General objective

The overall objective of this study is intended to examine the legality of Kemant peoples’ identity recognition in the perspective of the FDRE and ANRS relevant laws.

1.3.2. Specific Objective

The specific objectives of the study are intended to;

1. examine the pulling and pushing factors of recognition in the case of Kemant people.
2. provide lesson, to whom identity recognition is legally or constitutionally allowed and to whom not allowed.
3. examine the jurisdiction and the role of H.F and the ANRS council in case of Kemant people.

1.4. The Research questions

The study is focused to address the following basic research questions.

1. What are the pulling and the pushing factors of Kemant people’s identity recognition?
2. Is it the identity recognition of the Kemant people is legal (constitutional)?
3. Who had jurisdiction to entertain the identity claims of the kemant people?

1.5. The significance of the study

The concept of constitutionalism is an essential tool to achieve public accountability, the end of which is promoting good governance. In contrary with this, weak constitutionalism meaning a government that have constitution but not willing to act up
on it, fails to achieve the essential elements of good governance\textsuperscript{20}. Therefore so as to promote good governance, the governors as well as the governed are duty bound to observe the laws of the state.

As the first study on the legality of Kmant peoples’ quest for self-administration and its response, the finding of the research will have the following importance (1). It provides lesson on how claim for self-hood status is entertained. (2). It tries to show the gap in the existing laws of the state especially in granting self-determination right. (3). In the area of literature this research will contribute something particularly to those people who wants to study about recognition and self-administration right of nation in light of FDRE and ANRS constitutions and other laws.

1.6. The scope of the research

The researcher conducted the study in two woredas (Gondar town and Chilga woreda), in which the Kemant people are presumed dominantly inhabited.

The theme of this study was limited on examining the fulfillment of mandatory constitutional requirements of “nation” by the Kemant people, while they are recognized as a nation by the decision of ANRS council on June 10, 2015.

1.7. Limitation of the research

As I observed from other and my own experience, there is no research which is totally accomplished without challenges. So in doing this research lack of willingness and confidence to provide information were among the challenges.

As the result, to spell out information and cup up the challenges, from the beginning to the end of the study, the researcher follows special and confidential approach with the informants.

1.8. The Setting

The focus of this research is the Kemant people, who reside in Amhara National Regional State under the former north Gondar administrative zone, particularly in Chilega, Lay Aremachiworedas and also in some kebeles of Gondar town zuria, Dembia, wogera, Metema and Quara.

According to 1994 national census report, the total population North Gondar zone 2,088,684 in 434, and 297 households. And the three largest Ethnic groups reported in Semien Gondar zone were the Amhara (89.72 %), the kemant (8.25), the Tigraway (0.94); and others made up 1.09% of the population.

A. Population

As the result of the 2007 Ethiopian population and housing census, recently the number of the kemant people is not officially known. Because during 2007 Ethiopian population and housing census Kemant was not counted as independent ethnic group rather they were counted in merge of Amhara people\textsuperscript{21}. The reason for the annexation of the kemant

\textsuperscript{21} Yeshiwas Degu(2013, 16), “From melting pot to quest for recognition; the kemant people in Ethiopia.
people with the Amhara people during 2007 population and housing census is still esoteric that is why it is officially not available. Mizigena Adera (July 12, 2013)\(^{22}\), states that; at that time this agency may believe that because of the ongoing Amharanization process the Kemant people might be assimilated and lost their collective identity. Others also argued that it is done in order to combust the identity quest of the kemant people. The best supportive evidence to this argument is stated by Yeshiwas Degu (sep 2014, vol 3, issue 9, page78)\(^{23}\) as follows;

“2007 national census as institution deprivation of kemant’s people identity it become a crucial point of entry to identify Kemant’s misrecognition.............”. The other conceiver on the case of our discussion is Belay shibeshi(2010 ,18)\(^{24}\) he said that “the declaration of the result of 2007 population and housing censes accelerated the pace the movement of the kemant people.”

Although the people of the Kemant were not counted as independent ethnic groups in 2007 population and housing census, the populations of kemant were 169,169 and 172,327 in 1984 and 1994 Ethiopian population and housing census respectively.

**B, Language**

From the language spoken in the region, according to the 1994 national census report Amharic is spoken as the first language by 98.32% and the remaining 1.62 % is spoken as a secondary language.

**C, Religion**

According to Yeshiwas Degue (2013; 17)\(^{25}\) Hege Lebona was/is the religion of the kemant people, as a religion of the kemant people, it embrace many of Hebraic and some Christianity elements, and throughout a year religious leaders execute religious deeds,

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\(^{22}\) Mizigena Adera (July 12,2013), “Unfinished Amarhaization process in Ethiopia and Kemant quest for Dignity and self rule”

\(^{23}\) Yeshiwas Degu(2013, 16), “From melting pot to quest for recognition; the kemant people in Ethiopia.

\(^{24}\) Belay shibeshi,( January 2010,page 15 and 58).”minority right protection in the Amhara national regional state in the case of kemant people in north Gondar”.

\(^{25}\) Yeshiwas Degue( sept 2004 ,vol 3 , issue 9), ), “From melting pot to quest for recognition; the kemant people in Ethiopia
which include pray, chant, dance and kedassie. Similarly Belay shibeshi\textsuperscript{26} (2010, 15) states that; Hege lebona is/was the religion of the kemant people, and its elements consisted from” pagan”, Judaism and Christianity. In addition to this, he describes about the essential values of the religion itself as follows; the believer of Hege Lebona believes in “one God” known as “Mezegana” or “Adera”. Mezegana or Adera have omnipotent, omnipresent, and omniscient power. Gams Fredric (1961) \textsuperscript{27} also explained that the religion of the kemant people i.e. Hege Lebona is the outcome of “Pagan” and “Hebraic” religious practice.\textsuperscript{28}

D. Culture

According to BelayShibeshi,\textsuperscript{29} Culture is defined as “the ways of life of a group of people or a community”. In the same page he also describes that as language and religion, culture is another prime identity maker of a community. His justification is that up on the group of people’s or community’s eating habit, dressing style, musical cadence, religious rites, wedding and mourning ceremony the distinction of one group of people or community from others is possible to make. Similarly Yeshiwas Degue, in addition to common assistors and history, culture is depicted as one important element which constitutes ethnic identity\textsuperscript{30}.

1.9 Ethical Considerations

In doing of this research the consent of the respondents, ensuring the willingness of participants and confidentiality had been given priority. The objective of the study was explained. The official’s letter which clearly states the title of my research was crucial

\textsuperscript{26} Belay shibeshi,( January 2010,page 15).”minority right protection in the Amhara national regional state in the case of…..

\textsuperscript{27} Gams,F.C (1969)” The kemant; a pagan-Hebraic Peasantry of Ethiopia”

\textsuperscript{28} Megazin of vol 7, No.3 march 2013,page 7,miniistry of culture and turism.

\textsuperscript{29} Belay shibeshi,( January 2010,page 16).”minority right protection in the Amhara national regional state in the case of

\textsuperscript{30} Yeshiwas Degue( vol,4, No, 18, 2014,161), “From melting pot to quest for recognition; the kemant people in Ethiopia”.
during my negotiation with government officials at all levels of my research sight in order to get access to information.

In the process of data collection through interview, first I need to get the consent of the interviewees to use tape recorder and to cite their responses in the text as a reference. Generally in order to be reliable researcher I had been in due care in gathering and processing of data.

1.10 Organization of the study

This research has five chapters. Chapter one introduced the existing gap of the issue of the investigation and the overall frames of this research. Chapter two deals about, the legal foundation of identity question in Ethiopia and the concept of identity recognition is briefly explained. Under chapter three the type of data and methods of data interpretation are presented. Similarly under chapter four of this research, with reference to the laws of Ethiopia, all the relevant data that are collected from the respondents are interpreted and analyzed in detail. Finally in the final chapter of this research that is Chapter five major findings of the research with conclusion and recommendation, are stated as follows.
CHAPTER TWO

2. Review of Relevant Legal and Conceptual Framework

This research is primarily deals about the legality of self-determination right in the case of Kemant people. So, for the better understanding of the essence of this research, under this chapter the nature of identity question and its remedy, and the concept of identity recognition as the main topic of this chapter in light of the FDRE and ANRS constitutions are briefly explained as follows.

2.1. The nature of identity question and its remedy in Ethiopia.

2.1.1. FDRE constitution and ways to identity recognition.

As the result of the promulgation of the FDRE constitution, in 1995 new state arrangement (federation) was established. Regardless of their numerical size based on the FDRE constitution 9 regional states and one federal government was organized.  

Even though the current constitution came-up with the new state arrangement, since its promulgation, claim for identity recognition becomes the core issue to many ethnic groups. Because of this fact, within the past 20 years alone more than thirteen identity claims of applications were submitted to the HoF. The question is how the issue of identity and identity claim entertained in Ethiopia? According to the FDRE and ANRS constitutions recognition for self-hood status is given in two ways such as recognition before presenting identity claim and recognition up on claim of identity.

When we see article 47(1) of the FDRE constitution; the state of Tigray, Afar, Amhara, Oromia, Somalia, Benishangul/Gumuz, Southern Nations, Nationalities and peoples, Gambela and Hareri peoples at the federal level recognized as a nation without presenting claim of identity. In addition to this art 47 (2) of the same constitution generally

31 Christophe Van der Beken (2007) “Ethiopia; constitutional protection of ethnic minority at the regional level”
32 W/senbet (2016) “The legality of the Wolqait question;issue to worry about”
acknowledges the existence of others ethnic groups that are not stated on art 47(1). In the same manner, as per art 45(2); of the revised constitution of ANRS, the people of Oromo, Awi and Wag himera are recognized as a nation without presenting claim of identity recognition. To make it more clear to the reader, to those groups who are not satisfied or recognized as a nation, in the ANRS as well as in the FDRE constitutions still there is procedural remedy i.e. recognition up on claim of identity.

Recognition up on identity claim is another procedure by which recognition for self-hood status is obtained. As we could understood from the FDRE constitution article 39(5) and article 2(5) & article 19 (1) of proclamation No 251/2001, this right is defiantly available to those groups who qualify the criteria of a Nation, Nationalities or peoples and demands for their self-hood status. But the question is to whom this right is available?

In the Ethiopian legal system to know the exact beneficiary of this right, the above stated articles are not only taken as a guiding principle but also they are considered as a mandatory requirement to claim of identity recognition. Because according to Zeray/ Wsenbet (2014) expression; in order to demand self-hood status the following two points are expected to be fulfilled. (1), a claimant people required to meet the definition of a nation, nationality or people within the context of art 39(5) of the FDRE and Art 2(5) of Proclamation No 251/2001. (2), a group of people’s self- identity is within the perspective of proclamation No 251/2001 article 2(5) and article 39(5) of the FDRE constitution must be denied to bring fresh identity question.34

2.1.2. Eligibility to notion of Nation, Nationalities and people in Ethiopia.

In this section it’s plausible to ask a question who is eligible to the status of self-hood? As we discussed thereon the response is any Nations, Nationalities, or peoples who are denied their self-hood status and who are eligible to the essential constitutional criteria’s of the nation. Hence the essential criteria of our constitution become the center of our discussion.

34. Zeray W/senbet (2016) “The legality of the Wolqait question;issue to worry about”
As per article 39(5) and (7) of the FDRE and ANRS constitution respectively, to qualify the status Nation, Nationalities or peoples, distinctive common culture, distinct common /communicable language, a unique identity, common psychological makeup and an identifiable and predominantly contagious distinctive territory are clearly stipulated as essential elements\(^\text{35}\).

To make it clear, about the above stated essential elements of a nation and in the time of its implementation how its scope is viewed, each constitutional criterion of nations are stated as follows;

A group of people who claim for self-hood status must have or share a large measure common culture or similar custom. Here we should understand that; even if in the diverse society many people have many things in common, as ethnic group they are expected to have or preserve their own unique culture or custom, like eating habit, dance, manner of commendably, ceremony of mourning and wedding.

A group of people must have or share mutual intelligible of language. Meaning a group of people who claim for self-hood status is required to have their own communicable language. On the issue of language different scholars argued differently. For example Zelalem Leyew (2002) and Yeshiwas Degue(2014) argued that ;language as culture is not a determinant criteria while Zeray W/senbet (2016) argued in favor of language.

A group of people who wants be recognized must have or share a belief in common or related identity. In other words any group of people who wants to be recognized is expected to have one identity. Zeray W/senbet (2016).

A group of people who wants be recognized must have or share common psychological make-up. In fact it’s impossible to imagine similar psychological make-up within the group of people without common or related identity.

A group of people who wants be recognized must be inhabited in identifiable and predominantly contagious territory.

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\(^{35}\) Article 39(5) of proclamation No, 1/1995 and Proclamation No. 59/2001 article 39(5).
Similarly my informants in connection to this issue manifested that; those ethnic groups who fulfill the above stated requirements of the constitution are entitled to identity recognition. Further they said that, as the ANRS and the FDRE constitution stipulates that, those ethnic groups who wants to be recognized as a nation has to fulfill the tangible and intangible legal requirements of the constitution.

Similarly Zeray (2014) argued that, those ethnic groups who wants to be recognized as a nation should submit their claim of application as per article 39 (5) and 39 (7) of the FDRE and ANRS constitutions. Because according to these articles the claimant have a duty to preserve their uniqueness, in terms language, culture identifiable territory, and related identity and common psychological makeup.

But as my observation even though, the actual presence of these tangible and intangible legal requirement are important to be recognized as a nation, the existence of such legal requirements by itself is not enable the claimant people to be eligible. Because there are an others requirements required to be fulfilled. The first requirement is that those ethnic groups who wanted to be recognized as a nation, has to submit their claim of application as per article 19(1) of proclamation No 251/2001 to the HoF through proper channel.

Secondly such identity claim should be new and unique. As it was clearly explained in chapter two the newly submitted identity claim of application should not be recognized before in every corner of the state. Because if the newly submitted identity claim was recognized, somewhere in Ethiopia, it is going lose its uniqueness. So if it lacks its uniqueness, it will not recognize. Therefore to be eligible to the status of nation in Ethiopia, the people who wants to recognize has to present their claim of application in the ways that we discussed herein and above.

Generally according to article 39(5) of the FDRE as well as ANRS constitution, any ethnic groups who are claiming to obtain nation- hood status must show sign of difference in respect of culture, language, identity, psychological make-up and territory, not only in their relation with their neighbors ethnic groups but also with others ethnic groups who are already got recognition.
2.1.3. Eligibility; to submit application for identity recognition.

To whom claim of identity is allowed?

Surprisingly, to this question my informant’s forwarded different response. The first respondent responded that, as per article 19(1) of proclamation No 251/2001 any ethnic group, who believes that its self-identity is denied are entitled to this right. The second respondent also said that, any ethnic groups who are eligible to the requirements of the constitution are entitled to this right.

But in the eyes the law the first respondents’ perspective seems more persuasive than the later. The reason is that, the illegibility of the claimant group of people is proved after the identity claim of application is submitted to the state of council or the H.F. In other words, the eligibility or illegibility of any ethnic groups is decided by the respective concerned body, after the submitted of claim of application. Therefore in the eyes the law, the Kemant people since they had been believed that, their self-identity rights was denied, they had been eligible to this right.

2.1.4. Ineligibility to the notion of Nation, Nationality or people.

Who is ineligibility to identity recognition?

In connection of the above question all my interviewee responds that, a group of people who lacks one of the following legal requirements is not entitled to the right of nation, nationalities, or peoples of Ethiopia.

The first requirement is those ethnic groups who are not interested to be recognized as a nation and who as per article 19(1) of proclamation No 251/2001 do not present their claim of identity to the HoF through proper channel are not entitled to this right.

The second requirement is that, those ethnic groups who did not submit their claim of application as per article 39(5) and 39(7) of the FDRE and ANRS constitutions are not entitled to identity recognition. Because according to this article, the claimant people have a duty to preserve their uniqueness, in terms language, culture identifiable territory, and related identity and common psychological makeup. So, as we discussed before and
herein, those group of people who lacks the actual presence of these tangible and intangible legal requirement are not entitled to this right.

The third requirement is that, if such identity claim was recognized before in somewhere in Ethiopia the claimant people is not entitled to this right. Because such claim of identity lack its uniqueness.

When we examine the legality of kemant peoples identity recognition based on the above stated rational and legal perspective, the Kemant people’s identity recognition is unconstitutional. Because as we observe from table 2, the kemant peoples claims of identity is only qualifies intangible requirement. In the eyes of the laws also the tangible and intangible requirements of the law are stipulated as the different sides of the same coin.

2.1.5. The effect of ineligibility to the notion of nation, nationality, and people.

In this section our point of discussion emphasis on the effect of ineligibility or what will happen if one ethnic group, who are claiming to obtain nation-hood status in the eyes of the law being ineligible to the notion of Nation, Nationalities or people?

Although in our legal system there is no clear provision which regulate the effect of ineligibility to the claim of identity, from experience its effect is known i.e. rejection.

Case 1

“The Menja community had been applied for the aim of obtaining a Nation-hood status but it is rejected by both the southern National Regional State and HOF, based on the ground that it does not demonstrate distinctive ethnic/linguistic characteristics’ in particular because of lake of distinctive/unique language.” (Zeray w/senbet, 2016)

Case 2

The Deneta and Doreze communities claim for identity recognition had been rejected by both the southern National Regional State and HOF, based on the ground that, both

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36 Ethiopian news agency (May,4,2018)
37 Deutshe welle, (Jully 4,2014)
the Denta and Doreze communities are failed to fulfill the constitutional criteria of a nation i.e. article 39(5) of the FDRE\textsuperscript{38}.

In fact rejection of a claim of identity may not be made only by the reason of ineligibility to the essential criteria of the nation; rather there are others four possibilities where by rejection of identity claim of application is made. According to Zeray/woldesenbet (2016)\textsuperscript{39} the following points are stated as the ground of rejection.

A. If any group of peoples’ identity claim of application is appeared outside the jurisdiction the concerned body of the government.
B. If any group of peoples’ identity claim of application is not clear enough to disclose the center of the issue.
C. If the delegated individual or individuals are failed to produce reliable evidence about their delegation.
D. If the instituted identity claim got recognition before.

2.1.6. The Benefit of Eligibility to the Notion of Nation, Nationality, and people of Ethiopia.

The innate and intended goal of any claim of identity is identity recognition\textsuperscript{40}. Because as per article 39(5)\textsuperscript{41} and article 2(5),\textsuperscript{42} of the FDRE constitution and proclamation No 225/2001 respectively, any ethnic groups who signified their distinctiveness are entitled to acquire the right of Nation, Nationality and people of Ethiopia. The logic is in our legal and political system it is impossible to claim the fruit before ethnic identity as tree is fructified.

As per article 39 of the FDRE constitution, the Nation, Nationality, and people of Ethiopia have the following rights.

\textsuperscript{38} Article 39(5) of ,Proclamation No1/1995
\textsuperscript{39} Zeray W/senbet (2016) “The legality of the Wolqait question;issue to worry about”
\textsuperscript{40} Ibid
\textsuperscript{41} Article 39(5) of ,Proclamation No1/1995
\textsuperscript{42} article 2(5) proclamation No 225/2001
1. “Every Nation, Nationality and people in Ethiopia has unconditional right to self-determination, including the right of secession”.

2. “Every Nation, Nationality and people in Ethiopia has the right to speak, to write and to develop its own language: to express, to develop and to promote its culture; and to preserve its history.”

3. “Every Nation, Nationality and people in Ethiopia has the right to full measure of self-government which includes the right to establish institution of government in the territory that it inhabits to equitable representation in the state and federal governments”.

4. “The right to self-determination, including secession, of every Nation, Nationality, and people shall come into effect.

   (a), when a demand for secession has been approved by a two third majority of the members of the Legislative Council of the Nation, Nationality, and people concerned.

   (b), when the federal government has organized a referendum which must take place within three years from the time it received the concerned council’s decision for secession.

   (c), when the demand for secession is supported by a majority vote in the referendum.

   (d), when the federal government will have transferred its powers to the council of the Nation, Nationality and people who has voted to secede; and

   (e), when the division of assets is effected in a manner prescribed by law.

As we understood from the reading of the previous discussion, article 39(5) is not included under the benefit list of the Nation, Nationality, and people of Ethiopia. Because article 39(5) is stipulated in the constitution not as the benefit of the Nation, Nationality and people of Ethiopia rather it is stated as criteria to acquire nation- hood status. In other words article 39 (5) is stated in the constitution so as determine the right owner the rights that are listed down from sub article 1-4 of the same article of the FDRE constitution.
To conclude this point, as it is stated by Zeray W/senbet(2016)\(^{43}\) “Groups/communities, which did not get the status nation, nationality or people within the notion of article 39(5) of the FDRE constitution, first must apply identity question………… identity question is all about identity recognition…………the outcome of identity recognition also possession of ethnic right,”

2.1.7. *Jurisdiction to make decision on claim of identity in Ethiopia.*

In this section, in the eyes of law the issues of who are trustworthy to make decision on the claim of identity become the center of our discussion.

As per article 39(7) of ANRS and (5) FDRE constitution, there are three objective and two subjective constitutional requirements, up on which the identity claim any ethnic groups are judged by the regional states council or HoF. But as we can see from these two constitutions, language, religion and contagious territory are presumed as objective/tangible requirement while the rest of the two are perceived as subjective/intangible legal requirements. As it’s obvious to everyone logically the fulfillment of all objective criteria’s are determined by the neutral party. Similarly the fulfillments of such intangible/subjective requirements are also subjected to the vote of the claimant people. Because judging subjective requirements by the neutral party and objective requirements by the claimant people is illogical.\(^{44}\)

The other important point that has to be raised now is that, how and when the claimant people are involved in referendum? The decision of the neutral bodies of the government determines whether the claimant peoples are going in to referendum or not. Because if the HoF or states council as the neutral party proved that; the claimant people have no unique / distinctive language or culture or contagious territory, the identity claim of the people will die. But if in their decisions they proved that; the claimant people fulfill the objective criteria’s of the constitution, the next stage that is referendum will continue.

\(^{43}\) Zeray W/senbet (2016) “The legality of the Wolqait question; issue to worry about”

\(^{44}\) Ibid
Despite the central idea of our law is stated on the above, since the Seletie people’s quest for identity recognition, the law and the practice become different. Because after the selte peoples are recognized as a nation, the law seems inclined to the subjective criteria of the nation.\(^{45}\)

Where is the source of the HoF power?

Article 62\(^{46}\)

(1), “It shall organize the council of constitutional inquiry”

(2), “it shall, in accordance with the constitution, decide on issues related to the rights of Nation, Nationalities and people to self-determination.

Since according to article 62 of the FDRE constitution, the of House of federation is clearly accredited to adjudicate cases related to Nation, Nationalities and people of Ethiopia, in the past two decades alone more than 13 new claim of identities were submitted to this institution.\(^{47}\)

In addition to this, as per article 19(1) of proclamation No 251/2001, “Any nation, Nationalities, or Peoples who believes that its self–identities are denied may present its application to the HOF through proper channels”. Not only the HoF but also the state councils within their respective region are entitled to deal with identity claim before it goes to the HoF.

Despite the fact that, as per article 62 (2)of the FDRE constitution and article 19 (1), of proclamation No 251/2001, the HoF is clearly entitled to deal with cases related to claim of identity, but it is only done under the condition of such claim of identity was not orderly and properly given due attention the lower concerned governed officials.\(^{48}\) In other words in legally speaking the HoF have no jurisdiction to deal with fresh claim of

\(^{45}\) Zeray W/senbet (2016) “The legality of the Wolqait question;issue to worry about”.

\(^{46}\) Article 62(1 &2), of , Proclamation No1/1995


\(^{48}\) Zeray W/senbet (2016) “The legality of the Wolqait question;issue to worry about”
identity unless such identity claim of application is not properly given to attention by the proper channels of the government.

2.2. The Concept of Recognition.

“The term “recognition” has been used in various contexts and with different conceptualizations.”\(^{49}\) As the result of this, for the long period time it remains the subject of intense academic debate within social and political theory. Some scholars perceived it as the moral-ethical goal of inter-subjective relations; while others see it as a basic human need granted to those who claim it. Now the issue of recognition is a goal or the remedy for those who did not receive it in the first place?

“The concept of “recognition”, as stated in Hegel’s Master/Slave model, assumes that individuals become aware of themselves only “through recognizing and being recognized by the others”. Self-consciousness depends upon recognition obtained from others.

Relied on Hegel’s model, Axel Honneth defines the term as the positive relation between individuals in a given society. He argues that the integrity of human depends upon their others approval and respect for their existence (Honneth, 1992: 188). Recognition by the surrounding community is a necessary condition for social and emotional development whereas lack of recognition causes considerable harm (Cited in Perez, 2012: 29).\(^{50}\)

Similarly in our legal system, the concept of recognition is understood as the positive response government office i.e. HoF or state council. Because the uniqueness/distinctiveness of the people as per art 39 (5) of the FDRE and as per article 19(1) of the proclamation No. 251/2001, alone is not enough, rather it has to be acknowledged by the respective concerned officials.\(^{51}\)

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\(^{49}\) Yeshiwas Degue( sept 2004 ,vol 3 , issue 9), “From melting pot to quest for recognition; the kemant people in Ethiopia

\(^{50}\) Ibid.

\(^{51}\) Zeray W/senbet (2016) “The legality of the Wolqait question;issue to worry about”
According to Stanford Encyclopedia (2013) the concept of recognition is analyzed as follows; recognition presupposes subject of recognition on one hand and objective recognition (who wanted to be recognized) on the other hand.

**External and Internal dimension of self-determination.**

Self-Determination right has External and Internal dimensions. The external dimension of the right to self-determination would be mainly concerned with the international status of a people (one example of which is secession), however the concept of Self-determination is, much broader than just secession. While the internal dimension of self-determination emphasis on the internal state structure and accommodation of diversity in more optimal way.\(^\text{52}\)

**2.3. The ambit of Self-Determination in Ethiopia**

The right of self-determination is clearly stipulated in the FDRE and ANRS constitutions, to given recognition as nation, nationalities, and peoples’ as far as the group satisfies the requirements of article 39(5) and article 39(7) of respective constitutions.

Once they are recognized as the nation, no one can interfere in their own internal affairs because they are autonomous. As we all knows that, Argoba, Awi, Wag Himra, Oromo and also more recently the people kemant established and exercise their self-administration right within their respective territory.

\(^{\text{52}}\) *Journal of African Law, 44: 17-51*
CHAPTER THREE

3. Research Methodology and Design

3.1. Research Methodology

To become more familiar with the issue of the investigation, the researcher has employed both quantitative and qualitative methods of research approach.

In doing so, some of the respondents' own words in Amharic, medium of the interview processes, are translated in to English or directly quoted in the research, quotations from legal documents, reports and government publications are used for analysis.

3.2 Research Design

According to Colin Nevile (2007), “Descriptive research is undertaken to identify and classify and the elements or characteristics of the subject of the study. He further describes the importance of descriptive research as follows; in order to describe the current practices of the subject matter of the investigation in detail, descriptive research is better than the others.

Therefore since this study, intended to reviews the recent ANRS council decision on the Kemant people identity recognition, the outcome of both primary and secondary sources are described in detail., as the result the study follows descriptive type of research design.

3.3 Sources of Data

Both primary and secondary sources of data are used for this research. Primary Sources such as constitutions, proclamations, data that are acquired through interview, and Questionnaires are used. Similarly under secondary source; books, articles, and electronic journals are utilized.
3.4. Sampling Techniques and Tools of Data Collection

3.4.1 Interviews (semi structured)

(a) Key Informant Interviews

With the purpose of understanding the intention and the meaning of the legal requirements of the constitution, two constitutional lawyers from Addis Ababa and Gondar university’s law school and one linguistic teacher from Addis Ababa University linguistic department are purposely selected and interviewed. In addition to this, with the intent of gathering information, about how Art 39(7) and (5) of the ANRS and FDRE constitutions respectively are interpreted, totally four concerned government officials from the ANRS and federal government are purposely selected and interviewed.

3.4.2. Questionnaire

(A). Structured

From the total population of the kemant people 172,291\(^5\) who are inhabited in the former north Gondar administrative zone, 20 female and 20 man totally forty individuals are randomly selected.

And forty questionnaires are distributed to those respondents who revealed themselves as Kemant. The respondents had been from retired government officials, civil servants and self-employed man and women ranges from 25-and above years old. Most of them had a formal education of different levels. The prime aim was to examine the uniqueness of the Kemant people in light of ANRS and FDRE constitutional criteria.

3.5. Selection criteria of research sites.

By taking in to consideration, the limited time and cost obtained for this research, out of eight woredas that the kemant people are assumed or claimed to reside, two woredas (Gonder town and Chilga woreda) are purposively selected as research sites to get more information on the issue under investigation.

Gondar town is selected because it is the resident of Coordinating Committee for Kemant People quest for recognition. A town of Aykel (chilega) selected because it is served as

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\(^5\) The 1995 Ethiopian population and housing census.
the administrative center of Chilga woreda and also it is assumed as a historic place of Kemant people and a place where the traditional religion of the Kemant people was/is practiced. e ingredient of ethnicity.

3.6. Methods of Data Analysis
In order to find out reliable result and attain the objective of this research, explanatory method of legal analysis is used. All documents, questionnaires and the response of the interviewee are interpreted and analyzed in light of ANRS and FDRE constitutions and proclamation No 251/2001 alone.
CHAPTER FOUR

Data presentation, analysis and Interpretation

4. ANRS and identity recognition.

Amhara National Regional State is one of the members state of the federation, and in the region more than five ethnic groups such as Amhara, Awi, Aregoba, Wag Hemera, Oromo and recently also the people of Kemant are recognized as a nation. As a matter of fact in terms of accommodating ethnic diversity from the nine regional states of Ethiopia, the region becomes the second region next to SNNPE. In other words as we understood from the past experience of the region, as far as the claimant ethnic groups qualifies the requirement of the nation, the region is not acquisitive to grant recognition. But in case of the Kemant peoples’ recognition, the question of legality is raised. Because there no consensual agreements, on the eligibility of the Kemant peoples’ to the constitutional requirements of a nation.

As a result, in this chapter, so as to prove the conformity of Kemant peoples’ identity recognition to the constitutional requirements of the nation, the actual status of the Kemant people assessed in light of ANRS and FDRE constitutions’ and others relevant laws.

4.1. FDRE constitution and identity recognition.

As we discussed in chapter two as per article 39 (5) & (7), of the FDRE and ANRS constitutions respectively, *mutual intelligible language, large measure of common culture, belief in a common or related identities, a common psychological makeup, and identifiable, predominantly contiguous territory* are clearly stipulated as a mandatory requirement to identity recognition.

As a matter of fact on such constitutional identity requirements, there is no conclusive and unanimous understanding among the members of the ANRS council and HoF. In support of this argument Zenabu Yerga (2016), describe that; although HoF and ANRS council have exclusive power on identity recognition, due to the erudition level of the
representative of the people, in both institution such constitutional requirements are understood and interpreted differently.

In connection to the clarity of such constitutional requirements, even though one of my informants said that, identity requirement of the law are clear enough to entertain identity claim in Ethiopia,\(^{54}\) as I observed in my investigation, there is extremes confusion on how such legal requirements are interpreted and on the meaning of nation nationalities and peoples of Ethiopia. To your surprise the members of the HoF and ANRS council on the same article they have different understanding and experience. Similarly on the definition of nation, nationalities, and peoples the majority of my informants including legal experts were confused.

A. The nature of such legal requirements

According to my respondents the nature of the above stated five mandatory requirements categorized in two dichotomies, i.e. objective test and subjective test. Objective test includes the existence of unique communicable language, unique common culture, and identifiable, predominantly contiguous territory. Similarly subjective test also includes a claimant people shared or common related identity and common psychological makeup.\(^{55}\)

According to Zeray (2014), identity requirements are classified in two categories, the first category includes, the claimant people’s language, culture and identifiable territory, the second category includes the claimant people’s related identity and their psychological makeup.

In face language, culture and identifiable territories of the claimant people are tangible test while the claimant people’s related identity and psychological makeup are intangible test or criteria’s of the constitution to accept or reject claims of identity.

B. Ways of interpretation

*How these legal requirements are interpreted?* To make it clear are they interpreted cumulatively or separately? To this question my informants respond that, the above

\(^{54}\) Interview with legal experts.

\(^{55}\) Interview with legal experts.
stated objective and subjective tests are interpreted cumulatively not separately. Similarly Zeray W/senbet (2014) strongly argued that, such objective and subjective requirements are interpreted cumulatively not separately. Similarly one of my informants who was the former member of the HoF and legal expertise said that, cumulative interpretation on identity requirements of the constitutions is mandatory not optional.

But as far as my reading and observation concerned in this particular issue, there are three rationales for the need of cumulative interpretation; such rationales are also two substantive and one procedural reason.

The first reason is that, in order to have full image about one ethnicity the issue of language, territory, culture, related identity and common psychological makeup of a community should be interpreted cumulatively. Because as many sociology scholars believed that, all the above stated requirements are an essential elements to constitute ethnicity.

Another substantive reason is that, those five requirements are connected by conjunctive word “and”. This donates that, all the above stated five requirements are seen as inseparable words. Because if the promulgator of this constitution had intention, to these five legal requirements to be interpreted as optional requirement, instead of “and” they prefer to use “or” as a conjunction word. To conclude this point, based on the type and usage of conjunctive words, the meaning of one sentence could be vary, so in the case of our discussion, the usage of “and” as conjunctive word, proved that the need of cumulative interpretation.

The third reason is the issue procedure, according to the FDRE constitution Art 39(4), there are two procedural rules up on which the issue of self-determination is decided, such as decision made by the third/neutral party and by the direct participation of the people through referendum. So unless such requirements are interpreted cumulatively the above stated articles will be futile and inapplicable.

In the case of our discussion, which types of decision are expected to be made by the neutral/third party and by the direct participation of the people through referendum?

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56 Ibid.
C. Legal requirements/criteria’s of nation decided by the neutral party

In connection to the first question, which legal requirements are decided by the neutral / third party? to this question my informant’s response and different literatures shows that; once the identity claim of application is submitted to the regional state council, the regional state council will be responsible, to prove the fulfillment of the above stated objective or tangible requirements by the claimant people. If the state council proved that, such tangible requirements (unique communicable language, unique common culture, and identifiable, contiguous territory) are actually exist in the claimant community. It will pass to the next step known as referendum.

According to Zeray (2014) and the successive survey studies of ANRS council show that, after claims of application is submitted, the fulfillment of tangible requirement of the constitution will be assessed by the neutral party, because before the HoF or the state council who received the identity claim of application of the people, determine to conduct referendum, the claimant peoples has to show their uniqueness in terms of culture, language, and territory.

The issue is, by the evaluation of the neutral party, if such objective criteria’s is not fulfilled, what will be the fate of the identity claim of the application?

My informants said that, unless such objective criteria’s are fulfilled, that claims of identity question will be rejected. But if such objective criteria are fulfilled the state council will pass to the next step known as referendum.

In my investigation i observed that, the law and the prior practice shows similar result for example after the promulgation of the current constitution, even though more than 13 new claim of identity application were submitted to the HoF, because of their illegibility to the legal criteria of the nation, most of them are rejected therefore the HoF or the state council to whom claims of identity application was submitted has a duty to prove the fulfillment tangible requirements. If such tangible requirements are proved to exist by the neutral party, the HoF or the state council that have jurisdiction on it will pass to the next stapes.
D. Legal requirements/criteria’s of nation decided by referendum

According to my informants if objective criteria are proved to exist by the neutral party, the fulfillment subjective requirements are decided by the direct participation of the people through referendum.

The point is, by the decision of the people, if such subjective criteria’s is not fulfilled, what will be the fate of the identity claim of the application?

My informant said that, that claim of identity recognition application will be rejected. Similar augments are raised by Zeray (2014), if the identity claim of the people is not supported by the referendum of the people such claim of application will be rejected.

As I observed in the course this investigation, the ultimate goal of conducting referendum is to prove the existence of subjective requirements or intangible tests (common belief or related identity and common psychological makeup) among the claimant people. The case of the kemant peoples’ referendum in 8 kebeles is the good example in this regard. After the kemant peoples are recognized as a nation, the kemant people’s representative committee had raised additional question to include 8 kebeles in to the newly established kemant people’s administrative woreda. Thus ANRS with the collaboration of the HoF conducted referendum. But the outcome was not blissful to the kemant people’s representatives, because except one, the people who reside in the 7 kebele, could reject the claim of the kemant peoples’ representative’s.

To conclude it, if the state council incontestably proved that, such tangible and intangible legal requirements are actually exist in claimant people, the claimant people in general will be recognized as a nation. In fact as we discussed before in respect to such tangible and intangible requirements the claimant people should be unique from its neighboring people.

4.2 The uniqueness of the kemant people from Amhara people.

As we discussed in chapter two, to be eligible for identity recognition, the claimant peoples required to show their uniqueness from their neighboring people. Similarly to prove the legality or the constitutionality of Kemant peoples’ identity recognition, the
uniqueness of the kemant from their neighboring people i.e. Amhara people are taken as one requirement.

**Table 1, the uniqueness of the kemant people from Amhara people**

<table>
<thead>
<tr>
<th>Question</th>
<th>Item</th>
<th>Number</th>
<th>percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think the kemant people are different from Amhara people?</td>
<td>yes</td>
<td>27</td>
<td>67.5</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>13</td>
<td>32.5</td>
</tr>
</tbody>
</table>

As indicated in the table 1, from the total respondents, 67.5% of the respondents, responded as the kemant people are different from the people of Amhara, while 32.5% of respondents, responded as the kemant peoples are similar with the people of Amhara. So here we can understand that, as the majority respondents’ perception, there is distinction between the two.

As we discussed before, the uniqueness of the claimant people should be manifested in a tangible and intangible requirements. Because as per article 39 (5) and (7) of the FDRE and ANRS constitution respectively, uniqueness perception should be supported by the following constitute element of ethnicity.

**4.2.1. Mutual intelligible language.**

In this part the researcher tried to explore the legal and literal manning of mutual intelligible language and in practice how it had been viewed in parlance of Ethiopian law. So in this part, the legal meaning of language and the fulfillment it by the Kemant people will be the center of our discussion.

*According to article 39(5) and (7) of the FDRE and ANRS constitutions respectively, any ethnic groups who want to be recognized as a nation are required to have or share mutual intelligible language (የአማርኛው ታርጉም ከመወጣት ባዛቸው የንግ محمود ሰባ ሰባ ያለቸው ከሚቹሉበት ሲሆን ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰባ ያለቸው ሰባ محمود ሰbaby and baby) so, as a lawyer how do you interpret it?*

In connection to the above question, in the eyes of Ethiopian law, to consider one language as mutually intelligible language to the claimant people, the claimant people at
least have to use their language in their day to day’s activities or able to communicate among themselves to carry out their cultural ceremonies like wedding, funeral, ritual and salutation.\textsuperscript{57}

In both constitutions, mutual intelligible language is stipulated as one requirement to recognize nation, so, as a language professional, do you think mutual intelligible language is differentiated from unintelligible language? if your response is yes, how? No, why not?

Based on their usage it’s possible to differentiate the two. Mutual intelligible language is a language which is widely or narrowly used for communication purpose. But as we understood from the word unintelligible, unintelligible language is not a language rather it could be dialects, or jargon words which are only known by few individuals who are residing in a same locality or found in the same age level or it could be an individual pattern of speech in his life in the community known as idiolect.\textsuperscript{58} My informant further explain that, as far as my reading concerned, language to be considered as a communicable language, at least it has its’ own speaker.

To consider one language as communicable language is it the population of its speaker is taken in account?

He said that, historically there was a time that the number of the speaker of the language was taken in to account, but following the reduction of the population of the western countries, such attitude is become inapplicable, instead of it now days, the workability of the language is taken in to account. Therefore if a language is used at the work place or in performing customary practice it’s possible to consider it as communicable language.\textsuperscript{59}

Why language is taken as one requirement?

Due to the interconnectedness and agglutination nature of culture, especially in the group of people who are residing in border areas, there is cultural impersonation, so in such situation to differentiate one ethnic group from other members of ethnic group, the

\textsuperscript{57} Interview with legal expertise.
\textsuperscript{58} Interview with Essubalew Getnet (phd candidate) in Addis Ababa university.
\textsuperscript{59} Id
language they speak with their related identity and psychological makeup become important. For example in terms of culture it is difficult to differentiate Gedio people from Gujji Oromo, the people Argoba from Afar, the people of Soddo Guragie from the nearby residing Oromo people and the people Amahara from Wolqaitie. So to identify one ethnic group from others ethnic groups and to practically grant identity recognition to the eligible ethnic groups, language is a mandatory requirement.

Therefore as we understood from the legal and language professionals, before the kemant peoples are recognized as a nation, the workability of Kemantney among the kemant people, should be taken in to account.

Table 2. Mutual intelligible language to the kemant peoples.

<table>
<thead>
<tr>
<th>Do think Kemantny is used in the day to day’s activities of the kemant people?</th>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>40</td>
<td>100</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| To the above question, if your response is ‘No’ what is the language they used in their day today’s activities. | Amharic | 40 | 100 |
|---|---|---|
| Tigrigna |  |
| Others |  |

As indicated in table 2, for the question forwarded to all respondents, all respondents totally responded that, kemantney is not used in the day today’s activities of the Kemant people, rather the kemant people used Amharic language in their day today’s activities. Zelalem Leyew (2002 page 68 and 69) states that Kemantny is at the verge of extinction, because from the total population of the Kemant people more than 95% the

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60 Interview with legal expertise from Addis Ababa university law school.  
61 Interview with legal expertise from Addis Ababa university law school.  
Kemant people do not speak kemantney and from the total new generation 63 of the kemant people only 0.4% knows some words about it 64. Now a day’s Kemantney used only for ritual purpose instead of it the Kemant people use Amharic in the market, wedding and mourning ceremony 65. (Id) similarly Belay Shibeshi (2010) and Yeshiwas Degu (2004) also proved that, Amharic is an intelligible language to the kemant people. In addition to this, according to the Amhara regional state organized group studies shows that, the kemant language has not practiced as a daily intelligibility of language. The language is not widely used even among its speakers. The Kemant people widely used Amharic language. The language only spoken by elderly people beyond the age of sixty and above who live in scatter rural areas.

As a matter of fact, as I observed in the course of my investigation, even though the majority of claimant people use Amharic language in school, government office or in the market place, to consider kemantney as existing language, at least they have to know it, because the actual existence of any language is proved based on the continuous usage of its speakers. For example, formerly there was a language called Gafat in somewhere in Ethiopia, when its speakers stopped to use it and unable to speak it, the language ceased to exist. The reason is that the existence of any language is proved to alive so long as its speakers use it and at least know it.

In addition to this when Aregoba people were recognized as “ethnic group” or “nation” in ANRS, the mutual intelligibility of Arobigna (the language of Aregoba people) was taken in to account. Similarly when the former ANRS constitution grant identity recognition to the people of Oromo, Wage Hemera and Awi, the mutual intelligibility their language was taken in to account. 66 But when ANRS council recognizes the people of Kemant as self-evident, their language was not taken in to account.

63 Id, page 68 &69
64 Zelalem Leyew (2002, 68 & 69) “Sociolinguistic survey report of the kemant (Qemant) language of Ethiopia”.
65 Id page 68 &69
66 Informal communication with Ato Abuhay Muluye the former member of ANRS council.
4.2.2. Large measure of common culture or similar custom.

Similarly as per article 39(5) and (7) of the FDRE and ANRS constitutions respectively, large measure of common culture or similar custom is stipulated as one requirement, so as a legal professional how do you evaluate and interpret it?

The concept of culture is very broad and the nature of culture is agglutination, so in this particular issues, the eyes the law is not different from sociology. This means since sociologist and anthropologists perceived that all the ways eating, style and types of dressing, musical agoge or style, religion and religious ceremony, and also wedding and funeral ceremony as culture, in analogy, in the eyes of the law they are considered as the culture of the community. Therefore any ethnic groups who want to be recognized as a nation required to be unique in this regard. In other words the Kemant people should be unique in ways eating, style and types of dressing, musical agoge or style, religion and religious ceremony, and also wedding and funeral ceremony from others Ethiopian people.

Table 3; large measure of common culture or similar custom of the kemant people.

<table>
<thead>
<tr>
<th>Question</th>
<th>item</th>
<th>number</th>
<th>percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think in terms of culture, the Kemant people are different from Amhara people?</td>
<td>yes</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>36</td>
<td>90</td>
</tr>
<tr>
<td></td>
<td>I don’t no</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As shown in table three, surprisingly 90% of respondents entirely responded as, the kemant and Amhara people are indistinguishable and share similar culture. While the remaining 10% of the respondents responds as the Kemant people have distinguishable culture from its neighbor. In fact in connection to this question, the finding of ANRS council survey studies on the kemant people was discovered similar result.

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67 Interview with Legal expertise
Even though by the prominent American anthropologist Gamst (1969) who conduct study on the Kemant people sixty years ago, the Kemant peoples are depicted as a people who have a long remained culture that distinct them from their neighboring Amhara people 68, now a day’s according to Zelalem leyew (2002 ,6), Kemant people in terms of their ways of living, diet, customs(such as wedding and mourning ceremonies) as well as in their physical appearance and day to day activities, they are stated as indistinguishable from their neighboring people of Amhara. 69 In addition to this the indistinguishableness of the Kemant people from their neighboring people of Amhara in terms language, religion and culture is stated by Yeshiwas Degu(Dec 2013,16) as follows.

“Language and religion are essential elements in the formation of ethnicity, i.e. a “collective identity”, along with common culture and history. They are “sources and forms of social, cultural and political identification” (Brubaker, 2012:3). Kemant are, of course, not unique in having these key components of ethnicity.”

In addition to this, even though Hege Lebona is taken as another identity marker of ethnicity to the kemant people, according to Yeshiwas Degu (2013;17&18) 70 today very few individuals estimated as 0.01% from the total population who reside in remote area out of the town of Aykel preserve their religious tradition. Similarly as it is described by Touny.O (2009) recently especially since 1920s onwards almost all of the kemant people abandon their traditional religion and instead of it follow Orthodox Christianity. As it is mentioned by Yeshiwas Degue(2013,17&18) 71 now a day’s almost all who identify themselves as a kemant do not speak kemantney and do not follow Hege Lebona. Because now a day’s the majority of the kemant people are belongs to the orthodox Christian, though there are few Muslims, catholic and protestant. In the same token

68 Gamst,F.C (1969)” The kemant; a pagan-Hebraic Peasantry of Ethiopia.
69 Zelalem Leyew (2002,6) “Sociolinguistic survey report of the kemant (Qemant) language of Ethiopia”.
70 Yeshiwas Degu(2013, 17 &18), “From melting pot to quest for recognition; the kemant people in Ethiopia.
71 Ibid
according to Belay Shibeshi(2010:60) today 96.46% of the Kemant people are Orthodox, while 1.77% and 1.33% of the kemant people are protestant and Hege Lebona follower respectively.

As a matter of fact and as it is clear to everyone, because of the interpenetration nature of culture, the claimant ethnic group may not have its own pure culture, but even if, the nature culture is too dynamic and interrelated, culture as the identity maker of one ethnicity at least, the claimant people by their ways of eating, saluting, dancing, type and style of dressing, funeral, ritual and wedding ceremonies have to be unique from its neighbor. But as I observed in the course of the study, the kemant people in this regard is indistinguishable from their neighboring people i.e Amhara.

Despite in the federal as well as in the regional constitutions, large measure, or similar custom of the claimant people clearly stipulated, as one mandatory requirement this constitutional requirement was not observed by ANRS, while the Kemant people was recognized as a nation.

4.2.3. Identifiable, predominantly contiguous territory  
The third mandatory constitutional requirement is the inhabitation situation of the clamant people. According to my informants, the fulfillment this constitutional requirement is proved when the majority of the claimant people reside or inhabit in identifiable or predominantly contagious territory.73

72 Belay shibeshi,( January 2010,page 60).”minority right protection in the Amhara national regional state in the case of…..  
73 Interview with legal professionals.
Table 4. Identifiable, predominantly contiguous territory of the kemant peoples.

<table>
<thead>
<tr>
<th>Question</th>
<th>Item</th>
<th>number</th>
<th>perc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think the kemant people are inhabited in predominantly contiguous territory?</td>
<td>yes</td>
<td>8</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>23</td>
<td>57.5</td>
</tr>
<tr>
<td></td>
<td>I don’t know</td>
<td>9</td>
<td>22.5</td>
</tr>
<tr>
<td>For the above question, if your response is yes, where?</td>
<td>Central Gondar zone</td>
<td>4</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td>North Gondar zone</td>
<td>3</td>
<td>37.5</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>1</td>
<td>12.5</td>
</tr>
<tr>
<td></td>
<td>In all</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As shown in table four, in connection of the first question, the majority of respondents (57.5) responded that, the Kemant people is not inhabited in predominant contiguous territory. Others respondents counted 20 percent of the respondents also responded as the kemant people are residing in predominantly contiguous territory. The remaining 22.5 percent of respondents are reacted as they didn’t know the exact location and territorial residence of the kemant people.

In the same table, but for the second question, from those respondents who were responding “yes” to the first question, 50 percent of the respondents responded as the people of kemant inhabited in central Gondar zone while 37.5 % & 12.5% respondents reacted as the kemant people inhabit in North and South Gondar zone respectively.

As previous response of the respondents, the responses of the respondents, to the above stated questions were similar, with the finding of ANRS ‘survey studies. Because as in this research paper on table three depicted, the kemant people are not inhabited in a predominantly contiguous territory.

As the claim of the kemant peoples representative, the people of kemant are resides in Chilga, Metema, Lay Armachioo, Dembia, Quara, and Wegera woredas as well as in some kebele of Gondar town and Gondar zuria. This mean the people of kemant are
residing in all newly organized zonal administration. Zenabu Yirga\textsuperscript{74} among the eight woredas in which the kemant peoples are residing. Chilega and Lay Armachihoo woredas are mentioned as the only place where the people kemant are residing contiguously and majority of residents are the kemant while in others woredas they are overwhelming by the Amhara people.

In the issue of territory I strongly disagree with the claim of the kemant people’s representative committee, Because According to 1994 national census report, the total population of the former North Gondar zone 2,088,684 in 434, and 297 households. And the three largest Ethnic groups reported in Semien Gondar zone were the Amhara (89.72 %), the kemant (8.25) , the Tigrawiy ( 0.94); and others made up 1.09\% of the population. So by any means and logic 8.25 inhabitants excel 89.72 residents in every woredas of the former North Gondar administrative zone. In other words since the number of the kemant people is very few as compare to the Amhara people who reside in North Gondar zone alone, if they are resides in all woredas of North Gondar we can conclude they are dispersed. If they are dispersed they are not eligible to the constitutional requirement.

\textsuperscript{74} Zinabu Yirga(June 2016,42) “ practice and challenges of the H.F in resolving claims’ of identity; case study on kemant community in ANRS “
Chart one, 2,088,684 are the total resident of the former North Gondar Zonal Administration

As indicated from chart one, from the total resident of former North Gondar Zonal Administration, Amhara count (89.72%), kemant count (8.25%) Tigray (0.94%) and others (1.09%).

4.2.4. Belief in common or related identities, and a common psychological makeup.
As we discussed in chapter two and on the above of this chapter, as per article 39 (5) and (7) of FDRE and ANRS constitutions, language, culture and territory are clearly stipulated as the objective or tangible requirement while Belief in common or related identities, a common psychological makeup of the claimant people are clearly stated as intangible or subjective criteria of the constitutions for identity recognition. Therefore before identity recognition is granted for the claimant people, common or related identity and psychological makeup are required to be exist.

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75 1994 national census report.
Table 5: Belief in common or related identities, and a common psychological makeup of the kemant people.

<table>
<thead>
<tr>
<th>QUESTION</th>
<th>ITEM</th>
<th>NUMBER</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think the kemant people have common psychological makeup?</td>
<td>Yes</td>
<td>29</td>
<td>72.5</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>11</td>
<td>27.5</td>
</tr>
<tr>
<td>Do you think the kemant people have belief in common or related identities?</td>
<td>Yes</td>
<td>31</td>
<td>77.5</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>9</td>
<td>22.5</td>
</tr>
</tbody>
</table>

As it is clearly depicted from table five, for the first question, from the total respondents, 72.5 percent of the respondents, believed that, the kemant peoples have common psychological make-up while the remain 27.5 percent of the respondents says no. Similarly for the second question 77.5 percent of respondents responds as the Kemant people have common or shared related identity while the others respondents responds on the opposite of th first respondents.

As it was proved by the successive survey studies of ANRS council and Zelalem leyew(2002), sociolinguistic survey study on the kemant people, the Kemant people have common or shared psychological makeup and related identity.

Despite the fact that the origin of the kemamt people is still blurred and needs further investigation, different writers describe the origin of the kemant people is belongs to Agew, which is Cushitic language speaking family. Misgena Adera (July 12, 2013) and Fredric Gamus (1969) an American anthropologist who study about the Kemant people sixty years ago are prominent one who describes the genealogy of the kemant people is belongs to Agew. Similarly the former chair person of KDA (Kemant Development Association) Ato Nega Gete (on July 12, 2006, Addis Admas) stated that “the origin of the Kemant people is totally different from our neighbor i.e Amhara, we the Kemant people are belongs to Agew.” Despite the fact that, the origin of the kemant and Amhara...
people’ needs further investigation, as the available literature findings proved that, these two peoples had different enology

From the total respondents of the two questions, we can understand that, in terms culture, territory and language (objective requirement) of the constitution there is no difference between the two people. Therefore as we discussed on chapter two, to be entitled to the right of nation, nationalities and people of Ethiopia, the claimant people has to show their uniqueness in terms of language, culture, territory, related identity and psychological makeup.

To conclude it when we examine the legality of kemant peoples identity recognition based on the above stated data and legal perspective, the Kemant people’s identity recognition is unconstitutional. Because as we observe from table 1-5, the actual situation of the kemant peoples is only qualifies intangible requirement. In the eyes of the laws also the tangible and intangible requirements of the constitutions are stipulated as the different sides of the same coin.

4.3. Legal grounds to HoF and ANRS council to entertain claims of identity.
As per article 19(1) of proclamation No 251/2001, “Any nation, Nationalities, or Peoples who believes that its self –identities are denied may present its application to the HoF through proper channels”. To make it clear to the readers, in this article, not only the HoF but also the state councils within their respective regions are entitled to deal with identity claim before it goes to the HoF.

In fact as we discussed herein and before, as per article 62 (2) of the FDRE constitution and article 19 (1), of proclamation No 251/2001, the HoF is clearly entitled to deal with cases related to claim of identity, but it is only done under the condition of such claim of identity was not orderly and properly given due attention by the lower concerned government officials. In other words in legally speaking the HoF have no jurisdiction to deal with fresh claim of identity unless such identity claim of application is not properly given to attention by the proper channels of the government. In the case of Kemant
peoples claim for identity application, the HoF was passive manifested by its supportive role.\textsuperscript{76}

Therefore, since ANRS council was willing to entertain the identity claim of the kemant people, the supportive role of HoF seems persuasive. Because as we discussed before, despite of the Kemant peoples’ identity claim of application was submitted to the HoF, since such identity claim was properly entertained by ANRS council, there was no ground for the interference and active role of the house of federation.

4.3.1. The role of ANRS council in the case of Kemant peoples identity recognition

ANRS, according to art 39 (2) of the revised constitution, have power to establish governmental institution for administrative purpose within the geographical area of its inhabitation, in order to surmount it, as per article 19 (1) of proclamation No251/2001, an identity claim of applications are ordered to be submitted first to the regional government and then to HoF.

The HoF or the regional state council despite they have jurisdiction to deal with claims of identity recognition, as we discussed in this chapter, the law precisely order the requirements that have to be fulfilled by clamant people. In the same speech, the duty to prove such legal requirements also imposed on the shoulder of the institution that claim of identity application is submitted. Therefore since the identity recognition claim of the Kemant people was submitted to the ANRS council, the ANRS council had a duty to prove the fulfillment of such legal requirements by the claimant people.

According to my informant and my observation, ANRS council in order to prove the fulfillment such legal criteria by the Kemant people, had conducting six survey studies, except the finding of the third survey study each survey studies’ finding ea were similar.\textsuperscript{77}

\textsuperscript{76} Interview with the former members of the HoF and ANRS council.

\textsuperscript{77} Interview with the member of ANRS council.
The first survey study

The first survey study was conducted in 2011. This study was done by the ANRS delegated government officials and the Kemant peoples representative (committee).

As the finding of this survey study indicated that; the kemant people only fulfilled the subjective requirements of the constitution. Because in all selected kebeles, the speakers of kemantny (the language of the kemant people) are only few individuals who are above the age of sixty and the language is not used in a day to day’s activities of a community. In addition to this the young kemant people cannot speak kementey language. Secondly, in relation to the settlement of the people, this survey study proved that, the people of kemant resides in scattered territory. In relation to culture, the kemant peoples are proved as they have no unique culture that is different from their neighbors.

The second survey study

This survey was conducted in 2012, by the higher government officials of the region and the representative of the kemant people. But when the kemant peoples representatives rise new question on Metema and quwara to include in the research, the survey ceased.

The third survey study

This survey study was done in 2012, by the representatives of the Kemant committee alone. The finding the finding of this survey study proved that, all legal requirements as proved by the kemant people.

The fourth survey study

This survey study was done in 2013, by government officials alone. As the finding of the fourth study proved that the clamant people only fulfill the subjective requirement of the constitution.

Even though ANRS was endeavor to prove the fulfillment of the constitutional criteria of “nation” by the Kemant people, on June 10, 2015 based on the finding of the six survey
study, the kemant peoples are recognized as a “nation”.\textsuperscript{78} And 43 Kebeles are granted without hearing the voice of others people who are living in it.\textsuperscript{79}

As we discussed herein and before, to be named as a nation the tangible and intangible requirements of the constitution has to be fulfilled cumulatively, but as we understood from these survey studies, except the third survey study, the finding of all survey studies proved that, the tangible requirement of the constitution were not fulfilled by the kemant people, when they were recognized as a nation.

The other important point is that, the third survey study was entirely studied by the kemant peoples committee, but as we discussed before, in the eyes of the law the existence of objective requirements are required to be proved by the neutral party, its paradox and unconstitutional.

4.4 The concept of legality and the decision of ANRS council on the kemant people

The concept of legality can be understood as an act, agreement, contract, or decision that is consistent with the law or state of being law full or unlawful jurisdiction.\textsuperscript{80} The principle of legality requires all laws to be clear, ascertainable, and non-retractable. In addition to this it require decision maker to solve dispute by applying legal rules that had been declared beforehand.\textsuperscript{81}

As per article 9 (1) of the FDRE and ANRS constitutions, any laws, customary practice or a decision of an organ of state or a public officials contravene this constitution shall be no effect.

So in the case of kemant peoples identity recognition, how the legality ANRS councils’ is determined? The legality of Kemant people’s identity recognition as well as the

\textsuperscript{78} Interview with Ato Ashageie Chekole the member of ANRS council ..

\textsuperscript{79} Ethiopian Human Right Commission Report to the Parliament on Human Right Violation in Gondar, Kemant and Oromia.(June 11, 216).

\textsuperscript{80} Berman, Paul Schiff (27 February 2012) global legal pluralism; A jurisprudence of law beyond borders.

\textsuperscript{81} Nye, joseph S. Soft power ( New york; public affairs c2004).
decision of ANRS council on the kemant peoples are determined based on its compatibility with the laws of the state.

To conclude this point; to grant self-administration right even though as per article 39 (5) and (7) of the FDRE and ANRS constitutions respectively, the cumulative existence of objective and subjective requirements required to be fulfilled, as all data shown that, the kemant people are only fulfill the subjective requirements of the constitution. In other words the kemant peoples are recognized as a nation despite they lacks the objective requirements of the two constitutions. Similarly even though ANRS had a duty to observe the constitutional requirement of the constitution, they had simply laugh off on it.as the result of this the in the eyes of the law, the act decision maker as well as the decision itself become unconstitutional.

**4.5. Factors for self determination**

The need to self-determination is not the same in every corner of the world. Because it is usually determined by the pushing and pulling factors of the people. The pulling and pushing factors are also situational because they are varying from place to place and from time to time. But according to my informants and literatures, the past or the present discriminatory activity, the agitation of political elite, and the betterment thinking of the society are generally accepted as the pushing factors to kemant people’s self-determination.

**A. Discriminatory activities.**

According to my informants despite of now days such discriminatory activities are gradually disappeared, until the near future, the kemant people were discriminated by the majority of the Amehara people. The root cause for the discrimination of the Kemant

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82 Interview with legal expertise.

83 Yeshiwas Degu(2013, 17 &18)), “From melting pot to quest for recognition; the kemant people in Ethiopia.”
people was the wrong perception of the people towards the genealogy of the Kemant people.\textsuperscript{84}

Similarly Mezigina Adera (2013) and Yeshiwas Degu (2014) describe the discrimination of the kemant people as follows; almost all uneducated Amhara people named the Kemant people as “የእንጨት ዝር” or “የእሬት ዝር” as the result of this type of dehumanization of discriminatory practice the Kemant people were suffered a lot.

As I observed in the course of this investigation even though their number is too few, still there are people who have the previous untrue, unscientific, uncivilized, and unbelievable fable i.e. “the ancestors of the Kemant people were propagated from wood”. Because of this dehumanization discriminatory practice, most of my informants were inclined in favor of kemant peoples’ self-determination.

B. Political reason.

According to my informants, the identity recognition claim of the Kemant people is intentionally instigated by those individuals and group who wants to destabilize the region and to divert the longstanding quest of Wolkait people, which is entirely supported by the people of Gondar in particular and now days by Amhara people in general.

Similarly Achamyeleh Tameru and Muluken Tesfaw in 2016 and 2017 respectively argued that; the issue of Kemant people’s identity recognition is instigated by political elites, so as to conceal the ardent quest of the people i.e. Wolqait. Their argument is supported by producing the following evidences; (1), the Kemant people principal committee had office in Mekele and contact with TPLF leaders. (2), the quest of Kemant people reached at extreme point and turned in to destructive revolt following the issue of Wolkait become the issue of the people of the ANRS in general.

In fact as I observed in the course of this investigation, the issue kemant seems counter response to the issue of Wolkait and Raya Peoples identity recognition request. Because despite it’s not officially disclosed, TPLF officials haver or suspect ANDM as it instigate the two identity quest in the Tigray region. As the result of this, when something happen

\textsuperscript{84} Informal discussion with the elderly Kemant and Amhara peoples.
in Wolqait or in Raya related to Peoples identity recognition request, similar event will happen in central north Gondar. The incident of Sep 9/ 2018 is reckoned as supportive evidence to this argument. Because in Sep 9/ 2018, the people of Raya demonstrated here in Addis and announced their claim of identity recognition to the Federal government, in the next day similar action was conducted in Chilega town by the Kemant people. The other important point that I observed is that, unlike others peoples of the region, those individuals who identify themselves, the “Kemant peoples’ committee” on the case of Wolqait, they have similar stand with TPLF. This indicated that the Kemant peoples’ committee and TPLF have special and supportive relationship.

In relation to the pulling factors, in the case of Kemant people identity recognition claim, the benefits that are acquired after ethnic groups are recognized as a nation are generally taken in to account. In the case of Ethiopia, those rights that are stipulated on article 39(1 -4) of the FDRE constitution are considered as the pulling factors of recognition.
CHAPTER FIVE
MAJOR FINDINGS, CONCLUSION AND RECOMMENDATION

5.1 Major Findings

Based on the general and specific objective of this study, the researcher attempted to examine the legality of the Kemant people identity recognition in light of the ANRS and FDRE constitutions. As the result of the investigation the following findings are obtained.

1. The recognition of the kemant people was not done in the perspective of article 39 (7) and (5) of ANRS and FDRE constitutions respectively,

2. Even though ANRS recognize the kemant people after conducting six survey studies, except the third survey study, the finding of all survey studies were similar and all of them indicates as the kemant people did not /is not eligible to the objective criteria of the constitution.

3. As it was proved by the survey studies of ANRS council on the kemant people, this investigation also found that, among the majority of kemant people, there is common psychological make-up and common or shared interrelated identity.

4. In the member of the HoF and ANRS council, I observed that, there was/ is different understanding on the ways of interpretation of such constitutional requirements of “nation”.

5. Not only to the federal and regional governments’ representatives, but also for legal professionals, the manning and the distinction of “nation,” “nationalities” and “people “are not clear.

6. Since the first 43 kebelas were simply granted by the decision of ANRS council to the kemant people, at least the voice and the interest of others people should be heard.

7. The past and the present discriminatory practice and the intrigue of political elites are found as the pushing factors while the benefit of nation that are clearly articulated in the
FDRE and ANRS constitutions are found as the pulling factor to the Kemant peoples’ claim for identity recognition.

5.2. Conclusion

Based on the finding of the investigation, in this part of the paper the researcher conclude that; the self-administration right of the kemant people and the decision of ANRS council in this regard was/is unconstitutional. Because, as per article 39(5) and (7) of the FDRE and ANRS constitutions, any group of people who submit claim of identity recognition required to fulfill the objective and subjective criteria of the constitution but the kemant people only fulfill the subjective criteria of the constitution. Similarly an administrative body that are as per article 9 proclamation No.251/2001 accredited to deal with the claims identity recognition has a duty to prove the cumulative existence of such constitutional requirements, but ANRS council recognize the kemant people, before such requirements cumulatively proved to exist.

5.3. Recommendation

Based on the finding of this research, the following recommendations are positively forwarded to the House of federation, ANRS council and legal professionals respectively. The ultimate intent of this recommendation is by revealing the existing gap to the concerned body, creating conducive environment in identity recognition.

To the House of Federation; the House of federation as per art 62 of the FDRE constitution and as per article 9 proclamations No.251/2001 is a responsible body in relation of identity recognition, it has to stipulate conclusive standard of evidence ought to be used to in identity recognition criteria’s assessment. Second; the house has to put clear distinction on what the word nation, nationalities, and people denotes to .third, the house has to play its constitutional role when the subjective and the objective criteria of the constitution are separately and improperly interpreted.

To the ANRS council, when claims of identity recognition application is submitted to the council, the council have to know such claims of identity recognition responded in light of article 39 (7) of its constitution alone. Then the council has to organize a neutral
committee who investigate the existence unique language, unique culture, and predominant contiguous territory by the claimant people. Second, the decision of this committee is final to proceed to the next step or to reject claim of the claimant. Third, in relation to interpretation, all objective and subjective criteria of the constitution should be interpreted cumulatively.

To the legal professionals, as I understood in the course of this investigation, in ANRS council and HoF there are peoples who didn’t know how such objective and subjective criteria of the constitution are interpreted, to enable them providing training in this regard seems persuasive.
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Annex 1: Summary of the Data

I. Personal Information of Respondents or Informants.

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