



ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

CENTER FOR FEDERAL STUDIES

**CHALLENGES AND MECHANISMS FOR THE
IMPLEMENTATION OF LANGUAGE RIGHT UNDER
ETHIOPIAN FEDERALISM: THE CASE OF GURAGHE
ZONE, SNNPR**

BY

YIDNEKACHEW TADELE

ADVISOR

KETEMA WAKIJRA

February 2017

Addis Ababa

DECLARATION

I, Yidnekachew Tadele Asfaw, hereby declare that **“Challenges and Mechanisms For The Implementation of Language Right Under Ethiopian Federalism: The case Gurage zone.”**, is original and my work which has never been presented in any other university or academic institution for any degree or examination. I also declare that all sources and materials used have been duly acknowledged in this thesis.

Student: Yidnekachew Tadele Asfaw

Signature _____

Date _____

Advisor: Ketema Wakijra

Signature _____

Date _____

Examiner 1

Name

Signature

Date

Examiner 2

Name

Signature

Date

ACKNOWLEDGMENT

First and for most I would like to thank the almighty God and I would like to express my deepest gratitude to my advisor Mr. Ketema Wakijira for his speedy and diligence constructive comments and suggestions on this thesis. I owe you sir! I have to confess that I would not have come this far in the absence of your support!

I am also grateful to all personalities who have been voluntarily reacting for my interviews and for their valuable suggestions which made the paper more comprehensive. Especially I thanks to Ato Menur Reshad and Esegenet Mengistu.

My gratitude also extends to all the offices and their respected staffs for their dulcet contributions by providing the necessary information and materials which I was in need of.

My sincere thanks also go to Mhired Brihna , Amha Tadese , Yihayis G/Tsidik Zinabu Yirga and others for their valuable contribution by providing relevant comments, suggestions and materials.

I would also like to extend my deepest gratitude to all my family members my mother Tirisite Demmisa, my father Tadele Asfaw, Special thanks go to my beloved fiancé Silenat lingerh who stood beside me in those days of trouble.

ABSTRACT

Language is an indispensable attribute of human race not only because it is a medium of communication but also it is a source of pride, self-esteem and identity in the sense that it is a defining characteristic of human society. It plays valuable role for harmonic coexistence societies. Language is an intrinsic element of identity of human person. Ethnic identity becomes impoverished without the linguistic dimension. It serves as store house of minorities' culture, history, and tradition and, in effect of their identity. It is also a means to access to resources, employment and even public authority in addition to being a means of preserving one's 'pathos and ethos'. Political empowerment and access to resource is guaranteed, people want to reflect their own culture, values and preserve their history through language. In order to practice culture there must be a right to use one's own language hence language and culture are indispensable. Because of that reason, language right is guaranteed not only under the international human right laws but also it is protected under the 1995 of Federal Democratic Republic of Ethiopia (FDRE) Constitution. Although the language right is constitutionally guaranteed under Ethiopia federal system, the right to language is not implemented in Gurage Zone. In this perspective, this study identifies the challenges for implementation of language right in Gurage zone. The finding reveals that the implementation of language right in Gurage zone is hampered due to several factors including historical factor, language vitalization, Amharic dominance and literary development.

The main issue addressed in this paper is, identify the challenge of the implementation of language right under Ethiopian federalism particularly in Gurage zone. The thesis, also recommend the possible mechanisms of the implementation language right in Gurage Zone. In doing so the writer has try identify the relationship between federalism and language right and explore the experience of other federal state. The writer has also collect data by using structure and semi structure interview guide.

Finally, having made critical analysis of a collected data the writer identify the dialectical language diversity and the negligent of the speaker is the main challenge for the implementation of language right in Guraghe zone. Also the study, recommend that by standardize one Guragigna language and by develop the awareness of the society for the advantage of the use of mother tongue language can implement language right in Gurage Zone.

Table of Contents

ACKNOWLEDGMENT.....	i
<i>ABSTRACT</i>	ii
CHAPTER ONE.....	2
1.1 INTRODUCTION.....	1
1.2 Statements of the Problem.....	3
1.3 The Research Objectives.....	4
1.3.1 General objective.....	4
1.3.2 Specific objective.....	4
1.4 Research Questions.....	5
1.5 Methods of the Research.....	5
1.5.1 Data Sources and instruments of collection.....	5
1.5.2 Data Analysis.....	6
1.6 Delimitation and Limitation of the Research.....	7
1.7 Significance of the Study.....	7
1.8 Structure of the Study.....	8
CHAPTER TWO.....	9
2. Federalism and Language Right.....	9
2.1 Introduction.....	9
2.2 The Meaning of Federalism.....	9
2.3 Federalism and Federations.....	11
2.4 Types of Federalism.....	12
2.4.1 Coming Together Vs Holding Together Vs Putting Together Federalism.....	12
2.4.2 Symmetrical Vs Asymmetrical Federalism.....	14
2.4.3 Dual Vs Cooperative Federalism.....	16

2.4.4	Territorial Federalism Vs Personal Federalism	17
2.5	Ethnicity and Ethnic Federalism.....	18
2.6	Definition of Language.....	22
2.7	Meanings of Linguistic and Language Rights.....	22
2.8	The Need for Implementation of Language Right in Multi-Ethnic Federations.....	23
2.9	The relationship between Federalism and language right.....	25
2.10	The Experience of Other Federal State for the Implementation of Language Right	26
2.10.1	The Experience of India.....	27
2.10.2	Experience of Switzerland	30
2.10.3	Belgium Experience.....	32
2.11	Conclusion.....	33
CHAPTER THREE	35
3.	Protection of Linguistic Rights under International Human Rights Law	35
3.1	Introduction.....	35
3.2	Universal Declaration of Linguistic Rights (UDL)	35
3.3	Linguistic Rights under the ICCPR.....	36
3.4	The Express Recognition of Linguistic Rights under other UN Conventions	37
3.5	Language Right under UN Documents.....	39
3.6	Language Right under Africa convection.....	40
3.7	Conclusion.....	42
CHAPTER FOUR	44
4.	Language right under the Federal System of Ethiopia	44
4.1	Introduction.....	44
4.2	Language Right Before the Adoption of Federal system in Ethiopia.....	44
4.3	Language Right under Ethiopian Federalism.....	46

4.4 Language Rights in SNNPR.....	50
4.5 Conclusion.....	53
CHAPTER FIVE	55
5. Language Right in Gurage zone	55
5.1 Introduction.....	55
5.2 Background of Gurage zone.....	55
5.3 Implementation of Language Right in Guraga Zone.....	58
5.3.1 The Challenges for the Implementation of Language Right in Gurage zone	60
5.3.2 The Mechanisms of Implementation of Language right in Gurage zone	64
5.3.2.1 Argument in Favor of the Choice one Guragigna Language.....	65
5.3.2.2 Argument against the choice of one Guragiagna Language for the Implementation Language Right in Gurage Zone	67
CHAPTER SIX.....	72
6. Conclusion and Recommendation.....	72
6.1 Conclusion.....	72
6.2 Recommendations.....	73
Bibliography	75
Annex-1.....	82
Annex-2.....	83

CHAPTER ONE

1.1 INTRODUCTION

The preamble of the FDRE constitution starts saying “We the Nations, Nationalities and Peoples of Ethiopia”. It recognizes that the nations, nationalities and peoples are the real owners and beneficiaries of their own constitution. Furthermore, this phrase indicates that the constitution is the real manifestation of their sovereignty and equality as well. They are also strongly committed in full and free exercise of their rights to self-determination to building one economic and political community founded on the rule of law and capable of ensuring a lasting peace, guaranteeing a democratic order, and advancing their economic and social development. The preamble also ensured that the nations, nationalities and peoples of Ethiopia are determined to consolidate, as a lasting legacy, the peace and the prospect of a democratic order which their struggles and sacrifices have brought about.

All the Nations, Nationalities and Peoples have become the sources of every sovereign political power for the first time in the political history of the nation. Article 8 of the FDRE constitution strengthens this by stipulating that all sovereign power reside in the Nations, Nationalities and Peoples of Ethiopia. This Constitution is an expression of their sovereignty. According to paragraph three of this article, the sovereignty of the Ethiopian Nations, Nationalities and Peoples shall be expressed through their representatives elected in accordance with this Constitution and through their direct democratic participation. Thus, direct participation of citizens has become an integral part of the constitution to ensure their day-to-day economic, political, social etc demands.

Equality of the Ethiopian languages, religions, beliefs, traditions, cultures, etc is constitutionally ensured without any discrimination. No language, religion, belief, tradition or culture etc is inferior or superior to any other language, religion, belief, traditions, culture etc. This is quite a new political chapter in the history of the country. Thus, federalism becomes the best political instrument in creating one political and economic community through empowering every effort to develop and maintain once language, religion, belief, tradition, culture etc which in turn enhances the Ethiopian renaissance.

Today, the Ethiopian Nations, Nationalities and Peoples have unconditional right to self-determination, including the right to secession. Furthermore, every Nation, Nationality and

People in the country has the right to speak, write develop its culture and language, to express, develop and promote its culture and to preserve its history. But in Gurage Zone the working and official language is not Guragigna,, So in Gurage Zone doesn't implement language right that stipulate in FDRE Constitution.

Pursuant to article 46(2) of EPRDF constitution states shall be delimited on the basis of the settlement patterns, language, identity, and consent of the people concerned. Based on this standard on article 47(2) the constitution divides the territory of the country in to nine federating states. The nine states are the state of Tigray, Afar, Amhara, Oromia, Somalia, Beneshangul-Gumuz, Southern Nation Nationalities and Peoples, Gambala Peoples and the state of Harari peoples. Of these states, Tigray, Afar, Amahara, Oromia and Somalia carry the names of the numerically majority and dominant autochthonous ethnic groups in the respective states.

The Southern Nation Nationalities and Peoples state adds a geographical aspect of federalization to the Ethiopian federalism. In this region, there are about 59 autochthonous ethno linguistic groups.¹ Even if the region revised constitution, doesn't illustrate the number of zonal administration and the numbers of Zones vary time to time in the regional state it is obvious Gurage Zone is one Zones of the Southern Nation Nationalities and People regional state.

FDRE constitution doesn't explicitly define what does, it mean ethnic group but the constitution, defines Nation Nationalities and People. Article 39(5) of the constitution states that "Nation, Nationality or People" for the purpose of this Constitution , is a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory." Pursuant to this definition Gurage is one of the Nation and nationalities of the country. Gurage Zone hasn't properly implemented the Nation Nationalities and People right as stipulate on the constitution. In this perspective, this study examines the challenges of implementing language right in Gurage zone.

¹ Gatachew Assefa , Federalism and Legal pluralism in Ethiopia: preliminary observations on their impacts on the protection of human rights. P. 177. Available at <https://www.mak.ac.ug/AssefaFederalismandLegalPluralism.ps>

1.2 Statements of the Problem

The 1995 Constitution of Federal Democratic Republic of Ethiopia was come up with federal arrangement. The units of which are nations, nationalities and peoples of Ethiopia guarantying the right to Self determination of ethnic groups/ nations which include the right to practice their culture, speak and develop their language; promote their history, self-administration within specific territory up to secession and representation at both levels of governments.²

However, the ethno-linguistic federal arrangement adopted by FDRE Constitution has not established any more states except nine states and two chartered city administration for those around 80 ethnic groups in the federation. Only five ethnic groups (Tigray, Amhara, Afar, Somali and Oromia) which are numerically dominant in their respective regions maintained to establish their own separate regional governments. Harari nation though numerically inferior in the region has managed to establish its own region. The remaining ethnic groups have jointly established one regional government, and separate local government for each, where as some ethnics groups are still waiting for the exercise of self administration or identity determination³

The 1995 Federal Democratic Republic of Ethiopia (FDRE) Constitution even if guarantying the right of the nation nationality and people of Ethiopia but there is implementing problem. Even if under Article 39(2) of FDRE constitution guarantying the right to language but to implement this right there is a great challenge in the multi-ethnic regional state that is Southern Nation Nationality Region (SNNPR).

Article 39(2) of FDRE constitution states that every nation, nationality and people in Ethiopia has the right to speak, to write and to develop it's own language and also the constitution Art.5(1) declare the equality of all Ethiopia language. In addition to this Article 5(3) of the Southern Nation Nationality and peoples region (SNNPR) constitution states that zones and special woredas may determine their respective working languages in their own councils. But in Gurage zone there are about seven different types of Guraghagna dialects including Chehagna, Dobigna, Endeggngna, Ezagna, Meskanigna, Sodigna (kistanigna) and Wellanigna. These

² Federalism and Ethiopian renaissance by Fanowedey Samara unpublished Article. Available at www.tigraionline.com/articles/article110521.html

³ Ibid

dialects are similar to each other. Each dialect is spoken by thousands of people in Gurage zone and outside Gurage zone. But no one of this dialect is official language of Gurage zone. In Gurage zone the students didn't learn Guraghagna as medium of instruction and as one subject. In Gurage zone the working and office language is not Guraghagna. But the Gurage peoples just like other nation and nationalities of Ethiopia need to develop it's own language and needs to learn and work by Guragigna language because many Gurage people doesn't understand and speak fluently Amharic language properly especially in the rural areas. Most of the Guragina varieties are used as oral media and there is no a significant literary development in Guragina. The Guragina varieties are functionally limited to home (private) communication, traditional courts and market transactions. None of them is used in education, media broadcasting and administration. In Gurage zone language use in Education, language use in health service, language use in courts, languages use in media is not Guragigna. Hence, there is gap between the constitutional principles of equality of all Ethiopian languages and implementation in Gurage zone. This study find out the challenges for the implementation of language right in Gurage zone and thereby evaluate the mechanism of implementation of language right in the case of Gurage.

1.3 The Research Objectives

1.3.1 General objective

The overall objective of this thesis is to identify the main challenges for the implementation of language rights in Gurage zone, and find out the mechanisms of implementation language right in Gurage zone.

1.3.2 Specific objective

The following are the specific objectives this research:

- To assess language right guaranteed under the international, national and sub-national legal instruments.
- Analyze the relationship between federalism and language right.
- To identify the challenges for the implementation of language right in Gurage Zone
- To suggest the possible mechanisms for ensuring the language rights in Gurage Zone

1.4 Research Questions

This research has the following main research questions.

1. What are the challenges for the implementation of language right in Gurage zone?
2. What is the mechanism to implement language right in Gurage zone?

1.5 Methods of the Research

1.5.1 Data Sources and instruments of collection

The research finds the challenges and the mechanisms of implementation of language right under Ethiopian federalism in the case of Gurage Zone. For this purpose the study generally has made use of both primary and secondary sources of data. Structure and Semi-structure interviews used as primary data and international treaties and other legal documents used and analyzed as secondary sources.

Both structure and semi structure interview guide have been prepared and used in the field and analyzed, view of the informant quantitatively. Then the researcher use both qualitative and quantitative methods with a major emphasis on the former one.

The researcher conducted an in depth interview with 48 key informants and learned the overall outlook of the community towards exercising language rights in the zone. Political activities, lawyers, teachers, civil servants and zonal administrator's are included in the informants group so that they have not only the awareness of federalism and language right but also realize the benefits of implementing language rights.

The selection of the informants based on its educational back ground, ethnic group, the residence, the ability of speaking language and political position(work).The informants must be educated at least hold first degree because who at least understand the concept language right. The informants must be lives in Gurage zone and whose ethnic group is Gurage and speak at list one Guragigna verities because who aware the problem that implementation of language right in that zone. The researcher needs more information from the political activist and the Zone Administration body because the people raise many question about the use mother tongue

language in many conference prepared by the government. Then they have more awareness on this issue. Based on those requirements the researcher has selected 5 Zonal Administrator bodies (political leaders) 14 civil servants, 3 political activists, 15 lawyers and 10 language teachers and 1 NGO manager. The purposive selection through discussion held with 10 language teachers who have been teaching Amharic and English primary to secondary levels was really helpful in clearly understanding the dialects and their significant varieties. The informants were selected from the speaker of the East and West Gurage mother tongue dialects. From the eastern Gurage select Chehagna and Ejagna dialects speakers and from the western Gurage select the speaker Meskanigna and Sodinga (Kistanigna) dialects were also selected. From each four dialects select 12 informants were selected as shown in the Table 1 Below.

Table 1: Respondents by their mother tongue dialects

Occupation	Types mother tongue dialects				
	Cheha	Eja	Meskan	Sodo	Total Sum
Political leader	2	-	2	1	5
Civil servant	3	4	4	3	14
Teacher	2	3	2	3	10
Lawyer	4	5	3	3	15
Political activist	1	-	1	1	3
NGO manager	-	-	-	1	1
Total sum	12	12	12	12	48

1.5.2 Data Analysis

The study use the Ethiopian Federal Democratic Republic (EFDRE) Constitution, The 2001 revised Southern Nation Nationalities and People Region (SNNPR) state constitution and other National and international treaties analysis as secondary data that examine how much language rights legally protected.

Interview of the informants used as primary data. The interview was concerned on three questions the first one is, what are the challenges for the implementation of language right in Gurage zone? The second one is what are the mechanisms for the implementation of language right in Gurage zone? The third and the last question give a chance the person who interviewed by researcher say something regarding to language right in Gurage zone. The responses of the informants were analyzed qualitatively. The results of the interview were thematically categorized and analyzed.

1.6 Delimitation and Limitation of the Research

One of the basic features of a scientific research is a consideration of it's delimitation and limitation. The delimitation of the study shows the issues to be covered and the limitation points at the issues not covered in the whole research undertaking.

Regarding to delimitation this study focuses only on the challenges for the implementation of language right in Gurage Zone that stipulate article 39(2) of EFDR constitution. This study doesn't discuss the challenges for the implementation of language rights for the whole SNNPR. It is specifically focuses on the challenges for the implementation of language right in Gurage Zone. This study doesn't analysis the challenges for the implementation other constitutional rights in Gurage Zone. The study discuss on the analysis of language right of the Gurage ethnic community, not other non- Gurage in the Zone.

As regarding to the limitation, the budget constraint has forced the researcher to collect data from only the speaker of four Guragigna dialects. These are: Sodigna(kistanigna) , Meskanigna, Cheahagna and Ezagna dialects speakers. In addition to this the researcher believes that the constraints of time and underdeveloped trend to fund research project in Ethiopia may reduce the quality of this research.

1.7 Significance of the Study

The study, find out the realization the right to develop language in multilingual ethnic Gurage zone. The study, not only analyze the challenges to implement language right in Gurage zone but also includes how to accommodate language diversity in this zone. Hence, the output of the study can use administration of the zone to implement the rights to develop Guragigna languages. Also the administration of the zone can use this study to accommodate language

diversity of the Zone. In addition to this the finding will be used by other researchers as a background for further study.

1.8 Structure of the Study

The study is organized in to six chapters. The first chapter is the introduction. The second is chapter devoted to a literature review, on the language right and implementation of language right under federal systems. The third chapter provides the international and the national legal coverage of language right. The fourth chapter deals with the implementation of language right under Ethiopia federalism. The Fifth chapter deals on the analysis of the challenges and implementation of language right in Gurage Zone. The six and the last chapter is conclusion and recommendation.

CHAPTER TWO

2. Federalism and Language Right

2.1 Introduction

In this Chapter it has been tried to confer the general concept, content of federalism and language right. In addition to this in this chapter, try to define language and language right and explain the need for implementation of language right. In addition to this in this chapter the researcher will be try to discuss the relation between language right and Federalism and also discusses the experience other federal state regarding to the implementation of language right.

2.2 The Meaning of Federalism

Etymologically, the word 'federalism' comes from the Latin, *foedus*, meaning "covenant".⁴ Hence, federalism, being essentially a covenant or a treaty, is a solemn agreement among smaller polities to form a larger perpetual polity. John Kinacid suggests that 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, such as a family or a body politic, that has its own identity and integrity as well.⁵ A covenant also signifies a morally binding commitment in which the partners behave toward each other in accord with the spirit of the law rather than merely the letter of the law.⁶

Stanford Encyclopedia of Philosophy defined Federalism as the theory or advocacy of federal principles for dividing powers between member units and common institutions.⁷ An American political scientist William Riker also defined federalism as a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.⁸

⁴ Elazar Daniel and Kincaid John, the covenant connection: Federal Theology and origins of modern politics (Lanaham, MD: Center for the study of Federalism and University press of America) for a more comprehensive treatment of the federal idea as essentially covenantal, 1984.

⁵ Kincaid John, Handbook of Federal countries: Introduction, Montreal and Kingston: Mc Gill, Queen's University press, 2002.

⁶ Ibid.

⁷ Stanford encyclopedia of philosophy, first published Jan 5,2003, substantive revision Mar 9, 2010, available at [https:// WWW.leibniz.Stanford.edu/friends/preview/federalism](https://WWW.leibniz.Stanford.edu/friends/preview/federalism), accessed at August 2, 2012.

⁸ Riker W. Federalism , Handbook of political science: Governmental Institutions and processes, eds .Fed I Creenstein and Nelson W.Polsby (Reading, MA: Addison- Wesley, 1975), p. 93-172.

This definition indicates that in any federal government a federation should hold at least two levels of government. One is the government for the entire country that is usually responsible for a few subjects of common national interest. The others are governments at the level of provinces, regions or states that look after much of the day-to-day administering of their state. Both these levels of governments enjoy their power independent of the other.

Ronald Watts said that federalism 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.⁹

Federalism is essentially a system of voluntary self-rule and shared rule.¹⁰ The idea of shared rule and self rule in federalism is advantageous in many respects. Kincaid argues that federalism, as it is practiced in the United States, has "solved the fundamental problem of human governance and liberty."¹¹ He goes on to state that federalism aspires to "maximize the democratic and economic advantages of both small and large republics by minimizing the anarchistic temptations of small republics to fight each other and the monopolistic temptations of large republics to become tyrannical."¹²

Whichever way scholars define federalism, any federal system should have the following common compositions. First, federalism contains two or more levels (or tiers) of government. Such different tiers of government govern the same citizens, but each tier has its own jurisdiction in specific matters of legislation, taxation and administration. The jurisdictions of the respective levels or tiers of government are specified in the constitution as well. So the existence and authority of each tier of government is constitutionally guaranteed. Second, in any federal

⁹ Watts Ronald, *Federalism Today*, the back ground paper written for international conference on federalism Saint Gallen, Switzerland , 2002, p. 7

¹⁰ *Supra* note 4 p.12

¹¹ *Supra* note 5

¹² *Ibid*

government the fundamental provisions of the constitution cannot be unilaterally changed by one level of government.¹³ Therefore, two aspects are crucial for the institutions and practice of federalism. Governments at different levels should agree to some rules of power sharing. They should also trust that each would abide by its part of the agreement. An ideal federal system has both aspects: mutual trust and agreement to live together.

2.3 Federalism and Federations

Plainly, federalism is the normative term whereas federation is the descriptive one.¹⁴ As a normative term, federalism basically embodies the idea of self rule and shared rule between at least two tiers of government. “It accommodates preserves and promotes distinct identities within a larger political union.”¹⁵ On the other hand, Federation as a descriptive term refers to the institutional make-up of the federal nation. It embodies such principles as the division of powers, a written constitution, regional representation at the center, equality of both central and regional governments, and regional autonomy. Federation therefore is the employment of the principles of federalism in order to achieve a balance between unity and diversity.¹⁶ As Preston King argues, the ‘chief distinguishing feature of a federation is the territorial grouping of its citizens and the means by which these groups are represented.’¹⁷ The federal principle, which in fact is the organizing principle and encompasses the principles of federalism, underpins both federalism and federation. Embodying the idea of balancing and maintaining unity and diversity, the federal principle is realized through the federal institutions and constitution established in the federation. The federal principle thus informs how a federal society is organized.¹⁸ Hence, federalism embodies the standards of what a specific nation should follow to share the powers for the sub-

¹³ Nature of Federalism , [http:// WWW.exceellup .com/Nots/ 10-socse- Federalism, pdf](http://WWW.exceellup.com/Nots/10-socse-Federalism.pdf), accessed at August 3

¹⁴ Watts Ronald, *Comprising federal system in the 1990*’ Kingston, Ontario: Institute of Intergovernmental Relations, Queen’s University, 1996, p.6

¹⁵ Ibid

¹⁶ Ibid

¹⁷ King Preston, *Federalism and Representation*, Toronto:(University of Toronto Press, 1993), P. 95

¹⁸ Ibid

national units where as federation sets the institutional framework which used for implementation of such shared rule and self rule.

2.4 Types of Federalism

Some scholars federalism classified as Federalism can be categorized in various types, such as based on origin: coming together, holding together and putting together; based on operation: Dual or Cooperative, Executive or Legislative; based on mode of state formation: Symmetrical and Asymmetrical, Territorial and Ethno Linguistic. Each of them discussed as follows.

2.4.1 Coming Together Vs Holding Together Vs Putting Together Federalism

Alfred Stefan proposed three types of federalism based on the paths through which federations have been formed.¹⁹ These are: coming together, holding together and putting together. The first category involves independent States coming together on their own to form a bigger unit, so that by pooling sovereignty and retaining identity they can increase their security. This type of federalism is known as ‘coming together’ federations. Coming together federations are an outcome of bargaining among independent states interested in creating a more stable and efficient union.²⁰ In this category of federations, all the constituent States usually have equal power and are strong vis-à-vis the federal government. This has been the case of the United States when the thirteen colonies got together to achieve a more perfect union as an independent state. The history of Australia fits that same pattern, as does even multicultural Switzerland.²¹

The second category is where a large country decides to divide its power between the constituent States and the national government. This kind of federalism is known as ‘holding together’ federations. In other words, the holding together federations are established from the attempts to keep together an already existing state through the democratic bargaining of the central government with individual regions for the degree of their autonomy.²² In this second category,

¹⁹ Stepan, Alfred, Federalism and Democracy: Beyond the US model, Journal of Democracy, VOL.4, no 1, 1999 p. 10

²⁰ Ibid

²¹ Juan J.Linz, Alfred, Stepan and Yogendra yadav, “ Nation State” or “State Nation” ? Conceptual Reflection and some Spanish, Belgian Indian Data, back ground paper for HDR 2004. Available at http://hdr.undp.org/en/reports/global/hdr/2004/papers/HDR_2004_Alfred_Stepan.pdf accessed at August 23, 2012. P. 3

²² Supra note 9 p.4

the central government tends to be more powerful vis-à-vis the States. Very often different constituent units of the federation have unequal powers. Some units are granted special powers.²³ This has been the origin of the long process of the transition in Belgium since independence in the 1830's from what was supposed to be a unitary nation-state to a new federal state. A similar process occurred in Spain in the 1970s. This might be the future of Sri Lanka.²⁴

The third category is established through a heavily coercive effort by a nondemocratic centralizing power to put together a multinational state, some of the components of which had previously been independent states.²⁵ This kind of federalism is a putting together federalism. The USSR was an example of this type of federalism. The basic difference between holding together and putting together federalism is the imposition of coercive force to seize together the states in case of putting together and freewill of the states is the prerequisite for holding together federalism.

Identifying Ethiopia's federalism into one of the above three Stepan's categories has been controversial. For scholars like Andreas Eshete, the 'bargain' that led to the formation of ethnic federalism in Ethiopia was offered by a 'revolutionary overthrow of a unitary state.' He, therefore, considered the Ethiopian federation as a result of the coming together of the country's ethnic groups who freely decided to reconstruct their shared political community on a new basis.²⁶ In contrast, Assefa Fisseha suggested that the formation of federalism in Ethiopia followed Stepan's model of holding together federation.²⁷ Edmond Keller, in his part noted that Ethiopia's ethnic federalism began in 1991 as 'holding together' but receded since 1992 into a 'putting together' type due to the monopolization of the political landscape by the

²³ Supra note 5 p. 9

²⁴ Ibid

²⁵ Supra note 9

²⁶ Andreas Eshete, Ethnic Federalism: New Frontiers in Ethiopia politics in first National Conference on federalism, Conflict and peace Building (Addis Ababa, United printers, plc, 2003} p. 61

²⁷ Assefa, Fiseha, Theory versus practice in the implementation of Ethiopia's Ethnic Federalism: The Ethiopian Experience in comparative perspective, London: James Currey, 2006 p. 132

EPRDF.²⁸ Both of the above views, failed to appreciate the fact that the post-1991 political order in Ethiopia was imposed by the EPRDF with little or no participation by other political forces.

Another Ethiopian scholar on federalism, Asnake Kefale argues that, the creation and maintenance of Ethiopian federalism resembles more of putting together variant.²⁹ Efreem Madebo also said that instead of, putting together federation which is coercive, the formation of holding together federations which is in voluntary basis could have been the ideal choice for Ethiopia. This is an obvious certainty because the need to reduce group conflict, demonstrate respect for diversity, and the commitment to protect the integrity of the culture of different groups is one of the utmost justifications given for entering into a federal arrangement.³⁰ Then Ethiopia federalism respect language and other types of federalism. So that Ethiopia federalism set up is important for the protection of language right.

2.4.2 Symmetrical Vs Asymmetrical Federalism

A federation could take the form of Asymmetric or Symmetric federalism in different countries for various reasons.³¹ Asymmetric federalism covers defacto and de jure asymmetry. On the one hand, Defacto asymmetry refers to the type of asymmetry that is a feature of all federations to some degree, namely differences between subunits in terms of size and wealth, culture or language, and those differences in autonomy, representation and influence in the wider federation that result from such attributes.³² De jure asymmetry, on the other hand, is the product of conscious constitutional design. It refers to the allocation of different amounts or types of powers, or autonomy in certain policy areas, to some subunits of a federation but not others.³³

²⁸ Keller Edmond, *Ethnic Federalism: Fiscal Reform Development and Democracy in Ethiopia*. African Journal of political Science. 2002, P. 7

²⁹ Asnake Kefale, *Federalism and Ethnic Conflict in Ethiopia; A Comparative study of Somali and Benishangul-Gumuz Regions*, (PhD. Dissertation, linden University, the Netherlands, 2009.), p. 43

³⁰ Efreem Mandebo , *Ethnic Federalism and one party rule in Ethiopia*, 2009, p. 23.

³¹ Watts Ronald, *The theoretical and practical implications of asymmetrical federalism*, In *accommodating diversity: Asymmetry in federal states*, (Montreal and Kingston school of policy studies Queen's University, 1992.) p. 23

³² Ibid

³³ Ibid

Symmetric federalism refers to a federal system of government in which the constituent states to the federation possess equal powers. In a symmetric federalism no distinction is made between constituent states.³⁴ The “coming together” process of federation formation tend to create constitutionally symmetrical federations, whereas federations that are “holding- together” in their origins and intentions tend to have important, constitutionally embedded, asymmetrical characteristics.³⁵ Charles Tarlton suggests that all federal systems, despite their constitutional symmetry, have an element of asymmetry in federal-regional relations.³⁶ Various social, economic and political conditions determine each regional state’s relationship to the centre and its commitment to the federation. He also adds that the higher the degree of symmetry a federal system has, the more likely it is that the federation will be viable and suitable. The more a system is asymmetrical, the more unlikely it is that the federation will develop harmoniously.³⁷

Lovise Aalen suggests that the Ethiopian federal system is constitutionally symmetrical, that means all regular constituent units have the same formal and legal relationship to the federal government. However, when it comes to the social, economic and political conditions of each unit, the Ethiopian federal system is definitely asymmetrical. Due to the fact that “ethnic identity”, or language in practice, has been the determinant factor in the delimitation of the constituent units, the various regions are very different from one another when it comes to ethnic composition, size of population and area, economic development and political landscape.³⁸ The constituent units have therefore very different capacities to implement the constitutional provisions and the central government’s intervention in each region varies. Then because of language in practice or the non-implementation of language right for each Nation and Nationalities of the country the Ethiopian federalism grouped as defacto asymmetrical federalism.

³⁴ [http:// WWW. Definitions. Uslegal. Com](http://WWW.Definitions.Uslegal.Com), accessed at 27th September 2012.

³⁵ Supra note 19 p.9

³⁶ Charles, j. symmetry and asymmetry as elements of federalism: a theoretical Speculation. *Journal of Politics* vol. 27, 1965 P. 875

³⁷ Ibid

³⁸ Aalen Lovis, *Ethnic Federalism in a Dominant party state: The Ethiopian Experience 1991-2000* (Bergen : Chr. Michelsen, Institute Development studies and Human Rights, 2002), p. 25

2.4.3 Dual Vs Cooperative Federalism

Ademola Ariyo categorizes federalism in to two based on the means through which it can evolve.³⁹ The first category is dual federalism in which the constitution allows for the creation of two separate and independent tiers of government with their own clearly defined areas of responsibility.⁴⁰ The second is the cooperative federalism, on the other hand, simply refers to making federalism work through cooperation between various levels of government. It emphasizes the partnership between the different levels of government providing effective public service for the nation.⁴¹

In dual federalism the competences between the local authorities and the federation are divided field by field, and each level of law is exclusively competent in its sphere. While, cooperative federalism is different there the legal regulation of different levels competes to regulate the same areas.⁴² Dual federalism is a theory about the proper relationship between government and the states, portraying the states as powerful components of the federal government nearly equal to the national government. In dual federalism the federal government rules by enumerated powers only that means the federal government may rule only by using powers specifically listed in the Constitution; the federal government has a limited set of constitutional purposes; each government unit the federation and state is sovereign within its sphere; the relationship between the federation and states is best characterized by tension rather than cooperation and the relationships between the state and federal governments are marked by tension.⁴³

Cooperative federalism rejects that state and national government must exist in separate spheres. In this type of federalism the federal and state agencies typically undertake government functions

³⁹ Ariyo Ademola, Theories of federalism. A paper presented in the Ad-Hoc Expert Group Meeting, UNCC, Addis Ababa , 2003, p.12

⁴⁰ Ibid

⁴¹ Ibid

⁴² Schutz Robert, From Dual to Cooperative Federalism: The Changing Structure of European law. Oxford: Oxford University Press, 2009 p. 5

⁴³ Ibid

jointly rather than exclusively; the federation and states routinely share power; power is not concentrated at any government level or in any agency; and the fragmentation of responsibilities gives people and groups access to many venues of influence.⁴⁴

Tsegaye Regassa has suggested that Ethiopian federalism seems to be a dual nature at least in theory.⁴⁵ He has asserted that while the constitution does not explicitly stipulate the existence of the principle of federal supremacy in the Ethiopian federation, it holds, in consonance with the principle of federal comity, that “The states shall respect the powers of the Federal Government and the Federal Government shall likewise respect the powers of the States.”⁴⁶ This provision is indicative, at least in theory, of the dual nature of the Ethiopian federation.

2.4.4 Territorial Federalism Vs Personal Federalism

In federal countries, the federated entities can be established on territorial base or on personal base. The territorial federalism consists in splitting the national territory in geographical zones, regions, provinces, districts. In the limit of the competences of the federated entities, people and situations localized in these zones will be ruled, in virtue of the principle of homogeneity, by the federated entities. However such territorial governance structures can be controversial, due to the fact that the population demographics of such territories are rarely homogenous.

The non territorial or ethno linguistic autonomy can be particularly constructive in case of heterogeneous region. This federalism consists in giving to individuals a statute allowing them to depend on the rules edited by the federated entity anywhere the individuals are located on the national territory. This so-called ‘personal’ or ‘cultural’ federalism involves self-administration over the cultural, linguistic, ethnic, or religious matters of a determined group.⁴⁷

⁴⁴ Ibid

⁴⁵ Tsegaye Regasa , Learning to live with conflicts: Federalism as a tool of Conflict management in Ethiopia, an overview, Mizan Law review , vol. 4 No. 1 , 2007 p. 93

⁴⁶ EFDR constitution, Art. 50(8)

⁴⁷ Eide R. The Nation-State Fallacy in Joseph Montvill (ed.), Conflict and peacemaking in multi ethnic Societies.(New York: Lexington Books/Macmillan,), p.12-25.

In 1991 Ethiopia established an ethnic federal system that gave full recognition to ethnic autonomy, while maintaining the unity of the state. Its new constitution created a federal system largely consisting of ethnic-based territorial units. This ethnic based federalism was come by bloody war. In Ethiopia people were fighting for the right to use their language.

2.5 Ethnicity and Ethnic Federalism

There is no universally agreed definition for ethnicity. Scholars define ethnicity in different ways. Etymologically, ethnicity is derived from the Greek word ‘ethnos’ that means race, clan or tribe.⁴⁸ But, the contemporary anthropologists view ethnicity in distinct way from race, clan or tribe. Ethnicity is often assumed to be the cultural identity of a group from a nation state, while race is assumed to be biological and/or cultural essentialization of a group hierarchy of superiority/inferiority related to their biological constitution.⁴⁹ Ethnicity as defined by Max Weber’s dictionary is a "subjective belief and a "common descent" ethnicity embraces groups differentiated by color, language, and religion; it covers" tribes," "races," nationalities," and casts.⁵⁰ On the one hand some scholars like Hutchinson and Smith define ethnicity based on genealogical and cultural criteria as ethnic group is a named human population with a myth of common ancestry, shared historical memories, one or more elements of common culture, a link with a homeland and a sense of solidarity among at least some of its members’.⁵¹ On the other hand other scholars such as Fukui and Markakis claim the meaning of ethnicity based on the complex pattern of fusion and fission among groups. Thus, ethnic identities are to be understood as essentially political products of socially defined and historically determined specific situation.⁵² Likewise, David Torton defined an ethnic group as ‘not a group because of ethnicity

⁴⁸ Henry Gorge, Robert Scott, a Greek-English Lexicon, on peruse, [http:// WWW. Perseus.tufts.edu](http://WWW.Perseus.tufts.edu), accessed at October 2012.

⁴⁹ Grosfoguel Roman (2004), Peace and Ethnicity or Raclalized Ethnicities? Identities with in Global Colonialism. P.13.

⁵⁰ Max Weber’s dictionary, Key words and center concepts, books. Google. Com. et/ books, 1968, accessed at 02 November 2012.

⁵¹ Hutchinson John and Anthony Smith , Ethnicity, Oxford and New york : Oxford University Press, 1966, p. 7

⁵² Markakis John and Katsuyosh Fukui, ed, Ethnicity and Conflict in the Home of Africa(Athens: Orio University Press, 1994) p.6

but because its members engage in common action and share common interests'.⁵³ But it does not necessarily mean that the assumed genealogical or cultural traits are completely irrelevant.

Thomas Eriksen defined ethnicity in terms of 'the classification of people and group relationship' that has 'a political, organizational aspects as well as a symbolic one'. Hence, ethnicity for Thomas Ericson simply refers to the relationships between groups whose members consider themselves distinctive and, these groups may be ranked hierarchically within a society.⁵⁴ Beyond the definitions given by the aforementioned scholars and others, much of the literatures on theories of ethnicity are divided in to primordialist approaches and instrumentalist or Constructivist approaches.⁵⁵ Primordialists approach advocates that identities are fixed and that an individual has only one identity whereas Constructivists suggest that identities are fluid, or respectively, that individuals have several ethnic identities that can be 'activated' depending on social, economic and political processes.

Ethnic Federalism is defined as a political system consisting of ethnic based territorial units overlapping with political administrative units.⁵⁶ Countries which are nationally and ethnically heterogeneous and work in a federal structure at least partially based on national and ethnic heterogeneity (i.e. at least some of their member states are ethno-regional units) are said to be adopted ethnic federalism.⁵⁷ Some scholars like Tesfaye Habiso suggests that Ethnic federalism has played a pivotal role in solving conflicts by allowing each ethnic/cultural-linguistic community to have control of those regions of the country where it is in the majority, while respecting basic minority rights, it prevents the kind of zero-sum power struggle between groups

⁵³ David Turton, a problem of domination at the periphery: the kwegu and the Mursi : In D. Donham and James (eds) *The Southern Marches of Imperial Ethiopia: in history and social Anthropology*, Cambridge, Cambridge University Press(19 86) p.17

⁵⁴ Eriksen Thomas, *Ethnicity and Nationalism* , London: Pluto Press, 1993 p. 13

⁵⁵ Clifford Geertz, *The interpretation of cultures*, New York: basic Books, 1973, p.23

⁵⁶ Justin Bargin, *Securing the peace; The Battle over Ethnicity and Energy in Modern Iraq Dubai Initiatives*, Working Paper, Harvard kennedy School Press, 2009, p.12

⁵⁷ Ibid.

that is likely to occur in an ethnically divided society where all the power is in the hands of the central government.⁵⁸

There are arguments in favor of and against ethnic federalism. The opponents of ethnic federalism argue that the federal structure has caused ethnic consciousness and contradiction. Christopher Van Der Beken in his book titled 'Unity in Diversity: federalism is a mechanism to accommodate ethnic diversity the case of Ethiopia', has raised two criticisms against ethnic federalism.

“There are two criticisms on ethnic federalism. The first criticism on ethnic federalism implies that the introduction of ethnic federal structure does not result in the creation of stability in the state but rather leads to growing tensions, instability and ultimately to the disintegration of the state. The second criticism departs from an a priori positive attitude towards federalism. Federalism can be a perfect mechanism in accommodation of ethnic diversity in the state if all ethnic regions are inhabited by one specific ethnic group: if in other words there is a perfect overlap between ethnic group and territory. However in practice it is impossible to achieve such an overlap. In each ethnic based region, there will be ethnic minorities, i.e. people who do not belong to the regional dominant group. These can be minorities that have their own region, or minorities that constitute minority everywhere.”⁵⁹

The proponents on the other hand points out that,

It is exactly an ambition to find an answer for the growing ethnic contradictions that has stimulated the introduction of federal structures. However, the proponents of ethnic federalism do not deny that the creation of ethnic based federal structure can lead to an increased ethnic consciousness and to a deepening of the gap between the various ethnic communities.⁶⁰

They suggest three mechanisms to alleviate the problem of ethnic minorities in ethnic based regions. The first mechanism is a territorial approach which means that it strives to achieve a

⁵⁸ Tesfaye Habiso, Multiethnic , (Multinational) Federalism in Plural Societies: Does it make a difference? 2010 Retrieved from http://aigaforum.com/articles/Multiethnic_federalism accessed at 6th November 2012. P.12

⁵⁹ Christopher Van Der Beken, Unity in Diversity: Federalism is a Mechanism to accommodate Ethnic diversity the case of Ethiopia. Global book Marketing. London. 2012, P. 51

⁶⁰ Poirer J., autonomy and diversity. Subtheme paper : in R.L Watts and R. Chatopadhyay.(eds.),Unity in diversity learning from each other Vol. 1, building on or accommodating diversity, Forum of Federations Viva book 2008, p.38