



Addis Ababa University

College of Law and Governance Studies

Center for Federal Studies

Policy Making in Ethiopia: Does Federalism Matter?

**In partial Fulfillment of the Requirements of the Degree of Master of Arts in
Federal Studies**

By

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Declaration

I, the undersigned, declare that this thesis is my original work and has not been presented for any degree in any other University and that all sorts of materials used for this thesis have been duly acknowledged.

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This thesis has been submitted for examination with my approval as a thesis advisor.

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Acronyms

EPRDF – Ethiopian Peoples’ Revolutionary Democratic Front

ESDP - Education Sector Development Program

FDRE - Federal Democratic Republic OF Ethiopia

GTP - Great Transformation Plan

HOF - House Of Federation

HOPR - House Of Peoples’ Representatives

NNP - Nations Nationalities And Peoples’ of Ethiopia

SNNPR – Southern Nations Nationalities And Peoples’ Region

ABSTRACT

In federations powers of government are divided between the center and the constituent units. One of the areas of government where both tiers of government have keen interest is in areas of socio-economic policy-making for it serves as a tool for constructing national identity.

Here in Ethiopia policy-making power in socio-economic areas are divided between the two levels of government under the constitution. Owing to the nature of power division on the constitution and also the federal practice, there is increasing tendency of centralization of the area by the federal government. This study ventured to see if federal principles mattered in the making of federal and regional policies as well as planes in the above mentioned socio-economic areas.

In federations ensuring the participation of the constituent units in socio-economic decisions seems to take two phases; participation at the central decision-making organs on shared concerns and secondly autonomy in exercising powers allocated to them in the area.

In Ethiopia the institutional mechanisms' of ensuring participation of the regional units in federal policy-making are weak weighted against the requirements set in literatures on federalism as well as experiences of other existing federations. This seems to be one of the major loopholes of the Ethiopian federation as it negates the very purpose of rearranging the nation as federal.

The actual practice of the policy process has also, owing to the workings of the various para constitutional variables discussed in the paper, resulted in an overtly centralized policy-process.

In relation to this it is observed that the relative strengths or weaknesses of the organization /composition/ and powers of the legislature in the context of federalism seem to have a ripple effect on the overall health of a federal nation. The inefficient power and limited representation the sub units possess in the federal legislature results in center's dominance in all aspects of relations between centre and states including the sectoral policy making. The opposite also holds true, i.e., the efficient and full scale power and representation of the states in the federal legislature amounts to a relatively balanced and decentralized federal governance and policy process.

Chapter One

Introduction

1.1 Background

Many observers have noted that, the world appears to be in the midst of a paradigm shift from a world of sovereign nation states to a world of diminished state sovereignty and increased interstate linkages of a constitutional federal character. (Watts, 2008, 1)

A significant percentage of the nations of the world have inclined to adopting a federal type of government or a government with some elements of federalism in order to respond to the challenges posed by the social economic and political consequences of modernization (Channdler and Zolnner, 1988, x).In its broadest sense, federalism involves the linkage of individuals, groups and polities in lasting but limited union in such a way as to provide for the energetic pursuit of common ends while maintaining the respective integrities of all parties (Elazar, 1994,21).

With modernization came globalization and the high consciousness that brought societies into identifying and demanding their individual and collective rights and questioning the Validity of their existing form of governance that does not have a room for some form of self-governance and power sharing. The same wind engulfed Ethiopia as it embraced federalism after decades of civil war waged by those whose consciousness level exposed them to the global air and made them mobilize the people behind and demand liberation of their people from what they called the national oppression.

Though there are different narratives as to why the liberation movements choose to mobilize themselves through their ethnic lines, their end goals were to liberate the oppressed Nations, Nationalities and Peoples of Ethiopia from an old age oppression and marginalization by few dominant groups and help them become masters of their destiny. Thus, with the primary goals of empowering the Nations, Nationalities and Peoples of Ethiopia (and maintaining the unity of course) EPRDF and the then existing liberation movements made a deal to establish a decentralized system of governance which gives autonomy and self-administration for the nationalities without jeopardizing the union. The FDRE constitution by creating self-administering States based on ethno linguistic lines, gave the nations, nationalities and peoples

of Ethiopia a right to self-determination up to secession, usage and promotion of own language and culture (FDRE constitution, Art. 39).

However, while its generally accepted by some scholars that the nationalities (states) have gotten a good deal out of the negotiation especially when it comes to self-rule, over the years its becoming evident that the power balance is highly tilted towards the center particularly in matters of basic socio-economic policy decisions that affect the fate of the Nations, Nationalities and Peoples of Ethiopia (Assefa, 2007, 393-394). This will pose a serious challenge to the workability of the federation, if it has not already.

1.2 Statement of the problem

As pointed out above, the last two decades mark the federalization of the Ethiopian polity. Before the advent of the federal structure, the modern Ethiopia passed through a unitary type of state structure with the hope of building a nation-state where one language and culture dominates.

In 1991, EPRDF, a front composed of four ethnic parties, along with other liberation movement that were part of the armed struggle to topple down the military Dergue, agreed up on a transitional charter that helped establish 14 self-governing regions of Nations, Nationalities and Peoples'. The democratization and decentralization process started by the transitional government has culminated into making Ethiopia a constitutional federal state by 1995 with the enactment of the FDRE constitution. As the basis for the armed struggle by EPRDF was to answer the nationality question as popularized by the students movement of the 1960's the federal arrangement followed an ethno linguistic line to form and delimit borders for the federal states formation. Therefore, the constitution established nine states as sub national units to constitute the federation.

As one feature of federation is constitutional power division, the constitution has divided government power between the federal government which has exclusive and concurrent powers and the state with some specified powers and residual powers. Both tiers of government are endowed with legislative, executive and judicial powers within the scope of their jurisdiction.

As the federal arrangement is opted for to recognize a measure of self-administration to the nationalities of Ethiopia who has historically been oppressed, the constitution is designed in such a way that it reflects the aspiration of the nationalities for self-rule at the state level and shared rule or representation at the center. The powers given to the federal government by the constitution ranges from enacting and executing federal laws and formulating and executing the country's policies, strategies and plans in respect of overall economic and social development matters to establishing and implementing national standards and basic policy criteria for public health, education, science and technology (FDRE Constitution, Art 51(2), 5(3)).

The parliamentary system of government established by the constitution has two Houses, the HOPR and HOF, with the HOPR being the supreme political and legislative organ. The upper house, the House of Federation (HOF) is a representative organ whose members are representatives of each nation, nationality and people, with little or no part in the federal law making process (Assefa, 2007).

The Point of the matter is, if the federal government is the one that formulates and implements the country's policies, strategies and plans as well as policy criteria for major public services, through its legislative organ the HOPR, and yet the house where the nations, nationalities and peoples' are represented which is the House of Federation (HOF) have no say on it, it will leave the interests of the same in jeopardy.

Moreover, with regard to policy making at the federal level, the executive organ of government plays the major role because it's where policies are initiated. In order to see the role of the nations and nationalities in influencing policy making through this organ one needs to analyze the formation and composition of the executive organ. The highest executive power is vested on the prime minister and the cabinet and the prime minister is to be elected from among the members of the lower chamber (HOPR) (Art. 72 (1) and 73(1) of FDRE Constitution). In addition to that fact, though the constitution granted the Nations, Nationalities and Peoples of Ethiopia for an equitable representation in federal government, (Art 39(3)), there is no explicit provision that deal with power sharing in the executive.

The conclusion we draw from these statements is that the normative framework does not indicate the existence of influence by the Nations, Nationalities and Peoples of Ethiopia in the federal policy making.

Under the Constitution the States Governments are also empowered to formulate and execute economic, social and development policies, strategies and plans for their State. Here there seems to be an overlap between the policy making power of the two tiers of government in particular when we examine the practice (Assefa, 2007, 317). Assefa stated that the constitution seems to have put primary responsibility on the federal government to determine major policy directions and standards, and certainly that is the practice, although it's not clear whether that is because of state governments' lack of expertise or because it is considered to be federal power (Assefa, 2007, 303). Here also one of the main features of federalism i.e. self-rule is under strain.

The policy making process and the party system are also factors that are affecting the federal nature of the country which is characterized by centralized policy making and a top down approach to policy making (Assefa, 2007, paulos,2007).

This study, therefore, revolves around such existing challenges and inconsistencies in the practice of policy making in Ethiopia and looks for workable mechanisms that could possibly be suggested based on the existing framework and experience of other countries that faced similar challenges.

1.3 Literature Review

The literature review tries to summarize the factors that affect the structure and process of policy making in federal systems.

Federalism as a political principle has to do with the constitutional diffusion of power so that the constituting elements in a federal arrangement share in the process of common policy making and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities (Elazar, 1994, 6). It is about participation of the units at the central decision making as well as self-administration without intrusion by the central government. Participation of federal entities in federal policy making can be achieved through two different processes. One is participation in the structures and process of the

institutions of the federal government; the other is through interaction between the federal government and the regional governments through the process of intergovernmental relations and cooperation (Watts, 2007, 1).

Federal constitutions generally include provision for the representation of sub units within parliamentary institutions at the national level (Chandler & Zollner, 1988, 8). Preston King (1982) also has suggested that the defining characteristic of federations is the constitutional entrenchment of the participation of regional units in the decision making procedures of the central government (Watts, 2007, 1).

Experience in federations generally suggests that to obtain the confidence of the citizens in the different federated entities in federal policy making, two criteria must both be met:

- 1) Representation of the internal diversity within the federation within the institutions of the federal government, and
- 2) Effectiveness in federal government decision making (Watts, 2007, 4).

The fact that everybody gets to see their kind in the decision-making points at the federal level as well as the fact that their interests are duly met through the decision creates confidence.

Among the issues that need to be considered in light of the above criteria are;

- The distinction between parliamentary and non-parliamentary federal institutions, and their impact on generating federal cohesion and shaping federal policy making;
- Special provision for proportionate representation of federated entities in the federal legislature (particularly through second chambers), executive, public service and agencies;
- The impact of electoral processes and of the operation of political parties up on the representation and participation of different groups in federal policy making,
- Process for consultation or consent required in federal policy making. (Watts, 2007,4)

When we look at the first issue, generally, the federal government institutions fall into two basic categories; 1) those involving the separation of executive and legislative powers as in USA, and 2) those involving the fusion of executive and legislative powers with a parliamentary executive responsible to the popularly elected house of the federal legislature as in Canada, India and Germany (Watts, 2007, P.5). These alternatives are significant because they have a significant impact up on the accommodation of regional interests and the political dynamics of federal policy making (Watts, 2007, P.5).

The parliamentary forms of executive found in federations have typically provided more cohesive and decisive federal governments than systems based on the separation of powers as in the USA (Watts, 2007, P.7).

On the other hand, the west minister model, it is often said, concentrates power in the hands of the prime minister and cabinet and assigns a minimal role to legislatures or parties in the policy process (Chandler & Zollner, 1988, 8). As Ethiopia is also a parliamentary system, the leading party controls both branches of government and the executive is answerable to parliament, there is fusion of power between the executive and legislative branches of government, or party and state. Ethiopia also shares the implication of this system stated in the above statements (Paulos, 2007, 266).

The second important issue is the importance of representation of federated entities in federal legislature. While most federations have found it necessary to establish bicameral federal legislatures, in practice there has been an enormous variation among them in the method of selection of members, composition, and powers of the second chamber, and consequently its role and significance (Watts, 2007, 9).

In federations like the USA, where they are directly elected by the people, the second chambers serve in the processes of federal decision-making as representatives of the electorates in the federated entities (Watts, 2007, p.12).

Whereas in the case of Germany, members of the Bundesrat are ex officio instructed delegates of the land governments; it's primarily the views of those governments that they represent and only indirectly those of their electorates (Watts, 2007, p.12). It is also

considered as a rare combination of inter and intrastate modes of representation within one institution (Chandler & Zoolner, 1988, 10).

Where the representatives of the states are elected by the elected members of the state assemblies as in India (Rajya Sabha Secretariat, 2009, p.9), they are more representative of the state legislators and their political party interests (Watts, 2007, 12).

The FDRE constitution in terms of representation to the second chamber resembles the case of India though it additionally empowers the state council to hold elections to have the representatives elected by the people directly, if it chooses so (Art. 61 (3) FDRE constitution).

In federations where there is a separation of powers (USA), the second chamber has equal powers with the first. Where there are parliamentary executive however, the second chamber is generally weaker because the house that controls the executive (invariably the first chamber) inevitably has more power (Watts, 2007, 13).

This raises the question whether in parliamentary federations second chambers can provide federated entities with an adequate voice in federal policy making. This concern is reinforced by the usual strength of party discipline within parliamentary institutions submerging regional voices (Watts, 2007, 13, Assefa, 2007, Paulos, 1991, 284). In this regard while the German Bundesrat exceptionally has considerable influence in policy making (Watts, 2007, 13), Ethiopia seem to fall to the weaker second chambers (Assefa, 2007).

The third point is the role of federated entities in the federal executive. It's now widely recognized that the rule making monopoly of legislatures has been replaced almost everywhere by the executive (Watts, 2007, 14). In case of parliamentary executives, with the exception of Belgium, their composition and the selection of their members are usually not constitutionally specified. The composition of cabinets and the selection of their members have usually been left instead to the prime minister.

In connection with this, Tsegaye remarked that what is striking in the intensely ethnic sensitive context of Ethiopia's politics is the absence of provision that expressly deals with power sharing in the executive (Tsegaye, 2004, 3).

In practice, however, parliamentary executives in federations have typically been widely representative (Watts, 2007, 15). This is also more or less the case in Ethiopia (Assefa, 2007).

The participation of federated entities in federal policy making is shaped not only by the institutional structures of the federal legislatures and executive, but also by the operation of the electoral system and of the political parties. (Watts, P.18). The implications of this point in the Ethiopian federal system is discussed by scholars as the dominant party having the biggest share in policy-making and to the process being centralized (Assefa, 2007, 393-394, Paulos, 1991, 284).

1.4 Objective of the Study

The major objective of this study is to review the existing challenges of policy making in Ethiopia and forwarding some options of overcoming them after exploring the practice and existing realities in Ethiopia and examining the experience of other federal countries by particularly focusing on the experiences of USA, and India. With this general objective, the study also has the following specific objectives:

- To examine the current policy-making process at both levels of government in Ethiopia
- To analyze the challenges of the policy making in Ethiopia vis-à-vis the principles of federalism
- To compare the policy making of other federal countries with Ethiopia and look for best experience and alternative mechanism for the challenges posed by the policy-making process.

1.5 Research questions

The study will try to answer the following specific issues

1. How is policy making power divided among the federal and the regional governments?

2. What is the trend of policy making in Ethiopia at the federal and regional level over the past decades?
3. Does the actual policy making process reflect the federal nature of the country at both levels of governments?
4. Apart from the normative power division with regard to policy making, are there institutions and systems that are positively or negatively affecting the process?
5. How do the policy making process in Ethiopia benefit from other federal countries like the US and India?

1.6 Significance of the Study

Ethiopia seemed to have moved forward in realizing and accepting its diversity in many ways since becoming a federation. But in keeping the momentum a lot is yet to be expected from the units of the federation and the central government in reflecting federal principles in reality.

One of the significant areas where the operation of the federation needs re-examination is the policy-making process which is being criticized for its centralizing tendencies. Therefore this study in reviewing the practice vis-à-vis federal principles and also depicting best practices from other working federations, hopes to inform actions by policy makers in government in achieving inclusive governance at every stage.

For those scholars who are interested in studying the federal policy making by each sector it may serve as an entry point.

1.7 Scope and Method

The research is limited in scope to discussing the legal framework and practical realities of policy making both at the federal and regional levels. In the process of examining the policy making process reference will be made to the federal 5 years plan (GTP-I and GTP-II) but the study will not venture into discussing the GTP in a detailed manner.

On the other hand one or two sector policies of both the federal and the states will be examined (preferably education and environment) in order to closely see the level of adherence to the federal principle in policy making in Ethiopia.

In relation to examining the experience of other federal countries too, the focus will be examining conventional and unconventional mechanisms adopted by the central government in adhering to the federal principles in policy making at the federal decision making level as well as on the part of the regional governments. Here again, except incidentally, detailed policy level discussion will not be ventured as the study is limited in time and scope.

With regard to method, the study will descriptively review the basic principles in federalism in relation to policy making and review the legal framework as well as the practice vis-a-vis the principles. Since the study is interested in identifying the relationship between constitutional frameworks and trends in actual policy processes in the context of federations – even if the study is not engaged in full comparative analysis- the need for some degree of comparison is unavoidable. Thus the experience of USA and India on policy making is considered as they both are functioning federations with wide variations in their federal structuring and practices.

The United States is chosen for it is the oldest and more advanced federation with a strong second chamber (even more powerful than the first chamber) hence a lot of lessons could be drawn from it for the two decade old Ethiopian federation.

The Indian federation is also opted for it shares significant similarities with Ethiopia in terms of the type of federation which is multi-cultural and that they both share a parliamentary form of government where the executive, which has a major stake in policy making, dominates. On the other hand, their second chamber which is the council of states is commended for its influence on the policy-making with its own unique features.

With regard to data collection, Key informant interviews would be conducted with pertinent officials of Ministry of Finance and Economic Development (economic policy and planning unit), Ministry of Education and Ministry of Environment and respective institutions at the regional level.

With regard to the institutions at the regions, only the regional state of Oromia and SNNPR will be included in the research, for the study is limited in time and scope as well as resource. The study then, involves a mix of descriptive and reflective analyses of the data collected.

1.8. Organization of the Study

The study is organized in five chapters. The first chapter, following a brief background, presents the problem statement, the research questions, and the methodology of the research. The second chapter deals with the basics of federalism in order to give a context to the preceding discussions on policy-making in federations. The third chapter is about the institutional arrangements in federations for participation of constituent units in policy-making at the center with brief discussions on the experiences of the two federations selected for the study in contradistinction to Ethiopia. In chapter four the practice of policy-making in Ethiopia in comparison with the US and Indian federal practice with particular emphasis to two sector policies /Education and Environment/ is discussed followed by a concluding remark in the last chapter.

Chapter two-What is Federalism?

In order to study policy-making in a federal context, defining and articulating what is meant by federalism and federations as well as its similarity and differences with other systems of governance like unitary systems and confederations is inescapable. As will be discussed shortly federalism and federations are not subjects that could be defined with ease (Mangu, 2010, 2), hence requiring some elaboration.

Also the factors that are driving the world nations into increased interest to the system of federalism, as well as the division of powers in federations, which is the primary manifestation of a federation, are crucial issues in understanding the setting with in which we are going to discuss policy- making in federations. A modest articulation of these issues will be done in this chapter.

2.1 Federalism Vs Federal State /Federation/

Federalism seems to have sprung up from what's called the 'federal idea'. While federalism is normally understood as having to do with political structures, in fact, the federal idea speaks principally to the character of human relationships (Elazar, 1994, 4). The federal idea, with its roots in the biblical idea of covenant, understands humans as autonomous equals capable of entering into covenants to establish the rules and institutions of their self-government, who form civil societies and polities through covenanting with one another on the basis of mutual consent to advance human cooperation in such a way that all the partners preserve their respective integrities, even as they build a common framework to secure common ends (Ibid).

As much as the writer of this paper has doubts on the accuracy of the analogy of the biblical idea of covenant which is definitely made among unequals of exceptional degree (God and His people, the Israelites), the spirit of the covenant Elazar seems to have implied is a form of agreement or treaty among autonomous and equal societies to establish the rules and institutions of their self-government. It seems in that sense that Elazar stated that Federalism is the practical

application of the covenantal way to the organization of political authority and power (Elazar, 1994, 5).

As Kincaid stated, a covenant signifies a binding partnership among co-equals in which the parties to the covenant retain their individual identity and integrity while creating a new entity (Kincaid, p.4). By the term 'federal' it is meant that it is based on a foedus or treaty between states and not on a purely one-sided assertion of will' (Song, 2008, 184).

While Elazar's conceptualization of federalism emphasizes on equality, autonomy and free will of parties and also covers wider scope by focusing on a covenant which could signify a variety of agreements, a bit narrower definitions are given by other scholars. Prof. Dicey as coated on Thampa states that Federalism is a means of distributing force of the state among a number of co-ordinate bodies each originating in and controlled by the constitution (Thampa, 2008, 64). This definition limits Elazar's covenant into a constitution which is usually binding legal document of sovereign nations.

Another scholar stated the basic principle of federalism is that the legislative and executive authority is proportioned between the center and the states. The states are in no way dependent upon the center for their legislative or executive authority; the states and the center are co-equal in this matter. (M.V pylee, p. 403 as cited on Thampa, 2008, 64)

Another commonly quoted and authoritative definition of federalism is forwarded by W. Riker which states federalism is a political organization in which the activities of government are divided between regional governments and a central government is such a way that each kind of government has some activities on which it makes final decisions (A. Lijphart, 1979, 502). As there could be cases where federalism and federations are used interchangeably like the above definition, the two are quite different though highly intertwined.

As federation is the most complete institutional expression of the federal principle, federalism is that principle in itself: A principle which can be conceived in both normative /ideological/ (King, 1982:21) and institutional terms (Baldi, 1999, P.3). As a normative principle, federalism recognizes and promotes diversity in unity within the overall society (Ibid). Varying degrees of societal diversity produce varying degrees of demand of self-expression, and those varying

degrees make the structure of the society more or less federal (Ibid). The societal diversity that produce federalism may be of many kinds, but economy, religion and nationality (which implies culture, language, and ethnicity) are the deepest cleavages (Ibid).

Ronald Watts states federalism, as a normative term, refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule. It is based on the presumed values and validity of combining unity and diversity, i.e. of accommodating, preserving and promoting distinct identities within a larger political union (watts, 2008, P.8).

By contrast, a federation is conceived as ‘an institutional arrangement, taking the form of a sovereign state and distinguished from other states e.g. unitary states solely by the fact that its central government incorporates regional units into its decision procedure on some constitutionally entrenched basis (king, 1982:77). In this more narrow sense, federalism equals federation, referring to the prototype set up in the US in 1789, and the situation in a number of other countries (Song,2008, 184). Thus federalism is first of all the normative principle to recognize and protect territorial diversities within the unity of society but it is also the institutional principle to make the structure of government able to articulate and express those diversities (Baldi, 1999, P.4). It provides a technique of constitutional organization that permits action by a shared government for certain common purposes together with autonomous action by constituent units of government for purposes that relate to maintaining their distinctiveness, with each level directly responsible to its own electorate (Business council of Australia, 2006, P.3).

As Friedrich noted a federal order typically preserves the institutional and behavioral features of a foedus, a compact between equals to act jointly on specific issues of general polity. Effective separate representation of the component units for the purpose of participating in legislation and the shaping of public policy, and more especially effective separate representation in the amending of constitutional charter itself may be said to provide reasonably precise criteria for a federal as contrasted with merely decentralized order of government (Friedrich, 6, as cited on Kincaid, 2002, 9). What is peculiar in federalism, ‘no matter how certain powers may be shared by the general and constituent governments at any particular time, the authority to participate in exercising them cannot be taken away from either without their mutual consent (Elzar, 1987a, 166 as cited on Baldi, 1999., 4). Therefore, federalism as an institutional principle reveals itself

as antithetical to 'centralism' and its essence becomes that of "non-centralism" (Baldi, 1999, 4). In line with this, Watts states that the essence of federalism as a normative principle is the value of perpetuating both union and non-centralization at the same time (watts, 2008, 8).

2.2 Federal Vs Unitary Vs Confederal Systems

Understanding the commonalities and differences of these three terms is important for two reasons. One is to better understand federalism as an ideology or normative notion for it could be applied in all the three systems and the other is to clearly understand the peculiarities of a federal state as opposed to other systems.

One of the traditional typologies on polity distinguishes three main classes of governance, namely, unitary state, federation and confederation (Song, 2008, 181). Usually a unitary state is subdivided into the centralized Unitarianism and decentralized Unitarianism (Song, 2008, 183). A centralized Unitarianism requires unity or centralization of power (Mangu, 2010, 8). In the decentralized unitary system, decentralization involves a central power possessing authority to decentralize or devolve functional and administrative responsibilities to lower levels of government. The authority to decentralize, however, also includes the authority to recentralize power. (Kincaid, 2002, 9)

As Elazar pointed out using the federal principle does not necessarily mean establishing a federal system in the conventional sense of a modern state. 'The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants in political life' (Elazar, 1987, 11 as cited on Baldi, 1999. 3). Mostly decentralization is concerned with administrative efficiency and functional efficacy in an otherwise unitary system (Kincaid, 2002, 9). As Jonathan Rodden stated, decentralization is often viewed as a shift of authority towards local government and away from central governments, with total government authority over society and economy imagined as fixed (Rodden, 2004, 482). One could say governmental authority is constructed singularly.

What broadly distinguishes federal systems from unitary systems is that legislative power rests with the central government in a unitary system, but is divided and shared between the different levels of government in a federal system (Business council of Australia, 2006, 3). The division of

powers in a federal system is generally governed by a constitution (Ibid.). Federalism involves a polycentric non-centralized arrangement in which neither the constituent governments nor the general government can unilaterally alter the constitutional distribution of power (Kincaid, 2002, 8.). In a stronger wording, in a federal system of government, sovereignty is shared and powers divided between two or more levels of government each of which enjoys a direct relationship with the people (Business council of Australia, 2006, 3).

In contrast with unitary states, Federation and confederation organize the state in a compound way (Song, 2008, 183). On the other hand, a federation as opposed to confederation is a unified state comprising at least two federal units, hence the term compound, where the fields of government are divided between the member states and the federal government on a 'constitutionally entrenched basis' (Song, 2008, 183).

A confederation, the other type of compound polity, cannot however, be considered as a unified state as such, it should rather be termed as a union of states (Ibid). It is a union that is specifically 'federal' in its nature, which is to mean as stated earlier that it is based on a treaty between states, and not on a purely one-sided assertion of will (Id.184.).

Elazar's definition of confederation states, it is 'a common government formed when' several pre-existing polities joined together... for strictly limited purposes, usually foreign affairs and defense and more recently economics (Ibid). Such a common government 'remains dependent upon its constituent polities in critical ways and must work through them' (Ibid). But Elazar places confederation as one sub-type of federal arrangement (Ibid). He does so because in its broadest sense, federalism involves the linkage of individuals, groups and polities in lasting but limited union, in such a way as to provide for the energetic pursuit of common ends while maintaining the respective integrities of all parties (Elazar, as cited on Song, 2008). Here Elazar is referring to federalism as an ideology or in its normative sense.

As noted earlier in the words of Preston King, a federation is also defined in a much narrower sense, as institutional arrangement, taking the form of a sovereign state, and distinguished from other such states solely by the fact that its central government incorporates regional units in its decision procedure on some constitutionally entrenched basis (Ibid).

In early major confederations, the alliance formed on the basis of the treaty signed by the member states, was not a sovereign state, but a union of states where the member states remain the sovereign entities. It is this feature that distinguishes confederation from other forms of governance (Id., 185). The member states retain the right to withdraw from the confederate union (Ibid). The confederate government does not have its own institutions to enforce whatever decisions are taken at central level. It relies on the institutions of the confederate states and on their willingness. In a federation, the federal government and the units have their own institutions that enforce the respective decisions. But in the case of federal states, what is created through the federal pact or treaty is a sovereign state and in principle the component units cannot unilaterally withdraw from the union.

2.3 Why Federalism?

Regarding the renewed interest about federalism, Kincaid states, the federalism ferment afoot today is because it is one of the key elements of debates and discussions about democratization, decentralization, marketization, individual rights protection and minority community guarantees (Kincaid, 2002, 3). He goes on saying the federalist ferment is very much a searching reaction against the era of highly centralized nation-states which so often proved to be internally oppressive and externally aggressive (Ibid).

In a broader note, Watts states a number of reasons for what he calls the contemporary international trends, both to increased pooling of sovereignty among states in various federal forms and also to increased devolution within countries (Watts, 2008, 5). One major reason he stated is the fact that modern developments in transportation and communication, technology and industrialization have produced pressures at one and the same time for larger political organization and smaller ones (Ibid). The pressure for larger political units, as he stated, has been generated by the desire for progress, a rising standard of living, social justice and influence in the world arena, and on the other hand desire for smaller, self-governing political units because of the desire to make governments more responsive to the individual citizen and to give expression to primary group attachments- linguistic, cultural ties, religious connections... which provide the distinctive basis for a community's sense of identity and yearning for self-determination (Ibid).

Given these dual pressures throughout the world, more and more people have come to see some form of federalism, combining a shared government for specified common purposes with autonomous action by constituent units of government for purposes related to maintaining their regional distinctiveness, as allowing the closest institutional approximation to the complex multicultural and multi-dimensional economic, social and political reality of the contemporary world (Ibid).

One particular area where federalism is increasingly prescribed is in the accommodation of territorial divisions and the management of ethno-linguistic conflict (Erk& Anderson, 2005, 191). The desirability of federalism lies, among other things, in its commitment to diversity rather than homogeneity and in its promise not to obliterate one's home, nation, region or continent in the course of delegating powers to general and functional jurisdictions of larger territorial scope (Kincaid,2002,3). This desirability is also a necessity in so far as the world's many diverse racial, ethnic, religious, linguistic and nationality communities seek to retain their identities. These identities must be accommodated if the world is to move away from statism toward federalism (Id, 4).

It is stated that varying degrees of societal diversity produce varying degrees of demand of self-expression, and those varying degrees make the structure of the society more or less federal (Baldi, 1999, P.3). The societal diversities that produce federalism may be of many kinds, but economy, religion, and nationality (which imply culture, language, and ethnicity) are the deepest cleavages (Ibid). According to Livingston (1968, P.26), 'the more diversified the society, the great is the necessity of providing some means for articulating the diversities, they demand and require means of self-expression (Id, 4).

Advocates of federalism view it as a way to establish peace and security and to construct common values and an overarching identity while still fostering pluralist democracy (Kincaid, 2002, 5). It is also crucial in achieving truly democratic process within a state, where it transcends unity by respecting diversity (Thapa, 2008,64). It is also viewed by its advocates as a way of protecting and also moderating human diversity, guarding against centralized tyranny by either a minority or a majority and preserving both individual and communitarian liberty (Kincaid, 2002,5).

There are, however, opponent and proponent views in this regard. According to A. MANGU, opponents of Unitarianism and proponents of federalism argue that the first fosters authoritarianism and despotism whilst the latter supports democracy and human rights (MANGU, 2010, 8).

On the opposite, champions of Unitarianism and opponents of federation contend that the unitary state builds unity and discourages the rising of tribal and ethnic demons that are responsible for internal conflicts and secessions that are favored by federalism (Ibid).

But as the above writer concluded, though authoritarianism and despotism generally emerged in unitary states or fake federations; there are concrete and plenty examples of states from both category that bash down both sides of the argument as incorrect (Ibid). So one cannot argue based on theoretical assumptions on the desirability or otherwise of federalism, rather it all depends on the specifics of the existing realities.

2.4. Division of policy making powers in federations

2.4.1 Common features

In all federations, a common feature has been the existence at one and the same time of powerful motives to be united for certain purposes and of deep rooted motives for autonomous regional governments for other purposes (Watts, 2008, 83).

As a political principle, federation has to do with the constitutional diffusion of power so that the constituting elements in a federal arrangement share in the processes of common policy making and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities (Elazar, 1994, 21). This has expressed itself in the design of federations by the distribution of powers between those assigned to the federal government for the purposes shared in common and those assigned to the regional units of government for the purposes related to the expression of regional identity (Watts, 2008,83).

Thus, the fundamental defining institutional characteristics of federation have been the constitutional distribution of powers between the federal and regional governments (Watts, 2008, 83). This feature takes the center stage in every federation. Furthermore, what distinguished federations from other forms of federal types of systems such as decentralized unions or

confederations is the constitutional guarantee of autonomy over a certain range of assigned functions for each order of government (Ibid). A constitutionally entrenched distribution of power between the central government and the component units is fundamental in order to have guarantees of non-centralism (Baldi, 1999, 6). According to Lijphart (1984), a center-regional constitutional division of power is the primary federal principle, in other words, the first center-constraining federal mechanism (Ibid). Another scholar (Dahl, 1983) stated, federalism exists when ‘competences of sub-units are constitutionally beyond the scope of the authority of the national government, and other matters are constitutionally outside the scope of the authority of the smaller units’ (Ibid)

When we come to the criteria for distributing legislative powers, it seems to differ from one federation to the other. As Kincaid confirms there is no one best way to mix delegated, enumerated, implied, inherent, plenary, concurrent and residual powers in a federal democracy (Kincaid, 2002, 6,). A careful survey of the patterns of dividing legislative powers in various federal constitutions will hardly indicate an adherence to some universally accepted logical criteria (Arowosegbe, 2014, 132). It rather seems that the criteria adopted in deciding up on the contents and mode of enumerated or residual legislative powers are largely informed by a process of political bargaining and interest groups compromises resulting from historical and socio-cultural experiences of the peoples of each federation (Ibid).

Hence the process by which federation is established may affect the character of the distribution of powers. Here the process of establishment has involved the aggregation of previously distinct units giving up some of their sovereignty to establish new federal government; the emphasis has usually been up on specifying a limited set of exclusive and concurrent federal powers with land, the US and Austria are classic examples of this (Ibid).

On the other hand, if the creation of a federation has involved a process of devolution from a formerly unitary state, the reverse has usually been the case; the powers of regional units have seen specified and the residual authority has remained with the federal government (Watts, 2008, 85). Due to their peculiar historic and socio-cultural experiences, some federations have involved a combination of these processes of aggregation and devolution. Accordingly, federations such as India and Canada were established out of the processes of aggregation and devolution and

their constitutions provide for exclusive federal, exclusive state or provincial and concurrent powers with residual legislative powers going to the federal government (Arowosegbe, 2014, 132).

The period during which a constitution has been drafted is also an important factor in the distribution process. The newer federal constitutions of the latter half of the 20th century contain much more detailed lists of legislative powers than the earlier ones of the 18th and 19th centuries which contain division of powers in fairly general terms (Ibid, 133). A good example in this regard is the comparison between the Indian constitutions exhaustive union list, state list, and concurrent list with the US constitution of (only) 12 listed items (Ibid). The principle of subsidiarity has also been developed in rationalizing the distribution of powers between a central government and the member units (Ibid). The practical essence of this principle is its ability to quell fears of undue centralization resulting in an overtly strong central government which some members units may not be willing to permit in a federal arrangement (Ibid).

Looking at the distribution of powers between the levels of government, there are two steps of distribution, which are distribution in form and scope. And the specific form and allocation of the distribution of powers have always varied according to the specific circumstance of each federation (Burgess, 2006, 136).

By forms of distribution of legislative powers, one is referring to the ways in which these powers are constitutionally allocated between the federal government and the states (Assefa, 2007, 294). The scope of legislative powers on the other hand, refers to the area and amount of jurisdiction assigned to each order of government (Ibid). While federalism is not about rigid set of rules and principles that had to be followed by each federal country, rather depends on the peculiarities of each country as it is evident from experiences of various federal countries, there are however, some common features in the forms as well as scope of distribution of legislative powers between the federal government and the states.

The constitutional allocation of legislative powers is defined on the basis of three categories, namely exclusive powers (of the federal government and/or of the states), concurrent powers and reserve powers (Assefa, 2007, 295). Here, care is taken in qualifying the statement by stating that the exclusive list may be a different case in many federations for various reasons. At any rate,

looking at federal level, there are certain functions of government, which in a federation are and ought to be exclusively with in the power of the federal government (Ibid, 296). As K.C where put it, there must be some matter, even if only one matter, which comes under the state's list because shared power can in the end be absorbed, at least potentially, into the exclusive list to the extent that the federal government chooses to regulate it (Ibid).

The advantage of assigning a responsibility exclusively to one government or another is twofold. One, it reinforces the autonomy of that level of government, and two, it makes clear which government is accountable for policy in that area (Watts, 2008, 87). However, since the allocation of powers to the federal government and the states could not be done neatly, federations provide another set of powers commonly described as shared powers (Assefa, 2007, 312). It is introduced in recognition of the inevitability of overlaps of jurisdiction between the federal government and the sub units (Ibid).

In terms of the field of coverage it can be stated broadly that for the most part the social and economic sphere fall into this category since both levels of government have a lot vested interest in these spheres of activities (Id,313). In general terms, social services cover education, health protection and welfare of citizens, insurance and assistance for old age, unemployment, accident and workers' compensation (Ibid).

2.4.2 Scope or Content of Policy Making Powers as Applied in Federal States

In addition to variations in the form that the constitutional distribution of powers has taken, the particular powers assigned to each order of government have also varied from federation to federation according to the particular circumstances and balance of interest within each federation (Watts, 2008, 90). Basically powers are divided and shared between a general government having certain nationwide, continent-wide or worldwide responsibilities (Kincaid, 2002, 4), and regional governments. And this division of powers is combined with authoritative capacity to carry out those responsibilities on behalf of the people of the federal parity (Ibid).

There are some general similarities in the allocation of exclusive powers between the federal government and the states in all federations (Assefa, 2007, 296). Broadly speaking, in most federations international relation, defense, the functioning of the economic and monetary union

including currency, customs and excise, international trade and interstate trade, major taxing powers, inter regional transportation, major physical infrastructure, and pensions have been placed under exclusive federal or occasionally under concurrent jurisdiction (Watts, 2008, 90).

While social policies including primary and secondary education, health services, social welfare have usually been assigned exclusively to the constituent units, part of these areas, especially those relating to social policies and income security, are often shared (Watts, 2008, 91). Some areas like agriculture, postsecondary education, environment, criminal & civil law and courts show variations in assignments between federations though in a number of cases they fall under shared responsibilities (Watts, 2008, 91).

That being the general pattern, two areas where in practice there has tended to be extensive activities by both levels of governments are economic policies and social affairs (Watts, 2008, 92). Social policy has particularly become the focus of political and jurisdictional battles in the context of multicultural federations because it represents a potent tool for constructing and consolidating national identities (Beland&Lecours, 2007, p. 406).

It has proved so contentious since extensive federal assistance has often been necessary for huge program costs and because of the pressures for federation-wide standards of service for citizens which usually opens the door for federal dominance (Watts, 2008, 92). However as we will note subsequently the federal-state feud in these areas are equally troubling for so called monocultural and multicultural federations alike. Nonetheless there are significant variations among federations in the particulars of the allocated powers. Hence for better understanding of the allocation of policy making power and the issues involved a look at the experiences of the old USA and relatively young Indian federations will give a valuable insight in examining the same in Ethiopia. The coming chapter will take it up.

Chapter Three-Institutional Framework in Policy-making

As watts stated, since the constitutional distribution of authority between the federal government and the governments of the federated entities is one of the basic characteristics of all federations, the way authority is distributed has significance for the appropriate form of participation by the federated entities in the policy-making at the federal level (watts, 2007, 3).

Thus a look at a couple of federation's power distribution is important to finally examine the case of Ethiopia. Therefore in this section an overview of the constitutional power distribution of the old and advanced federations of USA and the relatively young but as compared to Ethiopia, older, federation of India will be given in comparison with Ethiopia.

3.1. Division of policy-making /legislative powers/ in federal countries

The very concise constitution of the United States puts the enumerated powers of congress (federal government) under Art I section 8 (1-18) (Constitution of USA, art I sec. 8).

Art I sect-8 gives congress powers to make laws on the majority of the powers that all the federations created after its fashion traditionally allocate for their federal governments as pointed out earlier. While art I section 8 of the US constitution seems to define the power of the federal government and put a limit on it by also giving the residual power to the states; there is however an eerie provision at sub section (18) of the same article that gives congress power to make laws which shall be necessary and proper for carrying into execution all powers vested by the constitution in the federal government (Art I sec 8 (18)).

This clause has been referred to as the 'elastic clause' because it has allowed overtime for a great expansion of the powers of the national government especially to regulate inter-state commerce and promote the general welfare (Schram, forum of federations, 4). Also despite the "enumerated powers", the division of powers between the national government and the states is not outlined in explicit terms by the constitution (Ibid). Thus, in the USA, where there is no explicit list of shared powers, the Supreme Court has been able to create a wide regime of shared powers (Assefa, 2007, 312). According to Schram it is possible that such is because the framers intended

those to be overlapping or concurrent powers, including interalia, the power to tax, the power to regulate forms of commerce and the power to initiate social polices (schram,forum of federations, 4).

Thus social policies which were state powers since the 1930's have become concurrent powers which in effect create conflicts between federal and state governments (Assefa, 2007, 312). Moreover Art VI (2) of the US constitution states that federal laws are the supreme law of the land (US constitution). The supremacy clause, however, has at times been invoked to preempt state concurrent powers (Schram, forum of federations, 4)). Thus, in the USA in case of conflict between concurrent state and federal powers the governing rule in the USA is pre-emption (Assefa, 2007, 328).

On the other hand when we look at the Indian constitution the constitution goes for detail and provides extended schedules concerning many aspects of center state distribution of powers. When compared to the very brief constitution of USA that only lists down (enumerated) powers of congress, the difference is quite remarkable.

The Indian constitution governs the legislative and administrative relations between the union and the sates (Chandiramani, 2001, 2). With regard to legislative power, constitution on part XI of chapter one states the legislative relations by listing down on schedule VII, the three categories of powers; the union list, the state list and the concurrent list (Indian constitution, schedule VII). The document on Art 246 (1 and 3) bestows on the federal government and the state parliaments legislative power on their respective lists as stipulated on schedule VII of the same (Indian constitution, Art 246 and schedule VII). While both the union and state lists seem to have a long list of powers (97 and 66 respectively); the union list however takes the lion's share of governmental powers which by itself is telling of the nature of the Indian federation.

With respect to the third list or concurrent list, which contains 52 items the union and state parliaments have concurrent jurisdiction over which the state legislatures have the power to legislate. But the power of the state legislature to legislate on concurrent lists is functional as long as it does not conflict with any of the provision of the union law on the same subject (Indian constitution art 251). The supremacy clause of the union on Art 251, states that if a state law relating to a concurrent subject is repugnant to a provision of a law made by the union parliament

on that subject, then the union law will prevail and the state law shall, to the extent of such inconsistency and repugnancy, be inoperative (Indian constitution, Art 254 and 251 part XI).

As an exception to the supremacy clause art 254 (2) provides that even if a state law on a concurrent subject is inconsistent with a prior union law on the same subject, and that law has received presidential assent, then the state law shall prevail in that state and overrule the union law in the particular state (Art 254 (2) of Indian constitution). Even in this case it's the union president that gives his/her blessings for the state legislatures which in effect shows the supremacy of the union when it comes to the concurrent powers.

The other important power, among the many others that gives expansive powers to the union government, is the residual power. As per art 248, the union parliament retains exclusive power to make laws on any subject matter not covered by the state or concurrent list of powers. What's more the Indian constitution gives the union parliament a sweeping power to legislate on matters covered by the state list if the council of state has resolved that it is necessary in the national interest to do so (Art 249, part XI of Indian constitution).

Another uncanny aspect of the Indian constitution is the upward delegation of power in which the union is given the power to legislate on state subjects when state legislatures give their consent to that effect (Art 252, P.XI of Indian constitution). One other very striking power that the Indian parliament is given by the constitution is the power to make "any" law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country (Art 253, part XI of the Indian constitution).

Going through the whole text of the constitution, as Assefa correctly pointed out, the Indian constitution unlike other federations, provided for a powerful center from the outset (Assefa, 2007, 305). So as is the case with the United States and other federations, where central dominance is more of a result of practice than their constitutions, the Indian constitution does not hide its intentions of establishing a centralized federation.

As far as social policies are concerned, 'aware of the complexities of making a federation work the constitution –makers took some preemptive steps, a detailed constitution giving decisive

edge to the union over the states place the latter in the position of enforcing its demands through administrative directions (Dahavan&Saxena,2001, 38)

When we come to the Ethiopian federation, it's more akin to the constitution of USA than India in terms of forms of distribution of powers among the federal government and states.

Although it is a fact that none of the constituent states existed as autonomous entity before the federal compact, owing to the aggregate nature of the federation, the federal government appears to be one with enumerated and limited powers and the states hold residual powers (Assefa, 2007,302). The federal government's exclusive power is listed under article 51 of the constitution which consists of 21 subjects. Some additional powers of the federal government are also stated under art 55 which states the powers of the house of people's representatives (Art 51 and 52 of the FDRE constitution 1995).

Seen in light of the Indian constitutional power division, the constitutional power allocation in Ethiopia seem to have a limited power list for the federal government put in uncomplicated and easy to grasp manner, with some similarity to the USA constitution.

However, when one takes a second look at two of the provisions on art 51, it's hard to disentangle the federal and state powers especially when it comes to basic policy fields. Art 51 (2) of the FDRE constitution empowers the federal government to formulate and implement the country's policies, strategies and plans in respect of overall economic, social and development matters. The wording of this sub article that says '... overall economic, social and development matters' is so plain and unqualified just to indicate what the word 'overall' means and to show what's left to the other power holders in the federation which are the states.

The same article in sub art (3) goes further and state that the federal government shall establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies (FDRE constitution, Art 51 (3), 1995). The problem with this stipulation is not only that it is packed with social matters that are considered mainly state powers in most federations, but also the fact that it is put in broad and general terms that it's hard to see what is left for the regional states. As Assefa put it, it is perhaps more than the 'necessary and proper' clause of the US

constitution for it grants the federal government with wide powers on economic, social, health and education aspects (Assefa,2007, 303).

What makes this point very interesting in the Ethiopian federation is that states are also endowed with similar power of ‘formulation and execution of economic, social and development policies, strategies and plans for their respective states (Art 52 (2) (c), FDRE constitution, 1995). So this power at least theoretically diffuses the power of the center in the area and could definitely be considered as a limit to the federal power. And yet considering the wording of the federal power in the area, one would ask whether or not the states will have a room to maneuver. That would be the issue to analyze in the fourth chapter of this paper.

However, these powers cover the bulk of concurrent powers on a vast field of social and economic affairs as stated in other federations (Assefa, 2007, 303).

3.2. Federal policy-making and participation of Federated Entities

As can be noted from the distribution of powers above in the context of federal governance, there are at least two levels of governments that in principle are supposed to have policy-making power. So one can say that in a federal polity, there are at least two levels of policies- state policies and federal policies on subjects that are within the jurisdiction of the respective governments.

As federalism is about shared rule and self-rule as coined by D.J. Elazar, the Federal level policy should be an outcome of the shared rule. This is to mean that what constitutes the central /federal government is the units acting together at their common center-with representatives of the overall population. It is in this light that we should look at federal policies that are made at the center. The following section elaborates on this point.

3.2.1. Federal Policy-Making and States Participation in the Institutions of the Federal Government.

“In a federal system, basic policies are made and implemented through negotiation in some form so that all can share in the decision- making and executing process” (Elazar, 1994, P.21).

There are two essential aspects in the design and operation of any federation; one is recognition of diversity through a constitutional distribution of powers which enables the self-rule of the constituent units in constitutionally specified areas of jurisdiction and the other is shared institutions of federal government which enable common action and provide the glue to hold the federation together (watts, 2007, 2). In that sense, central governments in federations are made up of formal and informal institutions and practices, which, in turn, strongly affect the nature and functioning not just of the central government but of the whole federation (Anderson, 2008, 42).

As we have seen in the previous chapter, a constitutionally entrenched power-division between the central government and the constituent units is a fundamental feature of federations. But the modality of the exercise of power allocated to the center is as fundamental as the power division. Accordingly Preston king (1993), states a division of labor between center and periphery with some constitutional basis can be found also in other systems of government, not just federations. Territorial representation and participation in the national policy-making is the federal qualifying institutional arrangement (Baldi, 1999, 7).

Lijphart (1984) also emphasizes the participation and representation of the constituent units in the national law-making process as one of the essential characteristics of federations (Baldi, 1999, 7). Assefa also remarks that the entrenchment of the states in the federal government gives legitimacy to the reciprocal relationship between the federal government and the citizens of the various states (Assefa, 2007, 142). The existence at one and the same time of the constitutional allocation of power and the territorial representation, according to Baldi, qualify federalism as center-constraining and allow for a guaranteed and non-centralized distribution of power (Baldi, 1999, 6).

The center-constraining nature of federalism overcomes the majoritarian rule of the democratic process, and allow for a different form of representation, based not just on population (representation of the overall demos on the bases of the principle ‘one person, one vote’), but on territory as well (Id, 7).

Similarly Whitaker (1992, 167) states that ‘modern federalism is an institutionalization of the formal limitation of the national majority will as the legitimate ground for legislation (Ibid). It constrains the principle of national majority as the only expression of the sovereign demos, and it introduces the principle of territorial representation of the constituent polities (Ibid). That means it represents the sovereign demos, both as a single entity and as a plurality of territorial entities. The two logics of representation; ‘population and territory’; are tightly inter connected: “the voter views the political world from two perspectives, one shaped by social pluralism of the general government, the other shaped by territorial pluralism of state governments (Beer, 1978 as cited on Baldi,1999, 7).

Territorial representation is a full center-constraining mechanism when it is expressed at the national level. In such cases, the constituent units are guaranteed that the allocation of power will not change against their will (Ibid). If they are not represented in the central decision-making process, they would be vulnerable to ‘the changing whims of the overarching center’ (Burgess, 1986, 13 as cited on Baldi, 7). The more institutionalized such representation, the more guaranteed the distribution of power (Ibid).

Hence most federations, while emphasizing the direct relations between the federal government and its citizens, nevertheless, have found it necessary to establish some institutions and processes involving the participation of representatives of the different communities within the federation (watts, 2007, 3). The establishment of federal second legislative chambers, constitutional or conventional requirements for representation within the executive and administration, and required procedures for consultation or consent have been among the variety of structures and processes that have been established to that effect (Ibid).

3.2.2. Federal Second Chambers

The central legislatures of federations usually have some balancing of representation by population with representation by constituent units (Anderson, 2008, 45). According to chattopadhyay, the principle of the second chamber /upper house of the legislature being a house

of legislative review is a well-established principle in federal as well as non-federal countries alike (2011,1). Historically from the 17th century onwards, upper Houses were constituted to represent the legislative interests of conservative and corporative elements (House of Lords in the UK or Senate in Bavaria or Bundesrat in Imperial Germany) against those of the ‘people’ as represented by elected lower houses (e.g. House of commons in the UK) (Ibid).

This shows that the importance of second chambers as a checking point on central decision-making was recognized even before federations were formally established. It is the United States that for the first time in history introduced second chambers as the federating chamber of federations (Ibid). This second model of bicameralism is that associated with the influential ‘federal’ example of the US constitution, in which the second chamber was conceived as a ‘house of the states’ (Ibid), a concept institutionalized in federations in contrast to the ‘house of the people.’

Legal and constitutional approaches identify bicameralism as an important feature of federal polities (federalism, federations & ethnic conflict, 2009, 31). As many scholars on federalism concur, the dominant trend in federal legislatures is such that the lower house of parliament provides proportional representation to all citizens, while the upper house/second chamber/ provides equal or qualified representation for the federating entities (Duchacek, 1970, 234, Elazar 1987:183) as cited on federalism, federations & ethnic conflict, 2009, 32). Assefa states in this regard that the federal parliament in a federation is expected to reflect the unity of the country in the lower house (elected by a popular vote) on the one hand and the diversity of the country in an upper house representing the states or some other regional interest, on the other (Assefa, 2007, 140).

That is primarily because second chambers help to articulate regional interests in the making of public policies (federalism, federations & ethnic conflict, 2009, 32). The same point is emphasized on King (1993, 94) that what qualifies a federation & distinguish it from other institutional types is that ‘its structure is grounded in the representation of the regional governments within the national or central legislature on some constitutionally entrenched basis (Baldi, 1999, 7).

The territorial representation within the national legislature gives the constituent units the opportunity to participate not only on the national law-making process but also the process of amending the constitution; this is the most center-constraining mechanism (Ibid). Thus the representation of the constituent units, as noted above, guards the federation from falling apart by guaranteeing the preservation of every units' interest in the process of national law making or policy making as well as amendment to the constitution. This is to mean whenever there is a decision to be made at the national level that affects all or part of the units, they are present watching over their interests.

As it naturally flows from the above arguments on representation of constituent units, the whole propose of their representation at the national level is to have an impact on the legislative decision-making at the federal level as legislators along with the representatives of the whole population at the other house. The name of most, if not all, second chambers is also supposed to be indicative of their functions. Regarding this point, Watts observes that the primary role of most federal second legislative chambers has been legislative, i.e. reviewing federal legislation with a view to bringing to bear on it regional and minority interests and concerns (watts, 2007, 13).

However, while most federations in the world including USA and India, with a lot of variations amongst themselves, have established second chambers with a role in the federal legislative process, the Ethiopian house of federation took a path which is quite 'unique'(watts, 2008, 154) which will be discussed in a bit of detail at the end of this section. Whereas the united states second chamber /the Senate/ is vested with all legislative powers granted by the constitution to the federal government along with the other house, the house of representatives (Art I, sec. I of the US constitution). Reading through the whole text of the constitution, one understands that the US Senate is as powerful as the House of Representatives with even important additional powers (Art.1 sec. 3 (6) and Art. 2 sec- 2(2) of the US constitution).

In a similar fashion the Indian union or federal parliament consists of the council of states/second chamber or the RajyaSabha and the house of the people/ the LocSabha/ along with the president (Indian constitution, Art. 79 of Ch.II).

As mentioned earlier, although, the level of influence of the two houses on the federal policy-making is significantly different in the two federations, in both countries the second chamber have a legislative function. As watts stated, since control of the federal legislature is a major element in federal policy-making, a major and contentious issue in every federation has been the organization of the federal legislature, not only to represent the electoral majority within the federation, but also to provide channels for the expression of the interests of the federated entities (Watts, 2007, 8). Among the issues that have often arisen have been pressures to provide for the involvement of the diverse linguistic, cultural, economic, and social regional interests, and to reconcile disparities in population, area and wealth among the federated entities (Ibid)

Accordingly while almost all federations now have an upper house whose membership is in some way representative of the constituent units (Anderson,2008, 46), the method of election, composition and powers of the second legislative house seems to differ among federations with an outcome which is affective of their supposed function. Anderson partly underscores this point by stating that the method for selecting members of the upper house and the powers of the upper house differs greatly among federations, with important consequences for their functioning (Id, 45).

3.2.2.1 Method of Selection

All first chambers are directly elected by the voters, but the members of most second chambers are elected indirectly (usually by legislators at levels below that of the national government (Lijphart, 1999, 206). This is basically one of the major differentiating factors among second chambers. In relation to selection or appointment of members of second chambers, the 17th amendment of the USA constitution declared the senators to be directly elected by the people of their respective states by amending the previous practice which was election of Senators by the state legislators. (Amendment 17, Art XVII of the US constitution). Thus in USA, the senators account to their electorates in their respective states.

On the other hand, where the representatives of the states are elected by the elected members of the state assemblies as in India (Art. 8(4) of the India constitution) they are more representative of the state legislators and their political party interests (watts, 2007, 12). In theory, the RajyaSabha (Second chamber) was designed to enable the representation of the state's interests in government (Dahvan & Saxena, 2001, 34). Whereas, in the case of Germany, members of the

Bundesrat are ex officio instructed delegates of the land governments and thus it is primarily the views of those governments that they represent and only indirectly those of their electorates or legislators (Watts, 2007, 12). In that sense, the arrangement of the Bundesrat has made it an effective institution in terms of ensuring a decisive regional representation at the center (Edinger 1986, 16 as cited on Lijphart,(1999), 207, & Watts, 2007, P.14).

In relation to election or appointment of members of second chambers, Watts states that, federations like the USA, Switzerland and Australia where the senators are directly elected by the people; the second chamber serve in the process of federal decision- making as representatives of the electorates in the federated entities (Watts, 2007, 12). On this particular point, however, there seems to be an issue where it is hard to find consensus among the scholars on federalism. The issue being who should speak for the constituent units in their capacity as members of the national state or federation, a good question as raised by Burgess. Burgess goes on and asks should it be the population as voters, as we find in the USA since the seventeenth amendment or the democratically legitimized constituent state government of the federation (Burgess, 2006, 206). In his book, he takes up the challenge of comparing the German Bundesrat which is indirectly elected and the directly elected senate of the USA and concludes his survey of second chambers with respect to the principle of representation, that the grass-roots vitality, the sub national polity as 'demos'- in federal systems with popular representation such as the USA and Switzerland is very strong (Ibid). In his conclusion in a way implies that regional governments represent the interests of their respective people thus the fact that people are directly involved in the election of state's representatives makes the whole purpose of representation highly effective.

On the other hand, some scholars who see no clear distinction as to the regional government and the regional populations' interests state that regional opinions are guaranteed direct and effective voice in the policy process at the center via for instance the constitutionally enshrined representation of the Lander in the German Bundesrat (chandler and zollner, 1988, 8), (Anderson, 2008, 47) (Edinger, 1986, as cited on lijphart, 1999 ,207).

A somewhat sound argument in this regard is forwarded by Assefa, in which he strongly agrees with the latter proposition but from a different perspective. Assefa argues that federations are said to be 'polyarchic' in which not only individual citizens have an equal entitlement to vote but

states also enjoy some form of rights to influence the federal decision making process, as compared to situations in ordinary democracy, where one can imagine the constitutive right bearers and individual citizens alone on his argument for the need of legislative role of second chambers as representing states (Assefa, 2007, 140).

Acknowledging the effect of the difference in manner of election of members of second chambers resulting in the variation of interests to be represented at the federal level, he states that it is doubtful whether the senators in the USA represent the interests of the citizen, the state or some regional interest such as the mid-west, east or the south, as the citizens directly elect them since the amendment in 1913 (Assefa, 2007, 151). But if one could see a significant difference in an interest of a state and an interest of the people in that particular state, then there is a good reason to choose the people as voters for the second chamber for its ultimately their interest that should matter in a democratic federal state. Besides, in the terms of Lijphart, second chambers that are not directly elected lack the democratic legitimacy, and hence the real political influence, that popular election confers. Conversely the direct election of a second chamber may compensate to some extent for its limited power (Lijphart, 1999, 206). Chattopadhyay has also observed that upper chambers which have no popular basis for their membership have been greatly diminished in their position vis-a-vis lower chambers in most countries (Chattopadhyay, 2011, 1).

3.2.2.2 Composition

In terms of the basis of composition of second chambers, one observes a range of variations starting from those federations which organize on the basis of equality of territory to those federations balancing the principle of territoriality and citizen equality in the middle and those federations which are closed to the proportionality principle, on the other extreme (Assefa, 2007, 147).

In the US federation, the federated entities have been represented equally irrespective of the number of population, resource or other factors (Ar.1 section 3(1) of the US constitution). One of the central problems confronting the founding fathers of the US constitution at Philadelphia was how to accommodate the fears of the smaller states which were concerned about the potential hegemony of the larger states in the union (Burgess, 2006, 205). As a result the importance of the

equality principle is re-emphasized on the same constitution Art 5 which states that “no state without its consent shall be deprived of its equal suffrage in the senate (Art-5 of the US constitution). Accordingly each of the 50 states enjoy formal equal representation in the upper house, although there is a glaring disparity, for instance, between the city state of Rhode Island and the most densely populated and resourceful state of California (Assefa, 2007, 147). The senate with such equality among the state is designed to check the potential of majority tyranny coming from the lower house, (Where, 1963, 94, as cited on Assefa, 2007,147) which often is composed based on population size. It’s designed in such a way so as to over represent certain minorities (Lijphart, 1999, 207) or states with small population. Lijphart says, in such cases, the two chambers differs in their composition and are called incongruent (Lijphart, 1999, 207).

But the equality of states principle is questioned in terms of the democratic principle of representation by population (Watts, 2007, 12). Therefore to mitigate the effects of unequal consequences of equal state representation, many federations have adopted a weighted representation favoring smaller regional units rather than strict equality (Ibid). India’s second chamber/ the RajyaSabha/ is designed in such manner that the less populous states are favored but not to the extent of guaranteeing equality among them (Assefa, 2007, 147) as in the case of USA.

The constitution on Art- 80(2) states the composition of the house should be done as per what is stipulated on the fourth schedule which specifies the seats accorded to each state and union territory (India’s constitution, At-80(2), & fourth schedule). The members of the state council (RajyaSabha) are elected by the state assemblies in proportion to their population size. Thus, once again, states with large population get greater share of seats (Dhavan & Saxena, 2001, P.34). However considering the number of the House of the people/the LokSabha or the lower chamber/ which is 530 and the second chamber which is 245 some effort is exerted to favor the smaller states.

3.2.2.3 Power

In federations’ where there is a separation of powers as in the USA and Switzerland, normally the second chamber has had at least equal powers with the first (Watts,2007, 13). In the US, the senate even has some additional powers relating to the ratification of appointments and treaties

(Ibid). However, the decision making process has been prone to deadlocks and impasses when different parties control the presidency and the houses of congress (Watts, 2008,141).

Where there are parliamentary executives (like in India) however, the second chamber is generally weaker because the house that controls the executive (invariably the first chamber) has more power (Ibid). Apart from the fact that only the LokSabha (first chamber/ can remove a cabinet from office, in India the powers of the RajyaSabha are the same as those of the LokSabha with the exception of money bills which can only originate in the LocSabha and cannot be finally rejected by the RajyaSabha beyond sending it back with recommendation to the LocSabha on a once –only basis (Dahavan & Saxena, 2001, 34).

In India the deadlocks between the two Chambers are resolved at a joint-sitting, in which the LocSabha may have its way due to larger numbers, except of course in cases of constitutional amendment, where it has veto (Ibid). Contrary to the US senate, the RajyaSabha's work is eclipsed by the political dominance of the LocSabha to whom the cabinet government is accountable and which alone can dislodge a government from power, it, however, portrays a high standard of debates on federal questions (Ibid). Nonetheless, those who have reviewed the work of the RajyaSabha have not found its overall 'federal' contributions to be particularly notable (Ibid). This raises the question whether in parliamentary federations second chambers can provide federated entities with an adequate voice in federal policy-making (watts, 2007, P, 13). This concern is reinforced by the usual strength of party discipline in parliamentary institutions submerging regional voices (Ibid).

The Australian senate and the German Bundesrat among parliamentary federations are exceptions in these regard (Ibid). The German second chamber, however, does not owe its strength to either popular election or an absolute legislative veto but to the fact that it is a unique federal chamber, composed of representatives of the executives of the member states of the federation-usually ministers in the member state cabinets (Lijphart,1999, 207). That has given the federated entities in Germany a strong political leverage in federal policy making (Watts,2007, 14). The German Bundesrat can even be described as “one of the strongest second chambers in the world” (Edinger 1986, P. 16, as cited on Lijphart, 1999, 207).

The Ethiopian federal constitution starting from chapter six divides federal state power by establishing the legislative, executive and judicial organs of the federal government (FDRE constitution). Accordingly Art.53 proclaims the Federal Houses which are the House of Peoples' Representatives and the House of the Federation. For a first timer to the constitution, this gives an impression that the two houses have similar functions and that they represent the legislative chamber of the federal government. Further reading into the powers of the two Houses, however, makes it clear that the two houses do not have much in common (Arts. 55 & 62 of the constitution).

All legislative powers in all matters assigned to the federal government is given to the House of Peoples' Representatives (Art.55(1)). The House of Federation on the other hand is entrusted with the power to interpret the constitution and other related functions in dispute resolution between member states but not legislative power over matters which are specifically entrusted to the federal government (Art.62). This is what basically differentiates the Ethiopian second chamber with other federal chambers which usually share the legislative function of the federal government with the other federal House with variations in the extent of influence, as we have seen in the case of USA and India earlier on.

As stated earlier in the words of Preston King what qualifies a federation and distinguishes it from other institutional types is that 'its structure is grounded in the representation of the regional governments within the national or central legislature on a constitutionally entrenched basis'. For some scholars having a second chamber in the legislature is even a must for the federation to be authentic federal state (Burgess, 2006, 204). In all these literatures on federalism, the term central legislature is supposed to indicate 'a representative governmental body in which the people's will is transferred into the will of a state in the form of a law, which has superior (next to constitution) legal force' (Bogdanovskaia, 1999,4), not just a body primarily endowed with some 'judicial' task but no legislative function as it is the case in the Ethiopian second chamber/HOF/.

Tsegaye states, HOF, although it was meant to be a counter-majoritarian institution to balance against the majoritarianism in the HPR and to protect minorities that could be left defenseless in the face of 'blunt' democracy, it hardly could serve that role, primarily because it hardly involves

in law-making and secondarily because, in its composition, it replicates the situation in the HPR (2004, 3). Thus, as Assefa pointed out, the FDRE constitution by establishing a non-legislative upper house, fails to ensure the constituent units proper place in the institutions of power-sharing as well as the process of policy-making at federal level and by doing so it betrays the federal idea significantly (Assefa, 2007, 139).

In a rather simple language, the constituent units or the Nations, Nationalities and People's /NNP's/ of Ethiopia in the language of the FDRE constitution, are excluded from participating in the National policy-making arena, when seen from the federal law-making/policy-making/ point of view. As a federal country which is basically established in order to rectify the historic unjust relationship between the Nations, Nationalities and Peoples' of Ethiopia as stated on the preamble of the constitution which established the federation, the adoption of a non-legislative second chamber ' / the House of the states/' poses a legitimate concern as to the authenticity of the federation.

As much as the constitutional practice gave emphasis to the self-rule of the NNP's, it also needs to respond to the shared rule concerns of the same. This is an aspect of the Ethiopian federation that is serious enough to be dealt with through constitutional amendment. The need for a legislative second chamber is particularly important primarily because of the nature of the constitutional division of power between the federal government and the states, which majorly empowers the federal government to formulate and implement the policies in basic socio-economic fields, 'an area with a lot of vested interest to the constituent units in federations' (Watts, 2008, 90-92, & Song, 2008, 189).

As we have seen earlier on this chapter regarding power division between the federal government and the states, the federal government formulates and implements the country's policies, strategies and plans in respect of overall economic, social and development matters. It also establishes and implements national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies (Art.51 (2) & (3), FDRE constitution). These policy related powers on socio-economic fields seem so general and unlimited that it made the federal government omnipresent almost on any matter of both national and regional significance. Thus the need for a shared rule

based on the federal idea, at the federal legislative organs for a federation that is so determined to bring about a just relationship among its constituent units (NNP's) is self-evident.

In relation to this, one prominent Ethiopian scholar approached the issue from a different angle and states that the constitution has designed its own solution to the representation problem. He, after raising the issue of HOF being a non-legislative House, goes on stating that the center's dominance on central legislation and policy is counter-balanced by the member states' right to exit (Andreas, 2003, 61). In case the federal state either does not honor the symmetrical rights of member states in their own territories or pursues discriminatory or detrimental policies, a member state has a choice to secede (Ibid). One would wonder what a right of exit help as far as running the government and having a say on it is concerned. Right of exit is last resort, having a say during policy making actually could make exit unnecessary.

As many scholars on federations agree the very purpose of organizing a polity in a form of federation is to achieve unity in diversity (watts, 2007, 23, Elazar, 1994, Assefa, 2007). The variations in the design and operation of federations are also part of the effort to create the right balance between the pressures for unity and diversity. Therefore unity, as also stated by Thampa, is a basic objective of federalism (Thampa, 2008, 68), not the opposite. Although Art. 39 is made part of the constitution (the right to self-determination up to and including secession), featuring a confederal element, the constitution makers proclaimed a federal union/federation/ not a confederation, which explicitly states their resolve for unity in diversity (Art.1, FDRE constitution). Some scholars even state that the right to secession disqualifies a state from being federal (Duchacek 1987, 207, as cited on Aalen, 2002, 59). So in any federation, including Ethiopia's federation, the solution for any constitutional or implementation gap has to be sought for within the union. After all, according to the constitution, the right to secession does not require any grievances to be forwarded by the right holders, so as to be demanded from the union, it just needs some requirements to be fulfilled (Art. 39(3)). In any case it's hard to imagine that a properly functioning polity could be created based on some kind of 'threat' posed on the union by the constituting elements, rather a functioning polity can only be created and maintained based on compromise, shared values, sense of belongingness and trust.

Besides, maximizing diversity in a federal sense is not supposed to encourage fragmentation. Thus with regard to NNP's lack of proper representation at the federal legislative body, constitutional amendment is the only solution that best resonates with the federal idea.

3.2.3. Representation in the Federal Executive

As pointed out earlier as a federal principle, constituent units need to be represented at the central government institutions including the executive as part and parcel of the central government decision-makers. Though in a democratic form of government the legislature is the prime policy-making body, yet it is now widely accepted that the power of the legislature is more real in a constitutional sense than in terms of practical politics (shodaganga, 2009: 57). This is particularly true in what are called parliamentary form of government.

It's now widely recognized that the rule making monopoly of legislatures has been replaced almost everywhere by the executive (watts, 2007, 14). The legislature is now regarded as a constitutional procedural device for legitimizing the policies and decisions of government or the executive, rather than as an independent policy-making unit (shodaganga, 2009, 57).

As pointed out earlier, as a federal principle constituent units need to be represented at the central government institutions including the executive and administrative institutions as parts and parcel of the central government decision-makers. Therefore efforts to provide federated entities with an influence up on federal policy making must take account of the composition, operation & role of the federal executive (watts, 2007, 14). Most studies of federations recognize three broad types of structures of federations, namely the west minister model, the republican presidential model and a hybrid mixture of both types with significant implications for the form of executive & federalism (Burgess, 2006, 136). There are major differences between those federal executive institutions based on the principle of the separation of powers between legislature and executive & those based on the fusion of legislative and executive powers in parliamentary institutions (Watts, 2007, 15). The different forms of federal executive have affected the capacity for federal executive institutions to reflect regional representativeness and minority interests (Ibid).

The separation of executive & legislative powers with fixed terms for each is directed at limiting the possible abuse of power (Watts, 2008, 136). In USA congress has been able to keep strong positions in the law-making process. It is separated from the executive power and the executive has to find different (as a rule political) channels for contacts with the congress in the law-making process (Bogdanovskaia, 1999, 8). In federations incorporating the separation of the executive and the legislature, power is not only divided between federal and regional governments, but also divided within each order of governments (Watts, 2008, 136).

In countries in which the principle of the separation of powers was recognized in more flexible forms (in countries of parliamentary Europe) the legislative body has not been able to keep the leading position in the law-making process (Bogdanovskaia, 1999, 8). After parliamentary elections have taken place, the majority party usually also installs the PM, leading to a fusion of executive and legislative power (cabinet formation & head of state, 2009, 109). In the result the legislative activity of the parliaments has become under control of the government. The executive /the government/ has a chance to coordinate the law- making through the members of the political fraction in the legislative body (Bogdanovskaia, 1999, 8).

In federations incorporating this arrangement authority is divided between the federal and regional governments, but within each order, power is concentrated in a parliamentary fusion of executive and legislature (Watts, 2008, 136).

These various forms of federal government institutions have had a differing impact up on the dynamics of federal politics affecting particularly the representativeness and effectiveness of their federal governments (Id, 137). The presidential- congressional form in the US has given both the president and the two houses of congress prominent roles & has limited the excessive dominance by any one body by the checks and balances on each other. However, it has been prone to deadlocks and impasses, especially when different parties control the presidency and the houses of congress (Id, 141). One could describe the American constitution as “gridlock by design”. This was most shown in Clinton administration when he waved his “veto pen” and blocked budget bills coming from the Republican congress, leading to shutdowns of governmental services on two occasions (cabinet formation & head of state, 2009, 108). This situation of divided government happened again after the 2006 midterm elections, this time with

a Republican president confronting a Democratic Congress. This is particularly relevant if there are incoherent majorities between the president and the two houses of the legislature, which means that either one or even both houses are of a different majority from the presidents (Ibid).

By contrast a parliamentary federal executives, where based on single- party majorities or stable coalitions, have generally contributed to cohesive government (watts, 2007, 16). But cohesion and decisive government is achieved at the price of entailing strong party discipline, executive dominance & a more majoritarian emphasis by comparison with those embodying the separation of powers principle (watts, 2008,141). On the other hand, in multiparty situations where coalitions of federal parties have become the norm as in many European federations and India, decisive decision-making has been sacrificed but a less majoritarian representativeness has been achieved (Ibid).

Initially the Indian federation has witnessed the significant political phenomena of one political party; the Indian National congress which completely dominated the scene since 1947 when it controlled the central and all state governments. According to Jain, this smoothed and facilitated the working of federalism in its formative period (Jain, 1968, 302) because of, among other things, the cohesive decision making effect of one party dominance. But the situation has undergone a change since the 4th general elections which has broken the one party dominance and various political parties have assumed control of various governments (Jain, 1968, 302)

The different forms have also affected the capacity for regional representativeness within the executive of the federal government. In terms of balancing regional and minority interests with in the executive, the U.S presidential form is limited basically to two individuals: the president and the vice president (Watts, 2008, 141). According to Watts while most presidential candidates in the US have taken regional running mates, that has provided only limited opportunity for representing the wide diversity within the constituent states (Watts, 2007, 15). The collegial form of the federal executive in Switzerland, consisting of seven members in the federal council, has in practice exhibited a much better opportunity to ensure in practice representation, not only for most of the major political parties, but also for the different language and religious groups, and a range of different cantons (Ibid).

In case of parliamentary executives, with the notable exception of Belgium, their composition and the selection of their members are usually not constitutionally specified. The composition of cabinets and the selection of their members have usually been left instead to the prime minister responding to the need to obtain majority support within the federal legislature. In practice, however, parliamentary executives in federations have normally been widely representative (Ibid). In this regard it's stated that the development in India of a multiparty system with strong regional parties has led to a gradual recognition of the importance of power-sharing to reconcile conflict and of the need to make coalition governments' work rather than merely toppling them (Watts, 2008, 143).

In India its now generally accepted that the parliamentary system is no longer a genuine collegiate system but has now been transformed into a prime ministerial system in which the latter is all powerful (Dahavan & Saxena, 2001, 23). Even so, the principle of regional representation has generally been treated as a governing principle for ministerial appointments in addition to the criteria of political status, ability and suitability which are often eclipsed (Ibid). So in India, all that, led to a significant change in the manner and extent to which the informal principle of regional representation can be adhered to (Ibid).

In presidential-congressional political systems the head of state and the head of the political executive reside in the same individual, but in parliamentary systems the two offices are normally separate (watts, 2007, 16). The ceremonial president represents head of state while the head of government resides on the prime Minister. Though the head of state is largely a nominal or ceremonial one, in most federations symbolic importance has been given to making it a focus for the federal union (Ibid). In relation to this in federations like Germany and India the process of election of the presidents has involved both the federal parliament and the legislators of the federated entities (Id, 17).

In number of federations conventions have developed that the president, as in India, or the Governor General, as in Canada, should be rotated among representatives of different regional, ethnic or religious groups with the intention to attract the loyalty of minorities by making the senior ceremonial post within the federation open to members of the major regional groups within the federation (Ibid).

In Federal Ethiopia, Art 45 of the FDRE constitution declares a parliamentary form of government. Fusion of executive and legislative power is evident from reading Arts 56 & 73 of the same constitution. The relationship between the House of Representatives and the executive is regulated by parliamentary principles and this altogether minimizes the separation of powers and the checks and balances as seen in the US constitution (Brietzke, 1995:25, as cited on Aalen, 2002, 61). The federal executive consists of a Prime Minister, along with his cabinet, whose members are elected from among the members of the two federal houses or from among persons who are not members of either house but possess the required qualifications (Arts 73 & 74).

Since the establishment of the federation both as a result of constitutional principle (Art 39(3)) and practice, there is every attempt to reflect the country's diversity in the establishment of the executive (Assefa, 2012, P.449). Given the Ethnic federal arrangement, minority ethnic groups, even numerically small ones, are less marginalized at the national political level than ever previously in Ethiopia's history (Sida, 2003). However, though Art. 39(3) require for equitable representation of NNP's in the state and federal governments, there is not really express provision regarding the executive appointments in the constitution or other legislations. Besides, the decisive figures in the executive who holds the gear in the federation remain few (Aalen, 2002, paulos, 2007), this is also evident in the perception of the federal leadership by some section of the society.

One instance that can testify to that statement is the recent conflict between some residents of Oromia region and the security forces. In this recent upheaval regarding the initiative for an integrated master plan development between A.A city and the surrounding Oromia cities, when the Oromia regional state officials tried to calm the people by cancelling the plan, the responses in the social media indicates some section of the Oromo people do not think that the decision to go ahead with the plan or to cancel it is up to Oromia regional officials, rather some dominant figures in the EPRDF central committee and even some behind the curtain (social media/facebook/ reactions to the news of OPDO's cancellation of the plan).

Besides the constituent units in Ethiopia are supposed to be the Nations, Nationalities and Peoples' which are over 80 units and the executive can only take so much that the majority will still be left unaccounted for at the federal level, bearing in mind the non-legislative second

chamber /HOF/. What's more as we will discuss latter on, for the last two decades policies were initiated by the late PM & the leader of EPRDF, and his one or two right hand men at the top executive level (Assefa, 2007, 393) which makes the whole point of representation within the executive irrelevant. However since the passing away of one of Ethiopia's notable PM, there seems to be an open space for more participation by more members of the executive since no one has stood out as yet as a dominant figure.

When we consider policy formulation and implementation of the country, the executive has the primary role (Art 77 (6), Art 55 (10)). Since the formation of the federation, EPRDF has the majority in the HOPR making it a governing party and in effect controls the executive. Due to the fusion of the executive and the legislature, the policy agenda is primarily controlled by the executive as is the case in many parliamentary systems. As one can observe from the parliamentary conduct in Ethiopia, in addition to the fact that the executive is the primary agenda holder to policy legislations, the parliament is a very docile institution. The debate seems highly structured and controlled that some members of parliament ask common questions that are usually raised for the sake of it. What makes this process worse is the fact that in at least two of the last elections, more than 99% of the seats are filled by EPRDF members and as it is the case in practice at the party level, the leader of the executive is simultaneously the leader of EPRDF. So whatever the executive brought to the table gets to be approved without any challenge. There is more to the dominance of the executive in relation to policy-making as it relates to the party system as well as the political culture in Ethiopia. But at any rate it's clear that important policy decisions are left to a less representative institution which is the executive in a way that renders the role of the legislature highly contentious. In this regard Aalen stated that the parliamentary institutional framework of the Ethiopian federation give a large space of action for a strong central executive, which is only to a small extent controlled or checked by the other institutions of the federation, the HOPR and HOF (Aalen, 2002, 61).

The same party /EPRDF/ dominates the regional governments, thus a decisive government and smooth policy process and decision-making at both tiers of governments' takes place at the expense of accommodating minority interests by the more majoritarian emphasis as is the case in some parliamentary forms of governments with single-party majorities. This of course has very

much to do with EPRDF'S internal party rules, and the whole party system which will be discussed shortly.

In this connection Saunders (1995, 77) observes based on the experiences of such federations that where federations are combined with a parliamentary system along British lines that attitudes formed by the traditions of parliamentary sovereignty and executive domination of the formation and implementation of policy are not particularly conducive to federalism. He states that the problem is not insuperable but requires a genuine commitment to the concept of federalism. Though in Ethiopia the sovereignty of the parliament is highly questioned in its relation vis-à-vis the executive (Assefa, unpublished, 1), it is very evident that the usually one party executive of the federation, is dominant in policy formulation and implementation. Thus plurality of interests and accommodation of diversity is in jeopardy. In relation to the federal president, though it's not clear whether the post is part of the executive or the legislature or independent of both structures, he/she as the head of state is elected by the joint session of the HOPR and HOF with a two –thirds majority, after being nominated by HOPR (Art 69 and 70 of FDRE constitution).

As it's the case in other parliamentary form of governments the federal presidents' powers are ceremonial and symbolic but it's hard to say in the Ethiopian case that enough effort has been exerted in making the president a uniting figure in the federal union. As far as rotating the presidency to different ethnic groups as is the case in India to create a sense of belongingness for the existent diversity, there is no indication of such an effort. In fact for the whole life span of the federation after the transitional government all the presidents have been from one major ethnic group and one dominant sex, all men.

3.2.4 Electoral Systems and Political Parties

The participation of federated entities in federal policy making is shaped not only by the institutional structures of the federal legislatures and executives, but also by the operation of the electoral system and of the political parties (Watts, 2007, 18). Political parties & electoral laws in federal systems, which though not usually part of the constitution, play a critical role in determining how a written constitution operates in practice (Anderson, 2008,50).

There are around three electoral systems: Proportional, majoritarian and mixed with some variation within each system, among these electoral systems the majoritarian systems are widely used (Norris, 1997, P.2). The aim of plurality systems is to create a manufactured majority that is to exaggerate the share of seats for the leading party in order to produce an effective working parliamentary majority for the government, while simultaneously penalizing minority parties, especially those whose support is spatially dispersed (Ibid).

In 'winner take all', the leading party boosts its legislative base and its focus is effective governance, not representation of all minority views /Ibid/. On the other hand while this system /majoritarian/ emphasize governability, proportional systems focus on the inclusion of the minority voices (Ibid), which is very much in line with the principles of federalism. In federations with single-member plurality electoral systems, the inherent over representation of swings in voting patterns has made them highly sensitive to shifts in electoral opinion (Watts, 2008,144).

In the USA, and till recently Canada, this system has for the most part provided stable single-party majorities; however, the inherent over representation of pluralities has been at the expense of representativeness, with minority parties tending to be under represented. In some cases, such as India (which also practice majoritarian system), the degree of social diversity has produced a pattern requiring coalition governments (Ibid).

By contrast, those federations employing proportional representation electoral systems have reflected voting distribution much more accurately and have tended to encourage multi-party systems and coalition governments (Ibid).

In relation to the role of political parties in federations, the debate has been how far their internal organization and the structure of party systems have impinged upon the operation and maintenance of federal systems (Burgess, 2006, 137). The character and role of their political parties is an important factor in the dynamics of federations (watts, 2007, 18). Political parties are vehicles and instruments of organized, vested interests that express particular values, beliefs and aspirations, and these interests and values change overtime so that parties are able to channel and canalize them through the various structures and institutions of the state (Burgess, 2006, 150). A number of factors relating to political parties may particularly affect the character of federal policy-making. One is the organizational relationship between the party organization at

the federal level and the party organization within the federated entities and the extent to which political parties provide a major channel for intergovernmental linkages (watts, 2007, 18). The other is the degree to which party discipline at the federal level constrains the expression of differentiated regional interests (Ibid).

According to Riker, the federal relationship is centralized according to the degree to which the parties organized to operate the central government control the parties' organized to operate the constituent units. Rikers' research in this regard suggested that there was a correlation between decentralized parties and relatively decentralized federations by which he meant that many significant political decisions were still made by constituent state governments, the correlation is found to work in reverse as well (Burgess, 2006, 151). Similarly Elazar, as cited by Burgess, acknowledged that the existence of a 'non-centralized party system is perhaps the most important single element in the maintenance of federal non-centralization (Id, 152).

In terms of party organization, the federal parties in the US and especially Switzerland have tended to be loose confederations of state or cantonal and local party organizations (watts, 2008, 145). This decentralized pattern of party organization has contributed to the maintenance of non-centralized government and the prominence in their federal legislatures of regional and local interests (Ibid).

In the parliamentary federations, the pressures for effective party discipline within each government in order to sustain the executive in office have tended to separate federal or state branches of parties into more autonomous layers of party organization, however, the ties between federal and regional branches of each party have remained more significant in such federations as Germany, Australia and India. The presence or absence of strong party discipline in different federations has also had impact upon the visible expression of regional and minority voices within the federal legislatures (Ibid). Where parliamentary institutions have operated, the pressure has been to accommodate regional and minority interests as far as possible behind closed doors within party caucuses so that the visible façade is one of cabinet and party solidarity. This contrasts with federal legislatures where the principle of the separation of powers has been incorporated where shifting alliances and visibly varying positions are much more

frequently taken by legislators and thus regional and minority voices are more openly expressed and deliberated (Id, 146).

Federations have varied in having many parties, two or more major parties, or one dominant party, and these have significantly affected the functioning and character of their operation as federations. Among those with multi-party systems, especially regionally based parties, coalition governments seeking interparty compromises have been typical; India in recent decades and Switzerland are some prime instances (Ibid).

In federations with strong one-party dominance of both the central and constituent unit governments (South Africa, Ethiopia, India for some period after independence), key decisions tend to be made within the governing party, whether the system is parliamentary, presidential or mixed, and the formal institutions largely execute the party leaders' decisions (Anderson, 2008, 45). Interestingly the Indian parliament /Lok Sabha/ albeit started with a dominant congress party since early 1950's has on several occasions (in 1979, 1991, 1992, and 1998) has forced government to resign and is far from controlled by party (Assefa, unpublished, 13).

When we come to Ethiopia, as far as the electoral system is concerned Ethiopia adopted the majoritarian system as indicated on Art. 54(2) of the FDRE constitution. This is one of the major setbacks of Ethiopia's constitution as it completely defeats the objective of the federal arrangement of accommodating diversity. If number plays the main role in getting elected rather than group distinctiveness, on top of the fact that the house that constituent units get representation has no legislative role, the end result will be the NNP's with small population number as well as not territorially concentrated will simply get a nominal representation at both the central decision making level as well as at their regions.

If one disregards the actual policy-making practice and only takes into account the institutional mechanisms for central policy –making and the electoral system adopted in Ethiopia, there is no question that the most populous NNP's get the most seats at both federal houses and can even forge their votes to make or unmake any policy in their favor without the need for the less populous but numerous NNP's in the federation. This is very much the case for most of the NNP's regarding their influence on the central policy making.

With regard to political parties it's observed by many that the party system in Ethiopia is the most important limitation to the functioning of the federal structure as it plays the major role in the centralization of the policy-making (Assefa, 2007, 458).

As stated earlier since the establishment of the federation, it's EPRDF that has the majority in parliament therefore the governing party. As a Front of four ethnic based parties, its hold stretches directly to the four regional governments, namely Tigray, Oromia, Amhara and Southern Nations, Nationalities and Peoples region. The party follows an organization principle of "democratic centralism" (Aalen, 2002, 83). In addition to these regionally based parties that formed EPRDF, there are affiliated parties which are formally autonomous from it, but cannot be considered as opposition parties because of their tight links with it as their establishment is facilitated by it (Ibid). Thus practically EPRDF controls all the regional state governments in the Ethiopian federation, either directly through the member parties or indirectly through affiliate parties (Id, 82). Thus as a parliamentary federal system, the party discipline combined with 'democratic centralism' seems to have great impact on how decisions are taken within the party (Assefa, 2007, 393).

The way the party runs its business is in such a way that the party congress decide the overall EPRDF programs, but the central committee has the power to implement specific plans of actions which are the basis for the EPRDF's 5 year plans that are implemented nation widely. This five year plans are adopted by all the regional parties and are the basis for regional plans (Aalen, 2002, 84). Thus the constitutional rights of the regions to formulate and implement their own plans and policies according to the constitution is severely diminished by the fact that the regional governments which are all under the EPRDF's hegemony as stated earlier, follow the centrally designed policies and five year plans (Id, 85)

But in a recent development, a council of ministers' Regulation is adopted which established in February 2013 a National Planning Council and National Planning Commission. In this regulation a planning council that composed of the Prime Minister, Cabinet Ministers, and chief executives and deputies of the states as well as the Governor of the National Bank and other organs to be designated by the PM has been setup (Regulation no.281/2013, art4). The main powers and duties of the council is to set overall targets of gross domestic products and gross

domestic products per capita for the long term period of fifteen years and the breakdown of successive five year periods therein and provide guidance for planning and development priorities at the commencement of each five year planning periods to the planning commission which does the technical aspect of the task (Regulation no. 281/2013, art. 5). This seems to be an effort to try and disentangle the overall planning and sectoral planning process from the party to an official federal government office. The effect of this move on the whole policy-making process and the sectoral policy-making in relation to the federated entities in influencing the process at the center and regional level will be discussed in the coming chapter.

Chapter Four- Examining the Practice of Sector Specific Policy-making and Planning Process

In the previous chapters effort was exerted to see federalism and its principles as it relates to policy making in terms of constitutional and Para constitutional variables that has significant impact on the process of policy making. It is found out that policy-making in federal countries is affected by the constitutional design as well as other intricate factors that may or may not be covered by the constitution but that are important in the working of federations.

But to judge the compatibility of the process of federal policy making with the principles of its governing ideology, a further look into the actual policy making with particular reference to specific public policies would give a clearer picture of the issue. In that direction, an effort to see policy making in USA & India with particular emphasis on education & environment policies will be attempted to do a comparative review of the same policies in Ethiopia in a fashion similar to the preceding chapter. Before discussing the making of the two policies in the stated federal countries it would be important to clarify what is meant by policy in general and public policy in particular in this very study.

4.1 Policy

A number of scholars have defined policy in many different ways. Two of these definitions are read as follows:

“Authoritative decisions made in the legislative, executive, or judicial branches of government that are intended to direct or influence the actions, behaviors, and decisions of others” (Jones & Bartlet Learning Plc, p.11).

“A relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern.”(Anderson, 2003,p.2).

The first definition refers only to governmental policy makers, the second does not mention of government. However, the government is a key player in any policy field, and it is certainly true that decisions by government entities represent public policy (Jones & Bartlet learning, LLc, p.11). Thus a public policy is defined as a goal oriented course of action adopted and

implemented by the government bodies and officials in pursuit of certain objectives or goals of public interest (M. phil, 2012-13, P.2)

Public policy, therefore, includes any policies that are concerned with the public, at the federal, state or local government level. Institutions that play a crucial role in such policy making are the legislature, the executive organ and the judiciary (Ibid). In response to policy demands, public officials make decisions that give content and direction to public policy. (Anderson, 2003, P.3) Policy statements in turn usually are formal expressions or articulations of public policy. Among these are legislative statutes, executive orders and decrees, administrative rules and regulations and court opinions, as well as statements and speeches by public officials indicating the government intentions and goals and what will be done to realize them (Ibid). It also includes schemes, programs and sectoral policies (Phil, 2012-13. 3).

Thus While it is common to refer as ‘policies’ those bills which emanate from the executive in many writings on public policy, that does not seem to be accurate since both the legislative and the judiciary do make the majority of policies which affect the public as profoundly as the executive as we will see in the case of USA as one instance. There are however different typologies that are developed for categorizing and studying policies (Anderson, 2003, 4). One such typology divides policies into distributive, regulatory and redistributive policies. This typology differentiates policies by their effect on society and the relationships among those involved in policy formation (Id, 5).

Distributive policies involve allocation of services or benefits to particular segments of the population –individuals, groups, corporations and communities. Such policies typically involve using public funds to assist particular groups, communities or industries -provision of education could be one example (Ibid).

Regulatory policies on the other hand impose restrictions or limitations on the behavior of individuals and groups i.e., they reduce the freedom of discretion to act of those regulated (Id, P.6). The most extensive variety of regulatory policies are those which deal with criminal behavior against persons and property (Ibid).

A somewhat relevant policy to the distributive policies are redistributive policies which involve deliberate efforts by the government to shift the allocation of wealth, income, property, or rights among broad classes or groups of the population, such as haves & have not's (Id. P.7).

Redistributive policies however, are difficult to enact because they involve the reallocation of money, rights, or power from the privileged few to the marginalized, such as free Medical care for the disadvantaged and Voting Rights Act as in the USA (Id. 7-8)

Though such categorization is used to study policies as well as the policy making process, in this study since the focus is to see the process in terms of the principles of federalism, specific policies-education and environment-are targeted which fall roughly in two of the above categories; distributive and partly distributive and partly regulatory policies respectively. Also in this study, the term policies only refer to overarching ones since as we noted earlier policies could come in many different forms involving as many government organs. But with the exception of some federations like the USA, in these specific policy formulations that we are going to see, the executive is highly influential.

4.2 The Policy Process in USA and India

In USA, the public policy making structure refers to the various branches of government, the individuals and entities within each branch that play a role in making and implementing policy decisions (Jones & Bartlett Learning, LLC, p.13). At the federal legislative branch, Senate & House majority leader's speak on behalf of the majority party, schedules floor action and bills, works on committees, direct strategy and tries to keep the party united. (Id, P.14). Similarly House majority leader works with the speaker of the house to direct party strategy and set the legislative schedule. House and senate minority leaders speak on behalf of the minority party, direct strategy, and try to maintain party unity and as members of the minority though, they do not have the legislative duties of the majority leader or speaker (Ibid).

The various committees of congress have a variety of important roles, including drafting and shepherding the committee's legislation on the floor when it goes before a vote by all the members of one chamber, working with the president, his administration, and lobbyists to gain support for a bill; holding hearings; and conducting oversight of executive branch department, agencies commissions, and programs within their purview (Ibid). Before a committee considers a

bill, it must be introduced by a member of congress (Id, p.16). Though there may be a variety of policy views to consider, congress members often prioritize their home constituents, their party's position and the position of the president comes last in line of priorities (Id, P.19). Thus constituencies represented by the senate members are highly prioritized in the formulation and adoption of policies by the senate.

After a bill is passed by both houses, it goes to the president and the president has the following options in majority of bills; signing the bill into law or else it becomes law after 10 days without presidential signature; when congress is not in session, the bill does not become law without presidential signature, or if the president is opposed to the bill he/she vetoes it, though congress can still override veto if the bill gets 2/3rd vote in each house (Id, p.17).

With regard to the executive, as the head of the federal executive branch, a key tool of the presidency is the ability to put issues on the national agenda and offer a recommended course of action. (Id, P.20). Presidents help set the national agenda because of the role of the president as the country's leader and the amount of media attention given to presidential actions, decisions and policy recommendations. In other words, since members of congress are highly concerned about pleasing their constituency to improve their chance for re-election rather than embracing the interest of the president, the president seeks the aid of a third party- the public-to force other politicians to accept his preferences by 'going public' (Ibid).

In going public, presidents try to use support from the American people to gain the attention of congress and sway votes on policy decisions (Ibid). If the president is successful in getting the support of the public, congress members will support his agenda without fear of losing the support of their constituency which are their primary concern. Whether presidents are successful in placing policy issues on the national agenda and having them resolved in their favor depends in part on how much 'Political capital' a president has which means the strength of the presidents' popularity and of his party, in congress and in other contexts (Id, P.21). Presidents also have the power to issue executive orders which is controversial because under the US system of government, congress is the one, not executive, which is tasked with legislative powers (Ibid).

Thus at the federal level all the stakeholders in the policy process, the Senate (the House of States), the House of Representatives, and the executive with the judiciary being an umpire, have a balanced position in the policy process, none being too powerful.

Though there seems to be a debate by scholars on the question of whose interest should be represented in the house of the states as pointed out on previous chapters, in the US, the senate representing the people of each state plays a powerful role in policy making, fulfilling the shared rule aspect of a federal state along with the role played by the head of the executive, the president, who is a uniting figure. Thus in the US the role of states on national policy-making is very much in line with the federal principle of shared rule at the center.

Since the federal government does not have a monopoly on policy-making, important policy decisions are regularly made at the state level as well (Jones and Bartlet, LLC, P. 13). State legislators pass laws, appropriate money within the state, and conduct oversight of state programs and agencies (Ibid). The governor is the head of the state executive branch and can set policy, appoint cabinet members and use state administrative agencies to issue regulations that implement state laws (Ibid). But as we will see later when it comes to policy autonomy or self-rule, states have issues over the federal government. A strict reading of the 10th Amendment to the constitution, which reserves to the states and the people those ‘powers not delegated’ to the national government, would indicate a position for a limited national government, leaving many public policy areas to the responsibility of the states (Portz, (2006) ,34), however so, the practice is quite different.

The issue of education, for one, is not at all mentioned in the US constitution, thus the assumption is that education is a state jurisdiction. Moreover, it is in each state constitution that local governments, such as municipalities and school districts are created- not by the national constitution (Id, 35). However, in addition to the ‘enumerated powers’, the federal government, identified other clauses in the constitution to assume responsibility on various policy areas beyond the enumerated ones. The constitutional clauses that are used to ‘centralize’ some policy areas that are not at all mentioned on the constitution (areas like education and environment), are the necessary and proper clause, the general welfare clause, the interstate commerce clause, the equal protection of the laws clause, as well as the federal supremacy clause of Art VI (Id, 34).

In addition to the above constitutional provisions, the complexity of American federalism is reflected in the financial spending pattern for many important policy areas, in welfare policy for instance, the national government transfers some monies to states & local governments to be used in various welfare programs (Id, P.35). In primary and secondary education, local school districts account for almost all direct expenditures, but they receive over half of those monies from state governments, and to a lesser extent, the national government, making inter-governmental fiscal relations critical in the policy process. Thus both the constitutional and financial dimensions point to a complicated policy making system in which all three levels of government typically play some role in the policy process (Ibid). When we consider education in USA, even if public education is mainly a matter of state and local responsibility the federal role in American schools has grown exponentially in the period since the mid-twentieth century, and state-federal interactions in the realm of education policy have become increasingly complex as a result (New York state education department, 2006,p.5).

The delivery of educational services for Kg through higher education, relies extensively up on all three levels of government (portz,(2006), p.36 &Eckel& king,(2004), p.3). Policy makers and officials at these levels share a common goal to improve learning outcomes so all students are prepared for success in careers, college & citizenship (Portz, 2006,p36). Therefore in USA, education is no more a state jurisdiction, rather a concurrent area, where both levels of government claim responsibility in policy making.

The Elementary and Secondary Education Act was passed in 1965 and represented one of the 1st major attempts by the federal government to address growing disparities in education, and it established at the federal level the department of education and secretary of education (Gregory & Kaufman, 2010, p.4). It covers a variety of important topics, focusing particularly on financial support for schools with low-income students and every seven-to eight years the law is reauthorized and has become broader in scope and more prescriptive (portz,2006, p.41).

The most recent re-authorization came in 2002 which is capitalized on by the current (Obama) administration titled ‘No Child Left Behind Act’/NCLB/, has been a major part of the policy discussion in the education field and many states officials complain that the national government is exceeding its authority, but ultimately states have put in place testing and accountability systems to meet the requirement of the law (Portz,2006, P.41).

Though secretary of education at the federal level evaluates state plans for compliance with the requirements in the act, the responsibility for setting educational standards known as ‘Adequate Yearly Progress’ is left to each state. The states that elect to participate in this program agree to comply with the Acts requirements in exchange for federal funding, but failure to meet those requirements results in the loss of the funds (Gregory & Kaufman, 2010, p.5). Therefore, in USA the federal government fulfills its wishes for the education sector by using its spending power to attain the will & performance of the states.

On the other hand, states and local governments are left alone to do their job of delivering the service to meet the standard set by the federal government in any specific manner they choose too with regard to setting their own learning standards, curriculum & assessments that will be used in the public schools, as long as they come up with the required results. There is every space to come up with innovative ways to get the job done by the states and as to the federal government, it not only refrains from interfering in their activities but also encourage innovation and even usually capitalize on best practices of states by making it part of the national initiative. Besides, the states can even elect not to be included in the federally funded programs though most states usually do not do so. Of course for states to elect out of the federally funded programs will mean losing a huge source of education money, so it is hard to say that states are at liberty to choose not to be part of the program.

At any rate though the debate is still on regarding the extent of authority of the federal government on education, the states and local governments exercise considerable authority in delivering the education service with an eye on meeting the national goal for the sector. Thus in USA, states, both at the state and national level (as represented in terms of states constituencies at the Senate), do play the major role in the education sector.

With regard to the environmental sector, it has also met a similar fate by coming under the ambit of the federal government since the 1960’s, just like the education sector, “as prior to that time, most environmental responsibilities were left in the hands of state and local government” (Adler, 1998,p.1). Beginning in 1969, congress enacted a series of sweeping federal statutes to regulate environmental quality at the national level and thus all except a few environmental responsibilities were centralized in a single agency, the US Environmental Protection Agency (EPA), empowered by new laws to protect the air, water, and soil (Ibid). Hence, by the end of

1970's, the federal regulations governed the protection of endangered species, drinking water quality, pesticide approval, the disposal of hazardous wastes, surface mining, and forest management among other policy areas (Vogel, Toffel, Post & Argon, 2010, p.1). As a result the responsibility for environmental policy making has been divided between the federal government and state institutions (Ibid).

This federalization of US environmental policy at the time was strongly supported by pressure from environmental activists who believed that federal regulation was more likely to be effective than regulation at the state level (Id, P.2). As a result, the locus of environmental policy-making has become increasingly centralized over the following three decades since the 70's (Ibid). However so, state governments continue to play a critical role in environmental regulation; most importantly they remain an important locus of policy innovation and agenda setting (ibid). Accordingly many state regulations remain more stringent or comprehensive than the central ones; even in some policy areas states retain primary responsibility. In other cases, responsibility for environmental policy making is shared by both tiers of government (Ibid). In any case, states that attempt new approaches to pressing problems often must seek federal approval; failure to comply with existing EPA demands can result in severe sanctions including the loss of highway funds and the direct imposition of federal controls (Adler, 1998, p.4).

While there was consensus in favor of centralized national approach to environmental policy in the early two and half decades for it was successful in meeting its goals, it has now become controversial and call for greater local control in the area is being demanded by government officials (Id, p.1). It seems that in USA, the reason for the demand for more state control on environmental policies is more due to the federal rules and procedures being complex, conflicting, difficult to apply, costly and inflexible (Id p.2) ; an issue of efficiency rather than of autonomy or self-rule. In any case though environmental policy in USA is considered highly centralized the state constituencies' interests is more or less protected at the national level by the senate and also, to an extent, at the state level since the states have policy space within the national framework.

When we consider India, as stated on earlier chapters, the 1950 constitution of India ushered into the country a polity based fundamentally on two ingredients; a British type democratic (parliamentary) system of government and federalism (Jain, 1968,301). Hence, in India, as in

many cases of parliamentary systems, there is fusion rather than separation of power between the executive and the legislature.

As pointed out elsewhere with regard to policy-making, though the role of the legislature as the prime policy making body is significant, in many instances it is regarded as a constitutional procedural device for legitimizing the policies and decisions of government rather than as an independent policy making unit as we saw in the case of USA. It's also observed that in India there is a high level centralization of policy initiative and policy-making by government (the executive) at least so far as major policy initiatives are concerned, and in addition to that, nearly all the functionaries and institutions involved in policy making have implicitly accepted the role of the prime minister.

Within the cabinet it is observed that, the power of the prime minister has increased, that he/she exerts strong influence over policy decisions if he/she has the majority support of members of the union legislature. It is also observed that the cabinet and the cabinet committees play only an advisory and deliberative role while the real decisions are taken by the Prime Minister. This will leave the informally representative nature of the executive less valuable in light of federal principles. We have also seen in chapter three, of the bicameral legislative house of India, the government (the executive) is only accountable to the lower chamber (LocSabha) as opposed to the upper chamber /the RajyaSabha/ which is where states have representation. Also though the Rajyasabha is applauded for its deliberative input to the policy agenda, we have seen that it's not as such applauded for its 'federal' contribution owing to various factors like the selection process, the number of members and so on. Hence in India, a dominant prime minister can successfully do away with the interests of the states at the national level in the policy making process if he/she chooses too, which makes it incomparable with the power of the executive in USA where the president had to submit to the sole power of congress in legislation / policy-making/ and find ways around it. As we have also noted earlier, the Indian constitution with its legislative power distribution, between the union and the states, is clear in its intentions of creating a powerful center. The strength of the center particularly lies in its large legislative and financial powers, in its emergency powers and in its control over state legislation in certain situations (Jain, 1968,309).

The other complicating factor in the case of India is that the constitution which adapted the centrist features of the British Act of 1935 to create a planned development model which was inspired by a combination of America's New Deal & soviet planning (Dahavan & Saxena,2001, P.6), has been following centrally planned interventionist policy and import substitution economic model that has affected center-state relations with the principles of federalism often being held hostage by the center (Jha, 2014, p.3).

The command economy coupled with political centralization embodied in so called 'one party dominant system' during congress era weighted in favor of center, contributed massively towards centralization and states were virtually treated as subordinate units, hence federal principles were often put aside (Id,4). Central government also created some institutions and schemes, and took some policy measures to influence states' policy. Those institutions like the planning commission (which is still operative) become extra-constitutional body for getting states to adopt the strategy of planning to ensure rapid development (Ibid).

Moreover, by taking recourse to concurrent list in the constitution, which includes economic and social policies, central government made inroads in states' subjects and what was worse they were hardly consulted in important decisions that affected them (Id,5). However, the planned development model had to give way to a "cooperation-bargaining" model-especially after 1967 when India's legislatures were increasingly ruled by political parties different from those at the union (Dahavn & Saxena 2001, 6). Introduction of new economic policy (NEP) in 1991 has also indeed led to a paradigm shift in center state relations (Jha, 2014, 6)

The new economic policy which has increased reliance on markets has proved to be an enabling factor for the emergence of a market economy driven by the states and not by the center. Thus, post 1991; the dominance of the center in economic policy decision-making has witnessed significant deterioration paving the way for the state governments to design their own policies (Ibid). Over all, the important factors responsible for the shift in center-state relations in India, among others are dissatisfaction of states, change in party system, regionalization of polices, liberalization of Indian economy as well as the role of the judiciary (Id, 5). But that does not in any way mean Indian policy making is currently in full accord with the principles of federalism; it simply means it has shown improvement over the years.

At the state level too, the state governments formulate policies on items mentioned in the state and concurrent lists (Shodhganga,2009, 58). At the state level, the state legislature and council of ministers under the leadership of the chief minister and other advisory bodies participate in the formation of policies. However, as has been stated earlier, according to the center's mode of thinking, the one who provides money also exercise control and the states are thus made to look to the center more and more, especially since the adoption of the socio- economic planning in the fifties (Ibid).

Regarding the education sector policy-making up until 1976, education policies and implementation were determined legally by each of India's constitutional states (Little, 2010, 1). After the 42nd amendment to the constitution, education moved to the concurrent list and the central and state governments shared formal responsibility for funding and administration of education. Periodically, national policy frameworks are created to guide states in their creation of state-level programs and policies (Ibid). National policy and program formulation are handled by central government with guidance from the Central Advisory Board of Education, from parliament and from expert committees and commissions (Id,2)

Indian policy-makers continue to refer to the 1986 Education policy as the key and most recent policy text that continues to guide programs and actions although slight amendment was made on the text in 1992 (Id , 1&26). In the case of the education policy, the basic framework of policy formulated by the administrators is further strengthened by the Union Education Ministry sent for the consideration of the cabinet and finally for the approval of the legislature (shodhganga, 2009,58). The above fact tells that the initiative for the change in policy does not emanate from the legislature (Ibid); rather the legislature simply debates what's tabled by the executive.

As we noted earlier, with in the executive the Prime Minister is the most powerful and that is so evident in the case of the education policy. The above noted new Education policy, approved by the parliament in 1986 is the Prime Ministers' handiwork and so is the policy of liberalization mentioned earlier (Id,57). The initiative for the formulation of the "National policy on Education 1986" was simply taken by the then Prime Minister himself, although he was not holding the portfolio of education (Id, 58). The Union cabinet endorsed a status paper prepared by the PM which is meant to provide the basis for the formulation of the policy (Ibid). What makes this policy process contrary to the principles of federalism is that in addition to other factors that help

sustain a powerful center as will be discussed shortly, the role of the prime minister successfully ousted the possible role of the cabinet ministers for regional interests in addition to the fact that the house of the states' (the Rajya Sabha's) power is normally eclipsed by the power of the lower house.

In India policy initiatives of the government are in response to the priorities set by planning and the 1986 education policy is the direct response of the planning or development strategy adopted by the government at the time (Shodhganga, 2009, 62/). The responsibility of preparing a national plan and providing guidelines for the preparation of state plans lies with the planning commission. The planning commission is an agency created by an executive order of the central government / the executive/ and functions under the control of central government, with the prime minister as its chairman (Ibid). The irony is such a powerful body was not created by parliament and does not admit to mandatory membership of the states (Dahavan and Saxena, 2001, p.39). It operates on the basis of wide consultation, but remains alive to its own counsel (Ibid).

Nonetheless, in order to scale down the role of the commission and make the states part of the planning, alongside the planning commission, a national development council (NDC) was set by an executive resolution of the union cabinet for the approval of plans which is prepared by the centrally appointed planning commission by state governments consisting as members the prime minister, some important union ministers and the chief ministers of the states (Ibid). At the central level, a national plan of educational development is prepared which contains two parts, one is a central plan which deals with direct responsibilities to the union government, and secondly an integrated summary of state plans of educational development (Shodhganga, 2009, 62).

The executive power in relation to social and economic planning (concurrent subject), constitutionally rests with the states in the absence of a union law, but, in practice the planning commission exercises such power most effectively while there is no legislation setting it up (Jain, 1968, 343). In India, such type of executive power exercise is so wide ranging that, it has been used to create fully or partly controlled companies and societies through which many public sector undertakings, pivotal educational and research as well as social welfare activities take place (Dahavan & Saxena, 24). Thus, in one case a union created educational agency changed all

the text books for high school students throughout India from 1998-2002 (Ibid). However, the states need not have prescribed those texts in their schools, but were forced to do so because of the structure of the all India courses and exams (Id.25).

The process is also criticized among other reasons, that in spite of the pronouncements in favor of decentralized planning, the plan formulation follows a top-down approach (Ibid, 63). Besides, while the planning machinery at the central level has strong ministerial component, machinery at the state level, if at all it exists, lacks professional expertise (Jain, 1968,343). Also, since the guidelines are already stipulated by the planning commission, plan formulation at the state level is routine and mechanical (Ibid), which affects initiatives for innovative approaches on the part of the states.

The aspiration for an advanced and competitive education is not something typical of India but a case for all federal states, but the method of acquiring it does not necessarily need excessive intrusion on state autonomy. The same aspiration exists in USA, but the states have the autonomy to go along with the federally funded program to achieve the common goal with ample space to set their own educational standards, yearly plans, curriculum & assessments as well as meaningful freedom to exercise their executive power or else come up with their own way as long as they are able to deliver the common goal. Besides, in India since the responsibility for the implementation of education policy lies solely with the states, many a time, the efficiency of the central laws is diluted by indifferent enforcement by the states (Jain, 1968, P.325).

In relation to environment, in India, the constitution divides different aspects of environmental protection between the union and the states. Since environmental issues are relatively new in the agendas of governments, the older federal constitutions like those of the USA (as we noted earlier), did not include specific references to it, thereby making it a residual subject of 'exclusive' jurisdictions of states (Chakrabarti & Srivastava, 2015), as opposed to India which is relatively young federation with various environmental subjects on the constitution. Consequently, in India the union is vested with various environmentally relevant subjects, some of them are atomic energy and mineral resources; regulation and development of interstate rivers and river valleys, highways, aircraft and air navigation, regulation of mines and mineral development; development of oil fields and so on (Chandramani, 2001,P.2). similarly Some of the environmental subjects over which states can legislate are public health and sanitation,

agriculture, commerce, preservation, protection and improvement of stock and prevention of animal diseases, water, land and so on (Ibid).

The States and the Union have also concurrent jurisdiction over environmental subject like forests, protection of wild animals and mines as well as mineral development to mention just a few (Chandiramani, 2001,3).

As we noted again and again, though the India constitution made detailed power distribution among the tiers of government, the union powers are designed in such a way that it could be exercised expansively to the extent possible for a stronger center. Hence just like in the case of education, in India, though the environmental powers are distributed between the union and states, the union does enjoy a dominant role in environmental policy making (Id, 4).

However as we noted early on, Indian federalism despite its shortcomings has been increasingly evolving into an inclusive federal state due to the growth of regional parties which is naturally associated with a greater diversity in policy options (Kumar,2009, 6). Few state governments are now exist at the mercy of the central government, that means state governments are either important regional allies of the central government, or are in the opposition (Howes, Lahiri& Stern, 2003 as cited on Kumar, 2008). Thus the center is increasingly cognizant of the interest of the regions in all policy spheres.

In view of the above discussion on the two federal states the strength or weaknesses of the organization/composition/ and powers of the legislature in the context of federalism seem to have a ripple effect on the overall health of a federal nation. The inefficient power and limited representation the sub units possess in the federal legislature results in center's dominance in all aspects of relations between center and states including the sectoral policy making. The opposite also holds true, i.e. the efficient and full scale power and representation of the states in the federal legislature amounts to a relatively balanced and decentralized federal governance and policy process.

4.3. Examining Sector Specific Policy Process in Ethiopia

In the chapters above it is noted that Ethiopia has bicameral parliament, of which one that represents the constituent units at the center /HOF/, which barely has any role in policy making

and the other which is a popularly elected house /HOPR/, the one with policy powers on federal subjects at the center. In fact the popularly elected house /HOPR/ is the highest authority of the federal government holding a sole power in policy making while HOF, on the other hand, has no role of checking the power of other federal institutions like we saw in the case of USA or ensure consultation by regional units of all legal actions of the center (Sharman 1987,85 as cited on Aalen, 2002,61), which is a case for many well-functioning federal countries . Therefore it is pointed out that from a federalist point of view, the central legislature does not guarantee a role for constituent units in the policy making process.

It's also pointed out that when the FDRE constitution established a federal state structure, it has also established a parliamentary form of government as is the case in some federal countries including India. So there is fusion of power between the executive and the legislature (by legislature we mean the lower house of parliament /HOPR/), since it's the party with the majority of the seats in the HOPR that forms the executive and is made accountable to it (Arts 72&73 of the FDRE constitution).

According to Aalen, the institutional framework of the Ethiopian federation does altogether give a large space of action for a strong central executive, which is only to a small extent controlled or checked by the other intuitions of the federation, the HOPR and HOF (Aalen, 2002, 61).

The fact that in a British type of parliamentary government the leader of the majority party is automatically the leader of the executive gives the executive unparalleled influence in what's tabled for policy discussion in parliament. This is particularly true for EPRDF, which is the ruling party since the start of the federation, for it adheres to party discipline as opposed to party cohesion, combined with democratic centralism within the party which helped it twist the norm that "parliament as an autonomous institution has full mandate to determine its own agenda and rules of procedure into 'agenda control of the executive over parliament'" (Assefa, unpublished, 13).

Hence, the party through the executive control parliamentary agenda and cabinet enjoys virtually monopolistic agenda control-as policy initiative rests with the executive which is a source of great power (Ibid). This is also facilitated by the fact that, on top level it's hard to distinguish between the leadership of the central committee, the party executive and the top executives of the

government because they essentially constitute the same groups of people (Aalen, 2002, 84). Besides, formally the primacy of the executive in policy initiation and implementation is ensured on Art 77 of the FDRE constitution as well as Art10 of Proclamation NO 910/2015. In addition, the rules of procedure of HOPR which states among other things that a government agenda shall be given priority and be submitted for debate, has also made the legislative function of parliament a mainly executive driven operation (Assefa, unpublished, 13).

The actual practice is even worse where the executive controls no less than 99% of the agenda tabled in parliament (Ibid). On top of that, while the executive plays the major role in policy making, at the expense of the legislature which at least represents the mass in general, its representativeness of regional voices is not ascertained by the constitution since there is no specific provision to that effect regarding the executive. Even though the practice tries to take note of the generally stated Art 39(3) of the constitution in making the executive as representative as possible, still, in relation to policymaking, the trend has been that very few high profile personalities in the ruling party spearheaded by the prime minister (at least as far as the time of the late prime minister is concerned) set the policy agenda. That, in effect, takes away the supposed influence the representation in the executive of the constituent units will have at the center. Hence, the cabinet, just like the case in India, serves as a mere deliberative chamber for an already carved out policy documents.

Because of the vertical line nature of the policy process owing to the ruling party system which also rules all the regions by direct members or affiliated parties, the regional policy making is simply an extension of the central process. As a result, the above facts on the institutional framework as well as the actual operation with regard to policy making paved the way for a central executive dominated and less representative policy process.

Regarding the policy process, the Ethiopian federation has nothing in common with the US federal system where policy making power at the center is exercised keeping the federal balance in terms of institutional setup. With regard to Indian federation there are some commonalities with respect to the less powerful second chamber though it is commended for its deliberative role and for it voices various regionally based parties which is not the case in Ethiopia. India's executive has also a dominant role in the policy process particularly the prime minister which has been the case for Ethiopia too.

Apart from the overall policy making process, the constitution on article 51(2) & (3) empowers the federal government to formulate and implement the country's policies and plans in respect of overall economic, social and development matters as well as establish and implement national standards and basic policy criteria for health and education. This is a huge power that is put in general terms covering a wide area of government functions. It has even included social policies which are deemed personal matters, that is, 'policy areas such as education, health services and social work where the delivery of services involve person to person contact' and is considered a potent nation building tool (Beland and Lecours,2007, 409-15). Thus, for a federal state, there is expectation that at least social policies should remain with the constituent units for they are important for constructing and consolidating identities (Id, 406) and that has been the practice in federal countries including USA & India, till they decided to partly centralize it at some point in their history.

But even if the policy making power of the center in economic and social area seems to be boundless, the fact that states are also vested with the power to formulate and execute economic, social and development policies on the constitution could be considered as a limit on federal power in the area and in away categorize the subject under the concurrent list. Regional constitutions have also detailed this right by explicitly incorporating socio-economic policy making as their mandate. Then again, we have stated that the overall policy process is center dominated and fewer representatives of the Nations, Nationalities and Peoples of Ethiopia at the federal level.

Then the question is how does this unfold in practice (particularly with regard to the sectoral policies and plans we have been reviewing with regard to USA and India)? Does it mean there is really no federal element in sector policy making process? The discussion in the next section takes that up one by one and tries to identify the federal element in the process.

4.3.1 Education

In Ethiopia sectoral development endeavors usually follow a policy driven pattern of development initiatives. Thus after the coming to power of EPRDF, the education sector was revisited and a still functioning National Education Policy Document was adopted in 1994 which was a time before the enactment of the federal constitution. The education policy was an

initiative handled by the office of the Prime Minister, by forming a task force of various professionals in the area and government institutions (Ministry of Education, 2002, p 4-5).

The task force was endowed with the task of coordinating and overseeing the study on the challenges of the existing educational system and come up with a draft policy (Ibid). The task force identified that the existing educational system had problems of access, inequitable distribution of school services, inefficiency, lack of quality and undemocratic content (Id, 8-14). Once a draft education policy was prepared based on the study through the task force, various discussion forums were organized for criticism and for compiling comments both at the federal and state levels through the respective federal and regional education sector offices (Id, 5). At the time, though the country was not formally federal and that it had a state structure slightly different from the one after federalism, yet the policy was formulated and adopted when the country for the first time in its history was in the process of political decentralization.

However, though the political state and discourse was in favor of decentralization of political and economic power and assertion of self-rule of the nationalities of Ethiopia, the education policy formulation process was top down and center dominated. First and foremost the demand for policy was created top-down rather than the other way round. Though there were urgent issues to be answered at the top level like provision of education through one's own language / mother tongue/ the process was very much owned by the prime minister as well as the then president as he was the head of the transitional government (Transitional Period Charter of Ethiopia, 1995, Art. 9), (Interview with Tayachew, 2016).

An interview with a mother tongue and English language directorate director at the ministry of education, who is the only senior fellow still working there and was part of the policy process, indicated that the incorporation of regional interests were sought through the participation of the regional bureaus in the process. He also noted that the participation of the regional bureaus were only to the extent their human capital so allowed which was a serious challenge then as it is now as we will note subsequently. He maintained, however, that regional interests were adequately included with the participation of the regional bureaus.

In any case, while there was obviously a common interest and consensus among the regional units /NNP'S/ in changing the language policy on education in line with the right to self-

determination accorded to them in the transitional charter as well as in the proclamation that provided for the establishment of National Regional Self-governments, one could see that their participation in the process was dominated by the less representative central executive and centrally organized technical staff (Transitional Charter, Art 2 and proclamation No 7/1992).

A critical reading of the document published by the ministry of education after 8 years of the adoption of the policy to create awareness on the policy and respond to 'those people and groups who allege that the process of formulating the education and training policy was shrouded in secrecy' leads to the same conclusion (Ministry of Education 2002, p. 6). As the policy formulation was done in haste & with inadequate deliberations among the mass, let alone the NNP's, the cosmopolitan population like Addis Ababa which had better information was also very much resistant to the change, where at the time the generation of students that the policy did not affect were considered lucky and the ones that went under the policy were considered as victims.

With regard to regional economic & social policy making power, though the constitution stipulates to that effect, there are no formal policy documents prepared by regions. The fact is there seems to be a general agreement by both the regions and the federal level planning experts and offices that policy making is the federal government's task (Interview with Tamiru, Eshetu, Tesema and Nebiyu, 2016) while both the state & federal constitutions state otherwise. At the federal level, when the planning experts are asked as to why there are no 'formal' policy documents in socio-economic areas where the regions have a mandate, some of them were even appalled as to how such issue could be raised for they 'know' for sure that a properly functioning country can only have one policy direction in a specific policy field (Tamiru, Eshetu, and Nebiyu, 2010).

One senior planning team leader, who is highly involved in establishing and running the Central Planning Commission affairs, even stated that Ethiopia is not one of those federal countries like Nigeria which allows different policies by regions and create chaos in running the country (Tamiru, 2016).

What is striking in this regard is that, of those offices covered in this study except two regional bureau experts in Oromia, both the federal officers and SNNP regional bureau experts did not see

any problem in the existing practice where the federal government has become the sole policy making organ.

Of course, some of them do have their own justifications for holding such a stance. One of their reasons is their belief in adhering to the objective and goal of the federal constitution as stated on the preamble (Tesema, Mubarek, Tamiru, Eshetu, 2016). They noted that the preamble to the constitution which states, that ‘to live as one economic community is necessary in order to create sustainable and mutually supportive conditions for ensuring respect for our rights and’ (FDRE Constitution, Preamble), is crucial in understanding the process. The interviewees stated that it is in the light of ‘one economic community’ that the federal policy and planning powers should be interpreted and applied.

Thus policy analysts and experts in SNNP as well as Oromia regions reiterated that the reason the federal government is involved in all their policy and planning fields is due to the fact that building one economic community can only be achieved through the policy leadership of the national government in all the socio economic fields. This is of course, not what all the experts interviewed believe in. In one of the two regions selected for the study, the policy analysts at the Economic & Finance and Education Bureau’s stated that building one economic community does not necessarily involve unjustified high involvement by the federal government on state jurisdictions (Tessema, Wubnesh, 2016).

A policy analyst and macro planner at the Oromia region further noted that the federal government is increasingly showing a centralizing tendency in recent years using the ‘one economic community’ as a pretext (Tessema, 2016).

The other important reason put forward by one regional expert is that so long as the federation is ruled by one party which is EPRDF and as it is the party making the policies and plans primarily, there is no reason for them to think that the federal institutions are encroaching up on regional autonomy since the policy owner is the party (EPRDF) where they are also members (Tessema, 2016). The expert further notes that if a different party wins the election in Oromia or any other region, there is going to be a change in the policy regime.

The third justification mentioned as to the one policy stance is the fact that regions, even if they want to exercise their policy making power, they do have serious limitations in terms of skilled

man power. This is particularly mentioned by the SNNP Economic and Finance Bureau in which they stated that their region even welcomes any help in planning by the Federal government and that they do not consider it as encroachment on their mandate (Mubarek, 2016).

That being so, when we come to education sector planning, since policy making and planning are interrelated both in literature and practice, a trend typical of the policy process mentioned above is observable. Before venturing into education sector planning it would be critical to look into the formation & operation of the recently established Planning Council and Commission which is part of the process.

The National Planning Council and National Planning Commission

Previously, we noted that major planning directions used to be formulated within the party apparatus with high involvement of few very prominent officials both at the party and executive levels with the HOPR being a rubber stamping body. However starting from the coming in to effect of the council of ministers Regulation No 281/2013 which is enacted to provide for the establishment of the National Planning Council and the National Planning Commission, a somewhat new trend is being observed which seemed to have moved the policy and plan formulation from the party to an official federal government structure.

As stated by one of the experts at the commission, the main purpose for having an independent council and commission for planning, as far as he knows, is to better facilitate the national planning task with less bureaucracy which was the case when the planning commission was within the Ministry of Federal Finance and Economy, though it was only directly accountable to the Prime Minister's office (Tamiru, 2016). But regarding the purpose of establishing the planning council, one can observe from the design of the legislation that there seems to be a greater purpose of inclusiveness to be served by it rather than just avoiding bureaucracy.

The planning council is composed of the prime minister, cabinet ministers, chief executives and deputies of the states as well as the governor of the national Bank and other organs to be designated by the prime minister (Regulation no. 281/2013, Art 4). The main powers and duties of the council is to set overall targets of gross domestic products and gross domestic per capita for the long term period of fifteen years and the breakdown of successive five year periods there in and provide guidance for planning and development priorities at the commencement of each

five year planning periods to the planning commission, which does the technical aspect of the task, and finally approve the plan (ID, Art 5). The regional planning offices are required to base their planning on the macro economic framework prepared by the planning commission which is based on the growth targets set by the council (Id, Art.5 & 10 & Tamiru, 2016).

The Council also reviews the periodic evaluation results of the plan submitted by the National Planning Commission and ensure its integrated implementation by federal and regional executive organs alike (Ibid). The point of departure from the previous experience in planning is that all the federal cabinet members and most importantly the regional chief executives are part of the plan initiating organ which has become the council, rather than the prime minister and few prominent officials at the party level.

This is even a historic move in accommodating all regional units interests all the way through starting from the initial planning stage by including all the regional units executives which are not formally from EPRDF'S member party's. While this is a step in the right direction in coming up with a shared forum for a matter as decisive as national planning for all states at the central level the effort is not without its problems as we will note subsequently.

One major issue in relation to these two planning organs are, considering the high stake of the task in a federal context, they are not authorized by the federal legislature and can simply be reorganized or closed by the council of ministers' as it is empowered to do so when it finds it necessary (Proclamation No. 916/2015, art. 39) without consultation with the regional states.

Secondly, the Planning Council is a kind of adhoc committee which holds its regular meetings once a year unless a need arises for extraordinary meetings (Regulation No. 281/2013, Art. 6). It only gives a key guide for the plan commission to do the planning and supervision of its implementation at both the federal and regional levels (Id, Arts 7-10 and Tamiru, 2016). Thus the Planning Commission is the body that basically does such a politically sensitive task of planning, implementation and supervision of both the federal & regional plans while in its composition there is no requirement of representation of regional states or NNP's as it is purely a place for technocrats.

Moreover the Planning Commission is only directly accountable to the prime minister, not to the Council (Id, art. 7). So it is the prime minster and the Planning Commission that does the main

task of planning which gives the prime minister only a heavy hand on the national planning and evaluation and also the Commission which is not at all an elected body, rather a composition of technical staff. In practice, the final say on plans is still vested with the Council of Ministers, not the Plan Council as stated on the regulation, before it gets to be approved by the HOPR (Tamiru, 2016). This in a way takes back the role of the regional executives in ensuring their regional interests at the central planning level as members of the Council.

As the plan implementation and monitoring team leader pointed out the model for adopting a national planning council and commission is taken from India (Tamiru, 2016). Though India's experience in this area goes back to the time of its federalization which is more than half a century ago, their long standing issue with their planning commission is being observable in Ethiopia within the three years life span of the commission. In India it is consistently stated that the role of the commission in creating a more centralized trend in planning by overtaking the role of the planning council that researchers and the states of India advocate for its dismantlement.

Though it's very early to conclude in that line for the Ethiopian Planning Commission, the fact that it is highly involved in the actual planning than the Council and only account to the prime minister raises issues of legitimacy and representativeness in a federal context. Besides some regional states are already challenging the legitimacy of the planning commission and are refusing to cooperate with commission by not submitting required regional data as well as by not submitting their draft planes and reports (Tamiru, & Tessema, 2016).

That being so when we come back to the sector level planning, the education sector planning as part of the process will be initiated based on the macro level basic economic framework prepared by the Plan Commission and handed down to the Federal Education Ministry. The planning division of the Education Ministry works out the sector plan which could be the Education sector GTP or ESDP in three core areas namely General Education, Higher Education and Technical Education (Eshetu, 2016).

In Ethiopia educational administration as a concurrent subject is divided in to General education which is mandated to regional governments and Higher education and technical /vocational/ education which are put under the federal mandate. Though the mandate on the education sector is divided into federal and regional governments, the federal education ministry based on the

framework given to it by the Plan Commission and the performance evaluation reports of previous plans on the overall education sector, prepares both the federal level GTP of Education as well as Education sector Development plan / ESDP/ in all the core areas of the education sector including General education which is the mandate of the regions (Eshetu, 2016). When the Ministry of Education Plan division is asked as to why they go to the extent of detailed planning in relation to General Education which they recognize as the mandate of the regions, they responded that the national level education sector goals can only be achieved through such uniform and strict planning procedures throughout the country (ibid).

After the Ministry of Education finalized its plans, it sends it to the regional bureaus so that they do their own regional level GTP of Education as well as their ESDP on their mandate areas (Eshtu, Nebiyu, Belaye, 2016). In addition to the federally planned GTP and ESDP documents, the Federal planning division gives the regional bureaus orientations and feedbacks on how they go about preparing the planes. Even if it is the regional parliaments that formally approves the regional sector planes, the Ministry of Education plan division requires the regional bureaus to submit their draft plans for review before approval (Ibid). While the federal level plan review has been going on for quite some time, in recent years some two or more regional education bureaus have shown resistance to send their draft planes to the Ministry for review (Eshetu, 2016). This is an assertion of autonomy on the part of the regional bureaus' though it is termed as unacceptable trend on the part of the federal level officers (Tamiru, Eshetu, 2106).

On the other hand when one reviews the plan documents of both the federal and regional education sectors, they are basically the same documents except in terms of statistics and details of activities.

On the contrary the Regional Bureaus adamantly stated that as far as the regional planning is concerned, except the basic frame work set by the respective federal organ which they ought to follow, they are free to plan as per their need and interest (Tessema, mubarek, Nebiyu, Belay, 2016). In this regard an officer at the Planning Commission and also the Planning division at the Ministry of Education stated that, what they plan is the maximum and usually the regions do their planning within that limit (Tamiru, Eshtu, 2016). In relation to that, the planning division at the Ministry indicated that if sometimes regions opted to plan beyond and above the federal plan, they may do so, but they will need to take care of the budget on their own. The federal money is

only allocated for the strategies and activities that are in line with the federal plan (Ibid). Moreover, there is a quarterly review meeting where regions present their progress report at the federal level. In general what is different in planning at the regional level is that the regions follow a bottom up approach when they are planning by initiating the process at the woreda level, while the federal level planning is primarily top down (Tamiru, Eshetu, Nebiyu, Mubarek, 2016).

One note that, considering the process at both tiers of the government, the federal nature of the country is more visible at the regional level planning than the federal one for they go bottom up if at all one could call the regional planning as planning on its own right. On the other hand one important mandate in relation to Education that the regions possess which is critical for federal state's particularly multinational federations is curriculum design over their respective share of educational administration (Education and Training policy, 1994, p. 12-13).

The preparation of curriculum for primary education is one of the important powers in relation to education which is well exercised by the regions in order to incorporate and develop the culture and language of their different nationalities. But even this is supposed to be done with the involvement and close supervision of the relevant directorate at the Federal ministry of Education though some regions go about it without the knowledge of the same (Eshetu, Tayachew, 2016).

4.3.2 Environment

When we come to environment as a sector, unlike the education sector, the constitution on Art 51(5) and Art.52 (2) (d) vested the legislative /policy-making/ power on the federal government and the administrative power to the regions (FDRE Constitution). Hence, the policy making power clearly falls on the federal government-unlike USA and India where environment is becoming a federal jurisdiction through increasing tendency of centralization on the part of the federal government rather than constitutional stipulation. Considering environment being a federal subject at least in terms of legislation, the federal level institutional representativeness and accommodation of regional interests is critical.

Currently at the federal level, the institution entrusted with the power on environmental protection is the Ministry of Environment, Forest and Climate Change which replaced the Environmental Protection Authority by the enactment of proclamation No 803/ 2013.

As per the Environmental Protection Organs establishment Proc No 295/2002 an Environmental Council composed of representatives to be designated by every regional state, among others, is established. The responsibilities of the Environmental Council are reviewing proposed environmental policies, strategies and laws, and issue recommendations to the government and also review and approve directives and environmental standards prepared by the Authority, now Ministry (proclamation No. 295/2002, Art 9). Also, based on reports submitted to it, evaluates and provides appropriate advice on the implementation of the Environmental Policy of Ethiopia (Ibid). The Council is very important as there is lack of mechanism of institutional representation of regional interests at the federal level.

When we look at the policy making process fortunately this study took place at a time when the Ministry was revising the National Environmental Policy and preparing a new one.

The Ministry took the initiative to revise the policy considering the current global and local environmental and economic realities into account, and to that effect an environmental gap assessment was conducted by a technical team organized by the Ministry. While the team was conducting the policy gaps, regional bureaus were consulted and also after the policy gaps were identified and compiled, an external stakeholder consultation where regional bureaus took part was organized by the Ministry (Ministry of Environment & Forest, unpublished & Interview with Girmawit, 2016). However the same paper that documented the participation of regions in the policy gaps have also endorsed a comment that states ‘if regions were involved in the policy gap analysis, more gaps could be identified as they have the practical experience in implementation’ (Ministry of Environment, unpublished).

On the other hand, after the technical team prepared the draft policy document, another external consultation with the respective regional bureaus was conducted which the writer of this study attended. Looking at the formal process, there seems to be some deliberate effort by the federal authorities to be inclusive of regional interests.

However, what transpired at the workshop rendered the process more of a formality than a genuine interest in the participation of the regions. While most of the regional bureau representatives came to the one day consultation meeting, none of them received the draft policy document ahead of the workshop to come up with their comments and feedbacks (External consultation meeting, ministry of environment, 2016). Hence the regional bureau representatives demanded to be able to send their comments in writing after a thorough revision of the document which was agreed to by the ministry (Ibid). As far as the process goes the regional representatives seemed to have more of an observer status rather than a serious stakeholder in the policy.

As to the rest of the policy making process, the policy revision team leader stated that, after incorporation of comments of the consultation, a final draft policy will be presented for discussion to the above mentioned Environmental Council where the regions have representation which will then send it to HOPR for final approval. Regarding this sector and the policy process, one might note that there is at least an institutional framework put in place to protect regional interests as well as share in the decision making process by the regions at the federal level through the Council which could possibly compensate for the gap identified in terms of the federal legislative and executive institutions in projecting shared-rule.

In relation to the planning of the sector, there has never been a similar organizational structure of environmental protection organs at the center and regional level till very recently which made it difficult to study the relationships between the two tiers of government.

Hence, in recap in Ethiopia as far as the making of economic and social policies are concerned, the practice shows that it is highly centralized.

As noted in summarizing the experiences of USA and India in sector policy making, the same observation applies to Ethiopia's sector policy-making where the gap observed in the federal institutions at the central level has a ripple effect and is reflected all the way down to the central sector offices. Whether intentional or not the efforts that seem to indicate an effort in line with the purpose of the nation within the context of the constitution turn out to be superficial and disingenuous in as far as making the process inclusive of regional interests.

As to the rhetoric regarding the constitutional ‘one economic community’ though there is genuine concern just like the federations we have seen (USA & India), that the delivery of a balanced and equitable growth in all economic & social areas to the citizens of the country is an obligation on the part of the center, an excessive obsession to control every step is killing both innovation and initiative on the part of the regions.

And yet regions are developing some resistance, at least at bureau experts’ level, and if supported by regional officials at the regional level, a bargained balance in sector policies could be a reality in the near future.

Finally in one other positive note, if it’s not stating the obvious, from the above discussion particularly of the education sector, it’s interesting to note that regions do enjoy their cultural and linguistic rights in as far as curriculum design and using their own language for learning is concerned.

Chapter five-Conclusion

It's noted that a defining institutional characteristics of federations is the constitutional distribution of powers between the federal and regional governments to have guarantees of non-centralism. As such the Ethiopian constitution generally divided government powers between federal and state governments in a way that could be considered moderate considering other federal countries covered on this study.

However it is also noted that legislative/policy making power assignments in federations especially in socio-economic fields has proved contentious and that is very much the case for Ethiopia as well as both the US and Indian federations.

The main concern of this study was also to answer the question that, as contentious as they are, what role does federalism play in Ethiopia's socio-economic policy making. The question is found to be relevant to Ethiopian federation because the whole purpose of redefining Ethiopia as a federal state was to respond to the longstanding issues of national oppression which is related to recognition of identity and entitlement to share equally in ones resources.

And its stated in chapter two that socio-economic policy fields are one of the basic instruments for constructing and consolidating national identity among other things. Then the study in answering the main question, further dealt with questions like the trend of policy making in Ethiopia since federalization and what actually transpires in the policy-making processes. It has also tried to answer if there are other factors that are influencing the policy process. In venturing to find answers to these questions the experiences of other federal countries particularly USA and India were taken into account. Accordingly the following were the findings of this study:

As the second chapter pointed out though constitutional power division is a requirement in federations, power allocations in socio-economic fields to the state parties are critical yet contentious for various reasons.

In chapter three it's noted that Ethiopia's normative socio-economic policy power division has a domineering tendency towards the states by the center in its way of allocation of the powers in

general terms. Such power allocations to the center unless supported by strong shared central institutions will weaken the power of constituent units. Hence the exercise of central power through shared federal institutions was examined. One of the federal Houses, the House of federation, which is the house of the states does not partake in the legislative function of government which in effect leaves the states out of the central decision making and away from deciding their socio-economic destiny.

Since the states are not part of the legislative decision-making at the national level to partake and check central decisions, the other federal house where the masses in general are represented, the House of Peoples Representatives /HOPR/ that runs under the dominant influence of the executive, solely makes the whole decision at the center missing the federal element.

The study also, based on similar studies, found out that though in practice there are efforts in making the central executive representative of the nations, nationalities and peoples of Ethiopia, the executive's role is also marred by the ruling party's /EPRDF's/ internal party rule (currently the only party in central power) and the whole party system that rendered the executive less accommodative of minority regional interests in policy formulation and adoption.

In this regard the experience of USA in having a powerful house of the states at the center which not only balances the influence on decisions by the other popularly elected federal house but also checks the role of the executive within its limits is noteworthy. The example of the multicultural federation of India, though centralized federal power structure from the outset, in having a house of the states with legislative functions despite its limitations, is also a point to take since it, at least facilitates for an alternative policy option as well as a forum for thorough deliberations on the policy options with regional representatives in place.

The last chapter was devoted to understanding policy-making in Ethiopia as well as USA and India with particular reference to two key socio-economic policies, i.e., education and environment. In relation to this it is observed that the relative strengths or weaknesses of the organization/composition/ and powers of the legislature in the context of federalism seem to have a ripple effect on the overall health of a federal nation. The inefficient power and limited representation the sub units possess in the federal legislature results in center's dominance in all aspects of relations between centre and states including the sectoral policy making. The opposite

also holds true, i.e., the efficient and full scale power and representation of the states in the federal legislature amounts to a relatively balanced and decentralized federal governance and policy process.

Hence it is concluded that as far as the making of Ethiopia's economic and social policies are concerned, the practice shows that it is overtly centralized. The extent of centralization is not only reflected in central institutional gaps, it goes to the extent of outrightly rejecting the idea of even nominal policy making (just like the process of planning) by regional states which is a constitutionally guaranteed right of regional states. Here it's notable that in the policy process there is lack of will to commit to the basic principles of federalism on the part of the leadership as well as lack of awareness on the part of the bureaucracy as to the relationship between constituent units & the center in the context of federalism.

Finally as the saying goes 'where there is a will there is a way'. The Indian federation, despite its beginnings, when met with opposing views from regions, knowing it's vital to reconcile with reality acceded to making regional groups important partners in the making of the federation. Ethiopia too can take some of the resistance in some of the regions as a positive challenge and opportunity to make a way for a more accommodating federation.

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