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Environmental Protection under the FDRE Constitution and the Gada System: Comparative Analysis.

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Environmental Protection under the FDRE Constitution and the Gada System: Comparative Analysis

A thesis submitted in partial fulfillment of the requirements for Master of Laws degree in Constitutional and Public Law at the School of Law, College of Law and Governance Studies of Addis Ababa University.

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Declaration

I, Warja Huluka Buta, hereby declare that this thesis is my original work and to the best of my knowledge has not been written or published by another person and the sources used are duly cited and acknowledged.

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Abstract

The main purpose of this study is to comparatively analyze the provisions of the FDRE Constitution on environmental protection and subsidiary environmental laws with principles of environmental protection under the Gada system. Specifically, the paper is focused on the comparison and analysis of laws and principles on water resource protection, forest protection and the protection of wild life in both systems.

The researcher adopted a qualitative research methodology and Employed in-depth interview with key informants, focus group discussions, field observation and documentary data collection techniques to collect research data.

The analysis of the study indicated that the FDRE Constitution, subsidiary environmental laws and the Gada system have rules and principles that provided for the protection of water resources, forest and wild life. However, on the specified study area, the practical implementation weighted to the side of the Gada system. The study recommends that environmental protection in Ethiopia will be enhanced if the Gada system principles are recognized and integrated in the interpretation and application of the state laws by state institutions.

Key words: Environmental protection, Gada system, Water resource protection, forest protection, wild life protection

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List of afan oromo terms

Abbaa bokkuu ----- a person on the power of boku

Abbaa duulaa -----commander of war in the Gada

Abbaa gadaa----- chairman in the Gada

Abbaa faajjii----- a man with a power to decide when and where to end in the war

Abbaa loosaa----- father of sprit during war

fincaan shanan-----the five misensa/party

Fira ----- relative

Gaadduu -----war intelligence in the Gada

Gadadoo-----extreme problem

Gumaa -----act of redressing of killed or mutilated person or animal

Gumii ----- assembly

Gumii gaayyoo----- general assembly of Borana-oromo

Jaarsummaa-----cultural conflict resolution system

Miseensa----- Gada class/ party

Miseensa shanan-----the five misensa/party

Odaa namee ----- the Holy Sycamore Tree

Qe'ee gosaa-----conflict resolution at clan level

Seera dhangalaasuu-----enactment of laws

Warra----- family

Yaa'ii shanaan-----gathering of the five misens

1. CHAPTER ONE: INTRODUCTION

1.1. Background of the study

The term environment has no uniform definition. Definition of the environment mostly depends on the particular investigation of a discipline.¹ The Stockholm Declaration on the Human Environment defined environment as: both aspects of man's environment, the natural and man-made that are essential for his well-being and enjoyment of basic human rights.² The declaration also included air, water, land, flora and fauna to natural resources of the earth.³ In developing world the most cause of environmental problem is under-development whereas in the case of developed world the series cause for the same problem is industrialization.⁴

The Constitution of the Federal Democratic Republic of Ethiopia (herein after FDRE Constitution) stipulates environmental rights without defining and delimiting the term environment. The FDRE Constitution provided the right to clean and healthy environment for all persons in general terms.⁵ However the Environmental Protection Organs Establishment Proclamation defines the environment as:⁶

The totality of all materials whether in their natural state or modified or changed by human, their external spaces and interactions which affected their quality or quantity and the welfare of human or other living beings, including but not restricted to, land, atmosphere, weather and climate, water, living things, sound, odor, taste, social factors, and aesthetics.

¹ Girmachew Alemu Aneme, *the Policy and Legislative Framework of Environmental Rights in Ethiopia*, 4 ETHIOPIAN HUMAN RIGHTS LAW SERIES. 1, 2 (2012), Available at <https://www.researchgate.net/publication/256053039>.

² The Declaration of the Stockholm Conference on the Human Environment (UNCHE) 1, Paragraph one of the preamble (1972).

³ Id.

⁴ Id.

⁵ FDRE. CONST. art. 44.

⁶ Environmental Protection Organs Establishment Proclamation, Proc. NO, 295/2002, Fed, Neg. Gaz. art 2(3), (200).

In contemporary world environmental issue is of very essential for it relates with life's and rights of all. The most media outlets, national and international governmental and non-governmental organizations and scientists talking about warming globe, land degradation, air pollution and in general fear and advice for environmental protection.

Environmental protection is related with environmental rights such as right to clean and healthy environment which is also provided under FDRE Constitution. Article 44 of the FDRE Constitution stipulates the right to clean and healthy environment for all persons.⁷ On the other hand Article 92 of the FDRE Constitution imposes responsibility on government to ensure the right to clean and healthy environment.⁸ The responsibility of government extends to designing development projects that shall not damage or destroy the environment.⁹ Moreover, the FDRE Constitution imposed duty to protect environment not only on government but also on citizen.¹⁰

Though the provisions on environmental protection are few and general under the FDRE Constitution, the federal government is empowered to enact laws for the utilization and conservation of land and other natural resources.¹¹ Thus, we have many proclamations that directly and indirectly govern environmental protection. To list some; Proclamation on the Establishment of Environmental Protection Organs No. 295/2002; food and medicine administration proclamation No. 1112/2019, Environmental Impact Assessment Proclamation No. 299/2002; Environmental Pollution Control Proclamation No. 300/2002; Water Resource Management Proclamation No. 197/2000; Criminal Code of Ethiopia No. 414/2004 [penalizes pollution and related offenses]; Federal Rural Land Administration and Land Use Proclamation No. 456/2005; Biosafety (amendment) Proclamation No. 896/2015; Ethiopian Wildlife Development and Conservation Authority Establishment Proclamation No. 575/2008; expropriation of land holdings for public purposes, payments of compensation and resettlement proclamation No.1161/201, hazardous waste management and disposal control proclamation No. 1090/2018, Forest Conservation, Development and Utilization Proclamation No. 542/2007;

⁷ FDRE. CONST. art. 44.

⁸ Id. art .92.

⁹ Id. art .92(2).

¹⁰ Id. Art. 92(4).

¹¹ Id. art. 51(5).

Access to Genetic Resources and Community Knowledge, and Community Rights Proclamation No. 482/2006; Development Conservation and Utilization of Wildlife Proclamation No. 541/2007 and Solid Waste Management Proclamation No. 513/2007 and so forth.

Parallel to the above state laws, there are traditional systems that help to protect the environment. Among these, the Gada system is the most notable. The Gada system is the egalitarian system developed by the Oromo people to govern their social, political, and economic, and cultural affairs. It is a system of social organization that based on age-grade classes of male population to succeed and assume power of political, military, social and economic administration for every eight years.¹² In the Gada system there are five *miseensa/gogeessaa* (parties)¹³ who assume power of governance for the minimum age of four in (special case by system called *buqqisuu*) and maximum age of eight in the case of normal condition.¹⁴ Under the Gada system, the community is organized into eleven (11)¹⁵ age classes and all classes have different mandates. The Gada grades (the Gada grade is age class grouping of the power attached to; so that the *miseensa/gogeessa/party* on that specific age/grade can also assume the power attached to that grade) are:

- Dabballee (1-8 years)
- dabballee lamaan/Gaammee Xixiqqaa (8-16 years)
- Qondaala or Gaammee Gurguddaa (16-24 years)
- Kuusaa (24-32 years)
- Raaba Doorii (32-40 years)
- Gadaa/luba (40-48 years)

¹²Desalegn Chemed Edossa, Seleshi Bekele Awulachew, Regassa Ensermu Namara, Mukand Singh Babel and Ashim Das Gupta, *9 Indigenous Systems of Conflict Resolution in Oromia, Ethiopia*, INTERNATIONAL WATER MANAGEMENT INSTITUTE (IWMI), ILRI-ETHIOPIA CAMPUS, ADDIS ABABA, ETHIOPIA; 146,149 (2007).

¹³ Efa Tadesse Debele, *Relevance of Gadaa Values and Practices in Current Development*, 9 ARTS SOCIAL SCI J. 1, 2 (2018).

¹⁴ Interview with Huluka Lata, community elder, Bora woreda dalota-mati kebele (Sep. 10 2021).

¹⁵ The number of age class organization of Gada system is not similar between all Oromo tribes and in literature also not similarly written. Thus I preferred to use Gada grades that elders of almost all tribes of Oromo agreed on event of *ayyaana yaadannoo warra abbaa oromoo* at Bosat on (Jan. 3 2005).

- Yuba I (48-56 years)
- Yuba II (56-64 years)
- Yuba III (64-72 years)
- Gadamojjii (72-80 years)
- Jaarsa (80-88).

The Gada power for any individual person ends on the age of 88 (eighty eight). It is called ‘jaarsa saglii fixe’, meaning elders of above ninety. Elders above ninety have no authority/responsibility in the Gada system.¹⁶

Like many political, social, economic, and cultural issues, the Gada system governs environmental issues of the community. The Gada governance of the environment is based on the community belief that proclaims ‘do not destroy what you cannot create.’ Under the Gada system, the Oromo people have developed rules that protect land and natural resources such as the heera uumaa (law of nature) and seera duudhaa (customary law).¹⁷ The protection and respect under the Gada rooted from the implication of Oromo worldview of human, spiritual/ayyaana/ayyaantummaa and physical world.¹⁸ As such the Oromo beliefs the human spirituality and physical world are interconnected and interdependent phenomena and thus natural resource shall be respected in order to keep the balance.¹⁹

Between sixteen to seventeenth century all Oromo were lived under one Gada system that were governing the economic, social, political, cultural and environmental aspects.²⁰ However as some Oromo tribes moved to far north from other tribes of Oromo in Oromia, and started to settle and engaged in trade and farming activity there, the Gada declined and they were slowly began to accept mootii system (autocratic kingdom of governance) which later on shared by tribes of

¹⁶ Interview with Idoo Muummichaa, chaffee-taa’essa, Dugda woreda seera-wokelle kebele, (Jan. 10 2018). Chaffee-taa’essa means the experienced and knowledgeable person that has been shared the general assembly at oda namie/nabe.

¹⁷ Melaku Getahun J, *Oromo Indigenous Knowledge and Practices in Natural Resources Management: Land, Forest, and Water in Focus*, 6 J ECOSYS ECOGRAPH, 1, 3 (2016).

¹⁸ Id.

¹⁹ Id, at 8.

²⁰ Asafa Jalata, *the Oromo, Gada/siqqee democracy and the liberation of Ethiopian colonial subjects*, 9 ALTERNATIVE: AN INTERNATIONAL JOURNAL OF INDIGENOUS PEOPLES, 277,279 (2013).

Oromo in Oromia, such as monarchies around gibe river, in Jimma, Leqa-Nekemte and Leqa-kellem of western Oromia.²¹

Despite the internal challenges such that the spread of autocratic kingdom idea and other external challenges and great religious institutions, Christianity and Islam, the principles of Gada system still remaining as the hallmark of Oromo nation.²² Thus though not strong as its very being, literatures reveals that Gada system is still in use in different parts of Oromia and the researcher observed its existence specifically in Dugda and Bora woredas.

This paper attempts to do a comparative analysis of the rules for the protection of the environment under the state laws of Ethiopia with that of the Gada system.

1.2. Statement of the problem

The FDRE Constitution stipulates *'all persons have the right to clean and healthy environment'* and the government *'shall endeavor to insure that all Ethiopians live in a clean and healthy environment.'*²³ To materialize such rights, the federal government is empowered to enact laws for the utilization and conservation land and other natural resources.²⁴ Following this mandate, we now have several environmental laws at federal level.²⁵

In accordance of federal laws, states are also empowered by the constitution to administer land and other natural resources.²⁶ This means on another hand states are also empowered to enact laws that help them for effective administration of land and natural resources as long as it is not stand contradiction with federal environmental laws.

Despite of constitutional environmental protection provisions, the promulgation of federal environmental protection proclamations and states laws, Ethiopia faces land degradation, deforestation, soil erosion, fluid and similar environmental problems. Deforestation becomes common phenomena for the purpose of living house, wood and mostly as a means of income

²¹ Id, at 280.

²² Id.

²³ FDRE.CONST. art .92.

²⁴ Id. Art. 51(5).

²⁵ Id. art.52 (2).

from charcoal. The existing and functioning Ethiopian legal frameworks did not able to protect the environment.

1.3. Objectives of the study

The study has both general and specific objectives.

1.3.1. General objective

The general objective of this study is to compare the policy frameworks and legal protections of environment under FDRE Constitution and other state laws with the principles and norms of the indigenous Gada system on environmental protection.

1.3.2. Specific objectives

- Examining the approach of FDRE Constitution and state laws on environmental protection;
- Examining the approach of the Gada systems on environmental protection;
- Understanding differences of the two systems;
- Suggest possible recommendations for a better protection of the environment between the two systems.

1.4. Research questions

In order to attain the aforementioned objectives, the study is devoted to answer the following research questions. Those questions are:

1. What is the approach of FDRE Constitution and state laws for environmental protection?
2. What are the Gada system principles/norms on environmental protection?
3. What are the differences and similarities between the two systems?

1.5. Significance of the study

This study will identify the best framework for the protection of the environment. In particular the study will:

- Identify gaps under the Ethiopian environmental legal regime;
- Understand the principles/norms of environmental protection under the Gada system;
- Identify the most effective norms for the protection of the environment.

1.6. Methodology of the study

1.6.1. Method of research

This research has followed both doctrinal and empirical approaches. Doctrinal approach is important to analyze the legal instruments of environmental protection and policy frameworks of the same as well as scholarly writings on the area. Empirical approach is useful to analyze the indigenous Gada principles on environmental protection. Thus, the empirical methods of interviews, focus group discussions, and observation are employed in relation to the Gada system

1.6.2. Sources of data

This research has used both primary and secondary sources of data. Primary sources of data are acquired from interview, focus group discussion, and field observation in relation to the indigenous Gada system. Secondary sources of data used include published and unpublished books and journals, historical texts, and state laws.

1.6.3. Data collection methods

The researcher has employed the following primary data collection methods:

1.6.3.1. Interview

The researcher conducted face to face interview with purposively selected informants. The interviews were conducted with community elders believed to have knowledge of the Gada system in Oromia region, east Shewa zone, and Dugda and Bora woredas. Similarly, interviews were conducted with members of an informal bureau of elders that work with the culture and tourism bureau as a customary court in the Dugda and Bora woredas. Moreover, interviews were made with residents of the study area Dugda and Bora woredas that are randomly selected.

The objective of the interview is to understand the Gada system principles and norms on environmental protection. Specifically, it is aimed to have understanding of the Gada system principles and norms on the protection of water resources, wild life, and forestry.

1.6.3.2. Field observation

Field observation was conducted in Dugda and Bora woredas. The researcher observed practical environmental protection measures on the basis of principles and values of Gada system. The researcher has also conducted field observation where cultural ceremonies took place at sacred

sites/iddoowwan jilaa. In this specific study area the sacred sites for celebration of public cultural ceremony may include irecha festival (ayyaana irreechaa), simple and local spiritual pray around river bank or huge trees (kadhaa malkaa fi muka guddaa jalatti sadarkaa naannootti ta'u) and any gathering for Gada (qachaa gadaa). The researcher observed tullu gefersa and kofe places of irecha festival in east Shewa Bora and Dugda woredas respectively. Bite a place of Gada gathering of jillee-oromo especially for man-guura (collection of houses) and other small cultural ceremony places have been observed.

1.6.3.3. Focus group discussion

Focus group discussion is conducted in Dugda and Bora woredas with members of jaarsa tuulama of Dugda and Bora woredas, committees of galma wakefana and selected staff members of the culture and tourism bureaus in both woredas. The focus group discussion was meant to further identify the principles and norms of the Gada system on environmental protection that could not be discerned from interviews and observation.

1.6.4. Data analysis methods

Those data that were gathered by the way and tools described above need to be analyzed. As such data that gathered from primary source such as; interview, field observation and focus group discussion were processed and analyzed in light of research objectives and questions designed for the study.

On the other hand secondary data that were gathered from sources like; book, articles, journals, internet sources and other similar way were analyzed based on documentary data analysis method.

1.7. Scope of the study

The scope of this study is limited both in subject area and geographic area. Since it is not possible to deal with all issues of environmental protection, the study has focused on water resources, wild life, and forest protection. The focus on these issues is based on a preliminary investigation that shows acute problems of environmental protection in relation to the specified resources.

The Gada system is a system of governance of the Oromo people who reside in Oromia and other regions of the country and who account for 34.4% of Ethiopian population.²⁷ History reveals that during sixteenth century the Oromo nation were governed by a form of constitutional government called Gada, and it was used as a military and administrative system.²⁸ However after nineteenth century the Oromo's Gada system dramatically declined to only ritual system though in some parts of Oromia region an evenly survived; such as in Borana and Guji.²⁹ By the same manner the researcher able to saw the functioning principles of Gada system in east Shewa Bora and Dugda woredas. Thus, the geographic scope of the study is limited to the Jiille Oromo tribe residing in the Dugda and Bora woredas, East Shewa of the Oromia regional state.

1.8. Organization of the study

This study is organized in to five chapters. The first chapter deals about the introduction and research methodology. As such the chapter specifically contained back ground of the study, statement of the problem, objectives of the study, research questions, and significances of the study, research method and sources of data, methods of data analysis, scope of the study, limitations and organization of the study. The second chapter concerned to literature review of similar works. The reviewed literatures has two folds so that they are those which focused and studied on international and national environmental problem and those which focused on the significance of Gada system in relation to environmental protection perspectives. The third chapter deals with overview of environmental protection laws under FDRE and Gada system whereas the fourth chapter presents data analysis and summary of findings and the last chapter covers conclusion and implications of the study.

1.9. Preferred Citation style

It is clear that in any academic writing the academic honesty is required. Using other works without referring is, as such amounts to plagiarism. However we have no similar citation rules. Thus any researcher needs to choose from among different citation styles. The preferred citation style for this study is the blue book: uniform citation system.

²⁷ Ethiopia people 2020 CIA world fact book, last update January 27, (2020).

²⁸ Endalkachew Lelisa Duressa, *Oromo Indigenous Philosophy (Gadaa System): The Case of 74thGujii Oromo Gadaa Power Transition*, 45 HISTORICAL RESEARCH LETTER, 39, 39 (2018).

²⁹ Id.

1.10. Limitations of the study

The process of this research was negatively affected by low budget, the COVID 19 pandemic, and lack of access to library resources in the town where the researcher resides. Moreover, the lack of stable infrastructure (such as electricity) and stable internet connection, and the political and security instability in the country made the collection of both primary and secondary sources of data difficult.

2. CHAPTER TWO: CONCEPTS AND SYSTEMS

2.1 The concept of the environment

We have no single definition for the word environment. In its broadest sense, environment is defined as including water, air, soil, flora and fauna.³⁰ The environment protection act of the state of India defined the environment to include water, air, land and inter-relationship between water, air, land and human beings, other living creatures, plants, microorganisms and property.³¹ The New Zealand Environment Act of 1986, were defined the environment as, is including:

“a) Ecosystems and their constituent parts;

b) All natural and physical resources;

c) The social, economic, aesthetic and cultural conditions which affect the environment or which are affected by changes to the environment.”³² on the other hand Environmental Protection Organs Establishment Proclamation of Ethiopia defined the environment as, “*The totality of all materials whether in their natural state or modified or changed by human, their external spaces and interactions which affected their quality or quantity and the welfare of human or other living beings, including but not restricted to, land, atmosphere, weather and climate, water, living things, sound, odor, taste, social factors, and aesthetics.*”³³

To the side of Gada system, mother lands and any natural resources on land are inseparably recognized as natural environment and obliged for its protection.³⁴ Care for sustainability of forest is must as it is believed to be natural sanctuary for all creatures.³⁵ One of my informant in Oromia region, east Shewa Bora woredas given me the definition of environment as quoted as follow,

³⁰ Zakaria Aissa Assia, *Legal Definitions of the Environment and of Environmental Damage*, LARSSON, MARIE-LOUISE 154,156 (2019), also see The English Environment Protection Act 1990, Section 1(2).

³¹ The Environment (Protection) Act, 29, section 2(a), (1986).

³² Environment act, 127, section 2, (1986).

³³ Environmental Protection Organs Establishment Proclamation, art, 2(3).

³⁴ Dr. Wogari Negari, *indigenous knowledge for good governance and development: Unleashing the wisdom of the Gada system*, 6 AMITY JOURNAL OF MANAGEMENT, 13, 16 (2018).

³⁵ Id.

*“The word environment as per Gada system is the total description of air and physical world surrounded to our dweller. It is what you see, what you smell and physical lands such as mountains, caves, valleys, rivers, forest, and lakes and includes all living things habited on mother earth.”*³⁶

The definition of environment given by laws of Ethiopia and that of Gada system seems similar.

2.2 Environmental challenges in Ethiopia

Our globe is, now a day, facing the big problem of national and international environmental problems. National and international institutions working on the protection of such environment is also facing different challenges. Athanasios – Valavanidis observed the global environmental problems and challenges as, urban air photochemical pollution, stratospheric ozone layer depletion in Antarctica, water pollution by agricultural runoffs and micro plastics, soil erosion, desertification, industrial wastewater, acid rain, excessive overpopulation, increasing solid waste disposal difficulties in big cities, deforestation and loss of biodiversity.³⁷

On the other hand development itself might sometimes be a reason for environmental problem. Thus adjacent to development the new environmental problems are emerging. The annual book of united nations environment program (UNEP) of 2018/2019 shows emerging environmental issue as the latest developments in synthetic biology; the critical advantages of landscape connectivity; the complex interactions and vulnerability of permafrost peat lands; the challenges of widespread nitrogen pollution; and the hazards of maladaptation in a world of climate change.³⁸

When we come back to Ethiopian scenario things become more difficult for the fact that Ethiopia is in the group of developing countries, and as the new developments emerge the new environmental problem is also emerging and the number of pollutants keep increasing. Toxic and

³⁶ Interview with obbo Gammadaa Gadaa, Bora woreda biitee-dhaabaa kebele (Feb. 10 2021).

³⁷ Athanasios Valavanidis, *Current Environmental Issues and Emerging Global Challenges in the 21st Century for Environmental Protection and Sustainable Development*, 1 SCIENTIFIC REVIEWS,1,3 (2019).

³⁸ UNEP, *Frontiers 2018/19: Emerging Issues of Environmental Concern*, available at [<https://www.unenvironment.org/resources/frontiers-201819-emerging-issues-environmental-concern>].

hazardous chemicals, solid waste and non-solid waste pollutants are releasing to air, sediment, rivers, lakes and open seas and oceans.³⁹

Ethiopia faces many challenges in the protection of the environment. Mellese Damtie and Mesfin Bayou noted that the gaps and challenges relate to lack of awareness both from state actors and public at large, lack of human resource, lack of specific regulation and directives, lack of effective legal and institutional arrangements, problem of political will that direct to only investment and economic growth at the expense of the environment.⁴⁰

Other writers point out that Ethiopian environmental challenges are related to unwise use of natural resource, poorly planned development projects and rapid population growth.⁴¹ The other causes for the poor protection of the environment in Ethiopia are the failure to incorporate social and environmental costs to development project, lack of affordable technologies which use renewable resources, lack of regular and accurate environmental assessment and monitoring, lack of public consultation and lack of establishing necessary institutional framework.⁴²

Mulugeta Getu noted that Ethiopia has adopted major international environmental treaties and has established institutions to enhance quality of environment.⁴³ However, implementation remains poor.⁴⁴ Dajane Girma found that Ethiopian environmental laws are general and not sufficient for remedial purpose.⁴⁵

³⁹ Zakaria Aissa Assia, subra note 30.

⁴⁰ MELLESE DAMTIE and MESFIN BAYOU. OVERVIEW OF ENVIRONMENTAL IMPACT ASSESSMENT IN ETHIOPIA GAPS AND CHALLENGES 58, 59, (2008).

⁴¹ Yonas Tekelemichael. *Current status of the environmental impact assessment system in Ethiopia, une peia training resource manual, case studies from developing countries*,17, 17.

⁴² Id, at 19, 20.

⁴³ Mulugeta Getu, *the Ethiopian environmental regime versus international standards: policy, legal, and institutional frameworks*, 1 HARAMAYA LAW REVIEW, 43, 69 (2012).

⁴⁴ Id.

⁴⁵ Dejene Girma Janka (PhD), *the place of environmental protection in the growth and transformation plan of the federal democratic republic of Ethiopia*, 2 OROMIA LAW JOURNAL,1, 31(2013).

By the same token the other article also found that Ethiopia is practically focusing to industry and development whereas environmental health has not given appropriate attention.⁴⁶ Ethiopian environmental policy requires follow-up activities at specified intervals during project implementation where these are called for in the environmental impact assessment (EIA).⁴⁷ The directive issued by the Environmental Protection Authority does not provide clear criteria to determine exactly which projects should require environmental impact assessment (EIA).⁴⁸ Lack of experts to follow up environmental impact assessment (EIA), fear of additional cost by investors to be paid for such expert are additional challenges against environmental protection in Ethiopia.⁴⁹ The conditions and restrictions imposed on the development projects as a means of environment impact assessment (EIA), by itself cannot successfully enhance the planned aim of environmental protection if it is not well monitored.⁵⁰

The researcher observed in Oromia region east Shewa zone, Dugda and bora woredas, which is the specific study area of the study, the existence of massive deforestation and made interview with residents of the area about the scenario which answer is quoted as follows;

*“Of course trees are being deforesting for fuelwood and charcoal. I will put two reasons for this phenomena; first it is because during the time of hardship they face difficult problem and forced to make charcoal and cut trees for fuelwood as a means of income. Secondly government interferes to the social institutional administration of Gada system in one hand and unable to guard such natural resources on the other. Some of our people are leaving aside the principle of Gada and honoring government proclamation attaching to modernity which is making gap for deforestation”.*⁵¹

⁴⁶ James Krueger, Aman K. Gebru, and Inku Asnake, *environmental permitting in Ethiopia: No restraint on “unstoppable growth?”* 1 HARAMAYA LAW REVIEW, 73, 100 and 102 (2012).

⁴⁷ Environmental Impact Assessment Proc. No. 299/2002, FED, NEG, GAZ, art 4.9(e).

⁴⁸ Tesfaye Abate Abebe, *environmental impact assessment and monitoring under Ethiopian law*, 1 HARAMAYA LAW REVIEW, 103,122 (2012).

⁴⁹ Id.

⁵⁰ Id., p.119.

⁵¹ Interview with, Bobe Huluka, former officer of culture and tourism bureau of Dugda woredas, Dugda woreda, Meki twon, bole kebele (Jan. 6 2021).

In addition the informant has blamed that organ of the government waits until trees cut down and charcoal made so that they forfeit from producer and use as income or personal use for themselves. They believe the act is full of sin and rarely expected from person who believe in principle of Gada system⁵²

Literatures show that the cause of environmental degradation in Ethiopia are diverse and interlinked. The above challenges are complicated by chronic poverty and population growth. Deforestation, solid waste, emission of carbon-dioxide from factories, climatic change and the like are visible in Ethiopia. Despite findings given and recommended by scholars, we are still facing environmental protection challenges.

2.3. Overview of background history of the Oromo and Gada system

2.3.1 Short history of Oromo nation

Ethiopia is a country of diverse ethnic groups with rich cultures from which Oromo nation also shares the extensive cultures that got from the holistic Gada system.⁵³ Oromo people is the largest ethnic group in Ethiopia.⁵⁴ Though the exact number of Oromo nation is not known, the number of Oromo people in Ethiopia at least counts to the half of all Ethiopian population.⁵⁵ Literatures are not agreed and show the exact origin of Oromo nation.⁵⁶ However these nation were seen in southern Ethiopia between twelve and fifteenth century governing themselves by Gada system, an indigenous traditional system having an organs like a kind of executive, legislative and judiciary.⁵⁷

⁵² Id.

⁵³ Ketema Tafa Biratu, Obsa Mamo Kosa, *The Roles, Challenges and Opportunities of Gadaa System in Resolving Water Conflict: The Case of Borana Oromo*, 8 OPEN JOURNAL OF SOCIAL SCIENCES, 19, 20 (2020) available at <https://www.researchgate.net/deref/https%3A%2F%2Fwww.scirp.org%2Fjournal%2Fjss>.

⁵⁴ Tesfaye Tolessa, *Early History of Written Oromo Language up to 1900*, SCIENCE, TECHNOLOGY AND ARTS RESEARCH JOURNAL, 76, 79 (2012); See also Alemayehu Kumsa, *the conflict between the Ethiopian state and the Oromo people*, 5TH EUROPEAN CONFERENCE ON AFRICAN STUDIES, 1112, 1122 (2013).

⁵⁵ Edmond J. Keller, *the ethno genesis of the Oromo nation and its implications for politics in Ethiopia*, 33 THE JOURNAL OF MODERN AFRICAN STUDIES, 621, 623 (1995).

⁵⁶ Id.

⁵⁷ Id.

During the second half of nineteenth century Oromo nation occupied by king Menelik II of Shewa (1865-89) who later becomes emperor of Ethiopia (1889-1913) and their institution of traditional system of governance (the Gada) has been destroyed.⁵⁸ Ujulu teessoo also observed that the Oromo were a nation that lived in Oromia by their own system of governance Gada system and by their own language called afaan oromo until crushed by king menelik at the end of nineteenth century.⁵⁹

Generally Oromo nation is the native and largest ethnic group of Ethiopia/Oromia having their own culture, language, religion, system of governance and institutions which all of them included in Gada system.

2.3.2. The nature of the Gada system

We have no single and commonly accepted definition of Gada. Literatures that written on Gada system and also elders that believed to be first hand source of the system, for it is transferring from generation to generation until it's declined and totally substituted by other system of governance in some parts of Oromia, obviously western system, could not able to give lexical definition for Gada. However it does not mean that a content of the system is not commonly known for it has almost similar analytical and conceptual definitions.

Gada is a traditional system of governance whose values, norms and beliefs are shared by all members of the Oromo community and reinforced by societal participation and relevant institutions.⁶⁰ It is egalitarian and democratic system that governs socio-political, economic and cultural life of Oromo community and other Cushitic peoples.⁶¹ Among nations that are believed

⁵⁸ Mohammed Hassen, *Conquest; Tyranny, and Ethnocide against the Oromo: A Historical Assessment of Human Rights Conditions in Ethiopia, ca. 1880S-2002*, 9 NORTHEAST AFRICAN STUDIES, 15, 17 (2002) URL: <https://www.jstor.org/stable/41931279>.

⁵⁹ Ujulu Teessoo Bantii, Oromo indigenous religion and Oromo Christianity contradictory or compatible? A comparative religious study from theological perspective, 24 (2018).

⁶⁰ Abdurahman Abdulahi Aliye, *the gada system and the Oromo's (Ethiopia) culture of peace*, ISSN 1728-9343 UNITY UNIVERSITY (ADDIS ABABA, ETHIOPIA),45,49 (2019).

⁶¹ Tesema Ta'a, *the Gadaa System and Some of Its Institutions among the Booranaa: A Historical Perspective*, XIII JOSSAH, 82, 84(2016).

to have practiced the Gada system of governance the Sidama, the Konso and the Gedeo are few.⁶²

From chronological view of understanding, Gada refers to a period of eight years during which a Gada class stays in power on its particular age grade of 40-48.⁶³ In this respect it is referring to sixth stage of Gada grade that all Gada classes pass through on their forty years old. Gada is also defined as the combination of generational age system which create Gada grade and age-set system which create hiriya.⁶⁴

Some other scholars have defined Gada as a division of age grade of all individual lives of the community from childhood to old age into a series of formal stages and that governs social, political, economic and cultural aspects as such.⁶⁵ It is therefore easier to conclude that Gada is a system that governs all aspects of the lives of the Oromo people.⁶⁶

My informants explain Gada as follows;

*In simple terms we can say Gada is our system of governance. But Gada is still broader than the word. For it includes not only political governance, but also economic, social, cultural, religious and our all rounded life style. How we eat, how we speak, how we believe and to what we believe and to sum up our total life style is from our Gada before the coming of the two main religions (Islam and Christian), and modern governmental system.*⁶⁷

⁶² Id.

⁶³ ASMAROM LEGESSE, GADA: THREE APPROACHES TO THE STUDY OF AFRICAN SOCIETY, 81(1973).

⁶⁴ GENT. AGAWA, *the Logic of a Generation-Set System and Age-Set System: Reconsidering the Structural Problem of the Gadaa System of the Borana-Oromo*, 22 NILO-ETHIOPIAN STUDIES,15, 21 (2017)

⁶⁵ Tadesse Bariso, *The Pride of the Guji-Oromo, An Essay on cultural contact and self-esteem*, 11 JORNAL OF OROMO STUDIES,1, 14(2004).

⁶⁶ It is not necessarily only Oromo that governed by Gada; but also other Cushitic families are also believed to have been governed by Gada. See also Tesema Ta'a supra note 61 at 84.

⁶⁷ Interview with obbo Dori Dalecha, social elder, abba seer of Gada melba,Dugda woreda korke adi kebele (Feb. 1 2021) (abba seer means a person who elected to make laws depending on aspirations of luba (ruling miseensaa).

The Gada encompasses all historical, cultural, political, philosophical, religious, linguistic, and geographical foundations of the Oromo society and the fragmented history along Oromo's residing in different areas is because Oromo scholars have been discouraged and prohibited from documenting Oromo's oral tradition by Ethiopian colonial state.⁶⁸ Not only Oromo, in the whole Africa knowledge and customary practices have been transmitted from generation to generation by oral tradition.⁶⁹ Thus the problem must not be only lack of documentation, but also purposive attack aimed at the distraction of the system.

Other informants also explain similar features in different words:

“For outsiders, the Gada is very difficult and complex system. However, when you are ruled by Gada and take part in all activities of Gada, you can easily understand and appreciate how political, economic, social and cultural life of one's society is run peacefully and effectively. It is egalitarian system of governance that is full of joy, respect, accountability and transparency that was made by our forefathers who were far sighted and who passed it from generation to generation, and today which we carry the responsibility to transfer to the coming generations. I am not agree with those who believe as Gada was given to us by god.”⁷⁰

Gada system could also be taken as the example of systems that list first for the understanding of the notion of rights and duties and the prime system of egalitarian leadership which shared nature of democratic leadership, separation of power and independent institutions for check and balance

⁶⁸ Asafa Jalata, Ph.D., *Gadaa (Oromo Democracy): An Example of Classical African Civilization*, 5 THE JOURNAL OF PAN AFRICAN STUDIES, 126, 130, (2012).

⁶⁹ Tadesse Jaleta Jirata, *Children and Oral Tradition Among the Guji-Oromo in Southern Ethiopia*, Thesis for the degree of Philosophiae Doctor, Norwegian University of Science and Technology Faculty of Social Sciences and Technology Management Norwegian Centre for Child Research. 213, (2013).

⁷⁰ Interview with obbo Rago Waktola, member of luba (mudana, the misensa or party on power), dugda woreda wolda kallina (Jan. 29 2021).

of such power.⁷¹ Gada is an institution that govern the life of every individual person from birth up to death.⁷²

Though some writers misunderstood and wrote as Gada excludes female from socio-political life, the empirical research study shows that females share as equal as male all the socio-political responsibilities especially in legislative and judiciary aspects.⁷³ In the study area of this research, the researcher observed that women are active participant and lovers of the system. Regarding equality of women in the system one informant said;

Under Gada system the equality of men and women are protected as husband and wife taken as one body, and they care and discharge their responsibility in Gada together. May be females are not always supposed to participate in heavy field work and military responsibility, not because they are inferior, but because they might be with two soul /pregnant, respect and protection shall be set for them.⁷⁴

From the idea quoted above Gada system is not the system that undermine rights of women for it is even extended to protect the rights of merely conceived child.

2.3.3. Institutions of the Gada

A research conducted on Gada system of Borana oromo provides three main Gada institutions: Gada assembly/legislative, Gada council/executive and Gada justice system/judiciary.⁷⁵ The function of Gada general assembly (gumii gaayyoo is to re-examine laws of the land, reiterate in public, to make new laws if necessary and to settle disputes that were not resolved by other lower bodies responsible for dispute settlement.⁷⁶ The gumii gaayyoo, legislative body of Borana, are

⁷¹ Aregash Eticha Sefera, *role of women in tulama oromo gada system: the case of ilu, South-west Shewa zone, Oromia regional state*, 6 INTERNATIONAL JOURNAL OF ASIAN HISTORY, CULTURE AND TRADITION, 10, 11 (2020).

⁷² Id.

⁷³ Id.

⁷⁴ Interview with Idoor Muummichaa, supra note 19. Also see Aregash Eticha Sefera, supra note 95.

⁷⁵ Zelalem Tesfaye Sirna, *Ethiopia: when the gadaa democracy rules in a federal state, bridging indigenous institutions of governance to modern democracy*, (Faculty of Humanities, Social Sciences and Education, University of Tromsø), 91-100 (2012).

⁷⁶ Id.

still powerful between Borana people.⁷⁷ The Gada council which is made up of six leaders: one Abba Gada, two vice Abba Gadaas and three senior Gadaa councilors assumes the highest executive office.⁷⁸ The judicial system of Gada resolves cases by jaarsummaa firstly at qe'ee milloo (lineage level court) and Qee'ee gosaa (clan level court) with exception appeal of cases to general assembly.⁷⁹

In Guji Oromo, gumii bokkoo is the only assembly to make, amend and to change laws.⁸⁰ In the Gada, the executive body (abba gada and his members) are responsible to maintain peace and security, to defend territory and their population.⁸¹ Regarding the institution of judiciary, in guji Oromo, the judicial body is composed of worra, fira/gosa, yaa'a and gumii from lower to higher.⁸²

Whenever we come back to institutions of Gada known in Jiille oromo, we find similar things with other Oromo tribes Borana, Guji and others and but with only different naming's and with simple modification. Regarding this, one of my informants observed:

To the best of my knowledge that I got from my father and my society, we all Oromo's had been governed under one and single system of governance, which is Gada. At that time all Oromo including, Borana, Guji, Wallo, Arsi, Itu, Mecca-tulama and all the rest tribes were ruled by Gada without any difference. Now I don't know who made mistake some differences are seen regarding to the naming, numbers and others. For instance, in Jiille oromo, and even in tulama in general, we don't have the title abba gada but we

⁷⁷ Abdullahi A. Shongolo, *The Gumi Gaayo Assembly of the Boran: A traditional legislative organ and its relationship to the Ethiopian State and a modernizing world*, ZEITSCHRIFT FÜR ETHNOLOGIE, 1,56,(1994) available at ibid URL: <https://www.jstor.org/stable/25842345>.

⁷⁸ Zelalem Tesfaye Sirma, supra note at 75.

⁷⁹ Id.

⁸⁰ Negessa Mokona Tuma, *Guji Girja Gada System and Contemporary Challenges*, 7 INTERNATIONAL JOURNAL OF INNOVATIVE AND DEVELOPMENT, 43, 46-47. (2018).

⁸¹ Id.

⁸² Id.

*have abba boku. But there are four types of boku among which one is logically been the place of abba gada that other tribes of Oromo are using.*⁸³

In the selected study area of jiillee oromoo, the researcher was able to identify four types of boku in each miseensaa (party) with their respective responsibilities. These are:-

1. Bokkuu yaa'ii
2. Bokkuu kuusaa
3. Bokkuu foollee
4. Bokkuu dhikkee.

Any person who assumes any power from among those types of boku is called abba boku.⁸⁴ Despite their common name, the power and responsibility of abba boku depends on the types of bokkuu it belongs to.⁸⁵ For instance the power of abba boku of bokkuu yaa'ii is different from the power of abba boku of boku kusa.

As such bokkuu yaa'ii is a power that assumed if and only if his misensa/party reach the age of luba grade, which seems to match with the power of abba gada of other tribes of Oromo nation.⁸⁶ The abba bokkuu of bokkuu yaa'ii is thus chief of Gada and every assembly takes place under his guidance.⁸⁷

Bokkuu kuusaa is a symbol of power that served as a ministry of finance so that every material and money that collected for purpose of Gada governance collected in the hands of abba boku of boku kuusaa.⁸⁸ The material collection includes the bokus (short stick made up of trees that used as symbol of power) and others are gathered to the house of abba boku of this boku kuusaa and when their power and responsibility end on the period of eight years; all symbols of boku yaa'ii, boku dhike and boku folle shall also be submitted to the house of this abba boku after expiry of their power term.⁸⁹

⁸³ Interview with obbo Dori Dalecha, supra note 63.

⁸⁴ Interview with obbo Buta Gobana, societies elder, Dugda woreda mukiye laman kebele (Jan. 27 2021).

⁸⁵ Id.

⁸⁶ Interview with obbo Badhaasoo Tuuchii, communities elder, Dugda woreda, korke-adi kebele (Feb. 1 2021).

⁸⁷ Id.

⁸⁸ Interview with idoo tufa, abbaa boku, Dugda woredas, Wolda-kallina kebele (Jan. 29 2021).

⁸⁹ Id.

Boku folle serve as ministry of defense. Abba boku of boku folle is the commander of foollee, a group of young men and horse men warriors who their ages are between seventeen and twenty four years.⁹⁰ However, in a time of war with external enemy, we have other powers and authorities.⁹¹ Those are abba dula, abba losa and abba faji. Abba dula can be elected from every misensa depending on its quality and tactics of war and he is commander of war in the field under abba boku of boku folle.⁹² He can organize front warriors (horse men warriors), middle warriors, back warriors and intelligent securities (gaadduu).⁹³ Abba losa on the other hand is the spiritual father of the whole warriors. If the war is just war he send the warriors with blessings so that they can win any enemy and if the war is not for just and aimed not to protect their right and land the abba losa curse the warriors so that they should not win against others right.⁹⁴

Boku dhikke matches with judiciary of modern government. It is court of justice that presides over any cases and especially focuses to homicide, murdering, mutilation and huge economic destruction like burnings.⁹⁵ Though every justiciable matters fall under the power of this abba boku, simple and easy matters could be resolved by local elders depending on full and free interest of both parties.⁹⁶

2.3.4. Gada grades/age class category/hiriya

The unique feature of Gada system of governance is mostly its age class groupings under Gada grades and by its groupings under common five parties. The very essence of age class grouping under Gada grades is mainly for fair share of power among all societal members and thereby to avoid conflicts on power. The name of such Gada grades and also their numbers are not common between all Oromo tribes residing in different zones. For instance in Guji-oromo Gada grades are; dabballee, qarree duraa, qarree duubaa, raaba, doorii, gadaa, baatuu, yuuba, yuuba guddaa.⁹⁷ However there are the same ages that any Gada grades need to finish to postpone to the next grade in all corners of Oromia and between all Oromo tribes, which is eight.

⁹⁰ Id.

⁹¹ Id.

⁹² Id.

⁹³ Id.

⁹⁴ Interview with obbo Jado Dodota, community elder, Dugda woreda, korke-adi kebele (Feb. 1 2021).

⁹⁵ Interview with obbo Bate Dodota, community elder, Dugda woreda, korke-adi kebele (Feb. 1 2021).

⁹⁶ Id.

⁹⁷ Negessa Mokona Tuma, supra note 69, at 45.

In the case of my study area, Jiillee Oromo that resides in Dugda and Bora woredas, my informants on purposive deep interview agreed the Gada grades of the area as;

Guulaa – 1-8 years

Dabballee ----- 9-16 years

Foollee -----17-24 years

Qaaloo ----- 25-32 years

Doorii -----33-40 years

Goobaa -----41-48 years

Raayyaa ----- 49-56 years

Raaba-----57-64 years

Yuuba-----65 and above

2.3.4.1. Powers and responsibility of each Gada grades

Each Gada grades have their own powers and responsibility depending on their age. It is the five misensa of Gada that pass through this Gada grades. Logically, and practically in some Oromo tribes, the Gada class/misensa reaches the age of Gada /goba, exactly when the age of each individuals are also between forty and forty eight. On this specific issue one of my informants said as follow:-

Any misensa to be match with exact age of between forty and forty eight years of individual members on its goba grade, the grade to assume gada power, how to have such misensa from its very beginning matters. Thus we need to talk over how any person get the membership of any misensa. It must be in a way that the newly born child should get the membership of misensa that is on luba/gada/ goba stage during their born; so that when the round of the same misensa reaches its forty those children will also be between forty and forty eight and then they can govern on their right ages for governance. But in Jille-oromo and some other Oromo tribes they are getting their membership of any

*misensa from their father which is not only wrong but also undermines the purpose of Gada grades.*⁹⁸

Be it gained in any ways each Gada grades have their own powers and responsibility. A misensa which is on the stage of folle cannot supposed to discharge any responsibility given on the stage of goba or other. In a Jille-Oromo to pass from one Gada grade to the other, there are unique way of celebration. All of my informants without exception have agreed on such ceremonies which I organized as the following;

2.3.4.1.1. Guulaa

The first Gada grade in jille-Oromo is gula which covers the period of 1-8 years of age.⁹⁹ It is also the period of preparation to gain responsibility in Gada and known by singing the song called gula at any assembly of Gada.¹⁰⁰ After concluding the ceremony of hiddi saama at place provided for this purpose, they again conclude ceremony of qarree qalu and requests to turn to the next Gada grade which is daballe.¹⁰¹ Any of my informants have not known of any visible responsibility of this stage.

2.3.4.1.2. Dabballee

Dabballe is the second Gada grade that is older than gula and younger than folle. They song the sing called dabballe in any gatherings of Gada/qachaa and claim their capability to get the power of folle.¹⁰² Their powers are to serve as messengers and to get ready by doing practice for the next grade which is full of responsibility.¹⁰³ They conclude the ceremony called bantii qaluu and then after planting birbirsa trees at place called gafarsa, request the misensa in power to the next stage saying “na marachiisi” (allow me to pass to the next grade).¹⁰⁴

⁹⁸ Interview with obbo Rago Wakene, supra note 64.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Interview with Hawas Banti, community elder Bora woreda, Bite-daba kebele (Mar. 1 2021).

¹⁰³ Id.

¹⁰⁴ Id.

2.3.4.1.3. Foollee

Folle are the warrior Gada grade which are from 17-24. It is just similar with regular policy of modern system of governance.¹⁰⁵ It sings the song called folle in any gatherings of Gada and request to step to qallo after concluding the ceremony of bobbaa qaluu and fooqa dhabu at compound of boku yaa;ii.¹⁰⁶

2.3.4.1.4. Qaaloo/kallo

kallo is the grade which is very near for Gada governance and mostly their duty is to take lesson and practice governance from the next grade.¹⁰⁷

2.3.4.1.5. Doorii

Dori is the grade on power/luba but which is not fully gained leadership on all matters.¹⁰⁸ After celebration of dagaga qaluu, it turns to goba grade.¹⁰⁹

2.3.4.1.6. Goba

Goba grade is the apex of gada power in Jille oromo similar with executive branch of modern government. Goba cannot make laws, but governs by laws that made by other misensa that recycling to the round in front of them.¹¹⁰ On their turn after the expiry of eight year they willingly go to oda namie/nabe to make laws for footstep coming grade by the system called oda godanu.¹¹¹ In this place they select genius persons from different locality who known as abba-seer (a person with knowledge of enactment of law) and tell their aspirations regarding every matter.¹¹² At the end they tell the newly made laws to the peoples and direct all to tell to their localities by the system called seera “dhangalasu” (to publicize the laws).¹¹³ Seera dhangalaasuu is similar with publication of laws in modern government. On returns from oda to their home

¹⁰⁵ Interview with Saboka Boru, elder, Bora woreda doyo- laman kebele (Mar. 2 2021).

¹⁰⁶ Id.

¹⁰⁷ Id.

¹⁰⁸ Interview with Gamada Gada, elder Bora woreda bite daba kebele (Mar. 1 2021).

¹⁰⁹ Id.

¹¹⁰ Interview with Malka Birra, elder Bora woreda doyo wadara kebele (Mar. 4 2021).

¹¹¹ Id.

¹¹² Id.

¹¹³ Id.

area they conclude the ceremony of buta qaluu and after six months followed with jaarra qaluu which shows end of their power.

2.3.4.1.7. Raayyaa

In this gada grade there are songs which the famous one among them is;

raayyan sirbaa gahee daangaa ambaa

beekaa malee maaltu hulluqa gadaan tabbaa.(2) the message of this song in English is shortly; I have successfully accomplished executive power of my term which is as difficult as travel breaking through mountain and only possible to break through by wisdom. On this stage the Gada class assumes power of military to protect sovereignty of their state from foreign invasion.¹¹⁴

2.3.4.1.8. Raaba

The misensa/gada class on raba grade is called abba alanga relying on its power to see and preside over cases that are not able to be seen on clan stage.¹¹⁵ On this stage the misensa in question suppose the power of judiciary to decide over all judicial matters in inclusion of guma system.¹¹⁶

2.3.4.1.9. Yuuba

As per jiillee oromo yuuba is the gada grade that becomes free of any powers and it is the stage that getting ready to assume the power of guulaa as a new round.¹¹⁷

2.3.5. Gada class/misensa

Gada class or misensa gada, also known as gogessa in Borana-Oromo, is age class organization into five so that they can assume power turn by turn as per their age and Gada grades.¹¹⁸ The numbers of Gada class is among common and similar elements of Gada between all Oromo tribes and but by different nomenclature. In guji-oromo, known as fincan shaman/the five

¹¹⁴ Interview with Bikila Dori, community elder Bora woreda gora-laman kebele (Mar. 5 2021).

¹¹⁵ Id.

¹¹⁶ Id.

¹¹⁷ Interview with obbo Dori Dalecha supra note 63.

¹¹⁸ Id.

misensa/gada class chronologically are; Roobalee, Muudana, Harmuufa, Halchiisa and Dhallana.¹¹⁹ In jiillee-oromo the name of five misensa's chronologically are;

1. Birmaji
2. Melba
3. Muudana
4. Halchisa
5. Robale.

The researcher observed at field of different gatherings when elders say “gada saddeettan gadadoo nulagi” in their blessing, which means when translated to English (through entire of eight gada's may we rarely see problems). However, there are only five misensa's which contradict with the phrases in blessings. Regarding those numbers of Gada classes and their creation, one of my informants said;

You may hear wrong conception from different elders that Gada and Gada classes created and given as by God/waaka. But Gada was created by our fore fathers since time immemorial. By the same token misensa gada were also created by them. We heard that in the first place misensa gada were eight in numbers. Those are; in addition to the todays functioning five members, waran, dhukub and biifole. When the number of misensa gada becomes eight the chance to assume Gada leadership will rise to sixty four age which is not convenient age for leadership. As a result of this reason, we have heard from our past generation that those misensa reduced to five. Now in arrangement of these five misensa everyone get luba on their forty's.¹²⁰

The other informants on the same question said;

Out of the eight misensa three were spiritually found in problem, such that in period of waraan, there were chaos and war, in the period of dhukkub, deaseses multiplied and in

¹¹⁹ Negessa Mokona Tuma, supra note 69, p. 45.

¹²⁰ Interview with obbo Korjo Doni, abba seer of gada robale and society's elder, Dugda woreda, mukiye laman kebele (Jan. 27 2021).

*biifolee drought and famine occurred. Thus depending on their ayana/spirituality Gada waran merged to melba, dhukub merged to birmaji and biifole merged to robale.*¹²¹

My informants agreed on the first eight misensa Gada and its reduction to five later on. However, the difference is seen on the reason of their reduction which some believes to match with right and mature age for Gada governance and some other reason out the spiritual beliefs of dangerousness of the reduced misensas.

The researcher agreed and believed to the idea that reasoned the reduction of such misensa Gada from eighth to five is in search of the convenient and mature age to assume Gada governance. Had those misensa did not reduced to five the age of luba/goba would be between sixty four and seventy two which is not appropriate for leadership.

2.4. FDRE constitution and its approach to environmental protection

2.4.1. FDRE constitution

Ethiopia has four written constitutions in its history such as, 1931 constitution of Ethiopia, 1955 constitution of Ethiopia, 1987 constitution of Ethiopia and 1995 constitution of Ethiopia. FDRE constitution is the fourth written constitution in the history of Ethiopia. Before 1931 the empire of Ethiopia had no written and formal constitution regardless of customary and religious laws that served as constitution for centuries.¹²² Though the written and modern constitution of Ethiopia commence from 1931 there were sophisticated and constitutionally significant customary and religious documents prior to the reign of emperor hailesillassie I such as Kibre Negest, Feteha Negest and Serate Mengist.¹²³

¹²¹ Interview with Name Tufa, societies elder, Dugda woreda, jawe-bofo kebele (Jan. 30 2021).

¹²² Bereket Habte Selassie, *constitutional development in Ethiopia*, 10 JOURNAL OF AFRICAN LAW, 74, 76 (1966).

¹²³ Gashaw Ayferam, *constitution, constitutionalism and foundation of democracy in Ethiopia*, 2 INTERNATIONAL JOURNAL OF RESEARCH (IJR) 586,586, (2015). Available at <https://www.researchgate.net/publication/277309998>.

The first written constitution of 1931 was drafted by Bejron Tekle Hawariat aimed to the consolidation and centralization of the power of the country in addition to view of modernization.¹²⁴

The 1955 constitution is just the revision of constitution of 1931 which was needed to be revised for the purpose of Ethio-eritrean federation of 1952 and to go with significant change of social conditions taken place starting from 1940's.¹²⁵

The third written constitution of Ethiopia is constitution of 1987 which came to effect after referendum of 1 February 1987.¹²⁶ The constitution had established people's democratic republic of Ethiopia.¹²⁷

The fourth written constitution is federal democratic republic of Ethiopia of 1995 which is currently effective. This constitution was drafted to medicate the ills of previous regime and to end political disorder that preceded it.¹²⁸ The constitution established states of federal structure where power is divided between two layers of states; regional states on regional matters and federal states on matters of the whole federation by changing unitary state system of the country.¹²⁹ The constitution also provided organs of government; legislative, executive and judiciary for both layers of governments.¹³⁰

2.4.2. The approach of FDRE to environmental protection

Now days the inclusion of human rights protection provisions in any nations constitution is customary. On the other side human rights and environmental protection is a matter that one cannot exist without existence of the other; or ones cannot properly enjoy human rights without

¹²⁴ Id, at 589.

¹²⁵ Id, at 591.

¹²⁶ Id, at, 591.

¹²⁷ Id.

¹²⁸ T.S. Twibell, *Ethiopian Constitutional Law: The Structure of the Ethiopian Government and the New Constitution's Ability to Overcome Ethiopia's Problems*, 21 LOYOLA OF LOS ANGELES INTERNATIONAL COMPARATIVE LAW REVIEW, 399, 406(1999). Available at: <http://digitalcommons.lmu.edu/ilr/vol21/iss3/2>. See also preamble of FDRE constitution.

¹²⁹ FDRE. CONST., art 50.

¹³⁰ Id.

environmental protection.¹³¹ Environmental degradation, hazardous waste, chemical contamination, pollution and other environmental matters potentially affect the realization of human rights.¹³²

Constitutional provisions of environmental protection is very powerful than other regulation to utilize environment.¹³³ Courts around the world are also interpreting the right to life as implying the right to healthy environment in which to live that life in the absence of right to healthy environment eliminate both rights.¹³⁴ However when the provisions of environmental right incorporated to constitution it strengths environmental protection by expanding the scope of environmental legislative and regulatory regimes, raising relative status of environmental rights and to be frequent source of procedural rights so that environmental and citizen organizations can pursue their advocacy work effectively.¹³⁵

The FDRE constitution has provided environmental rights under article forty four which reads “*all persons have the right to a clean and healthy environment*”.¹³⁶ In case any person have been displaced as a result of state programs or any person whose livelihood adversely affected by such acts of government; the constitution enshrined the right to monetary or other alternative compensation including relocation with adequate state assistance.¹³⁷ Having this constitutional rights as boarding step, the constitution empowers federal government to enact specific environmental laws.¹³⁸

Both federal and states governments are duty bound to ensure all citizens of the country live in a clean and healthy environment.¹³⁹ Any design and implementation of development program shall not damage the environment.¹⁴⁰ To realize the same, people have the right to consultation, and

¹³¹ Report of the United Nations High Commissioner for Human Rights, Analytical study on the relationship between human rights and the environment, nineteenth session agenda items 2 and 3, p,6 (Dec. 16 2011).

¹³² Id.

¹³³ Carl Bruch, Wole Coker, and Chris Vanarsdale, breathing life into fundamental principles: implementing constitutional environmental protections in Africa, World resource institute, working paper series, 3, (2001).

¹³⁴ Id, at 5.

¹³⁵ Id.

¹³⁶ FDRE, CONST, art 44.

¹³⁷ Id.

¹³⁸ Id, art, 50.

¹³⁹ Id. art, 92.

¹⁴⁰ Id.

expression of views in planning and implementation of environmental policies and on any projects that can directly or indirectly affect them.¹⁴¹ Despite their right to enjoy a clean and healthy environment, peoples are also not free from duty to protect the environment.¹⁴²

Thus the approach of environmental provisions of FDRE constitution is seems to enable the people to live in a clean and healthy environment and to protect them from any adverse effects as a result of environmental damage. Therefore the aim of environmental protection under FDRE constitution is likely to the extent the damage of environment cannot hurt the people.

¹⁴¹ Id.

¹⁴² Id.

3. CHAPTER THREE: ENVIRONMENTAL PROTECTION UNDER FDRE CONSTITUTION AND THE GADA SYSTEM

3.1. Water resource protection under FDRE Constitution and the Gada System

3.1.1. Water resource protection under FDRE Constitution

FDRE constitution has provided the right to clean and healthy environment to all persons.¹⁴³ In case any person of the country adversely affected as a result of government programs; the rights of those adversely affected persons extended to monetary and other alternative compensation.¹⁴⁴ Under this constitution, the government is not only duty bound to escape from designing and implementing programs and development projects that damage or destroy the environment; but also includes duty to ensure all persons live in clean and healthy environment.¹⁴⁵ Pursuant to the definition of environment, water resource protection can be included in those general provisions of FDRE constitution.

The FDRE constitution empowers house of people's representative to enact laws for utilization of water and other natural resources.¹⁴⁶ The Ethiopian water resource management proclamation is a meant to implement persons right to clean and healthy environment and to environmental protection as a general.

The Ethiopian water resource management proclamation provides for the protection of water resources of the country and their utilization for the highest social and economic benefits of the people of Ethiopia. The law also proclaims that water resources be duly conserved and their management is carried out properly.¹⁴⁷

Water resources and water bodies, as per this proclamation, are common properties of the people of the country.¹⁴⁸ The Proclamation provided basic principles which govern water resource of the country and which any investment program needs to follow. As such firstly, any water resource

¹⁴³ FDRE. CONST., art 44.

¹⁴⁴ Id.

¹⁴⁵ Id. art, 92.

¹⁴⁶ Id. art, 55.

¹⁴⁷ Ethiopian Water Resources' Management Proclamation, Proc. No: 191/2000'. Fed. Neg. gaz. art 3.

¹⁴⁸ Id. art, 5.

management legislative frameworks and any integrated basin master plan studies should ensure the highest social and economic benefit for the people of Ethiopia.¹⁴⁹ Second, any social and economic development program, development activities of any individual person and any investment plan shall be based on water resource policy of the country, basin master plan studies and water resources laws.¹⁵⁰ Third, the supervising body shall ensure and administer that the management of water resource is working in accordance of water resource management policy and basin master plan.¹⁵¹ Finally the management of the water resources of Ethiopia shall be in accordance with a permit system.¹⁵²

3.1.1.1. Supervising bodies and dispute settlement

Government institutions are established for the execution of laws and principles of water resource management.¹⁵³ The power given to such body includes utilization of water resource, its management and protection.¹⁵⁴ The power of these organs are not limited to only supervision, but also the power to settle any dispute arising between water users that hold permission and with third party.¹⁵⁵

3.1.1.2. Permits of water use

Under the Ethiopian law of water resource management, digging water wells by hand or use of water from hand-dug wells and use of water for traditional irrigation, artisanal, mining and for traditional animal rearing, as well as for water mills does not require permission unless a directive is issued to regulate the appropriate use of the same.¹⁵⁶

However constructing water works, supplying water, transfer of water received from other supplier or water abstracted from water resources are all need prior permission from the

¹⁴⁹ Id. art. 6.

¹⁵⁰ Id.

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ Id. art 8.

¹⁵⁴ Id.

¹⁵⁵ Id. art 9.

¹⁵⁶ Id, art .12.

supervising government organs.¹⁵⁷ Release or discharge of waste into water resource might be allowed upon permission of the supervising organ.¹⁵⁸ However as a matter of principle release or discharge waste into water resource is prohibited.¹⁵⁹ The regulations to be issued for the implementation of this Proclamation may allow the release or discharge of waste into water resource.¹⁶⁰

Release or discharge of waste into water resource might be subject to charge by permit holder to the supervising government organ.¹⁶¹ The supervising organ in collaboration with other appropriate public organs may delimit boundaries of certain water bodies and prohibit cutting of trees and construction of houses within the limits of such boundaries.¹⁶² The parameter delimitation of boundaries of water resources is the discretion of the supervising government organ.

Disposing solid wastes into water resources is common problem in cities and towns including Meki and Bote towns, which was confirmed by this researcher during field observation. To prevent adverse effects of such solid waste, a proclamation for solid waste management was enacted. However the problem of discharging wastes into water body; specifically in the study area two woredas of east Shewa, Dugda and bora, their towns Meki and Bote respectively, is not practically solved by solid waste management proclamation.

3.1.2. Water resource protection under the Gada system

In the Gada system, water and water resources are among very respected and protected areas. Most celebration including irreecha take place around the banks of water bodies. The significant cultural and spiritual respect for water and water bodies is explained by an elder of the Oromo community in Oromia region, east Shewa zone, and Dugda woreda as follows:

Water and water bodies have significant place in the Gada system because every living thing needs water to exist in life. In nature, some lives are food for the others, but all

¹⁵⁷ Id, art, 11.

¹⁵⁸ Id, art, 11.

¹⁵⁹ Id.

¹⁶⁰ Id.

¹⁶¹ Id, art, 22.

¹⁶² Id, art, 25.

*lives commonly use water for drinking. Even stone can be exposed to fire when it stays without water for long period of time. Without eating, we may stay alive for some days whereas it is not only difficult but also impossible to stay alive for hours without drinking. Water is believed to be the source of life and forgiveness.*¹⁶³

All water bodies including hand wells are common property of the community and everybody are duty bound to protect and to use them wisely.¹⁶⁴ Also, all water bodies are free of any charge to use.¹⁶⁵

Discharging any waste to any of water body is forbidden under the Gada system.¹⁶⁶ The community under Gada system protects water bodies as of their culture. The extent of protection and respect of the society for water is explained as follows:

*Discharging of waste into water bodies is not only forbidden but is also a shameful act among our people on the basis of the Gada. Even crossing a water body is only allowed with your barefoot for residents of the lower basin may use it for drinking. That custom is still strong today and a lot of people including me will not cross water bodies with shoes, especially in rural area.*¹⁶⁷

Regarding water banks, cutting trees and constructing houses is strictly forbidden at least within probably three hundred meters of the bank of water bodies, which is stated in Afan Oromo; “darba hiddii lamaa yookin ciisa sangaa falqaa” (two throw of yellow wild fruit or the distance gone by the boosting bull to take rest, mostly during morning).¹⁶⁸ These restrictions are aimed at protecting water bodies, protecting flood accident, and allowing wild life to freely use such water for drinking.¹⁶⁹

¹⁶³ Interview with korme kolche, retired teacher and elder, Meki town oda kebele (Feb. 3 2013).

¹⁶⁴ Id.

¹⁶⁵ Id.

¹⁶⁶ Interview with obbo Dori Dalecha supra note 63.

¹⁶⁷ Id.

¹⁶⁸ Id.

¹⁶⁹ Id.

Every member of the Oromo community is expected to abide by these principles of water resource protection for the principles are part of the spirit of social life.¹⁷⁰ When someone is seen acting against these Gada norms, any member of the community has the right to interrupt the act and report the offence and offender to luba.¹⁷¹ Then the offender asked by the principle called yakka malkaa (crime of water resource).¹⁷²

3.2. Forest protection under the FDRE Constitution and the Gada System

3.2.1. Forest protection under the FDRE Constitution

Forest development, conservation and utilization proclamation is a law that designed to implement the provisions of FDRE constitution regarding environmental protection and rights of persons to live in clean and healthy environment.¹⁷³

Practically, Ethiopia's forests are being destroyed as a result of agricultural expansion, the high demand of construction material, fuelwood and charcoal, deforestation, poor land husbandry, increased sediment load of rivers, siltation of reservoirs and increased incidence in the degree of flooding.¹⁷⁴

Under Ethiopian forest law, forest shall be owned privately, by the community, associations and the state.¹⁷⁵ The law provided rights and duties for all types of forest developers to maintain forest development and its conservation in one hand and the utilization from forest products on another hand.¹⁷⁶ Additionally the law provided different types of incentives including exemption from tax for some specified period of time.¹⁷⁷ By doing so, the objective of the law seems to

¹⁷⁰ Id.

¹⁷¹ Id.

¹⁷² Id.

¹⁷³ FDRE, CONST. art 55.

¹⁷⁴Shibru Tedla and Kifle Lemma, *environmental management in Ethiopia have the national conservation plans worked?*, ORGANIZATION FOR SOCIAL SCIENCE RESEARCH IN EASTERN AND SOUTHERN AFRICA (OSSREA) ,1, 11 (1998).

¹⁷⁵ Forest Development, Conservation and Utilization Proclamation, proc. No. 1065/2018, fed, neg. gaz. art. 4.

¹⁷⁶ Id, arts, 5-10.

¹⁷⁷ Id.

enhance forest investment and thereby contribute for the prevention of land degradation, dissertation, adverse climate change and other environmental hazards.

Government incentives are awarded to anyone who notifies any illegal transportation, processing or possession of forest products.¹⁷⁸

No one is allowed to cut endangered indigenous trees unless specifically authorized by government organs for utilization of the same, which planted in his possession.¹⁷⁹ Within state forest, cutting trees, permanently settling or temporarily, grazing domestic animals, undertake hunting activities, carrying saws and any other tools for cutting trees, and keeping bee-hives or extracting honey or other similar activities are only possible up on written permission from the responsible authority.¹⁸⁰

When a person engages in the above activities without valid permit, they are punishable with imprisonment and fine.¹⁸¹ Additionally any person who destroys damages or falsify forest boundary marks, any person who intentionally set fire to the forest, any person who settles or expands farmland or undertakes the construction in a demarcated forest and forest land, any person who illegally moves forest products, owner of forest who fails to immediately inform about the occurrence of forest vermin weeds and disease in his forest and other similar acts that undermine forest development may incur imprisonment and fine punishment.¹⁸²

The forest protection proclamation of the Oromia regional state contains severe punishment when compared to the federal law for acts against forest protection like cutting of tree, setting fire to the forest, destroying forest boundary, selling, transporting or keeping in store forest products.¹⁸³ Additionally the Oromia law prohibits cutting and utilization of protected tree

¹⁷⁸ Id, art 24.

¹⁷⁹ Id, art 25.

¹⁸⁰ Id.

¹⁸¹ Id, art 26.

¹⁸² Id.

¹⁸³ Forest proclamation of Oromia proc. No. 72/2003, art 15.

species like Hagenia, abbyssinca, cordia, Africana, podocarpus falacatus, prunus Africana, juniperus procera.¹⁸⁴

3.2.2. Forest protection under the Gada System

Forests and other natural resources are highly respected and protected under the umbrella of Gada system as its philosophy argues for inseparability principle of environment and mother earth.¹⁸⁵ Sacred springs, Mountains, trees, groves, and forests are utmost ritualized and respected as place of ritual ceremony.¹⁸⁶ The indigenous Oromo religious practice protects forest than hiring the guards to protect the same.¹⁸⁷

Under the Gada system, forest is a common property that everybody is responsible to protect from acts such as deforestation.¹⁸⁸ No one is allowed to cut any tree anywhere, even in his/her own compound unless there is a reasonable and wise reason.¹⁸⁹ As such cutting trees is only allowed for fuel, when constructing a house or a fence.¹⁹⁰ Using trees for fuel in itself is limited to dead trees as can easily be understood from the common sayings in the society; “*osoo gogaan jiruu jiidhaa hin murin, osoo jallaan jiruu sirrii hin murin*” (do not cut living trees where there are the dead ones; and do not cut the street trees where there are bended trees).¹⁹¹

The ownership of forest is under the whole community and all members of the community bear responsibility for its protection.¹⁹² Anyone who see cuttings of trees for unreasonable purposes can either push to stop the act or report the act to luba when he/she could not stop the

¹⁸⁴ Id, art 14.

¹⁸⁵ Dr. Wogari Negari, supra note 34.

¹⁸⁶ Id.

¹⁸⁷ A. K. Sinha, Krishan Sharma and Lemessa Mergo, *caato sacred forest: understanding the cultural and environmental worth of natural space in Oromo religion, Ethiopia*, 30 IND. J. PHYS. ANTHROP. & HUM. GENET.47, 60 (2011).

¹⁸⁸ Interview with obbo shan’ee korma, retired teacher, former member and committee of Mecha-Tulama association and elder, Meki town, oda kebele (Feb. 3 2021).

¹⁸⁹ Id.

¹⁹⁰ Interview with Tufa Bariso, elder, Bora woreda, huluko keshi kebele (Feb. 10 2021).

¹⁹¹ Id.

¹⁹² Interview with Midekso Boba, elder, dugda woreda wolda kalina kebele (Feb. 4 2021).

perpetrator.¹⁹³ Forests are protected in different ways under the Gada system such as teaching children not to cut trees as expressed in the saying: “mucaan olguddatu muka ol guddatu hin muru”¹⁹⁴, which means growing children shall not cut growing trees.

3.2.2.1. Trees around spiritually protected area under the Gada system

Some places are selectively given respect and serve as spiritual area like irrechaa. Trees in those selected area for spiritual matters are not allowed for cutting for any reason and even dead dry wood are protected.¹⁹⁵ Trees around banks of water bodies within three hundred meters are not allowed for cutting.¹⁹⁶ Especially, gates of water bodies known as ‘melka’, have significant spiritual meaning and cutting any tree from there is completely forbidden.¹⁹⁷

3.2.2.2. Trees that are not subject to cutting for any purpose

The Gada system protects every kind trees and some trees are specifically under utmost protection.¹⁹⁸ All milky trees like Odaa (*ficus sycomorus* L), qilxuu (*ficus thonningii*), danbii(*ficus thonningii* Blume), harbuu (*ficus sur*) are not allowed for cutting.¹⁹⁹ Additionally trees like; ejersa, birbirsa, waddeessa are also not allowed for cutting because of their symbolic meaning in the Gada system.²⁰⁰ Ejersa (*oleaeuropaea* subsp.cuspidata) is a tree from which the symbol of boku was made, bokkuu irraa magarsu. Birbirsa is used in ceremony of foka dhabu.²⁰¹ Such restriction of selected trees directly or indirectly contributes to forest conservation and development which in turn contributes to better environmental protection.

¹⁹³ Id.

¹⁹⁴ Interview with obbo Kebato Gababa, Dugda woreda maja lalu kebele (Feb. 3 2021).

¹⁹⁵ Interview with Foolle Battee, Dugda woreda wolda kallina kebele (Feb.5 2021).

¹⁹⁶ Interview with obbo Dori dalecha supra note 63.

¹⁹⁷ Ibid.

¹⁹⁸ Interview with Gobena Edao, elder, Dugda woreda wolda-kalina kebele (Feb. 4 2021) see also Derera Ketema Taressa, *beyond the communality and expression of Oromo civilization: the mediating role of gada system for commons management of natural resources*, 7 INTERNATIONAL JOURNAL OF CURRENT RESEARCH, 20223, 20225 (2015).

¹⁹⁹ Id.

²⁰⁰ Id.

²⁰¹ Id.

3.3. Wild life protection under the FDRE Constitution and the Gada System

3.3.1. Wild life protection under the FDRE Constitution

Article 55 of the FDRE constitution is also meant to describe wild life protection. It is clear that the protection of environment, land and water resource is in another language the precondition for wild life protection so that it makes comfort and safe shelter for them. Thus development, conservation and utilization of wild life proclamation is implementing proclamation of FDRE provision.

The aims of the Development Conservation and Utilization of Wildlife Proclamation No. 541/2007 is to conserve, manage, develop and properly utilize the wildlife resources of Ethiopia.²⁰² National parks, wildlife sanctuaries and Wildlife reserves are major ways of wild life conservation. Such areas of wild life conservation are designated to be administered by federal and regional governments, while some areas might be designed to be administered by private investors and local communities.²⁰³

Hunting of wild life is only possible up on permit of hunting by appropriate body except the hunting done by government organs during the discharge of their duties.²⁰⁴ Activity of trade in wildlife and their products, ownership, sale, transfer, export or import of any processed or unprocessed wildlife product are all prohibited unless permission is obtained from the government.²⁰⁵

Acts that violate the above rules are punishable under the provisions of the Criminal Code and the abovementioned proclamation.²⁰⁶ Thus, any person who commits an act of illegal wildlife hunting or trade, carries out unauthorized activities within wildlife conservation areas that causes damage to the forest and is found in possession of wildlife or wildlife products without having a permit shall be punishable with fine or imprisonment.²⁰⁷

²⁰² Development Conservation and Utilization of Wildlife Proclamation, proc. No. 541/2007, fed. neg. gaz. Art 3.

²⁰³ Id, arts 4-7.

²⁰⁴ Id, art, 8.

²⁰⁵ Id, art 12.

²⁰⁶ Id art 16.

²⁰⁷ Id.

3.3.2. Wild life protection under the Gada system

In the study area of Jiillee-oromo, the researcher has gathered conflicting ideas regarding protection of wild life under the Gada system. Some informants stated that the Gada system has little to say regarding wild life protection where as some others explained that the Gada protects every living thing including wildlife. For instance an informant explained the Gada system norms on the protection of wild life as follows:

*To the best of my knowledge there is nothing that the Gada system has left out. All living things are respected and given protection under the Gada system. Surely hunting is taken as braveness in the society but I don't believe it's authorized by the Gada system. Rather I believe hunting is the result of decline of the Gada system and governance. For instance when you kill cat you must discharge the system called guma, meaning a kind of compensation for your criminal offence. This is to the minimum of all, and in case any person intentionally or prudently killed any of wild life, the person is liable as per Gada system.*²⁰⁸

Other informants stated the opposite:

*There is no rule that prohibits any body from killing wild life. When you kill wild animals like tiger and lion you will glorified between gatherings/ceremonies under the Gada system. I have never seen and or heard any blame from such gatherings for hunting of such animals for game. We hear protection of wild life from the laws of government. The only laws of environmental protection we are aware of is the state law of wild life protection. However, the protection of wild life is nothing where there are no protections of forest or where laws of forest protection are not practically implemented.*²⁰⁹

Abbaa gadaa Goobana Hoolaa, the current abbaa gada of Tuulama-oromo, who is also from the specific study area said that the Gada rule proclaimed to chaffee of oda namie/nabe which includes Jiillee-oromo, protects every wild life from aunt to elephant.²¹⁰

²⁰⁸ Interview with Name Tufa supra note 88.

²⁰⁹ Interview with obo Dori Dalecha supra note 63

²¹⁰ Interview with Goobana Hoolaa, abbaa gada of Tuulama oromo, adaama (Apr. 3 2021)

The researcher observed in the study area of this research (Jiillee-oromo, Dugda and Bora wordas), hunting of animals for game, food, medical purposes and as symbol of braveness have been practically taking place despite the above disagreement of informants on the Gada system in relation to wild life.

4. CHAPTER FOUR: ANALYSIS AND SUMMARY OF FINDINGS

4.1. Water resource protection

As explained under chapter 3 above, we have state rules and Gada system norms for the protection of water resources. Under both systems, water resources are the common property of the people. The purpose of protecting water resources under state laws is for the highest social and economic benefit of the people whereas under the Gada system, it is to protect water resource by itself as a source and symbol of life.

The very essence of water resource protection is of very important for practical implementation of the rule. If the community are not aware and believe to protection of the same, it will be difficult to guard and realize the expected result especially in developing country.

In Meki town, where people are obliged to follow government laws than principles of the Gada system, dead animals and other solid wastes are thrown into the Meki river whereas in the countryside, in kebele's of both west and east sides of the town, where people follow the Gada system norms on protection of water, people respect water resources and follow Gada rules including not to cross the river with their shoes. The researcher practically observed that in kebele's called mukiyye-laman, haxe-laman, geraba-korke adi, shubi-gemo and wolda-kallina the people respect water of Meki River and scared of crossing it with shoes. This implies how much respect is putted on protection of water resource.

Government laws are not successfully disclosed to the public for the researcher observed most people in the society have no awareness of existence of such laws. Therefore, for protection of water resources of our country, the Gada system has better rate of enforcement.

The Ethiopian water resource proclamation established the supervising body for management of water resources and for the settlement of dispute between users if any.²¹¹ But in the Gada system, specifically in my study area, all stake holders bear responsibility to protect water resources.²¹²

Release or discharge waste into water resources might be allowed under the government proclamation up on charge so that it paved the way for the regulation to be issued to implement

²¹¹ Ethiopian Water Resources' Management Proclamation, supra note 117, art 8.

²¹² Id.

the proclamation in question, to allow it up on payment or charge whereas under the Gada system, it is not allowed under any circumstances.²¹³

Under both systems delimitation of water bodies' bank boundary to prohibit clearing of trees and construction of houses is provided though the distance at which such boundary delimits is not specified under the proclamation.²¹⁴

4.2. Forest protection

As per Ethiopian forest law, forest can be owned privately, by the community and by the state.²¹⁵ But under the Gada system, forest is common property of the community.²¹⁶ Under both systems, the objective of forest development is for prevention of land degradation, desertification, climatic change and other environmental hazards but it is not backed by incentives under the Gada system whereas it is so under the proclamation.²¹⁷ However, more than government incentives, the forest protection under the Gada system is closely connected to the social custom and taboo which its violation results in strong retribution from the society. Especially some species of trees are always protected and cutting them is inconsistent with the moral norms of the people. The customary law of Gada system highly dedicated to protect forest in general and any trees around sacred natural site/ardaalee jilaa, which the people accept and respect friendly.²¹⁸

The Gada system prohibits cutting of trees unless for purposes that are reasonable in the society and some selected types of trees are always protected whereas Ethiopian forest law allows private owners to sell or allow the sale of forest products.²¹⁹ But endangered indigenous naturally grown trees are allowed for utilization under the forest law only when specifically permitted by responsible body.²²⁰ Ethiopian forest law has provided penalty clause for any non-conformity to

²¹³ Id, art 22.

²¹⁴ Id, art 25.

²¹⁵ Forest Development, Conservation and Utilization Proclamation art 4.

²¹⁶ Id 54.

²¹⁷ Id, art 24 and interview with obbo shan'ee korma sited above at note 150.

²¹⁸ Gameda Odo Roba, Indigenous mechanisms of preserving sacred natural sites in Guji Oromo, Adoola Reedde and Anna Sorra districts, southern Ethiopia, 5 COGENT FOOD AND AGRICULTURE,1, 14 (2019) available at <https://doi.org/10.1080/23311932.2019.1609765>.

²¹⁹ Id. see also Forest Development, Conservation and Utilization Proclamation, art 25.

²²⁰ Forest Development, Conservation and Utilization Proclamation, art 25.

the rules of the proclamation.²²¹ Under the Gada system, a member of the community either interrupt the act or brought offender in front of the luba.²²² Moreover, the Gada system employs different methods to teach and enforce norms such as the custom that tells growing children not to cut growing trees. Prohibition of private ownership of forest is another method under the Gada system that protect the forest.

4.3. Wild life protection

Regarding wildlife protection, there are no broad differences between states laws and the Gada system. The hunting, sale and transfer of wild life is prohibited by the law except permits are issued by the concerned state organ to do so.²²³ Under the Gada system, the researcher found that protection of wildlife is controversial. Generally, hunting is not prohibited and the society is allowed to use wild life for food and other purposes.²²⁴ Additionally some animals are hunted for game, especially as a symbol of braveness whereas some are also hunted for medical purposes.²²⁵ Thus, specifically in the study area of this research state laws seem to have clearer protection for wild life compared to the Gada system.

Any person seen hunting such wild life, sale or transfer such animals or their products are criminally responsible under Ethiopian laws, whereas under Gada system there are no specified penalty other than duty to discharge guma system for the dead animal.²²⁶ Paradoxically, the guma system on itself may show the respect provided for such wild life under the Gada system.

²²¹ Id, art 26.

²²² Interview with obbo Shan'ee Korma supra note 150.

²²³ Development Conservation and Utilization of Wildlife Proclamation, arts 8 and 12.

²²⁴ Interview with obbo Dori Dalecha supra note 63.

²²⁵ Id.

²²⁶ Development Conservation and Utilization of Wildlife Proclamation, art 16 and Interview with Name Tufa supra note 88.

5. CHAPTER FIVE CONCLUSION AND EMPELCATIONS

5.1. Conclusion

Now day among difficult problems the land planet confronted with is environmental problem. By its nature environmental problem entails-trans boundary damage so that the causes of air pollution in one country resulted also in nearby country. That is one reason for the environmental matter internationally given special attention. Major international treaties and conventions focused to environmental protection.

Environmental matter cannot be seen isolated from human rights for the right to life of every person; the bundle of rights, violated when environment harmed or polluted. Additionally the right to clean and healthy environment by itself is positive right that obligate government to protect environment. By the same manner FDRE constitution also provided the right to clean and healthy environment for citizens. The constitution also forbids the program of government for development not to damage the environment.

Despite a plethora of state laws, and international treaties that provides for environmental protection, Ethiopia continues to face environmental challenges including water resources contamination, deforestation, and wildlife emigration.

This study attempted to compare and contrast government rules on the protection of water resource, forestry, and wild life with the Gada system norms for the same. The findings of the study show that the Gada system has robust environmental protection norms especially in water resource and forest protection. Thus, the recognition and enhancement of the Gada system norms on the protection of water resources and the forest can reduce water pollution and other hazardous use of water resources, deforestation, and the emigration of wild life and contribute to better environmental protection.

5.2. Implications of the study

Depending on founding and conclusion of the study the researcher would like to recommend any concerned bodies on the following points.

First of all the government is expected to help development of the system by recognizing it. Because of the principles of Gada system is powerful for environmental protection and has better acceptance from the people, its recognition by government contributes more for environmental protection.

Secondly the government is not expected to politicize the system. When the government interferes to Gada system for its political benefit, the acceptance of the system decreases and it fails to produce the expected result.

Thirdly elites are duty bound to conduct research on Gada system and recommend any concerned body for its recognition and development.

Fifthly people should know that they have egalitarian system of governance on their hand and focus on its protection.

Six governmental, non-governmental and other civil organization working on environmental protection are supposed to support Gada system.

Seven educational institutions are advised to focus on supporting Gada system and other sociological system of environmental protection.

Eight Aba Gada and other Gada councils should free themselves from political agenda that decrease acceptance of the system.

Lastly I recommend all social class to work to their best to encourage Gada system and thereby protect their environment.

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Appendix I: list of purposive interview informants

No	Name	Sex	Age	Address	Date
1	Dori Dalecha	M	85	Korke adi	1/2/2021
2	Edo Tufa	M	70	Wolda-kallina	29/1/2021
3	Rago Waktola	M	72	Wolda-kallina	29/1/2021
4	Name tufa	M	90	Jawe-bofo	30/1/2021
5	Korjo Doni	M	78	Mukiye-laman	27/1/2021
6	Gobena Idao	M	86	Wolda-kallina	4/2/2021
7	Shan'e Korma	M	74	Oda	3/2/2021
8	Korme Kolche	M	80	Oda	3/2/2021
9	Badhaso Tuchi	M	83	Korke adi	1/2/2021
10	Balcha Idao	M	69	Wolda-kallina	29/1/2021
11	Buta Gobena	M	71	Mukiye-laman	1/27/2021
12	Jima Kufa	M	110	Maja-lalu	3/2/2021
13	Fole Bate	M	70	Wolda-kallina	5/2/2021
14	Goobana Hola	M	70	Wolda-kallina	3/4/2021
15	Midhekso Boba	M	88	Wolda-kallina	4/2/2021
16	Qaabato Gebaba	M	85	Meja-lalu	3/2/2021
17	Bate Dodota	M	67	Korke adi	1/2/2021
18	Jado Dodota	M	69	Korke adi	1/2/2021
19	Idoo Muumicha	M	90	Seera-wokalle	10/1/2018
20	Bikila Dori	M	52	Gora-laman	5/3/2021
21	Tufa Bariso	M	68	Huluko-keshi	10/2/2021
22	Hawas Banti	M	66	Bite-dahaba	1/3/2021
23	Saboka Boru	M	58	Doyo-laman	2/3/2021
24	Bobbe Huluka	M	62	bole	6/1/2021
25	Gameda Gada	M	75	Bite-dhaba	10/2/2021
26	Huluka Lata	M	80	Dalota-mati	10/9/2020

Appendix II: list of focus group discussion members Dugda woreda jaarsa-tuulama.

No	Name	Sex	Age	Place	Date
1	Horsisa Bariso	M	70	Meki town	7/3/2021
2	Degage Hirpho	M	73	Meki town	7/3/2021
3	Dode Gabre	M	50	Meki town	7/3/2021
4	Fitaala Lemo	M	50	Meki town	7/3/2021
5	Gelashe Rago	M	68	Meki town	7/3/2021
6	Buta Gobena	M	71	Meki town	7/3/2021

Appendix III: list of focus group discussion members of Bora woreda jaarsa-tuulama.

No	Name	Sex	Age	Place	Date
1	Tufa Bariso	M	60	Bote town	10/3/2021
2	Milo Raba	M	63	Bote town	10/3/2021
3	Hawaas Bantii	M	72	Bote town	10/3/2021
4	Saboka Boru	M	71	Bote town	10/3/2021
5	Gamadaa Gadaa	M	67	Bote town	10/3/2021
6	Bikila Dori	M	69	Bote town	10/3/2021

Appendix IV: list of focus group discussion of staff members of Dugda and bora woredas culture and tourism bureau.

No	Name	Sex	Age	Place	Date
1	Bobbe Huluka	M	38	Meki town	13/3/2021
2	Ijoo Korbu	M	36	Meki town	13/3/2021
3	Dabala Begna	M	40	Meki town	13/3/2021
4	Dadhi Hawas	M	37	Meki town	13/3/2021
5	Gamachu Dhuga	M	30	Meki town	13/3/2021
6	Galena Tufa	M	34	Meki town	13/3/2021

Appendix V: list of focus group discussion of members of galma wakefana

No	Name	Sex	Age	Place	Date
1	Lataa Dagaga	M	29	Bote town	12/3/2021
2	Galena Abe	M	33	Bote town	12/3/2021
3	Ayano Botoro	M	30	Bote town	12/3/2021
4	Ayano Balcha	M	31	Bote town	12/3/2021
5	Firaol Dode	M	32	Bote town	12/3/2021
6	Adi Balcha	F	25	Bote town	12/3/2021

Appendix VI: Interview guide questions

1. Do you think the environment near you have protecting well? If not why the reasons do you think?
2. What do you think the role of Gada system for environmental protection? And what is Gada system in the first place?
3. How do you appreciate the management of water resource under Gada system? Which best protect water resource when compare to modern Ethiopian laws?
4. What do you think the role of Gada system regarding protection and development of wild life? How you compare with Ethiopian laws?
5. What do you think the role of Gada system for forest protection?
6. What reason do you think for current environmental problem in your locality?
7. What is your suggestion for environmental protection?
8. What kind of institutions are there in Gada? Which institution is responsible for environmental protection?
9. What are Gada grades and what are its functions?
10. What are Gada classes? And what are their respective responsibilities?
11. What are major Gada powers and their responsibility?
12. How dispute settled in the Gada system?
13. Whether hunting is allowed under Gada system?
14. Whether laws of government interfere to the principles of Gada system?

Appendix VII: guide questions for focus group discussion

Interview guide questions for focus group discussion for culture and tourism bureau staffs

1. How do you see environmental problem in your locality and what possible suggestions you have?
2. What is the effect of environmental degradation, deforestation and other environmental impact on the human life?
3. What Ethiopian laws do you know regarding environmental protection?
4. What is the role of culture and tourism bureau regarding protection of indigenous systems?
5. How you appreciate the role of Gada system for environmental protection?

6. Which should prevail do you think among principles of Gada system and Ethiopian environmental laws for best environmental protection?

Guide questions for focus group discussion for galma wakefana and members of jaarsa tuulama

1. How do you see environmental problem in your locality and what possible suggestions you have?
2. What is the effect of environmental degradation, deforestation and other environmental impact on the human life?
3. What Ethiopian laws do you know regarding environmental protection?
4. How you appreciate the role of Gada system for environmental protection?
5. Which should prevail do you think among principles of Gada system and Ethiopian environmental laws for best environmental protection?