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ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
SCHOOL OF LAW

**The Prohibition on the Use of Ethnic Trade Names and its Implementation in
the Banking Sector in Ethiopia**

**A Thesis Submitted for the Partial Fulfillment of the Requirements of LL.M
Degree (Business Law Stream) to School of Law**

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May, 2024

Thesis Approval Sheet

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Declaration

I, the undersigned, declare that this study entitled “The Prohibition on the Use of Ethnic Trade Names and its Implementation in the Banking Sector in Ethiopia.” is my original work and has not been presented for a degree in any other University, and that all sources of materials used for the study have been duly acknowledged.

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Lists of Abbreviations

APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
CAC	Corporate Affairs Commission
CAMA	Companies and Allied Matters Act
CBE	Commercial Bank of Ethiopia
DFAT	Department of Foreign Affairs and Trade
EIPO	Ethiopian Intellectual Property Office
ETB	Ethiopian Birr
FCA	Financial Conduct Authority
FDRE	The Federal Democratic Republic of Ethiopia
FY	Fiscal Year
GTBank	Guaranty Trust Bank
ICT	Information and Communication Technology
MCA	Ministry of Corporate Affairs
NBE	National Bank of Ethiopia
ROC	Registrar of Companies
SNNPR	The Southern Nations, Nationalities, and Peoples' Region
TRIPS	Trade Related Aspects of Intellectual Property Rights
U.S.	The United States
UK	The United Kingdom of Great Britain

Abstract

This research examines the legal framework prohibiting the use of ethnic trade names and its implementation in Ethiopia's banking sector, focusing on Amhara, Oromiya, and Sidama banks. Employing a doctrinal legal research methodology and using both primary and secondary data sources, the study assesses the enforcement of the law. Findings reveal a discrepancy between the law and industry practices, with ethnic-based trade names becoming common. The study concludes that the Ministry of Trade and Regional Integration bears primary responsibility for non-implementation, while the National Bank of Ethiopia shares some responsibility. The paper highlights the violation of Article 16 (1) (b) of the Commercial Registration and Licensing Proclamation No.980/2016. The research justifies the prohibition, emphasizing the need for national unity and an inclusive banking environment. Recommendations include intensified enforcement, a review of the registration process, collaboration between regulatory bodies, and further research on implementation challenges. Implementing these recommendations will foster an inclusive business environment in Ethiopia.

Key words: Trade Name, Company Name, Ethnic Name, Place Name, Ethnicity, Prohibition, Implementation

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Ethiopia is one of the fastest-growing economies in the region, with an estimated 7.2% growth in FY 2022/23, and the second most populous nation with 126.5 million people in Africa next to Nigeria.¹ It has a diverse population, with more than 85 distinct ethnic groups.² Orthodox Christianity, Protestantism, Islam, Catholicism, Judaism and indigenous religious beliefs are practiced.³ The cultural cohesion and population composition of the country pass several histories of inter-ethnic and socio-cultural interactions and integrations.⁴ Though it is a country with no colonial history, inter-ethnic conflicts are nevertheless intense and problematic. Inter-ethnic hostility in Ethiopia dates back to the formation of the modern Ethiopian state at the flip of the 19th century, incorporating distinct ethnic groups found at various levels of social and economic development through the use of both forceful subjugation and peaceful persuasion.⁵ Despite these differences, they have a common history and co-existed for many centuries.

The FDRE Constitution, which came into effect in 1995, has officially taken the form of a federal structure to address the concern of the various ethno-linguistic and religious groups. However, the country has experienced various ethnic-based conflicts and continues to grapple with tensions and conflicts of this nature. Of course, the causes and dynamics of the conflicts are complex and multifaceted. They often involve historical, political, economic, and social factors, as well as grievances related to power sharing, resource allocation, identity, and representation.

Nevertheless, these conflicts disrupt economic activities, leading to reduced productivity, disrupted supply chains, and declining business confidence, that further impede economic growth and development. The Ethiopian government has launched a 10-Year Development Plan, based on its 2019 Home-Grown Economic Reform Agenda, which runs from 2020/21 to 2029/30.⁶ The plan aims to sustain the high growth achieved under the Growth and

¹ <https://www.worldbank.org/en/country/ethiopia/overview> (Last visited May 12, 2024 GC)

² Ameha Wondirad, 'An Overview of the Ethiopian Legal System' [2014] CLJP/JDCP 173

³ Ibid

⁴ Degu Tesfaye, Inter-ethnic Conflict between Oromo and Gumuz: The Case of Sassiga and Mizhiga Districts (MA Thesis, Addis Ababa University 2021) P.2

⁵ Ibid

⁶ Supra note 1

Transformation Plans of the previous decade while facilitating the shift towards a more private-sector-driven economy.⁷ But, achieving the desired economic growth and transformation is very unlikely without controlling or mitigating of the situation. In order to prevent or mitigate the situation, businesses need to be regulated, with trade names being a notable area requiring regulation. Black's Law dictionary defined trade name as a name, style or symbol used to distinguish a company, partnership or business under which a business operates.⁸ The Ethiopian Commercial Registration and Licensing Proclamation defined a trade name as a name that a given businessperson uses for his business or known by the society as such.⁹ Thus, it is a name of a business that is used to identify a business from other businesses.

When businesses use ethnic trade names, the potential for exacerbating existing ethnic-based conflicts and tensions becomes more pronounced. It can be seen as exclusive or preferential towards a particular ethnic group and this can create a sense of marginalization or discrimination among other ethnic communities, leading to feelings of resentment and potential social unrest. Hence, it can inadvertently contribute to divisions among different ethnic groups within a society. Especially in a country as diverse as Ethiopia, where ethnic diversity is a salient and sensitive issue, the use of ethnic trade names by businesses can easily be interpreted as a form of favoritism or exclusion and thereby potential for exacerbating existing ethnic-based conflicts and tensions. It appears that, that is why the Ethiopian Commercial Registration and Licensing Proclamation has prohibited the registration of trade names that are identical or misleadingly similar to the names of nations, nationalities, peoples, tribes, or clans.¹⁰

However, ethnic-based trade names are becoming increasingly common in the Ethiopian banking industry. For instance, Oromiya International Bank rebranded as Oromiya Bank, and recently, Amhara Bank was established on June 18, 2022, followed by the establishment of Sidama Bank on July 1, 2022.¹¹ Despite the prohibition stated in Article 16 (1) (b) of the Commercial

⁷ Ibid

⁸ Bryan A. Garner, *Black's Law Dictionary* (7th edn, West Group 1999) P.1500 cited in Yirgalem Germu, 'The Interface between Trade Mark and Trade Name in Ethiopia' [2021] Hawassa University Journal of Law 217

⁹ The Commercial Registration and Licensing Proclamation, 2016, Art. 2 (10), Proc. No. 980/2016 , Neg. Gaz. Year 22, no.101

¹⁰ Ibid, Art 16 (1) (b)

¹¹ <https://www.ob1.oromiabank.com/about-us-2/>; <https://banksethiopia.com/news/amhara-bank-2022/>; <https://sidamabanksc.com/index.php/about-us/> (Last visited May 12, 2024)

Registration and Licensing Proclamation, which restricts the use of trade names associated with specific ethnic groups, the prevalence of ethnic-based trade names in the banking sector raises concerns. This discrepancy between the existing law and the actual industry practices calls for a closer examination. Therefore, this research aims to investigate the prohibition on the use of ethnic trade names in the banking sector of Ethiopia and its implementation.

1.2 The Statement of Problem

While Article 16 (1) (b) of the Commercial Registration and Licensing Proclamation has stipulated the prohibition of trade name registration when the trade name requested for registration is identical or misleadingly similar to the name of a nation, tribe, or clan, ethnic-based trade names of banks are now a day becoming common in the Ethiopian banking industry. This discrepancy between the law and prevailing industry practices warrants closer examination.

This is therefore why this researcher is too much enthusiastic to work on this issue and contribute his part. Hence, the main focus of the research will be to assess the prohibition of the use of ethnic trade names and its implementation in the banking sector in Ethiopia.

1.3 Research Questions

The central research question for this study is:

Is Ethiopia implementing its prohibition on ethnic trade naming of banks?

The sub questions are:

- What is the legal framework in Ethiopia regarding the use of ethnic trade names in general and in the banking sector in particular?
- What is the practical implementation of the uses of ethnic trade names in Ethiopia's banking sector?
- Is it proper to prohibit or to allow ethnic-based trade names of banks in Ethiopia?

1.4 Objectives of the Study

1.4.1 General Objective

The general objective of the study is to assess the prohibition on the use of ethnic trade names and its implementation in the banking sector in Ethiopia.

1.4.2 Specific Objectives

The following are specific objectives of the study:

- To examine the legal framework in Ethiopia concerning the use of ethnic trade names in general and specifically within the banking sector;
- To investigate the practical implementation and adherence to regulations regarding the use of ethnic trade names in Ethiopia's banking sector; and
- To assess whether it is proper to prohibit or to allow ethnic-based trade names of banks in Ethiopia

1.5 Significance of the Study

As the study explore the legal and practical implementation of the prohibition of ethnic trade names, specifically within the banking sector in Ethiopia, and assess whether it is proper to prohibit or allow ethnic-based trade names, it will examine the existing laws, regulations, and policies related to business naming practices, exploring their intent, scope, and implications for banks. This analysis can help identify any gaps, inconsistencies, or potential areas for improvement within the legal framework and industry practices. By evaluating the prohibition of ethnic trade names, the study will delve into the issue from different dimensions and explore the balance between preserving cultural diversity and fostering social cohesion. Overall, based on analysis, the study will inform decision-makers, policymakers, and stakeholders within the banking sector about the issue under consideration. By examining both the legal framework and practical implementation, the study can contribute to a more informed and nuanced approach to this issue, fostering dialogue and potentially pave the way for further investigation by other researcher in the future.

1.6 Scope of the Study

In order to have an effective and attainable goal, this research will be confined to examining whether Ethiopia is effectively implementing the prohibition on ethnic trade names of banks. The research will delve into the legal aspects of regulations surrounding the use of ethnic trade names, assessing the extent to which these laws are enforced and followed within the banking sector. Furthermore, the study will explore the appropriateness of allowing or prohibiting ethnic-based trade names for banks in the country. The study will focus specifically on Oromiya Bank, Sidama Bank, and Amhara Bank that located in Addis Ababa, Ethiopia.

1.7 Limitation of the Study

As far as the limitation of this research is concerned, the present researcher is encountered limitations of time, financial resources, and a scarcity of literature specifically addressing the topic under investigation. Despite these constraints, every effort will be made to ensure the findings are compelling and trustworthy.

1.8 Research Methodology

During the research, the writer will use the doctrine- based legal research method. Therefore, the researcher will uses both primary and secondary sources of information. The researcher will made an effort to get information or data from concerned organs of the government and individuals to enhance the credibility and reliability of the findings. Furthermore, internet sources, legislations, articles, books, case laws related with the subject at hand, unpublished materials will be used for the furtherance of the study.

1.9 Literature Review

The research topic is a new area that is not most studied and researched. However, few literatures are found in the area and tried to be reviewed. The use of trade names is subject to various legal and regulatory frameworks. Donald L. Horowitz and Andreas Wimmer argue that a trade name that reference specific cultural, religious, or ethnic identities may be viewed as exclusionary or politically charged.¹² In their studies of identity-based conflicts, they highlighted how symbolic markers like institutional names can shape feelings of belonging and trust.

In his study on the influence of ethnicity on customers' choice of banks in Shashemene Town, Oromiya, Ethiopia, Bewnetu Zewude concluded that customers consider ethnicity as a significant factor when selecting a particular bank.¹³

Moreover Asnake Anteneh argued that, ethnicity has effects in hampering economic development through influencing investment, intensifying brain drain, amplifying corruption,

¹² Donald L. Horowitz, *Ethnic Groups in Conflict* (1st edn, University of California Press 1985); Andreas Wimmer, *Ethnic Boundary Making: Institutions, Power, Networks* (Oxford University Press 2013)

¹³ Bewnetu Zewude, 'The Influence of Ethnicity on Customers' Choice of Banks: The Case of Selected Banks in Shashemene Town, Oromiya, Ethiopia' (2019) Vol. 60 Journal of Marketing and Consumer Research 7

leading unfair competition, eroding trust and exacerbating economic marginalization and degrading state legitimacy.¹⁴

What makes this research paper different from the above literatures is that it addresses issues not raised in the above literatures and it specifically pertains to review the legal aspects of regulations surrounding the use of ethnic trade names, assessing the extent to which these laws are enforced and followed within the banking sector. Moreover, the research examines the appropriateness of allowing or prohibiting ethnic-based trade names for banks in Ethiopia, which is not addressed in the previous literatures.

1.10 Organization of the Study

The research paper is organized into four chapters. The first chapter introduces the background of the study, the statement of the problem, the research question/s, research methodology, objective, scope and significance of the study. In the second chapter, the theoretical and legal framework of the ethnic trade name and its prohibition is discussed. The third chapter is devoted to the examination of prohibition on the use of ethnic trade names under the Ethiopian legal frameworks and its implementation in the banking sector in Ethiopia. Under the final chapter, which is chapter four, a conclusion is drawn and the way forward is indicated through recommendations.

¹⁴ Asnake Anteneh, *Ethnicity and Its Impact on Economic Development in Africa: Case Studies from Ethiopia and Nigeria* (MA Thesis, Addis Ababa University 2014) P. 99

CHAPTER TWO

THE THEORETICAL AND LEGAL FRAMEWORK OF ETHNIC TRADE NAME AND ITS PROHIBITION

2.1 The Notion of Trade Name

A single business firm can have a company name and trade name. According to Black's Law Dictionary:

*"... Trade name is a name, style or symbol used to distinguish a company, partnership or business under which a business operates. It is a means of identifying a business or its products or services to establish good will. It symbolizes the business's reputation."*¹⁵

Here, the definition of a trade name provided by Black's Law Dictionary captures the essence and significance of trade names in the business world. A trade name serves as a distinct identifier for a company, partnership, or business, differentiating it from others in the market. It goes beyond a mere label and carries the weight of the business's reputation and goodwill.

Bainbridge defined, a trade name, also known as a business name or a commercial name, as a name under which a company or organization conducts its business operations.¹⁶ Thus, from this definition, we can understand that trade name is a name under which a company and organizations conducts its business operations and its purpose is to distinguish one business from others in the market.

The term trade name means any name used by a person to identify his or her business.¹⁷ Some trade names are legal names.¹⁸ If an individual or entity operates a business under its exact legal name, that name is also the individual's or entity's trade name.¹⁹ Any name other than the individual's legal name is merely a trade name.²⁰ Such a trade name is also referred to as a fictitious name.²¹ Thus, it can be said that the public more often knows businesses by their trade names.

¹⁵ Supra note 8

¹⁶ David I. Bainbridge, *Intellectual Property* (9th edn, Pearson Education Limited 2012)

¹⁷ Lynn M. Lopucki and Andrew Verstein, *Business Associations: A Systems Approach* (Wolters Kluwer 2020) P.59

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid, P.60

In a number of countries, the phrase "trading as" (abbreviated to t/a) is used to designate a trade name.²² In the United States, the phrase "doing business as" (abbreviated to DBA, dba, d.b.a., or d/b/a) is used among others, such as assumed business name or fictitious business name.²³ In Canada, "operating as" (abbreviated to o/a) and "trading as" are used, although "doing business as" is also sometimes used.²⁴

A company typically uses a trade name to conduct business using a simpler name rather than using their formal and often lengthier name. Trade names are also used when a preferred name cannot be registered, often because it may already be registered or is too similar to a name that is already registered.²⁵

2.2 Comparison of Trade Names, Company Names and Trademarks

Trade names, company names and trademarks are critical concepts in business and legal contexts, each serving distinct but sometimes overlapping purposes. Thus, understanding the differences and relationships among them is essential.

A single business firm can have a company name and trade name but these names are different in purpose and scope. As noted above trade name, also known as business name refers to the name under which a company promotes or sells its products or services. It is used by a company to identify itself and distinguish its business activities from those of others. Trade names are crucial for branding and marketing and, it does not necessarily reflect the legal name registered with authorities. In short, it can be said that a trade name is a name of a business, which is used in order to distinguish business from each other and from similar businesses of other traders.

On the other hand, a company name, also known as Firm Name, Legal Name, Business Organization Name or Corporate Name²⁶, is the official name of a business entity as registered with the government. It is the name under which an entity is formed, or registered.²⁷ The firm names ends with a distinct suffix, such as Share Company, Private Limited Company, General

²² https://en.wikipedia.org/wiki/Trade_name#cite_note-LoPucki_Page_60-1 (Last visited May 14, 2014 G.C)

²³ Ibid

²⁴ Ibid

²⁵ Ibid

²⁶ Abenezer Tarekegn, Brief Analyses of Company Name and Business Name/Trade Name under Ethiopian Commercial Registration and Licensing Proclamation available at <https://www.studocu.com/row/document/jimma-university/business-law/company-name-vs-trade-name/32670708/> (Last visited May 14, 2024 G.C)

²⁷ Ibid

Partnership, etc.²⁸ It is one of the attributes of legal personality.²⁹ This name is used on legal documents, contracts, and other formal communications. In case of physical person, a trader's name is the name that the trader uses in his civil life and in case of business organization, the name that is determined by the partners or shareholders.³⁰ In short, it can be said that a company/firm/legal/corporate name is the name of the trader and used to identify a trader from other traders or individuals. A trader or business organization with one company or firm name may run multiple businesses. Therefore that trader or organization may use several trade names depending on the nature of each business to distinguish these businesses from each other and from similar businesses of other traders. Here, it is worth noting that a single company can have only one company or firm name but can have more than one trade name. Additionally, while a company/firm name is a prerequisite for the formation of a company, a trade or business name is not a mandatory requirement.³¹

Trademarks, on the other hand, are symbols, logos, words, or phrases legally registered or established by use as representing a company or product. Black's Law dictionary defines it as "*a word, phrase, logo, or other graphic symbol used by a manufacturer or seller to distinguish its product or products from those of others*".³² In addition to the definition, it also states the purpose of trademark as a means to assure product's genuineness.³³ The TRIPS Agreement defines it as, "*Any sign or any combination of signs capable of distinguishing the goods or services of one undertaking from other undertaking shall be capable of constituting a trademark. Such sign, in particular words including personal names, letters, numerals, figurative elements and combination of such sign shall be eligible for registration as trademark*".³⁴ Thus, from all these discussions, we can understand that trademarks are symbols, logos, words, or phrases attached to goods or services, whereas a trade name is simply a business name. As such, a trademark indicates the commercial source of goods, but a trade name is the name by which a business is known by third parties and the state.

²⁸ Ibid

²⁹ Ibid

³⁰ Mesganaw Kifelew 'and others', *Law of Traders and Business Organizations: A Text Book* (2023) P.59

³¹ Supra note 17

³² Supra note 8, P.217

³³ Ibid

³⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, Art.15 (1)

In conclusion, trade names, company names, and trademarks, while serving distinct functions, share significant similarities. One primary similarity is their role in identifying and differentiating businesses. A trade name, also known as a business name, is used by a business to distinguish itself from others in the marketplace. Similarly, a company name is the official legal name under which a business is registered and conducts its operations. This name is crucial for legal identification and ensures the business is distinguishable from other legal entities. As such, trademarks can be symbols, logos, words, or phrases that are legally registered and protected, and therefore, by indicating the commercial source of the goods or services, it helps to distinguish the goods or services of one business from those of another.

Another similarity is that all three are vital components of a business's branding strategy. A well-chosen trade name can enhance a business's market presence and attract customers. The company name, being the official name, is used in all legal and formal communications, contributing to the business's identity. Trademarks, with their distinctive symbols and logos, are key elements in marketing campaigns, helping to create a recognizable and memorable brand. The synergy between these names and marks in branding efforts ensures that a business presents a cohesive and strong image to the public. Consistent use of trade names, company names, and trademarks helps build brand recognition and loyalty among consumers, which is crucial for the success of the business.

Legal recognition and protection are another area where trade names, company names, and trademarks intersect. This protection helps prevent other businesses from using similar names or marks that could cause confusion in the market. Registration and regulation are also common to all three.

2.3 The Concept of Ethnicity

The first usage of the term ethnicity is attributed to the American Sociologist David Riesman in 1953.³⁵ However, the word "ethnic" is much older.³⁶ It is derived from the Greek word "*ethnos*" (*ethnikos*), which originally meant heathen or pagan.³⁷ As many scholars pointed out, the term ethnicity lacks a universal definition.³⁸ It is not surprising many scholars puzzled with the term

³⁵ Dawit Yosef, *Teaching Material on Ethnicity, Identity and Nationalism* (University of Gondar) P.5

³⁶ Ibid

³⁷ Ibid

³⁸ Supra note 14

ethnicity as it is not straightforward as we verbalize.³⁹ Max Weber expressed his frustration with defining ethnicity, stating, "*the whole conception of ethnicity is so complex and so vague that it might be good to abandon it altogether.*"⁴⁰ Philip Q. Yang also stated that "*At first glance, ethnicity is seemingly a straightforward concept, but in fact it is subject to different interpretation. Some understand it as ancestry, and others perceive it as physical attribute.*"⁴¹

However, even though the concept of ethnicity is challenging, different scholars offer various definitions of the term. For instance, Bolaffic et al. believed that the adjective "ethnic" stands for either for common characteristics or unique traits as well as features associated to a certain people.⁴² However, this definition is broad as it encompasses both common and unique characteristics without providing specific criteria for distinguishing between them and hence, may lead to ambiguity and lack of clarity to properly comprehend the concept.

Milton J. Esman, on his part defined ethnicity as the notion of a common ancestry and is associated with a variable set of objective identity markers such as language, religion, and physical appearance.⁴³ Though, this definition emphasizes the role of objective identity markers such as language, religion, and physical appearance in defining ethnicity, focusing solely on them may overlook the subjective aspects of ethnicity, such as shared experiences and perceptions, which also play a crucial role in shaping ethnic identity.

Østergård defined ethnicity as a concept that encompasses a wide range of situations where by human beings lived and acted collectively.⁴⁴ However, the definition's broadness may make it difficult to distinguish between ethnic groups and other forms of collective identity, such as nationality or social class. Moreover, the definition lacks specificity regarding the wide range of situations that form components of ethnicity. While acknowledging the collective aspect of ethnicity, the definition does not elaborate on the specific contexts or circumstances in which ethnic identities emerge and evolve. This lack of clarity may make it challenging to apply the

³⁹ Ibid

⁴⁰ Max Weber, *Economy and Society: An Outline of Interpretative Sociology* (University of California Press 1992) P.389

⁴¹ Philip Q. Yang, *Ethnic Studies: Issues and Approaches* (State University of New York Press 2000) P.99

⁴² Guido Bolaffic 'and others', *Dictionary of Race, Ethnicity and Culture* (London Saga Publication 2002)

⁴³ Milton J. Esman, *An Introduction to Ethnic Conflicts* (Cambridge: Polity Press 2004)

⁴⁴ Supra note 14, P.12

definition in practice and to differentiate between ethnic groups and other forms of collective identity.

The American Psychological Association Dictionary of Psychology defined ethnicity as a characterization of people based on having a shared culture (e.g., language, food, music, dress, values, and beliefs) related to common ancestry and shared history.⁴⁵ Here, this definition provides a comprehensive understanding of ethnicity by encompassing various elements such as language, food, music, dress, values, and beliefs. This holistic approach recognizes the multidimensional nature of ethnic identity and its connection to shared culture and history. However, the emphasis on shared culture may overlook the diversity within ethnic groups and the fluidity of ethnic identities. Additionally, the definition's focus on common ancestry and shared history may downplay the role of social and political factors in shaping ethnic identity.

2.4 Approaches to Understanding Ethnicity

Different approaches to understanding ethnicity have been used by different scholars when trying to understand the nature of ethnicity as a factor in human life and society.

2.4.1 The Primordialist Approach of Ethnicity

The primordialist approach is the oldest in sociological and anthropological literature. It argues that ethnicity is something given, ascribed at birth, deriving from the kin-and-clan-structure of human society, and hence something more or less fixed and permanent.⁴⁶ Clifford Geertz, who systematized the primordial model, articulated ethnicity as a natural phenomenon with its foundations in primordial ties - deriving mainly from kinship, locality and culture. However this approach of understanding ethnicity has been criticized for presenting a view of ethnicity and ethnic identity as static, fixed, involuntary, compelling, and naturalistic and ignoring the dynamic and constructed aspects of ethnicity.

2.4.2 The Instrumentalist Approach of Ethnicity

In contrast to the primordial approach, the instrumentalist approach views ethnicity as an intentional or conscious strategy, an adaptive response to the conditions governing the contest for acquisition of desired resources and a strategy to defend or seize resources. The reasons for a group asserting and maintaining an ethnic identity are said to be economic and political rather

⁴⁵ <https://dictionary.apa.org/ethnicity> (Last visited May 16, 2024 G.C)

⁴⁶ Wsevolod W. Isajiw, 'Definitions and Dimensions of Ethnicity: A Theoretical Framework' (Joint Canada-United States Conference on the Measurement of Ethnicity, Ottawa, Ontario, Canada, April 2 1992)

than psychological.⁴⁷ Banks explained the instrumentalist understandings of ethnicity as an instrument of group mobilization for political and economic ends.⁴⁸ Proponents of instrumentalism (e.g., Abner Cohen, Paul Brass and Ted Gurr) advocate that in the contexts of modern states, leaders (political elites) use and manipulate perceptions of ethnic identity to further their own ends and stay in power.⁴⁹ Daniel Bell and Jeffrey Ross also emphasize the political advantage of ethnic membership choice. Ethnicity is *"a group option in which resources are mobilized for the purpose of pressuring the political system to allocate public goods for the benefit of the members of a self-differentiating collectivity"*⁵⁰ Therefore, according to this theory, people can change their identity on the basis of the benefits they could gain by doing so.⁵¹ Yet this approach of understanding ethnicity has been criticized for reducing ethnic identity to merely as a means to an end, ignoring its intrinsic value.

2.4.3 The Constructivist Approach of Ethnicity

The primordialist approach was the dominant way of approaching until the 1970s, and many people are still accustoming to this way of approach today.⁵² Starting in the 1970s, the constructionist school began to ascend.⁵³ Constructivism holds that ethnicity is constructed and that ethnic identities are not singular, nor are they fixed; they may change over time and differ in their relative significance.⁵⁴ Hence, it viewed ethnicity as a reaction to changing social environment. This approach of ethnicity regards ethnicity as constructed from dense webs of social interactions and hence a group attitude about its custom, decent or even physical structure forms an important aspect of ethnicity.⁵⁵ For example, Stavenhagen mentioned that “when an ethnic group has a history of persecution and discrimination, identities may become positively reinforcing or negatively stigmatizing”.⁵⁶ Political and economic incidents; the family and religious institutions are also play a crucial role in the dynamics or changing of ethnic identifications. Nevertheless, this approach of ethnicity is criticized for ignoring the ancestral

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Muluneshe Dessie, ‘Causes of Ethnic Conflict in Ethiopia and its Effect on Development: The Case of Amhara and Gumuz Communities’ (2019) Vol. 21 Journal of Sustainable Development in Africa 68

⁵² Supra note 41

⁵³ Ibid

⁵⁴ Supra note 35

⁵⁵ Supra note 51

⁵⁶ Supra note 35, P

basis of ethnicity and for its insufficient attention to the role of political and economic interest in the construction of ethnicity.⁵⁷

In conclusion, although these approaches of ethnicity have their own importance in understanding of ethnicity, neither of them seems to be able to fully account the nature of ethnicity and ethnic identity. However, by considering the various views and definitions of ethnicity, Hutchinson and Smith identified six main features that are predominantly constituted in the definition of an ethnic group: (1) A common proper name, to identify and express the essence of the community; (2) A myth of common ancestry that includes the idea of common origin in time and place and that gives an ethnic group a sense of fictive kinship; (3) Shared historical memories, or better, shared memories of a common past or pasts, including heroes, events, and their commemoration; (4) One or more elements of common culture, which need not be specified but normally, include religion, customs, and language; (5) A link with a homeland, not necessarily its physical occupation by the ethnic group, only its symbolic attachment to the ancestral land; and (6) A sense of solidarity on the part of at least some sections of the ethnic's population.⁵⁸

2.5 Ethnic Names Vis-à-Vis Place Names

We use names when we refer to individual objects, such as people, animals, buildings, organizations, artifacts and places.⁵⁹ Names are used in a variety of functions, not only as expressions referring to particular objects but also as a way of communicating cognitively, emotionally, ideologically, and socially.⁶⁰ Philosophers like John Stuart Mill and, in more recent times, Bertrand Russell and Sir Alan Gardiner maintained that names have reference, but are empty of meaning.⁶¹ The latter's often quoted claim the purest of proper names are wholly arbitrary and totally without significance.⁶² This position, however, has been contested by many other scholars, for instance Gottlob Frege, who claims that there is much more to the meaning of a name than simply the object to which it refers.⁶³ Aside from the theoretical debate on whether or not names have meanings apart from reference, this researcher believes that names may

⁵⁷ Supra note 41, P.46

⁵⁸ Supra note 35, P.12

⁵⁹ Botolv Helleland, 'Place Names and Identities' (2012) Vol.4(2) Journal of Oslo Studies in Language 99

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid

⁶³ Ibid, P.100

possess symbolic, historical, cultural, or practical value that extends beyond mere identification. As a name is a term used to identify a class or category of things, or a single thing, either uniquely or within a given context, it can be given to a person, place, or thing. That name used to identify a specific ethnic group, often based on shared cultural, linguistic, ancestral, or historical traits, from other groups of people is called an ethnic name. And that name used to distinguish a specific geographical location from another is called name of a place. It refers to the designation given to a geographical location and used to identify and differentiate places. However, sometimes, the name of a place might directly reflect the dominant ethnic group associated with that location or place. This can occur when the name is derived from the language or traditions of the ethnic group that historically inhabited or currently inhabits the area. For instance, the name "Cusco" in Peru is deeply intertwined with the Inca civilization and the indigenous Quechua people who played a significant role in the region's history.⁶⁴ Similarly, a place name can also incorporate the name of the ethnic group that is historically and presently considered the rightful owner or dominant presence in that location. For example, the name "Tibet" evokes the strong connection between the places and the Tibetan ethnic groups.⁶⁵ The term "Chinatown" is used in various cities around the world, such as San Francisco, New York, London, and Sydney, to designate areas where Chinese communities have historically settled and established their cultural institutions, businesses, and social networks.⁶⁶ "Little Italy" is a common designation in cities like New York, Boston, and Chicago, where Italian immigrants settled in large numbers during the late 19th and early 20th centuries.⁶⁷ In such cases, individuals often make or strongly associate the place name with the name of the ethnic group, establishing a strong relationship between the place name and the ethnic group it represents. In other words, if a place name is strongly associated with a particular ethnic group among the public, individuals may still make that connection despite the use of a place name instead of an explicit ethnic name.

2.6 Trade Name, Ethnicity and Individuals' Economic Behavior

The topic of trade names and ethnicity explores the intersection between business branding and ethnic identity. A trade name, also known as a business name or brand name, is the name under which a company or business entity operates and conducts its commercial activities. Ethnicity,

⁶⁴ <https://en.wikipedia.org/wiki/Cusco> (Last visited May 21, 2024 GC)

⁶⁵ <https://en.wikipedia.org/wiki/Tibet> (Last Visited May 21, 2024 GC)

⁶⁶ <https://en.wikipedia.org/wiki/Chinatown> (Last visited May 21, 2024 GC)

⁶⁷ https://en.wikipedia.org/wiki/Little_Italy (Last visited May 21, 2024 GC)

on the other hand, refers to an individual's affiliation with a particular ethnic group, which encompasses shared cultural practices, traditions, language, and heritage.

The use of ethnic elements in trade names can be a complex and sensitive issue. On one hand, incorporating ethnic names or cultural references in trade names can be seen as a way to celebrate diversity, honor cultural heritage, and target specific ethnic markets. It can create a sense of connection and familiarity among consumers who identify with that particular ethnicity. In such cases, trade names may aim to establish a brand identity that resonates with a specific ethnic community or caters to their preferences and needs. John L. and Jean Comaroff highlighted the commodification of culture and the incorporation of ethnic groups into the global market.⁶⁸ They discussed how ethnic groups, particularly Native American tribes in the United States, have become involved in ventures such as casino ownership and the trademarking of cultural symbols. The tribes have established and operated casinos on their reservations, which have become significant sources of revenue and economic development for them. Some tribes have trademarked their cultural symbols and knowledge, allowing them to market and sell products associated with their ethnic identity. This involvement in business ventures has allowed these ethnic groups to generate income, assert their cultural identity, and exercise a degree of autonomy and sovereignty. From this, it can be argued that culture can be transformed into a marketable product and can be leveraged as a form of capital. Gary Dymiski et al, explores the role and development of ethno banks in the United States, which are financial institutions owned and managed by ethnic minorities to primarily serve the specific needs of ethnic communities.⁶⁹ They mentioned that ethno banks emerged due to mainstream banks' inadequate services to minority communities and concluded that, ethno banks are important in fostering economic development and community resilience among ethnic minorities in the US, suggesting that their continued support and evolution are vital for addressing financial inequalities in minority communities. Reinhard H. Schmidt explores the concept of diversity within banking and financial systems, and argued diversity in financial systems as beneficial.⁷⁰

⁶⁸ John L. and Jean Comaroff, *Ethnicity Inc.* (The University of Chicago Press 2009)

⁶⁹ Gary Dymiski 'and others', 'Ethno banking in the USA: from Anti-discrimination vehicles to Transnational Entities' (2010) Vol.X International Journal of Business and Globalization 1

⁷⁰ Reinhard H. Schmidt, 'Diversity in Finance: An Overview' (2018) Vol.87 Vierteljahrshefte zur Wirtschaftsforschung

However, the use of ethnic names in trade names can also give rise to potential challenges and controversies. The use of ethnically-tied names, especially in critical economic domain like finance, can undermine national cohesion and fuel inter-group tensions, particularly in diverse, federalizing societies. Neutralizing such identifiers can be seen as crucial for ensuring equal access and trust in the financial system. The banking sector, as a cornerstone of economic stability and growth, must strive for inclusivity and fairness. Meksley Nwagboh in his article explores the phenomenon of ethnic categorization in the Nigerian banking sector and examined the causes, effects, and conditions that moderate these categorizations.⁷¹ Utilizing Social Identity Theory, the study draws insights from 795 participants to understand stakeholder perceptions and the factors driving ethnic associations with specific banks. The study found significant ethnic perceptions among stakeholders, with certain banks being strongly associated with specific ethnic groups. For example, Fidelity Bank, Zenith Bank, and Access Bank are perceived as predominantly Igbo banks, while First Bank and GTBank are seen as Yoruba banks, and Jaiz and Unity Banks are identified as Hausa banks. A lack of ethnic diversity within the banks' workforce; recruitment practices; and the geographic distribution of bank branches are identified as factors contributing to these ethnic perceptions. It is concluded that ethnic perceptions significantly influence stakeholder attitudes towards banks and these perceptions can influence customer loyalty, trust, and the overall reputation of the banks within different ethnic communities. As Nigeria a diverse and multi-ethnic country, home to over 674 different ethnic groups, he argued that this ethnic categorization within society might create ethnic rivalries and conflicts as the groups compete for resources and social relevance, and it would gradually metamorphosing the categorization from a person-to-person experience to a person-organization experience.⁷² By considering these implications, he suggests promoting workforce diversity; unbiased recruitment polices and expanding branch networks as a strategy to address the problem of ethnic categorization of banks.⁷³ The article identifies causes like workforce diversity, recruitment policies, and branch networks that contribute to ethnic categorization. For stronger reason, it can be argued that the use of ethnic trade names might exacerbate these existing causes by making the ethnic affiliation of the institutions (banks) more explicit. Ethnic

⁷¹ Meksley Nwagboh, 'Ethnic Categorization of Nigerian Banks: Causes, Effects and Moderating Conditions' (2022) Vol.16(1) Journal of Marketing Development and Competitiveness 64

⁷² Ibid

⁷³ Ibid

perceptions affect customer loyalty and trust, as noted in the article. Banks associated with specific ethnic groups may experience divided customer bases, where individuals prefer banking with institutions that reflect their ethnic identity. This division can undermine efforts to provide equitable services and support to all community members. By prohibiting ethnic trade names, banks can reduce these perceptions and encourage customers to choose banks based on service quality, reliability, and overall value. This shift can lead to a more competitive and fair banking environment where customer decisions are not influenced by ethnic affiliations. If promoting workforce diversity and unbiased recruitment policies is important to reduce ethnic categorization, prohibiting ethnic trade names can also be an essential strategy to avoid or reduce that categorization. Madubueze Madumelu et al also concluded that ethnicity is a major factor that can influence the performance of corporate governance in Nigeria if not properly managed.⁷⁴ They recommend corporate organizations in Nigeria to ensure ethnic diversity and representation in their board compositions, comprising the major ethnic groups in the country to ensure equity, fairness and public acceptance.⁷⁵ Actually the article is focused on examining the influence of ethnicity on corporate governance performance in Nigeria and the finding of the study reveals ethnicity does influence the performance of corporate governance. Donald L. Horowitz and Andreas Wimmer argue that a trade name that reference specific cultural, religious, or ethnic identities may be viewed as exclusionary or politically charged.⁷⁶ In their studies of identity-based conflicts, they highlighted how symbolic markers like institutional names can shape feelings of belonging and trust.

As to the relationship between ethnicity and individuals' economic decision-making behavior studies have been made by researchers, and findings of the research thus far undertaken revealed there exist a positive associate between the two variables. For instance, Jamealla studied the influence of ethnicity on consumer behavior in Sidney, Australia, and found that inter-group differences affect the consumption of ethnic products, such as food, clothes, movies, and choice of service providers.⁷⁷ Alexander researched ethnic minority consumer behavior in the UK and revealed that the combined effects of self-congruity, brand trust and brand attitude on brand

⁷⁴ Madubueze Madumelu 'and others', 'Ethnicity and Corporate Governance Performance in Nigeria: Problems and Prospects' (2015) Vol.1 International Journal of Management and Economics Invention 210

⁷⁵ Ibid

⁷⁶ Supra note 12

⁷⁷ Jamealla V Intharacks, The Influence of Ethnicity on Consumer Behavior: A Study of Inter-generational and Inter-group Differences (PhD Thesis, Western Sydney University 2016)

loyalty showed a strong effect.⁷⁸ Furthermore, Safiek et al made an exploratory study on ethnicity and choice criteria in retail banking in Malaysia and concluded that there is a difference in bank choice criteria based on ethnic backgrounds.⁷⁹ In addition, Antoinette et al undertook a study on the importance of ethnic networks for business transactions of small enterprises and concluded that ethnicity plays an essential role in determining the fate of business transactions and features of contractual agreements.⁸⁰ By referring the works of Tajfel et al., Greif and Alesina et al.; Alesina and La Ferrara, argued that ethnic diversity can affect economic choices through three things: Firstly, by directly involving with individual choices where by individuals may strive for positive utility of their own ethnic group's members and negative utility to others. Secondly, when there are markets imperfections, individuals likely prefer to transact with their own ethnic members since efficiency is retained with trust. Lastly, ethnic diversity may go through the production function through positive contribution by implying more variety of intermediate inputs, that can be interpreted as more variety of individual skills, which increases total output.⁸¹ Moreover, Bewnetu Zewude undertook a study on the influence of ethnicity on customers' choice of banks in Shashemene Town, Oromiya, Ethiopia, and concluded that customers consider ethnicity as a significant factor when selecting a particular bank.⁸²

2.7 Comparative Overview of Trade Name Registration

At times, it is deemed necessary for the public's benefit to impose regulations on individuals seeking to enter a specific trade or business. This indicates that a person's personal decision to embark on an entrepreneurial venture may not be sufficient to commence operations. In such cases, the government may find it imperative to establish additional requirements or conditions that must be met in order to engage in a particular entrepreneurial activity. Registering a trade name is an important step to complete before launching a business. As it has been discussed before, a trade name is a name under which a business operates that is different from its legal name that helps in branding and marketing, providing a unique identity in the marketplace. So, registration of a trade name is important to provide sufficient information to consumers and to

⁷⁸ Alexander Albert, *Ethnic Minority Consumer Behavior: A Study of Brand Loyalty and its Antecedents in the UK* (PhD Thesis, Cardiff University 2008) cited in Bewnetu Zewude

⁷⁹ Safiek Mokhlis 'and others', 'Ethnicity and Choice Criteria in Retail Banking: A Malaysian Perspective' (2010) Vol.5 International Journal of Business and Management 98

⁸⁰ Supra note 13, P.6

⁸¹ Supra note 14, P.18

⁸² Supra note 13

protect a trader himself against unfair competition which ultimately ensures market competition.⁸³ Furthermore, it is important to make sure that the name is consistent with public morality and of the interest of third parties. This section overviews the general principles and specific regulations governing the registration of trade names in a birds-eye view. Let us now embark on this journey in highlighting trade name registration across borders.

2.7.1. Trade Name Registration in the UK

In addition to the Companies Act 2006, the UK has specific regulations governing the registration and use of business names, including the Business Names Act 1985 (superseded by parts of the Companies Act 2006) and various regulations concerning undesirable and restricted business names. These laws ensure that business names are not misleading, do not infringe on existing trademarks, and comply with ethical standards. Historically, the Business Names Act 1985 governed the use of business names.⁸⁴ It required businesses trading under names different from their legal name to disclose certain information about the owners to enhance transparency and protect consumers. The Act mandated that business names should not be misleading or suggest unauthorized affiliations with government bodies or institutions. Then, starting from 2006 the UK has transitioned to Companies Act 2006, which incorporated and updated many provisions from the Business Names Act 1985, aiming for comprehensive regulation under a unified legal framework.⁸⁵ It simplified the registration process and integrated the rules on business names with broader company law provisions. It has rules to prevent the use of business names that are misleading, offensive, or suggest unauthorized associations with official bodies. Certain words and expressions are restricted and require special permission to use.⁸⁶ These include: Names implying royal patronage, such as "Royal" or "Queen"; Words like "British," "Government," "National," or "Authority" that suggest a connection with the government or public administration; Words indicating professional status, such as "Chartered," "Institute," or "University," which require validation from relevant professional bodies. Certain words and expressions are also categorized as misleading names to use.⁸⁷ This includes names that: indicate the type or legal form of the company; and are considered giving misleading indication of the

⁸³ Supra note 35, P.59

⁸⁴ See https://en.wikipedia.org/wiki/Business_Names_Act_1985 (Last visited May 22, 2024 GC)

⁸⁵ See https://en.wikipedia.org/wiki/Companies_Act_2006 (Last visited May 22, 2024 GC)

⁸⁶ UK's Companies Act, 2006, Arts. 1193-1196

⁸⁷ Ibid, Arts.1197& 1198

nature of the activities of the business. When a business wants to use a restricted word, it must apply for permission from the relevant authorities. For instance, the use of the word "Bank" requires approval from the Financial Conduct Authority (FCA). Names implying a connection with government bodies require consent from the Cabinet Office. Generally speaking, the application typically involves demonstrating that the use of the name is appropriate and that the business has the necessary credentials or affiliations. During registration, a trader or an entity shall pass through the following procedures to get his trade name registered:

1. **Name Availability Check:** This is to make sure that the desired name is not already in use or too similar to an existing name to prevent confusion and legal disputes. This is done through Companies House.
2. **Registration Process:** Businesses must submit an application to Companies House, detailing the proposed business name and business details. This includes paying a registration fee. Companies House reviews the application for compliance with the naming regulations.
3. **Disclosure Requirements:** Businesses must disclose the name of the business owner(s) and address on all business documents, including invoices, letters, and websites, ensuring transparency.
4. **Public Record:** Once registered, business names are entered into a public register maintained by Companies House, providing a transparent record that can be accessed by the public.

Failure to comply with business name regulations can result in penalties, including fines and the requirement to change the business name.

2.7.2. Trade Name Registration in Australia

In Australia, the registration and regulation of business names are governed by the Business Names Registration Act 2011, administered by the Australian Securities and Investments Commission (ASIC). This Act provides the legal framework for registering, managing, and regulating business names in Australia. Like that of UK, it has rules to prevent the use of certain words and expressions.⁸⁸ For instance, Words like "Commonwealth," "Federal," "State" or

⁸⁸ Business Names Registration Act, 2011, Art.22-34; Business Name Registration (Availability of Names) Determination made under the Business Names Registration Act, 2015, Arts.5-8 & Schedule 1 & 2

"Royal" that suggest a connection with the government or public administration; Words indicating professional status, such as "Chartered," "Executor" or "Trustee" which require validation from relevant professional bodies; Terms like "Bank," "Building Society," and "Credit Union" that imply specific financial activities and require approval from regulatory bodies like the Australian Prudential Regulation Authority (APRA) are described as restricted words and expressions that require approval to be used as a business name.⁸⁹ Similarly certain words and expressions are also categorized as undesirable names like that of the UK.⁹⁰ In Australia, undesirable names are names that are offensive to members of the public; or members of any section of the public.⁹¹ This can include names that incite discrimination or hatred based on race, religion, gender, or other protected characteristics. During registration, a trader or an entity shall pass through the following procedures to get his trade name into a commercial register:

1. Name Availability Search: Before registering a business name, businesses must conduct a name availability search through the ASIC Connect portal to ensure the desired name is not already in use or too similar to an existing name. This helps to avoid confusion and legal disputes.
2. Registration Process:
 - 2.1 Application Submission: Businesses submit an application through the ASIC Connect portal, including the proposed business name, business details, and a registration fee.
 - 2.2 Review and Approval: ASIC reviews the application to ensure the name complies with regulations. If the name is available and meets all criteria, it is approved.
 - 2.3 Publication: Approved business names are published on the ASIC register, making them publicly accessible.
3. Public Record: Registered business names are entered into a national database maintained by ASIC.

As far as the duration and renewal issue of the registration of a trade name is concerned, once a business name is registered it will be valid for either one or three years, depending on the registration period selected, it must be renewed before it expires.⁹² Registration of a business

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Ibid, Art.55

name provides protection under Australian law, preventing others from registering a similar name. ASIC has the authority to enforce compliance with business name regulations and non-compliance can result in fines, the requirement to change the business name, and potential legal action.

2.7.3. Trade Name Registration in India

In India, the registration and regulation of business names are governed by various laws and regulations to ensure transparency, protect consumer interests, and prevent fraudulent activities. The primary laws include the Companies Act, 2013, and the Trade Marks Act, 1999, along with guidelines issued by the Ministry of Corporate Affairs (MCA) and the Registrar of Companies (ROC). The Companies Act, 2013, provides the legal framework for the registration, use, and protection of business names for companies in India. It outlines the process for name approval, ensuring that business names are unique and not misleading. Before registering a business name, businesses must conduct a name availability search through the Ministry of Corporate Affairs (MCA) portal. This ensures that the desired name is not already in use or too similar to an existing name, which helps avoid confusion and legal disputes. Certain words and expressions are restricted or require special approval to be used in a business name.⁹³ These include: Words like "National," "Central," "Federal," "Republic" and "President" are restricted; Terms such as "Bank," "Stock Exchange," "Venture Capital" "Insurance," and "Mutual Fund" require approval from the respective regulatory authorities; Words indicating professional qualifications like "Chartered," "Certified," and "Institute" need validation from relevant professional bodies. Names that are misleading, offensive, or likely to cause confusion that are known by names as undesirable are prohibited.⁹⁴ This includes names that: suggest a connection to government bodies or established brands without authorization; and are considered offensive, obscene, or likely to promote illegal activities. As far as the registration process of trade name is concerned, businesses must submit an application for name reservation through the MCA's online portal, along with the necessary details and applicable fee; The Registrar of Companies (ROC) reviews the application for compliance with naming regulations and if the name is available and meets all criteria, it is approved; Once the name is approved, the business can proceed with incorporation and registration under the Companies Act, 2013. Business name registrations are typically valid

⁹³ The Companies Act, 2013, Art.4 (2) & (3); See also <https://e-startupindia.com/blog/what-are-the-undesirable-names-for-a-newly-incorporated-company/10165.html> (Last Visited May 22, 2024 GC)

⁹⁴ Ibid

for as long as the business remains compliant with annual filing requirements. Companies must keep their registration details up-to-date to maintain the right to use the name. Registering a business name provides legal protection under Indian law, preventing others from using a confusingly similar name. Additionally, businesses are encouraged to register their business names as trademarks with the Controller General of Patents, Designs & Trade Marks for broader protection. The MCA and ROC have the authority to enforce compliance with business name regulations and non-compliance can result in penalties, including fines and the requirement to change the business name.

2.7.4. Trade Name Registration in Nigeria

In Nigeria, the registration and regulation of business names are primarily governed by the Companies and Allied Matters Act (CAMA) 2020, administered by the Corporate Affairs Commission (CAC). These laws ensure that business names are unique, not misleading, and protect both businesses and consumers. The Companies and Allied Matters Act (CAMA) provides the legal framework for the registration, use, and protection of business names in Nigeria.⁹⁵ It outlines the process for name approval, ensuring that business names are unique and not misleading. Like other jurisdictions, it has rules to prevent the use of certain words and expressions.⁹⁶ For instance, Article 852 (2) of the Act explicitly prohibits the use of words like "Federal," "National," "State," "Government" and "Regional" in business names without the prior consent from the CAC. The restriction is to prevent businesses from falsely implying an affiliation with government entities or enjoying their patronage, which could mislead the public and create unfair competitive advantage. Words like "Chartered," "Cooperative" and "Group" except with the consent of the commission cannot be used as a business name. Names that are misleading, offensive, contrary to public policy or likely to cause confusion are considered as undesirable and hence, prohibited from being used as a trade name.⁹⁷ No business can also be registered by a trade name that contains any word which, in the opinion of the Commission, is likely to mislead the public as to the nationality, race or religion of the persons by whom the business is wholly or mainly owned or controlled.⁹⁸ This provision prevents businesses from using names that could mislead the public regarding the true nature of the ownership or control

⁹⁵ Companies and Allied Matters Act, 2020, Art.811-822

⁹⁶ Ibid, Art.851 & 852

⁹⁷ Ibid, Art.852 (1) (c)

⁹⁸ Ibid, Art.852 (1) (e)

of the business in terms of nationality, race, or religion. It does not outright prohibit the use of ethnic trade names, but it only restricts names that are likely to mislead the public regarding the actual nationality, race, or religion of the business owners or controllers. If the business name genuinely reflects the ethnic background of the owners or controllers, and this is transparent and not misleading, such names may be allowed. In other words, according to this provision, ethnic trade names can still be used if they accurately represent the ownership or control of the business and do not mislead the public. The other thing is, before registering a business name, businesses must conduct a name availability search through the CAC's online portal. This ensures that the desired name is not already in use or too similar to an existing name, which helps avoid confusion and legal disputes. As to the registration process, businesses must submit an application for name reservation through the CAC's online portal, along with the necessary details and applicable fee; The CAC reviews the application for compliance with naming regulations and if the name is available and meets all criteria, it is approved; and once the name is approved, the business can proceed with incorporation and registration under CAMA. Registered business names are entered into the CAC's public database and they will accord legal protection under Nigerian law, preventing others from using a confusingly similar name. The CAC has the authority to enforce compliance with business name regulations and non-compliance can result in penalties, including fines and the requirement to change the business name.

In conclusion, the registration of trade names is governed by specific laws and regulations across jurisdictions to ensure transparency, prevent fraud, and protect business identities, and these laws may vary by jurisdiction but generally involve name availability checks, compliance with naming standards, and periodic renewal requirements. All four countries discussed above are similar in: requiring businesses to register their business names with a relevant governmental authority to ensure that the name is unique and not misleading; requiring businesses to conduct a name availability search before registration to ensure the desired name is not already in use or too similar to an existing name; restricting the use of certain words in business names, particularly those related to government, financial institutions, and professional titles, often demanding approval for these terms; holding business names in public records; and establishing regulatory bodies responsible for enforcing compliance with business name regulations, with penalties for non-compliance. Moreover, it seems that all four countries does not have specific

prohibitions on ethnic trade names as long as they comply with general meaning rules, are not misleading, and do not contain prohibited terms. As far as the ethnic trade name does not contravene the guidelines on offensive or sensitive words, there are no specific prohibitions to use it as a trade name.

CHAPTER THREE

PROHIBITION ON THE USE OF ETHNIC TRADE NAMES UNDER THE ETHIOPIAN LEGAL FRAMEWORKS AND ITS IMPLEMENTATION IN THE BANKING SECTOR IN ETHIOPIA

3.1 General Overview

Ethiopia is a landlocked country located in East Africa in the sub-region known as the Horn of Africa. It covers an area of about 1.2 million square kilometers. It is bordered by Sudan to the west, South Sudan to the southwest, Kenya to the south, Somalia and Djibouti to the east, and Eritrea to the north. As of 2024 with a population of over 129.47 million⁹⁹, Ethiopia is home to more than 85 distinct ethnic groups. Orthodox Christianity, Protestantism, Islam, Catholicism, Judaism and indigenous religious beliefs are practiced.¹⁰⁰ The cultural cohesion and population composition of the country pass several histories of inter-ethnic and socio-cultural interactions and integrations.¹⁰¹ Though it is a country with no colonial history, inter-ethnic conflicts are nevertheless intense and problematic. Inter-ethnic hostility in Ethiopia dates back to the formation of the modern Ethiopian state at the flip of the 19th century, incorporating distinct ethnic groups found at various levels of social and economic development through the use of both forceful subjugation and peaceful persuasion.¹⁰² The FDRE Constitution, which came into effect in 1995, has officially taken the form of a federal structure to address the concern of the various ethno-linguistic and religious groups. However, the country has experienced various ethnic-based conflicts and continues to grapple with tensions and conflicts of this nature. According to the reports provided by Human Rights Watch, Amnesty International, and the Human Rights Council there were a number of cases of ethnic tension and ethnic conflicts happening in the country.¹⁰³ Examples of such conflicts are the language issue in Wolaita in North Omo zone, the Silte's request for independence from the rest of the Gurage zone and conflicts between Suri and Dizi pastoralist groups in South Omo zone. The western low land regions of Benishangul-Gumuz and Gambella have both a majority consisting of two major ethnic groups and a minority of several smaller ones. In Gambella, the Nuer and the Anwak have

⁹⁹The United Nations Populations Fund Report available at <file:///C:/Users/United%20Nations%20Population%20Fund.pdf> (Last visited May 23, 2024 GC)

¹⁰⁰ Supra note 2

¹⁰¹ Supra note 4

¹⁰² Ibid

¹⁰³ Bekalu Atenafu, 'Ethnic Federalism and Conflicts in Ethiopia' 50

fought for regional hegemony. In Benishangul- Gumuz, the Berta and the Gumuz, who together make up the majority of the population, have been at odds with each other. In both states, the two majority groups fought against each other for the control of the regional government. In Somali, the conflicts have been between different pastoralist clans of the Somali tribe. In Afar region, which is also a pastoralist and clan-based society, the same problem has been experienced. Furthermore, according to the Australian Government Department of Foreign Affairs and Trade (DFAT) Country Information Report, inter-ethnic clashes have increased significantly, particularly in the West Guji Zone of Oromia State and along the Oromia-Somali, Oromia Benishangul-Gumuz, and Amhara-Tigray state borders.¹⁰⁴ Inter-ethnic clashes have caused death, the destruction of property and large-scale internal displacement; Ethiopia recorded the most conflict-related internal displacement in the world in 2018.¹⁰⁵ Inter-ethnic clashes along the border between Oromia and Somali states have displaced more than 1 million people since 2017.¹⁰⁶ The former SNNPR experienced major civil unrest in July 2019, after the federal government delayed a referendum on whether the Sidama people, the largest ethnic group in SNNPR and the fifth-largest in Ethiopia overall, should secede from SNNPR and create their own regional state. Clashes between Sidama protesters and government forces ensued, and ethnic minorities were targeted, leaving over 50 people dead.¹⁰⁷ Of course, the causes and dynamics of the conflicts are complex and multifaceted. They often involve historical, political, economic, and social factors, as well as grievances related to power sharing, resource allocation, identity, and representation. However, despite these differences, they have a common history and co-existed for many centuries. Yet, these conflicts disrupt economic activities, leading to reduced productivity, disrupted supply chains, and declining business confidence, which further impeded economic growth and development. Businesses in general and the banking sector in particular play a pivotal role in the country's economic development and it is very unlikely to achieve the desired economic development without regulation. The term regulation refers to the law that is imposed on individuals or entities so that such individuals or entities have certain expected patterns of behavior.¹⁰⁸ Regulatory measures are implemented by the state and its institutions to

¹⁰⁴ Australian Government Department of Foreign Affairs and Trade, *Country Information Report Ethiopia* (2020)

¹⁰⁵ Ibid

¹⁰⁶ Ibid

¹⁰⁷ Ibid

¹⁰⁸ Supra note 30, P.2

fulfill the collective desires and welfare of the political community.¹⁰⁹ The areas of interest that require protection can be political, social, or economic in nature. Regulations may aim to promote political values such as tolerance, gender balance in political leadership, national unity, or identity, thereby safeguarding political interests.¹¹⁰ Regulations may also aim to protect the cultural and moral values of the country, highlighting social interests. When regulations are implemented for economic reasons, they serve to safeguard economic interests.¹¹¹ If business needs to be regulated, one notable area requiring regulation is trade names. Merely deciding to engage in a trading activity may not be sufficient to start a business. Governments often impose additional conditions for certain trading activities. The government of Ethiopia has already enacted the Commercial Registration and Licensing Proclamation¹¹², which provides additional conditions for engaging in a certain trading activities.

3.2 The Notion of Trade Name under Ethiopian Law

Trade names are primarily regulated under the Commercial Registration and Licensing Proclamation No. 980/2016. This Proclamation defined a trade name as:

“... a name that a given business person uses for his business or known by the society as such.”¹¹³

Hence, the definition of a trade name provided by this proclamation acknowledges trade names not only determined by legal registration or formal process but also a trade name that is known and recognized by the society. However, the Amharic version of the same provision defines a trade name as a name that a given business uses for its business and is known by the society as such. It reads as:

“... የንግድ ድርጅት ስም ማለት አንድ ነጋዴ ለንግድ ስራው የሚጠቀምበት እና በሕብረተሰቡ ዘንድ በግልጽ የሚታወቅበት ስም ነው።”¹¹⁴

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ Ibid

¹¹² Supra note 9

¹¹³ Ibid

¹¹⁴ Ibid

The difference between "or" and "and" in the two versions changes the meaning. While the English version acknowledges trade names that are either registered or recognized by society, the Amharic version requires both conditions to be met: the trade name must be used by the business and recognized by society. Here, it must be noted that in case of any discrepancy or incompatibility between the two versions, the Amharic version shall prevail.¹¹⁵

The old Ethiopian commercial code defined a trade name as:

*"...the name under which a person operates his business and which clearly designates the business."*¹¹⁶

However, the new Commercial Code, aside from stating that a trade name is an incorporeal element of a business¹¹⁷, does not provide a definition for the term. It seems the Code has intentionally omitted the definition, considering the issue is already addressed in the Commercial Registration and Licensing Proclamation. The team of experts who worked on the revised draft of the current Commercial Code of Ethiopia also commented on provisions regarding unfair competition, trade names, and trademarks. They stated that:

*"... We are, therefore, of the opinion that the Code should restrict itself to laying down general principles with regard to unfair competition, trade names, and distinguishing marks and leave the prescription of detailed rules to be regulated by the specific legislation that governs them."*¹¹⁸

From this, we can deduce that the new Commercial Code has omitted the definition of trade name intentionally assuming that the issue is already addressed in the specific legislation that governs the area, i.e. the Ethiopian Commercial Registration and Licensing Proclamation.

Any business organization gets legal personality upon registration¹¹⁹, to be registered name is a pre criteria set by law.¹²⁰ After registration business organization needs trade name for identification and advertisement of its product. A business organization can have a trade name

¹¹⁵ Federal Negarit Gazeta Establishment Proclamation, 1995, Art. 2 (4), Proc. No. 3/1995, Neg. Gaz. Year 1, no.3

¹¹⁶ Commercial Code of Ethiopia, 1960, Art.135 (1), Proc. No. 166/1960

¹¹⁷ Commercial Code of the Federal Democratic Republic of Ethiopia, 2021, Art.109 (2) (a), Proc. No. 1243/2021

¹¹⁸ A Team of Fourteen National Experts, Position of the Business Community on the Revision of the Commercial Code of Ethiopia (Private Sector Development Hub/Addis Ababa Chamber of Commerce and Sectoral Associations 2009) P.15

¹¹⁹ Supra note 120, Art.176

¹²⁰ Ibid

and hence, its trade name is an incorporeal element of its business. It is one of the first things that connect a customer to a company's products or service. Under Ethiopian law, any person desiring to engage in a commercial activity shall register its trade name at the place where it is registering in the commercial register. Before the registration of a trade name in the commercial register and in the trade name register, it shall be verified that the trade name has not been registered already. In order to verify this, there is a legal requirement to cause the publication in a newspaper which has a nationwide distribution, at the expense of the applicant, of a notice indicating the subsequent registration of the trade name. Where no objection is lodged against the registration of the trade name within 15 days following publication of the trade name in a newspaper, the registering office will issue a trade name registration certificate to the applicant upon the applicant's payment of the necessary fee. The registration of a trade name shall be a *prima facie* evidence of entitlement to and validity of the same trade name.

3.3 Comparison of Trade Names, Company Names and Trademarks under Ethiopian Law

As we noted before, trade names, company names and trademarks are critical concepts in business and legal contexts, each serving distinct but sometimes overlapping purposes. Thus, understanding the differences and relationships among them is essential. To begin with, a single business firm can have a company name and trade name but these names are different in purpose and scope. So it is very important to discuss the difference between trade names and company names under Ethiopian legal frameworks.

As discussed before, a trade name, also known as a business name, is the name a company uses to promote and differentiate its products or services. It serves branding and marketing purposes and may not necessarily match the legal name registered with authorities. In contrast, a company name, also called a firm name or legal name, is the official registered name of a business entity. It appears on legal documents and formal communications and includes specific suffixes denoting its legal structure. While a company has only one official name, it can have multiple trade names to distinguish diverse business activities. Unlike a company name, a trade name is not mandatory for business operations.

When examining the Ethiopian Commercial Registration and Licensing Proclamation, the terms "Trade Name" and "Company Name" are used interchangeably, leading to ambiguity within the proclamation. Unfortunately, the legislature has overlooked the distinct legal meanings

associated with these two terms. It defines "Company Name" using a different term, "Name of Business", as the following:

"...a name that is used by a business organization for commercial registration and by which such business organization is recognized as a legal person by the registering office or third party."¹²¹

There is no difference between "name of business" and "trade name" in an actual legal sense. However, it is unclear why the legislature uses this term when there is no difference between "trade name" and "name of business", especially after defining "trade name" or "name of business" in Article 2 (10) of the proclamation. Actually, the Amharic version of the provision stipulated that:

"... የንግድ ድርጅት ስም ማለት አንድ የንግድ ድርጅት ለንግድ ምዝገባ የሚጠቀምበት፣ በመዝጋቢው መሥሪያ ቤት እና በሦስተኛ ወገኖች የሕግ ሰውነት ያለው መሆኑ የሚታወቅበት ስም ነው።"¹²²

Looking at the content of the definition provided under Article 2 (11), even if the English version refers to "name of business" as a term to be defined, what is actually defined is a company name or name of a business organization, not a name of business or a trade name. Furthermore, the Amharic version of the same provision uses "Name of Business Organization" or "Firm Name" as the term to be defined and it is clear that the legislature made a slip of the pen in Article 2 (11) by using "Name of Business" in the English version, while the definition actually refers to "Name of Business Organization," "Firm Name," or "Company Name." In fact, the Amharic version is the authoritative version when there is a discrepancy between the Amharic and English versions of the provision.¹²³

When we examine different provisions of the proclamation, other than the definitional provisions, we found that Company name and Commercial registration is interchangeably used by this proclamation to show company name.¹²⁴ Under the title "Powers and duties of the relevant authority"¹²⁵ the Company name/firm name is not expressly referred/ rather it's hidden

¹²¹ Supra note 9, Art 2 (11)

¹²² Ibid

¹²³ Supra note 116

¹²⁴ Supra note 26

¹²⁵ Supra note 9, Art.4

within the word “Commercial registration” and trade name is expressly referred in all its sub articles of this provision which deals with commercial registration. Contrary to the above provisions, article 5 (5) of the proclamation uses the term company (firm) name expressly. It says:

"When any person is being registered in the commercial register pursuant to Commercial Code, it shall be effected by verifying that the company name entered in the commercial register shall not cause conflict of interest against another business person."¹²⁶

The interchangeable use of the terms ‘company name’ and ‘trade name’ can be observed in Article 14 and 15 of the proclamation. However, the Commercial Registration and Business Licensing Amendment Proclamation No.1150/2019 introduced amendments to these articles, replacing the caption of Part Three from 'Registration of Trade Name' to 'Registration of Company and Trade Names.' Additionally, the amendment changed the title of Article 14 from 'Trade Name' to 'Registration of Company Names.' This highlights the distinction between company names and trade names, which serve different purposes. While a company name is used for personal identification, a trade name is employed for product or service identification. Nonetheless, the existing legal terminology discrepancy in the Ethiopian Commercial Registration and Licensing Proclamation is evident, particularly between the Amharic and English versions. Resolving this issue could be achieved by giving precedence to the Amharic version or by amending the proclamation permanently.

The old Ethiopian Commercial Code of 1960 had regulated company (firm) names and there was no express definition given as to what constitutes a company (firm) name. However, a firm name or company name was impliedly provided for under Articles 135 (2), 207 (3), 280 (3), 305, 514, etc. of the Code. The Code’s rules on share companies provide that the company name shall be as agreed but shall not offend public policy or the rights of third parties and shall include the words ‘Share Company’.¹²⁷ Similarly, the rules of the Commercial Code on private limited companies provide that a private limited company may have a firm name that may indicate the nature of its business and the firm name shall be followed by the words “Private Limited

¹²⁶ Ibid, Art. 5 (5)

¹²⁷ Supra note 117, Art. 305

Company”.¹²⁸ The new Commercial Code of Ethiopia stipulates that a private limited company shall have a firm name indicating its business purpose; and shall be followed by the words ‘Private Limited Company’.¹²⁹ To have a company (firm) name, the applicant must submit three alternative names to the registering office. After conducting a name search, if one of the names fulfills the requirements under Ethiopian commercial law and is available for use, the registering office will reserve/register the name. Once reserved, a company name can only be valid for six months. This means that an entity under formation must be incorporated under the company/firm name within six months from the date the name was reserved/registered. Before signing memorandum and articles of association, founders or members of a business organization shall first reserve/register a firm/company name because the company name has to feature in these documents.

Trademarks, on the other hand, are symbols, logos, words, or phrases legally registered or established by use as representing a company or product. It is used as a means to assure product’s genuineness. The Ethiopian trademark registration and protection proclamation defined trademark as *“any visible sign capable of distinguishing goods or services of one person from those of other persons; it may include words, designs, letters, numerals, colors or the shape of goods or their packing or the combinations thereof.”*¹³⁰ Accordingly, as per this provision, a trademark is defined as a visible sign that has the ability to distinguish goods or services provided by one person or entity from those offered by others. This visible sign can take various forms, including words, designs, letters, numerals, colors, or even the shape of goods or their packaging. In essence, a trademark serves as an identifier, allowing consumers to recognize and differentiate products or services associated with a specific person or business from those provided by competitors. It provides a means of establishing brand recognition and protecting the unique qualities and reputation of goods or services in the marketplace. Trademarks are registered in Ethiopia by filing an application for registration with the Ethiopian Intellectual Property Office (EIPO). Following this, the application will undergo formality and substantive examinations. If the application is accepted, a notice inviting possible opposition to the registration of the mark will then be published in a gazette having nationwide circulation. If no

¹²⁸ Ibid, Art. 514

¹²⁹ Supra note 118, Art. 497

¹³⁰ Trademark Registration and Protection Proclamation, 2006, Art. 2 (12), Proc. No. 501/2006 , Neg. Gaz. Year 12, no.37

opposition is lodged, EIPO will register the mark and issue a certificate of registration in favor of the registrant. Once registered, trademarks have to be renewed every seven years.

Thus, while trademarks are symbols, logos, words, or phrases attached to goods or services, whereas a trade name is simply a business name. As such, a trademark indicates the commercial source of goods, but a trade name is the name by which a business is known by third parties and the state. In the context of administering rights under Ethiopian laws, the protection of trade names primarily falls under the purview of the Commercial Registration and Licensing Proclamation, specifically Proclamation Number 980/2016. Conversely, trademarks are governed by the Trademark Registration and Protection Proclamation No.501/2006 and the Trademark Registration and Protection Council of Ministers Regulation No.273/2012. In terms of the institutional framework in the administration of the rights, the Ethiopian Intellectual Property Office (EIPO) is responsible for overseeing trademarks. On the other hand, the Ministry of Trade and Industry (now Ministry of Trade and Regional Integration) or Regional Trade Bureaus are responsible for the administration of trade names.

However, differentiating between trade names and trademarks can be challenging in certain cases. In many cases, it is difficult to distinguish a trade name from a trademark, especially when the trademark or the name is printed on a certain product.¹³¹ The use of similar signs or words as both trade names and trademarks by different parties can cause confusion and mislead consumers.¹³² In this case, the similarity between trade names and trademarks makes it difficult to distinguish one from the other. Nevertheless, it is important to note that in the Ethiopian context, there are no grounds for refusing the registration of trademarks based on preexisting trade names.¹³³ The Ethiopian trademark law does not explicitly consider preexisting trade names as a basis for refusal of trademark registration. Similarly, the commercial registration and licensing proclamation does not mention preexisting trademarks as a ground for refusing the registration of trade names. Additionally, the administrative bodies responsible for the registration of trade names and trademarks are different. The Ministry of Trade and Industry oversees trade names, while the Ethiopian Intellectual Property Office handles trademarks. The

¹³¹ Supra note 8, P.213

¹³² Ibid

¹³³ Ibid

lack of a mechanism for information sharing between these two institutions further contributes to the existing challenges in this area, as highlighted by Yirgalem.¹³⁴

Finally, trade names, company names, and trademarks have similarities despite serving different purposes. They all contribute to identifying and distinguishing businesses. Trade names and company names differentiate a business and a trader from others, while trademarks legally register and protect symbols or words that indicate the source of goods or services. Additionally, all three play a crucial role in branding, creating a strong market presence, and building recognition among consumers. They also receive legal recognition and protection to prevent confusion in the market. Registration and regulation are common aspects shared by trade names, company names, and trademarks.

3.4 Ethnicity in Ethiopia: A General Overview

As noted before, there is no generally agreed definition or theory of ethnicity. The concept of ethnicity is multifaceted and can be understood from various perspectives, each offering a unique lens through which to analyze and interpret the identity, culture, and social dynamics of ethnic groups. For some, ethnicity is a deeply rooted and inherent characteristic. Accordingly, ethnic identities are seen as fixed and given, often tied to biological factors, historical legacies, and long-standing cultural practices. For others, ethnicity is a flexible and strategic resource and accordingly, ethnic identities are not fixed but are utilized by individuals and groups to achieve specific political, economic, or social objectives. In contrast, for others, ethnicity is socially constructed fact and hence, for them, ethnic identities are neither entirely fixed nor purely instrumental but are constructed through social interactions, historical contexts, and institutional frameworks. Despite the various approaches and interpretations, as presented above, ethnicity remains a theoretical challenge and an empirical nuisance. As presented before, much of the literatures on the theories of ethnicity are often divided into three broad approaches of primordialism, instrumentalism and constructivism, each of them offers valuable insights into the understanding of the concept of ethnicity. Under the FDRE Constitution, ethnicity is given significant importance, and the constitution explicitly recognizes the diverse ethnic makeup of the country. Key provisions related to ethnicity are outlined in various articles of the constitution, particularly focusing on the rights and self-determination of ethnic groups. The constitution uses

¹³⁴ Ibid

the terms "Nations, Nationalities, and Peoples" to refer to the various ethnic groups in Ethiopia and defined it as: *"a group of people who have or share a large measure of a common culture, or similar customs, mutual intelligibility of language, belief in a common or related identity, and who predominantly inhabit an identifiable, contiguous territory."*¹³⁵ There are over 80 different ethnic groups in the country. According to the Ethiopian national census of 2007, the Oromo are the largest ethnic group in Ethiopia, at 34.4% of the nation's population.¹³⁶ The Amhara represent 27.0% of the country's inhabitants, while Somalia and Tigrayans represent 6.2% and 6.1% of the population respectively.¹³⁷ Other prominent ethnic groups are as follows: Sidama 4.0%, Gurage 2.5%, Wolaita 2.3%, Afar 1.7%, Hadiya 1.7%, Gamo 1.5% and others 12.6%.¹³⁸ It grants every Nation, Nationality, and People in Ethiopia the unconditional right to self-determination, including the right to secession and recognizes the right to speak, to write, and to develop its own language; to express, to develop, and to promote its culture; and to preserve its history and ensures the right to a full measure of self-government.¹³⁹ Furthermore, it establishes a federal system of government, where regional states are largely organized along ethnic lines, many of which are named after the dominant ethnic group(s) within the region (e.g., Oromia, Amhara, Tigray, Somali, Afar, Sidama etc.). It can be concluded that, ethnicity has been a key criterion in restructuring the Ethiopian state in federal lines. Though Ethiopia is a country with no colonial history, inter-ethnic conflicts are nevertheless intense and problematic. As noted before, the country has experienced various ethnic-based conflicts and continues to grapple with tensions and conflicts of this nature.

3.5 Banks and Banking Transaction in Ethiopia: A General Overview of Historical and Conceptual Framework

3.5.1 Historical Overview

The history of banks and banking transactions in Ethiopia is marked by a series of significant developments that reflect the country's evolving economic landscape. Before the establishment of formal banking institutions, financial transactions in Ethiopia were predominantly informal,

¹³⁵ Constitution of the Federal Democratic Republic of Ethiopia, 1995, Art.39 (5), Pro.No. 1/1995, Neg. Gaz. Year 1, no.1

¹³⁶ Federal Democratic Republic of Ethiopia Population Census Commission, Summary and Statistical Report of the 2007 Population and Housing Census (2008)

¹³⁷ Ibid

¹³⁸ Ibid

¹³⁹ Supra note 135, Art.39

relying on traditional systems like the "iqub" and "idir" (rotating savings and credit associations). These systems provided financial services to individuals and communities, facilitating savings, loans, and social support. Modern banking in Ethiopia was first introduced in 1905 when the Bank of Abyssinia was established based on the agreement being reached between the Ethiopian government and the British owned National Bank of Egypt. In 1931, Emperor Haile Selassie replaced the Bank of Abyssinia with the Bank of Ethiopia, making it a state-owned institution. This move aimed to assert greater national control over the banking sector and support the country's economic development. During the Italian occupation (1936-1941), the banking sector saw disruptions and changes. Italian banks, such as Banco di Roma and Banco di Napoli, operated in Ethiopia. However, their influence waned after Ethiopia regained independence. In 1963, the National Bank of Ethiopia (NBE) was established, taking over central banking functions from the Bank of Ethiopia. The NBE was responsible for regulating the monetary system, issuing currency, and overseeing financial institutions. The Commercial Bank of Ethiopia (CBE) was also founded in 1963, consolidating various commercial banking activities under one state-owned entity. It became the largest bank in the country, providing a range of banking services to individuals, businesses, and the government. The socialist Derg regime nationalized all banks and financial institutions in 1975, centralizing control over the economy. Private banks were abolished, and state-owned banks dominated the sector. This period saw limited development in banking services due to the restrictive economic policies of the regime. With the fall of the Derg regime in 1991, Ethiopia embarked on a path of economic liberalization and market-oriented reforms, leading to significant changes in the banking sector. The early 1990s witnessed the reintroduction of private banking, resulting in the emergence of new private banks such as Awash International Bank in 1994, Dashen Bank in 1995, and Bank of Abyssinia in 1996. This marked the beginning of increased competition and innovation in the sector. Currently, according to the National Bank of Ethiopia's December 2023 report, there are 32 licensed banks in Ethiopia.¹⁴⁰ Among them, Amhara Bank, Oromia Bank, and Sidama Bank have trade names that reflect ethnic identities. The remaining 29 banks, such as Development Bank, Commercial Bank of Ethiopia, Awash Bank, Dashen Bank, and Bank of Abyssinia, use non-ethnic trade names or brand names not tied to a specific nation or nationality. The majority of

¹⁴⁰ <https://nbe.gov.et/financial-institutions/banks/> (Last visited May 25, 2024 GC)

banks are concentrated in Addis Ababa, with Amhara Bank having more than 300 branches¹⁴¹, Oromia Bank with over 500 branches across the country¹⁴², and Sidama Bank with 16 full-fledged and 15 sub-branches¹⁴³ in and outside of Addis Ababa. Now it is even hoped that foreign banks might entry to the country as the Ethiopian government has promised to open up the sector to foreign investment.¹⁴⁴ To sum up, the history of banks and banking transactions in Ethiopia reflects the country's broader economic and political changes. From the establishment of the first modern bank in the early 20th century to the recent push for financial inclusion and modernization, Ethiopia's banking sector has evolved significantly.

3.5.2 A General Overview of Conceptual Framework

Book IV Title III of the Commercial Code of Ethiopia which deals with banking transactions fails to provide a definition of a bank and banking transactions though the latter may be gathered from the various sections governing the various types of transactions undertaken by banks. Therefore, we have to refer to other laws to define and determine what banks and banking transactions are under the Ethiopian legal system. According to Art 2 (2) of the Banking Business Proclamation, banking business means any operation involving receiving money on deposit, lending money, receiving commercial instruments on deposit, accepting, negotiating/transferring, discounting commercial instruments and other evidences of debt, buying and selling of gold and silver notes and foreign exchange, and any other activity recognized as customary banking business.¹⁴⁵ Moreover, Art 2 (1) of the Banking Business Amendment Proclamation expanded the scope of banking activities outlined in the Banking Proclamation No. 592/2008 by including digital financial services and agent banking.¹⁴⁶ The Establishment Proclamation of National Bank of Ethiopia also provides a definition of the term banking business that aligns with those proclamations.¹⁴⁷ The term bank is defined under Art 2 (1) of the Banking Business Proclamation as company licensed by the National Bank to undertake banking business or a bank owned by the government.¹⁴⁸ Art 2 (5) of the same proclamation describes company as a share

¹⁴¹ <https://www.amharabank.com.et/> (Last visited May 25, 2024 GC)

¹⁴² <https://www.oromiabank.com/about-us-2/> (Last visited May 25, 2024 GC)

¹⁴³ <https://sidamabanksc.com/> (Last visited May 25, 2024 GC)

¹⁴⁴ <https://www.privacyshield.gov/ps/article?id=Ethiopia-Banking-Systems> (Last visited May 25, 2024 GC)

¹⁴⁵ Banking Business Proclamation, 2008, Proc.No.592, Neg. Gaz. Year 14, no.57

¹⁴⁶ Banking Amendment Proclamation, 2019, Proc.No.1159, Neg. Gaz. Year 25, no.88

¹⁴⁷ The National Bank of Ethiopia Establishment (as amended) Proclamation, 2008, Art.2 (2), Proc No. 591, Neg. Gaz. Year 14, no.50

¹⁴⁸ Supra note 145

company whose capital is wholly owned by Ethiopian nationals and business organizations wholly owned by Ethiopian nationals and registered under Ethiopian laws of, and having its head office in Ethiopia.¹⁴⁹ Again this provision has been amended by the Banking Business Amendment Proclamation and replaced by a new definition. Accordingly, a company is described as a share company whose capital is fully owned by Ethiopian nationals or foreign nationals of Ethiopian origin, or jointly owned by Ethiopian nationals and foreign nationals of Ethiopian origin; or organizations fully owned by Ethiopian nationals or foreign nationals of Ethiopian origin, or jointly owned by Ethiopian nationals and foreign nationals of Ethiopian origin and registered under Ethiopian law of, and having its head office in Ethiopia.¹⁵⁰ The definition of a bank exclusively reserve the banking sector to Ethiopian nationals or foreign nationals of Ethiopian origin or business organization wholly owned by Ethiopian nationals or foreign nationals of Ethiopian origin. Moreover, the proclamation clearly prohibits foreign nationals and business organizations from undertraining banking business in Ethiopia.¹⁵¹

In Ethiopia, financial institutions such as banks, insurance companies, and microfinance institutions are regulated and supervised by the National Bank of Ethiopia. The National Bank of Ethiopia is the central bank and monetary authority in Ethiopia. It is engaged in the provision of regular banking service to the government and others banks and insurance companies. It plays a critical role in formulating and implementing monetary policy, regulating financial institutions, and maintaining price stability in the country's economy. Accordingly, it has the following powers and duties to achieve its purpose or objective¹⁵²:

1. Currency Management: It has the authority to mint coins, print and issue legal tender currency in Ethiopia.
2. Monetary Policy Regulation: It regulates the supply and availability of money in the economy. It sets the minimum and maximum interest rates that banks and financial institutions can charge for different types of loans and deposits.

¹⁴⁹ Ibid

¹⁵⁰ Supra note 146, Art.2

¹⁵¹ Supra note 145, Art.9

¹⁵² Supra note 147, Art.5

3. Exchange Rate Policy: It implements exchange rate policies and manages the allocation of foreign exchange. It also administers and maintains Ethiopia's international reserve fund, which includes gold, silver, foreign exchange, and securities.
4. Banking and Financial Institution Regulation: It licenses, supervises, and regulates banks, insurance companies, and other financial institutions. This includes savings and credit associations, co-operatives, and postal savings.
5. Foreign Exchange Control: It sets limits on the gold and foreign exchange assets that authorized banks and financial institutions can hold in deposits. It also sets limits on their net foreign exchange position and external indebtedness.
6. Refinancing Facilities: It provides short and long-term refinancing facilities to banks and financial institutions.
7. International Deposits: It is authorized to accept deposits from foreign sources.
8. Government Financial Functions: It acts as the banker, fiscal agent, and financial advisor to the government.
9. Promotion of Banking and Insurance Services: It promotes and encourages the spread of banking and insurance services across the country.
10. Economic Studies and Forecasts: It prepares periodic economic studies and forecasts on the balance of payments, money supply, prices, and other statistical indicators of the Ethiopian economy. These studies help in the analysis and formulation of monetary, savings, and exchange policies.

In summary, the National Bank of Ethiopia exercises a wide range of powers and duties related to currency management, monetary policy regulation, exchange rate policy, banking and financial institution regulation, foreign exchange control, government financial functions, promotion of banking and insurance services, and economic studies.

3.6 The Legal Framework for Regulation of Trade Name in Ethiopia

The regulation of trade names plays a vital role in establishing a distinct identity for businesses and ensuring fair competition in Ethiopia. Under the legal framework governing trade name registration, businesses are required to comply with specific legal provisions and requirements to secure recognition and protection for their trade names. This chapter examines the legal

framework for the regulation of trade names in Ethiopia, providing an overview of the laws and regulations that govern this important aspect of business identification and branding.

3.6.1 The FDRE Constitution

The Constitution of Ethiopia, while not directly addressing trade name registration, provides the overarching legal framework that influences all legislative and regulatory measures, including those concerning trade names. The legal framework for trade name regulation primarily consists of proclamation, regulation and directives specifically enacted to address trade name registration and related matters. However, it is worth noting that being the supreme law of the land, the constitution provides broad framework for various legal matters, though it may not contain specific provisions under consideration. It establishes the fundamental principles that may indirectly influence the legal framework governing the issue under consideration. For instance, Article 40 (1) and (2) of the FDRE Constitution guarantees the right to property, encompassing both tangible and intangible assets such as trade names. This constitutional right necessitates the creation and enforcement of laws that protect the exclusive use of trade names, ensuring that businesses can secure their intangible property. Furthermore, Art 89 (2) of the same law mandate the state to foster economic development and equitable access to resources, which are, among other things, facilitated through a fair and transparent trade name registration system. Accordingly, Proclamation No. 980/2016 on Commercial Registration and Business Licensing, and its accompanying regulations, operationalize these constitutional mandates by establishing detailed procedures for the registration, protection, and renewal of trade names. By drawing connections between the constitutional principles and the specific laws and regulations, it is clear that the Constitution provides the foundational legal framework that supports and legitimizes the regulation of trade names in Ethiopia.

3.6.2 The Commercial Code of Ethiopia

The 1960 Commercial Code contained provisions related to trade names, specifically from Articles 135 to 139. However, with the introduction of the new Commercial Code, these provisions have been repealed and replaced. The current Commercial Code now recognizes trade names as an incorporeal element of business, acknowledging their importance in the commercial realm. The Code takes a different approach by leaving the detailed rules and regulations regarding trade names to be governed by specific legislation that focuses on this specific area of

law. As we mentioned earlier, during the drafting process of the current Commercial Code, a team of experts was involved. These experts recognized the need to streamline the legislation and provide a more comprehensive framework for trade names. Thus, they determined that it would be more effective to address the intricacies of trade name regulations through separate legislation that specifically governs this aspect of commercial law. By adopting this approach, the current Commercial Code, aside from stating that a trade name is an incorporeal element of a business, does not provide detailed rules regarding trade name.

3.6.3 The Commercial Registration and Licensing Proclamation No. 980/2016

Proclamation No. 980/2016, known as the Commercial Registration and Licensing Proclamation, is a comprehensive legislative framework that governs commercial registration, trade name registration, and business licensing in Ethiopia. As noted before, merely deciding to engage in a trading activity may not be sufficient to start a business, and additional conditions might need to be observed. The proclamation in its preamble describes that it has been promulgated to put in place a fair, modern, fast and accessible system of commercial registration and business licensing services; to close loopholes in legislation and working procedures and, hence, enable the business community and the society obtain the services they require and expect from the commercial system, to increase the societies satisfaction and contribute to the comprehensive economic changes in the nation.¹⁵³ By virtue of Art 15 (1) and (2) of the proclamation, any business person shall cause registration of his trade name both at the place where his commercial registration is conducted and at the place where he obtains a business license. Name of a business organization may be registered as trade name if it meets the requirements provided in the Proclamation for trade name.¹⁵⁴ Where the applicant is a foreign business organization, such applicant shall submit to the registering office, accompanied with his application, notarized certificates of commercial and trade name registrations or other legally acceptable evidence issued from the country where the business organization is registered.¹⁵⁵ The name of business organization shall appear on the certificate of commercial registration; whereas the trade name shall appear on a separate certificate of the business license.¹⁵⁶ Application for registration of trade name shall be submitted by filling the form prepared for the same purpose and be

¹⁵³ Supra note 9, Preamble

¹⁵⁴ Ibid, Art.15 (3)

¹⁵⁵ Ibid, Art.15 (4)

¹⁵⁶ Ibid, Art.15 (5)

accompanied by documents specified in the regulations.¹⁵⁷ The proclamation has also rules to prevent the use of a certain words and expression.¹⁵⁸ Certain words or expressions are prohibited or restricted to use as a trade name. The registering office shall refuse registration of trade name on the following grounds:¹⁵⁹

- a) where the trade name requested for registration is identical to a trade name or name of business organization previously registered or has misleading similarity to such name;
- b) where the trade name requested for registration is identical or misleadingly similar to the name of government institution, religious institution, a political party, a nation, nationality, peoples, tribes and clans, any other business organization or association, organizations of nations or states, charities and societies;
- c) where the trade name includes the name of a celebrity and no written consent of such celebrity is submitted along;
- d) where the trade name requested for registration does not include the sector of business;
- e) where the trade name requested for registration is renowned in Ethiopia or around the world even though it is not registered in Ethiopia and no written permission issued to use the name; and
- f) where the trade name is contrary to commendable conduct or ethical values.

Unlike other jurisdictions, it is noteworthy that the Ethiopian Commercial Registration and Licensing Proclamation do not explicitly mention preexisting trademarks as a ground for refusing the registration of trade names. While the Proclamation outlines several criteria for refusal, such as similarity to registered business names, the absence of specific provisions regarding preexisting trademarks creates a distinct regulatory approach in Ethiopia. Sometimes the use of similar signs or words as both trade names and trademarks by different parties can cause confusion and mislead consumers and in this case, the similarity between trade names and trademarks makes it difficult to distinguish one from another. Sadly, the Ethiopian trademark law does not explicitly consider preexisting trade names as a basis for refusal of trademark

¹⁵⁷ Ibid, Art.15 (6)

¹⁵⁸ Ibid, Art.16

¹⁵⁹ Ibid

registration. The separation of administrative bodies responsible for the registration of trade names and trademarks may further compound the issue. Since the registration of trade names is overseen by the Ministry of Trade, by now the Ministry of Trade and Regional Integration, while trademarks are handled by another, the Ethiopian Intellectual Property Office, there might be problem of an established mechanism for sharing information between these entities, and hence, this fragmentation could potentially result in inconsistencies or oversights in assessing the similarity or potential conflict between trade names and existing trademarks. The other things is, through the amendment proclamation¹⁶⁰, certain changes have been made to the provisions outlined in the Proclamation. Notably, Art 16 (1) (c) has been deleted.¹⁶¹ Additionally, Art 16 (4) has been added to the provision stating that: "*Trade name expressed under this article shall be applicable to company names.*"¹⁶² Therefore, with the addition of the new provision to Article 16 of the proclamation through the amendment proclamation, it can be inferred that the causes or criteria that prevent the registration of trade names are equally applicable to the registration of company names. In other words, the amendments signify that the factors outlined in Article 16, which serve as grounds for refusal of trade name registration, now extend their applicability to the registration of company names as well.

The other things is, a trade name that has been used by the business person for a long time, but is not permitted for registration pursuant to the proclamation and was not registered, the registration of such trade name may be effected by the decision of the relevant authority.¹⁶³ Furthermore, the proclamation stipulated that the then Ministry of Trade shall issue directive for the implementation of the provision dealing about causes preventing registration of trade names.¹⁶⁴ As far as the effect of registration of a trade name in the trade name register is concerned, the proclamation stipulates that the registration of a trade name is a *prima facie* evidence of entitlement to use that trade name.¹⁶⁵

¹⁶⁰ Commercial Registration and Business Licensing (amendment) Proclamation, 2019, Art.2 (14) & (15), Proc. No. 1150, Neg. Gaz. Year 25, no.77

¹⁶¹ Ibid, Art.2 (14)

¹⁶² Ibid, Art.2 (15)

¹⁶³ Supra note 9, Art.16 (2)

¹⁶⁴ Ibid, Art.16 (3)

¹⁶⁵ Ibid, Art.17 (1)

The proclamation also includes provisions regarding the cancellation of a trade name registration.¹⁶⁶ The registering office has the authority to cancel a trade name registration under several circumstances. Firstly, if the business person who caused the registration requests its cancellation. Secondly, if it is proven that the trade name was fraudulently or mistakenly registered. Thirdly, if the commercial registration and business license of the business person are cancelled in accordance with the Proclamation. Fourthly, if a court of law nullifies the registration of a trade name. Additionally, a trade name registration may be cancelled if alterations or amendments are made to the trade name in accordance with the proclamation, or if a business organization is dissolved and wound up. Before cancelling a trade name registration based on fraudulent or erroneous registration, the registering office is required to send a written letter to the business person at their registered address, allowing them an opportunity to submit any objections they may have. If the business person fails to submit a valid objection within 30 days of receiving the letter, or if it is not possible to locate the business person at the registered address, the trade name will be cancelled from the register. In cases where the registration of a trade name is cancelled, and the former user of the trade name requests evidence of the cancellation, the registering office is obligated to issue such evidence upon payment of the appropriate service fees. Furthermore, the business person has the right to reclaim a trade name registration that was cancelled at their own request. Additionally, a business person whose trade name registration was cancelled based on fraudulent or erroneous registration may be eligible for re-registration after one year from the date of cancellation, unless there are administrative penalties or court decisions preventing such re-registration.

The proclamation includes a provision that establishes a regulatory authority responsible for overseeing trade name registration. This regulatory authority is vested to the Ministry of Trade, by now the Ministry of Trade and Regional Integration, and accordingly it is responsible to establish and administer a central commercial register which has nationwide application; and make open and accessible to the public at large.¹⁶⁷ It shall also undertake commercial registration and trade name registration.¹⁶⁸ The regional organs administering commercial activities and the Investment Commission may undertake commercial registration and trade name registration

¹⁶⁶ Ibid., Art.18

¹⁶⁷ Ibid, Art.2(44) & (45) cum. Art.4 (1)

¹⁶⁸ Ibid, Art.4(2)

when delegated by the Ministry.¹⁶⁹ The Ministry shall issue certificates to organs upon which it confers legal personality under special condition and to entities that are issued special certificates.¹⁷⁰ Furthermore, it shall enter the commercial registration and the trade name registration data into the central data base; and the regional organs administering commercial activities and the Investment Commission shall transfer to the central database the data they registered through delegation.¹⁷¹ Moreover, it shall take administrative measures against persons or business persons who contravene the proclamation, the regulations and directives issued thereunder; and where deemed necessary cause legal measure to be taken by other organs.¹⁷²

3.6.4 The Commercial Registration and Business Licensing Amendment Proclamation No.1150/2019

The Commercial Registration and Licensing Amendment Proclamation serves as a legal framework for trade name regulation in Ethiopia. This proclamation introduces important amendments and updates to the existing commercial registration and licensing provisions, specifically addressing trade name-related matters.

For instance, this proclamation has amended Art 14 and 15 of Proclamation No. 980/2016 replacing the caption of Part Three from ‘Registration of Trade Name’ to ‘Registration of Company and Trade Names’.¹⁷³ Additionally, the amendment changed the title of Article 14 from ‘Trade Name’ to ‘Registration of Company Names’.¹⁷⁴ This made the distinction between company names and trade names a little bit more clear. Furthermore, this amendment proclamation has brought certain changes to the provision of that proclamation. As we mentioned earlier, Art 16 (1) (c) of the proclamation has been deleted and Art 16 (4) has been added to the provision.¹⁷⁵ Therefore, with the addition of the new provision to Article 16 of the proclamation through the amendment proclamation, it can be inferred that the causes or criteria that prevent the registration of trade names are equally applicable to the registration of company names. In other words, the amendments signify that the factors outlined in Article 16, which

¹⁶⁹ Ibid, Art.4(3)

¹⁷⁰ Ibid, Art.4(5)

¹⁷¹ Ibid, Art.4(4)

¹⁷² Ibid, Art.4(11)

¹⁷³ Supra note 160, Art.2(12) & (13)

¹⁷⁴ Ibid

¹⁷⁵ Ibid, Art. 2(14) & (15)

serve as grounds for refusal of trade name registration, now extend their applicability to the registration of company names as well.

3.6.5 The Commercial Registration and Business Licensing Regulation No. 329/2016

This Regulation is a regulatory framework enacted for implementing the provisions of the Commercial Registration and Licensing Proclamation No. 980/2016. It sets out the procedures for registering commercial entities and trade names, including the submission of necessary documents and information. It specifies the requirements for trade name registration and the process for obtaining a business license. For instance, it stipulates that application for issuance of a certificate of trade name shall be submitted by attaching the following documents with the application form¹⁷⁶: original and necessary copies of the valid identity card or passport of the applicant; two passport size photographs taken within six months, which show the clear identity of the applicant; where the application is submitted by an attorney, original and copy of power of attorney given by all of the founders, copies of valid identity card or passport of the attorney and the manager; copy of the certificate of commercial registration and valid business license; letter of confirmation from the local administration that the trade name has been in use for a long period.

3.6.7 The Commercial Registration and Licensing Amendment Regulation No. 461/2020

This regulation is an important legal instrument enacted to amend specific provisions of Regulation No. 392/2016 in Ethiopia. Although this amendment regulation does not contain direct provisions pertaining to trade names, it is still relevant and can provide valuable insights when examining matters related to commercial registration and licensing.

3.6.8 The Commercial Registration, Licensing, and Post-licensing Inspection Directive No. 935/2022

This directive has been enacted by the Ministry of Trade and Regional Integration in accordance with the Commercial Registration and Business Licensing Proclamation No. 980/2016, as amended by Proclamation No. 1150/2017, and Regulation No. 329/2016. This directive plays a crucial role in facilitating the implementation of Proclamation No. 980/2016 and its subsequent amendments along with its regulation. It provides a detailed set of rules and guidelines governing

¹⁷⁶ Commercial Registration and Licensing Council of Ministers Regulation, 2016, Art.5, Reg. No.329, Neg. Gaz. Year 23, no.3

the processes and requirements for commercial registration, business licensing, and trade name registration. For instance, Arts from 7 up to 10 of the directive are specifically dealing about registration of trade names. Article 47 provides further interpretation and guidance on specific provisions related to misleadingly similar names, usage of national or internationally recognized company names, and the requirements for acceptable trade names. Example is the provision clarifies the stipulation in Article 16 (1) (b) of the Proclamation, which addresses misleadingly similar names, should be interpreted cumulatively.

3.7 The Prohibition on the Use of Ethnic Trade Names under the Ethiopian Commercial Registration and Licensing Proclamation No. 980/2016

The Commercial Registration and Licensing Proclamation is a comprehensive legislative framework that governs commercial registration, trade name registration, and business licensing in Ethiopia. As mentioned previously, the decision to engage in trading activities alone may not be sufficient to establish a business in Ethiopia. Additional conditions may be imposed on traders, and Proclamation No. 980/2016 includes rules to prevent the use of certain words or expressions. One particular prohibition outlined in the proclamation relates to the use of names that are identical or misleadingly similar to the names of ethnic groups. Art 16 (1) (b) of the Proclamation states that the registering office shall refuse registration of trade name when the trade name requested for registration is identical or misleadingly similar to the name of a nation, nationality, peoples, tribes and clans.¹⁷⁷ According to this provision, the prohibition extends beyond trade names that are identical to an ethnic group's name; it also encompasses names that could be misleadingly similar to an ethnic group's name. The constitution uses the terms "Nations, Nationalities, and Peoples" to refer to the various ethnic groups in Ethiopia and defined it as a group of people who have or share a large measure of a common culture, or similar customs, mutual intelligibility of language, belief in a common or related identity, and who predominantly inhabit an identifiable, contiguous territory.¹⁷⁸ While the meaning and concept of ethnicity is unclear and lack a single, universally agreed-upon definition or understanding, it is widely acknowledged that there are over 80 different ethnic groups in Ethiopia. Among these, the Oromo, Amhara, and Sidama are notable examples. Consequently, in accordance with Art 16 (1) (b) of the Commercial Registration and Licensing Proclamation, it is strictly prohibited to use

¹⁷⁷ Supra note 9

¹⁷⁸ Supra note 135

the names of these ethnic groups as trade names for businesses. This prohibition applies regardless of the nature of the business, be it a bank, insurance company, or any other type of enterprise.

This stance of the Ethiopian Commercial Registration and Licensing Proclamation seems to be unique and can be considered a distinctive feature when compared to other legal frameworks encountered by this researcher. The researcher made efforts, within the limitations of his potential, time, and resources, to explore trade or business name registration laws in other countries. Surprisingly, no single piece of legislation was found that explicitly prohibits the use of ethnic names as trade names. In most cases, there is similarity and uniformity in the regulations governing trade name registration, with restrictions imposed on certain types of names classified as undesirable, prohibited, or restricted. However, in these classifications, restrictions on the use of ethnic trade names are absent. Restrictions may be typically imposed if a name is deemed offensive or fails to meet other naming requirements.

In Nigeria, the Companies and Allied Matters Act prohibits any word which, in the opinion of the Commission, is likely to mislead the public as to the nationality, race or religion of the persons by whom the business is wholly or mainly owned or controlled.¹⁷⁹ However, this provision prevents businesses from using names that could mislead the public regarding the true nature of the ownership or control of the business in terms of nationality, race, or religion. In other words, it does not outright prohibit the use of ethnic trade names, but it only restricts names that are likely to mislead the public regarding the actual nationality, race, or religion of the business owners or controllers. If the business name genuinely reflects the ethnic background of the owners or controllers, and this is transparent and not misleading, such names may be allowed. According to this provision, ethnic trade names can still be used if they accurately represent the ownership or control of the business and do not mislead the public.

The other point worth addressing is the scope of the prohibition on ethnic names. Does it apply only to trade names, or does it encompass both trade names and company names? The Commercial Registration and Licensing Amendment Proclamation No. 1150/2019 have brought certain changes to Art 16 of Proclamation No. 980/2016. As we mentioned earlier, with the

¹⁷⁹ Supra note 95, Art.852 (1) (e)

addition of the new provision to Article 16 of the proclamation through the amendment proclamation, the causes or criteria that prevent the registration of trade names are equally applicable to the registration of company names.¹⁸⁰ The factors outlined in Article 16 (1) of Proclamation 980/2016, which serve as grounds for refusal of trade name registration, now extend their applicability to the registration of company names as well. Consequently, the prohibition on using ethnic names as trade names extends to the registration of company names as well in Ethiopia. Therefore, it is evident that the prohibition on ethnic names is applicable for both trade names and company names in Ethiopia.

Regarding the scope of the prohibition, another important aspect to consider is whether it applies solely to ethnic or if it also encompasses place names that use or are associated with ethnic names. Analyzing the extent of the prohibition on place names that incorporate or have an affiliation with ethnic names becomes crucial. As noted in Chapter Two of this research, an ethnic name is used to identify a specific ethnic group based on shared cultural, linguistic, ancestral, or historical traits, while a place name distinguishes a specific geographical location. So, as place names and ethnic names are distinct entities, it is evident that the law does not prohibit the use of place names as trade names as long as they meet the other requirements for trade names.

However, it is important to recognize that in certain instances, a place name may directly reflect the dominant ethnic group associated with that specific location. Such place names may incorporate the name of the ethnic group historically and presently considered the rightful owner or having a dominant presence in that area. Consequently, individuals often establish a strong association between the place name and the ethnic group it represents. In other words, even when a place name is used instead of an explicit ethnic name, if it is strongly linked with a particular ethnic group in the public's perception, individuals may still make that connection.

For example, Ethiopia's federal system organizes regional states largely along ethnic lines, with many named after the dominant ethnic group(s) within the region (e.g., Oromia, Amhara, Tigray, Somali, Afar, Sidama). Individuals often strongly associate these place names with the respective ethnic groups. Bewnetu Zewude's study on the influence of ethnicity on customers' choice of

¹⁸⁰ Supra note 160, Art.2(15)

banks in Shashemene Town, Ethiopia, particularly focusing on Oromiya International Bank and Cooperative Bank of Oromiya, revealed that 25.7% of respondents were attracted to these banks because their names were tied to their ethnic identity.¹⁸¹ This association influenced their trust in these banks, with about 25.7% of respondents trusting their bank mainly because its name reflected their ethnic identity.¹⁸² This study indicates that the public often views the name "Oromiya" in the bank names as representing the Oromo ethnic group, demonstrating that strong associations between place names and ethnic groups persist. Thus, even when a place name is used instead of an explicit ethnic name, the connection to the ethnic group remains strong.

Therefore, the vital consideration here revolves around whether the prohibition stated in Article 16 (1) (b) regarding ethnic trade names can be extended to encompass place names that incorporate the name of an associated ethnic group. To address this question, a thorough examination of the relevant provision in the proclamation is essential. Article 16 (1) (b) of the Proclamation specifies that the registering office must refuse the registration of a trade name if it is identical or misleadingly similar to the name of a nation, nationality, peoples, tribes, or clans. Based on this provision, it is evident that the prohibition not only applies to the use of a trade name that is identical to an ethnic group's name but also includes names that could be misleadingly similar to an ethnic group's name.

In the researcher's view, the phrase "misleadingly similar" should be interpreted broadly to encompass scenarios where the use of certain place names may effectively represent an ethnic group. Without such an interpretation, the purpose behind the legislature's prohibition on the use of ethnic names would be undermined by the indirect utilization of place names that incorporate ethnic names. This broader approach of interpretation ensures the spirit of the law is not circumvented by the indirect use of place names that effectively represent an ethnic group. To conclude, it is crucial to interpret the provisions in a manner that includes place names incorporating ethnic names within the scope of the prohibition.

At this juncture, it is crucial to question the rationale behind the prohibition on ethnic trade names in the law. What prompted the legislature to prohibit the use of ethnic trade names in Ethiopia? What are the intentions and policy objectives behind this legal stipulation? This

¹⁸¹ Supra note 13

¹⁸² Ibid

researcher has thoroughly examined the minutes of the draft Proclamation 980/2016 but could not find any explicit explanation for the provision that prohibits the use of ethnic names as trade names. The document does not provide insights regarding Art 16 (1) (b) of the proclamation and therefore, this researcher was unable to ascertain the underlying reasons behind this legal stipulation from the document. As noted before, regulatory measures are implemented by the state and its institutions to fulfill the collective desires and welfare of the political community.¹⁸³ The areas of interest that require protection can be political, social, or economic in nature. Regulations may aim to promote political values such as tolerance, gender balance in political leadership, national unity, or identity, thereby safeguarding political interests.¹⁸⁴ Regulations may also aim to protect the cultural and moral values of the country, highlighting social interests. When regulations are implemented for economic reasons, they serve to safeguard economic interests.¹⁸⁵

The prohibition of ethnic trade names in Ethiopia can be attributed to a combination of both economic and political factors, with a significant consideration given to the context of the country, particularly the issue of inter-ethnic conflicts. From an economic perspective, prohibiting the use of ethnic trade names aims to foster a more inclusive and unified business environment. By discouraging the explicit use of ethnic names in trade names, the intention is to promote a level playing field and equal opportunities for all businesses, irrespective of their ethnic affiliations. This approach seeks to prevent any potential favoritism or biases that may arise based on ethnic name associations, ensuring fair competition and economic development across ethnic groups.

On the political front, it seems that, the prohibition is driven by the objective of maintaining national unity, harmony, and social cohesion within a diverse multi-ethnic society. Ethiopia has faced historical challenges related to inter-ethnic conflicts and tensions. These conflicts often stem from deep-rooted ethnic divisions and grievances. By discouraging the use of ethnic names in trade, the aim is to mitigate potential sources of tension and promote a sense of shared national identity that transcends specific ethnic affiliations. The prohibition also serves to safeguard against the potential for misunderstandings, misrepresentations, or even provocations that could

¹⁸³ Supra note 30, P.2

¹⁸⁴ Ibid

¹⁸⁵ Ibid

arise from the explicit use of ethnic names in business contexts. It helps prevent the exacerbation of inter-ethnic conflicts or the perpetuation of stereotypes and prejudices associated with specific ethnic groups.

3.8 The Implementation of Prohibition on the Use of Ethnic Trade Names in the Banking Sector in Ethiopia: The Case of Oromiya, Amhara and Sidama Banks

The effective enforcement of rules and regulations is of paramount importance, as mere enactment of laws without proper implementation renders them ineffective. A law's true impact lies in its enforcement and practical application. From the foregoing discussions,¹⁸⁶ it has been seen that Article 16 (1) (b) of the Ethiopian Commercial Registration and Licensing Proclamation clearly prohibits the use of trade name that is identical or misleadingly similar to an ethnic name. As noted earlier,¹⁸⁷ while the meaning and concept of ethnicity is unclear and lack a single, universally agreed-upon definition or understanding, it is widely acknowledged that there are over 80 different ethnic groups in Ethiopia. Among these, the Oromo, Amhara, and Sidama are notable examples. Accordingly, this proclamation strictly prohibits using the names of these ethnic groups as trade names for business. This prohibition applies regardless of the nature of the business, be it a bank, insurance company, or any other type of enterprise.

Currently, according to the National Bank of Ethiopia's report, there are 32 licensed banks in Ethiopia.¹⁸⁸ Among them, Amhara Bank, Oromia Bank, and Sidama Bank have trade names that reflect ethnic identities. The majority of banks are concentrated in Addis Ababa, with Amhara Bank having more than 300 branches¹⁸⁹, Oromia Bank with over 500 branches across the country¹⁹⁰, and Sidama Bank with 16 full-fledged and 15 sub-branches¹⁹¹ in and outside of Addis Ababa. Oromia International Bank rebrands itself to 'Oromia Bank' changing its trademark as well as its name on December 2021.¹⁹² The bank had been using its name and trademark for the last 13 years ever since its establishment in 2008.¹⁹³ Amhara Bank, established with the participation of more than 138,000 subscribers, commenced operations in 2022 with a paid-up

¹⁸⁶ See the discussion in section 3.7 and 3.6.3

¹⁸⁷ See the discussion in section 2.3, 2.4 and 3.4

¹⁸⁸ Supra note 140

¹⁸⁹ Supra note 141

¹⁹⁰ Supra note 142

¹⁹¹ Supra note 143

¹⁹² Supra note 142

¹⁹³ Ibid

capital of 4.8 billion ETB, which has now reached 6.5 billion ETB.¹⁹⁴ Sidama Bank, previously known as Sidama Microfinance Institution, was re-licensed by the National Bank of Ethiopia and officially started operations in 2022.¹⁹⁵ It has around two thousand shareholders, including individuals, cooperatives, regional government offices, churches, associations, and private companies.¹⁹⁶

So, at this juncture, it is crucial to determine whether the names of banks such as Amhara, Oromiya, and Sidama Banks are being used as trade names or company names, as these terms are conceptually and legally distinct.¹⁹⁷ This researcher made an effort to investigate this issue by visiting the FDRE Ministry of Trade and Regional Integration. During the visit, the researcher had the opportunity to examine various documents related to the commercial registration and business licensing certificates of banks, although copies of these documents were not obtained.¹⁹⁸ From the Ministry's digitalized database, the researcher observed that the names of the selected banks are registered both as company names and trade names. On the certificates of their business licenses, it was noted that these banks' names are registered as trade names, despite being used as company names as well. Thus, it is evident that these banks (specifically the three selected for this study) use their names both as trade names and company names. Furthermore, since banks in Ethiopia are only engaged in one business activity, namely banking services, they use one name as both their trade name and company name. Consequently, the prohibition under Article 16(1) (b) of the Commercial Registration and Licensing Proclamation remains applicable to the names of these banks. Therefore, the use of ethnic or ethnically affiliated nomenclature as their trade names violates Article 16(1) (b) of the same proclamation.

However, it is also important to discuss the potential implications if the name were used solely as a company name and not as a trade name. Would this make a difference in the applicability of Article 16 (1) (b) of the proclamation, which prohibits the use of ethnic names as trade names? The answer is yes. Firstly, trade names and company names are conceptually different in scope and purpose. Secondly, as long as Article 16 (1) of the proclamation lists the conditions that can

¹⁹⁴ Supra note 141

¹⁹⁵ Supra note 143

¹⁹⁶ Ibid

¹⁹⁷ See the discussion in sections 2.2 and 3.3 to gain a comprehensive understanding of the distinction between trade names and company names

¹⁹⁸ The researcher visited the Ministry of Trade and Regional Integration office to gather information during the course of this research paper on September 14, 2022 GC.

lead to the denial of registration by using a trade name, the restriction on using ethnic names for registration does not apply to company names. Therefore, if the names of these banks were only used as company names and not as trade names, one could argue that Article 16 (1) (b) of the proclamation would not be violated.

Nevertheless, as previously noted,¹⁹⁹ a close reading of Article 2 (15) of the Commercial Registration and Business Licensing Amendment Proclamation indicates that the prohibition under Article 16 (1), including sub-article (b) that bans the use of ethnic names as trade names, also applies to the registration of company names. Thus, even if these names were used solely as company names, there would still be a violation of Article 16 (1) (b) of the proclamation, given that the prohibition applies to company names by virtue of Article 2 (15) of the amendment proclamation.

The foregoing discussion clearly shows that the nomenclature of the selected banks is inconsistent with the prohibition stipulated under Article 16 (1) (b) of the Commercial Registration and Licensing Proclamation. This indicates a departure between the law and its practice in the banking industry in Ethiopia, highlighting an implementation gap. Even though this research is primarily doctrinal, relying on legal texts and commentary, the researcher sought further insights into why and how these banks could have names that seemingly violate Article 16 (1) (b) of the Proclamation. To investigate, the researcher interviewed three individuals from the Ministry of Trade and Regional Integration and five individuals from the National Bank of Ethiopia.²⁰⁰

From the Ministry of Trade and Regional Integration, the interviewees confirmed the existence of banks with ethnic-based names, such as Oromiya Bank, Amhara Bank, and Sidama Bank. Opinions varied on whether these names align with Article 16 (1) (b) of the Proclamation. One interviewee, the Head of the Trade Registration and Business Licensing Customer Service, suggested that the law does not prohibit names related to places, implying that Oromiya, Amhara, and Sidama refer to geographical regions rather than ethnic groups. Another interviewee, a Trade Registration and Licensing Supervisor, argued that ethnic-based names

¹⁹⁹ See the discussion in section 3.6.3, 3.6.4 and 3.7 of this Chapter

²⁰⁰ The interview was conducted in September 14, 2022 GC with individuals from the Ministry of Trade and Regional Integration, and in September 15, 2022 GC with individuals from the National Bank of Ethiopia. Their names are undisclosed due to their preference for anonymity and confidentiality.

contradict Article 16 (1) (b) and should not have been registered. This supervisor noted that these names were registered by the Addis Ababa City Administration Sub-cities Trade Offices. However, records from the Ministry's ICT Department showed that Amhara and Sidama Banks were registered by the Ministry itself, while Oromiya Bank was registered by the Addis Ababa City Administration Kiros Sub-city Trade Registration Office. The third respondent, an Expert of Trade Registration and Licensing, agreed that these names contradict Article 16 (1) (b) but noted that the Commercial Registration and Licensing Directive does not prohibit such names, leading to a lack of objections from trade name registration officers. This issue, he added, is often avoided due to its political sensitivity. From these interviews, it is evident that while the legal framework prohibits ethnic trade names, various factors, including political sensitivity and gaps in directives, prevent proper implementation and enforcement, as seen with Oromiya, Amhara, and Sidama Banks.

Interviewees from the National Bank of Ethiopia also confirmed the existence of banks with ethnic names. Opinions varied on the National Bank's role in approving trade names for banks. Three interviewees stated that the National Bank's core responsibility is to regulate monetary policy and financial institutions, not nomenclature, as outlined in Proclamation 592/2000 and its amendment, Proclamation 1159/2011. They suggested that the regulation of trade names falls under the mandate of the Ministry of Trade and Regional Integration. However, two interviewees believed that the National Bank should have addressed the issue since the law prohibiting ethnic trade names was violated. One senior legal expert noted that these banks' nomenclature had a "birth defect" from inception, and even if the Ministry failed to correct it, the National Bank should have rectified the issue as the regulatory body of financial institutions.

In general, while the legal framework prohibits the use of ethnic trade names in Ethiopia, various factors contribute to the lack of proper implementation and enforcement, as observed in the cases of Oromiya, Amhara, and Sidama Banks. These factors include misconceptions about the scope and application of Article 16 (1) (b), avoidance of the issue due to political sensitivity, and a lack of commitment to enforcement by Ministry employees who allege that the prohibition is not stated in the directive, despite it being clearly outlined in the hierarchically superior proclamation. Additionally, fragmentation of the registering authority exacerbates the problem, as noted in the responses from interviewees.

As noted earlier,²⁰¹ the Ministry of Trade and Regional Integration is the regulatory body entrusted with the power to register, administer, and take necessary measures related to trade name registration in Ethiopia. Therefore, this Ministry plays a significant role in ensuring compliance with the prohibition on ethnic trade names. If banks with names containing ethnic affiliations have been allowed to operate, it suggests that enforcement or oversight by the Ministry may not have been effectively carried out.

On the other hand, the National Bank of Ethiopia is responsible for regulating monetary policy and financial institutions in the country.²⁰² While the Bank's primary focus is on the financial aspects of banking operations, it also supervises and oversees the banking sector. However, regulating trade names may not fall within the specific mandate of the National Bank of Ethiopia. Thus, it can be concluded that the Ministry of Trade and Regional Integration, as the regulatory body responsible for trade name registration, bears primary responsibility for the non-implementation of the law prohibiting the use of ethnic names as trade names in banks. However, this does not mean that the National Bank of Ethiopia is entirely blameless. As the regulator of financial institutions, it could potentially share some responsibility for the non-implementation, given that the enforcement of laws and regulations often requires the involvement and influence of multiple stakeholders.

3.9 Ethnic-Based Trade Names in Ethiopia: Should they be prohibited or Allowed?

As discussed in chapter two this research,²⁰³ the interplay between trade names and ethnicity reflects a complex intersection of business branding and ethnic identity. While incorporating ethnic names in trade names can celebrate diversity and target specific ethnic markets, it also poses significant risks. Incorporating ethnic elements into trade names can honor cultural heritage and foster connections with consumers who share that ethnicity. John L. and Jean Comaroff highlighted how Native American tribes in the U.S. leveraged cultural symbols for economic development, and Gary Dymiski et al. showed how ethno banks in the U.S. support economic development in ethnic communities. However, using ethnic names in trade names can undermine national cohesion and fuel inter-group tensions, especially in diverse, federalizing

²⁰¹ See the discussion in section 3.6.3 of this Chapter for the detail

²⁰² See the discussion in section 3.5.2 of this Chapter for the detail

²⁰³ See the discussion in section 2.6 of Chapter Two to gain a comprehensive understanding of the issue under consideration

societies like Ethiopia. Studies in Nigeria by Meksley Nwagboh reveal that ethnic affiliations of banks influence customer loyalty and trust, suggesting that ethnic categorization of institutions can lead to ethnic rivalries and conflicts as the group compete for resources and social relevance, and in effect it will gradually metamorphosing the categorization from a person-to-person experience to a person-organization experience. By considering these implications, the suggests promoting workforce diversity; unbiased recruitment polices and expanding branch networks as a strategy to address the problem of ethnic categorization of banks. For stronger reason, it can be argued that the use of ethnic trade names might exacerbate these existing causes by making the ethnic affiliation of the institutions (banks) more explicit. Ethnic perceptions affect customer loyalty and trust. Banks associated with specific ethnic groups may experience divided customer bases, where individuals prefer banking with institutions that reflect their ethnic identity. By prohibiting ethnic trade names, banks can reduce these perceptions and encourage customers to choose banks based on service quality, reliability, and overall value. This shift can lead to a more competitive and fair banking environment where customer decisions are not influenced by ethnic affiliations. If promoting workforce diversity and unbiased recruitment policies is important to reduce ethnic categorization, prohibiting ethnic trade names can also be an essential strategy to avoid or reduce that categorization. Madubueze Madumelu et al. emphasized the importance of ethnic diversity in corporate governance to ensure equity and public acceptance. Additionally, Donald L. Horowitz and Andreas Wimmer argued that ethnic identifiers in trade names can be exclusionary and politically charged. Research on consumer behavior shows that ethnicity significantly influences economic decisions. In Ethiopia, Bewnetu Zewude found that ethnic affiliations impact customers' choice of banks, with a significant portion of respondents choosing banks with names reflecting their ethnic identity. This suggests that ethnic trade names reinforce ethnic divisions and undermine trust in financial institutions. Given Ethiopia's diverse ethnic landscape, the use of ethnic trade names risks exacerbating existing ethnic tensions and undermining national unity. Prohibiting ethnic trade names can promote a more inclusive and fair banking environment, ensuring that customer choices are based on service quality and reliability rather than ethnic affiliations. In conclusion, the prohibition of ethnic trade names in Ethiopia is justified based on the potential for ethnic bias and the need for national cohesion. The legal framework's position to ban ethnic trade names is appropriate and necessary for fostering an inclusive and equitable financial sector.

CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS

4.1 Conclusion

In conclusion, this research has examined the legal framework surrounding trade names in Ethiopia and specifically investigated the implementation of the prohibition on the use of ethnic trade names within the banking sector. The case study of Amhara, Oromiya, and Sidama banks has revealed that despite the prohibition, these banks' names are inconsistent with the law that prohibits the use of ethnic names as trade names. Various factors contribute to the inadequate implementation of this prohibition.

These factors include misconceptions about the scope and application of Article 16 (1) (b), avoidance of the issue due to political sensitivity, and a lack of commitment to enforcement by the Ministry of Trade and Regional Integration employees who allege that the prohibition is not stated in the directive, despite it being clearly outlined in the hierarchically superior proclamation. Additionally, fragmentation of the registering authority exacerbates the problem, as noted in the responses from interviewees.

Thus, the research concluded that the Ministry of Trade and Regional Integration, as the regulatory body responsible for trade name registration, bears primary responsibility for the non-implementation of the law prohibiting the use of ethnic names as trade names in banks. However, it also concluded that the National Bank of Ethiopia is not entirely blameless. As the regulator of financial institutions, it could potentially share some responsibility for the non-implementation, given that the enforcement of laws and regulations often requires the involvement and influence of multiple stakeholders.

Furthermore, the research explored whether these banks' names constitute trade names or company names, and it was observed that the banks' company names also function as their trade names. Therefore, the research concluded that the use of ethnic or ethnically affiliated nomenclature as their trade names by those selected banks violates Article 16 (1) (b) of the Commercial Registration and Licensing Proclamation.

However, the research has also investigated the potential implications if the name were used solely as a company name and not as a trade name. Would this make a difference in the

applicability of Article 16 (1) (b) of the Commercial Registration and Licensing Proclamation, which prohibits the use of ethnic names as trade names? The research concluded that, even if these names were used solely as company names, there would still be a violation of Article 16 (1) (b) of the proclamation, given that the prohibition applies to company names by virtue of Article 2 (15) of the Commercial Registration and Business Licensing Amendment Proclamation. Therefore, the prohibition of the law is applicable to both trade names and company names.

The research also examined the difference between trade names and place names, highlighting that the prohibition pertains to ethnic names rather than place names. However, it was acknowledged that there are circumstances where a place name might be an ethnic name or have a correlation with an ethnic name. Consequently, the prohibition is not solely limited to explicitly ethnic names or names misleadingly similar to ethnic names.

Lastly, the research addressed the appropriateness of prohibiting the use of ethnic trade names and concluded that such prohibition is necessary in Ethiopia. Given the country's diverse ethnic landscape, ethnic trade names can exacerbate tensions and undermine national unity. Banning such names promotes a fair and inclusive banking environment where customer choices are based on service quality rather than ethnic affiliations. Thus, the prohibition of ethnic trade names is justified and necessary for fostering national cohesion and trust in financial institutions.

4.2. Recommendations

Based on the findings of this research, the following recommendations are put forth:

1. The Ministry of Trade and Regional Integration should intensify its efforts to enforce the prohibition on the use of ethnic trade names in the banking sector. This can be achieved through increased monitoring, stricter compliance measures, and effective coordination with relevant stakeholders. Additionally, the Ministry should address the lack of commitment to enforcement among its employees by clarifying that the prohibition is indeed outlined in the hierarchically superior proclamation.
2. The registration process for trade names should be reviewed to ensure alignment with the prohibition on ethnic trade names. Clear guidelines and criteria should be established to prevent the registration of names that violate the law. Furthermore, existing legislative provisions should

be amended to clearly distinguish between ethnic names and place names to avoid confusion. This amendment should explicitly define what constitutes an ethnic name and a place name, ensuring that the prohibition is applied correctly and consistently.

3. The Ministry of Trade and Regional Integration and the National Bank of Ethiopia should collaborate and establish clear lines of communication to address issues related to trade name compliance within the banking sector. This will help ensure consistent enforcement and adherence to the law.

4. Further research should be conducted to explore the practical challenges and potential solutions in implementing the prohibition on ethnic trade names. This would provide valuable insights for policymakers, regulators, and other stakeholders involved in shaping and enforcing trade name regulations in Ethiopia.

By implementing these recommendations, Ethiopia can strengthen its enforcement of the prohibition on ethnic trade names, promote legal compliance, and foster an inclusive business environment.

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Appendix

Appendix 1 - Interview Questions Presented for Individuals from the Ministry of Trade and Regional Integration:

1. Are there any private banks in Ethiopia that have used ethnic trade names? If yes, could you provide the names of those banks?
2. If the answer to the first question is affirmative, please explain why the Ministry of Trade and Regional Integration approved the use of ethnic trade names for those banks in Ethiopia?

Appendix 2 - Interview Questions Presented for Individuals from the National Bank of Ethiopia:

1. Are there any private banks in Ethiopia that have used ethnic trade names? If yes, could you provide the names of those banks?
2. If the answer to the first question is affirmative, what role does the National Bank of Ethiopia play in approving the trade names of banks in Ethiopia?