



COLLEGE OF LAW AND GOVERNANCE STUDIES
SCHOOL OF LAW
GRADUATE PROGRAM

Master of Laws (LL. M) in Constitutional and Public Laws

**A Constitutional Promise of the Right to Shared Rule of Nations Nationalities
and Peoples of Ethiopia: The Case of South Nations Nationalities and Peoples
Region**

**A Thesis Submitted in Partial Fulfillment of the Requirements for
the Award of Master of Laws (LL. M) in Constitutional and Public
Laws at School of Law, College of Law and Governance Studies,
Addis Ababa University**

By: Andualem Befekadu

June 2020

Addis Ababa, Ethiopia

**A Constitutional Promise of the Right to Shared Rule of Nations Nationalities
and Peoples of Ethiopia: The Case of South Nations Nationalities and Peoples
Region**

**A thesis submitted in partial fulfillment of the requirements for the Award of Master of
Laws (LL. M) in Constitutional and Public Laws at School of Law, College of Law and
Governance Studies, Addis Ababa University**

**By
Andualem Befekadu**

**Advisor
Getachew Assefa (PhD)**

June 2020

Author's Declaration

I, **ANDUALEM BEFEKADU**, hereby declare that the thesis entitled as ‘**A Constitutional Promise of the Right to Shared Rule of Nations Nationalities and Peoples of Ethiopia: The Case of South Nations Nationalities and Peoples Region**’ is my original work and that it has not been submitted for any degree or examination in any other university. I also pledge that all sources used in any form are duly acknowledged.

Researcher: Andualem Befekadu

Signature: _____

Date: _____

Advisor: Getachew Assefa (PhD)

Signature: _____

Date: _____

Addis Ababa University
College of Law and Governance Studies
School of Law
Graduates Programs Board of Examiners
Thesis Approval Sheet

Andualem Befekadu’s thesis, entitled as “**A Constitutional Promise of the Right to Shared Rule of Nations Nationalities and Peoples of Ethiopia: The Case of South Nations Nationalities and Peoples Region**” is approved by the undersigned members of the examining board.

	<u>Board of Examiners</u>	<u>Signature</u>	<u>Date</u>
Advisor:	Getachew Assefa (PhD)	_____	_____
Examiner: 1)	Demelash Shiferaw (PhD)	_____	_____
Examiner: 2)	Wendmagegn Tadesse (PhD)	_____	_____

Dedication

This Paper is dedicated to:

Whom the pandemic COVID 19 has claimed their life.

Acknowledgement

First of all my praise and thanks shall be upon the Almighty God who has been helping me in my entire life endeavor. Thank you God for all things you will do and have done in my life!

My advisor Getachew Assefa (PhD), for your humble fatherly treatment and constructive suggestion, I would like to provide you great thanks. I am indebted to you for your help by sharing your precious time alongside your busy schedule that you have occupied by public responsibility.

My deeper and sincere gratitude goes to my beloved family for their continuous and unparalleled love, courage, help and support. They were always there when I needed their helps. Truly, I am very lucky to have the family who take care of me. I am dedicated this milestone for them.

Moreover, I am very thankful for those persons who participated in the data collection process and public officials who opened their door to have any kinds of data relevant for this thesis consumption. Especially, I gratefully acknowledge Deyamo for his assistance in the process of data collection.

Lastly, my acknowledgement will not be complete without thanking my lovely friends who have standing behind me in my challenges. Mainly, Simeon Haile, Yared Hailemariam, Kulle Kursha, Alem Sitot, Kuke, Adme, Tekish, Minalu and other undisclosed persons I am truly grateful!

Table of content

Author's Declartion.....	iii
Acknowledgements	vi
Dedication.....	v
Acronyms	viii
List of Tables.....	xv
Table of Contents	ix
Abstract	xi

Acronyms

CoN _ Council of Nationalities

EPRDF _ Ethiopian People Revolution Democratic Front

FDRE _ Federal Democratic Republic of Ethiopia

HoF _ House of Federation

HoPR _ House of Peoples Representative

NNPs _ Nations Nationalities and Peoples

SEPDM- Sothern Ethiopia Peoples Democratic Movement

SNNPR _ Southern Nations Nationalities and People's Region

Table of Contents

Chapter One	1
Introduction	1
1.1 General Background	1
1.2 Statement of the problem	3
1.3 Objectives of the Study	6
1.4 Research Questions	6
1.5 Methodology	6
1.6 Significance of the Study	7
1.7 Scope of the Study	8
1.8 Limitations	8
1.9 Chapter Outline	8
Chapter Two	9
Federalism and Shared Rule: A Brief Conceptual Overview	9
2.1 Introduction	9
2.2 Federalism	9
2.3 Shared Rule: Definitional Issues	12
2.4 Modalities of Power Sharing	15
2.5 Institutional arrangement of shared rule	15
2.6 Conclusion	18
Chapter Three	19
The Legal Protection of the Right to Shared Rule of NNPs at the Federal Level and in SNNPR	19
3.1 Introduction	19
3.2 Part I: Ethiopian Experience	19
3.2.1 Shared Rule under the FDRE Constitution	21
3.2.1.1 The Legislature	22
3.2.1.2 The Executive	23
3.2.1.3 The Judiciary	24
3.2.1.4 The Civil Service	25
3.2.1.5 The National Defense Force	25
3.3 Part II: the Experience of Southern Nations Nationalities and Peoples Regional State	26
3.3.1 Features of the Regional State	26
3.3.2 The Promise of the Right to Shared Rule under the SNNPR Constitution	27
3.3.2.1 The Legislature	29
3.3.2.2 The Executive	30
3.3.2.3 The Judiciary	31
3.3.2.4 The Civil servants	32
3.3.2.5 The Regional Police Force	33

3.4 Conclusion	33
Chapter Four	35
Implementation of the Right to Shared Rule in SNNPR	35
4.1 Introduction	35
4.2 The Composition of State Legislatives	35
4.2.1 The State Council	35
4.2.2 The Council of Nationalities (CoN)	39
4.3 The State Executive	42
4.3.1 The Chief Executive	42
4.3.2 The Cabinet Members	43
4.4 The State Civil Servant	46
4.5 The State Supreme Court	51
4.6 The State Police	52
4.7 General Observation	55
Chapter Five	57
Conclusion and Recommendations	57
5.1 Conclusion	57
5.2 Recommendations	58
Bibliography	60
1. Laws	60
1.1 Constitutions	60
1.2 Proclamations	60
1.3 Regulation	60
1.4 Directives	60
2. Books	60
3. Journal Articles	61
4. Web Sources	63
5. Unpublished Thesis	63
Appendix	64
Interview Guide	66

Abstract

The right to shared rule is one of the promises made and recognized for the nationalities, known as nations, nationalities and peoples (NNPs) under the 1995 FDRE Constitution. The constitution recognizes equitable representation of the nationalities within the government both at the federal and states levels. The constitution gives the NNPs representation within the legislature but keeps silent about the executive and the judiciary. Likewise, about the defense force having in federal level, it anticipates to be composed in a manner it reflects the equitable representation of NNPs. However, even though the constitution has intended to establish one economic and political community, it is not arranged the way that this right should be realized for the civil servant to have representative bureaucracy.

This paper investigates the case in subnational level - in SNNPR and argues to have constitutionally guaranteed mechanism, establishment of institutions to oversee and comprehensive laws that scrutinizes and regulates the proper application of the right to shared rule of the NNPs.

Chapter One

Introduction

1.1 General Background

The question of how to accommodate the multi-ethnic-nationals within a given federal system by respecting self-rule and shared rule is debatable matter that ensued discourse by many scholars. However, the importance of striking a balance between these two complementing arrangements is beyond doubt.¹ More notably, concerning shared rule – how the federations will share power in the administration of the central government is essentially open to discussion.

Indeed, within the federal government institutions, the country's diversity has to be depicted by fairly and proportionally sharing of rules among sub-national governments, to the extent of showing the corresponding diversity of the whole country. When the federal system has no proper arrangements to accommodate the diverse interest in the federations by appropriate sharing of power, the federal polity will be an arena of controversy.² In order to create a genuinely functioning federal arrangement, there has to be a general atmosphere of democracy that enables the different groups to equally take part in the federal institutions and thus make them function.³ The hard lesson we draw from relevant comparative studies is that the more the ethno-nationalist forces get representation at the federal level, the more they think they are part of it and the less [they want to move away from it].⁴ Therefore, to achieve unity in diversity at the federal level, and to strengthen the federal polity, there should be genuine regional autonomy and an effective political participation of the subnational at the federal level for the

¹ Assefa Fiseha, 'Federalism and the Accommodation of Diversity in Ethiopia' (2007) A Comparative Study. Nijmegen: Wolf Legal Publishers 230.

² John McGarry, 'Federal Political Systems and the Accommodation of National Minorities,' in Ann L. Griffiths and Karl Nerenberg (eds.), *Handbook of Federal Countries*, (2002) (Montreal & Kingston/London/Ithaca: McGill-Queen's University Press.), 437 cited in: Christophe Van der Beken, *Federalism and the Accommodation of Ethnic Diversity: The Case of Ethiopia*, (2009) Third European Conference on African Studies, 15

³ Habte Sellasie Bereket, *Self-Determination in Principle and Practice: The Ethiopian- Eritrean Experience*. (1997), Columbia Human Rights Law Review, 97

⁴ Assefa Fiseha, 'Ethiopia's Experiment in Accommodating Diversity: 20 Years' Balance Sheet' (2012) 22 *Regional & Federal Studies* 435.

accommodative effects of ethnic federalism to come into play.⁵ Scholars on the area are attempting to articulate the concept and discourses about the modes of application of this notion based upon various purposes and criteria.

As Kymlicka contends about how national groups are represented at the central level and he proposes sharing of power in addition to territorial base within the central government itself as a means to strengthen the attachment of minorities to the larger state.⁶

According to Lijphart, the foremost scholar of the concept of consociationalism for plural societies, he recommends consociational modes of power sharing.⁷ Thus, this may be achieved through rules regarding the representation of the various segments in the legislative, executive, judiciary and the civil service as well as in the national defense, the police and other security affairs.⁸

The argument raised by Assefa, also defines shared rule as a '*political expression of diversity*'.⁹ He clarifies; the Ethiopian Constitution takes the right to self-rule seriously by granting "mother states" to the nationalities or does ensure them at least a local government at *zone* or *wereda* level. Accordingly, the emphasis on self-rule should be complemented by proportional representation in elections, in the civil service, in the executive and the judiciary - otherwise; the issue becomes a fertile ground for federal instability.¹⁰

Likewise, in most of the federal systems, even if their constitution allowed shared rule for the federations, the question of how they will be represented in the central government on which institutions potentially they will be assigned and the existence of constitutional mechanism to scrutinize their proper representation has a remarkable distinction.

⁵ Christophe Van der Beken, 'Federalism and the Accommodation of Ethnic Diversity' (n 2) 16

⁶ Will Kymlicka, 'Emerging Western Models of Multinational Federalism: Are They Relevant for Africa? Ethnic Federalism the Ethiopian Experience in Comparative Perspective' (2017) Eastern African Studies, Addis Ababa University Press, 36.

⁷ Arend Lijphart, 'Constitutional Design for Divided Societies' (2004) 15 Journal of democracy 96.

⁸ Assefa Fiseha, 'Ethiopia's Experiment in Accommodating Diversity' (n 4).

⁹ *ibid.*

¹⁰ *ibid.*

In Ethiopian federalism, the 1995 FDRE Constitution has promised for the NNPs, the right to the full measure of self-government on one hand and the right to have equitable representation within state and federal governments on the other hand.¹¹ While, the Constitution has not conferred these rights directly to the regional states but awards to each NNPs. However, the Constitution has not stipulated the manners in which power has to be shared between the NNPs and central government and has not made all-round appropriate institutions and comprehensive laws that scrutinize and regulate the proper application of sharing of rule among the NNPs vis-a-vis central government.

Therefore, this thesis will attempt to investigate the constitutional promise of the right to shared rule of NNPs in accordance with the conceptual framework of shared rule and the legal set up of the same Constitution and analyzes the case of the SNNPR.

1.2 Statement of the problem

The 1995 FDRE Constitution established multi ethnic national federal state that comprises many ethnic groups residing within a defined territory, retaining distinctiveness and the right to self-government by complementing the principle of shared rule.¹² Especially about shared rule, the constitution states that the NNPs shall have the right to equitable representation within the federal and state governments and as per Art 50 (2) of the FDRE Constitution, these government branches are the legislative, executive and judiciary. When the constitution has reduce in institutional context, it designated special representation for the minority ethnic groups within the HoPR¹³ and made the HoF as legislative house in which NNPs members are composed and entertain their matters by themselves through own representatives.¹⁴ However, concerning the executive and judiciary composition, the normative provision of the constitution is limited. For instance, it says nothing about the ethnic identity of members of the executive and judiciary.¹⁵

¹¹Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proc. No. 1, Federal Negarit Gazeta, 1st Year No. 1

¹² Solomon Gebreyohans Gebru, 'Recognizing Diversity as a Tool for Unity in Ethiopia: Challenges & Opportunities', (2008) Antwerp, Belgium 19.

¹³ *ibid.*

¹⁴ FDRE Constitution Art 61 (1)

¹⁵ Christophe Van der Beken, 'Federalism and the Accommodation of Ethnic Diversity' (n 2) 16

However, opposing to this reality, about the executive, based up on the practice Assefa argues that, Article 39 (3) is limited to executive power sharing and does not include legislative power sharing at federal level.¹⁶ But, the truth is the other way round. The two decades of federal experience shows that coalition within the ruling party is conditional upon subscribing to the ruling party's membership and its ideology.¹⁷ On one hand, the constitution is aimed at establishing one economic and political community, on the other hand, however, the civil servants in most of the public offices are not representatives and do not depict the country's diversity. Nevertheless, the federal government has a diversity policy in federal civil servant sector composition. According to the federal civil servant proclamation, NNPs having lesser representations within a government institution shall be given the advantage of affirmative actions in recruitment, promotion, transfer, redeployment, education and training.¹⁸ Moreover, regarding national army composition the constitution vividly demands for the representation of each NNP.¹⁹ Therefore, we can safely say that, the right to shared rule of NNPs is one of the prominent promises made by the constitution. However, the problem is the arrangement not fully recognized throughout the institutions and lacking proper scrutiny that is became source of conflict and grievance.

As few studies conducted on the area disclose that although shared rule is prominent for the continuance of the federal system with in the country, the question of equitable share of power at the center is still left unsettled and become source of conflict and instability.²⁰ Beza, expounds that; the effective sharing of political power among the sub units (NNP) is not explicitly envisaged under the federal constitution and he characterizes this issue as structural limitations of Ethiopian ethnic federalism.²¹ Furthermore, Nigusse, adds the Ethiopian federal system has limited experience on the application of equitable representation of the various ethnic groups and

¹⁶ Assefa Fiseha, 'Federalism and the Accommodation of Diversity in Ethiopia' (n 1) 230.

¹⁷ *ibid*

¹⁸ Federal Civil Servants Proclamation No.1064/2017, Federal Negarit Gazeta, 15th Year No. 57

¹⁹ FDRE Constitution Art 87 (1).

²⁰ Legesse Tigabu Mengie, 'Federalism as an Instrument for Unity and the Protection of Minorities: A Comparative Overview: Ethiopia, India and the US' (2016) 10 Mizan Law Review 265.

²¹ Beza Desalegn, 'Challenges of Ethnic Representation in Ethiopia and the Need for Reform' (2018) Vol. 12, No.1 Mizan Law Review 84 .

the constitution is silent regarding the way equitable representation can be realized.²² Therefore, due to lack of the nature of political tolerance and the culture of democratic political exercise is infant, the case in exaggeration amplified within the society.

In the same manner to the federal, the SNNPR Constitution also promised to the NNPs of the regional state to have fair representation both in federal and in the state governments'.²³ To realize the promise this constitution established a second chamber called the CoN and gives for territorially based NNPs residing in the region the right to representation in the same council. Moreover, it guaranteed for the minority NNPs special representation in state council. However, other than making a promise, both the federal and the SNNPR Constitution have not specifically guaranteed the representation across the government institutions and not established proper mechanism to check whether the promise is realized or not. Moreover, the application of this promise is not being amply investigated.

Thus, the thesis focuses on investigating the practical implementation of the right to shared rule in the SNNPR. What makes the case worse in SNNPR and initiated the researcher to choose it as the case study area is the fact that the region is one of very diverse regional states in Ethiopian federation that contain about 56 ethnic groups, and expected to have a proper institution and arrangement that accommodate the stated many NNPs.

Therefore, due to there is literature gap, lack of institution and proper mechanism, and a policy alternative drawn by researchers, especially in subnational level, initiated the researcher to conduct this thesis. Based up on these facts, this thesis aimed to assess the normative arrangement of this right both in FDRE and in the SNNPR Constitutions and discusses how the right practically applying in SNNPR. Accordingly, the study intended to show the ill-suited areas that the FDRE and the SNNPR Constitutions could absorb to rectify gaps having in shared rule arrangements.

²² Nigussie Afesha Aytaged, 'the Ethiopian Constitutional Promises to the Nation and Nationalities: The Myth and the Operational Reality' (2015) 6 Bahir Dar UJL 225.

²³ Revised Constitution, 2001, of the Southern Nations Nationalities and Peoples' Regional State Proclamation No. 35/2001 Art 39(3)

1.3 Objectives of the Study

The general objective of this research is to study the concept of the right to shared rule and to investigate whether the apparent Constitutional promise of the same right of NNPs has been put into effect by the Constitution cognizant to the federal system it has created in SNNPR.

To this end the specific objectives of this study will be:

1. to explore how the right to shared rule is set in a federal political system of government.
2. to study the arrangement of right to shared rule under the FDRE Constitution and the SNNPR Constitution.
3. to investigate the implementation of the right to shared rule in a SNNPR in manner compatible with the pronouncing of both the federal and SNNPR Constitution.

1.4 Research Questions

Based on the above objectives, the thesis will try to respond the following specific questions:

1. How is the right to shared rule establishing under federal political system?
2. How does the Constitutional promise of the right to shared rule of NNPs prescribed in Ethiopian federal polity and specifically under SNNPR constitution?
3. Has the SNNPR put into effect the right to shared rule for the NNPs cognizant to the articulation of the Constitution?

1.5 Methodology

This thesis uses legal research method. Accordingly, it applies qualitative research approach - containing both doctrinal and non-doctrinal. To synthesize the laws, doctrinal approach is applied and to investigate the implementation of the law, non-doctrinal approach has been employed. Further, both primary and secondary data sources are used. The primary source comprises interviews, constitution, and other relevant legislations. The government archives, books, journal articles and other relevant literatures are used as the secondary sources. In addition, the research methodology has enabled quantitative data to be used as auxiliary source. This data is used to figure out the population number and the expected number of each NNP institutional configuration.

For collecting empirical data, the study used interviews. Accordingly, different participants are interviewed from Hawassa, Arbaminch, Dilla, Burji Soyama and Amaro Kelle. The interview is made by going in person to the place where respondents are existing - to the above stated places. The interviewees composed state executive officials, officials of council of the state and the CoN, members of regional state parliaments and zonal/special wereda councils, legal professionals, experts from the concerned offices and community members. The interview conducted through semi- structured technique. Thus, key informants who have better knowledge and experience about the practical implementation of the right to shared rule are interviewed to make the data on some selected areas of the research more credible. The selection is made purposely based on the political responsibility, concern they bear about the issue, influence they have within the society and professional expertise.

To make the main theme of the research more comprehensive and descriptive the study goes to investigating the implementation of the right to shared rule in SNNPR. Furthermore, to evaluate the implementation of right to shared rule in the state level, this study used the legislative, executive, judiciary, the state police and the state civil servant institutions. Because, numerous literatures elucidate that, the representation of the various segments in federal polity will be in the legislative, executive, judiciary and the civil service as well as in the national defense, the police and other security affairs.

Therefore, in this study the researcher used these institutions to investigate how the right in discussion is put into practice. The study made investigation by evaluating ethnic composition on some institutions and examined the normative recognition of the right on the bases of the principle of equitable representation.

In the course of interpretation and analysis, the researcher used a descriptive and qualitative approach. Interview opinions that have similarity are systematically grouped under one category.

1.6 Significance of the Study

This thesis may help the SNNPR state government to learn its shortcomings in realizing and ensuring the right to shared rule of the NNPs. Further, it may offer insights for the legislator to revisit the laws and institutions in a way that make them compatible for the realization of the

right to shared rule of the NNPs. By and large, it may contribute to close the gaps of literature sources seen in the study area, and initiates other scholars to conduct further studies in the related topics.

1.7 Scope of the Study

This thesis is limited in investigating whether the apparent FDRE Constitutional promise of the right to shared rule of NNPs has been put into effect by the same Constitution and the federal system it has created, and the issue is analyzed by using the SNNPRS as a case study.

1.8 Limitations

The thesis is limited itself in investigating the practical implementation. It would not delve in to synthesizing the science behind of the concept in broad manner. The institutions I have accessed are not well established to the extent the law expect them to have been. Lack of established working practice, discomfort of some people with respect to the issue of NNPs due to the recent saga ensued on the bases of ethnic based conflict across the country are some of the limitation faced during the conduct of the research.

1.9 Chapter Outline

The thesis has five chapters. Chapter one is the introduction and chapter two makes brief conceptual overview on federalism and shared rule. The third chapter investigates legal protection of right to shared rule in Ethiopia in general and the SNNPR in particular while the fourth chapter composes data along with analysis on the enforcement of the right to shared rule in SNNPR. Chapter five presents conclusion followed by recommendations.

Chapter Two

Federalism and Shared Rule: A Brief Conceptual Overview

2.1 Introduction

This chapter discusses the theoretical and conceptual frameworks of federalism, notion of shared rule, and institutional arrangements of shared rule within the federal political system. Here, the readers have to acquaint that, for sake of space and precision, the researcher focuses on a brief survey of literatures. A thorough elaboration of these concepts will ease to study the Ethiopian federal political system and practice of shared rule in the SNNPR – one of the existing nine regional states in Ethiopia, the focus of the study.

2.2 Federalism

In this section, it is not the researcher's intention to re-analyze the entire history of the term "federalism" and its various contents, but rather to provide a brief overview, based on some seminal works existing on the area. Despite the fact that, the word federalism in its Latin root *foedus* is covenant or an agreement,²⁴ however, there is no precise and agreed meaning on the substance of the term among the scholars. From the classical to the contemporary, many legal gurus amply made empirical and theoretical resonance on the study. Their intellectual debates are overlapping and intersect with one another at a number of different points and on some, they commonly point out essential distinguishing elements. Usually they described it as one form of governance comprising layers of governments and divides power within its realm. Thus, among various scholars who provides the definition, the study attempts to focus on selected contribution of contemporary scholarly works in a way it appropriately suffices with the purposes of this thesis in fleeting manner.

The contemporary intellectual debate of studying federalism is launched by the publication of Kenneth C. Wheare's *Classic Federal Government* in 1946.²⁵ Wheare defined federal principle as "method of dividing powers so that the general and regional governments are each, within a

²⁴ Daniel J Elazar, *Exploring Federalism* (1987) (University of Alabama Press) 5.

²⁵ Michael Burgess, *Comparative Federalism: Theory and Practice* (2006) (Routledge) 27.

sphere, co-ordinate and independent.”²⁶ The wording of the definition infers that, the government has two layers -divide and exercise power between themselves within their competence, and guided in the spirit of co-relation that securing their independence. However, this definition has been detracted by many scholarly criticisms because it does not take into account the existence of growing overlap and interdependence of the layers of government and the premise of coordination is untenable due to the practice of defeat of one level by the other.²⁷

The other writer William Riker under his book “*Federalism: Origin, Operation, Significance*” defined the term as “a bargain between prospective national leaders and officials of constituent governments for the purpose of aggregating territory, the better to lay taxes and raise armies”.²⁸

Some scholars explain it by distinguishing the concepts of federalism, federal systems, and federations. This distinction was first noted by Preston King and for him federalism is “a normative and philosophical concept, involving the advocacy of federal principles, whereas federation is a descriptive term referring to a particular type of institutional relationship”.²⁹ Whereas, for Daniel Elazar, federalism is a descriptive term that refers to genus of political organization encompassing a variety of species, including federations, confederacies, associated statehoods, and federation refers to one species within the wider genus of federalism.³⁰ Furthermore he describes, federalism as the combination of self-rule and shared rule and in the broadest sense, it involves the linking of individuals, groups, and polities in lasting but limited union in such a way as to provide for the energetic pursuit of common ends while maintaining the respective integrity of all parties ‘Federal principles’ are concerned with.³¹ Therefore, the definition coined by Daniel J. Elazar is based up on division of power criterion; self-rule is essences diversity and calling the autonomous status of the federations with regard to their affairs and shared-rule will asserts the concept of unity and demanding to have perpetuated central government that will serve as a unified emblem of the country.³² Hence, the existence of the

²⁶ K C. Wheare, *Federal Government* (1963) 4th edn, Oxford: Oxford University Press, 11. cited at Burgess (n 25).

²⁷ John Law, ‘How Can We Define Federalism?’ (2013) 5 *Perspectives on Federalism* 88, 93.

²⁸ WH Riker, *Federalism: Origin, Operation, Significance* (1964), Boston: Little, Brown & Company 11.

²⁹ Preston King, *Federalism and Federation* (1982), London: Croom Helm, 1982. cited at Burgess (n 25).

³⁰ Elazar (n 24) 7.

³¹ *ibid.*

³² *ibid*

concept of self-rule entitles the federations to administer themselves and empowers them to decide their cases at least in one policy area. Indeed, shared rule “is probably the most decisive feature of federal government”³³ and which is one of the aspects of federalism which is not persuasively studied and has not received the kind of attention it deserves.³⁴

The standing taken by Ronald Watt is suggesting clarity for the three terms. For him, the term *federalism* refers to normative concept advocated above by King and *federation* is one of the species within the genus of federal system.³⁵ While the term *federal political systems*, distinct from federalism or federations, is the descriptive term referring to the genus of political organization that is marked by the combination of shared rule and self-rule. This means the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule within the genus of federal political systems. And federations represent a particular species in which neither the federal nor the constituent units of government are constitutionally subordinate to the other.

This definition is a bit similar to Daniel Elazar’s definition concerning the elements of shared rule vs. self-rule, and puts emphasis on the autonomous nature of the central and federations within their constitutionally recognized power spheres. King shows the component of directly dealing with the citizens, by which both the federal and federations directly reach them within the range of constitutionally recognized power. This is a fundamental principle that distinguishes federal structure of government from confederation.

Generally, since federalism is by its nature, a flexible form of government, - which adapts to specific circumstances, we cannot point out a single and agreed upon definition for the term. However, even though there are disparities among the scholars, the following elements commonly underpin the term as follows. *First*, the term refers to a form of government in which

³³ Auer Andreas, The Constitutional Scheme of Federalism, vol 12 (3) (2005) Journal of European Public Policy 442.

³⁴ Mueller Sean, ‘Shared Rule in Federal Political Systems: Conceptual Lessons from Subnational Switzerland’ (2016) Pennsylvania State University 83.

³⁵ Ronald Watts, ‘Contemporary Views on Federalism’ in B. De Villiers (Ed.), Evaluating Federal Systems (London: Juta & Co. 1994), Chap. 1, 1–29 and ‘Federalism, Federal Political Systems and Federations’ (1998), Annual Review of Political Science, I, 117–37

there is a division of powers between two levels of government. *Second*, the constitutional division of power is inherent³⁶ and under which each level of government has its own sphere of competence by exerting *self-rule* to accommodate diversity and *shared rule* to strengthen unity. *Third*, it upholds the consensual agreement between the federations to achieve their common goods together. Therefore, we can conclude that, federalism is a political system that divide power for levels of government and enable them to decide their own case by themselves and administer their common case by shared power.

Largely, for the purpose of this study, federalism is understood as *the existence of two forms of rule in it – self-rule synthesizing the right to self-administration and shared rule inferring the right to power sharing among the constituent units in central level*. Moreover, the researcher will use the term *sub nation* as a sub administrative unit immediate to the central government, which is considered as a species under the central government.

2.3 Shared Rule: Definitional Issues

As I have discussed above shared rule and self-rule- are the two facets in design and operation of federal political system. Hitherto, in both cases, the researcher is talking about power and its mode of exercise – the power left in the province of subnational units and portioned among them to administer a central government. Hence, self-rule is entitling to the subnational units the autonomous authority to decide, finance and implement their own local policies while shared-rule empowers the federations to have power share in the central matter and enables them to be represented in deciding, financing and implementing the national policies along with the other members of the federation. However, the connotation of shared rule has different meanings varying to the nature of the variety of federal system the country is following.

Among the notable scholars dealing on the issue, the pioneer theorist, Daniel Elazar, explains that, shared rule is the ability of subnational governments to influence central decision making, most often via intergovernmental relations or a second chamber of parliament based on territorial representation - regional government or its representatives in the country as a whole exercise the authority.³⁷ Hence, for him the concept implies the need for representation in federal decision-

³⁷ Elazar (n 30).

making institutions to secure their interests and this is particularly done through representation within the upper house. This assertion stems that, the power constitutionally given for the central government shall be exercised by the joint contribution of the subnational units. Therefore, for him, the concept of shared rule is a method by which the subnational units may influence the policy making and decision of the federal government in the institutions like second chamber, the executive, civil service, the army, the diplomatic corps and the judiciary, etc.³⁸

Likewise, Watts in his book, “*Comparing federal political system*” articulates federalism as an aspect which demands sharing of federal institutions in federal government which enables common action and provide the glue to hold the federation together.³⁹

Further, Lijphart - the well-known political scientist most associated with developing the concept of consociational democracy defines it as a participation of representatives of all significant communal groups in political decision making, especially at the executive level.⁴⁰ He explains more, as it is one of the elements that successful establishment of democratic government in divided societies will require.⁴¹ In addition, according to Kymlicka in multinational state the national minorities are battling with the state either peacefully or violently – over the issue of political representation, language right, control over resource and internal migration.⁴² Therefore, particularly, regarding political representation, he claims adequate representation at the center and he expounds that if power is not shared on a territorial base but also within the central government itself, this can strengthen the attachment of minorities to the larger state.⁴³

Assefa defines shared rule as “*political expression of diversity*”⁴⁴ –, argues that giving due attention for shared rule as a political expression within diverse society will result in political

³⁸ Elazar (n 30) 443.

³⁹ Ronald Watt, *Comparing Federal Systems*, McGill-Queen’s University Press Montreal & Kingston London Ithaca (2008) (3rd edn) 143.

⁴⁰ Arend Lijphart, ‘Constitutional Design for Divided Societies’ (n 7) 97.

⁴¹ *ibid.*

⁴² Will Kymlicka, ‘Emerging Western Models of Multinational Federalism’ (n 6) 36.

⁴³ *ibid.*

⁴⁴ Assefa Fiseha, *Federalism and the Accommodation of Diversity* (n 1) 437 .

stability. For him, shared rule is a means, which complements the essence of federalism by itself and call for equitable representation of federations within the federal institutions.⁴⁵

A bit discerned from the above definitions, the other line of understanding conversed by Mueller refers to horizontal cooperation between constituent units at the exclusion of the federal government.⁴⁶ This means, in the exclusion of the central government the federations will share and cooperate on some selected areas which calls their common attribution for its realization. Accordingly, synonyms for shared rule understood as horizontal cooperation are regionalization (if cooperation is confined to only a handful of units) and harmonization (if it involves all constituent units). The “other”, in this case, refers to selected co-regions.⁴⁷

In a nutshell, the discussion of the authors expounds that shared rule is *all about the realization of the representation and participation of subnational units in central matters to the possible extent*. Most of the writers focused on the need of institution in which the units will be represented. Hence, the above stated institutions are prominent and inevitable to protect these component units to put the federalism in effect.

Some federations like Nigeria are has attempted to recognize in their constitution how the shared rule has to be regulated within the federal polity. In Nigeria, the federal covenant that guides the relationship between all the levels as well as the composition of the federal executive and administration is generally referred to as the ‘federal character’ of the nation.⁴⁸

By and large, there is no precise and agreed definition rendered for the term shared rule among scholars whilst they connote the word based up on their own potential reasoning. The hard lesson one draws from relevant comparative studies is that the more the ethno-nationalist forces realize their diverse interest at the federal level, the more they think they are part of it and the less they want to move away from it.⁴⁹ In sum, I can safely conclude and use as a working definition that,

⁴⁵ *ibid.*

⁴⁶ Mueller, S. ‘Self-rule and Shared Rule’. 50 Shades of Federalism available at: <http://50shadesoffederalism.com/theory/self-rule-shared-rule/?pdf=287> accessed on September 19, 2019.

⁴⁷ *ibid*

⁴⁸ The Constitution of Federal Republic of Nigeria, a 153

⁴⁹ Assefa Fiseha ‘Ethiopia's Experiment in Accommodating Diversity’ (n 4) 437

shared rule is the concept of power sharing among the subnational units to administer the federal offices that adversely affect their interest, if they are not represented.

2.4 Modalities of Power Sharing

Even if the need for sharing of rule for different segments is expected, the question of how these rules that claim sharing could be distributed in a way suffice interest and reduce tension and conflict is demands potential answer.⁵⁰

There are different models of power sharing through which scholars attempt to advice in order to accommodate interests and to achieve peaceful coexistence. Mainly, various literatures propose two types of democratic power sharing models – the majoritarian based and non-majoritarian. The former allows for *winner takes all* modes and the latter focuses on consensually arranged accommodative modes of power sharing. As literatures written on the issue addressed, majority rule is incompatible with the concept of federalism; because it does not permit an effective division (that is accommodative and fair) of power among different interest groups existing in the system.⁵¹ Moreover, because of the right to political participation is largely realize through the effective electoral system of a country, the choice for electoral system should include the need for equitable representation in to account. Precisely, as Getachew Assefa contends, political pluralism in ethnic based federal system will be better served by appropriately tailored model within the proportional representation system.⁵²

2.5 Institutional arrangement of shared rule

Indeed, the question of where and by whom the NNPs are represented in the national institutions is quite different in federal states and in average; the institutions that significantly affect their interest are considered as *basic political institutions* in which they are represented. Accordingly, these basic political institutions for deciding upon policy and overseeing its implementation

⁵⁰ Assefa Fiseha, ‘Federalism and the Accommodation of Diversity in Ethiopia’ (n 1) 229.

⁵¹ Arend Lijipahrt, *Non-Majoritarian Democracy: A Comparison of Federal & Consociational Theories* (John Kincad, Lijipahrt Arend, *Non-Majoritarian Democracy: A Comparison of Federal & Consage library on political science*, Volume 2 2011) 31.

⁵² Getachew Assefa, ‘Electoral System and Political Pluralism in Ethiopia: A Case for Reform’ in Gedion Timotheows and Helen Fikre (eds.), *the FDRE Constitution: Some Perspectives on the Institutional Dimension* (Ethiopian Constitutional Law Series, Vol VI 2014), 8.

include the legislature, the executive organs, the head of state, the civil service including the military and federal police forces, along with important federal agencies and some state-owned enterprises and the courts, in particular the court that has the ultimate say over the interpretation of the Constitution.⁵³ Nevertheless, for this research consumption, the researcher purposefully focuses on legislature, executive, judiciary, the civil servant and the defense force to investigate the realization of the promise of shared rule for the NNPs. Therefore, we will discuss the rationales behind these institutions necessarily ruled by the share of the subnational units as follows:

The *legislature* is one of the prominent organs in the establishment of the government mainly mandated with initiating and making of the laws, exercising parliamentary oversight, and representing the people's interests.

The *executive*, along with power of implementation, has the quasi-legislative and quasi-judiciary power, power to initiate legislative drafts and policies and render decisions that affect the interest of the federation. Especially in parliamentary system of government the decision is made through the collegial decision making body. Therefore, it has to accommodate various ethnic groups because of it is essential branch that will affect the interest of the sub nationals.

In the course of appointing *Judges*, countries use various standards- the legal skills, personal qualities; special qualities for particular courts are among them. Alongside these grounds, ethnicity and gender are important criteria for appointing judges. Because, courts are entertain cases brought from diverse societal bases differing in the grounds of area, economic, political, cultural, gender and religious background of the parties. Further, judges are arbitrators of the cases, engineers of laws who give life for the mere legal documents. Therefore, its composition has to take in to account the area of the country, ethnic composition, and gender elements in addition to merit.

⁵³ Norman, W. Negotiating Nationalism: Nation Building , Federalism And Secession In Multinational States, (2006) Oxford University Press: New York, 111-115, Cited By, Endalamaw Chekol Baweke, Ethnic Federalism And Nation Building In Development: The Case Of Ethiopia, LL.M Thesis Paper, (2015) Addis Ababa University, (Unpublished), 40

The *civil servant* sector is, an institution comprised of professional personnel, which mandated with the duty to execute and implement the day-to-day bureaucratic action of the government. Mostly, its composition will take in to account the professional background, the experience, the educational preparation of the personnel. However, in multinational country this sector shall compose representative work force that conform of country diversity of population. Particularly for countries like Ethiopia, who have the objective to build one economic and political community, it is essential to participate all members of the society, even by reserving special arrangement for the communities who have faced past injustice and are insignificant in numeric base of their population number. Hence, a representative bureaucracy would lead to more democratic and better decision making by expanding the diversity of views involved; would improve responsiveness to the public; would increase the legitimacy of governmental institutions; and would give practical expression to values of social equity and justice.⁵⁴

However, it is tough to assume rigorously the concept of representation within this sector so long as the works assigned more needs capacity and merit. The approach should neither require the sector to employ persons who are unqualified or incompetent, although affirmative action is nor seen as favoring equally or less capable minority applicants over better-qualified majority candidates. The concept of meritocracy- in which primarily individual talents, experience, and abilities depend has to be presumed to conduct the required task effectively and efficiently. Therefore, assuming all areas of the civil servant sector for representation and abandoning the need of capacity and discriminating the others who are not member of such group is not fitting. Representation has to be realized since the post is assumed as it is purely political and adversely affect the interest of a certain groups unless it is realized and capacity has to be never negotiated.

Regarding the *military*, the armed forces need to reflect adequately the composition of society, if the population is to have confidence in the armed forces, and if the armed forces are to be able to fulfill their mission effectively. Moreover, it is a democratic imperative that the armed forces should be broadly representative of the populace with respect to ethnic composition, race, social

⁵⁴ Samuel Krislov and David H. Rosenbloom, *Representative Bureaucracy and the American Political System*, (1981) New York: Praegar, 23

class, religion and gender.⁵⁵ However, we can make sure that there are different societies/persons that do even not want to participate in the military due to their economic mobility, cultural and religious factors on this sector. Therefore, it is hard to think as this right claimed and exercised by all diverse groups within the multinational country.

2.6 Conclusion

Under this chapter after consulting literatures, we have discussed the following points. First, since federalism is by its nature - a flexible form of government, - which adapts to specific circumstances, we cannot point out a single and agreed definition for the term. Hence, for the purpose of this study, federalism is understood as the existence of two forms of rule in it – self-rule synthesizing the right to self-administration and shared rule inferring the right to power sharing among the constituent units in central level. Moreover, as a working definition, shared rule is the concept of power sharing among the subnational units to administer the federal offices that adversely affect their interest, if they are not represented in it. Lastly, this chapter is closed by making discussion about the institutional arrangements in which the NNPs will be represented. Accordingly, the question of where and by whom the NNPs are represented in the national institutions is quite different in federal states and in average; the institutions that are significantly affect their interest are considered as basic political institutions in which they are represented. These basic political institutions for deciding upon policy and overseeing its implementation includes the legislature, executive, judiciary, civil servant, and the military.

⁵⁵ Heineken, L. ‘A Diverse Society, A Representative Military? The Complexity of Managing Diversity in the South African Armed Forces’ (2009) Department of Sociology and Social Anthropology, University of Stellenbosch, no page, Retrieved from www.ajol.info/index.php/smsajms/article/download/48730/35082

Chapter Three

The Legal Protection of the Right to Shared Rule of NNPs at the Federal Level and in SNNPR

3.1 Introduction

Ethiopia is in general a deeply divided society in terms of ethnic diversity and characterized by reinforcing cleavages. The language, religion, culture and tradition of the ethnic groups reduced to a political competition among segments of the society and this situation resulted in instability of the country. The 1995 FDRE Constitution has established federal forms of government and promised for NNPs the right to shared rule. Thus, this chapter will focus on assessing the legal frameworks guaranteeing the constitutional promise of the right to shared rule of the NNPs in federal level - based up on the FDRE Constitution and the other relevant laws and the chapter specifically focuses on SNNPR. Accordingly, this chapter is classified into two parts: the first part for the national legal standards about the shared rule of NNPs in general and the second part the right in context in relation to the SNNPR.

3.2 Part I: Ethiopian Experience

Actually, there is no similar understanding and agreement among the scholars concerning the way the Ethiopian empire evolved. An examination of the country's modern history literatures suggests that the country's politics was the result of a struggle between regional and center political forces.⁵⁶ These struggles had based their objectives on the expansion of territory and controlling of political power. Precisely, in the 1960s the struggle shifted to the quest of nationality and claim of access to resources. Nevertheless, center based politics disregarded the existence of variety of ethnic groups in the country and pursued to stay in the sense of single state without recognizing and accommodating the diverse interests. There were discriminatory policies, which resulted in an uneven representation of various ethnic groups in central

⁵⁶ Bahru Zewde, *A History of Modern Ethiopia: 1855–1991*. (2002) Addis Ababa University Press, 61

government, and the suppression of various ethnic groups in southern Ethiopians was worse.⁵⁷ Therefore, in mid 1960s sturdy revolution was experienced across the country – by making its central question an economic “land to the tiller” and the nationality “fair political representation and education for all”. By the end, the revolution had resulted in the demise of the then monarchical government and coming to power of the military junta *Derg*’ in 1974.

During its taking of power, *Derg* declared nationalized land from the feudal (lords) and redistributed to the tiller farmers.⁵⁸ Indeed, by making this, it fundamentally responded the question of land. However, the question of nationalism is left untouched and the centralized state structure and political thinking still strongly survived. Consequently, many guerrilla fighters organized on the basis of ethnic questions, continued their struggle and by the end toppled the military government in 1991. EPRDF, sponsored by the Marxism movement, narrated itself as a power bearer who liberates the nations nationalities from ‘prison’ and declare their self-determination by forming the federal system of governance is come to power. The overthrow of (Derg) has restructured the country politics on the basis of ethnicity, and underway to follow ethnic federalism. Consequently, the then transitional government declared *de facto* federalism by charter and that served as a road to *de jure* federalism and in 1995 after the adoption of the constitution.

The 1995 Ethiopian Constitution established federal forms of government that made by the [pact] of the NNPs of the country.⁵⁹ It conjugated the essence of federalism with ethnicity, made the NNPs as an author of the constitution, and to the extreme allowed them to walk out from the

⁵⁷Leulseged Tadesse, Can Diversity be Accommodated? The Case of Ethiopia, (2019), 4, available at: http://www.forumfed.org/libdocs/IntConfFed07/Volume_5/IntConfFed07-Vol5-Tadesse.pdf last accessed on Nov 6, 2019

⁵⁸ See Proclamation No 31/1975, A Proclamation to Provide for the Public Ownership of Rural Lands.

⁵⁹Even if the truth is the other way round, according to the 1995 constitution, the Ethiopian federal structure has been established by a free bargain of the NNPs. According to Assefa Fisseha, it would be an exaggeration however, to see the Ethiopian federation as a straightforward example of coming together federalism. Although some parts of the country experienced a *de facto* autonomy in the pre-1991 period, many of the states that now form the federation had no such previous experience. see Assefa Fisseha, Theory versus practice in the implementation of Ethiopia ethnic federalism, Ethnic federalism the Ethiopian Experience in Comparative Perspective, Eastern African Studies, Addis Ababa University Press, Reprinted in 2017, 132

federation.⁶⁰ It further provided that the “Constitution is an expression of their sovereignty” which “shall be expressed through their representatives elected in accordance with [the] Constitution and through their direct democratic participation.”⁶¹ Moreover, in strengthening this assertion, the constitution has made promises for the NNPs to full measure of self-government, which includes the right to establish institutions of government in the territory that they inhabit, and to equitable representation both in state and federal governments.⁶² Therefore, according to this constitution the NNPs will have the foundational assertion of federalism – self-rule and shared rule.

3.2.1 Shared Rule under the FDRE Constitution

The constitutional promise, *the right to equitable representation within federal and state governments* signifies the right to shared rule of the NNPs. This means the NNPs will exercise their right to equitable representation in government institutions and in strict sense, these institutions are as defined by the same constitution, the legislative, executive and the judiciary in the two levels of government arrangements.⁶³ This means, the NNPs are entitled to participate in the central decision-making process with any chance of defending their legitimate interests.

Furthermore, to make the promise operative the constitution established the legislative organ that comprises two chambers, the executive and the judiciary branches.⁶⁴ The HoPR organized as the house in which peoples are embodied and the HoF formed as an assembly in which the NNPs are represented. The executive is composed of various ministers that led by the prime minister and the judiciary is composed of three levels of courts, established in federal and regional states, which have their own area of competences.⁶⁵ Further, the Constitution on Art 87 (1) expounds that; the national defense force will comprise the NNPs. By the end, those organs of governments are expected to be composed of and administered by the contribution of all NNPs on the bases of equitable representation and the methods of getting the said administration of the

⁶⁰ See the preamble, Art 8 and Art 39 of the FDRE Constitution.

⁶¹ FDRE Constitution, Art 8(2) and (3).

⁶² FDRE Constitution, Art 39(3)

⁶³ FDRE Constitution, Art 50(2)

⁶⁴ FDRE Constitution, Art 50 (3).

⁶⁵ *ibid.*

office will be by election, selection and appointment. Therefore, according to the Constitution, the composition of these institutions is expected to show the diversity of the country in a manner that assures the contribution of the NNPs in the task of building the center. Hence, we can safely argue that, the legislative, the executive, the judiciary, the military and the civil service sectors are the political institutions in which the NNPs has to be represented.

In the very outset, the Constitution intended to apportion the rule among the NNPs in the principle of proportional representation. However, the constitution propagates the equitable representation by a vague term without coining meaning and putting some sorts of criteria.

Next to this briefing, we will examine the legal frameworks about the right to shared rule of NNPs within the above-told federal institutions as follows.

3.2.1.1 The Legislature

As said above, the federal government is composed of two legislative houses, namely the HoPR and the HoF. The HoPR is comprises representatives of people with the actual power of law making and they are entitled to represent the people of Ethiopia as a whole⁶⁶ and who are elected on the bases of population size and special representation of minority NNPs. Among the total seat of 550, twenty seats are reserved for special representation of minority NNPs and the remaining 530 will be divided for constituencies on the basis of number of population. As we can understand from this, the Constitution is highly devoted to accommodate the NNPs in the house by reserving up to 20 seats for each minorities who can't be able to have a single constituency due to lack of required number of population. This means the existence of reserved 20 seats for numerically lesser nationalities will give them an opportunity to be represented⁶⁷.

Likewise, when we see the composition of the HoF, members are composed of the representatives of the NNPs at least one for each and additional one representative for a million number of population of the NNPs. There is no explicit link between the HoF and the states. The

⁶⁶ *ibid.*

⁶⁷ Scholars argue that, a minority nationality is one that cannot establish its own electoral constituency and shall be represented by enjoying the arrangement of reserved seat. *See*, Beza Desalegn 'Challenges of Ethnic Represenaation', (n 21) 84 and Abera Dagafa, *The Scope of the Rights of Nations And Nationalities Under the Constitution of The Federal Democratic Ethiopia*, Series on Ethiopian Constitutional Law, Vol. 1, 101-102

members have no *de jure* representative's duty of the state. However, related to the mechanism of composition of the house, it is going against the main purpose of counterbalancing of the majorities who were dominant in the lower house. Because, in the HoF the NNPs who have the majority seat in the lower house will also dominate due to the mode of composition. As Assefa argues that, it was meant to be a counter majoritarian institution to balance against the HoPR but it could hardly serve that role primarily because it is barely involved in law-making and secondly because in its composition it by and large replicates the HoPR.⁶⁸ When we see the experience of other federal countries, the second chamber is composed of the same seat⁶⁹ of the subnational units and properly helps to counterbalance the majoritarian dominance who have majority seat in the lower house. Hence, this form of arrangement does not constitutionally protect the minorities from being dominated by the NNPs who have large number of population. The mere change that we can observe is at least they will have a chance to see what is happening in the house. In a nutshell, the mode of representation is not suffice with the interest of the NNPs and the larger the population size of an ethnic group. The higher the representation it will secure in the house and the higher is the risk of minorities being engulfed by the populous ethnic groups in the decision making process.⁷⁰ The decision is rendering with their knowledge but they cannot influence it and as second chamber the house is not fulfilled the element of defending the majoritarian exercising's with in the lower house. Even though the objective of this research is not to evaluate the legislative powers of the HoF, however, this house is not empowered by the constitution with the power of legislation other than having the title of legislature.

3.2.1.2 The Executive

As per the Constitution, the power to form the executive and lead it is given to a political party or coalition of political parties that has the greatest number of seat in the HoPR.⁷¹ Further, it explains that, the highest executive power lies with the prime minster and the council of ministers. As the highest executive organ, the main task of the executive is implementation of the

⁶⁸ Assefa Fiseha, *Federations and Second Chambers*, (2005), *Indian Journal of Politics*, 39:3: 87- 128

⁶⁹ The experience of the federal countries like Nigerian and US shows that the representation in the second chamber is equal among the member states irrespective of the population size of the states. In other federations like, Belgium and Switzerland the composition clearly stated with no need of progressive increment of the seat.

⁷⁰ Beza Dessalegn, 'Challenges of Ethnic Represenaation', (n 21) 86

⁷¹ FDRE Constitution, Art 56

laws and decisions rendered by the HoPR. The Constitution does not clearly and directly state provisions prescribing ethnic pluralism within the council. However, practically there is a tendency to accommodate the ethnic balance in the appointment of the ministers. However, the practice cannot be a guarantee for the latter accommodation of the NNPs. It will be limited to the best of the mercy of the existing prime minister and the party system.

3.2.1.3 The Judiciary

The FDRE Constitution establishes courts both in federal and regional levels having three levels in both layers. However, with regards to the appointment of judges, the president and vice president of the federal Supreme Court shall be appointed by the HoPR based on the recommendation of the prime minister.⁷² There are no standards limiting the prime minister to take into consideration in the course of nominating these persons; –it is his prerogative to recommend them for appointment as far as he is able to persuade the majority members of the house. In case of other federal judges, the power to select the candidates is given for the federal judicial administration council.⁷³ This council will present the candidate for the prime minister and the prime minister shall submit to the HoPR for appointment.⁷⁴ This all are guides the process of selection and confirmation of judges. Therefore, the constitution does not designate criteria for selection of judges and by doing so it left to as a council's competence – from a formal point of view there is no requirement of NNPs representation in the court either. Therefore, the selection qualification of who will be appointed as a judge is run by the political tradition.

However, when we see the subsidiary legislation *Amended Federal Judicial Administration Council Establishment Proclamation* there are criteria stated. Surprisingly, this illustration does not take into account the principle of equitable representation of the NNPs, rather it is based upon nationality and other criteria's.⁷⁵

⁷² FDRE Constitution, Art 81(1).

⁷³ FDRE Constitution, Art 81 (2).

⁷⁴ FDRE Constitution, Art 74 (7).

⁷⁵ Proclamation No. 684/2006 Amended Federal Judicial Administration Council Establishment Proclamation, Art 11.

Along with the inevitable requirements that need merit and clear criteria, as well as performance evaluation in appointments and promotion of the judge, the judiciary- as one branch of government - has to keep the promise made for the NNPs to represent them in equitable manner within the one of the branches of federal government – the judiciary. Therefore, the selection criteria of the Federal Judicial Administration shall take in to account the interest of the marginalized and minority NNPs due to the very purpose of the constitution is to rectify the past historical injustice and building one economic and political community.

3.2.1.4 The Civil Service

The FDRE Constitution on Article 55 (6) empowers the HoPR to enact civil laws that are deemed necessary to establish and sustain one economic community. Accordingly, determining the civil matter that requires the enactment of laws by the HoPR is left to the competence of the HOF.⁷⁶ Based up on this empowerment the HoPR has enacted the civil servant proclamation and Article 50 of the same proclamation states the placement of personnel in a government institution shall take into account fair representation of nations and nationalities. Furthermore, the NNP having lesser representations within a government institution shall be given the advantage of affirmative actions in recruitment, promotion, transfer, redeployment, education and training.⁷⁷ This means the proclamation considers the recruitment as representation and it advocates fair representation of NNPs in one hand and synthesizes the positive discrimination for the ethnic groups who are less in number in such office in the other. Therefore, we can safely argue that the federal government has a diversity policy that explicitly aimed at establishing a representative civil service, i.e. representative bureaucracy.

3.2.1.5 The National Defense Force

According to the Constitution, the power to establish and administer the national defense force and public security force as well as the federal police force is given for the federal government.⁷⁸ In the course of establishment and administration, the manner of the organization of national defense force, public security and a national police force shall be left to the determination of the

⁷⁶ *ibid.*

⁷⁷ Federal Civil Servants Proclamation, 2017, Pro. No.1064/2017 Federal Negarit Gazeta 24th Year No.12

⁷⁸ FDRE Constitution Art 51 (6)

HPR.⁷⁹ Moreover, as a principle the Constitution states that the composition of the national armed forces shall reflect the equitable representation of the NNPs of Ethiopia.⁸⁰ Even though, it is obvious that the federal institution has to comprise all the federations in equitable manner, however, this provision only deals with the composition of the national defense force and keep silent about the manner of composition of the public security and national police force. Therefore, according to the constitution the Ethiopian national defense force has to be established by accumulating the NNPs. Its administration and composition of personnel has to comprise the NNPs and show the proper diversity of the country. Furthermore, the preamble of the Defense Force's Proclamation No. 1100/2019 also envisages by saying that, one of the major aims of this law is "[T]o embody the equitable representation of NNPs ... (in the Defense Force)".

Moreover, Art 5(2) of the proclamation states that in the course of recruitment made by the ministry, under sub-article (1) of this Article, the ministry shall embody equitable representation of NNPs.⁸¹ Therefore; we can conclude that, normatively both the constitution and the proclamation recognized the right to equitable representation of NNPs in defense force.

3.3 Part II: the Experience of Southern Nations Nationalities and Peoples Regional State

3.3.1 Features of the Regional State

The SNNPR is one of the member states of the FDRE;⁸² - a home for 56 ethnic groups who have their own distinct features. Due to this apparent diversity, this region necessarily needs a strong means to acknowledge and accommodate the interest of these various groups.

Historical documents reveal that, this part of the country was highly marginalized from the central politics, considered as illiterate and uncivilized.⁸³ However, the truth is the history of most of the ethnic group's shows that the people have reach natural resources, having their own culture, language and tradition and their own traditional governance system under their own local

⁷⁹ FDRE Constitution Art 55 (7)

⁸⁰ FDRE Constitution Art 87 (1)

⁸¹ Defense Forces Proclamation, 2019, Proc. No. 1100/2019, Fedral Negarit Gazeta, 25th Year No. 19

⁸² FDRE Constitution, Art 47 (1) (7)

⁸³ Lapiso Getahun Dilebo, Ethiopian History, Ethiopia and Ethiopians Origin and Identity Conception, (2018) Nech Sar Publisher, 134-138

kings.⁸⁴ Therefore, because these ethnic groups shared both the bad and good history together and with the intent to advance their economic and social development and to further develop their language culture and unity by using their right of self-determination recognized under the FDRE Constitution they have established this region.⁸⁵

In fact, it is the case that federal Constitutions leave space for the subnational governments to have their own constitution prescribe the constitutional processes and arrangements.⁸⁶ When we see the SNNPR constitution it is absent in listing the NNPs of the region and put in a general term “we the NNPs of the SNNP regional state”.⁸⁷ As several of the ethnic groups are small in number of population, they are exercising self-rule jointly along with other ethnic groups. Moreover, given the fact that this state is composed of dozens of ethnic groups, as a multicultural federation within the federal Ethiopia, the issue of integrating different ethnic and cultural groups as well as responding to the questions of accommodating minorities within the boundaries existing is the crucial concern of the Constitution of the regional state.

3.3.2 The Promise of the Right to Shared Rule under the SNNPR Constitution

The Ethiopian federal Constitution, as the other federal Constitutions largely are, is an “incomplete” framework document in that it does not prescribe all constitutional processes and arrangements.⁸⁸ However, the state Constitutions of Ethiopia are suffered from a serious lack of attention due to the wide spread idea that Ethiopia’s regional Constitutions are merely copies from the federal constitutions and from each other.⁸⁹ The constitution of the SNNPR is not an exception from this critic.

The preamble of the SNNPR Constitution makes the NNPs who are residing in this region as the owner of the region. It unequivocally recognizes the diversity of the population but does not list the empowered NNPs. This has been done because of, to wait for additional NNPs who might

⁸⁴ *ibid*

⁸⁵ See the Preamble of the SNNPR constitution.

⁸⁶ G. Allan Tarr, Explaining Subnational Constitutional Space, *Penn State Law Review*, Vol. 115:4, 1133

⁸⁷ See the Preamble of the SNNPR constitution

⁸⁸ G. Alan (n 86)

⁸⁹ Christophe Van der Beken, *Complementing the Constitutional Architecture A Comparative Analysis of Subnational Constitutions in Ethiopia*, Addis Ababa University Press, 2

get their NNP status after the adoption of the constitution or to keep the chance of leaving of the existing NNPs from the region by establishing their own independent regional state as the right is conceived to be granted by the FDRE constitution in the latter.⁹⁰ The sovereign power of the region resides in the NNPs of the region by counting them as an owner of the regional state. Moreover, the constitution has promised to the NNPs of the region unconditional right to self-determination including secession. The term secession seems to imply the right of the NNP to leave from the regional state in one hand and establish own regional state as promised by the FDRE constitution in the other. The content of this right has been listed under Art 39, however, the right to self-rule on their own local matters and shared rule both in the regional and federal matters are recognized. Yet, the Constitution recognizes the right to self-rule establishes pertinent governmental institutions below regional state level like *zonal wereda* and *kebele* level by their own, but in other hand, this promise is taken from them and given for the state council by the same constitution.⁹¹

Concerning shared rule, due to the diverse ethnic composition of this regional state, the constitution allows the NNPs to have shared rule in regional state offices and institutions within the measurement of equitable representation.⁹² Furthermore, the constitution does not limit itself only to have share in regional level; however, it strengthen the promise of the federal Constitution by saying that the NNPs will have the right to equitable representation with in the federal government.⁹³ The rationale behind this promise is emphasized by the regional constitution seems due to the practice of representing the NNPs in federal level is based up on securing the consent of the regional state. This means, when the federal government wants to appoint person from SNNPR, it is going through the knowledge of the regional government.

To sum up, the regional state Constitution has made many promises for the NNPs residing within this region. Nevertheless, to have deep and constructive knowledge about the shared rule of the NNPs of the regional state it is necessary to have a full picture of how it is legally arranged under the SNNPR constitution.

⁹⁰ FDRE Constitution Art 47(2)

⁹¹ SNNPR constitution Art 51(3) (b)

⁹² SNNPR constitution Art 39 (3)

⁹³ *ibid*

3.3.2.1 The Legislature

The SNNPR Constitution recognizes that, the regional state has two houses: the State Council - as a lower house and the CoN - as upper house.⁹⁴ From these two houses, the actual law making power is entitled to the state council.⁹⁵ Even though, the states have no constitutional encumbrance regarding the kind of electoral system they have to adopt⁹⁶, under the SNNPR Constitution members of the state council shall be elected from among the candidates of each constituency by a plurality of the votes cast.⁹⁷ The Constitution did not entitle the total number of seat of the council and not specifically determined the number of seat reserved for special representation of ethnic minorities other than expressing, as it will be determine by particular law.

Similar to the federal Constitution and it is infrequent phenomena in sub-state level; the state constitution establishes the upper house the CoN.⁹⁸ This is due to the reason that the region is very diverse in terms of its ethnic composition and demanding to have unique arrangement that recognizes and accommodates the interests of the NNPs residing in the state. Accordingly, the CoN is an assembly in which NNPs of the region will be represented at least in one seat and they will be promised to have additional seat for a population number of a million in a progressive base. Moreover, its power is to represent and protect the rights of the NNPs in equitable base. The mode of representation is similar with the composition of the HoF, which cannot protect minority rights under the majoritarian influence in the state council.⁹⁹ Since the NNPs are the holders of sovereign right, and the author of the Constitution, the Constitution assumed as

⁹⁴ SNNPR constitution Art 48

⁹⁵ SNNPR constitution Art 51 (1)

⁹⁶ Getachew Assefa, (n 39, 26)

⁹⁷ SNNPR constitution Art 50 (2)

⁹⁸ In Ethiopia, among the nine regions, the SNNPR established its own independent second chamber; Harari made one council comprises two types of representation and Amhara region made a council of nationality without granting the status of chambers. Hence, the SNNPR is the only region which experiences of the central federal system. Likely, it established the lower house - state council (in which members are representing peoples of the state as a whole) similar to the HoPR and the upper house - the CoN (in which members are representing their own respective ethnic group), which established by modeling the federal HoF.

⁹⁹ Gezu Ayele, State Legislatures vis-a-vis the Federal Legislature in the Ethiopian Federal Arrangement, Vol. 3 No. July 2012, Addis Ababa University Student Law Review, 155.

reflection of their sovereignty, its interpretation is given to them.¹⁰⁰ Hence, the main purpose of the CoN is representing nations with the power of interpretation of supreme law of the region.¹⁰¹ When we compare with its counterpart federal house the HoF, it has no power to determine division of revenue of the state among the NNPs. Its power on matters of self-determination is only limited to defining the administrative status to zone, wereda and kebele, even it has no budget independence; its budget shall be decided by the state council.¹⁰²

Generally, the NNPs of SNNPR have constitutional representation within the state council in the forms special representation for minority and people representation on the bases of number of population.

3.3.2.2 The Executive

The FDRE Constitution up on Article 50(6) says that the highest organ of the executive power at the regional level is the state administration. Likewise, the constitution of the state also pronounces that, the executive branch of the state government is given to the state executive council and the chief-administrator of the regional state.¹⁰³ The state executive council comprises the chief administrator, deputy chief administrator and bureau heads¹⁰⁴ and the power to nominate the chief-administrator is left to the wining party¹⁰⁵ whereas, nominating the other members of the executive council is given to the chief administrator of the state.¹⁰⁶ In course of nomination of the president, the standards of the nomination and the representation of the NNPs is not stated; it is deliberately left as the business of the wining party. Whereas, the criteria to nominate other members of the state administrative council is also given to the prerogative of the president unless the state council questions him in the process of approval. On this particular case, there is no clear provision that obliges the president to do so. However, the right to be represented with in the state administration that is stated under Art 39(3) of the state Constitution

¹⁰⁰ SNNPR Constitution Art 59 (1)

¹⁰¹ SNNPR constitution Art 58 and 59

¹⁰² SNNPR constitution Art 61

¹⁰³ SNNPR constitution Art 64 (1)

¹⁰⁴ SNNPR constitution Art 65 (2)

¹⁰⁵ SNNPR constitution Art 67(1)

¹⁰⁶ SNNPR constitution Art 69 (2) (f)

has to be protected. Yet, since the executive is bearer of the prominent power which may affect the interest of these ethnic groups, its composition has to be taken in to account the representation of them. Because, the power of the executive may have considerable impact on the interest of the NNPs. Some of its powers are; implementation of laws and decisions issued by the state council and the federal government and enact regulations¹⁰⁷, prepare budget of the region and submit for the state council for approval¹⁰⁸, draft socio-economic policies and submit for the approval of the state council, and initiate legislative drafts and declare state of emergency. Therefore, in the course of exercising all these powers, it is quite sure that they may affect the interest of the NNPs. Because, it is incontestable that, the executive council has to be composed in equitable share of the NNPs of the region and this has to be stated by the constitution, but unfortunately, the constitution is reserved from affirming that.

3.3.2.3 The Judiciary

According to Art 50 (7) of the FDRE constitution, the judicial power of the region is vested in the regional courts. Furthermore, on this specific issue, this constitution is restrained the constitutional space of the regional states. The structure, the appointment, removal and jurisdiction of the regional courts is stipulated under Art 78, 79, 80 and 81 of the federal constitution. In conform to the statement of the federal Constitution the state constitution has been discussed about the judiciary system of the regional state. Accordingly, regarding to the appointment of judges, the state constitution directly copied the federal constitution even with no verbal modification.¹⁰⁹

According to the Constitution, the appointment of the judges in several of the court has its own different arrangement. Consequently, the president and vice president of the state Supreme Court shall up on recommendation by the president of the state be appointed by the state council. In doing so, the power to recommendation has no objective criteria; it is up to the prerogative power of the president to nominate the persons. Furthermore, the State Council shall upon recommendation by the state judicial administration council, appoint the state Supreme Court judges (whose rank is below president and the vice president) and state High Court judges and

¹⁰⁷ SNNPR constitution Art 66 (6)

¹⁰⁸ SNNPR constitution Art 66 (3)

¹⁰⁹ See SNNPR constitution Art 79 Vs. FDRE constitution Art 76

First Instance Court judges.¹¹⁰ In the appointment process, there is an obligation up on the state judicial administration council before submitting nominations to the state council to solicit and obtain the views of the federal judicial administration council.¹¹¹

Moreover, before submitting nominees of state high and wereda court judges to the state council the state judicial administration council will solicit and obtain the views of zonal/special wereda administrative council. Here, the problem is the view requested is the executive body; and this gives a chance for the executive to evaluate the political attitude of the nominees. It was proper to grant this power to the zonal and wereda judicial administration council.

Beside to this the very reason in which the consent of the zonal and wereda administration requested is seems to give them an opportunity to check whether the person who will appoint in their zonal/wereda court properly selected by following the stated procedures. For example, one of the standards they may check will be the nominee's proficiency of the local language. Because, the working language of the courts will be the local languages of the respective zones and weredas and the judge should be expected to speak the language of the said zone. Therefore, we can assume that it is inevitable that the representative should be from each zones and weredas. Even though the constitution did not have provision compelling to represent the respective NNPs in the judiciary system, it is mandatory to appoint judges from each NNPs who are working in the High and First Instance Court as well as in the Supreme Court level. Otherwise, the court is not similar to courts that are in the federalism modes of system.

3.3.2.4 The Civil servants

The FDRE constitution on article 52 (2) (f) provides that the state shall have a power to enact and enforce laws on the state civil service and determine their condition of work; by ensuring educational training and experience requirement for any job, title or position approximate to national standards. This means the federal civil service laws are used as national standard across the states and in course of recruitment and they are obliged to follow.

¹¹⁰ SNNPR constitution Art 76 (2)

¹¹¹ SNNPR constitution Art 76 (3)

The constitution of the state also espouses power for the state council to make laws regarding the management and working conditions of the state's workforce.¹¹² Based upon the empowerment of this provision the state council enacted a proclamation, which deals about the civil servant of the regional state. Accordingly, Article 49 of the proclamation states that the placement of personnel in a government institution shall take into account fair representation of NNPs.¹¹³ Moreover, concerning to NNPs having lesser representations within a government institution, it states that, they shall be given the advantage of affirmative actions in recruitment, promotion, transfer, redeployment, education and training.¹¹⁴

3.3.2.5 The Regional Police Force

In Ethiopian federal arrangement, the powers that are not expressly given for the federal alone or concurrently to the federal and states are reserved to the states.¹¹⁵ However, the Constitution lists some powers under Article 52 (2) as an example as state powers; and one of the power listed is the power to establish and administer a state police force and to maintain public order and peace within the state. Based up on this provision the power to establish regional security force directly emanates from the federal Constitution and conforming to this the state Constitution on Art 51(3) (g) of states that, the state council shall have the power to organize the state police and security force. The Constitution falls short in determining the issue of principle of regional security as regional policy principle and objectives. It does not state about the composition, who will be the chief, the status, and the objective of the regional security force. Therefore, the right to shared rule of the regional NNPs in relation to regional police force is not directly recognized by the constitution of the regional state.

3.4 Conclusion

Under this chapter, the thesis identified that, the right to shared rule of NNPs is constitutionally recognized. For the legislature and the defense force, the constitutions made specific and clear recognition. Both, the federal and SNNPR Constitutions have established the right to the

¹¹² FDRE Constitution Art 51 (2) (l)

¹¹³ Proclamation No. 1076/2011 of the Civil Servant Proclamation of Southern Nations Nationalities and Peoples Regional State.

¹¹⁴ *ibid* Art 49

¹¹⁵ FDRE Constitution Art 50 (1)

legislature Councils. Alongside to electing as a people, the NNPs have been promised to be represented in the HoPR and State Council in the federal and the state respectively. Moreover, both constitutions have established the second chambers in which the NNPs are represented; namely the HoF in federal and the CoN in SNNPR.

Concerning executive representation, other than espousing about representation, the constitution has no vivid mechanism by which the right will be applied. It leaves to the prime minister in federal and chief executive in regional and both are act under scrutiny of the winning party appointed them to the position.

In relation to the judiciary, the Constitutions are more concerned about the procedure of appointment of judges, however, does not list the standards to be followed, and among them ethnic composition is the one left. For civil servant, the constitution intended to establish one economic and political community and have policy objective. There is no clear provision dealing about having representative bureaucracy, however, subsidiary legislations both in federal and state allows positive discrimination and take into account inclusive civil servant. About defense force, the constitution vividly espouses about the composition of the national armed forces shall reflect the equitable representation of the NNPs of Ethiopia, however, about state police force the state constitution is keeps silent and does not constitutionally recognize the composition of NNPs.

Therefore, in the very outset the FDRE Constitution made promise for NNPs- the right to shared rule. However, it is not transcended the method throughout the institutions the NNPs will be represented except the legislative and the defense force. Within the other institutions, the issue of shared rule will realize by construing the provisions and making supportive justifications.

Chapter Four

Implementation of the Right to Shared Rule in SNNPR

4.1 Introduction

As it has discussed above, the right to shared rule of NNPs is one of the prominent constitutional promises enshrined under both the federal and SNNPR constitutions. This right is not one granted without execution, rather it assumed to be implemented in comprehensive manner. This chapter is set out to evaluate the practical implementation of the right for the NNPs. To do so; the researcher will examine the realization of the right in legislative, executive, judiciary, the civil servant and the state police force institutions as follows. For this purpose, semi-structured interview conducted with government officials, council speakers, community and concerned experts. Moreover, to make more investigation on the practice and to have constructive analysis, documents are accurately examined.

4.2 The Composition of State Legislatives

As we have discussed above the council of the SNNPR consists of two chambers: the State Council and Council of Nationalities. Under this sub-title, the thesis will present the practice in two different facets as follows.

4.2.1 The State Council

The regional state council has 348 seats. The seat apportioned to the constituency on the base of number of peoples in one hand and special representation for minority NNP in the other. As evidence consulted and stated below shows that, since the establishment of the region, for the last five elections round the legislatives and executive branches are absolutely dominated by the SEPDM. Moreover, the SEPDM led the power sharing in the arrangements of democratic centralism, in which elites of each ethnic group are conjugate with the party and the members of the ethnic groups are blurred about their representation. As a result, the gaps existing were not

open to the public and it was away from public knowledge due to the very nature of the party's authoritativeness.¹¹⁶

Table 1: party composition in SNNPR state council in the last five elections

Names of political Parties	1 st Round			2 nd Round			3 rd Round			4th Round			5 th		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total
EPRDF	218	10	228	274	44	318	186	91	277	237	111	348	181	167	348
Opposition Parties	-	-	-	28	-	28	65	6	71	-	-	-	-	-	-
Private	3		3	-	-	-	-	-	-	-	-	-	-	-	-
Special Representation	9		9	-	-	-	-	-	-	-	-	-	-	-	-
Total	230	10	240	302	44	346	251	97	348		-	-	-	-	-

Source: The SNNPR State Council

As the table, 1 shows that, until the third round election there were the opposing parties' seats within the state council. However, for the last two elections the state leading party – the SEPDM, solely takes the house seat.

As far as the NNPs representation concerned, the practical observation of the house composition indicates, there is uneven representation of NNP in the state council.

Table 2: The state council number of seat in administrative unit

Role	Administrative	Population	Represent	Amount	Seat	Under (-) over	Remark
------	----------------	------------	-----------	--------	------	----------------	--------

¹¹⁶ Most of the interviewee are explained that the party system was hardly influenced the political practice and override people representation. According to these persons, they classify the party control, dominance before the change has been outcast, and post the change has been experienced. For them the former is more party centered and the latter is somehow open and giving opportunity to explain whatever the representative thought.

No.	Unit		ation	of Ethnic groups	deserve s	(+) representa tions	
1	Sidama	4,136,094	57	1	68	-11	
2	Wolaita	2,163,381	39	1	36	+3	
3	Sheka	290,025	6	2	5	-1	
4	Keffa	1,243,544	20	3	21	-1	
5	Silite	1,128,876	15	1	19	-4	
6	Dawro	695,674	9	1	12	-3	
7	Basketo	81,721	4	1	1	+3	
8	Konta	129,531	3	1	2	+1	
9	Gamo Gofa	2,284,286	39	5	38	+1	
10	Hadiya	1,797,395	26	1	30	-4	
11	Gedeo	1,225,103	21	1	20	+1	
12	Kembata Tembaro	986,676	18	3	16	+2	Special Rep. is reserved for Donga
13	Halaba	356,131	6	1	6	=	
14	Yem	110,787	3	1	2	+1	
15	Gurage	1,843,913	37	3	31	+6	Specila Rep. is reserved to Mareko & Kebena Nationalities
16	South Omo	814,387	18	16	13	+5	Special Rep. is reserved to minority NNPs
17	Bench Maji	936,168	14	6	16	-2	
18	Konso	244,213	3	1	4	-1	
19	Amaro	210,991	3	1	4	-1	
20	Alle	87,521	1	1	1	=	
21	Burji	77,532	1	1	1	=	
22	Derashe	115,668	5	4	2	+3	Special Rep. is reserved for Mossiye, Mashole and Kusume
Total	22	20,959,617	348	56	348		

Source: The SNNPR State Council (Hawassa, March 10, 2020)

Accordingly, Sidama, Wolaita, and Gamo Gofa acquire the highest number of seats and the lowest number goes to Alle and Burji. The good thing is, even though, complain on fairness persist, the council is composed all NNPs. There are administrative units who have acquired extra seat compared to their number of population. Moreover, some of the administrative units have secured extra seat compared to their population number in the arrangement of special representation (South Omo, Kembta Tembaro and Derashe are the best examples). While some administrative units are less represented compared to their population number. Therefore, this arrangement is against the constitutional promises of the right to shared rule in the forms of equitable representation of NNPs.

The legislative electoral system of the region follows the federal model and uses the majoritarian rule system even though the federal Constitution has not encumbered the regions to have the federal model.¹¹⁷ From the very outset, the Ethiopian electoral law for federal legislature has inadequacy by minimizing the right to representation and participation of the minorities.¹¹⁸ However, the state constitution of SNNPR chooses the same electoral law by disregarding the existing regional reality of having many minorities, and this curtailed the possibility of participation and representation of these diverse NNPs of the region. This has led to the uneven distribution of powers, and most importantly to the marginalization and relegation of minority voices.¹¹⁹ That is why; representatives from fewer represented ethnic groups strongly claim that the ethnic groups who have majority seat dominate them. Because of they have fewer seats and have not got the opportunity to reflect the question of their people and the majority of opportunity go to largely represented ethnic groups and the working procedure of the house is prohibits them from effective participation.¹²⁰ Therefore, within this council the majority number of ethnic groups cannot make expressive influence in the outcome of the pronouncements rendered by the house. Hence, as we have discussed under chapter two, the choice for electoral

¹¹⁷ Getachew Assefa, (n 39, 7-8)

¹¹⁸ Beza Dessalegn, 'The Right of Minorities to Political Participation under the Ethiopian Electoral system' (2013) 7(1) Mizan Law Review 67, 98-100

¹¹⁹ Beza Desalegn, (n 21)

¹²⁰ Interview made with Bereket Bezabeh, Representative of Koore People, Both in State Council and the HoF, (Amaro Kelle 17, Feb, 2020)

system should include the need for equitable representation of NNP- that is proportional representation.

The problem that the researcher identified is the divergence of administrative structure and constituency. Some of the newly established administrative structures are arranged contrary to the electoral district. For example, in the former Gamo Gofa zone, Zala Daramalo constituency; two weredas were arranged under one single zone, however, now the Gamo and Gofa zones are divided and Zala gone to Gofa and Daramalo remained to Gamo.¹²¹ This makes one part of the area unrepresented and goes against the very concept of representation right of the people.

Before the so called ‘*change period*’ happened there were strong party censorship against the state council. The working procedure and code of conduct of members of council has become hindrance not to realize the proper representation of their people.¹²² As some of the members determined there is partiality by the speaker in the course of giving chance to speak, even though, the Members’ Code of Conduct and Working Procedure Regulation obliges the speaker to do so in impartial, fair and reasonable manner.¹²³

Therefore, we can conclude that the right to shared rule in the arrangement of special representation for minority ethnic groups is realized under the state council, however, there is mismatch in amount of representation among the administrative units which given for some extra and for the other less seat.

4.2.2 The Council of Nationalities (CoN)

This house is comprised of 56 indigenous NNPs of the regional state. Currently it has 67 seats. Among these, eleven seats are acquired by NNPs who have more than million population number. These NNPs are Sidama, Wolaita, Gamo, Gurage, Hadiya, Gedeo and Silite. The remaining 49 ethnic groups have only one seat for each. As information obtained from the council shows, with respect to unfair representation, there is no a single case brought for the

¹²¹ Documentary Evidence Obtained From Gamo Zone People Council, (Arbaminch 9, March, 2020)

¹²² Interview Made with Oke Bole, Representatives of Gamo People (Ditta Constituency) to the State Council (Arbaminch 9, March, 2020)

¹²³ Regulation No 2/2017, SNNPR State council members code of conduct and working procedure Art 23/2

house from the NNPs. However, the absence of the case does not show the non-existence of quest related with the amount of representation. The current NNPs composition of the council is as stated below.

Table 3: Ethnic composition of the CoN

Role No.	Zone/Liyu (Sp.) Wereda	Ethnic Composition (No. of Representatives)	Remark
1	Sidama	4	
2	Wolaita	3	
3	Gurage	Gurage (2), Mareqo (1) and Kebena (1)	
4	Gamo Gofa	Gamo (3), Goffa (1), Zayise (1), Gidicho (1) and Oyda (1)	Currently Gamo and Gofa are two different zones, the former comprises Gamo, Gidicho and Zayse & the latter Gofa and Oyda
5	Hadiya	2	
6	Kembata Tembaro	Kembata (1), Tembaro (1) and Donga (1)	
7	Gedeo	2	
8	Keffa	Kaffa (1), Nao (1), Chara (1)	
9	Sheka	1	
10	Benchi Maji	Bench (1), Shekicho (1), Dizi (1), Surma (1), Zelmam (1), Meniyit (1)	
11	South Omo	Ari(1), Male (1), Benna (1), Tsemay (1), Biraili (1), Hamar (1), Arbore (1), Karo (1), Dasenech (1), Gnangatom (1), Murill (1), Muguji (1), Dimm (1), Bodi (1), Mursi (1),Bacha (1)	
12	Dawro	1	

13	Silite	2	
14	Amaro	1	Amaro connotes the place. The nationality is called Koore.
15	Burji	1	
16	Konso	1	
17	Derashe	Derashe (1), Masholle (1), Kusume (1), Mosiye (1),	
18	Konta	1	
19	Basketo	1	
20	Yem	1	
21	Halaba	1	
22	Alle	1	Dobasi is also the other name of the nationality.

Source: CoN (Hawassa, March 10, 2020)

Indeed, as discussed under chapter three this house is politically non-powerful chamber. It is the most engulfed institution by the influence of political actors.¹²⁴ One of its critical shortcomings is its mode of composition that is directly fetched from the federal HoF. It has no even a little deviation to take in to account the regional reality. From the officially registered ethnic groups of the state, about 30 ethnic groups are below 100,000 populations, so it is not logical to make one additional member representative for every million number of populations. This implies how much the state Constitution copied the normative skeleton of the federal HoF. Further, both Constitutions do not provide the maximum representation amount and this results domination of the nations with largest number on nations with smallest number of the populations.

Regarding the mode of selection, the CoN members shall be elected from among members of zonal and special woreda councils. Nationalities that do not have representative in zonal council shall be represented from members elected for woreda council; the concerned council shall approve their representation. This is the indirect selection modality. Surprisingly, the regional

¹²⁴ Interview Made with Mekonnen Mergia, Director of Nationalities Rights Protection and Constitutional Awareness Creation, CoN, (Hawassa 4, March 2020)

constitution disregards in silent manner the mechanism of direct election. So the members of the council are indirectly elected from Zonal and special weredas council, in which the regional parties' representatives are dominant.

This indirect selection of members from state council may have the shortcomings of narrowing the possibility to get efficient representatives. Because, it is obvious that, the base for selection is their commitment and loyalty for the party they have. In addition, it makes the possibility of one member will sit in two different levels of council, this simultaneous sitting of individual member in two councils paves the way for to absolutism. Further, it is going against the general maxim of separation of power in terms of person. As well-known scholar John Raul describes the reiteration of the power tends to corrupt and when it becomes absolute, it corrupts absolutely.

Interview made with members of this council implies that, largely this council is abstained from doing its functions by the negative influence of the executive branch and lack of budget independence.¹²⁵ For example for current quests largely raising in the region to administer themselves in wereda, zonal and state level is entertained by the executive branch even though it is given for this council by the constitution. Therefore their representation is seems sham representation which intended to have a structure but not practically realized to do so.

To sum up, when we see the ethnic composition of the NNPs within this council, the good thing is all ethnic groups are represented as per the constitution required. However, the mode of election and amount of representation are the shortcomings.

4.3 The State Executive

4.3.1 The Chief Executive

Until today, the regional Chief Executives (except HaileMariam Dessalegn who is from Wolaita and the incumbent from Gurage), were from Sidama nation. This has resulted in discomfort & became point of grievance among the elites and peoples of the regional state.

Table 4: SNNPR Chief Executives from the region to date

Role No.	Name of the Person	Ethnic Background	Period
1	Abate Kisho	Sidama	1995 - 2001

¹²⁵ Interview Made with Mengedu Sido, Representative of Koore People in CoN, (Amaro Kelle Feb, 17 2020)

2	HaileMariam Desalegn	Wolaita	2001 – 2006
3	Shiferaw Shigute	Sidama	2006 – 2011
4	Desse Dalike	Sidama	2011 – 2018
5	Million Mathewos	Sidama	2018 – 2019
5	Ristu Yirdaw	Gurage	2019 to present

Source: SNNPR Public Relation Office (Hawassa March 4, 2020)

To alleviate the non-appointment of the rest of dominant NNPs of the region, the regional state have applied appointing four deputies in the name of *Maereg* “ማዕረግ” literally *rank*, to calm the tension of non-appointment of the ethnic groups. However, this arrangement by itself is against the constitution as the constitution is allows only a single deputy who act on behalf of the chief administrator in his absence or unable to exercise his power and functions. May be this arrangement benefits the person who is appointed in this rank as the arrangement gives any benefits deserved by the deputy for them as well. Other than this and being a symbolic representation of his/her ethnicity, she/he has no substantial power assigned for the position. This will possibly reduce the very sense of representation whilst it is sham representation.

Surprisingly, this experience was transplanted in the federal level after it is experimented in this regional state. Therefore, due to absence of specific criteria dealing for modes of appointment, the post of president goes to a single ethnic group and this resulted in strong political clash among the elites of different ethnic groups existing in the region.

4.3.2 The Cabinet Members

In SNNPR, the composition of NNPs within state cabinets are one of the point of grievance and it is among the reason espousing as a cause for the current situation of the regional state being on the verge of demise. In practice since 56 ethnic groups are existing within the region and it is difficult to present all to the cabinet position, the president tries to include all ethnic groups within the cabinet and deputy, other institutions administer in commission and agency level and director levels.

Indeed, it is assumed that the Chief Executive is mandated with composing its cabinet members. However, by practice the composition is done under immediate observation of the leading party.

Therefore, organizing the cabinet member is not left for the president sole prerogative; rather the party dominantly does it. The criteria for selection of the members are up to the party.¹²⁶

This subjectively paves the way for the prerogative of the politically dominated group as a result may overwhelm the right to representation of the NNPs. Indeed, after nomination, the president presents them for council of the state for approval. However, practically, the state council has no possibility to claim, reject the nomination. Because, even if they have a question they may ask once, and after the president gives his answer they cannot second on it. The dialogue is one way. Moreover, if the members strongly do so they will be evaluated as they are acting against their party trust because it assumed that the party presented the nominees for their attention after it evaluated in different standards.¹²⁷ There must have a standard for selection and an institution that scrutinize the representation of the NNPs in the state executive on the basis of equitable representation.

Table 5: SNNPR Cabinets Composition (incumbent cabinets)

Role No.	Name of the NNP	Amount of cabinets	Population no. ¹²⁸	Share from the state population %	Share within cabinet in %
1	Sidama	2	4,136,094	19.3	9.1
2	Wolaita	2	2,163,381	10.1	9.1
3	Gurage ¹²⁹	1	1,627,904	7.6	4.5
4	Male	1	118,299	0.55	4.5

¹²⁶ In composition of cabinet members they are largely examine the ethnic back ground, capacity, political affiliation, experience, Interview Made with Girum Zerihun, Head Executive Council affairs (Hawassa, March 11, 2020)

¹²⁷ Interview Made with Oke Bole, Member of State Council, Representative of Ditta Electoral District (Arbaminch March 7, 2020)

¹²⁸ The Population Number Projection is Taken from SNNPR Plan Commission, Urban and Rural Population Size by Zone, Woreda and Special Woreda 2011 E.C (Hawassa March 12, 2020)

¹²⁹ The current state Chief Executive is from this ethnic group.

5	Ari	1	363,710	1.7	4.5
6	Koore	1	210,991	1	4.5
7	Konso	1	244,213	1.1	4.5
8	Sheka	1	290,025	1.35	4.5
9	Meint	1	186,026	0.86	4.5
10	Gofa	1	768,972	3.6	4.5
11	Hadiya	1	1,797,395	8.4	4.5
12	Halaba	1	356,131	1.6	4.5
13	Bench	1	470,652	2.2	4.5
14	Konta	1	129,531	0.6	4.5
15	Silite	1	1,128,876	5.2	4.5
16	Dawro	1	695,674	3.2	4.5
17	Gamo	1	1,515,314	7	4.5
18	Gedeo	1	1,225,103	5.7	4.5
19	Kaffa	1	1,243,544	5.8	4.5
<i>Total</i>	19	22	18,671,835	86.86	100

Source: SNNPR Chief Executive Cabinet Affairs Office (Hawassa, March 10, 2020)

As we have seen from the above table, among the 56 NNPs, nineteen NNPs are included under the current cabinet. The above 19 NNPs are composed of 18,671,835 million, 87.14% of the total population of the state. However, the accommodation has given over representation for some ethnic groups and decreased the amount of representation from ethnic groups who have relatively large number of population. As we have seen from the above table the Sidama & Wolaita took 18.2% together and the Gurage have 4.5 and the position of chief executive. The remaining all took 4.5% of the position. Concisely, the allocation is not taking into account the population number of the NNPs.

According to the state executive cabinets' office, there are 42 other institutions, agency, authority and commission level and some positions in director level. Hence, ethnic groups who are not appointed in the above cabinet position and even less represented in the above composition will

be compensated in these institutions.¹³⁰ Moreover, even if the ethnic groups will not be appointed on the above levels there is director level position in which 80% is screened in merit and the remaining 20% of the total mark is left for the head office comment by which they will try to take into account the ethnic composition.¹³¹ Of course, this by itself will create subjectivity.

The problems interviewees raised in relation to executive official selection are; lack of transparency and patrimonial and partisan selection given the case in the mercy of the winning party and its leaders. Particularly, dominance by a certain groups is the major problem. This means in the course of appointment for regional offices will be done on the basis of the administrative unit status (zonal and Special Weredas). And these zones and special weredas are composed of various NNPs and when the chance to appointment is given for the said administrative structure proposing persons will execute through patronage relation other than taking into account proper ethnic composition. However, appointing person based on administrative unit is against the constitutional promise of the right to equitable representation of NNPs.

Therefore, we can conclude that, the constitution has allowed for the NNPs of the region the possibility to be fairly represented within the cabinet in general term, however, the political practice and the non-specificity of the constitutional term is bottle necked the proper execution of the right as the constitution has intended to do so.

4.4 The State Civil Servant

The component of the right to shared rule is recognized by the constitution within the government institutions and the civil service is among them. However, as stated above the constitution does not determine how the right to equitable representation executes within the civil servant. Alongside the merit criteria, with the objective of building one political community and enhancing public participation, the civil servant sector has to make representative civil servant. To prove the validity of this assertion the researcher has looked at the current civil servant composition in regional level.

¹³⁰ Girum Zerihun,(n 126)

¹³¹ ibid

Table 6: ethnic composition of SNNPR offices civil servants¹³²

Role No.	NNP	Number of Civil Servant	Total Population with in the region	Civil Servant Percentage	Remark
1	Halaba	118	356,131	0.6	
2	Hamer	8	68,042	0.04	
3	Hadiya	1203	1,797,395	6.2	
4	Meinit	14	186,125	0.07	
5	Mejenger	2	25,959	0.01	
6	Mursi	2	9,973	0.01	
7	Male	15	118,299	0.08	
8	Mareko	25	92,351	0.13	
9	Mashole	3	9,512	0.01	
10	Mosiye	6	22,698	0.03	
11	Surma	4	34,534	0.02	
12	Sidama	2645	4,136,094	13.78	
13	Silite	399	1,128,876	2.07	
14	Shekicho	179	103,678	0.93	
15	Sheko	14	71,392	0.07	
16	Kevena	11	72,958	0.05	
17	Bena	14	50,479	0.07	
18	Burji	70	77,532	0.36	
19	Basketo	38	81,721	0.19	
20	Bench	207	470,652	1.07	
21	Boro Shinasha	1	*	0.005	
22	Tigire	271	*	1.41	
23	Nao	3	12,112	0.01	

¹³² The Population Number is Obtained from SNNPR Plan Commission, Socio-Economic Projection of 2018, (Hawassa, March 12, 2020)

24	Ngangatom	23	28,252	0.11	
25	Amhara	3312	*	17.25	
26	Ari	122	363,710	0.63	
27	Arbore	2	14,107	0.01	
28	Agew	3	*	0.01	
29	Afar	1	*	0.005	
30	Oromo	1023	*	5.3	
31	Oyda	4	51,072	0.02	
32	Alle	1	87,521	0.005	
33	Kusume	5	12,540	0.02	
34	Kuweygu	1	6,407	0.005	
35	Kembata	1249	803,654	6.5	
36	Kara	4	2,164	0.02	
37	Kaficho	863	870,212	4.5	
38	Koore	145	210,991	0.75	
39	Konso	96	244,213	0.5	
40	Konta	76	129,531	0.4	
41	Werji Tigre	5	*	0.02	
42	Wolaita	2701	2,163,381	14	
43	Zayse	25	20,884	0.13	
44	Yem	133	110,787	0.7	
45	Derashe	89	82,547	0.46	
46	Dime	2	6,197	0.01	
47	Dizi	15	41,380	0.07	
48	Dasenech	2	55,472	0.01	
49	Dawro	404	695,674	2.1	
50	Donga	11	41,166	0.05	
51	Gurage	1522	1,627,904	8	
52	Gidicho	7	7,483	0.03	
53	Gamo	1376	1,515,314	7.1	

54	Gedeo	293	1,225,103	1.5	
55	Gofa	261	768,972	1.3	
56	Tambaro	128	110,621	0.6	
57	Chara	3	17,210	0.01	
58	Tsemay	3	20,499	0.01	
59	Undefined	30	*	0.15	
<i>Total</i>	59	19,192	20,261,481	99.5	

Source: SNNPR Bureau of Public Servant, Data Collection & Organizing Directorate Director (Hawassa March 11, 2020)

NB: The sign (*) signifies the NNPs who are not territorially belongs to the regional state.

As the above table discloses that the highest numbers of civil servants are from Amhara ethnic group that accounts 17.2% and Wolaita and Sidama are the second and third composing 14% and 13.78% respectively. The ethnic groups who have the least number of civil servants are Alle, Kuweygu, Afar and Boro Shinasha that accounts 0.005%. Surprisingly, Bacha, Brayle, Murle, Bodi and Zilmamo are the ethnic groups from whom none of civil servants exists in the state offices. The other thing is Amhara, Oromo, Tigre, Boro Shinahsa and Afar are ethnic groups, who are not territorial from SNNPR. Particularly Tigre Worji is ethnic group, which is not yet determined as NNPs.

The work force is not evenly distributed. Most of the state offices are concentrated by persons who are from the same ethnic group from whom the head of that office. This has resulted in an uneven distribution of resource across the regional state and lack of good governance in the regional state. As interview made with members of the community revealed, rumor exists among the society that most of the development projects are go to the areas from whom the members are largely from.¹³³

“To bring the question of development and justice of our community by looking to the regional bureau, we are facing great challenges. The NNPs like we, who have no appointee and enough civil servants are the most disregarded. When we

¹³³ Anonymous, Resident of Hawassa City and Former Public Official in the State Bureau (Hawassa March 3, 2020)

approach the concerned office, we are not allowed to even enter into the fence, however, NNPs who have appointee in a certain dominant position and many civil servants will have a chance to easily access the concerning public officer. All things will be ready made while they depart from their locality’,¹³⁴

A public official also confirms this assertion; this happened due to the bias of office heads, partiality of recruiting committee, lack of knowledge on legal interpretation, appointment by patronage and the like.¹³⁵ Besides this, in the regional state, there is large disparity of trained human resource. There is high concentration of human resource in the central parts of the region and in a periphery like South Omo and Benchi Maji there is lack of trained human resource.¹³⁶ This is one of the major reasons that resulted in an uneven distribution of human resource in the regional offices.

The directive dealing specifically about the modes of screening and selection of the prospective civil servant deals with women and disables right to affirmative action and its modes of execution.¹³⁷ This directive does not specifically cover the modes of selection and how affirmative action will be executed for ethnic minority NNPs. Therefore, even though the proclamation recognized affirmative action for ethnic minorities, the executing directive is silent about how the promise will apply.

In sum, the civil servant sector does not practically recognize the participation of all NNPs in fair manner nor does it evenly distribute the NNPs composition of the regional state. The hard lesson we draw from the assessment is, more attention is needs to be paid to accommodate the disregarded NNPs from the civil servant sector and work has to be done to have impartial and supportive environment to have representative civil servant.

¹³⁴ Anonymous, Resident of Burji Soyama Town, Community Elder, Burji Special Wereda, (Soyama Feb 19, 2020)
Translation is mine.

¹³⁵ Interview Made With Alemu Ensiso Eyore, State Public Service Human Resource Administration & Development Directorate Director, (Hawassa, March 12, 2020)

¹³⁶ *ibid* 161

¹³⁷ Directive No. 20/2019, SNNPR Civil Servant Screening and Selection Execution Directive Art 15 (1)

4.5 The State Supreme Court

As we have discussed above under chapter two, it is inappropriate to assume mere rigorous representation of ethnic groups within the judiciary sector. The better thing is making enabling environment in which all ethnic group will equally participating based on the capacity requirements. However, due to the FDRE and SNNPR Constitutions are allowed for equitable representation of NNPs with in government institutions and the judiciary is among them, it is better to have a system allows for equitable participation of NNPs within this sector. Accordingly, the judges appointed for state Supreme Court are mainly composed of the NNPs of the regional state. There is no legal arrangement, which announce about the composition of the NNPs. The council made a directive discussing the criteria about competence, in the course of selection and nomination of prospective judges. However, this directive espouses that the candidates will have to be able to speak the working language of the required area courts irrespective of his/her ethnic background and she/he has to speak, write and read at least one of the local language of the local court in need is exist.¹³⁸ The directive deals with positive discrimination allowed for disables and women and ignored the issue of ethnic minorities and less represented NNPs. Therefore, we can safely argue that, there is no compulsory legal provision supporting the composition of NNPs with in the state courts even though the constitution promised equitable representation of NNPs in government including the judiciary.

Nevertheless as an interview made with the personnel revealed that, the state judicial administration council tries its best to accommodate the existing NNPs in the course of competition.¹³⁹ In sum, this implies the right to participation of NNPs within the state courts has no requirement of involving ethnic groups within the state courts.

¹³⁸ Directive of the SNNPR Judges and Personnel Who are Administered by the Judicial Council Committee Competence on Selection and Nomination of Judges Establishment Committee and Working Procedure Directive NO. 10/2019, Art 8 (3)

¹³⁹ Interview Made With Anonymous, Judge's Independence, Accountability and Administration Core Work Process Main Personnel, SNNPR Judicial Administration Council, (Hawassa 3, March 2020)

4.6 The State Police

Under the state police commission, there are two forms of police forces. These are the state normal police force and the special force. It is true that in the lower level of administration unit other than the region, members of police force are composed from each ethnic groups of the locality. However, the state level central police force and the state special force mandated to maintain peace and security of the region *per se*. Hence, the so-called state special force has to be composed from the NNPs of the regional states.

As information obtained from the office implies the selection process and training for both forms of police force is led by the state police college. In the course of selection, the college is mainly taking in to account ethnic composition especially on the state special force¹⁴⁰, however, for normal police force the now existing practice implies quota will give for the existing local administrative units and the composition will cover the zonal or special weredas. Nevertheless, there is no legal requirement compelling to take into account the ethnic composition and even the working rule of the college does not consider the ethnic composition. Moreover, some parts of the state are not interested to involve within the police force to the extent of the quota the regional state reserves for them. For e.g. Gurage, Silite and Halaba are some of the examples. This is the best example that we were discussed under chapter two that some members of the societies are not willing to engage within the military service due to the economic mobility, cultural and religious reasons.

Table 7: ethnic composition of SNNPR special force

Role no	NNP	Population no.	Member with in the special force	Percentage within the Special force (%)	Share of state population (%)	Under (-) over (+) represented (%)
---------	-----	----------------	----------------------------------	---	-------------------------------	------------------------------------

¹⁴⁰ As information obtained from human resource directorate, during selection to assure composition of various NNP, they are working against the usual principle of selection criteria's of police. for e.g. in South Omo and Bench Maji zones, some ethnic groups are culturally affected by harmful traditional practices like milk teeth extraction and body scarring; as a result they will not be eligible to be police, however, the police commission selects them irrespective of this fact.

1	Sidama	4,136,094	797	26	19.3	+6.7
2	Wolaita	2,163,381	438	14	10.1	+3.7
3	Dawro	695,674	340	11	3.2	+6.8
4	Gamo	1,515,314	268	8	7	+1
5	Hadiya	1,797,395	126	4.1	8.4	-4.3
6	Kaffa	1,243,544	121	3.9	5.8	-1.9
7	Yem	110,787	69	2.2	0.54	+1.6
8	Gedeo	1,225,103	149	4.9	5.7	-0.8
9	Kambata	803,654	93	3	3.9	-0.9
10	Konta	129,531	48	1.5	0.6	+0.9
11	Bench	470,652	127	4.1	2.2	+1.9
12	Basketo	81,721	48	1.5	0.34	+1.16
13	Gofa	768,972	89	2.9	3.6	-0.7
14	Ari	363,710	54	1.7	1.7	=
15	Derashe	82,668	20	0.6	0.4	+0.2
16	Sheka	291,025	32	1	1.35	-0.35
17	Tembaro	110,621	26	0.8	0.54	+0.26
18	Halaba	356,131	38	1.2	1.6	-0.4
19	Silite	1,128,876	20	0.6	5.2	-4.6
20	Gurage	1,627,904	31	1	7.6	-6.6
21	Amhara	-	14	0.4	-	-
22	Meinit	186,125	30	0.9	0.86	+0.04
23	Sheko	71,392	8	0.2	0.34	-0.14
24	Alle	87,521	8	0.2	0.42	-0.22
25	Konso	244,213	13	0.4	1.1	-0.7
26	Koore	210,991	21	0.7	1	-0.3
27	Mareko	92,351	4	0.1	0.45	-0.3.5
28	Dizi	41,380	2	0.06	0.2	-0.14
29	Dasenech	55,472	2	0.06	0.27	-0.19
30	Bena	50,479	1	0.03	0.24	-0.21

31	Mejenger	25,959	2	0.06	0.12	-0.06
32	Donga	41,166	1	0.03	0.2	-0.07
33	Mosiye	22,698	1	0.03	0.11	-0.08
34	Burji	77,532	1	0.03	0.37	-0.34
35	Tigire	-	1	0.03	-	-
36	Hamer	68,042	2	0.06	0.33	-0.26
37	Oromo	-	2	0.06	-	-
38	Gidicho	7,483	2	0.06	0.036	+0.024
39	Male	118,299	5	0.1	0.57	-0.47
<i>Total</i>	39	20,503,860	3054			

Source: SNNPR, Police Commission, Special Force Human Resource Directorate (Hawassa March 12, 2020)

From the above table we can observe that, Sidama, Wolaita and Dawro are taking 51% of members of the special force, however, their number of population accounts for only 32.6% of the state population. Therefore, we can easily recognize that the special force is in an unevenly composed. However, there are factors resulted in this disproportional composition. I.e. less interest to join the force, especially from Halaba, Silite and Gurage areas, cultural and educational factors mainly reasons for South Omo and Bench Maji areas, the problem on application that results biasness in giving quota for each administrative unit is some of the factors for the disproportionality.¹⁴¹

NNPs who have the lowest number in the special force are Burji, Bena, Mosiye, Donga and Tigre each account for 0.03%. Some ethnic groups are those whose territorial base is not from the region i.e. Amhara, Oromo & Tigre. Moreover, currently the state special force is composed 36 of the indigenous NNPs of the region. The composition is uneven and not compatible with the population number of each ethnic group. Therefore, it is hard to say the established special force proportionally reflects the exact ethnic composition image of the regional state.

¹⁴¹ Interview Made with Commander Birhanu Kaleab SNNPR Police Commission Human Resource Development Director (Hawassa, March 4, 2020)

4.7 General Observation

In SNNPR, the regional constitution recognized fair and equitable representation for the NNPs within the government; be in federal and state. For these reason, the regional constitution made clear arrangement how the NNPs will be represented in the two regional houses. However, for the executive, the judiciary, the civil servant and state police force the constitution does not determine the manner how the right can be achieved. Therefore, representation is left in the hands of the ‘*empowered group*’ the SEPDM. This empowered group dominated the power and even from the NNPs, the appointment goes to ethnic clan to the persons who cooperate with their idea and serve their interest properly.

As interviewed community members alleged the main reason most of zones are demanding for having their own independent region is the uneven and patronage modes of power sharing and unfair distribution of resource. Moreover, the existing electoral system narrows the possibility of representation and participation of the diverse ethnic groups. This minimized the political pluralism and paved the way for dominance of single party.

There is constitutional recognition that guarantees power sharing among the NNPs of the regional state, however, the regional constitution did not provide the mechanism about how political power shared among the NNPs of the regional state. This resulted in a vicious circle of power sharing competition of NNPs. The constitution has made specific rule about the modes of representation with in the state council and the CoN, however, it is apparently does not deal with NNPs composition within executive, judiciary, civil servant, and the state police force. Therefore, except the legislatures, the rest of institutions are unevenly composed of NNPs. Hence, there have to be constitutional provision that recognizes the possibility of representation of ethnic groups in the broadest sense to accommodate the right to shared rule of the NNPs. The subsidiary legislations do not specifically deal with the rights entrusted under the higher laws in a way mature to apply in good. The Nigerian experience suggests that there is ‘*federal Character principles*’ aimed with scrutinizing the proportional sharing of all bureaucratic, economic, media and political posts at all levels of government. So, we have to take lesson from this experience.

In sum, in SNNPR, even if the regional constitution does embrace fair representation of the NNPs in the regional government, the practice assessed reveals that, ensuring the representation

of different NNPs of the regional state within the state government is not accurately realized. SEPDM deals with this issue by the principle of ‘‘*democratic centralism*’’,¹⁴² however, if the current control of this party may demise, the worse may result. Because, the reality observed in the regional state shows discomfort against this party and many ethnic based parties are established with the objective defending the interest of their NNPs. As a result, absence of equitable representation made disgruntlement among the NNPs and eventually became major source of conflict. It is a contributing major reason for the NNPs of the regional state to claim for self-rule in regional state status. Therefore, the application of the federalism largely in Ethiopia and especially in SNNPR has to be adjustable, resilient and contextual that aspires to integrate the twin objectives of building national unity and accommodating diversity.

¹⁴² Is a term coined by Lenin - implies the party organizational system in which political decisions are decide centrally and is binding on all the rest members.

Chapter Five

Conclusion and Recommendations

5.1 Conclusion

This thesis has devoted to study one of the less explored rights of the NNPs – the right to shared rule under the Ethiopian federal arrangement. It has briefly discussed the concept of power sharing in federal systems and reviewed the legal framework and context of the implementation of the right to shared rule of Ethiopian NNPs by taking case studies from SNNPR. Based on the analysis, the thesis has responded the question that the thesis in very outset intended to respond – whether the apparent Constitutional promise of the right to shared rule of NNPs has been put into effect by the same Constitution cognizant to the federal system it has created.

The literature consulted for this research objective reveals that in such deeply divided societies, especially where no group constitute majority of the population, power sharing should accommodate the interests and demands of and as precisely as possible which particular power-sharing rules and institutions are optimal.

Review of the laws also shows, in the very outset the FDRE Constitution made promise for NNPs- the right to shared rule. However, it does not extend the method throughout the institutionalized representation format; except the legislative and the defense force. Within the other institutions, the issue of shared rule is realized by construing the provisions and making supportive justifications. However, the truth is that, unless the federalism is built in the principle of accommodation and fair representation of NNPs throughout the prominent institutions, it will become impossible to say federalism will achieve its objective of building one economic and political community, on the contrary, it will become source of conflict.

The practice investigated indicates, in SNNPR, the state council participate all the NNPs to have seat in the council. However, some administrative units acquired excess amount of seat compared to their number of population. Hence, the composition needs revisit that is taken into account the principle of accommodative and fair representation of the NNPs. The CoN arrangement also realized the representation of all recognized indigenous NNPs of the regional state. In the executive, there is no proper mechanism assuring the composition of ethnic groups;

it is dependent on the mercy of the existing chief executive, and the leading party. It is highly exposed for bias and patrimonial relation. In relation to the judiciary, with zonal and wereda level courts there is a good tendency of accommodating the NNPs due to the criteria of language. However, this has also caused discrimination against persons who do not belong to such NNPs non-indigenous people even if they can speak such locality language. The state judicial administration council by practice tries to balance the NNPs composition with in the state Supreme Court; however, the directive does not reinforce this. The civil servant sector does not practically recognize the participation of all NNPs in fair manner nor does it evenly distribute the NNPs composition of the regional state. The hard lesson we draw from the assessment is, more attention is needs to be paid to accommodate the disregarded NNPs from the civil servant sector and work has to be done to have impartial and supportive environment to have representative civil servant. Within state police force, the normal police are organized concomitant to local base in administrative units. However, the special force is composed of the regional and even non-regional NNPs; however, this has been done due to different factors and except the working procedure, there is no law that vividly deals with fair representation within the regional state police force. Hence, the composition is uneven and strongly demands revisit.

Generally, the research identified that, even though the constitution promised the right to shared rule for NNPs, it has no accurate mechanism by which the right will be realized, constitutionally established and obliged institutions to do so and comprehensive laws that scrutinize and regulate the proper application of the right of the NNPs.

5.2 Recommendations

To this effect, the following recommendations are provided out of this study by way of suggesting revisit of laws genuine evaluation and change of the practices.

1. There must be legislative measure regarding legislative electoral system of the state council. It has to be amended to reflect proportional representation as the majoritarian system is inadequate to represent and participate the ethnic minorities.
2. Laws dealing with shared rule within the region should be designed in such a way that assure fair representation of NNPs. Accordingly,

- 2.1 Directive No. 20/2019 of the SNNPR Civil Servant Screening and Selection Execution Directive Art 15 (1) has to incorporate the fair representation of NNPs and the modes of selection and affirmative action should be executed for ethnic minority and lesser NNPs within the state government offices.
- 2.2 Directive No. 10/2019 of the SNNPR judges and personnel who administered by the Judicial Council Committee Competence on Selection and Nomination of Judges Establishment Committee and Working Procedure, Art 8 (3) has to incorporate fair representation of NNPs within the state courts.
- 2.3 The state police force must have a clear regulation by which the composition of state police force recruitment shall be organized. Especially uneven composition of the state special force has to be corrected in a way it depicts fair representation of NNPs.
- 2.4 The state executive must have to a proper and transparent mechanism (be it quota system, or numerical representation with special consideration to make it fair) by which it composes the executive offices on the basis of fair representation for the NNPs.
- 2.5 As defendant of the NNPs, the CoN has to be clearly empowered by the constitution to observe the grievance of the NNPs with respect to composition within the government and it has to draw its sufficient and studied working mechanism for the proper execution of the promise of equitable representation.
3. There must be strong political commitment by the state government to combat the patrimonial malpractice and bias observed across the stated institutions.

Bibliography

1. Laws

1.1 Constitutions

Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proc. No. 1, Federal Negarit Gazeta, 1st Year No. 1

Constitution of Federal Republic of Nigeria

Revised Constitution, 2001, of the Southern Nations Nationalities and Peoples' Regional State Proc. No. 35/2001

1.2 Proclamations

Amended Federal Judicial Administration Council Establishment Proclamation, 2010, Proc. No. 684/2010, Federal Negarit Gazeta 16th Year No. 41

A Proclamation to Provide for the Public Ownership of Rural Land, 1975, Proc. No. 47/1975

Defense Forces Proclamation, 2019, Proc. No. 1100/2019, Federal Negarit Gazeta, 25th Year No. 19

Federal Civil Servants Proclamation, 2017, Pro. No. 1064/2017 Federal Negarit Gazeta 24th Year No. 12

Proclamation No. 1076/2011 of the Civil Servant Proclamation of Southern Nations Nationalities and Peoples Regional State.

1.3 Regulation

Regulation No 2/2017, SNNPR State council members code of conduct and working procedure

1.4 Directives

Directive No. 20/2019, SNNPR Civil Servant Screening and Selection Execution Directive

Directive of the SNNPR Judges and Personnel Who are Administered by the Judicial Council Committee Competence on Selection and Nomination of Judges Establishment Committee and Working Procedure Directive NO. 10/2019

2. Books

Bahru, Zewde, A history of modern Ethiopia: 1855–1991. (2002), Addis Ababa, Addis Ababa University Press

Daniel J Elazar, Exploring Federalism (1987) , University of Alabama Press.

Christophe Van der Beken, Complementing the Constitutional Architecture A Comparative Analysis of Subnational Constitutions in Ethiopia, Addis Ababa University Press

Ernest Gellner, Nations and Nationalism (Oxford: Basil Blackwell, 1983)

John Kincaid, Federalism, Alternative Models, Constitutional Foundations, and Institutional Features of Federal Government, vol 2 (sage library on political science 2011).

K.C. Wheare, Federal Government (1963) (Oxford: Oxford University Press,), 4th edn

Michael Burgess, Comparative Federalism: Theory and Practice (2006) (Routledge).

Preston King, Federalism and Federation (1982) (London: Croom Helm)

Watt Ronald, Comparing Federal Systems, (3 rd).

WH Riker, Federalism: Origin, Operation, Significance (Boston: Little, Brown & Company 1964).

Will Kymlicka, 'Emerging Western Models of Multinational Federalism: Are They Relevant for Africa? Ethnic Federalism the Ethiopian Experience in Comparative Perspective' (2017) Eastern African Studies, Addis Ababa University Press.

3. Journal Articles

Abera Dagafa, the Scope of the Rights of Nations And Nationalities Under the Constitution of The Federal Democratic Ethiopia, Series on Ethiopian Constitutional Law, Vol. 1

Arend Lijphart, 'Constitutional Design for Divided Societies' (2004) 15 Journal of democracy.

Arend Lijphart, The Politics of Accommodation: Pluralism and Democracy in the Netherland (1968).

Assefa Fiseha, 'Ethiopia's Experiment in Accommodating Diversity: 20 Years' Balance Sheet' (2012) 22 Regional & Federal Studies

Assefa Fiseha, 'Federalism and the Accommodation of Diversity in Ethiopia' (2007) A Comparative Study. Nijmegen: Wolf Legal Publishers.

Assefa Fiseha, "Federations and Second Chambers," Indian Journal of Politics, 39:3 (2005)

Assefa Fisseha, Theory versus practice in the implementation of Ethiopia ethnic federalism, Ethnic federalism the Ethiopian Experience in Comparative Perspective, (Reprinted in 2017) Eastern African Studies, Addis Ababa University Press

Auer Andreas, The Constitutional Scheme of Federalism, (2005) vol 12 (3) Journal of European Public Policy

Beza Desalegn, 'Challenges of Ethnic Representation in Ethiopia and the Need for Reform' (2018) Vol. 12, No.1 Mizan Law Review.

Beza Desalegn, the Right of Minorities to Political Participation Under the Ethiopian Electoral System, Sep 2013, Vol. 7 No. , Mizan Law Review.

Christophe Van der Beken, Federalism and the Accommodation of Ethnic Diversity: The Case of Ethiopia, (2009) Third European Conference on African Studies

G. Allan Tarr, Explaining Subnational Constitutional Space, Penn State Law Review, Vol. 115:4

Getachew Assefa, 'Electoral System and Political Pluralism in Ethiopia: A Case for Reform' in Gedion Timotheows and Helen Fikre (eds.), the FDRE Constitution: Some Perspectives on the Institutional Dimension (Ethiopian Constitutional Law Series, Vol VI 2014).

Gezu Ayele, State Legislatures vis-a-vis the Federal Legislature in the Ethiopian Federal Arrangement, Addis Ababa University Student Law Review, Vol. 3 No. July 2012, 155.

Heinecken, L. A Diverse Society, A Representative Military? The Complexity of Managing Diversity in the South African Armed Forces. Department of Sociology and Social Anthropology, University of Stellenbosch. 2009, no page, Retrieved from www.ajol.info/index.php/smsajms/article/download/48730/35082

John Law, 'How Can We Define Federalism?' (2013) 5 Perspectives on Federalism.

John McGarry, 'Federal Political Systems and the Accommodation of National Minorities,' in Ann L. Griffiths and Karl Nerenberg (eds.), Handbook of Federal Countries, (2002) Montreal & Kingston/London/Ithaca: McGill-Queen's University Press

Keil, S. (2012). Federalism as a tool of conflict-resolution: The case of Bosnia and Herzegovina. L'Europe en Formation, no. 363, 209.

Legesse Tigabu Mengie, 'Federalism as an Instrument for Unity and the Protection of Minorities: A Comparative Overview: Ethiopia, India and the US' (2016) 10 Mizan Law Review .

Mueller Sean, 'Shared Rule in Federal Political Systems: Conceptual Lessons from Subnational Switzerland' [2016] Pennsylvania State University.

Nigussie Afesha Aytaged, 'the Ethiopian Constitutional Promises to the Nation and Nationalities: The Myth and the Operational Reality' (2015) 6 Bahir Dar UJL.

Norman, W. (2006) Negotiating Nationalism: Nation Building , Federalism And Secession In Multinational States, Oxford University Press: New York

Ronald Watts, 'Contemporary Views on Federalism' in B. De Villiers (Ed.), Evaluating Federal Systems (London: Juta & Co. 1994), Chap. 1, 1–29 and 'Federalism, Federal Political Systems and Federations', Annual Review of Political Science, I (1998),

Solomon Gebreyohans Gebru, 'Recognizing Diversity as a Tool for Unity in Ethiopia: Challenges & Opportunities', (2008) Antwerp, Belgium.

4. Web Sources

Leulseged Tadesse, Can Diversity be Accommodated? The Case of Ethiopia, 2019, 4, available at: http://www.forumfed.org/libdocs/IntConfFed07/Volume_5/IntConfFed07-Vol5-Tadesse.pdf last accessed on Nov 6, 2019

Mueller, S. 2017. 'Self-rule and Shared Rule'. 50 Shades of Federalism available at: <http://50shadesoffederalism.com/theory/self-rule-shared-rule/?pdf=287> accessed on September 19, 2019.

5. Unpublished Thesis

Endalamaw Chekol Baweke, Ethnic Federalism And Nation Building In Development: The Case Of Ethiopia, LL.M Thesis Paper, Addis Ababa University, 2015, 40 (Unpublished)

Appendix

List of Interviewees

Role No.	Interviewee	Affiliation	Location	Date
1	Bereket Bezabeh	Representative of Amaro both in SNNPR state council and the HoF	Amaro Kelle	Feb, 17, 2020
2	Mengedu Sido	Representative of Koore people in CoN	Amaro Kelle	Feb, 17, 2020
3	Yohannes Ture	Community Member	Hawassa	March 3, 2020
4	Anonymous	Community elder	Burji Soyama	Feb, 19 , 2020
5	Girum Zerihun Seyoum	Head of Executive Council of the SNNPR	Hawassa	March 11, 2020
6	Yosef Yola Dabo	Law Justice Good Governance Permanent Committee Chairman	Hawassa	March 11, 2020
7	Afewerk Wareka	Resident of Arbaminch town	Arbaminch	March 7, 2020
8	Mekonnen Mergia Muche	CoN, NNPs right protection and constitutional awareness creation directorate director	Hawassa	March 4, 2020
9	Oke Bole	Member of State Council, Representative of Gamo Zone Ditta Constituency	Arbaminch	March 7, 2020
10	Inspector Biruk Eshetu	SNNPR Special Force Human Resource Director	Hawassa	March 13, 2020
11	Alemu Ensiso Eyore	Director of Public Civil Service Human Resource	Hawassa	March 9, 2020

		Director		
12	Commander Birhanu Kaleab	State Police Commission Human Resource Development Director	Hawassa	March 4, 2020
13	Tekalign Dercho	Member of community	Arbaminch	March 7, 2020
14	Amanuel Abdela	South Prosperity Party Inspection head	Hawassa	March 12, 2020
15	Zenebe Zafu	Community Member	Hawassa	March 3, 2020
16	Anonymous	State judicial administration council, Judge's Independence, Accountability and Administration Core Work Process Main Personnel,	Hawassa	March 3, 2020
17	Amaru Hatuye Helate	SNNPR State Council Law Making, Study and Counseling Director	Hawassa	March 12, 2020
18	Dayamo Dalle	SNNPR State Government Communication Expert	Hawassa	March 12, 2020

Interview Guide
Addis Ababa University

School of law

These interview questions are designed to obtain information about Doing LL.M Thesis in the title of “*Constitutional promises of the right to shared rule of Nation Nationalities and people the case in Southern Nation Nationalities and Peoples Regional Sate.*” As an objective, the thesis investigates whether the apparent Constitutional promise of the right to shared rule of NNPs has been put into effect by the same Constitution cognizant to the federal system it has created.

The information you kindly asked to provide is required for research purposes only and will not be used to jeopardize your position or compromise in any way the integrity of your office, job or status. Any information that you will provide will be kept in strict confidence and used solely for the purpose of this study. Your cooperation is greatly appreciated.

Draft interview questions intended to be provide for the concerned participants

1. For Head of the state

- A. How you accommodate the representations of the NNPs in the executive council and What are representation formulas for composition members of the state executive council?
- B. It is obvious that not all ethnic groups will be representing with in the executive. Hence, how does the council protects the interest of small or the non/less represented NNPs in the decision making process decided by the house?
- C. Is there any practices or special law designed to protect the interest of no/less represented NNPs in the decision making process?
- D. Is there ethnic tension ? Elite competition for political power in the administrative offices?
- E. Is there any practical challenge the president faced in the previous times because of the executive council composition? And how it addressed?

2. For head of office of SEPDM Central Committee
 - A. Do you have a role in appointing persons in different governmental position and if your answer is yes, what are the criteria to select persons in different positions of the state offices?
 - B. Do you take in to account the ethnic composition, if yes, how you distribute the office for the ethnic groups residing in the region? If not, why?
 - C. What if the ethnic group is not elected your party in its constituency; do you give representation in the state executive?
 - D. Do you think your role is compatible with the power to nominate state executives of the state president?
 - E. Are there questions of representation and participation from the ethnic groups with respect to the composition?
3. For Speaker of state council
 - A. How the state council does composing various ethnic groups within the council?
 - B. Are there grievances from various ethnic groups concerning to their non – representation or less representation?
 - C. What are the ways by which the ethnic minorities are represent in the council?
4. For Speaker of CoN
 - What about the extent of the political neutrality of the CoN?
 - How well suited is the CoN to address quests like identity questions having a strong political flavor while at the same time the Council itself is a political body?
 - How is the CoN able to balance the competing interests of political loyalty and the constitutional right of ethnic groups?
 - Do you have any role in determining shared rule of NNPs in regional offices?
 - Is there any cases presented for your attention concerning to the right to shared rule of the NNPs of the regional state?
 - What is or is there any role played by the council to counter or check the majoritarian decision of the first House in the decision making processes (at list in their joint session decisions)?
5. For Selected Members of State council and CNN

- A. Do you think that the house is properly recognized the right to equitable representation of NNPs as the constitution say so?
 - B. What solutions you recommend for the proper representation of all ethnic groups on the bases of equitable representation and special representation.
 - C. What is your people attitude towards the proper representation of their ethnic in the state offices?
6. For president of State Supreme Court
 - Is there any arrangement that composes representation of ethnic groups within the state Supreme Court judges?
 - Do you think the Supreme Court is properly show the ethnic composition picture of the regional state?
 7. For director of state judicial council administration
 - What are the criteria's you are using in the selection of judges for state supreme court? Does it have the criteria of representing ethnic groups?
 8. For state Police Commission Commissioner
 - What are the criteria to select members for state police fore? Does it comprise ethnic background?
 - What are the criteria's you are using in the selection of judges for state supreme court? Does it have the criteria of representing ethnic groups?
 9. For head of state civil service agency
 - What are the criteria's you are using in the recruitment of civil servants for state regional offices? Does it have the criteria of representing ethnic groups?
 - Do you think having special criteria composing ethnic group in state office is conform with the right to equal job opportunity of any citizens?
 10. For head of selected zonal and special wereda administration
 - A. Is there the arrangement that you are requested to represent person from your ethnic group to participate in the state offices?
 - B. In what extent your voices have influence in the decision making process of CoN and state council?
 - C. What is your attitude about the representation set up of the state offices? Is it fair or proper for all ethnic groups especially less represented NNP to defend their interests

- in the decision making process, especially in the determination affecting your interest?
- D. If, when your interest is contradicted with other more represented NNPs how can your voices heard, because of your insignificant number of seats in the House compared to more represented ethnic groups?
 - E. Is there any practical challenge you faced in the previous times because of the current representation method? And how it addressed?
 - F. Is there any actual decisions decided against your interest before on powers given to the House especially in determination of subsidy allocation formula?
 - G. What do you think about solutions for future to protect the interest of less represented ethnic groups just like you?
11. For legal professionals
- A. What do we mean by hare rule in federal polity?
 - B. What are the substances of the right to shred rule of NNPs?
 - C. In which institutions of the government do the NNPs will have to be represented? Do we have to assume the right to shared rule of NNPs into the executive, judiciary and the civil servant sector? What is our constitutional base to do so?
 - D. What needs to the mechanisms in composition of NNPs in the said institutions?
 - E. As long as the HoPR is the house in which peoples of the country are represented with no ground of ethnic base, why we need to reserve a special seat for ethnic minorities?

Thanks for your due collaboration in advance!

አዲስ አበባ ዩኒቨርሲቲ

ህግ ት/ቤት

የቃለ መጠይቅ መመሪያ

ይህ ቃለ መጠይቅ የተዘጋጀው ለሁለተኛ ድግሪ ጥናታዊ ዕቃፍ ግብአትነት ይውል ዘንድ ታስቦ ሲሆን የጥናቱ ርዕስ “በህገ መንግስቱ ቃል የተገባው የብሄር ብሄረሰቦች የጋራ አስተዳደር ስልጣን በደቡብ ብሄር ብሄረሰቦችና ህዝቦች ክልል ምልክታ” በሚል የሚሰራ ሲሆን የጥናቱ ዋና ዓላማ ብግልፅ በህገ መንግስቱ የተቀመጠው የብሄር ብሄረሰቦች የጋራ ጉዳይን በጋራ እና በተዋዕዶ የማስተዳደር ህገ መንግስታዊ ድንጋጌ በተግባር በምን መልኩ እየተተገበረ እንደሚገኝ መመርመር ሲሆን አስረጃጂ እውነታዎች የሚያጠነጥኑት በደቡብ ብሄር ብሄረሰቦችና ህዝቦች ክልላዊ መንግስት ላይ ይሆናል።

ከዚህ በታች የሚጠየቁት መረጃ ለዚህ ጥናታዊ ዕቃፍ ግልጋሎት ብቻ የሚውል ሲሆን ከአላማው ውጭ የእርስዎን የስራ ኃላፊነት ይሁን የግል ስብእና የማይጋፋ መሆኑን አጥኚው ሊያረጋግጥ ይወዳል። ማንኛውም ለዚህ ጥናት የተሰጠ መረጃ በጥብቅ ሚስጥር የሚጠበቅና ለዚሁ ጥናት ፍጆታነት ብቻ የሚያገለግል መሆኑን ለመግለፅ እየወደድኩ ለሚያደረጉልኝ ቀና ትብብር አጥኚው ያለውን ልባዊ ምስጋና ከወዲሁ ለማቅረብ ይወዳል።

ለክልሉ ርዕሰ-መስተዳደር የሚቀርቡ ጥያቄዎች

- 1) በክልሉ ህገ መንግስት የካቢኔ አባላትዎን የማዋቀር ኃላፊነት ለርስዎ እንደተሰጠ ይታወቃል። ይህንን ስልጣንዎን በተግባር እንዴት ነው የሚተገብሩት? ለምልመላ የሚጠቀሙት መስፈርት ምንድን ነው? ከወከሎት ፓርቲ ጋርስ የሚናበቡበት ሂደት እንዴት ይገለጻል? በህገ መንግስቱ የተቀመጠውን የብሄረሰቦችን የፍታሃዊ ውክልና መብትስ እንዴት ነው የሚያረጋግጡት?
- 2) ሁሉንም የክልሉን ብሄረሰቦች በስራ አስፈጻሚው ውስጥ ማካተት እንደማይቻል ይታወቃል። ይሁን እንጂ ያልተወከሉ ብሄረሰቦችን/ አነስተኛ ውክልና ያላቸውን/ በስራ አስፈጻሚው ውሳኔ እንዴት ነው የምታስጠብቁት?
- 3) የብሄረሰቦችን በስራ አስፈጻሚው ውስጥ የሚኖራቸውን ውክልና በሚመለከት የምትጠቀሙት መመሪያ /ህግ/ ወይም ልማዳዊ አሰራር አለ?

- 4) በክልሉ ውስጥ በክልሉ ስራ አስፈጻሚ ውስጥ አልተወከልንም፤ የሚል የብሄረሰቦች ጥያቄዎች እና የብሄረሰቡ ምሁራን ለስልጣን የሚደረግ ውድድር አለ? ካለስ እንዴት ነው እየተፈታ ያለው?
- 5) ይሄንን የብሄረሰቦችን በስራ አስፈጻሚው ውስጥ ያላቸውን ውክልና በተመለከተ ፕረዝዴንቱን ያጋጠሙ ልዩ ሁኔታዎች አሉ?
- 6) ይህንን ችግር ከመሰረቱ ለመፍታት ምን መደረግ አለበት ብለው ያስባሉ?

ለክልሉ የብልፅግና ፓርቲ ማዕከላዊ ኮሚቴ ጽ/ቤት የሚቀርቡ ጥያቄዎች

- 1) ፓርቲው የክልሉ ፕሬዝዳንት በምን መስፈርት ነው የሚያጫው? የብሄር ውክልናንስ ከግምት ያስገባል?
- 2) ፓርቲያችሁ በክልሉ በሚገኙ የተለያዩ የስልጣን ቢሮዎች ሰዎችን በኃላፊነት በመመደብ ላይ ያለው የኃላፊነት ድርሻ ምንድን ነው?
- 3) በምደባው ላይ ተሳትፎ ካልዎት የምትጠቀሟቸው መስፈርቶች ምንድን ናቸው?
- 4) የብሄር ብሄረሰቦችን ፍትህወ ውክልና በምን መልኩ ነው የምታረጋግጡት? ካልሆንስ ለምን?
- 5) የእርስዎን ፓርቲ ያልመረጠ ብሄር ብሄረሰብ ቢኖር በክልሉ በሚኖሩ የስራ አስፈጻሚ ኃላፊዎች ውክልና ይኖረዋል?
- 6) የፓርቲው ስልጣን እንደ አሸናፊ ፓርቲ የክልሉን ርዕሰ መስተዳደር አስቀርቦ ከማስመረጥ በዘለለ ርዕሰ መስተዳደሩ ለክልል ም/ቤት በሚያቀርባቸው ስራ አስፈጻሚዎች ላይ ጭምር ወርዶ መስራቱ የክልሉ ህገ-መንግስት ለርዕሰ መስተዳደሩ የሰጠውን ስልጣን መጋፋት ሊሆን አይችልም?
- 7) ከክልሉ ብሄር ብሄረሰቦች የፍትሃዊ ውክልና ጥያቄዎች ይቀርባሉ? ምን አይነት ምልሽስ ነው የሚሰጣቸው?
- 8) ይህንን ችግር ከመሰረቱ ለመፍታት ምን መደረግ አለበት ብለው ያስባሉ?

ለክልል ም/ቤት አፈ-ጉባኤ የሚቀርቡ ጥያቄዎች

- 1) የክልሉ ም/ቤት በክልሉ ህገ መንግስት የተቀመጠውን የብሄር ብሄረሰቦች ውክልና በም/ቤቱ እንዴት ነው የሚተገብረው?
- 2) የክልሉ ም/ቤት በክልሉ የሚገኙ ብሄር ብሄረሰቦችና ህዝቦች በፍትህዊነት ድምፃቸው የሚሰማበት ም/ቤት ነው ማለት ይቻላል?

- 3) ከክልሉ ም/ቤት ብሄር ብሄረሰቦችና ህዝቦች በፍትሃዊነት አልተወከልንም እንዲሁም አልተደመጥንም የሚሉ ቅሬታዎች ይነሳሉ? ይህንን እንዴት ይመለከቱታል?
- 4) በአነስተኛነት የተወከሉ ወይም ፍፁም ያልተወከሉ ብሄር ብሄረሰቦች በም/ቤቱ ውሳኔዎች ውስጥ ጥቅማቸውን እንዴት ነው የምታስጠብቁት?
- 5) ይህንን ችግር ከመሰረቱ ለመፍታት ምን መደረግ አለበት ብለው ያስባሉ?

ለክልሉ የብሄረሰቦች ም/ቤት

- 1) በም/ቤቱ ያለው የብሄር ብሄረሰቦች የውክልና ስርዓት የብሄር ብሄረሰቦችን ፍትሃዊ ውክልና መርህ የተከተለ ነውን? የአወካከል ስርዓቱን በተመለከተ የክልሉ ህገ መንግስት በተመሳሳይ መልኩ የፌዴራሉን መከተሉ ያለውን ክልላዊ ሀቅ ያገናዘበ ነው ማለት ይቻላል?
- 2) አሁን በክልሉ ምን ያህል የተወከሉ ብሄር ብሄረሰቦች አሉ? ያልተወከሉትስ? ለምን?
- 3) ውክልናን በተመለከተ በብሄር ብሄረሰቦች የሚነሱ ቅሬታዎች አሉ? ያጋጠመ ተጨባጭ ቅሬታ አለ? እንዴትስ እየተፈቱ ይገኛሉ?
- 4) አነስተኛ ውክልና ያላቸው ወይም ቀድሞም ያልተወከሉ ብሄር ብሄረሰቦች ጥቅማቸው በምን መልኩ ይጠበቃል?
- 5) አሁን ካለው የውክልና ስርዓት ይልቅ ብሄር ብሄረሰቦች በተሻለ መልኩ እንዲወከሉ ምን መደረግ አለበት?

ለክልሉ ሲቪል ሰርቪስ ቢሮ

- 1) በክልል መስርያ ቤቶች በተደረጉና በሚደረጉ የሰው ኃይል ቅጥሮች ላይ የክልሉን ብሄር ብሄረሰብ ተዋዕያ የምትጠብቁበት መንገድ አለ?
- 2) በመስሪያ ቤታችሁ በስራ ላይ ያሉ ህጎች ደንቦችና መመሪያዎች የብሄር ብሄረሰቦችን ፍትሃዊ ተዋዕያ የሚያጎለብቱ ናቸው?
- 3) ልዩ የሆነ የብሄር ተዋጽኦ ስርአት መኖሩ ከዜጎች በእኩልነት ተወዳድሮ መስራት መብት ጋር ይቃረናል ብለው ያስባሉ?
- 4) የክልሉ መስሪያ ቤቶች የክልሉን ብሄር ብሄረሰቦችና ህዝቦች የሚመስሉ ናቸው ማለት ይቻላል?
- 5) በቀጣይስ ምን መደረግ አለበት ብለው ያስባሉ?

ለክልሉ ጠቅላይ ፍ/ቤት ፕረዝዴንት

- 1) በክልሉ በየደረጃው በሚገኙ ፍ/ቤቶች የብሄር ተዋጽኦን ከግምት ያስገባ የዳኞች አሻሻሏል ስርአት አለን? ይህን በህግ እውቅና የተሰጠው ነውን?
- 2) የክልሉ ጠቅላይ ፍ/ቤት የክልሉን ብሄር ብሄር ብሄረሰቦች የዳኞች ተዋፅዖ በሚገባ ያካተተ ነው ብሎ መግለፅ ይቻላል?
- 3) ከህብረተሰቡ ዘንድ የቀረቡ የአልተወከልንም ቅሬታዎች አሉ? ምንስ ምላሽ ተሰጣቸው?
- 6) በቀጣይስ ምን መደረግ አለበት ብለው ያስባሉ?

ለክልሉ ዳኞች አስተዳደር ጉባኤ

- 1) በዳኞች አሻሻሏል (በተለይም ለክልል ጠ/ፍ/ቤት) ላይ የምትጠቀሙት መጠይቆች ምንድን ናቸው? የብሄር ተዋጽኦን ከግምት ያስገባ ነው? ይህን በህግ ድጋፍ አለውን?
- 2) ከህብረተሰቡ ዘንድ የቀረቡ የአልተወከልንም ቅሬታዎች አሉ? ምንስ ምላሽ ተሰጣቸው?
- 3) የክልሉን ብሄር ብሄር ብሄረሰቦች በክልሉ ፍ/ቤቶች በፍትህዊነት ለመወከል ምን አይነት የእርምት ስራዎች ሊሰሩ ይገባሉ ብለው ያስባሉ?

ለክልሉ ም/ቤት እና ብሄረሰቦች ም/ቤት አባላት

- 1) እርስዎ ባሉበት ም/ቤት እርስዎ የወከሉት ህዝብ በሚገባ ተወክሏል ብለው ያስባሉ?
- 2) ውክልናን በተመለከተ የሚታዘቧቸው ነገሮች በም/ቤቱ አለን?
- 3) ሃሳብዎን በነጻነት በማንሸራሸር የወከሉትን ህዝብ ጥቅም እንዳያስከብሩ መነቆ የሆኑ ነገሮች ምንድን ናቸው?
- 4) የክልሉን ብሄር ብሄር ብሄረሰቦች በም/ቤቱ በፍትህዊነት ለመወከል ምን አይነት የእርምት ስራዎች ሊሰሩ ይገባሉ ብለው ያስባሉ?

ለክልሉ ፖሊስ ኮሚሽን ኮምሽነር

- 4) በክልል ፖሊስ ሰራዊት በተደረጉና በሚደረጉ የሰው ኃይል ቅጥሮች ላይ የክልሉን ብሄር ብሄረሰብ ተዋጽዖ የምትጠብቁበት መንገድ አለ?
- 5) የክልሉ ፖሊስ ሰራዊት ስብጥሩ በትክክልም የክልሉን ህዝብ ይመስላል ብሎ መግለፅ ይቻላል?
- 6) ከህብረተሰቡ ዘንድ የቀረቡ የአልተወከልንም ቅሬታዎች አሉ? ምንስ ምላሽ ተሰጣቸው?
- 7) የክልሉን ብሄር ብሄር ብሄረሰቦች በክልሉ ፖሊስ ኃይል በፍትህዊነት ለመወከል ምን አይነት የእርምት ስራዎች ሊሰሩ ይገባሉ ብለው ያስባሉ?

ለተመረጡ የዞንና ልዩ ወረዳ አስተዳደሮች

- 1) እርስዎ የሚመሩት ህዝብ በክልሉ የመንግስት አካላት በፍትህዊነት ተወክለዋል ብለው ያስባሉ?
- 2) ፍትህዊ ውክልና እንዳይረጋገጥ ያደረጉ ችግሮች ምንድናቸው?
- 3) ከህብረተሰቡ ዘንድ የሚነሱ ጥያቄዎችና ቅሬታዎች አሉ?
- 4) ሁሉም የክልሉን ብሄር ብሄር ብሄረሰቦች በክልሉ መስርያ ቤቶች በፍትህዊነት ለመወከል ምን አይነት የእርምጃ ስራዎች ሊሰሩ ይገባሉ ብለው ያስባሉ?

ለህብረተሰብ ክፍሎች

- 1) በክልሉ ህብረተሰብ ዘንድ ፍትሃዊ የሆነ ውክልና በመንግስት ተቋማት አለ ብለው ያስባሉ?
- 2) መንግስታዊ አገልግሎቶችን ለማግኘት ከባቢያዊ ተጽእኖዎች የሚደረጉበት ሁኔታ አለ?
- 3) እርስዎ ያሉበት ህብረተሰብ ስለፍትህዊ ውክልና ምን ያህል ይረዳል?
- 4) ባልዎት የሥራ መስተጋብር የእርስዎን ማህበረሰብም ይሁን የሌላውን አለመወከል እና ወደ ስልጣን አለመምጣት በተመለከተ ያጋጠምዎት ተሞክሮ ካለ?
- 8) ሁሉም የክልሉን ብሄር ብሄር ብሄረሰቦች በክልሉ መስርያ ቤቶች በፍትህዊነት ለመወከል ምን አይነት የእርምጃ ስራዎች ሊሰሩ ይገባሉ ብለው ያስባሉ?

ለህግ ባለሙያዎች

- 1) በፌዴራላዊ የመንግስት ስርዓት ፍትሃዊ ውክልና በፌዴራልም ይሁን በክልል የመንግስት መስሪያ ቤቶች ስንል ምን ማለታችን ነው?
- 2) የተጋሮ ውክልናና ስልጣን በውስቴ ምን አይነት ፍሬ ነገሮች ሊይዝ ይገባል?
- 3) ብሄር ብሄረሰቦች በየትኞቹ የመንግስት ተቋማት ላይ በልዩነት ሊወከሉ ይገባል ብለው ያስባሉ? በተለይም በአስፈጻሚው እና በሲቪል ሰርቫንቱ፤ በዳኝነት አካል ውክልና ያስፈልጋል? ይህንን ለማድረግ የህግ ድጋፍ አለን?
- 4) ውክልናን ብቃትን መሰረት ካደረገ ፅንሰ ሃሳብና ከዜጎች በእኩልነት መስራት መብት አንጻር እንዴት ያስታርቁታል?
- 5) የህ/ተ/ም/ቤት የህዝብ ም/ቤት ሆኖ ሳለ የህዝብ ቁጥራቸው እናሳ ለሆኑ ብሄር ብሄረሰቦች ልዩ ውክልና ለምን አስፈለገ?

ስለትብበርዎ አመሰግናለሁ!