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ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE
CENTER FOR FEDERAL STUDIES

**THE IMPACT OF ASYMMETRICAL REPRESENTATION OF FEDERATED
UNITS IN THE ETHIOPIAN FEDERATION ON DECISION MAKING PROCESS:
CASE STUDY OF HOUSE OF FEDERATION**

By
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MAY, 2014
ADDIS ABABA

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UNITS IN THE ETHIOPIAN FEDERATION ON DECISION MAKING PROCESS:
CASE STUDY OF HOUSE OF FEDERATION**

**A Thesis submitted to College of law and governance, Center for Federal Studies, in Partial
Fulfillment of the Requirements for the Degree of Master of Arts in Federal Studies**

By

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PREPARED UNDER THE SUPERVISION OF

Dr. ASSEFA FISEHA

MAY, 2014

ADDIS ABABA

DECLARATION

I, **Seid Ali**, declare that this thesis is original and has never been presented in any other institution. To the best of my knowledge and belief, I also declare that any information used has been appropriately acknowledged.

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Acknowledgment

*First and foremost, I want to provide my gratitude to the creator of the universe **Allah Subanehu Wetaala** for his help and bring me on this stage from nothing.*

*The preparation of this paper would not have been possible without the help of a number of individuals. The most contribution comes from my supervisor, **Dr. Assefa Fiseha** who tirelessly read the drafts and provided insightful comments.*

I would also like to thank all of my interviewees that have spent their precious time in providing me all the necessary information's in this sensitive area of study.

*My deepest gratitude and appreciation also goes to my family especially my mother, **Simegne Mengesha**, It is your huge aspiration and prying that hold me up for this day. I also thank my friends who in one way or another contributed to the successful completion of my study.*

*Finally, I want to provide my intrinsic thanks to **milky Ahimed** for her moral support and delicious coffee that keeps me bright throughout the day and night.*

However, all errors and omissions of the findings and analyses rest solely on me.

SEID ALI

June 2014

Addis Ababa

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Lists of Abbreviations

CCI	Council of Constitutional Inquiry
EPRDF	Ethiopian People’s Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
HoF	House of Federation
HoPR	House of Peoples’ Representatives
PDRE	Peoples Democratic Republic of Ethiopia
SNNPR	Southern Nations, Nationalities, and Peoples Region
USA	United State of America

Abstract

Fair and proper representation of federated units especially the minorities in the central institution is the tradition of federations. The second chamber is one institution which federated units are represented and participated in decision making process at the center. Most federations give equal representation to all member states in the second house irrespective of population number to protect the minorities from the domination of larger units. While others use population number as a major criterion, still some others, though they use population number as a criteria they gives weighty advantage to less populous regions to protect their interests. Unlike others, in Ethiopian federation the second chamber is composed of nation, nationality and peoples. The states are indirectly represented by the nation, nationalities and peoples they hosts. This system creates a wide gap in winning of seats among member states as the number of population and diversity of the region is considerably differ from each other. as a result, since all decision of the house is passed by simple majority vote, it pave the way that strongly represented regions control all decisions of the House in their interest at the cost of smaller regions. In view of that, the paper assess the impact of these system of representation practiced in the House of Federation in the decision making processes particularly on the determination of formulas in the allocation of subsidies to regions. For examination of this study qualitative method was employed with multiple data collection tools like, document analysis and interview with concerned government officials at the federal and regional governments. Purposeful sampling techniques are applied to select the respondents. The investigation suggests that, the representation set up has an impact on regions with small number of representative in the HoF on the decision making process of subsidy allocation formula because of their marginal number of seats. Though the HoF represents all federated units, most seats of the House are constituted by some more populous and diversified regions and the minorities are not in a position to influence the decisions and safeguard their interests and their representations are nominal just to notify their concerns not to really participate and influence in the decisions of the House. Thus, the findings recommend that, the minority should gain adequate power on decision making process of the House to protect themselves from majoritarian decision.

Chapter One

1. Background of the study

Proper and fair representation of different interests in the federal institution is one way of accommodating diversities especially in multi ethnic countries. One of the federal institutions is the second chamber. Second chambers in different countries have evolved in different ways. In some countries, such as Britain and France, the second chamber has evolved from a system of class-based representation, where the “upper” and “lower” chambers represented the respective classes.¹ In contrast, in many federal states such as Australia, Canada and the Swiss the second chamber was designed to represent the interest of regions or states constituted in the federation.

The commonest representational base for second chambers around the world is territorial units (regions, provinces or states.) Hence, in all federal bicameral states membership of the second chamber is based on representation of the states or regions. At this point it can be understood that it is always difficult to find a federation where each of the member states has equal population and territorial size.² This creates its own influence in the representation system of regions at the center. Regarding the system of representation generally there are two kinds of representation which are symmetrical and asymmetrical representations of distinctive groups in the second chamber.

Symmetrical representation refers to representation to be reinforced by the equal representation of states or regions, irrespective of the size of their population. It is common in many federations. For example, in Australia each state has 12 representatives in the Senate though the population of states varies from 500,000 to six million.³ In the US as well every state has two Senators even though the size of population gap is very vast among small and large states. This system brings two contending consequences. On one hand it protects the small component unities or states from the domination of larger groups or states; on the other hand it also brings over representation of minority groups in federal institutions.

¹ Meg Russell. What are second chambers for/
<http://ef.anonymousinter.net/Paper/Russell%20on%20Bicameralism.pdf> Pp 443 (last accessed, Octo. 6/2013)

²Solomon Nigussie (2007) fiscal federalism in Ethiopian ethnic based federalism, Wolf legal publishers Netherlands, pp 81

³The existence of second chambers/<http://www.ucl.ac.uk/spp/publications/unit-publications/40.pdf/> pp 6 (oct. 6/2013)

In other federations representation system of federated unites in second chambers is asymmetrical which is based on the number of population a particular state or ethnic group has. This is the case, for example, in India.⁴ In others, although representation takes account of population size but still the system gives relatively more seats to less populous states to protect minorities from majoritarian rule. This is the case in Germany.

Accordingly, the 1995 Ethiopian Constitution provides House of Federation as a federal institution alongside the House of Peoples' Representatives (HoPR) to represent all federated entities in the federation. The HoF is composed of representatives from the nationalities. Each nation, nationality and people is represented in the House by at least one member, plus one more representative for every one million members of that nationality.⁵ Representation system of nationalities in the House of Federation creates a wide gap in winning of seats among member states. In the FDRE constitution what is peculiar is that HoF does not directly represent the states. However, it can be realize that the representation seats given in HoF to nation, nationalities and peoples are indirectly given to the states in which a given nation nationality and people is found. The choice of the representatives of the nation, nationality and peoples has been practically made by the concerned states council not concerned nationalities or peoples themselves.⁶ Such practices also indicate that the representatives represent the state as well, especially in the decision of budget allocation. Because the interest of regions overlaps with the interest of the nation, nationality and peoples found in that particular region.⁷ Population number and ethnic diversity determine the influence of the concerned region in the second chamber of parliament since these two variables are determinant to get more representations.

As a result, the gaps of wining seat in the HoF among member states become wide when it viewed as state representatives.⁸ For instance, currently the state of SNNPR and Oromia holds 61 and 26 seats respectively while the state of Gambella and Harari have only 4 and 1 respectively.⁹

⁴V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of rajya sabha. Government of India press. New Delhi pp 9

⁵Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. (article 61/2)

⁶Andualem Taye (2009) The upper House in the Ethiopian Federation: its representational, minoritarian and legislative roles. (Unpublished thesis) pp 34

⁷ Christophe van der Beken (2012) Unity in diversity- federalism as a mechanism to accommodate Ethnic diversity: the case of Ethiopia. global book marketing, London, Pp 194

⁸Yonatan Tesfaye (2010) Ethnic diversity and Federalism: Constitution making in South Africa and Ethiopia. Ashgate publishing, England pp 220

⁹ House of Federation documents (2010)

Because of this imbalance less represented regions might be losers in the decision making process concerning powers given to the House, since all decision of the House are passed by majority vote. The composition of the House make states having higher population and diversified nationality beneficiary, i.e. they can influence the decisions at the cost of others.

Therefore, the HoF which is primarily designed to ensure the equitable representation of every nationality seems to fail in balancing the representation of states, when it viewed as state representative.

This leads me to explore the impact of these asymmetrical representations to less represented regions in the decision making process, with the main emphasis on the decisions of the formula for the allocation of subsidies to regions.

2. Statement of the problem

It is eminent that proper and fair representation of different interests in the federal institution is one way of accommodating diversities especially in multi ethnic countries. Hence, one of the core pillars of group rights is representation and participation at the center in the decision-making process. This is very crucial especially regarding issues, which are concerns of minorities.¹⁰

In the experience of different federal countries it was significantly not only the constitutional distribution of powers which proved the most intractable issue; rather there are also conflicts between the constituent units about the composition of the federal legislature.¹¹ To obtain the confidence of the people in the federal decision-making, proper representation of the internal diversity within the institutions of the federal government is needed.

The Ethiopian federal system provides the opportunity of representation to all federated units at the federal level in the Houses of Federation. The FDRE constitution says all member states of federal democratic republic of Ethiopia shall have equal rights and powers.¹² But the representation system of nationalities (indirectly member states) in the House of Federation

¹⁰Haileyess Taye (2012) Issues of minority rights in the Ethiopian federation European center for minority issues p 8

¹¹ Ronald I. Watts (N.D) Participation of federated entities in federal policy-making Queen's university, Canada pp 2

¹² Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. (article 47/4)

seems to contradict with this provision because populous and diversified regions might dominate small member states in the decision making process on powers constitutionally given to the House, particularly in allocation of subsidies to regions as a result of the representation set up.

The formula for the allocation of subsidies has varied from time to time; For instance, before 1997 the weight given for population size was 33.3 percent. Between 1997-1999 the variables remained the same but the weight given to population size increased up to 60 percent. In the year of 2003/2004 the weight attached to population size to get subsidies from the center even raised up to 65 percents.¹³ These formulas continue up to 2006/7 fiscal year. The increasing weight given to population size in the grant formula seems appreciated by regions with larger population.¹⁴ In this case, the question can be raised whether the larger represented regions in the HoF has a role in this shift. If it is so, how can less populous states alter this trend while they receive relatively small number of seats in the House. In view of that, in this paper I would assess the impact and the system of representation practiced in the House of Federation on the decision making processes particularly on the determination of formulas in the allocation of subsidies to regions.

Hence, my central argument is that since the constitution gives many significant powers to the House of Federation which includes distribution of subsidies to regions and since the House reflects the composition of all nationalities (indirectly regions), how can less represented regions influence the decision making process and defend their interests in the House mainly concerning in allocation of subsidies.

3. Research questions

The paper tries to answer the following research questions.

- I. What is the rationale behind applying the present representation system of nationalities (regions) in the House of Federation which is based on article 61(2) of FDRE constitution?

¹³Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands Pp 162

¹⁴Christophe van der Beken (2012) Unity in diversity- federalism as a mechanism to accommodate Ethnic diversity: the case of Ethiopia. global book marketing, London, pp 199

- II. What is the impact of the system of representation in the HoF on smaller regional states in getting the subsidy allocated by the House?
- III. Is there any special law or practices in the House of Federation which favor to less represented regions in the decision making process. (Protection from numerically more represented regions)?
- IV. What is the role of House of Federation to counter the majoritarian rule in the lower House?

4. Objective of the study

I. Main objective

The main objective of the study is assessing the impact of representation system of federated units in the upper House of Ethiopian Federation on the decision making process particularly on allocation of subsidies.

II. Specific objectives

- To evaluate the efficiency of House of Federation in decision making process and its roles with regard to providing proper representation to the smallest regions.
- Show how the system might have limitations to protect the interests of particular regions (numerically small regions) in the decision making process.
- Identify major challenges and forward possible solutions

5. Scope of the study

The scope of this paper is limited in assessing the representation system of federated unites in the federal institution of Ethiopian Federation on particular reference of House of Federation. It assesses whether the current representation system in HoF has risks on ethno nationalist groups with smaller size. In other words the study is limited to assess how less populous regions will have considerable influence or safeguard their interest in the decision making process of budget allocation in the House of Federation while they receive relatively very small seats in contrast to populous regions.

6. Significance of the study

Different writers have explored the representation system, composition and powers of House of Federation in the Ethiopian federal setup. However, this paper tries to critically assess the impact of this representation set up on ethno nationalist groups with smaller size or less represented regions in the decision making process particularly in allocating subsidies to regions. It also comes up with possible situations which the smallest regions may exclude or marginalize from the decision making process in the federal political institution particularly in the House of Federation with empirical evidence. In addition to that, the attitude and actual response of regions which have less representatives in the HoF has not yet been well researched in previous writers. So, importantly this paper fills this gap by articulating the feeling and responses of these regions. After identifying and analyzing the realities of impacts the composition/representational setup of HoF brings in the decision making process of allocation of subsidies to concerned member states, the research will tend to provide some suggestions that should be considered by all concerned bodies. Finally, it also gives insights to other researchers for further research on the subject matter.

7. Methodology and source of data

The study uses more of qualitative methods to collect and analyze the data. The paper attempts to look at the theory of representation system (in second chamber) suggested by different scholars/articles. It also shows the experience of different selected federal countries' representation system of regions or ethnic groups in the upper House of their parliament in general and FDRE constitution, laws and provisions of the House of Federation in relation to representations of nationalities in particular. The study uses both primary and secondary data. Primary data is formulated through interviews with concerned government officials like chief officers in House of Federation, selected members of HoF, members of the standing committee of the federal grant allocation in the House of Federation, knowledgeable informants and other related authorities are conducted. Secondary data as well is collected through relevant literatures, legislations and proclamations, government official reports and so on. The study also conducts group interviews with samples in that regional state. Purposeful sampling techniques are applied to select the respondents. In a sense, the offices and the informants that I selected were those that had proximity and connection with the topic. In order to solicit a wide variety of

information, discussions conducted with a variety of persons. These include as noted above chief officers of House of Federation, representative of House of Federations, members of standing committee of subsidy allocation to regions in HoF and knowledgeable informants.

8. Limitation of the study

The researcher believes that the following constraints may reduce the quality of the research.

- Reluctance by concerned officials to give the real information.
- Bureaucracy (the researcher face difficulties to get relevant documents and officials on time to undertake the research).
- Financial and time constraints.

9. Organization of the paper

The study of this paper is concerned on assessing the impact of unequal representation of federated units in House of Federation on the decision making process mainly on determining subsidy allocation to regions. In doing so, the paper is classified in to five chapters. The first chapter includes background of the study, statement of the problem, research question, objective of the study, scope of the study, significance of the study, methodology, limitation of the study, and organization of the paper. The second chapter concerns in assessing relevant literatures on federalism and federations, symmetry and asymmetry nature of federations, theory of bicameralism, kinds of representation system in the second chamber (symmetrical and asymmetrical representation of federated unites), limitation and advantages of each representation system, significance of representation of federated unites in the second chamber and so on. The third chapters would devoted to assess the experience of different selected federal countries regarding to representation of constituent units in the second chamber of their parliament and the role of the concerned second chambers in protecting the interests of member states especially the minorities. The fourth chapter also assess the Ethiopian experience in relation to representation system of component units in House of Federation and its impacts on the decision making process. Finally, the paper is finalized by drawing conclusions and recommendations.

Chapter Two

2. Federalism, Federations and Bicameralism in General

Introduction

This chapter deals with the general over view of the concept of federalism and federations, symmetry and asymmetry nature of federations and bicameralism in general; theory of bicameralism, rationale for having second chamber in federations, powers of second chamber, its composition and electoral methods in particular is explored.

Federalism as a political concept and federations as an institutional design come in to exist or adopted to respond various challenges in the arrangement of state structure.¹⁵ The federated units in a federal state have certain autonomy to govern themselves with at the same time a right to participate in the administration and decision making process in the central government. To this end the federated units especially minorities, should gain adequate representation in the central legislature particularly in the second house.¹⁶ Giving minorities a real voice in central institutions is important in promoting social harmony and political stability in a given federations.¹⁷

Although it is found in other state structures i.e. unitary states, Bicameralism is a feature adopted almost in every federation. In bicameral legislature the second chamber is usually adopted to represent distinctive groups that constituted a federation.

This chapter is designed to assess the core issue related to federalism, federation and bicameralism that will serve as a foundation in analyzing the Ethiopian federal arrangement and representation of federated units in the central institution particularly in the second chamber and its impacts in the decision making process. Hence, the next section would be the conceptual

¹⁵Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands, pp 99

¹⁶In various papers the writers use the word second chamber, counsel of nationalities, upper house, territorial chambers, Constituent Assembly etc. to refer the second legislative chamber of the federal government. (House of Federation in Ethiopian case)

¹⁷George Anderson (2008) federalism: An introduction. Oxford University press New York. Pp 52-53

framework of federalism, federations and bicameralism which has more linkage and a lot contribute in future analysis of my central argument.

2.1. Conceptual frame work: Federalism, Federations and Bicameralism

In recent times, federalism as a political idea becomes popular for integration of unity and accommodation of diversity under a single political system. About twenty-five countries of the world covering 40 per cent (two billion) of the population live in countries that claim to be federations or have a federal character.¹⁸ Federalism may not be preferable for all countries. It seems particularly suited to countries with large population, territories or with highly diversified populations¹⁹; in terms of language, ethnicity, religion, and other socio-cultural cleavages.

The term federalism comes from the Latin word “foedus” meaning treaty and implies the existence of more than one set of authority.²⁰ This is etymological meaning of federalism. Federalism can be described as a system which is created, by written agreement between central and regional government and distribute specified powers to each level of government, compound sovereign states, in which at least two governmental units the federal and the regional, enjoy constitutionally separate competency, although they may have also concurrent powers.²¹ Similarly, Fasil Nahum described federalism as a dual polity, two sets of government, federal and state operate and distribution of power among levels of government is strictly constitutional.²² Others also describe it as a political system which combines a shard government for specified common purpose with autonomous action by constituent units for purposes related to maintaining their regional distinctiveness.²³

It has to be clear that there is no one commonly agreed definition of federalism, which means it can be defined or explained based on a particular countries cultural, political and historical context. This is because each federation arises from a specific complex situation replete with its

¹⁸Ronald L. watts (2008) Comparing federal systems, Third edition, Institute of intergovernmental relations, school of policy studies, Queens University. Pp 5

¹⁹ George Anderson (2008) federalism: An introduction. Oxford university press, new York pp 12

²⁰Fasil Nahum (1997) Constitution for a nation of nations: the Ethiopian prospect. The red sea press, Asmara, pp 36

²¹ John McGarry and Brendan O’Leary (2003) federation, conflict-regulation and national and ethnic power sharing Paper prepared for delivery at the annual meeting of the American political science association, PP 2

²² Fasil Nahum (1997) Constitution for a nation of nations: the Ethiopian prospect. The red sea press, Asmara. pp 36

²³Ronald L. watts (2008) Comparing federal systems. Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 10

own history, economic condition, ethnic composition and general political realities.²⁴ As a result, not all federations always meet all elements of definition. Some are very centralized and weakly federal, others have special unitary features that may sometimes permit the central government to over ride the autonomy of constituent units;²⁵ still some others permit considerable genuine autonomy to federated units. Each federations also may have unique institutions which does not exist in other federations, even the same institution execute deferent tasks in deferent federations. For instance, the task assigned to the second chamber in Ethiopian and American federations are different.

As federalism explains differently by various scholars, reasons to apply federal political system also varies from federation to federation. Accommodation of ethnic diversity in multiethnic, multilingual and multicultural states is considered by many as the underlying reason for adopting a federal system of government.²⁶ This is true in many federations. For instance, In Switzerland, India and Nigeria federalism became an instrument for managing religious and language diversity. In Ethiopia also, federalism is being used as a means to end the age old concentration of power and as a means for accommodating identity issues of the various ethno-linguistic groups²⁷ as federalism gives autonomy to each units within one political system.

In other federations, federalism may be adopted for economic and political purposes or to minimize concentration of power in a single institution which is important to minimize the possible tyrannical governments.²⁸ There are also other motives, like the aspiration for independence from foreign controls or the need for protection against foreign powers or perhaps to have a bigger say in the international arena and in the global world.²⁹ This all factors directly or indirectly influence the countries to shape their state arrangements in federal lines.

²⁴ Fasil Nahum (1997) Constitution for a nation of nations: the Ethiopian prospect. The red sea press, Asmara. pp36

²⁵ George Anderson (2008) federalism: An introduction. Oxford university press, New York pp 2

²⁶ Kalkidan kassaye (2010) center - State Relations in the Ethiopian Federal Setup: Towards Coercive Federalism? A view from the Practice. Unpublished thesis, Pp 20

²⁷ Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers Netherlands, And See also, federalism teaching material prepared by Asefa Fiseha (2009) Pp 157

²⁸ Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain, Pp 3

²⁹ Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands. Pp 137

Accordingly, Federalism as a political concept has potential benefits for certain countries, which includes accommodate diversity within unity, brings decision-making closer to people, deepens democracy, develops and trains leadership, Good governance, accountability, transparency and adequate representation of distinct units (this is usually done through the second chamber by institutionalizing bicameralism.)³⁰

Bicameralism is the attributes of federalism, mostly in federal state there are two federal houses: the first house and the second house. The first house represents the population of the entire federation as a whole directly, which is commonly known as House of People Representative. While the second house represents the interest of each federated units separately and method of selection and its composition may vary with that of the first chamber. This concept will discuss in detail latter in the consecutive topic.

The term federalism and federations are used interchangeably and seems similar. But recently it has become common for scholars to distinguish these two words. This distinction gives us a clear picture of federations. For instance, Ronald watt³¹ states the distinction between federalism and federations as “federalism” is used basically not a descriptive but a normative term which refers the promotion of multi tiered government combining elements of shared rule and regional self rule while federation is a descriptive term applying to a particular form of political organization, in which each order of government has sovereign powers defined by the constitution rather than by another level of government, each is empowered to deal directly with its citizens in the exercise of its basic legislative and executive powers, and each is directly elected by and accountable to its people.

Assefa Fiseha also describe the distinction shortly as federalism is an ideology and normative principle advocates a multi tired government combining elements of shared rule and self rule where as Federations refer to tangible institutional facts which constitute the actual institutional

³⁰See, Kenneth Benoit (N.D) federalism and bicameralism: comparative political institutions /http://www.kenbenoit.net/courses/cpi/CPI_2006_lecture4_Federalism.pdf (accessed, Jan. 5/2014)

³¹Ronald L. watts (2008) Comparing federal systems. Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 8

and structural techniques for achieving one of the goals of federalism. That is preserving shared rule and self rule.³²

Although federalism is differently explained by various writers, there are some common features stated by scholars of the field. For instance, Ronald watt³³ states the following commonalities manifests in all federations.

- *At least two order of government, one for the whole federations and the other for the regional units each acting on its people;*
- *A formal constitutional division of legislative and executive authority and allocation of revenue resources between the two order of government ensuring some area of genuine autonomy for each order;*
- *Provision for the designated representation of distinct regional views with in the federal policy making institutions, usually provided by the particular form of federal second chamber;*
- *Supreme written constitution not unilaterally amendable and requiring the consent for amendments of a significant proportion of the constituent units;*
- *An umpire in the form of courts, provision for referendums or an upper house with special powers; and*
- *Processes and institutions to facilitate inter governmental collaboration for those areas where governmental responsibilities are shared or inevitably overlap.*

From the above point of view, it can be understand federalism as a system of government in which there are at least two or more tiers of governments inhabiting elements of national shared-rule and regional self-rule whereby constitutional division of powers between these tiers of government. Each level of government has certain area of autonomy or power and primarily accountable to their respective electorates.³⁴ However, powers and autonomies assigned to constituent units may vary from federation to federation. In some federations powers may give equally to all component units while in others certain component units might enjoy certain level

³²Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers Netherlands Pp 103

³³Ronald L. watts (2008) Comparing federal systems Third edition Institute of intergovernmental relations, school of policy studies, Queens University pp 9

³⁴George Anderson (2008) federalism: An introduction. Oxford university press, New York pp 3

of powers than others. These can be referred symmetric and asymmetric power relations among constituent units.

2.2. Symmetrical and Asymmetrical types of federations

In this topic the paper reviews theoretical concepts of symmetries and asymmetries in the arrangement of federal state structure and power allocation to constituent units. The logical distinction between symmetric and asymmetric federalism generally refers to the variation between constituent units on the degrees of autonomy and the impact on federal government institutions they have.³⁵

Each federal system exhibits different approaches in the allocation of power among federated units. Regions or federated units may have varying degrees of power within a federation due to factors such as population number, territorial size, economic and socio-cultural varieties.³⁶

Accordingly, based on the degree and magnitude of the above mentioned variations federations can be arranged symmetrically or asymmetrically. These kinds of federal arrangements lead scholars about the study of symmetry and asymmetry of federations.

2.2.1. Symmetrical federations

Scholars try to define and differentiate the concept of symmetrical and asymmetrical types of federal arrangements in varying ways. Federal symmetry refers to the uniformity among member states in the pattern of their relationships within a federal system.

According to Tarleton, the ideal Symmetrical federal system would be one composed of political unites comprised of equal territory and population, similar climatic conditions, similar economic factor, cultural patterns, and political institutions.³⁷ In this system there are no significant demographic, socio-economic and political differences which might demand some sort of different treatment or protection of any of federated units. However, it is difficult to found or expect this kind of symmetry in actual federal structures that work today. This is because it is

³⁵Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain Pp 11

³⁶ Ibid, pp10

³⁷Charles D. Tarlton, symmetry and asymmetry as elements of federalism: A theoretical speculation (the journal of politics, vol. 27, issue 4, 1965) pp 868. As it cited in Solomon Nigussie (2007) fiscal federalism in the Ethiopian ethnic based federal system, Wolf legal publishers Netherlands Pp 75

less likely for federated units to similarly manifest the elements stated above.³⁸ There is no federal system in the world in which all the component units are even approximately equal in size, population, wealth, economic development, social structure and so on. Therefore, every federation has some sort of actual asymmetry in relation to the above elements.

Although the federal constitution grant equal power to constituent units, due to the factors such as economic, territorial and population size and socio-political variations a certain component unit may enjoy a certain level of power than others.³⁹ For instance, in the representation of central institutions especially in the second chamber the issue become visible; if the representation set up is depend on population number.

2.2.2. Asymmetrical federations

The word asymmetry refers many aspects of differences between the federated units of a certain federation. Such as, asymmetrical political powers, asymmetrical language rights, asymmetrical status in wealth or economy and so on. It is the relative powers of different constituent units to govern their own jurisdictions and their impact on political decisions at the federal level.⁴⁰ Hence, different constituent units have different political weights because of their wealth, history, population (some federation tray to moderate it by giving extra weight to the representation of smaller units with in central institution).

Asymmetry can be classified in to two as *de facto* and *de jure* asymmetries⁴¹ and each of which has their own implications. However, before proceeding to types of asymmetries; first it is important to know the possible cause of these asymmetries in a certain federations. Scholars identify different sources of asymmetry that is visible in federations in general. Generally speaking asymmetry does not simply occur. As watt stated that,⁴² economic, (economic disparities between regions), socio-cultural, political and demographic patterns (it is mainly concerned the issue of representation because it may contribute asymmetrical representation of federated units in the federal political institutions particularly in the second chamber) of a given

³⁸Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain, pp 10

³⁹ Ronald L. watts (2008) Comparing federal systems Third edition, Institute of intergovernmental relations, school of policy studies, Queens University, pp 125

⁴⁰ Ibid, PP 127

⁴¹In other sources It can be also said that, political and constitutional asymmetries respectively.

⁴² Ronald L. watts (2008) Comparing federal systems Third edition Institute of intergovernmental relations, school of policy studies, Queens University pp 125

federation produced unbalanced relationship among constituent units. Having been aware of about its cause, in the following section the paper briefly discusses about types of asymmetries exhibited in federations.

2.2.2.1. De jure /constitutional asymmetry

It means a formal or constitutional asymmetry which grants unequal powers to component units in a given federations. It officially recognizes the difference among constituent units in relation to power and autonomy.⁴³ It is also said to be constitutional asymmetry and means differences in status or powers assigned by the constitution to the different regional units⁴⁴ or some constituent units receive different powers than others. It is not common to see these kinds of federations. However, there are some instances where the constitution explicitly provides *de jure* or legal asymmetry in the power or autonomy assigned to federated units. This is the case for example in Canadian federation; Quebec has some additional powers which are not assigned to the other federated units.⁴⁵

2.2.2.2. De facto asymmetry

It is the actual difference which occurs based on socio economic and political realities of constituent units and their impact on decision making process. Which mean federated units may have varying degree of power within a federation because of factors like population number, level of development, political consciousness and other socio-cultural cleavages.⁴⁶

It is obvious that *de facto* asymmetries are visible in all federation, however when it is extreme, it creates some sort of instability in that particular federation.⁴⁷ For example, if there are huge differences in relation to population number among component units, the federation may face difficulties to balance the representation of federated units within the central institutions and

⁴³Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain, pp 13

⁴⁴Ronald L. watts (2008) Comparing federal systems Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 127

⁴⁵Solomon Negussie (2007) fiscal federalism in the Ethiopian ethnic based federal system. Wolf legal publishers Netherlands Pp 75

⁴⁶ Ibid, 75

⁴⁷Ronald L. watts (2008) Comparing federal systems Third edition Institute of intergovernmental relations, school of policy studies, Queens University pp 126

protect the interests of minorities; if a certain component units are wealthier than others it may also pave the way of demanding secessions.

Such asymmetry are greatly manifested in multi ethnic or multi lingual federations⁴⁸ because the creation of constituent units are based on linguistic or ethnic line which may considerably vary in terms of population, territorial size, economic, political and administrative capacities. As a result some multi ethnic federations use their own mechanisms to reduce this kind of asymmetries. One mechanism is to rearrange the territory of federated units; the notable example in this regard is Nigeria. In Nigerian federation, the unequal three regional structures which existed during the early 1960s were continuously modified by constitutional amendments and created four regions in 1967, 12 states in 1968, 19 in 1976, 21 in 1987, 30 in 1991, and currently 36 states. The motivation of this continuous change has been to create a greater symmetry in the relative size of the constituent units.⁴⁹

It is clear that cultural, economic, social, political and demographic factors in combination have in all federations produced asymmetrical relations in the power and influence of different constituent units. As a result there may be wide differences among constituent units in terms of the capacity to perform their functions and in their influence on federal policy makings.

Varieties in number of population among constituent units are one source of *de facto* asymmetries in representation of component units in the federal decision making process and most federations have a vast asymmetry of population number among constituent units. For instance, Ethiopia (ranged from 35.2 percent up to 0.3 percent), Canada (ranged from 38.0 percent up to 0.5 percent) Germany (ranged from 21.6 percent up to 0.8 percent) Australia (ranged from 33.6 percent up to 2.4 percent)⁵⁰ which faces a great challenge in representation of federated units in the central political institutions. As a result the member states may not be adequately represented in the federal institutions such as the federal second legislative chamber.⁵¹

⁴⁸Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain, pp 5

⁴⁹Ronald L. Watts, (N.D) A comparative perspective on asymmetry in federations Institute of Intergovernmental Relations Queen's University pp 3

⁵⁰Ronald L. watts (2008) Comparing federal systems Third edition Institute of intergovernmental relations, school of policy studies, Queens University pp 73

⁵¹Ronald watt (N.D) Participation of Federated Entities in Federal policy-making Queen's University, Canada Pp 8

Although, it is common to see huge population size difference among units of the federation, In some instances even, one component units of a federation may dominate or constitute more than fifty percent of the total federal population. Example, Flemish region in Belgium federation which constitutes 59.7 percent of the total population, the region of St. Kitts constituted 75.5 percent population in St. Kitts and Nevis federation.⁵²

In another dimension, as Ronald watt⁵³ clearly point out that there are also federations where only two member states may have a considerable influence in the decision making process within a federation, which include Ontario and Quebec in Canada (combined population 62 percent), Oromia and Amhara in Ethiopia (combined population 61 percent) and new south Wales and Victoria in Australia (combined population 59 percent).

The impact of these factors lays in the relative power and influence of the only one or two regional units, and powerlessness of the rest smallest member units. This can be a source of internal tension in that particular federation because these populous regional states may have legal power to decide any political, social and economic decisions in favor of themselves as the cost of others. On the other hand the other units feel as a power less and will be dominated by others. In addition, these asymmetries are politically significant for the following reasons. First, it affects the relative capacity of different component units to exercise their constitutionally assigned powers. Second, it affects the degree of regional units influence in the decision making process within those institutions of the federal government in which representation is based on population size.⁵⁴

Ronald Watt suggests that this asymmetries or the influence of larger units should be moderate by establishing a federal second chamber with representation weighted to favor for smaller regional units to protect them from the domination of the larger ones.⁵⁵

In a federation there are mostly two chambers in federal legislature: the lower and the upper house. The lower house represents the citizens with seats distributed according to population size. This creates an asymmetry in terms of representation of federated units in the federal

⁵² Ronald L. watts (2008) Comparing federal systems, Third edition, Institute of intergovernmental relations, school of policy studies, Queens University. Pp 74

⁵³ Ibid, pp 126

⁵⁴ Ronald L. Watts (2008) Federal Second Chambers Compared, Institute of Intergovernmental Relations, Queen's University, pp 127

⁵⁵ Ibid, pp 127

institution and capacity to influence legislation and policy making, as larger units will have stronger voice than smaller ones.⁵⁶ This problem become more exacerbate if the representation set up of the second chamber is based on the number of population a particular constituent unit has, because there is no counter majoritarian roles played by the concerned second chamber.

In Ethiopia although power is symmetrically allocate by the federal constitution to all federated units, there are huge *de facto* asymmetry among constituent units in relation to geographical size, administrative capacity, economic condition and population size. Thus, these *de facto* asymmetries of population size among regions resulted *de jure* asymmetrical representation of constituent units in the federal shared rule political institution particularly in the second chamber.

To sum up, whenever any sources says a certain federal state is symmetry, it should be understood that there is *de jure* symmetry i.e. symmetry created by law not *de facto* symmetry or actual equality of the component units, it is hardly possible to find *de facto* symmetry in all federations.

As I mentioned earlier, factors that lead to asymmetrical arrangement between component units of a federation are the existence of actual differences among component units. These differences can be many types which include population number, territorial size, disparity in the level of economic development etc.

To accommodate this differences federations use deferent techniques. For example, to minimize the gap of economic capacity which exists among federated units federations apply horizontal or vertical fiscal equalization systems. To minimize the effects of population size differences among constituent units, federations apply bicameralism which consisted two chamber, from this two chamber the second chamber is designed to represent all component units adequately, even equally in some federations to give guaranties to smallest units.⁵⁷ In the next topic the paper briefly discuss about bicameralism in general and its relation with federations in particular.

⁵⁶Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain Pp 22

⁵⁷In federations like United States, Australia, Mexico and Brazil, for example, each state is given the same number of seats in the legislature's upper house. This takes no account of population differences between states and it is designed to ensure that smaller states are not overshadowed by more populous ones.

2.3. Bicameralism in Federations

This topic discusses about the concept of bicameralism, general theory of bicameralism, brief consideration of the relation of bicameralism with federations, the features that can be found in bicameral systems in terms of composition, power, rationale and methods of selection. Every bicameral system is different and no one second chamber completely similar with others in relation to the above elements. This topic shows these varieties which exist across federations as a form of institutional design.

Bicameralism, as mentioned earlier, is an institutional design for a two-house representative assembly. Two chambers involved in the federal law-making process with one usually requiring the consent of the other to pass legislation.⁵⁸ These two chambers, often described as the lower house and the upper house, the composition of the lower chamber is based on proportionally elected members representing the same number of Population. While the upper chamber varies considerably in its composition and in the manner in which its members are selected. The members can be elected through inheritance, appointment and direct or indirect elections.⁵⁹ Bicameral federal legislature is an important institutional feature for ensuring well-established representation of the regional components in decision making within the institutions of shared rule, that are an important element for the effective operation of a federation.⁶⁰

Federal systems almost always have bicameral parliaments but this does not mean that all federal countries established bicameral legislatures; there are some exceptions such as St. Kitts-Nevis and Venezuela.⁶¹ At the same time it doesn't also mean that unitary state are without the second chamber, there are enormous unitary states with second chamber, Such as, France and United Kingdom.

The motive to have second chambers in federal state is most of the time linked with the presence of distinctive regional units particularly in terms of population number which will result considerable differences in the number of representatives in the federal legislature which has an

⁵⁸ One Chamber or Two Deciding Between a Unicameral and Bicameral Legislature, National Democratic Institute for International Affairs, / https://www.ndi.org/files/029_ww_onechamber.pdf pp 2 (accessed. Jan. 9/2014)

⁵⁹ Ibid, pp 2

⁶⁰ Meg Russell (N.D) Representing the Nations and Regions in a new Upper House: Lessons from Overseas. Senior Research Fellow, the Constitution Unit, University College London. Pp 3

⁶¹ Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada, pp 9

impact in the decision making process. Watt in this regard said that, small units may fear in entering a federation unless they are guaranteed some safeguards in the upper house of the parliament to counter the majoritarian lower house.⁶²

Hence, in bicameral arrangement the second chamber became specifically important for the achievement of the interests of regions particularly smaller region and giving them a direct access in making of policies and laws at the federal level.

2.3.1. Theory of Bicameralism

The ideas on which bicameralism are based can be traced back to theories developed in ancient Greece, ancient India and Rome. However, recognizable bicameral institutions first arose in medieval Europe where they were associated with separate representation for different classes of people; one house would represent the aristocracy while the other would represent the commoners.⁶³ Though its type and systems of representation is different and shaped through time, bicameralism still applies in various countries.

Countries across the world have at one time or another struggled with the question of how to design political institutions that best maintain stable and prosperous society governed by suitable political systems.⁶⁴ Demography, history, diversity of the people and especially political factors will heavily influence whether a country chooses to establish a unicameral or bicameral systems. Nations with heterogeneous constituents in terms of different cleavages usually prefer bicameralism for ensuring the adequate representation of diverse interests at the federal level.⁶⁵

There is also a certain correspondence between the size of states and having a Second Chamber: generally speaking, large countries do tend to have Second Chambers.⁶⁶ This means the larger countries of the world mostly have bicameral parliaments, composed of representative of regions

⁶² *Ibid*, Pp 8

⁶³ In many countries, such as Britain and France, the second chamber has developed from a system of class-based representation, where the “upper” and “lower” chambers represented the respective classes. See, Theory of bicameral congress (<http://en.wikipedia.org/wiki/Bicameralism>) (accessed 12/1/2014)

⁶⁴ _ One Chamber or Two Deciding Between a Unicameral and Bicameral Legislature National Democratic Institute for International Affairs, https://www.ndi.org/files/029_ww_onechamber.pdf pp 1(accessed. Jan. 9/2014)

⁶⁵ Sidharth chauhan (N.D) Bicameralism: comparative insights and lessons. (http://india-seminar.com/2013/642/642_sidharth_chauhan.htm) (accessed, Jan. 23/2014)

⁶⁶ Carlos Closa (2008) Bicameral Systems and Representation of regions and local authorities: The role of Second Chambers in Europe. Pp 2

and houses of people representatives. A notable exception here is China which has only one very large unicameral assembly called the National People's Congress.⁶⁷

Federal systems are highly conducive to bicameralism in which a second chamber serves as a federal house whose members are selected to represent the states or provinces.⁶⁸ It facilitates more balanced representation among component groups by providing a political outlet to those outnumbered or underrepresented in the lower chamber. In a federation as Assefa Fiseha said the people are represented as a whole and as parts. Which means the federal legislature in a federation is expected to reflect the unity of the country in the lower house on one hand and the diversity of the states in an upper house by representing the regional interests, on the other.⁶⁹ This representation should not be nominal rather it must reflect the real voices of those particular units.

Writers argue about the advantages and drawbacks of applying bicameralism. The drawback of this system rests on the increased possibility of deadlock particularly in cases where both chambers have similar powers. Advantages of bicameral legislatures include their capacity to formally represent diverse constituencies (*e.g.*, state, region, and ethnicity); facilitate a deliberative approach to legislation; revise the passage of unsound or careless legislation laid out in first house; and provide enhanced oversight or control of the executive branch.⁷⁰

As noted earlier, second chambers are most common in federal states. Except a few, like Micronesia, St. Kitts-Nevis, the United Arab Emirates and Venezuela,⁷¹ all federations in the world have bicameral structure i.e. the lower and upper houses. Upper houses represent the constituent units while lower house represent the entire population of a federation. The prevalence of such upper houses in federations is associated with the idea that both the population and the constituent units are part of a federation, and both dimensions need to be

⁶⁷Samuel c. Patterson and Anthony Mughan (N.D) *Senates and the Theory of Bicameralism*, <https://ohiostatepress.org/Books/Complete%20PDFs/Patterson%20Senates/02.pdf> pp3 (accessed, Jan. 28/2014)

⁶⁸ Ibid, pp 10

⁶⁹Asefa fesiha (2007) *Federalism and the accommodation of diversity in Ethiopia: a comparative study*. Wolf legal publishers, Netherlands Pp 140

⁷⁰ *One Chamber or Two Deciding Between a Unicameral and Bicameral Legislature* National Democratic Institute for International Affairs, https://www.ndi.org/files/029_wv_onechamber.pdf Pp 2 (accessed, Jan. 9/2014)

⁷¹Ronald watt (N.D) *Participation of Federated Entities in Federal policy-making*, Queen's University, Canada Pp 9

reflected in the central institutions.⁷² While second chamber is common in federations, there is a considerable variation among them in the rationale, method of selection, role and powers. The following topic deals about it briefly.

2.3.2. Rationale for having second chamber

The second chamber might play an important role on national sensitive issues with respect to facilitating cooperation, intergovernmental relation among constituent units and distributing benefit and burdens to federated units properly and so on. Although Federations that operate bicameral legislatures have varying rationale and reasons, the main reasons are usually to give a voice to all component units in the federal decision making process what is known as ‘shard rule’ and the need to have a second thought or review on legislations. Second chambers facilitate representation for groups or interests that otherwise might be overlooked in the first chamber.⁷³ Hence, in federations, second chamber is a feature mainly adopted in fulfilling the objectives that were enumerated above i.e. representation and counter check of the first house.

2.3.2.1. Representation

The term representation has come to be used in different ways. In the context of this paper it usually refers where elected officials speak for constituents in the central political institution particularly in the federal second chamber. Hence, one powerful justification for having second chamber in federal parliament rests in demands for representation. According to the theory, the first house is composed of popularly elected members representing the citizens as a whole directly. The other house, with a different basis of representation, may give voice to the interests of social groupings, economic interests, or territorial diversity.⁷⁴ The representation of territorial units is now the commonest form of representation in second chambers around the world.

In federal state there are mostly competing interests among different section of societies, the mere existence of lower house (commonly refers house of people representative) cannot accommodate this diverse views because its representational base is national or the people at all

⁷² George Anderson (2008) federalism: An introduction. Oxford university press, New York, pp 46

⁷³ Idowu Bakare (N.D) Bicameral Legislature: justification, conflict and Hierarchy: A case study of the national assembly of Nigeria. Vol. 1/<http://www.nasslegisdigestonline.com/newsdesc.php?id=194> (accessed Dec. 6/2013)

⁷⁴ Samuel c. Patterson and Anthony Mughan (N.D) Senates and the Theory of Bicameralism, <https://ohiostatepress.org/Books/Complete%20PDFs/Patterson%20Senates/02.pdf> pp 10 (accessed, Jan. 28/2014)

(not concerns the distinctive interest of a particular group). Therefore, the second chamber is designed to accommodate these diverse interests in the central legislature through representing each federated units regardless of its number of population, economic status and other variations.

The upper house introduce representation of different interests those which exists in but dominate in the lower house.⁷⁵The types of interests represented in the upper house evolved over time and vary across federations. In some it may represent regions; in others it might be linguistic or ethnic groups, still in others it uses to represent historically disadvantaged groups to rectify the past injustice. In this regard as the source indicate that some countries have even implement strict quotas to guarantee a certain percentage of seats in the upper chamber to historically disadvantaged groups to compensate the effects of past socio-economic and political discrimination.⁷⁶ As a result the house becomes the representative of all section of society which might be under represented in the other houses.

In Ethiopia also second chamber is designed to represent all nationalities which constitute a federation. FDRE constitution under article 62(1)⁷⁷ stated that the house of federation is composed of representative of nations, nationalities and peoples of Ethiopia. In other words it represents the diversity of the state, because the same article sub two says each nation, nationality and peoples shall be represented in the second chamber by at list one member.

2.3.2.2. Counter balancing the first chamber

The strengths of second chamber can be seen in its capacity to represent the interest of all component units specially minorities properly and its ability to counter or check the actions and decisions of the first chamber. Thus, the other core rationale for having second chambers in a national legislature broadly flows from the need for checks and balances of the other chamber with the view of bringing it to the minority interests.⁷⁸This is allowing upper houses to guard

⁷⁵Meg Russell. (N.D) what are second chambers for?

<http://ef.anonymousinter.net/Paper/Russell%20on%20Bicameralism.pdf> /Pp 443(last accessed, Octo. 6/2013)

⁷⁶ For instance, in Nepal 1990 constitution reserves 5 percent of Senate seats for women. In Uganda the constitution allocates one seat in each of the 39 regional districts for women (14 percent of the entire parliament). See also, ___One Chamber or Two? Deciding Between a Unicameral and Bicameral Legislature. National Democratic Institute for International Affairs. Pp 4 (https://www.ndi.org/files/029_wv_onechamber.pdf)

⁷⁷ Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa.

⁷⁸ Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada, pp 13

against the majority of the first house as it represented by population.⁷⁹ Now it is common that this protection through the upper house is territorial, linguistic or ethnic groups. The second chamber should institutionalize to check, and if it is appropriate recommends amendments to what the first chamber has proposed.

However, to perform these tasks the second chamber should compose from all distinct units of a federation and should give adequate voices to the smaller ones. But, if the composition of the second chamber is similar with that of the first chamber it is difficult to expect this function from the second chamber.⁸⁰ Because, it makes the minority group in first house still minority in second house also. Hence, composition and method of selection of members of the second chamber are the determinant factor to perform this task. Minority national groups can be assured an effective voice in the federal policy making through the second chamber if it constituted based on different method of composition and representation of members from the first house.⁸¹

Therefore, federal second chamber provide a means of moderating or counter acting the usually majoritarian tendency of the first chamber where representation is based on population size in its different compositions.⁸² However, as will be noted later, not all second chambers are playing a crucial role in this regard. This is related to its composition or methods of selection.

2.3.3. Powers of second chamber

There is no consistent pattern in assigning powers to upper houses across federations. Hence, the formal powers accorded to second chambers vary considerably.⁸³ Some have an absolute veto over all legislations;⁸⁴ Some upper chambers have the power to delay or review legislation adopted by lower chambers potentially able to amend bills but only with suspensive veto, while others institute strong form of bicameralism in which both chambers possess co-equal powers and legislation must be received and approved by both houses and almost all other decisions of the

⁷⁹Meg Russell (N.D) Representing the Nations and Regions in a new Upper House: Lessons from Overseas. Senior Research Fellow, the Constitution Unit, University College London, pp 2

⁸⁰See, Assefa Fiseha 'federalism teaching materials' pp 178

⁸¹Michael Burgess and John Pinder (2007) Multinational federations, Rout ledge series in regional and federal studies Pp 241

⁸² Ibid pp 241-2

⁸³Philip Norton (N.D) Adding Value? The Role of Second Chambers, <http://effectivesecondchamber.com/d/AddingValue.pdf>/pp 9 (accessed, Dec. 5/2013)

⁸⁴George Anderson (2008) federalism: An introduction. Oxford university press, New York, pp 49

legislature may only be enforced if they have the approval of both chambers.⁸⁵ Still in others the duties of upper chambers are solely consultative role to the first chamber.⁸⁶ As Norton said that, second chambers in some federations may be able to persuade the first chamber through advice.⁸⁷ Some others also given special considerable powers practiced alone by the second chamber in relation to presidential appointments and presidential impeachments. This is the case in USA; allocation of subsidies to member states also the case in Ethiopian federation. Nevertheless, to be effective and to provide channels of communication for component unit's interest in the decision making process at the central institutions it is important to give considerable and tangible power to the second house.

2.3.4. Composition and methods of selection

This sub topic looks at various models of constituent unit's representation in the upper houses of federations. It considers how seats can be distributed in the upper house to federated units, methods in selection of the members of federal upper house and the advantages and disadvantages of each selection methods has. There is an extraordinary heterogeneity of models for selecting the members of Second Chambers among federations. Decision on how to compose and elect members of a Second Chamber is depend on particular countries socio-cultural and political experiences.⁸⁸

As the composition of the first chamber is based on population with each elected member representing the same amount of population number, the second chamber considerably varies in its composition and in the manner its members are selected. Along with getting autonomies or self rule, in the creation of most federations, proposals upon the structure and composition of the shared institutions of federal government have often proved controversy among member states.⁸⁹ This is especially true in federal legislature, particularly the second chamber.

⁸⁵Asefa fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands Pp 152

⁸⁶___One Chamber or Two Deciding Between a Unicameral and Bicameral Legislature National Democratic Institute for International Affairs https://www.ndi.org/files/029_ww_onechamber.pdf/ pp 3(accessed. Jan. 9/2014)

⁸⁷Philip Norton (N.D) Adding Value? The Role of Second Chambers, <http://effectivesecondchamber.com/d/AddingValue.pdf> pp 9(accessed, Dcec. 5/2013)

⁸⁸Carlos Closa (2008) Bicameral Systems and Representation of regions and local authorities: The role of Second Chambers in Europe. Pp 2

⁸⁹Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada Pp 2

In some federations representation of component units in the federal second chamber is based on equal representation irrespective of the size of population a particular constituent has. The design is to make a compromise between large and small states which are entering in the federation. Small states may fear that their interests would be dominated in a parliament where the share of seats is based on population. In order to protect the interest of both large and small states, the compromise is a bicameral parliament where the upper house on equal representation for all states and the lower house is based on population number each federation unit has.⁹⁰

The point here is that federal arrangements by providing second chambers based on a different organizing principle from the lower house, limit majority rule.⁹¹ The distribution of seats in federal second chambers in terms of units may appear to counter the democratic majoritarian rule. Small component units have an opportunity in the second chamber to check the influence of the more populous units, irrespective of their population size⁹² or the small states viewpoint would not be simply overridden by states which constituted by more population. This ensures that legislation cannot pass without majority approval in a majority of states.⁹³

The second chamber of USA named senate is the classical example for this method of composition. Each state has two representatives in the senate irrespective of the population size.⁹⁴ This takes no account of population size among member states. It is designed to ensure that less populous states are not overshadowed by more populous ones. This kind of bicameral system therefore is a method of combining the principle of democratic equality with the principle of federalism; as all citizens are equal in the lower houses, while all states are equal in the upper houses.⁹⁵

However, this system is not without critics, some scholars criticize it as it violates the basic principle of democracy which is “one person one vote” and they stated it as “demos-

⁹⁰Meg Russell (N.D) Representing the Nations and Regions in a new Upper House: Lessons from Overseas. Senior Research Fellow, the Constitution Unit, University College London, pp 5

⁹¹Asefa fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands Pp147

⁹² Ibid, pp, 147

⁹³ the existence of second chambers / <http://www.ucl.ac.uk/spp/publications/unit-publications/40.pdf> Pp 6

⁹⁴Samuel c. Patterson and Anthony Mughan (N.D) Senates and the Theory of Bicameralism, <https://ohiostatepress.org/Books/Complete%20PDFs/Patterson%20Senates/02.pdf> /pp 10 (accessed, Jan. 28/2014)

⁹⁵Theory of bicameral congress (<http://en.wikipedia.org/wiki/Bicameralism>) (12/1/2014)

constraining.” To take just an example in Australian federation each state has 12 representatives in the Senate, although the population of states varies from 500,000 to six million.⁹⁶ It means that the smallest states in this federation counts more than ten times of the larger ones in the Australian senate. More surprisingly in Brazil representatives of the second chambers which represent only 43 percent of the country’s population control 74 percents of the total senate votes.⁹⁷As a result, to diminish this risk many federations have adopted, a weighted representation favoring smaller regional units rather than applying strict equality.⁹⁸ The degree of weighting varies from federation to federation.

Other federations use other method of representation of constituent units in the federal second chamber based on the number of population a particular group has. In this method component units assigned weighted representation according to the number of population. This resulted varieties in representations of federated units in federal second chamber. The degrees or the formulas of weighting vary from federation to federation.

Within this system it might be difficult to protect the interest of smaller units in the federal decision making process unless special provisions are applied in favor of the smallest or less represented units.

The representation setup or the composition of the House will have little impact in a given federation if and only if the concerned second chamber is not as such powerful or not granted considerable powers from the federal constitution. However if it has an important constitutional power its composition would bring an impact in the federal decision making process. For instance, In the case of Ethiopia, although it has no legislative role, the federal second chamber given other significant powers (budget allocation to federated units). As a result the composition of this house becomes sensitive and may have an impact in the decision making process to federated units.

⁹⁶The existence of second chambers /<http://www.ucl.ac.uk/spp/publications/unit-publications/40.pdf> Pp 6(Oct. 6/2013)

⁹⁷Ronald L. watts (2008) Comparing federal systems Third edition Institute of intergovernmental relations, school of policy studies, Queens University, pp 155

⁹⁸Ronald L. Watts, (N.D) A comparative perspective on asymmetry in federations Institute of Intergovernmental Relations Queen’s University pp 11

The other issue is whether the representatives of federated units in second chamber are elected directly or indirectly or appointed by central governments. Some federations use direct selection of representatives while others select indirectly by the constituent assemblies, still some others appointed by central government in the context of their political reality. In general members of the upper house are elected through inheritance, appointment, and direct or indirect elections. Each system has its own advantages and limitations.

Direct election in this context means, the representation system of territorial units in the federal second chamber through the direct participation of the people. This method has an advantage because the people are fully involved in the selection of its members, and they feel more sense of ownership of the chamber and its activity.⁹⁹ The political approach of the chamber will directly reflect the will of the public at the time that it was elected. The limitation of this system rests on lack of coordination or automatic connection between the state counsels and the representative of that particular state in the federal second chamber.¹⁰⁰

The other method of selection is indirect system, in this method of selection representative of the regional state in the federal second chamber are elected indirectly by members of sub national assemblies. It has also its own advantage and limitations in the operation of a given political system. Its advantage is, instead of having two separate bodies of politicians representing the same territorial area which might happen with direct election, there is a formal connection between the two levels of government in the indirect election.¹⁰¹ This is because mostly members represent the regions in the federal upper house are the members of the regional assembly which elected them.

Hence, these system links two political institutions concerned that particular region. However, this is also not without drawbacks. It raises the problem of members holding dual mandates. Regional councilors may oblige in attending of both in the federal second chamber and in their

⁹⁹ Meg Russell (N.D) Representing the Nations and Regions in a new Upper House: Lessons from Overseas. Senior Research Fellow, the Constitution Unit, University College London. Pp 6

¹⁰⁰ Ibid, pp 7

¹⁰¹ Ibid, pp 8

regional authority. This creates serious problems with including absenteeism from the chamber.¹⁰²

There are also upper house members that are elected neither directly by the people nor indirectly by state legislature, but appointed by the central government. Where members of second chamber are appointed by the federal government, they have the least political credibility as spokesmen for the federated entities, even when they are residents of the region they represent; rather they became the protectorate of central governments and party interests.¹⁰³

To sum up, although representation of all national groups which constituted a federation properly within the institution of the federal government has been typical in federations, the role of second chamber in representing states or minority nationals might be weakened by the composition and method of selection particular federations apply.

2.4. Conclusion

As I discussed earlier, Federalism can be described differently among scholars and there is no one size fits all in the application of federal system, rather it varies based on the context of each particular federation. Recently there are more than 25 countries exercising federalism as a political concept, at the same time the application of federalism in each country is different based on their socio-cultural, economic, history and political realities. Some are more centralized while some others might more decentralized and give real autonomy to component units. Some arranged asymmetrically while others structured symmetrically.

Alongside of its discrepancy, Federalism as one of the political system of state arrangement has its own distinctive features. These features include clear separation of power between levels of government and each orders of government acting within its constitutionally defined sphere of authority; the existence of relatively rigid constitution which cannot be alter or amend by each level of government alone rather it requires the consent of all federated units and the central government; there should be an independent institution that interpret the constitution and resolving disputes which may arise among constituent units and between federal and state

¹⁰²Meg Russell (N.D) Representing the Nations and Regions in a new Upper House: Lessons from Overseas. Senior Research Fellow, the Constitution Unit, University College London. Pp, 8

¹⁰³Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada Pp, 12

governments; bicameralism, for representation of federated units interest in the central decision making process. This is usually done by the institution of second chamber.

There are two types of federal arrangements i.e. symmetrical and asymmetrical federal arrangements. Symmetrical federalism is a kind of federalism where by all component units of federation granted equal or similar powers. While in asymmetrical federations a certain regions enjoy extra powers and autonomies than the rest of others. The nature of Asymmetries classified in to two as *De jure* and *de facto* asymmetries

Although *de jure* asymmetries are less common, all federations exhibit a certain level of *de facto* asymmetry. This is because each component units in a federation could not be the same in all aspects. This is more visible in multi national federations due to their very nature.

Among other variables *De facto* asymmetry in population number among constituent units resulted *de jure* asymmetries in representation of the federal legislative chamber, if the representation is based on population number. As a result larger federated unit end up with more political influence in the central decision making.¹⁰⁴

Federalism and bicameralism are highly related concept.¹⁰⁵Hence, in a federation bicameralism is a common legislative arrangement. These is because federations by its nature are a two tier governments i.e. the central and regional government. Therefore, at the national level this structure should reflect by representing the people as a whole in one house and the interest of particular units in another house.

Federal states have often adopted bicameralism, and the solution remains obvious when regional differences or sensitivities require more explicit representation with in the second chamber. Second chamber are often considered to be institutional mechanisms through which component unit interests are channeled in to the operation of central government.

While most federations have found it necessary to establish bicameral federal legislatures, in its operation there has been a massive variation among them in the composition, method of

¹⁰⁴Alexandra Funk (2010) asymmetrical federalism: A stabilizing or destabilizing factor in the multinational federation? A comparative study of asymmetrical federalism in Canada and Spain, pp 14

¹⁰⁵Swenden .W. (2004) federalism and second chambers, regional representation in parliamentary federations: the Australian senate and German Bundesrat compared. Interuniverrstiaires Europeans press, Brussels, pp24

selection of members, powers and consequently its role and significance. For instance, elections of the upper house take various forms. Some are directly elected while others are indirectly elected by state counsels and others appointed by the center. When representatives are elected directly, the second chambers serve in the processes of federal decision-making as representatives of the electorates in the federated units. Where they are indirectly elected by state legislatures, they are more of representatives of the state legislators and their political party interests. When they are appointed by the center, they tend to become more of the protectorate of the central government though they represent a particular federated unit.

In terms of composition, some federations distribute equal seats to federated units in the federal second chamber irrespective of the population size. While in others the representation of federated unit in second chamber is based on population number each component unit has. In terms of its powers some upper houses have equal power to those of the lower houses while in others the second chamber plays subordinate role to the lower chamber. Still in others the duties of upper chambers are solely consultative role to the first chamber.

Chapter Three

3. Federalism and Bicameralism in selected Federations

Introduction

This chapter is the continuation of the general discussion of the preceding chapter and stated based on the theories. In this chapter the paper discusses federal structures and bicameralism particularly in relation to representation of component units in the federal second chamber of some selected federations. Thus, the federation of USA, India, Germany and Switzerland will be explored.

USA, India, Germany and Switzerland are experienced federations. They became federations in 1787, 1950, 1949 and 1848 respectively. Relatively speaking India and Switzerland have diversified societies in terms of religion and language and the boundaries of component units are marked by these cleavages.

As in many federations, these four federations have bicameral parliaments composed of two chambers, as the first chamber serves representative of the people as a whole and the second chamber becomes representative of constituent units. In a federal state the upper chamber of the federal parliament normally serves the aim to represent federated units in the central decision-making process on one hand and to review legislations decided by the first chambers to protect the interest of federated units specially less represented regions on the other hand.

As I discussed in the previous chapter, second chambers in federations evolved for different purposes and their general structure is also different based on a specific country's experience. Accordingly, the role, composition, power and elections of second chambers in USA, India, Germany and Switzerland also vary to a considerable extent.

Thus, in the following section I will briefly analyze the composition, power and the role of the second chamber in these four federations in a comparative perspective. Apart from describing some general features, I will put the emphasis on the role of the second chamber to give real voices to small federated units in various decision-making processes and its role to counter the majoritarian rule of the first chamber.

3.1. The federation of USA

After the fall of the confederation which was established in 1781, the United States of America adopted a federation as the organizing principle for its structure of government in 1789 after the Philadelphia convention of 1787. Originally the federated units were 13 but through time the federation evolved in to 50 regional states with more than 300 million of a total population.¹⁰⁶

When the 13 North American colonies declared their independence from Great Britain, they recognized the need to coordinate their efforts and they adopted a confederation. But after the end of the war the states destroy the confederation completely as the states practice their own interests than the national interest of the new United States.¹⁰⁷ Meanwhile after the fall of the confederation important figure of United States and nationalist leaders called upon the states to send delegates to a constitutional convention and meet in the city of Philadelphia in 1787.¹⁰⁸ In this convention the constitution was born which advocate federalism as the state structure of the United States of America.

Like most federations in USA there is huge variation of population distribution among member states. The largest state in the federation named California constitute 34 million population, while Wyoming the smallest state in the federation only constitute half million peoples.¹⁰⁹

3.1.1. Bicameralism in US Federation

The federation of USA is a bicameral congress which is comprised of House of people representatives and senate as representative of the people and representative of states respectively. The house of people representatives are directly elected by the people, and currently consists of 435 representative members, the number of representatives the state has in the House is based on each state's population.¹¹⁰ All representatives serve a two-year term. Though, states seat vary in this house, each state receives a minimum of one representative.¹¹¹ In

¹⁰⁶Ronald L. Watts (2008) Comparing federal systems. Third edition, Institute of intergovernmental relations, school of policy studies, Queens University pp 29

¹⁰⁷Ellis Katz (1997) American federalism, past, present and future, The U.S. Information Service's Electronic Journal -- Issues of Democracy pp 3

¹⁰⁸ *Ibid*,

¹⁰⁹Ronald L. Watts (2008) Comparing federal systems. Third edition, Institute of intergovernmental relations, school of policy studies, Queens University 73

¹¹⁰Jennifer E. Manning (2013) Membership of the 113th Congress: A Profile, Congressional Research Service pp 1

¹¹¹ *Ibid*, pp 1-2

contrast, the Senate is made up of two senators from each state, regardless of the number of population.

3.1.2. Composition of second chambers and methods of selection

All states are represented equally in the U.S. Senate by two senators in contrast to the House of Representatives, where a representation is in proportion to the amount of the state's population. As I mentioned earlier, the equality of the states' representation in the Senate, regardless of the size of the population was designed to defend the smaller states which feared that their interests would be overlooked in the popular chamber where representation is based on population size and where the large states could typically control the majority votes.¹¹² There are currently 100 senators who serve six-year terms.¹¹³

Before 1913 senators were elected by state legislator, however, the Seventeenth Amendment of the constitution in 1913 gave that power to the citizens and now they are elected directly by the respective state population.¹¹⁴

3.1.3. Rationale of second chamber/senate

The core rationale for having second chambers in the US national legislature broadly flows from the need for checks and balances of the majoritarian first house. The intent, of course, is to balance the influence of states among themselves as well as their collective influence on the national government.¹¹⁵ This reality become clearer if one looks the powers gives to the Senate that go beyond ordinary law-making functions and participate mostly in all aspects of federation's life equally with first house.¹¹⁶

Thus, a strong rationale of institutionalizing second chamber in US federation is to represent the interest of the states in the central decision making process and counter majoritarian rule in the

¹¹²Giri Parameswaran (2012) Less Representation is better: How Large States Benefit from Bicameralism, Department of Economics Princeton University pp, 3

¹¹³_One Chamber or Two Deciding between a Unicameral and Bicameral Legislature, National Democratic Institute for International Affairs, https://www.ndi.org/files/029_ww_onechamber.pdf pp 6 (Accessed, Jan. 9/2014)

¹¹⁴http://en.wikipedia.org/wiki/United_States_Senate (6/01/2014) See, also Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada Pp, 11

¹¹⁵Sidharth Chauhan (N.D) Bicameralism: comparative insights and lessons. (http://india-seminar.com/2013/642/642_sidharth_chauhan.htm) (Accessed, Jan. 23/2014)

¹¹⁶ *Ibid*

first house. A second chamber/senate facilitates more balanced **representation** among federated units by providing a political outlet to those outnumbered or underrepresented in the lower chamber. The interests of each state equally reflect and gain equal weight in the second chamber regardless of their population number.

As noted above, In US federation the other core rationale for having a second chamber which is based on geographical representation stems from a tension between the interests of large and small regions at the time of the federation was created. In the United States, the creation of the second chamber is to counter the decisions of the first popular house and bring it with the interest of the minorities which might overlook in the first chamber.¹¹⁷ To this end the Constitution provides equal representation of all federated units irrespective of the number of population and several unique functions and powers for the Senate that enables its ability to check and balance the powers of other elements of the Federal Government.

Some writers criticize the equal representations of states in the upper house/senate, by considering as it violates the basic principle of democracy which is one person one vote principle. Because, as noted earlier the difference of population size is huge among member states which ranges from the largest 34 million up to the smallest 0.5 million populations.¹¹⁸ However, apart from its criticisms of over representation of smaller units or under representation of some states, the US second chamber effectively check the majoritarian first house and protect the interest of minority groups because without the minority consent no law can be approved. As same time it also really respects the principle of federalism which all federated units are sovereign and equal.

3.1.4. Power of second chamber/Senate

One of strong bicameralism in world federations is found in US federations. The US second chamber/senate has co-equal powers with the first chamber in all legislative matters of the

¹¹⁷Giri Parameswaran (2012) Less Representation is better: How Large States Benefit from Bicameralism, Department of Economics Princeton University pp 2-3

¹¹⁸Ronald L. Watts (2008) Comparing federal systems. Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 73

federal government except financial matters of legislation.¹¹⁹ Although both houses of Congress share basically the same powers, the Senate also has some especial sole powers which includes advice and consent appointments conducted by the president, to confirm the President's nominations and to ratify treaties, impeachments which means the Senate sits as a court of impeachment once the House has voted to impeach the accused federal government, and senators elect the vice president in the event no person gets a majority of the electoral votes.¹²⁰

3.2. The republic of India

After independence from British control India drafted a new constitution that come into effect on 1950 as a federal union of India.¹²¹ India is a diversified country in terms of language and religion. Federal nature of state structure is designed mainly to accommodate these diversities. In this regard as Watt stated,¹²² India become a federation because of the way in which it has used federal institutions and processes to hold together a linguistically diverse societies.

The Indian federation currently consists of 28 states and two other union territories. The territories are directly administered by the central government.¹²³ In a formation of Indian Federation, both the Union and State are equally sovereign and supreme. In the distribution of powers, actions related to uniformity of laws throughout the country is desirable to the Union and powers in matters concerning the state or local interest are being given to the State.¹²⁴ Relatively speaking India is a centralized federal state and could be both unitary as well as federal according to the requirements of time and circumstances.¹²⁵ As an indicator of its centralization, it can be notes that the constitution under article 3 empowers the federal Parliament to abolish or create States and even can alter the name of that state without their consent.¹²⁶ Therefore, it is argued that the very existence of States depends upon the will of the

¹¹⁹ Read more: <http://www.answers.com/topic/united-states-senate#ixzz2pb5fyPTE>

¹²⁰ *Ibid*

¹²¹ Ronald L. Watts (2008) Comparing federal systems. Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 36

¹²² *Ibid*, pp 36

¹²³ Asefa Fesiha (2007) Federalism and the accommodation of diversity in Ethiopia: a comparative study. Wolf legal publishers, Netherlands, pp185

¹²⁴ Madabhushi Sridhar (N.D) Evolution and Philosophy behind the Indian Constitution <http://www.hrdiap.gov.in/87fc/images11/4.pdf> pp 19 (Accessed Jan. 24/2014)

¹²⁵ *Ibid*, pp 20

¹²⁶ The constitution of India, government of India Ministry of law and justice, New Delhi (article 3)

federal Parliament. Parliament also can change the boundaries of the States.¹²⁷ In addition to this, residual powers in Indian federation also unlike most federations given to the union government.¹²⁸

In India there is a huge difference of population size among constituent units which ranged from 166.2 million up to half millions.¹²⁹ This is mainly because the division of states has largely been done in accord with a certain degree of linguistic, cultural or ethnic bases, and as a result the population of these groups varies tremendously when compared with each other.¹³⁰

3.2.1. Bicameralism in Indian federation

The Parliament of India is bicameral which consists of two houses, lower house is called as house of people or Lok Sabha and the upper house called as Council of States or Rajya Sabha. The Lok Sabha constituted not more than 530 members but additional 20 seats are allotted to union territories.¹³¹

Currently the Lok Sabha consist 545 members which are elected from all component units on proportional basis of population. The other chamber, the Rajya Sabha is designed to represent the regions and has maximum 250 members.¹³²

3.2.2. Composition of second chamber and methods of selection

The distribution of seats among the various states and union territories is done in accordance with a formula enumerated in the Fourth Schedule of the Constitution, which is read in Articles 4(1) and 80(2).¹³³ Each federated units are represented in this house. The allocation of seats is made on the basis of the population of each State. Hence, although all component units are represented and even the system gives a weighted advantage to the smaller states in proportion to

¹²⁷Madabhushi Sridhar (N.D) Evolution and Philosophy behind the Indian Constitution/<http://www.hrdiap.gov.in/87fc/images11/4.pdf>/ pp 20 (Accessed Jan. 24/2014)

¹²⁸ Indian constitution, article 248

¹²⁹ Ronald L. Watts (2008) Comparing federal systems. Third edition, Institute of intergovernmental relations, school of policy studies, Queens University pp 73

¹³⁰ *Ibid*, pp 36-37

¹³¹ V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of Rajya Sabha. Government of India press, New Delhi pp 9 see, also article 81 of the Indian constitution

¹³² _Composition of Rajya Sabha, constitutional provision, http://rajyasabha.nic.in/rsnew/rsat_work/chapter-2.pdf/pp 24 (Accessed Jan. 18/2014)

¹³³ See, forth schedule of Indian constitution

their population the minorities in first house is still minorities and dominated by populous regions in second house.

Though, the maximum number of Rajya Sabha has been fixed at 250 members, currently its number is 245¹³⁴ out of these 233 members are elected representatives of the States and the Union Territories and the remaining 12 members are nominated by the President from amongst those who have special knowledge or practical experience of such matter as Literature, Science, Art and Social Services.¹³⁵ The representatives of a State in Rajya Sabha are elected indirectly by the State Legislative Assembly.¹³⁶

Table 1: Indian regional states and their number of seats in federal second chamber/Rajya Sabha

No	Name of state	No. of seats
1	Andhra Pradesh	18
2	Arunachal Pradesh	1
3	Assam	7
4	Bihar	16
5	Chhattisgarh	5
6	Goa	1
7	Gujarat	11
8	Haryana	5
9	Himachal Pradesh	3
10	Jammu & Kashmir	4
11	Jharkhand	6
12	Karnataka	12
13	Kerala	9
14	Madhya Pradesh	11
15	Maharashtra	19
16	Manipur	1
17	Meghalaya	1

¹³⁴ _Composition of Rajya Sabha, constitutional provision, [/http://rajyasabha.nic.in/rsnew/rsat_work/chapter-2.pdf](http://rajyasabha.nic.in/rsnew/rsat_work/chapter-2.pdf) pp 24 (Accessed Jan. 18/2014)

¹³⁵ See, Indian constitution, article 80/3

¹³⁶ *Ibid*, 80/4

18	Mizoram	1
19	Nagaland	1
20	Orissa	10
21	Punjab	7
22	Rajasthan	10
23	Sikkim	1
24	Tamil Nadu	18
25	Tripura	1
26	Uttaranchal	3
27	Uttar Pradesh	31
28	West Bengal	16
29	The National Capital Territory of Delhi	3
30	Pondicherry	1
31	Nominated by the president	12
Total		245

Source: Indian constitution forth schedule, article, 4(1) and 80(2).

3.2.3. Rationale of the second chamber/Rajya Sabha

Most of the justifications for a Second Chamber which stated in chapter two are relevant in the case of Indian Second Chamber as well. The vast diversities of cultures, languages, and interests in India necessitated an institutional structure for reflecting pluralism, and these diversities have been best accommodated through the Second Chamber.¹³⁷ In such circumstances, the creation of a second chamber in the Union Parliament was deemed to be essential for accommodating the diverse interests of the constituent units and to ensure that all constituent units have some voice in law-making at the Union level. Hence, representation and counter balance of the other chamber is the main rationale of the second house.

Representation in this sense is reflection of component unit's interests. Although federated units are not equally represented like US federation, the Rajya Sabha provided representation to all component units in Indian federation. Each state is at least represented by one seat. Hence, one significant role of the Rajya Sabha is giving a representation to the states in the federal

¹³⁷V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of Rajya Sabha. Government of India press, New Delhi pp 2

legislature. As a federal Chamber, it has been assigned some special powers, impacting the regional interests in the central government. The Rajya Sabha being the representative house of the states reflects their aspirations. Therefore, Rajya Sabha is the reflecting surface of the issues faced by different states.

The other rationale is Check and balance of the other chamber of parliament. As a general theory Second Chamber is essential to check hasty legislation. Accordingly, Rajya Sabha, in Indian federation has the authority to discuss and delay legislation.¹³⁸ As a Second Chamber, it has the mandate to secure a second look at hasty legislation.

Nevertheless, the Indian second chamber might be important to counter the federal government decision against the collective interest of the regions. However, in other dimension it is difficult to check and balance the majoritarian rule of a certain populous regions in first house because of the composition of the second house. (The minority in first house is still minority in second house.) The composition of Rajya Sabha replies the composition of Lok Sabha. For instance, populous region in Indian federation named, Uttar Pradesh has 80 seats in the first house at same time 31 seats in the second house. While the small federated unit named, Sikkim has only one seat in first house and still also one seat in the second house.¹³⁹ Hence, there are possibilities of domination of minority nationals in the decision making process.

3.2.4. Power of second chamber/ Rajya Sabha

The Indian second house has equal powers in much federal legislation with that of the first house and has considerable status in initiating, deliberating and passing decisions in almost all the sphere of governance.¹⁴⁰ Except in certain financial matters which are to be the sole concern of the Lok Sabha, Rajya Sabha enjoys co-equal status in all respects. However, in the case of disagreement the issue is steered through joint session voting. In this case it is obvious that the interest of Lok Sabha will prevail by its numerical advantage. Because the Constitution provides

¹³⁸V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of Rajya Sabha. Government of India press, New Delhi pp 5

¹³⁹<file:///G:/india/PARLIAMENT%20OF%20INDIA%20good.htm> (20/1/2014)

¹⁴⁰V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of Rajya Sabha. Government of India press, New Delhi pp 10

that final disagreement between the two Houses should be resolved through a joint sitting of the two Houses joint majority votes.¹⁴¹

Just like the US federation of second chamber, the Indian Rajya Sabha has restricted role in financial matters. A Money Bill cannot be introduced in the Rajya Sabha.¹⁴² It has to be introduced only in the Lok Sabha and after it is passed by that House, it has to be transmitted to the Rajya Sabha for its recommendation.¹⁴³ The Lok Sabha has the power of either accepting or rejecting the recommendations, made by the upper house.

Differently with other legislations, the Rajya Sabha possesses strong authority and power with regard to the amendment of the Constitution. A Constitution Amendment Bill can be introduced in either House of Parliament and has to be passed by majority vote in each House of Parliament separately.¹⁴⁴ Unlike other legislations, in the constitutional amendment issue there is no provision for a joint sitting of both Houses to resolve a deadlock which mostly favor the first house because of its numerical advantage. This principle gives the second chamber absolute veto in relation to this particular power.

3.3. The Federal Republic of Germany

The federal republic of Germany established in 1949 has firm historical roots in the earlier experience of the German empire (1871-1918), The Weimar republic (1919-1934), the failure of the totalitarian centralization of third reich (1934-1945) and the immediate power influence of the allied occupying force.¹⁴⁵ In 1949 the eleven Landers of West Germany became the federal republic of Germany. More than three decades later the reunification of Germany in 1990 provided for the accession of five new Landers from former East Germany.¹⁴⁶

As a federal state, Germany's federal system is made of two tiers, that is, the central level and regional States. Now, The Federal Republic of Germany is a federal state comprising of 16 federal states, the so called Lander. In the structure of the German state, the Lander represents an

¹⁴¹ See, Indian constitution, article 108/c

¹⁴² *Ibid*, article, 109/1

¹⁴³ *Ibid*, 109/2

¹⁴⁴ V.K. Agnihotri (2009) second chamber in Indian parliament: role and status of Rajya Sabha. Government of India press, New Delhi pp 11

¹⁴⁵ Ronald L. Watts (2008) Comparing federal systems. Third edition, Institute of intergovernmental relations, school of policy studies, Queens University pp 35

¹⁴⁶ *Ibid*, 35

independent level of government endowed with its own rights and obligations.¹⁴⁷ However, Germany characterizes by being highly cooperative federations because of its high level of interdependence which exists between the federation and the Landers. Only in the few areas of competences a federation and Lander act separately from one another.¹⁴⁸ The federal government has been given the predominance in the exercise of legislative powers while the Lander has been constitutionally assigned mainly the implementation of the federal legislation and policies.¹⁴⁹ Though, the population of Germany is relatively homogeneous, there is a huge asymmetry in population size among Landers in German federation which Ranging from 18 million in Land of Nordrhein-Westfalen to 660.000 in City State of Bremen.¹⁵⁰

3.3.1. Bicameralism in German federation

Germany is a bicameral federation composed of two chambers named bundestag and the Bundesrat. The German Bundestag is the first house of the national Parliament of the Federal Republic of Germany and composed of 631 Members elected for four-year terms. They represent the people of Germany as a whole.¹⁵¹ The second chamber or Bundesrat has 69 members which consisted of delegates from the constituent state governments and not representatives of the people or state parliaments.¹⁵²

3.3.2. Composition of second chamber and method of selection

The Bundesrat or the second chamber of Germany has 69 votes. The number of seats a particular state gained is allocated according to its population size. In this way, smaller states would have more votes than the larger state when one relate it proportional to the population number. Each state is allocated at least minimum three votes, and a maximum of six. Accordingly, states with less than 2 million inhabitants have 3 votes, States with more than 2 million inhabitants have 4

¹⁴⁷The federal financial equalization system in Germany, http://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Oeffentliche_Finzen/Foederale_Finanzbeziehungen/Laenderfinanzausgleich/Englisch_BFAG.pdf?__blob=publicationFile&v=2 pp 1 (Accessed on Dec. 22/2013)

¹⁴⁸ Charlie Jeffery (1998) Multi-Layer Democracy in Germany: Insights for Scottish Devolution, Institute of German Studies University of Birmingham pp 7

¹⁴⁹ Hellmut Wollmann (N.D) The recent reform of German federalism- towards more heterogeneity and competition between the Lander? Humboldt University, Berlin pp 8

¹⁵⁰ *Ibid*, pp 4

¹⁵¹ Basic Law for the Federal Republic of Germany, article 38/1

¹⁵² Thomas konig (2001) bicameralism and party politics in Germany: an empirical social choice analysis, Konstanz University, pp 418

votes, 6 million inhabitants have 5 votes and states 7 and above million inhabitants will have 6 votes.¹⁵³

As I have said before, the overarching theory behind such an allocation of seats is to safeguard the interests of the smaller states while at the same time ensuring the adequate representation of the larger states, so that the will of the representatives of a minority of the electorate does not prevail over that of those who represented the majority. At the same time the interest of the minority will not easily dominated by the majorities.

One unique feature In German federation is that the votes in the Federal Council are controlled by the Lander governments rather not by the Lander parliaments.¹⁵⁴ In other words the second chamber are not represented the state parliaments but the state governments. The members of the Bundesrat are elected by the state governments from among their members. They are usually state presidents and ministers of that particular state.¹⁵⁵

Table 2: German Landers and their number of seats in the federal second chamber/Bundesrat

No	Name of states	No. of seats
1	Baden- Wurttemberg	6
2	Bavaria	6
3	Berlin	4
4	Brandenburg	4
5	Bremen	3
6	Hamburg	3
7	Hessen	5
8	Mecklenburg-Vorpommern	3
9	Lower Saxony	6

¹⁵³See, on article 51/2 of German constitution

¹⁵⁴Hellmut Wollmann (N.D) The recent reform of German federalism- towards more heterogeneity and competition between the Lander? Humboldt University, Berlin pp 6

¹⁵⁵Milos Sencur (N.D) the bicameral system as a successor to decentralization, University of Ljubljana, Faculty of Administration, Slovenia pp 50

10	North Rhine-Westphalia	6
11	Rhineland-palatinate	4
12	Saarland	3
13	Saxony	4
14	Saxony-Anhalt	4
15	Schleswig-Holstein	4
16	Thuringia	4
Total		69

Source: <http://www.mongabay.com/history/germany/germany-bundesrat.html#8CTxP6Q80o7vSk0t.99>

3.3.3. Rationale of second chamber/Bundesrat

Like many other federations the German second chamber was formulated for various purposes. Such as, facilitate intergovernmental relation among member states, strengthen the unity of the federation, Representation of federated units in the central legislation and counter weight the popular first house.

It is obvious that, one core rationale having second chamber in German federation is to represent the component units. However, the representation type of German second house is different from others because it is representative of state governments not the people or state parliaments. The Bundesrat comprises representatives of the governments of the Lander and acts as the second chamber in the federal law making process. It legally guarantees Lander participation in the federal legislation process and represents the interest of all component units which form a federation.¹⁵⁶In article 50, the federal constitution gives the power to the Lander in participating through the Bundesrat in the legislation and administration of the Federation.

Check and balance of the first house also other core rationale of instituting German Bundesrat. Though it is not like the US federation which strictly follows equality of states representation in the federal second chamber, it gives more seats to less populous regions to protect them from the majoritarian rule of first house. Since it also has absolute power over most legislations of the

¹⁵⁶ Charlie Jeffery (1998) Multi-Layer Democracy in Germany: Insights for Scottish Devolution, Institute of German Studies University of Birmingham pp 4

federal government which affects the member states, it can effectively defend the collective interest of the states.

3.3.4. Power of Second chamber/Bundesrat

The second chamber possesses an absolute veto power in the federal legislative process. As enumerated in the Basic Law particularly those legislative matters which affect the Lander interests require the consent of the Bundesrat. In comparative terms it is a strong second chamber, possessing an absolute veto power over wide areas of federal legislation and suspensive veto over the rest.¹⁵⁷ Aside from constitutional legislation, the absolute veto typically applies to bills which affect the Lander in their administrative role. This applies to roughly 60% of all federal laws.¹⁵⁸ In relation to constitutional amendments, the Bundesrat has veto power and 2/3 majority votes require for the approval of the proposed amendments.

3.4. The federation of Switzerland

Although Swiss existed as a confederation since 1291, the new constitution which was adopted during 1848 converted Switzerland in to federations. Switzerland is a small country which only constituted about 7 million people. Currently the federation consist 26 federated units called cantons from which six are named half cantons.¹⁵⁹

Switzerland is one of the most decentralized federations in the world. The constitution grants cantons and communes a maximum of political self-determination and restricting the competences of the federal authorities in the area of state competency.¹⁶⁰

In Swiss federation the highest political power resides in the hand of federal assembly which comprises from two important chambers.¹⁶¹ As a multilingual federation Switzerland recognized four official languages German, French, Italian and Romanics that are used in different regions

¹⁵⁷Hellmut Wollmann (N.D) The recent reform of German federalism- towards more heterogeneity and competition between the Lander, Humboldt University, Berlin pp 7

¹⁵⁸ Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University, Canada Pp, 13

¹⁵⁹Ronald L. Watts (2008) Comparing federal systems. Third edition, Institute of intergovernmental relations, school of policy studies, Queens University pp 30

¹⁶⁰Wolf Linder and Adrian Vatter (N.D) Institutions and outcomes of Swiss federalism: the role of the cantons in Swiss politics, university of Berne pp 4

¹⁶¹Wolf Linder and Isabelle Steffen (N.D) Swiss Confederation, international association of center for federal studies pp 5

of the country.¹⁶² The Federal arrangement guaranteed the cantons to live with their linguistic and religious differences. Therefore, in Swiss, Federalism helps to overcome the strong political cleavages of religion and language in a peaceful way.¹⁶³

Just like the above three federations, there are huge asymmetries among cantons in population size. For instance, smallest canton named Appenzell-inner Rhodes only have 15000 inhabitants, and the biggest canton named Zurich constituted a population more than 1.3 million inhabitants.¹⁶⁴ Apart from these distinctions all 26 cantons have equal competences and rights of autonomy. The only distinction between full and half cantons is in respect to representation in the federal second chamber, full cantons may send two, half cantons only one member to the second chamber of Switzerland's federal parliament.¹⁶⁵

3.4.1. Bicameralism in Swiss federations

Like most federal countries, Switzerland has a two-chamber federal parliament with one chamber representing the population and one chamber representing the federal states. The members of the Council of the States are primarily representatives of the cantons, while the National Councilors are representatives of the people.

The National Council in Swiss federation is House of People Representatives. This chamber has 200 elected members in every four years term.¹⁶⁶ Its representation is based on population numbers. As a result since, each canton have extremely different numbers of inhabitants, a few smaller cantons only send one member to the national council while others may send many relative with others. For instance, the smallest canton only send one while the largest canton got 34 seats.¹⁶⁷ The other chamber named, the Council of States represents the cantons. Full cantons send two representatives, half cantons one, making a total of 46 members.¹⁶⁸ Unlike the first

¹⁶²Bernard Dafflon (2004) Federal-Cantonal Equalization in Switzerland: An Overview of the Present System and Reform in Progress, pp 10

¹⁶³Wolf Linder and Isabelle Steffen () Swiss Confederation, international association of center for federal studies

¹⁶⁴Ronald L. Watts (2008) Comparing federal systems. Third edition. Institute of intergovernmental relations, school of policy studies, Queens University pp 73

¹⁶⁵Thomas Stauffer, Nicole Topperwien, And Urs Thalmann-Torres (2002) Swiss confederation: History and Development of Federalism, pp 345

¹⁶⁶Thomas Stauffer, Nicole Topperwien, And Urs Thalmann-Torres (2002) Swiss confederation: History and Development of Federalism, pp 353

¹⁶⁷ *Ibid*, pp 354

¹⁶⁸ *Ibid*, pp 353

house which representation is based on population number, in the second house all cantons are represents equally except half cantons.

3.4.2. Composition of second chamber and methods of selection

As noted above, the Council of States has 46 members, two from each 20 full cantons and one from each six half canton. With regard to representation of component units in the federal legislature, the Swiss system is similar to that of the US bicameralism, consisting of two legislative chambers, in which the national legislative council represents the people and the counsel of states represent the member states equally regardless of the population size except six half cantons.

Switzerland is a little bit different in selection of members of the federal second chamber as it give full autonomy to each canton and the canton may use different techniques from each other to select its representatives.¹⁶⁹ The cantons may decide themselves who is going to represent them and how long the period of office is. However, as the source indicates that, in most cantons the members of the Council of States are elected directly by the respective state population on the same day the election for the National Council takes place.¹⁷⁰

Table 3: Swiss cantons and their number of seats in the federal second chamber/counsel of states

<u>No</u>	Name of states	No. of seats
1	Zurich	2
2	Bern	2
3	Vaud	2
4	Aargau	2
5	Basel-Lands haft	1
6	St. Galen	2
7	Geneva	2

¹⁶⁹ Wolf Linder and Isabelle Steffen (N.D) Swiss Confederation, international association of center for federal studies pp 6

¹⁷⁰ *Ibid*

8	Basel-Stadt	1
9	Lucerne	2
10	Ticino	2
11	Valais	2
12	Solothurn	2
13	Fribourg	2
14	Thurgau	2
15	Graubünden	2
16	Neuchatel	2
17	Schwyz	2
18	Appenzell-Ausserrhoden	1
19	Zug	2
20	Nidwalden	1
21	Schaffhausen	2
22	Jura	2
23	Obwalden	1
24	Glarus	2
25	Uri	2
26	Appenzel-Innerrhodes	1
Total		46

Source: <http://en.wikipedia.org/wiki/councilofstates%28switzerland%29>

3.4.3. Rationale of second chamber/ Council of the States

As in many other federations the justification of formulating second chamber in Swiss federation is rested in two main issues, representation of different interests and counter balance of the majority first house.

The first rationale goes to Representation of interests. The Swiss second chamber represents different types of interests that existed in federated units. As I noted earlier the federation of Switzerland is one which accommodates diverse societies in terms of religion, culture and language. The first chamber alone cannot solve this problem unless it helped by the second

chamber by giving adequate voices to the minorities which represent but outnumbered in first popular house.

With regard to check and balances of the first house, except the classification of full and half cantons the constitution of Swiss federation assigns equal representations to all federated units irrespective of the population size. This gives the smallest regions the legal power to check the majoritarian decisions in the first house. Like US federation the second chamber of Swiss federation is very strong and has veto power in all legislation of the federal government.¹⁷¹ This strength also gives the chance to federated units to protect their collective interests against the central government decision.

3.4.4. Power of second chamber/ Council of the State

Second chambers in Swiss federation are very strong and have co-equal powers in all legislation of the federal government and can initiate constitutional amendments and bills and propose the revision of laws. Every law must be approved by a majority in second chambers to become valid.¹⁷² If a bill, fails to gain a majority in this chamber, the two chambers try to solve the issue through compromise which finally involves negotiation between representatives of the two chambers in a joint committee.¹⁷³

3.5. Conclusion

This chapter mainly discussed the practice of bicameralism in those four selected federations in general and the composition, rationale, power and role of second chamber in particular. The chapter also tried to show the impact of compositions of regional states in the federal second chamber in the decision making process and in the protection of minority regions found in a particular federation. Each federation is varying in these regard.

Hence, In terms of composition, the US federation gives equal representations to all component units irrespective of the population size. While other three federation use weighted

¹⁷¹ Ronald watt (N.D) Participation of Federated Entities in Federal policy-making, Queen's University Canada Pp, 11

¹⁷²Wolf Linder and Isabelle Steffen (N.D) Swiss Confederation, international association of center for federal studies

pp 4
¹⁷³*Ibid*

representation. The degree of weighting varies from Switzerland, which provides full cantons with two members and half cantons to one, up to India with a largest state 31 to smallest state only one representative. There is also a considerable variety in the ways in which members of federal second chambers are elected in these four federations. In Switzerland and the United States they are now directly elected by the respective states. In India except 12 members which is nominated by the center, other members are elected indirectly by the respective state legislatures. Differently in Germany the members of Bundesrat is elected indirectly by the state governments not by the state parliaments or the peoples.

With regard to their role, the second chamber of USA, Switzerland and Germany plays an important role especially in counter balancing of the majoritarian decisions in the first house. This is mainly because in these federations the compositions of the two houses are different. While in Indian federation although it represents all component units in the central decision making process, the composition of Rajya Sabha replies the composition of Lok Sabha. In this situation there is no mechanism for the smaller states to check the decisions of the Lok Sabha. It is totally in the hands of the largely populated states. This will result weak counter check of majoritarian rule.

In relation to powers of second chamber, the second chamber of Swiss federation has co-equal powers with that of popularly elected first house in all matters of legislations. Like in Swiss federation, In USA the senate has equal powers with that of the house of people representatives except financial legislations which can only originated from direct representative of the people. In Germany also Second chambers are empowered to exercise veto powers regarding key issues that affect the interest of the states. The Indian second chamber is certainly less powerful compared to the other three federations. Though, there are many powers which can be passed only after the approval of Rajya Sabha, in the case of disagreements the joint setting principles makes the lower chamber marginal because of the first Houses numerical advantage.

Chapter Four

4. Ethiopian federalism and asymmetrical representation of federated units in the House of Federation and its impact on decision making process

Introduction

The previous chapter discussed about the nature of federalism and the experience of some selected federations regarding their representation system of federated units in the second chamber of their parliament. This chapter aims at providing a general analysis about the politics of federalism in Ethiopia and representation system of federated units in the federal institution particularly in second chamber named the House of Federation from different angles while providing answers the questions stated in chapter one. Thus, basic features of Ethiopian federalism, bicameral structure of the national legislature, asymmetrical representation of federated units in the House of Federation and its impact in the decision making process on powers vested in the House with the main emphasis of the determination of subsidy allocation formula to regional states will be discussed.

Ethiopia is one of the ancient countries with a long history of independent statehood and the home of more than 80 ethnic groups which diverse in terms of language, culture, history, religion and identity. Ethiopia was ruled under centralized system of government for centuries and it was the first time that the current regime transformed the country from this trend by adopting federal system of governance.

There was a considerable tension between the country's nationalities; and it was this tension that lead Ethiopia's remarkable experiment of ethnic federalism as a panacea.¹⁷⁴As Christophe van der Beken says that in contemporary world federal political systems are increasingly used by states with a multi-ethnic population as a mechanism to accommodate the demands of their ethnic groups as well as to protect their territorial integrity.¹⁷⁵ Similarly, the adoption of federalism in Ethiopia appears to have been motivated by the problem of finding an appropriate

¹⁷⁴Tsegaye Regassa (2010) learning to live with conflicts: Federalism as a tool of conflict management in Ethiopia -- an overview. MIZAN LAW REVIEW Vol. 4 No.1, March 2010. Pp 53

¹⁷⁵Christophe Van der Beken (N.D) Federalism and the Accommodation of Ethnic Diversity: The Case of Ethiopia/https://www.unileipzig.de/~ecas2009/index.php?option=com_docman&task=doc_download&gid=1358&Itemid=24 pp 1

state structure that could be used as an instrument of managing the complex ethno-linguistic diversity of the country and reduce conflicts.¹⁷⁶ That is why the 1995 Constitution with the leadership of the EPRDF reject the centralized power and build decentralized governance under ethnic federalism. As Tegegne and Dickovick stated that, this was an explicit attempt to manage the fractious nature of national politics by accommodating the different nationalities through decentralized power by giving self determination or administration right to all ethno-nationalist groups.¹⁷⁷

The FDRE constitution creates nine regional states and ethnicity plays a major role in delimiting the boundaries of the state. It is further elaborated in the constitution that states shall be delimited on the basis of the settlement patterns, language, identity and consent of the people is concerned.¹⁷⁸ These resulted an asymmetrical federation in terms of population size which combines populous regional states like Oromiya and Amhara and sparsely populated regional states like Gambella and Somali.¹⁷⁹ However, the constitution grants equal power to all regional states irrespective of their actual differences in terms of population, territorial size and economic capacity. As it clearly stated under article 47/4 Member States of the Federal Democratic Republic of Ethiopia shall have equal rights and powers.¹⁸⁰

The regional states can be classified in to two based on their ethnic compositions. The first group is Tigray, Afar, Amhara, Oromia and Somali regional states taking the name of their majority ethnic groups are more or less ethnically homogeneous with a single dominant ethno-linguistic community at regional level. While the second group is southern Nations, Nationalities and People's region; Gambella; Benshangul Gumuz and Harari are multi-ethnic regions and without a single dominant ethno-linguistic groups.¹⁸¹

¹⁷⁶Asnake Kefale (2009) *Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions*, , Lidein University, the Netherlands Pp 82

¹⁷⁷J. Tyler Dickovick and Tegegne Gebre-Egziabher (2010) *Comparative Assessment of Decentralization in Africa: Ethiopia desk study*, Report prepared for the United States Agency for International Development. Contract: DFD-I-00-04-00227-00, Task Order 15. Pp 3

¹⁷⁸Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 46/2

¹⁷⁹Ethiopia: Ethnic Federalism and Its Discontents. Crisis Group Africa Report N°153, 4 September 2009 Nairobi/Brussels pp 5

¹⁸⁰Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. 47/4

¹⁸¹See, Mehari Taddele, (N.D) *Federalism and Conflicts in Ethiopia* (unpublished), pp 3, and Berhanu Gutema Balcha (2007) *Restructuring State and Society: Ethnic Federalism in Ethiopia*. Aalborg University, Denmark. pp 100

4.1. Unique features of Ethiopian federalism

As I discussed on the theories in chapter two, each federal arrangement outs from the context of a particular socio-economic and political reality of a given federation. Due to this each federation has its own distinctive features which corresponds its own socio-economic and political realities. Similarly, the Ethiopian federation has its own distinctive features corresponding to its culture, composition of the people, economic and historical realities. The 1995 FDRE constitution drafted to reflect these realities and shape with its own ideological and practical orientations. Some of the unique features of the federation stated here under.

4.1.1. Ethnicity as a marker in delimiting state boundaries

Before going to discuss the issue, it is important to describe the concept of ethnicity that is forwarded by different sources. There is no generally agreed definition of ethnicity; scholars define and describe the term in various ways. Ethnicity simply refers to relationships between groups whose members consider themselves as distinctive¹⁸² or it is a sense of identity that can be used to create internal cohesion and differentiate themselves from other groups.

There are two contending theoretical arguments to describe ethnicity named as primordialist and instrumentalist theorists. According to primordialist argument ethnicity or ethnic community is founded on the belief of the primordial attachments that arise from being born into a particular religious community, speaking a particular language and following particular social practices.¹⁸³ These theories assume that the ethnic identities that describe individuals and population are singular, timeless, permanent and fixed for all time. While Instrumentalist theories view ethnicity/ ethnic identity as a dynamic aspect of social organization, as something that can be changed, constructed and manipulated for different purposes.¹⁸⁴

In 1991 Ethiopia established an ethnic federal system that gave full recognition to ethnic autonomy, while preserving the unity of the country. Its 1995 constitution created a federal

¹⁸²Berhanu Gutema Balcha (2007) *Restructuring State and Society: Ethnic Federalism in Ethiopia*. Aalborg University, Denmark. pp 35-36

¹⁸³ *Ibid*

¹⁸⁴ *Ibid*

system largely consisting of ethnic-based territorial units. Ethiopian Federalism can be described as a political system consisting of ethnic based territorial units, ethnically defined political representation and decision-making at all administrative levels¹⁸⁵ and involves self-administration over the cultural, linguistic, or ethnic matters of a determined group. As a result, nine regional governments were created as part of the federation on the basis of language and ethnic identity. That is why Ethiopian federalism has been called 'ethnic federalism', distinguishing it from federalism in a country such as the United States, where regional borders do not delimited based on ethnic cleavages.¹⁸⁶

4.1.2. House of Federation as constitutional adjudicator

In federations it is obligatory to institutionalize a body that umpires disputes concerning the constitutionality of laws in general and the division of powers among layer of governments in particular.¹⁸⁷ In different federations this task is given to various institutions based on the historical and political context of those particular federations. In the federation of USA and Australia this power is reserved for the federal Supreme Court while in Germany the task is assigned to special constitutional court.¹⁸⁸ In a different way, in the 1995 Ethiopian federal constitution, this task is assigned to the second chamber known as the House of Federation.¹⁸⁹

The rationale of giving this power to HoF has its own justifications. As Assefa noted that the constitution is considered as the reflection of the 'free will and consent' of the Nation, Nationalities and Peoples of Ethiopia and since the House is the reflection of this composition, it is only the nationalities should be the ones to be vested with the power of interpreting it.¹⁹⁰

¹⁸⁵Ethiopia: Ethnic Federalism and Its Discontents. Crisis Group Africa Report N°153, 4 September 2009 Nairobi/Brussels pp 1

¹⁸⁶Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 108)

¹⁸⁷Assefa Fiseha, Constitutional adjudication in Ethiopia: exploring the experience of the House of Federation (HoF) mizan law review vol. 1 no.1, 2007 pp 1

¹⁸⁸Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 111)

¹⁸⁹See, Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Articles 62 and 83

¹⁹⁰Assefa Fiseha, Constitutional adjudication in Ethiopia: exploring the experience of the House of Federation (HoF) mizan law review vol. 1 no.1, 2007 pp 10

Similarly, Christophe van der Beken also clearly stated about the motive behind giving this power to HoF by saying that,

.....The constitution grants all sovereign powers to the nations, nationalities and peoples of Ethiopia and states that the constitution is an expression of their sovereignty. From this perspective it is not surprising that the constitution allocates the constitutional review power to the institution that is composed of representatives of those nations, nationalities and peoples. Since all ethnic groups have a right to be represented in the House of the Federation, the ethnic representativeness of the institution competent for constitutional review is guaranteed.¹⁹¹

But, since interpreting a constitution needs a legal knowledge the HoF is assisted by the Council of Constitutional Inquiry (CCI), comprises of eleven members, the president and his deputy of the Federal Supreme Court, who serve the president and vice president of CCI respectively, Six legal experts are appointed by the President of the Republic with the recommendation of the House of people representatives who shall have proven professional competence and high moral standing, and three persons are designated by the HoF from among its members.¹⁹² The council examines the constitutional issues and submits its findings to the House for final decision. Which means the Council of Constitutional Inquiry is not itself a constitutional court; it is only an advisory body to the House of the Federation. It is the latter that has the ultimate authority to interpret the constitution.

4.1.3. Insignificant role of second chamber in law making process (Unicamralism)

In Ethiopia when a federal system has been put in place, formal bicameralism was envisaged. However, though the constitution creates a bicameral legislature, a more serious analysis suggest that the constitution take up bicameralism in form not in its strict sense because as discussed in the theories in chapter two bicameralism is a two House parliament and both chambers involved in the federal law-making process with one usually requiring the consent of the other to pass legislation. But in the case of Ethiopia, the second chamber, namely the HoF is not functioning as a legislative body and not involved in lawmaking process. As a result, it is very difficult to

¹⁹¹Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 112)

¹⁹²See, Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article, 82/2

consider the federal system in Ethiopia as a bicameral.¹⁹³ To be called a bicameral as discussed in the theory, the involvements of the two chambers in the legislation process is needed. But in Ethiopian federation the legislation process resides only to the House of People Representative and it has powers to legislate alone in all matters assigned by the constitution to federal jurisdiction.¹⁹⁴ Unlike other federations the FDRE second chamber participation in law making process restricted only in limited cases. Therefore, instituting bicameral legislature in form and unicameral in actual operation is the other unique feature of Ethiopian Federalism.

4.1.4. The right to self determination including secession

Self determination includes many things like promoting one's culture and history within a territory, the right to use and develops ones language, establishing institutions of government in its own territory and representation in the institutions of government at varying orders. Accordingly, in the FDRE constitution these rights are given to all nation, nationality and peoples.¹⁹⁵ Hence, each 'nation, nationality, and peoples' is provided with 'the right to speak and develop their own language, to promote and express their own culture and history; they have the right to self-administration within a particular territory and the right to be represented at the regional and federal levels of government.'¹⁹⁶

In addition to that the FDRE Constitution under Article 39 provides that all nation, nationalities and peoples of Ethiopia have unconditional right to self determination up to secession. It makes Ethiopia's federalism unique and differs from the other federations.¹⁹⁷ There are two contending groups arguing about this right. Some consider it as a guarantee and foundation of peace and brings unity with diversity. Others reject this assumption and arguing that the right to secession paves the way for disintegration and puts the survival of Ethiopia under threat. Nevertheless,

¹⁹³Berhanu Gutema Balcha (2007) *Restructuring State and Society: Ethnic Federalism in Ethiopia*. Aalborg University, Denmark. Pp 113

¹⁹⁴Hashim Tewfik (2010) *Transition to Federalism: The Ethiopian Experience*, Forum of Federations Ontario, Canada. Pp 17

¹⁹⁵Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. article 39/3

¹⁹⁶Christophe Van der Beken (2007) *Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level*. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 107)

¹⁹⁷Alem Habtu (2003) *Ethnic Federalism in Ethiopia: Background, Present Conditions and Future Prospects*, Paper Submitted to the Second EAF International Symposium on Contemporary Development Issues in Ethiopia, pp 7

while permitting this right the constitution also stated stringent procedure to be fulfilled before conducting secession by any one member states. This is clearly stated under article 39/4.¹⁹⁸

4.2. Asymmetric distribution of populations across regional states

As discussed in chapter two almost in all federal countries there are huge population asymmetries across federated units. Similarly, in Ethiopian federation there are considerable variations across regional states in terms of population number.

Table 4, distribution of population number across regions in Ethiopian federation

Region	population	percent of population
Tigray	4,314,456	5.8
Afar	1,411,092	1.9
Amhara	17,214,058	23.3
Oromiya	27,158,471	36.7
Somali	4,439,147	6.0
Benshangul Gumuz	670,847	0.9
SNNPR	15,042,531	20.4
Gambella	306,916	0.4
Harari	183,344	0.2
Addis Ababa	2,738,248	3.8
Dire Dawa	342,827	0.5
Total	73,918,505	100

Source, Central Statistical Agency, 2007

As indicated in the table, there are vast asymmetries in population size of the regions in Ethiopia. The population size of regions ranges from 27 million in Oromia to 183 thousand in Harari regional states. Two regional state alone, Oromia and Amhara comprise about 60% of the total population of the federation and when the figure from SNNPR adds into it, the three regional states alone contain 80% (which is far more than two-third majority) of the total population. This variation is the result of the use of ethnicity as the main instrument of state formation.

Concerning to ethnic diversity of regional states as discussed earlier, there is no single regions in Ethiopia which is totally inhabited by only one ethnic group. However, relatively speaking the

¹⁹⁸See, Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article, 39/4

half regional states such as Oromiya, Amhara, Tigray, Afar and Somali are characterized by the existence of a single dominant ethnic group; as a result the names of the regional states are assigned by the names of the respective dominant ethnic group. But this does not mean that there is no other minority nationality which lives in these regions. In Amhara regional state there are about four minority nationals other than Amhara ethnic group such as Agew Awi, Wag Himra, Argoba and the Oromo.¹⁹⁹ In Tigray there are other nationalities like Irob and kunama.²⁰⁰ In Oromiya, Somali and Afar also though they are not constitutionally recognized there are other nationalities which live with the respective dominant groups.

The other regions like, SNNP, Benshangul Gumuz, Gambella and Harari are inhabited by more diversified nationalities and there is no one group constitutes a majority. In Gambella regional state there are four distinctive ethnic groups such as Nuer, Agnuak, Mejinger and Opos²⁰¹ with a considerable number of ‘exogenous’ people who comes from different parts of Ethiopia. Similarly, in Benshangul Gumuz with a significant number of exogenous people there are five indigenous nationalities such as Berta, Gumuz, Shinasha, Mao and Komo.²⁰² In SNNP regional states as recent official data indicates there are more than 56 nationalities which constitute the region. In Harari regional state there are enormous amount of Oromo and Amhara ethnic groups in addition to the minority Harari people.²⁰³

Thus, variation in population number and diversity of nationalities are politically important because of number of population and diversity of the regional state will have their own impact and a determinant factor in Ethiopian federations as it is a criteria of wining seats in the central political institutions particularly in the House of Federation. Therefore, these *de facto* asymmetries which exhibit in terms of population size among member states leads unbalanced

¹⁹⁹Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 124), see also House of Federation document 2010.

²⁰⁰House of Federation document 2010.

²⁰¹Berhanu Gutema Balcha (2007) Restructuring State and Society: Ethnic Federalism in Ethiopia. Aalborg University, Denmark. Pp 103

²⁰²Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 125)

²⁰³In Harari regional state the Harari people account only 7 percent, the Oromo 52 percent and the Amhara 32 percents.

power relation among member states, though the Constitution clarifies that the states have equal rights and powers.²⁰⁴

4.3. Bicameralism in Ethiopian federal setup

As discussed in chapter two, bicameralism is a system which consist two legislative chambers and adopted in most federations as one house represents the people as a whole and the other chamber represents federated units (states, regions, cantons, Landers) in the central decision making process.

Bicameralism which consist two central political institutions is not new for Ethiopian political system rather it was practiced for many years and emerged during the imperial regime of the first written constitution of 1931. In this constitution the central chamber were divided in to two. The first House is consisted members of the chamber for determining law (chamber of senate) and the second House is members of the chamber for formulating the law (chamber of deputies).²⁰⁵ The senate was composed of high ranking officials during the time (*masafints and mekuanents*) chosen by the emperor.²⁰⁶ While the member of the chamber of deputies indirectly chosen by the dignitaries or the landed gentry.²⁰⁷ The primary role of the chambers was advisory to the emperor.²⁰⁸ Thus, the people were totally out of participation in the political process in general and electing the members of the two chambers in particular.

The 1955 revised constitution also declares that the parliament shall be composed of the two Houses, chamber of deputies and senate.²⁰⁹ The first House named senate continued its tradition of appointment process by the emperor. The senators elected by the emperor amongst those who have by their acts secured the confidence and esteem of the people and from amongst those who have served their country and their government with distinction.²¹⁰ While unlike its predecessors

²⁰⁴Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 47/4

²⁰⁵ the 1931 Ethiopian constitution, Article 30

²⁰⁶Bahru Zewde (2002) A history of modern Ethiopia 1855-1991, second edition, Addis Ababa university press, Addis Ababa pp 141

²⁰⁷ *Ibid*

²⁰⁸Fasil Nahum (1997) Constitution for a nation of nations: the Ethiopian prospect. The red sea press, Asmara, pp 22

²⁰⁹The 1955 Ethiopian constitution, Article, 76

²¹⁰Fasil Nahum (1997) Constitution for a nation of nations: the Ethiopian prospect. The red sea press, Asmara, pp 26, See also Article 101 of 1955 Ethiopian constitution.

the 1955 constitution gives at list textual power to the people in the election process of the chamber of deputies.

As the constitution clearly stated in article 95, “*all Ethiopians subject by birth, of twenty one years of age and more, who are regularly domiciled or habitually present in any electoral district and who possess the qualifications required by the electoral law, shall have the right to vote in such electoral district for the candidates from such district, as a members of the chamber of deputies.*”²¹¹

However, its practical application and significance was slight and limited as popular participation in elections remained constantly low. Like the previous constitution the property qualification for elections predetermined the class bases of the deputies. Thus, as Bahru noted the parliament becomes the vehicle for self promotion rather than a forum of popular representation.²¹²

With the coming of the 1987 PDRE constitution which promulgated during the military government (*Derge*) the structure of the previous bicameral parliament become ceased to survive and the new government institutionalized a single chamber parliament called *National Shengo*. After the downfall of the *Derge* by the combined force of EPRDF in 1991, the present FDRE constitution was drafted. The constitution declares for the establishment of a parliamentary system of governance that has a two-chamber parliament at the federal level, namely House of People Representative (HoPR) and House of Federation (HoF)²¹³.

HoPR is the federal legislative body which has the supreme authority. Its members are elected by a means of general and direct elections under the *first-past-the-post* electoral system for a term of five years. In practice, this means that the one seat in each electoral district is won by the candidate who gets the more votes; even if it is not secured 50+1 votes in the district.²¹⁴It has

²¹¹The 1955 Ethiopian constitution , Article 95

²¹²Bahru Zewde (2002) A history of modern Ethiopia 1855-1991, second edition, Addis Ababa university press, Addis Ababa pp 141

²¹³Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 53

²¹⁴Christophe Van der Beken (2007) Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (pp 108)

about 547 seats and the constitution put a limit on the number of seats of the HoPR not to exceed 550.²¹⁵

The second chamber, which is called the House of Federation, is composed of representatives of Nations, Nationalities and Peoples. It can be simply called as a House of nationalities or indirectly the House of regional states.²¹⁶ According to the constitution that: ‘Each Nation, Nationality and People shall be represented in the House of the Federation by at least one member. Each Nation or Nationality shall be represented by one additional representative for each one million of its population.’²¹⁷

4.3.1. Second Chamber (HoF) In Ethiopian Federation

As discussed above, the second chamber of Ethiopian federation is designed as a House of nation, nationality and peoples as each of them at least has one representative in the House. It has a responsibility in promoting intergovernmental relations ranging from economic, political and administrative relations to dispute resolutions between levels of governments and the states.²¹⁸

As noted earlier the second chamber of Ethiopian federation does not have legislative power. Thus, it is not the legislative, executive and judiciary body rather it is a special institution mandated various responsibilities.²¹⁹ Though it is not legislative body the constitution grants specific power which executes alone by the House. These powers are limited in kind but weighty and touch the different aspects of the federation.²²⁰ Since all nations, nationality and peoples of Ethiopia represented in this house, it became the reflection of the diversity that exists in the federation and it would be the voice of the regions at the centre.

²¹⁵Berhanu Gutema Balcha (2007) *Restructuring State and Society: Ethnic Federalism in Ethiopia*. Aalborg University, Denmark. Pp 111

²¹⁶Tsegaye Regassa (2010) learning to live with conflicts: Federalism as a tool of conflict management in Ethiopia -- an overview. *MIZAN LAW REVIEW* Vol. 4 No.1, March 2010. Pp 90

²¹⁷Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 61

²¹⁸Solomon Negussie (2005) fiscal federalism in the Ethiopian ethnic based federal system. Wolf legal publishers Netherlands Pp 238

²¹⁹Interview conducted by the author with Mr. Debebe Barood, Secretary General of the House of the Federation, Addis Ababa, March, 2014

²²⁰Fasil Nahum (1997) *Constitution for a nation of nations: the Ethiopian prospect*. The red sea press, Asmara, pp 73

4.3.2. Rationale of instituting House of Federation

As discussed in the theories in chapter two, instituting second house in a federation is mainly targeted with to represent federated units interest in central decision making process. Similarly in Ethiopia, in the drafting of the constitution the designers institute HoF as the protector of the interest of nation, nationality and peoples. To perform this task each ethnic groups (in constitutional term nation, nationality and peoples) represent at least by one individual to air their concerns and to participate in the decision making process especially concerning the issue of nationalities. In addition ensuring unity among the nation, nationality and peoples of Ethiopia by developing the culture of tolerance and cooperation for common goal is other rationale which necessitated this House.²²¹ In this regard Hashim also clearly pointed out that:

*...with the need to maintain and promote the constitutional compact among the various ethnic groups of Ethiopia the House of Federation, which is the house of the nations, nationalities and peoples, was created to maintain and develop their consensual relationships on the basis of equality and respect for their respective diversity while realizing their commitment to uphold the constitution.*²²²

Thus, representing the interest of all units of the federation in central decision making process; facilitate vertical and horizontal Inter Governmental Relations, to reflect the diversity that exists in a federation and maintaining unity and equality are the major rationale of instituting this House.

4.3.3. Composition and Methods of selection

Article 61(2) of the federal constitution stipulates that all nations, nationalities and peoples have a right to at least one representative in the HoF. The same article adds that the nations, nationalities and peoples have a right to one additional representative for each one million of their population. The basic rationale of this setup is instead of representing the states, direct representation of each nation, nationality and people was more viable political option during the design of the constitution. This is not without reason; nationality question was the leading motive

²²¹Federal Negarit Gazeta miscellaneous proclamation of House of Federation, proclamation number 251/2001 article 37/5

²²²Hashim Tewfik (2010) Transition to Federalism: The Ethiopian Experience, Forum of Federations Ontario, Canada. Pp 18

of the current regime that has to be responded. State representation alone cannot solve this question rather each distinctive ethnic group (nation, nationality and peoples) irrespective of their size of population should directly represent in the central institutions at list by one representative and to be fair additional representative for each one million of their population because it is nationalities not the states that are the bases of the constitution.²²³ According to this argument, the setup may helps the nation, nationality and people to participate directly in the federal decision making process particularly on powers given to the HoF. However, the question is can this composition or setup really protects the minorities from the domination of the more represented regions in the decision making process, as all decision of the House passed by simple majority and the winning of seats considerably varies from each other? It will be discussed in the subsequent section.

Regarding the methods of selection, first, the HoF shall inform to each state the number of representative they shall send to it. Then after the council of state will send the list of their representatives in accordance of the list (quota) the House send to them.²²⁴ The constitution under article 61(3) dictates that members of the House of the Federation shall be elected by the State Councils and the same article empowers the state to use two methods of election. The State Councils may themselves elect representatives to the House of the Federation, or they may hold elections to have the representatives elected by the people directly.²²⁵ Besides, the fact that the representatives are in practice so far elected by the state legislatures mostly from within the state councils rather than by direct popular vote.

Constitutionally speaking the HoF is designed to represent nation, nationalities and peoples of Ethiopia. However, in this scenario it can be realize that each state is indirectly represented by the number of nation, nationalities and peoples it hosts and additional member for extra one million populations the respective nation, nationality and peoples may have. As a result, as there are not even two states with same population size and ethnic diversity it is inevitable that the states would differ from each other in their representation in the House of Federation.

²²³Interview conducted by the author with Mr. Debebe Barood, Secretary General of the House of the Federation, Addis Ababa, March, 2014

²²⁴Federal Negarit Gazeta, Miscellaneous proclamation of House of Federation, proclamation number 251/2001 article 47

²²⁵Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 61/3

As discussed above in regions like Oromia, Afar and Somali since the respective regional state constitution does not recognize other ethnic groups their representation in the House is only estimated by the number of their total population. While in others in addition to population number, the diversity of the regions also has a considerable impact to get seats in the House. For instance, in Amhara regional state there are five ethnic groups including the dominant Amharans; similarly in Benshangul Gumuz there are five ethnic groups, in Tigray there are three ethnic groups, in Gambella there are four ethnic groups, more surprisingly in SNNP there are about 56 ethnic groups. This implies that in these regions before considering their population number, they will have 5, 3, 5, 4 and 56 representatives respectively.

Table 5, Ethnic composition of the regions and their number of representatives in the House of Federation of Ethiopian federation

Member states	No. of ethnic groups	Seats in HoF
Tigray	3	7
Afar	1	2
Amhara	5	24
Oromiya	1	26
Somali	1	5
Benshangul Gumuz	5	5
SNNPRS	55	61
Gambella	4	4
Harari	1	1
Total	76	135

Source, House of Federation representation document 2010

In concrete terms, this means that regional states that have an ethnically very diverse population (such as the Southern state) or those are inhabited by populous ethnic groups (such as the Amhara and Oromia regions) are more strongly represented in the HoF.²²⁶ Hence, three states (the Southern state, Amhara and Oromia) together have 111 of the 135 representatives in the House of the Federation. While the other three regional states such as Harari, Gambella and

²²⁶Christophe Van der Beken (N.D) Federalism and the Accommodation of Ethnic Diversity: The Case of Ethiopia/https://www.unileipzig.de/~ecas2009/index.php?option=com_docman&task=doc_download&gid=1358&Itemid=24 p17

Benshangule Gumuz together has only 10 representatives.²²⁷ Hence, the House that is entrusted with the responsibility to promote the equality of the peoples of Ethiopia and consolidate their unity faces difficulties to perform the task because of its composition.

4.3.4. Counter balancing role of the first House

Counter balance in this case means that a second thought or review on legislations laid out by the first House through second chambers. It enhanced the protection of group interests specially minorities that otherwise might be overlooked in the first chamber. Hence, in principle the upper House is expected to check the lower House and safeguard the interests of the states. However, no such similar guarantee exists in Ethiopia. This is because of two reasons. The first is limited role of House of Federation in legislation process and the second one is the representation setup or composition of the House.

In Ethiopian federation the power of law making process is the sole function of the first House.²²⁸ The second House is out of the game in this regard. This limited role of HoF in the legislation process of FDRE parliament creates a possible effect on the check and balance system of the legislation process. Unlike other federation with a bi-cameral structure which a second House participate in all legislation process of a federation, the restricted role of the HoF in this regard gives the first House (HoPR) unchecked legislation power.

Even the House of Federation might have the capacity in participating in law making process; still its composition has its own impact to perform this task. The three largest regions (Oromo, Amhara and SNNP) jointly win a considerable majority of seats in the House of People's Representatives also has absolute majority seats in second House. Therefore, this setup betrays the interests of smaller federated units and the federal idea as well significantly because there is no mechanism for smaller states to check the decision of the first House. It is totally in the hands of the strongly represented regions. If these some populated regional states work closely for their advantage they can overwhelmingly dominate the federal government in all significant matters at

²²⁷ House of federation document 2010

²²⁸As it clearly stated under article 55/1 of the FDRE constitution, The House of Peoples' Representatives shall have the power of legislation in all matters assigned by this Constitution to Federal jurisdiction.

the cost of other small states.²²⁹ As a result, the very constitution which aims to protect the interest of nation, nationalities and peoples threaten them by leaving their destiny in the mercy of more populous/represented regions. This could have a negative consequence on federation's stability.²³⁰

Thus, the customary practice in federations that the preponderance of the large federated entities is compensated by the overrepresentation of the small federated entities in a second chamber is not workable in Ethiopian federation.²³¹ For example, in United States and Switzerland even in Germany as discussed in chapter three, the preponderance of the large regional states in the House of Representatives is compensated by an equal representation of all regional states in the second chamber, the senate, Counsel of States and Bundesrat²³² respectively. However, in Ethiopia, though all federated units are represented in the House of the Federation, the composition does not correspond with traditional federal second chamber because of its proportional representation of federated units. As a result, as Van der Beken said the House of Federation offers an insufficient counterweight to the preponderance of the larger states in the first chamber of the parliament.²³³ Instead of serving as a counter majoritarian institution it creates its own majoritarianism by repeating the composition of the first House. Therefore, insignificant role of House of Federation in law making process and its asymmetric composition (Depend on population and diversity of regions) restricts the House from being as counter majoritarian institution of the first House.

²²⁹Berhanu Gutema Balcha (2007) *Restructuring State and Society: Ethnic Federalism in Ethiopia*. Aalborg University, Denmark. Pp 98

²³⁰Asnake Kefale (2009) *Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions*, Lidein University, the Netherlands, Pp 80

²³¹Christophe Van der Beken (2007) *Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level*. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (109)

²³²Each *Land* has at least three votes; Länder with a population between two to six million inhabitants have four, Länder with more than six million inhabitants five, and Länder with more than seven million inhabitants six votes.

²³³Christophe Van der Beken (2007) *Ethiopia: constitutional Protection of Ethnic Minorities at the regional Level*. Africa Focus, Vol. 20, Nr. 1-2, 2007, pp. 105-151 (111)

4.3.5. Power of the House of Federation

Although the House of Federation does not have legislative functions, it has other important functions as given under article 62 of the constitution, which includes interpretation of the constitution, dispute settlement which may arise between states, determine the subsidies that the federal government provides to the states, determining the division of revenues derived from joint federal and state tax sources, deciding issues relating to the right of self determination and secession, determine civil matters which require the enactment of laws by the House of Peoples' Representatives, order federal intervention if any State, in violation of the Constitution or endangers the constitutional order. Some of them are briefly discussed in the following section.

Unlike other federations the FDRE constitution gives constitutional interpretation power to the second House of Ethiopian federation. Constitutional interpretation refers to find out the meaning of the constitution so as to safeguard the wills of the people enshrined in this national document. Thus, to insure the observance of the will of the people enshrined in the constitution, to protect individual rights and freedom from being violated and to review the constitutionality of any decision, it is mandatory to institute a body to perform this task. Accordingly, the House of Federation execute this task in Ethiopian federation with the help of legal experts called council of constitutional inquiry (CCI). The other function of the House is dispute settlement. In federal state conflicts arise in various ways. Among them conflict between member states are common among federations especially in relation to border issues. In Ethiopian federation the HoF has the power to settle these kinds of disputes which may arise among member states. Article 48(1) of the federal constitution states that where the concerned states fail to reach an agreement the House of Federation has the power to decide such disputes on the bases of settlement patterns and wishes of the people is concerned.

Order federal government intervention on regional states is also other powers of the House. This is done on the situation when the issue is not handled by the state alone. More specifically, the intervention ordered by this House is stated under the proclamation.²³⁴ These include Intervention

²³⁴Federal Negarit Gazeta miscellaneous proclamation of House of Federation, proclamation Number 251/2001 Article 36

in case of deteriorating security situation, intervention in case of violation of human right and intervention when the constitutional order is endangered.

Deciding on questions of self determination and secession is the other important function of this House. In FDRE constitution each nation, nationalities and peoples granted the right of self determination including secession. For the proper enforcement of this right of nationalities the constitution grants the HoF the power to decide on this matter if the question arises.²³⁵ Determine the allocation of joint taxes of the federal and state governments is also other important functions of the HoF. In addition, the same article granted House of federation a constitutional power to formulate formulas that used to allocate federal unconditional grants to member states.²³⁶ The next topic deals about the practice of this power by HoF and its implications on regional states especially less represented regions.

4.4. The practice of federal subsidy allocation in Ethiopian federation

Federal subsidy is a grant which allocates to regional governments from the center for equalizing vertical and horizontal imbalances of federated units. Regardless of their level of economic and political development, in all federations federated units are almost never self-sufficient in terms of financing their expenditure need.²³⁷ It is mainly because the federal government constitutes the appropriate level of government for taxation, while the sub-national governments provide many services with insignificant tax bases or revenue generating capacities. Similarly almost all federations exhibits horizontal imbalances because of the differences that exist among their member units in terms of geographic and population size, economic capacity and the like.

The case is not differing in Ethiopia, like many other federations' Ethiopia also characterizes by high level of vertical and horizontal fiscal gaps. In Ethiopia the basic rationale to provide subsidies to regional state is to address both vertical and horizontal imbalances.²³⁸ Vertical imbalance means that the dominance of the federal government in terms of revenue base and

²³⁵See, Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 62/3

²³⁶*Ibid*, Article 62/7

²³⁷Asnake Kefale (2009) *Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions*, , Lidein University, the Netherlands, Pp 87

²³⁸Asnake Kefale (2009) *Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions*, , Lidein University, the Netherlands, Pp 87-88

collection capacity than the states or it happens when the responsibility of the state is more than its revenue generating capacity. It makes the regional states totally dependent on the federal transfers (a budget subsidy) to carry out their responsibilities and tasks.²³⁹ Though all regions are not self sufficient to finance their expenditure need, horizontal differences among them are visible in Ethiopian federation. This is because of their location, geographical and population size, economic condition and administrative capacity of the regions.

To rectify both vertical and horizontal imbalances the central government mainly uses unconditional grants to the states as an instrument to promote balanced socio-economic development. According to Hashim these grants are important revenue sources for regional governments because of two reasons. First, they are used to correct the mismatch between regional expenditure demands and revenue resources; second, regions can spend it freely according to their choices and preferences.²⁴⁰ It also enables the states to provide comparable service to the people irrespective of their actual differences, as the FDRE constitution under article 41/3 states every Ethiopian national has the right to equal access to publicly funded social services.

Thus, since 1994/95 onwards the federal government has been using a formula based division of subsidies to regional states.²⁴¹ The formula revised so many times to meet the changing socio-economic condition of a country and to promote balanced socio-economic development among the States through designing equitable transfer system.

4.4.1. House of Federation as a formula designer

The issue of subsidy allocation is the most sensitive and difficult task in almost every federations. In federation like India and Australia this task is given to none partisan institution named Indian finance and plan commissions and Australian grant commission respectively.²⁴²

The major function of these institutions is to determine the modes of grant formulas for

²³⁹Berhanu Gutema Balcha (2007) Restructuring State and Society: Ethnic Federalism in Ethiopia Aalborg University, Denmark. pp 128

²⁴⁰Hashim Tewfik (2010) Transition to Federalism: The Ethiopian Experience, Forum of Federations Ontario, Canada. Pp 20

²⁴¹Solomon Negussie (2007) fiscal federalism in the Ethiopian ethnic based federal system. Wolf legal publishers Netherlands Pp 218

²⁴²*Ibid* Pp 198

distributing subsidies among the states. However, in Ethiopia the constitution took different approaches to execute this task by assigning the House of Federation which is believed to be the second House of Ethiopian federation. As stipulated in article 62(7) of FDRE constitution the second house (House of Federation) has a power to determine the allocation of subsidies that the Federal Government may provide to the States. The total amount of pool distributed to regions is determined by the council of ministers and ratified by HoPR. The House of Federation has no role in determining the total amount of money allocated to subsidy programs rather it allocates the given amount to regional states based on the formula it designees.²⁴³

The House with the help of the standing committee of subsidy allocation develops a formula. The role of the committee²⁴⁴ in these processes is significant. It undertakes a research on the impact the subsidies bring on regional states and based on the research the committee set a formula and recommend to the House for division of subsidies and oversees its implementation.²⁴⁵ However, since most of the committees are regional state presidents it is difficult to expect this kind of roles as they are busy in their regional administrations.

4.4.2. The role of less represented regions in determination of subsidy allocation formula

As noted above, in Ethiopian federation preparation of subsidy allocation formula is given to the second chamber which all nation, nationality and peoples proportionally represented based on their population number. From its inception the formula considers different indicators or variables to allocate subsidies to regional states such as, population size, development level and revenue generating capacities of the regions. The variables and the percentage given to each variable in the formula are revised so many times.²⁴⁶ In the fiscal years of 1995/6-1996/7, all three variables stated above constituted equal weight in the distribution formula as each granted 33.3 percents. However, this formula is worked only for two years and the new formula was prepared in 1997/8-1999/2000; with the different weight given to each variable as population

²⁴³Interview with Dr. Zewdu Kebede, Case manager of subsidy and revenue sharing formula in HoF, Addis Ababa, March, 2014

²⁴⁴The committee is composed of 15 members elected from among members of House of Federation (in practice all nine regional presidents are the member of this committee) and has a chairperson and deputy chairperson.

²⁴⁵Interview conducted by the author with Mr. Worku Adamu, Head of standing committee of subsidy allocation to regions in the House of the Federation, Addis Ababa, March, 2014

²⁴⁶The formula/ grant system revised more than six times since its inception.

size constitute 60 percents and level of development and revenue generating capacity takes 25 and 15 percent respectively. After three years usage of this formula, the House of Federation introduces another formula in the year between 2000/1-2002/3. This formula introduces poverty line as an additional variable in the formulas of subsidy distribution. In this formula the percentage allocated to population size become reduced to 55 percents, level of development takes 20 percent and poverty line and revenue generating capacity constitutes 10 and 15 percents respectively. In 2003/4 the other new formula was decided and the variables reduced in to three, population size, level of development and revenue generating capacity. In this formula the percentage goes to population size become increased in to 65 percents. While level of development and revenue generating capacity contains 25 and 10 percents respectively. This formula was worked until 2006/7 when the fiscal gap equalization which considers both fiscal capacity and expenditure need of the regions has been implemented. This frequent change in the formula was the result of controversies it creates among regional states.

As discussed above, the composition of the House of Federation exhibits a wide asymmetry in seizing of seats (votes) among regional states. It ranges from 61 seats of SNNP up to only 1 seat of Harari regional state. All decision of the House in general and determination the formula of subsidy allocation in particular are decided by simple majority votes.²⁴⁷ In this scenario it is hardly possible to imagine that the interest of minorities are prevailed or protected unless and otherwise other special law or practices are applied as the variables and the percentage given to each variable frequently creates disagreement among member states as their population number, level of development, geographical size and economic capacity considerably differ from each other. This can be observed during 2004 fiscal year when the new formula was decided with 65 percents weight attached to population size.²⁴⁸ It created disagreement between the three larger regions (Amhara, Oromia, and SNNPR) and smaller regions (Afar, Tigray, Somali, Gambella, B-Gumuz and Harari) on the weight given to population size in the revenue sharing formula.²⁴⁹ More populous regions have a role in these decisions because of their majority number of seats

²⁴⁷Federal Democratic Republic of Ethiopia (1995), *Constitution of the Federal Democratic Republic of Ethiopia*, Government Printing Press: Addis Ababa. Article 64

²⁴⁸During that period the formula designed as population size constitute 65 per cent, level of development 25 per cent, and revenue generating capacity constitute 10 percent.

²⁴⁹Interview conducted by the author with Mr. Worku Adamu, Head of standing committee of subsidy allocation to regions in the House of the Federation, Addis Ababa, March, 2014

and it gives an advantage to them.²⁵⁰ Less populous regions were dissatisfied with the variables and the percentage the variables have especially, on the percentage given to population size. Even some of them emotionally stopped and get out from the meeting. Because they were believe that their share became increase when the percentages allocated to population size is less and higher percentage to the other variables like level of development.²⁵¹

Table 6, Share of federal subsidy to regional states across different fiscal years (2000-2007)

Regions	Federal subsidy entitlement percentage in different fiscal years	
	2000/1-2002/3	2003/4-2006/7
Tigray	8.26	7.2
Afar	5.43	3.9
Amhara	20.71	22.3
Oromiya	27.29	32.1
Somali	8.17	6.4
B. Gumuz	3.92	2.8
SNNPR	17.16	18.44
Gambella	3.02	1.93
Harari	1.92	1.3

Source, Solomon Negussie, (2007:223)

In concrete terms, as the table presents that, in the fiscal years of 2003/4-2006/7, the amount of subsidy goes to more populous regions were better than that of the previous fiscal years of 2000/1-2002/3. This is because of the weight attached to population size in the formula is increased from 55 percents to 65 percents. While the amount of subsidy transfers to less populous regions become decrease as the weight attached to population size increases. To be specific, the share of subsidies allocated to SNNPR, Oromiya and Amhara regional state in the fiscal years of 2000/1-2002/3 were 17.16, 27.29, and 20.71 but after the new formula is adopted

²⁵⁰ *Ibid*

²⁵¹ *ibid*

in 2003/4 with high amount attached to population size they got 18.44, 32.1 and 22.3 respectively. In contrary, less populous regions like Gambella, Benshangul Gumuz and Somali were received 3.2, 3.92, and 8.17 respectively when the weight of population size was 55 percents. But after the new formula is applied in 2003/4 with 65 percent of weights to population size their share becomes diminished in to 1.93, 2.8 and 6.4 respectively. Thus, in these years, the rise of population size percentage in the distribution formula affects the smaller regions as the share of subsidies allocated to them became decrease. However, since regional states have an asymmetric voice or representation in the House which dominated by three populous regions, the interest of these regions prevailed over the less represented regions. This is reinforced by the idea of less represented regions, as they said: *“In that period we propose our interests and provide to the house; however, because of the marginality of our seats in the House the populous regions interest were prevail and decide on behalf of their interest”*.²⁵²

Finally after so many controversies the issue was settled by political bargaining through party channels.²⁵³ Hence, it can be said that legally the minorities²⁵⁴ are affected because of the representation set up and the principle of simple majority to pass any decision of the House. The only role the minority has in the decision making process or determination of federal subsidy formula is present their concerns on the issue not influence in decision making process.²⁵⁵ If it is not satisfactory for populous regions they can automatically reject it because of their strong voices. At the same time, if more represented regions want to pass any decisions that protect the interest of themselves they have legal power to do it at the cost of other less represented regions. Therefore, the presence of these groups (less represented) in the House is not to influence in the decisions of subsidy allocation but only to notify their concerns.

Besides, the other defect is the House which is believed to be the defender of nation, nationalities and peoples especially the minorities does not design any formal especial law or practices to

²⁵²Interview conducted by the author with Mr. Koang Okay Nyang, vice speaker of Gambella regional state council and members of HoF and Ubang Gilo Angot, Head of president office and cabinet affairs. In Gambella march 2014

²⁵³Interview conducted by the author with Mr. Worku Adamu, Head of standing committee of subsidy allocation to regions in the House of the Federation, Addis Ababa, March, 2014

²⁵⁴There is a danger using a minority to refer a particular ethnic groups or regions in Ethiopian federation, as there is no ethnic group or regions which constitute a majority. I used the word here is to refer less represented regions in HoF.

²⁵⁵Interview with Tito Hawaryat Getachew, speaker of Gambella regional state council in Gambella and members of HoF, and Interview conducted by the author with Mr. Worku Adamu, Head of standing committee of subsidy allocation to regions in the House of the Federation, Addis Ababa, March, 2014

protect the interest of the smaller regions in decision making process.²⁵⁶The key mechanism it uses for this end as noted before is informal political negotiations through party channels.²⁵⁷

4.5. Conclusion

The first section of this chapter is designed to look into the general overview of Ethiopian federalism and its salient features which distinct it from other federations. Asymmetric feature of Ethiopian federalism and its impacts also discussed in the subsequent topic and followed by, it discusses Bicameralism in Ethiopian federation with the more emphasis of House of Federation. The practice of federal subsidy allocation in Ethiopian federation which House of Federation has a role in designing the formula and its impacts on less represented regions also analyzed in last sections.

The HoF is one of the two Houses of the Federal Parliament. Its rationale for the federation is to promote unity and reflecting the diversity by representing all nationalities. Since all nationalities at least represented by one individual in this House, it replicated the real picture of Ethiopian diversity. As stated under article 61/2 unlike other federations which represents the states, the Ethiopian second chamber is representative House of the nation, nationality and peoples not for the states. The assertion of this article rests to represent all ethnic groups directly in the central decision making processes. Because, if the representation is limited on state level, different nationalities which live under the umbrella of the state machineries may not get representation at the central level. However, it can be understood that the states are practically represented by the nation, nationality and peoples they hosts.

Formally HoF possesses the position of the upper House in the Ethiopian parliament. However, its composition and role is different from its counterparts of other federations. In many other federations since the first House is composed proportionally on the bases of size of population it is customary to organize the second House based on symmetrical representation irrespective of the size of population a particular states has or giving weighty advantage to smaller federated units to counter the majoritarian rule of the first House. However, the second chamber in

²⁵⁶Interview conducted by the author with Mr. Debebe Barood, Secretary General of the House of the Federation, Addis Ababa, March, 2014

²⁵⁷ *Ibid*

Ethiopian federation is not performing this task rather it exacerbate the situation by repeating the dominance of the larger regions. As a result, those States which have low representation in the HoPR also have minority status in the HoF. More importantly, the House of Federation is also excluded in law making process. This is also other obstacles to counter the first House and reflect the interest of member states specially the minorities in law making process.

Formula based subsidy allocations to member states were practiced since 1994 in Ethiopian federation to balance vertical and horizontal fiscal gaps. House of Federation has a power in determining the formula. The House is composed of all federated units asymmetrically based on population size and diversity of regions. As a result, each states number of voice in the House significantly varies. These set up has an impact in the determination of subsidy allocation formula as all regions has its own interest and all decision of the House is approved by simple majority vote. The composition of the HoF gives an advantage to diversified and populous regions; they have legal power to pass decisions in their interest at the cost of the small states by a simple majority rule. To put it differently, the decision making process of subsidy distribution formula put the small States at the will of more represented regional states. The smaller States have little influence in determining the formulas of Federal subsidies that distributed among the States.

As a result, in the preparation of the formula there are huge contentions among member states especially between less populated and populous regions. The minorities are easily overwhelmed in decision making process as they hold insignificant voices and because there is no special law which protects them. As the source indicates that political negotiation is the only mechanism to smoothes contentions among member states and until now, the HoF encounter not severe difficulties in solving disagreements appeared among member states in relation to determining the subsidy allocation formula because the dominant party controls the federal government and all regions.²⁵⁸ Yet, it is difficult to imagine how the HoF would formulate a subsidy allocation formula that would be acceptable for all states, when opposition political parties in a multiparty context come to control the regional governments.

²⁵⁸Asnake Kefale (2009) *Federalism and Ethnic Conflict in Ethiopia: A Comparative Study of the Somali and Benishangul-Gumuz Regions*, , Lidein University, the Netherlands, Pp 91

Chapter Five

5. Conclusion and Recommendations

5.1. Conclusion

The first section of this paper is presented the general theory in relation to federalism, federations and bicameralism as to serve a foundation to analyze the experience of selected federations in chapter three and Ethiopian federation in chapter four. As discussed in chapter two there are no 'one size fits all' arrangements in federations. Each federation arises to respond a particular socio-economic and political problem they face. As a result their arrangements and mode of applications are different from each other. However, this does not mean that federations are not manifests common features. There are common features in all federations, among them formal constitutional division of legislative, executive and judicial powers between the two orders of government; written constitution not unilaterally amendable by one order of government but requiring the involvement of central and regional governments; institute bicameral federal parliament which the second House represents the interest of federated units in central decision making process are the major ones.

In Ethiopia federalism has been put in place to solve an age old nationality questions and preserve the equality of nation, nationality and peoples. However, as federalism solves past conflicts and tensions it also creates new threats in Ethiopian federation, among them inequitable power distribution between federated units is one problem. Though, the constitution grants equal powers to all member states, the actual operations are far from this provision. It is because of the *de facto* asymmetries like number of population among constituent units creates *de jure* or formal power imbalances in the shard rule decision making process. The second house is the one federal institution which exhibits these asymmetric power relations among member states in Ethiopian federation.

HoF in Ethiopian federation is the direct representative of nation, nationality and peoples of Ethiopia. Each ethnic group represent at list by one individual as it clearly stated under article 61/2. The rationale of representing each ethnic group instead of states is to participate each

nationality in the decision making process at the centre. It is believed to be that their participation becomes marginal if the representation system of the HoF is limited on state level. In addition to representing the interest of all nations, nationalities and peoples of the federation in central decision making process; the House also facilitate vertical and horizontal Inter Governmental Relations, reflect the diversity that exists in a federation and maintaining unity and equality among nationalities.

Theoretically speaking, it is difficult to call the House of Federation as a second chamber because of its role and representation setup, i.e. as discussed in chapter two the very rationale of the second House is participating in law making process and counter weighting the power of the first House (though the degree vary from federation to federation) and represent or reflect the interest of the states especially the minorities at the central decision making process. However, these two important functions are not well played by the House of Federation in Ethiopian federation. As a result, because of its limited role in law making process and its compositions (which replete the first House) the House of Federation played insignificant role in counter weighting of the majoritarian first House. To put differently, there is no any means for the smaller states to counter the decisions of the first House. It is totally in the hands of strongly represented regions.

As discussed in Chapter Four, House of Federation grants limited in kind but crucial and weighty powers in Ethiopian federation. According to Article 62 of FDRE Constitution, its key functions include interpretation of the constitution; deciding on issues of self-determination rights of nations, nationalities, and peoples; promoting equality and unity among nationalities; handling misunderstandings and resolving inter-state disputes; and determining the formula for revenue sharing and assignment of subsidies to the constituent units of the federation.

The formula used to distributed federal subsidy to regional states is designed by House of Federation. It revised so many times to meet the changing circumstances of the federation and it is one of the contentious areas and a means of disagreements among regional states as all regional states interests varies from each other. All decisions of the House in general and determination of subsidy allocation formula in particular are passed by simple majority vote. In this scenario the interest of strongly represented regions prevails over the rest of others as they constitute by far absolute majority votes. Though the system might represent all federated units,

the minorities are not in a position to influence the decisions and safeguard their interests and their representations are nominal just to notify their concerns not to really participate and influence in the decisions. Thus, the House which most votes are controlled by some regions taking a power that touches the whole aspect of the federation makes the minority vulnerable and dependent on the interest of the majority. As a result, the house that is entrusted with the responsibility to promote the equality of the nation, nationality and peoples of Ethiopia and consolidate their unity are Hijacked by the interest of more represented regions.

There is also no special consideration given to less represented regions in the decision making process of subsidy allocation formula. This makes them dependent on the interest of more represented regions. Hence, In this representation setup of the House, without taking place a formal special consideration to less represented regions in decision making process in general and in determination of subsidy allocation in particular faces difficulty to ensure the interest of the minorities. The issue become more exacerbate when an opposition party controls regional councils. As result, as Assefa noted, the very constitution, which aims to protect the nations, nationalities and peoples, betrays them by leaving their destiny in the hands of the more populous nationalities.²⁵⁹ Thus, the representation set up has an impact on regions with small number of representative in the HoF in the decision making process of subsidy allocation formula because of their marginal number of seats. What is fortunate for less represented regions is the presence of informal negotiation through party channels before and after the decision of subsidy formulas.²⁶⁰ The presence of one dominant party may reduce the contention however; the question is how long the party holds its current position? And it is not long lasting solutions. In the future when an opposition party dominates regional parliaments the issue became difficult to settle easily as in the case of today and will result instability of a federation.

²⁵⁹Assefa Fiseha (2009) federalism teaching material, Prepared under the Sponsorship of the Justice and Legal System Research Institute pp 174

²⁶⁰Interview conducted by the author with Mr, Gatluak Tut Khot, president of Gambella regional state and Member of House of Federation. March 2014, In Gambella

5.2. Recommendations

After examining the institution of Ethiopian second chambers (HoF) composition, power, and roles specially its roles in subsidy allocation process and its impacts on less represented regions; with the view of realizing legitimate federal structure that gives comparable power sharing among regional states at the central institution particularly in HoF and for more effective and viable system of subsidy allocation to member states the following recommendations are put forward:

First, to make the decision of the House more legitimate, there should be a special consideration for less represented regions in decision making process to air their concerns, otherwise their interests become easily dominated by strongly represented regions through simple majority decision making principles and their representation became nominal. Political negotiation through party channels is not long lasting solutions; instead special law should design for the protection of less represented regions and for long lasting stabilities. The minority should exercise veto power on the issue that directly affected them in the decision making process of House of Federation. Determination of subsidy allocation is a main decision concerns them directly. Hence, it should not left to simple majority decision as it endanger the real participation and influence of less represented regions.

Second, subsidy allocation is very sensitive tasks and this task is better to be cared out by an independent institution constituted and lead by scholars in the area of the field or the institution which all regional states has equal powers and give equal consideration to all interests. It is not politically viable to give this power to the House of Federation which most seats are controlled by some populous and ethnically diversified regions. Giving this very contentions power to the House of Federation means that leaving the fate of less represented regions in the hands of more represented regions in determination of subsidy allocation formula or getting subsidies from federal government. Now the problem may reduce through party channel negotiations because of the dominance of EPRDF both at the federal and regional levels, but in the future if the opposition party constitutes a majority in regional parliament the issue become more contentious and lead instability of the federation.

Third, for the stability of the federation it is crucial to create a more balanced system of representation set up or power sharing at the central institution among member states. Specially, in this regard the smallest regions should get the chance not only aired their interest and concerns but also really participate and influence in the decision making process of shared powers.

Fourth, Concerning on powers of the House, It is better to reshuffling the role of House of Federation to be part of a law making institutions, this is because since it is the House of nation, nationality and peoples which are the bases of Ethiopian federation, the interest of these federated units should reflect in law making process at the federal level. The composition also should consider the impact it brings on the interest of regions with small number of population in the decision making process on powers given to the House and should differ with that of the first house to build effective check and balance system of the federation as it enables the smallest units protect their interests through countering the larger ones.

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Appendix: 1, List of interviewees

Ato. Debebe Barood, Secretary General of the House of the Federation

Ato. Worku Adamu, Head of the House of Federation's Standing Committee on Federal Grant allocation to the regions.

Dr. Zewdu Kebede, Case manager of subsidy and revenue sharing formula in House of Federation.

Ato. Gatluak Tut Khot, president of Gambella regional state and members of House of Federation

Engineer, Olero Opiew Ojulu, Vice President of Gambella regional states and members of House of Federation

Ato. Tito Hawaryat Getachew, speaker of Gambella regional state council and members of House of Federation

Ato. koang Okay Nyang, vice speaker of Gambella regional state council and members of House of Federation

Ato. Ubang Gilo Angot, Head of president office and cabinet affairs

Interview with Anonymous scholars in the area of the field

Appendix: 2, Interview Guide

The information you are 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.

❖ For members of standing committee of budget allocation and senior officials of HoF

1. What is the rationale of representation set up or composition of House of Federation organized based on article 61(2) of FDRE constitution?
 - And how does it protect the interest of small regions or less represented regions in the decision making process decided by the house?
2. Is there any practice or special law designed to protect the interest of less represented regions in the decision making process?
 - If not, how do regional states with smaller size of population (less represented regions) participate in the subsidy allocation formula? How do they air their concerns?
3. How do you consider the relevance of representing less represented regions, if they cannot influence and safeguard their interest in the decision making process (like in subsidy allocation)?
4. How do you perceive the compatibility of giving this power to the House within this representation set up (seats dominated by some more represented regions)?
5. Is there any practical challenge the House faced in the previous times because of the current subsidy allocation formula? And how it addressed?
6. Does the House of Federation participate in fixing (deciding) the amount of total sum to be allocated for regional states? Or it is decided elsewhere?

7. What is or is there any role played by the House of Federation to counter or check the majoritarian decision of the first House in the decision making processes (at list in their joint session decisions)?

❖ **For sample Regional representatives (officials)**

8. What is your role in determining the subsidy formula or getting subsidy allocated by the House? Or in what extent your voices have influence in the decision making process of HoF?

9. If, when your interest is contradict with other more represented regions how can your voices heard, because of your insignificant number of seats in the House compared to more represented regions?

10. Is there any practical challenge you faced in the previous times because of the current subsidy allocation formula? And how it addressed?

11. Is there any actual decisions decided against your interest before on powers given to the House especially in determination of subsidy allocation formula?

12. If any, what do you think about solutions for future to protect the interest of less represented regions just like you?

13. What is your attitude about the representation set up of House of Federation? Is it fair or proper for all regional states especially less represented regions just like you to defend their interests in the decision making process, especially in the determination of subsidy allocation formula?

Appendix: 3, composition of the House of Federation

Regions	Nationalities	Number of representative in the HoF	Total
Tigray	Tigray	5	7
	Erob	1	
	kunama	1	
Afar	Afar	2	2
Amhara	Amhara	20	24
	Agew awi	1	
	Wag himira	1	
	Argoba	1	
	Oromo	1	
Oromiya	Oromo	26	26
Somali	Somali	5	5
Benshangul Gumuz	Mao	1	5
	Gumuz	1	
	Shinasha	1	
	Komo	1	
	Berta	1	
SNNPR	Alaba	1	61
	Ari	1	
	Erbore	1	
	Bacha	1	
	Basketo	1	
	Benchi	1	
	Bodi	1	
	Birayli	1	
	Burgi	1	
	Bena	1	
	Chara	1	
	Dasenech	1	
	Dawro	1	
	Dobasie/Gewada	1	
	Derashe	1	
	Dimie	1	
	Dizi	1	
	Donga	1	
	Gamo	2	
	Gedio	2	
	Gidicho	1	
	Gufa	1	
	Guragie	2	
Hadiya	2		
Hamer	1		
Keficho	1		

	Kembata	1	
	Konta	1	
	Konso	1	
	Kore	1	
	Koyigu	1	
	Karo	1	
	Kusumie	1	
	Malie	1	
	Mareko	1	
	Masholie	1	
	Meanit	1	
	Mosey	1	
	Mursi	1	
	Murulie	1	
	Nao	1	
	Gngatom	1	
	Oyida	1	
	Kebiena	1	
	Shekocho	1	
	Sheko	1	
	Sidama	3	
	Silitie	1	
	Surma	1	
	Timbaro	1	
	Tsemay	1	
	Wolayita	2	
	Yem	1	
	Zayisie	1	
	Zelmam	1	
Gambela	Agnua	1	4
	Mejenger	1	
	Opo	1	
	Nuyer	1	
Harari	Harari	1	1
Total	76	135	135

Source, House of Federation representation document 2010