

# ADDIS ABABA UNIVERSITY

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COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

***THE NEED AND IMPACT OF REFORMING THE ETHIOPIAN  
ELECTORAL SYSTEM***

BY YARED AYELE

Submitted in Partial Fulfillment of Degree of Masters in Constitutional and Public Law

**JANUARY, 2017**

**ADVISOR: GEDION TIMOTHEWOS**

## Declaration

I hereby declare that this work titled as 'The Need and Impact of Reforming the Ethiopian Electoral System' is my original work which is not submitted in any academic institution, journal, article or any other means. All sources used in it are duly referenced.

Yared Ayele

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January, 2017

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## *ACRONYMS*

ACHPR	African Charter on Human and Peoples' Rights
AEUP	All Ethiopian Unity Party
ANC	African National Congress
AV	Alternative Vote
BV	Block Vote
CEDF	Coalition of Ethiopian Democratic Front
CUD	Coalition for Unity and Democracy
EDP	Ethiopian Democratic Party
EPRDF	Ethiopian People Revolutionary Democratic Front
EPRP	Ethiopian People Revolutionary Party
FDRE	Federal Democratic Republic of Ethiopia
FPTP	First Past the Post
HoF	House of Federation
HPR	House of Peoples' Representatives
ICCPR	International Covenant on Civil and Political Rights
IDEA	International Institute for Democracy and Electoral Assistance
MMP	Multi Member Proportional
MP	Member of Parliament
NEBE	National Electoral Board of Ethiopia
OFDM	Oromo Federalist Movement

PBV	Party Block Vote
PR	Proportional Representation
SADC	South African Development Community
SMD	Single Member District
STV	Single Transferable Vote
TGE	Transitional Government of Ethiopia
TRS	Two Round System
UDF	Unity for Democratic Front
UDHR	Universal Declaration on Human Rights
UDJ	Unity for Democracy and Justice
UN	United Nations
UNHRC	United Nations Human Rights Council

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## ABSTRACT

*Crafting the best electoral system is a vital event in a given country's constitution building. However, no single electoral system is immune from criticism in the electoral results it produces. The Ethiopian electoral system that is enshrined in the FDRE constitution is the first-past-the-post system. This thesis assesses whether the Ethiopian current electoral system needs a reform or not by analyzing the results of the last three national elections and elucidates what impact the reform will bring if it materializes. It does so by examining the efficacies that the current Ethiopian electoral system has and by critically analyzing the 'would have been' results if the proposed electoral system was in practice. Given the fact that Ethiopia is a nation of nations and multi-cultural state, the relevance of FPTP is challenged. Careful prioritization of combined yardsticks is an advisable step for states in designing their electoral system. This could not be an exception to Ethiopia. Thus, the most representative electoral system of proportional representation suits for Ethiopia paying due attention to its context.*

**Key words:** Election, Electoral system, Ethiopia, First Past the Post, Proportional Representation

## Chapter One

### Introduction

#### 1. Background of the Study

Designing the most effective and representative electoral system plays a vital role in maintaining a stable and democratic political system in a given nation. International agencies have used a triple strategy to promote democracy. Institution building has been one priority. Civic society has been another. But among all the strategies, attempts to establish competitive, free and fair elections have attracted the most attention.<sup>1</sup> The findings of modern political science drive us away from populist models and towards models of ‘democratic elitism’.<sup>2</sup> According to Schumpeterian conception, democracy is understood as ‘the institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for people’s vote’.<sup>3</sup> This is the least accepted conception of democracy.

Electoral democracy is arguably central in the conception of democracy. The realist approach depicts it as having no ends in itself; it is seen as just an institutional method to soften or compromise the elite rule of representative government.<sup>4</sup> In the other approach, the liberal approach, the law is considered as part of a quest for deeper values or loftier purposes such as: political liberty, equality and deliberation, which are derived from liberal political philosophy.<sup>5</sup>

The ideal goal of democracy is empowering the people through popular rule.<sup>6</sup> Electoral systems are mechanisms to succeed the goals of democracy. Hence, ‘electoral processes are servants of participation, authorization, representation and accountability altogether thereby they can be measured based upon these criteria’.<sup>7</sup>

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<sup>1</sup>Pippa Norris(2003), ‘Electoral Engineering: Voting Rules and Political Behavior’, Harvard University, p. 2 Available also at [www.pipanorris.com](http://www.pipanorris.com)

<sup>2</sup> Robert E. Goodin(2007), ‘Political Science’, in Robert E. Goodin, Philip Petit and Thomas Pogge, ‘A Companion to Contemporary Political Philosophy’, Blackwell Publishing, Vol. II, 2<sup>nd</sup> ed., p. 187

<sup>3</sup> Schumpeter J.(1943), ‘Capitalism, Socialism, and Democracy’, George Allen and Unwin, London, p. 269

<sup>4</sup> Graeme Orr(2014), ‘Ritual in the Law of Electoral Democracy’, in Glenn Patmore and Kim Rubenstein(eds.), ‘Law and Democracy: Contemporary Questions’, ANU Press, Canberra, p. 116

<sup>5</sup> Ibid, p. 117

<sup>6</sup> David Beetham, Edzia Carvalho, Todd Landman and Stuart Weir(2008), ‘Assessing the Quality of Democracy: A Practical Guide’, IDEA, p. 8

<sup>7</sup> Ibid, p. 27

Electoral democracy has its own rivals. It, however, is backed by three major justifications for favoring it. In a democracy, the need to be elected and re-elected forces political leaders to reach out and listen, to gather valuable but widely scattered knowledge from all those on whose vote they depend.<sup>8</sup> The other reason is that if the democratic process works properly, it also involves deliberation, the formulation and discussion of arguments.<sup>9</sup> The third basis for a strong presumption in favor of electoral democracy resides in its nature of increasing the probability that everyone will willingly comply with the decisions.<sup>10</sup> Electoral system is meant to serve these purposes of democracy.

An ‘electoral democracy’ is commonly understood as the rules that govern how votes obtained by a political party or candidates are translated into representatives(seats) in a representative body, and the interaction between these and party behavior.<sup>11</sup> It is a means to an end called representative democracy. This, however, does not mean that the mere existence of electoral system guarantees democracy. There is a lot to do on choosing and implementing a specific electoral system. Broadly speaking, there are three families of electoral systems: Plurality-Majority systems, Proportional systems and mixed systems.<sup>12</sup> Choosing between these systems demands consideration of a lot of elements. Crafting the best electoral system is analogized to the term ‘electoral engineering’ to describe the development and implementation of constitutional and legal frameworks aimed to achieve the best goals.<sup>13</sup>

The Ethiopian electoral system falls in the first category i.e plurality-majority system. The Federal Democratic Republic of Ethiopia constitution envisages the *first-past-the-post* electoral system which is criticized for resulting in the least representative legislature. Unique federal structure combined with complex societal classification in the country necessitates a careful

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<sup>8</sup> Philippe Van Parijs(2014), ‘Electoral Democracy and its Rivals’, p.47 available at [http://www.google.com.et/url?q=https://cdn.uclouvain.be/public/Exports%2520reddot/etes/documents/2014/.Electoral\\_Democracy\\_rebel.pdf&sa=U&ved=2ahUKEWja1LPuMXyAhVrDJoKHUYbA\\_EQFjAAgQIFhAA&usg=AOvVawOmCGBbNpqZpfNmV8dD5lyZ](http://www.google.com.et/url?q=https://cdn.uclouvain.be/public/Exports%2520reddot/etes/documents/2014/.Electoral_Democracy_rebel.pdf&sa=U&ved=2ahUKEWja1LPuMXyAhVrDJoKHUYbA_EQFjAAgQIFhAA&usg=AOvVawOmCGBbNpqZpfNmV8dD5lyZ)

<sup>9</sup> Ibid

<sup>10</sup> Id.

<sup>11</sup> Alan Wall and Mohamed Salh(2007), ‘Engineering Electoral Systems: Possibilities and Pitfalls’, NIMD Knowledge Centre, The Hague, p. 5

<sup>12</sup> See generally Andre Blais(1988), ‘The Classification of Electoral Systems’, European Journal of Political Research 16, p. 99-110

<sup>13</sup> Alan Wall and Mohamed Salh, Supra note 11, p. 6

framing of a mechanism to accommodate the votes of the diverse interests. Lately, the Ethiopian government has announced that it has a plan to reform the existing electoral scheme.

In this paper, it is tried to elucidate the theoretical conception of electoral democracy, the types of electoral systems, and what considerations to be taken into account while choosing among the systems. Moreover, the need and consequence of the Ethiopian electoral system reform will be thoroughly analyzed taking the experiences of other states' as a model.

## **2. Statement of the Problem**

Ethiopia's opt for *the first-past-the-post* electoral system has given rise to a lot of debates. The first point forwarded against it is its lack of efficacy to accommodate minorities. The simplicity and cost-effectiveness is the counter argument thrown from the other side favoring it. When it comes to electoral systems' consequences, the key variables are whether the system is proportional or majoritarian, how many members are elected from each district, whether there is an imposed threshold for representation, whether voters can choose between candidates as well as parties, and where minority voters live (clustered together or geographically dispersed).<sup>14</sup> Reforming the existing system may be accompanied by results which are unsuitable to the overall political structure unless due consideration is made.

## **3. Research Questions**

- What priority is the Ethiopian electoral system sought to realize?
- Whether the Ethiopian electoral system needs a reform?
- What implications will be entertained if the current Ethiopian electoral system is revised?
- What points shall be taken into account if the reform realizes?
- What Lessons Ethiopia can learn from other states' experience of electoral system design and reform?

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<sup>14</sup>Andrew Reynolds(2006), 'Electoral Systems and the Protection and Participation of Minorities', Minority Rights Group International, p. 5

## **4. Objective of the Study**

### **I. General Objective**

Electoral system engineering encompasses a number of elements within it. This study aims to examine the generally accepted ingredients in electoral system design and reform processes so that Ethiopia derives its own framework taking the peculiar features of the state.

### **II. Specific Objectives**

In order to achieve the above objective the research has the following specific objectives:-

- To briefly explore the major electoral systems;
- To examine the pros and cons of different electoral systems;
- To assess the existing Ethiopian electoral system in light of other countries experiences;
- To critically analyze the need or otherwise for the current Ethiopian electoral system reform;
- To examine the extent to which the Ethiopian electoral system to be revisited;
- To critically analyze the implications of the reform;
- To point out the unique elements in the Ethiopian political structure that should be considered while reforming the current electoral system.

## **5. Scope of the Study**

The research encompasses the brief overview of the role of elections in democracy; the basics of the different types of electoral systems and how other states have managed to craft their electoral system vis-à-vis with their experience in reforming it. Basically, this study is devoted to the critical examination of the need for the Ethiopian electoral system of *first-past-the-post*. In doing so, the study stretches to the internationally accepted norms in the electoral engineering and experiences of other states.

## **6. Significance of the Study**

Choosing between electoral systems has been a debatable issue in constitution making and even at a drafting stage. The point goes more curious when an electoral system is going to be reformed. Electoral systems are the basic instruments in turning the votes of the electorate to a

living democracy in the legislature. This makes it too much sensitive. Due care has to be given in designing an electoral system.

The Ethiopian federal structure amalgamated with the number of minority societal groups in the country; choosing and reforming electoral system holds major place in the state-building process and at the same time the democratic representation of diverse interests in the parliament.

The need to reform the *first-past-the-post* electoral system may arise from different reasons. But, the consequences may end-up with unwanted outcomes. Hence, this study gives general outlooks with regards to the benefit that Ethiopia is deriving from the current electoral system; the shortcomings of the same; the reasons necessitating the electoral system reform and points to consider while designing a new electoral system in divided societies. By forwarding possible way outs to compromise the competing and conflicting interests and ideas on the issue, the study tries to signify the best measures to be taken. These all contribute to the policy framers, politicians and for further research on the issues encompassed.

## **7. Research Methodology**

The study employs both primary and secondary sources. The topic being more of theoretical by its nature immense literature on the issue will be advised. Moreover, interviews with the concerned public officials and personalities will be valuable input to the research. Legislations, National Electoral Board reports and other scholarly writings are also major sources that the study will rely on.

## **8. Limitation of the Study**

The major problem that this study will face is the unavailability and reluctance of public officials and other concerned bodies to give information about the issue. The topic addressed in the research is not yet comprehensively covered by domestic scholars and writings; so that, the study depends its analysis on web sources and writings in other states.

The other limitation of the study will be time and financial scarcity from the side of the researcher.

## **9. Organization of the Study**

The Ethiopian electoral system is currently that of plurality-majority system. The FDRE government recently has announced it has a plan to revisit this system. In order to understand the notion of electoral democracy in general and electoral systems in particular giving due attention to the Ethiopian electoral system reform and its implication, the study is organized in five chapters.

The first chapter deals with the background, statement of the problem, research questions, objective, scope, significance, methodology, limitation and organization of the study. The second chapter is devoted to the theoretical underpinnings of electoral systems giving the general overview of electoral democracy, electoral systems and their reform. The following chapter discusses about the Ethiopian electoral system in light of other states' experiences. The fourth chapter explores the need to reform the current Ethiopian electoral system. The final chapter recaps the findings of the study by giving its recommendation.

## **Chapter Two**

### **The Theoretical Underpinnings of Electoral Systems**

#### **2.1 Electoral Democracy: General Notion**

Democratic governance has currently got dominance over other forms of government. Embracing democracy mostly brings legitimacy to the system. Citizens in countries that have not ushered a democratic dispensation demonstrate their aspirations for freedom, dignity and the opportunity to elect government of their own choice.<sup>15</sup> Democracy has so many faces. Electoral direct and indirect democracies are among these. The use of the former triggers two competing arguments. Oversimplifying them, the first is the strict approach- that direct-voting of any kind, whether referendums, citizens' initiatives or recall votes, should be avoided as it diminishes representative democracy. The second stand is that of enthusiast- that there are few situations in

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<sup>15</sup> David Beetham, EdziaCarvalho, Todd Landman and Stuart Weir(2008), 'Assessing the Quality of Democracy: A Practical Guideline', IDEA, p. 8

which the use of the direct vote of the people is not an appropriate way to determine the will of the people.<sup>16</sup>

Electoral democracy is comprised of many elements. Among these are: the voting mechanism, the electoral process, the costs of election, ballot laws, independence of electoral management bodies(EMBs) and financing political organs. Elections can further democracy, development, human rights, and security, or undermine them, and for this reason alone they should command attention and priority. More than 50 countries have embraced democracy in the last 20 years and now struggle to consolidate democratic governance. Global recession and rising economic inequality are putting pressure on many democracies, including older ones, to show that they are relevant to citizens' concerns and wellbeing.<sup>17</sup> From this follows that by the mere fact that states embrace democracy does not necessarily result in the equity that the public at large demands.

The right to political participation and representation is a basic human right that endows the wider public the political power. Due to this, the need to give due protection of the right resembles with laying down the safe ground for the effective exercise of other human rights. Free and fair elections are the major instrument in achieving the same. The derogation of electoral rights may invite violence and civil unrest.

There is no prescription of an electoral system to be used. However, public international law tries to provide some guidance on the inclusivity and transparency of any given system so that it assures to uphold fundamental rights and freedoms.<sup>18</sup>The Universal Declaration on Human Rights(UDHR) and the International Covenant on Civil and Political Rights(ICCPR) are among the recognizable international human right documents clearly appraising the right to political participation. As most legal scholars categorize, the right to political participation falls under the civil and political rights catalog. The UDHR is the first comprehensive human rights instrument to be proclaimed by a universal international organization.<sup>19</sup>Under Article 21, it is declared that everyone has the right to take part in the government of his country, directly or through freely

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<sup>16</sup> Virginia Barendi, Andrew Ellis, Bruno Kaufman, Miriam Kornblith, Larry LeDuc, Paddy McGuire, Theo Schiller and PelleSvensson(2008), 'Direct Democracy', The International IDEA Handbook, p. 1

<sup>17</sup> The Report of the Global Commission on Elections, Democracy and Security(2012), p. 5 also available @ [https://www.google.com/url?sa=t&source=web&rct=http://ycsg.yale.edu/sites/default/files/files/deepening\\_democracy.pdf&ved=0ahUKEwi-5buq8aPUAhVCthQKHxYCSUQFghtMAG&usg=AFQjCNE0OfhTqz1H2b1748yUKuUc2E0SSg](https://www.google.com/url?sa=t&source=web&rct=http://ycsg.yale.edu/sites/default/files/files/deepening_democracy.pdf&ved=0ahUKEwi-5buq8aPUAhVCthQKHxYCSUQFghtMAG&usg=AFQjCNE0OfhTqz1H2b1748yUKuUc2E0SSg) visited June 4, 2017 at 1:00 pm

<sup>18</sup> The Carter Center(2014), 'ELECTION OBLIGATIONS AND STANDARDS: A CARTER CENTER ASSESSMENT MANUAL', Atlanta, p. 54 also available at [www.cartercenter.org](http://www.cartercenter.org)

<sup>19</sup>See generally Asbjorn Eide(1992),'The UDHR: A Commentary', et al ed., 66 Notre Dame L. Rev

chosen representatives; and, the will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure.

It can easily be inferred from the above provisions of UDHR that the right to take part in public affairs is determined either through referendum or election as it is respectively enshrined directly or through chosen representatives. The Declaration is now considered to be an authoritative interpretation of the UN Charter, spelling out in considerable detail the meaning of the phrase “human rights and fundamental freedoms” which member states agreed in the Charter to promote and observe. It has, as an authoritative listing of human rights, become a basic component of international customary law binding all states, not only members of the United Nations.<sup>20</sup> Therefore, it can reasonably be concluded that states cannot easily deviate from the UDHR standards to which the right to vote and to be elected is no exception.

The other major human rights document regarding electoral rights is the ICCPR. This covenant assures the human rights vis-à-vis the respective obligations of states to observe and respect the same.<sup>21</sup> It is under Article 25 of ICCPR that we can find the comprehensive electoral rights. It provides: Every citizen to have the right and opportunity, without distinction of any kind, such as race, colors, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

This provision lies at the core of democratic government based on the consent of the people and in conformity with the principles of the Covenant.

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<sup>20</sup>The Report of the Global Commission on Elections, Democracy and Security, *Supra* note 17, p.37

<sup>21</sup> See ICCPR, Preamble

The Regional human rights document, the African Charter on Human and Peoples Rights (ACHPR, 1981), under Article 13, also stipulates that every citizen shall have the right to participate freely in the government of his country, either directly or through chosen representatives in accordance with the law.

Electoral systems are set to implement these rights into reality. While the human rights documents prescribe the rights to elect and to be elected, the electoral system lays the way how to achieve the best result out of them. Hence, the latter is a means to an end and not an end by itself. The purpose of an election is to produce a parliament that most represents the votes of the elector.<sup>22</sup> Elections are instrumentalities for the actualization of democracy. The general concept of representative politics contains “a lot of interrelated yet somehow different aspects in which social representation connotes that representatives resemble the voters in terms of their social aspirations, the best examples being: ‘women’s representation’, ‘minority representation’ and ‘ethnic representation’.”<sup>23</sup> Elections must come up with a result that adequately represents the society’s will. Generally speaking, ‘majoritarian electoral systems are worse at representing a variety of social divisions and social interests than PR systems are. However, in a homogenous society, plurality systems will be very much effective at social representation.’<sup>24</sup> A summary of what elections should look like under Article 25 of the ICCPR is contained in General Comment 25 of the UNHRC that states:

*“Although the Covenant does not impose any particular electoral system, any system operating in a state party must be compatible with the rights protected by Art.25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each state’s electoral system, the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right to citizens to choose their representatives freely.”<sup>25</sup>*

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<sup>22</sup> Ronald Johnston (1979), ‘Political, Electoral and Spatial Systems: Contemporary Problems in Geography’, Oxford University Press, p. 53

<sup>23</sup> Cees Van der Eijk and Mark N. Franklin (2009), ‘Elections and Voters’, Palgrave Macmillan Publishers, p. 213

<sup>24</sup> Ibid, p. 15

<sup>25</sup> General Comment by the UN Human Rights Committee concerning Article 25 of the ICCPR

At a minimum level, democracy connotes equality between citizens and their effective engagement in governance through representation and participation in governmental decision making.<sup>26</sup> Even though the above general comment does not prescribe any specific electoral system, the mode of representation and how vote of the electorate is administered to turn it into national seats is an important aspect of constitution building and for the viability of a given democratic system.

## 2.2 Types of Electoral Systems

At the most basic level, electoral systems translate the votes cast in a general election into seats won by parties and candidates. The key variables are the electoral formula used (i.e. whether a plurality/majority, proportional, mixed or other system is used, and what mathematical formula is used to calculate the seat allocation), the ballot structure (i.e. whether the voter votes for a candidate or a party and whether the voter makes a single choice or expresses a series of preferences) and the district magnitude (not how many voters live in a district, but how many representatives to the legislature that district elects).<sup>27</sup> Generally, we can think of electoral system as the method by which voters make a choice between different options. More specifically, we can think of electoral systems as being comprised of a set of crucial choices- in particular, who is to be elected, and how?.<sup>28</sup> There are a large number of electoral systems currently in use across the Globe.

*An electoral system has three main tasks:*

- *To translate the votes cast into seats won in a legislative chamber;*
- *To act as the conduit through which the people can hold their elected representatives accountable; and*
- *To give incentives to those competing for power to frame their appeals to the electorate in distinct ways.*<sup>29</sup>

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<sup>26</sup>Markus Böckenförde, Nora Hedling and WinluckWahiu(2011), 'A Practical Guide to Constitution Building', International IDEA, p. 8

<sup>27</sup>Andrew Reynolds, Ben Reilly and Andrew Ellis(2008), 'Electoral System Design: The New International IDEA Handbook', International IDEA, Para. 14

<sup>28</sup> John Ti Ishiyama(2012), Principles of Democracy and Democratization, 1<sup>st</sup> ed., Blackwell Publishing Ltd., p.158

<sup>29</sup>International IDEA(2002), 'International Electoral Standards Guidelines for reviewing the legal framework of elections', Guidelines Series, p. 22

The most common way to look at electoral systems is to group them according to how closely they translate national votes won into legislative seats won, that is, how proportional they are by taking into account the votes-to-seats relationship and the level of wasted votes.<sup>30</sup> For the sake of simplicity, however, the electoral systems are usually categorized into three broad families.<sup>31</sup> These are: plurality/majority systems, proportional systems, and mixed systems. In these three groups, we can find around 12 electoral systems in total. Breaking the electoral system into its components is an alternative approach to classification. The three main components are distinguished as: ‘district magnitude’, ‘electoral formula’, and ‘ballot structure’. District magnitude refers to the size of the constituency measured in terms of the number of seats to be filled. Electoral formula denotes the mathematics by which votes are counted to allocate seats. Whereas the ballot structure determines how voters determine their choice either by categorical ballots (where voters are given a simple either/or choice between candidates or parties) or ordinal ballots (where voters can vote for all the candidates in order of their preference).<sup>32</sup> In what follows, so as to address both ways of classification, it is tried to overview the major electoral system types and their respective categories in brief.

### **2.2.1 Plurality/Majority Electoral systems**

The principle of plurality/majority systems is simple. After votes have been cast and totaled, those candidates or parties with the most votes are declared the winners. The five varieties of this system can be identified: First Past the Post(FPTP), Block Vote(BV), Party Block Vote(PBV), Alternative Vote(AV), and the Two Round System(TRS).<sup>33</sup>

The FPTP is the simplest form of plurality/majority electoral system. The winning candidate is the one who gains more votes than any other candidate, even if this is not an absolute majority of valid votes. It uses single member districts and the voters vote for candidates rather than political parties. Block Vote(BV), on the other hand, is simply the use of plurality voting in multi-member districts. In Party Block Vote(PBV), voters have a single vote and choose between party lists of

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<sup>30</sup>Andrew Reynolds, Ben Reilly and Andrew Ellis, *supra* note 27, para. 63

<sup>31</sup> *Ibid*, para. 9

<sup>32</sup> Elisabeth Carter and David M. Farrell(2009), ‘Electoral Systems and Election Management’, in Dick Niemi and Pippa Norris(eds), ‘Comparing Democracies 3’, London: Sage, p. 2-3 also available at [https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.ucd.ie/t4cms/farrell\\_carter\\_electio\\_management.pdf&ved=0ahUKEwjYmeLZqsXUAhUJtxQKHSyqCIMOQFggsMAM&usg=AFQjCNEmgMSmCHLfock1IMnYZjNI\\_Ds\\_YbA&sig2=1GQOivg03iU4R5\\_RDfECTw](https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.ucd.ie/t4cms/farrell_carter_electio_management.pdf&ved=0ahUKEwjYmeLZqsXUAhUJtxQKHSyqCIMOQFggsMAM&usg=AFQjCNEmgMSmCHLfock1IMnYZjNI_Ds_YbA&sig2=1GQOivg03iU4R5_RDfECTw) visited at June 17/2017 7: 15 pm

<sup>33</sup>Andrew Reynolds, *supra* note 14,p. 35

candidates rather than between individuals and the party which wins most votes takes all the seats in the district. Whereas Alternative Vote(AV) is a preferential used in a single-member districts. Voters use numbers to mark their preferences on the ballot paper. A candidate who receives an absolute majority(50 percent plus1) of valid first preference votes is declared elected. If no candidate achieves an absolute majority of first preferences, the least successful candidates are eliminated and their votes are reallocated according to their second preferences until one candidate has an absolute majority. The last type in the plurality system is the Two Round System. In this case, as the name indicates, a second election is held if no candidate or party achieves a given level of votes in the 1<sup>st</sup> election round.<sup>34</sup>

### **2.2.2 Proportional Electoral Systems**

The Proportional Representation(PR) System is praised for the way it faithfully translate votes cast into seats won. The rationale underpinning all PR systems is the conscious translation of a party's share of the votes into a corresponding proportion of seats in the legislature.<sup>35</sup> The two types of PR systems are: the List Proportional Representation(List PR) and Single Transferable Vote(STV). In the former one, each party presents a list of candidates for multi-member districts; the voters vote for a party, and parties receive seats in proportion to the overall share of the vote. In the latter case, the voter ranks the candidates in multi-member districts and the candidates that surpass a specified quota of 1<sup>st</sup>-preference votes are immediately elected. In successive counts, votes are redistributed from least successful candidates, who are eliminated, and votes surplus to the quota are redistributed from successful candidates, until sufficient candidates are declared elected.<sup>36</sup>

### **2.2.3 Mixed (Combined) Systems**

Under these systems, there are two varieties: the Multi Member Proportional (MMP) in which the choices expressed by the voters are used to elect representatives through two different systems-List PR and Plurality/Majority systems where the List PR system compensates for the

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<sup>34</sup>Ibid, p.35-52

<sup>35</sup> Id, p.57

<sup>36</sup> Id, p.60, 77

disproportionate results from the plurality/majority system.<sup>37</sup> The second type is that of a parallel system by which the seats are divided into Plurality/Majority and PR systems.

Of the 199 countries and territories which have direct elections to the legislature, just under half (91, or 46% of the total) use a variant of plurality. Another 72 (36%) use PR-type systems; 30 (15%) use mixed systems; and only six (3%) use one of the other systems.<sup>38</sup> From this follows that, Plurality-Majority electoral family is the most widely used system in the world.

All these electoral systems have both advantages and shortcomings in their application which will be dealt with in next sections while addressing other issues.

Choosing between electoral systems is one of the most important aspects of constitution-building. So that:

*'It should ensure that the political cleavages of a society are properly addressed by the electoral legal framework in such a way that the main conflicts and differences between and among social groups can be accommodated through the system of political representation.'*<sup>39</sup>

So as to assure the inclusiveness and representativeness of the electoral system it should be engineered in a well-designed manner taking into account of different political system elements.

### **2.3 Choosing among Electoral Systems: Considerations to Make**

Crafting of an electoral system impacts the overall political system of a given country. There is, however, no agreement as to which electoral system is best for upholding democratic gains. Similar electoral systems may give rise to opposite results in two different countries. Hence, careful designing of it is a vital element in constitutional building process.

Dominant parties may favor the 'winner-takes-all' electoral systems so that they can maintain their legacy.<sup>40</sup> Every single electoral system has its own advantages as well as disadvantages. Distinct features of every nation demands consideration in constitution building in general and electoral system in particular as there is no 'one size can fit all' system at any measurement.

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<sup>37</sup> *Id*, p.95

<sup>38</sup>Alina Rocha Menocal(2016), 'Why electoral systems matter: an analysis of their incentives and effects on key areas of governance', Overseas Development Institute, p. 5

<sup>39</sup>International IDEA(2002),supra note 29, p.21

<sup>40</sup> Markus Böckenförde, Nora Hedling and Winluck Wahi, Supra note 26, P. 34, 185

States are advised to take in to account the following points while choosing their electoral systems:

- ensuring a representative parliament;
- making elections accessible and meaningful;
- providing incentives for conciliation;
- facilitating stable and efficient government;
- holding the government and representatives accountable;
- holding individual representatives accountable;
- encouraging ‘cross-cutting’ political parties;
- promoting legislative opposition and oversight;
- making the electoral process sustainable; and
- Taking into account ‘international standards’.<sup>41</sup>

From this follows that electoral systems can be most precisely be examined based upon the combined yardsticks of the above points. Prioritizing the goals set to be achieved by the electoral system is another important aspect of crafting a new electoral system. This holds true not only for new choices but also reforms; though the latter may have some distinction as it is after trial of some system that the state is going to reform it. Amalgamation of interests and innovative way outs are critical in doing so.

*‘The choice of an electoral system should ensure that the political cleavages of a society are properly addressed by the electoral legal framework in such a way that the main conflicts and differences between and among social groups can be accommodated through the system of political representation. This is to guarantee political inclusiveness and representation. Thus the choice of electoral system is best approached as an exercise in which particular goals (e.g., proportional election outcomes, strong local district representation) are first enumerated, before moving on to consider which electoral*

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<sup>41</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis(2005), ‘Electoral System Design: The New International IDEA Handbook’, IDEA, p. 9-14

*system is most likely to deliver such goals in the context of a particular country's social, political, geographic and historical situation.*<sup>42</sup>

In countries where there is an ethnic cleavage and divided societies, constitutional designers are bound to embrace a scheme whereby the diverse interests of the country is reflected and accommodated. As an overall part of constitutional engineering, there are four major options relevant to electoral system choices: ‘*consociation* (power sharing and representation through list-PR), centripetalism (making politicians reciprocally dependent on others’ vote using AV), integrative consensualism (cross-cutting ethnic cleavages) and explicitism (fixed ethnic representation).’<sup>43</sup> The entrenchment of a winner-takes-all system in divided societies is not the ideal choice.<sup>44</sup> In this regard, Lijphart has commented that:

*“For divided societies, ensuring the election of a broadly representative legislature should be the crucial consideration and PR is undoubtedly the optimal way of doing so.”*<sup>45</sup>

Even though there are such kinds of assertions, a holistic approach is expected to be devised to attain the best outcome. Choosing between electoral systems then demands, among other things, the taking into consideration of the country’s context; enumerating the goals to be attained and prioritizing among them.

## **Chapter Three**

### **The Ethiopian Electoral System**

#### **3.1 General Overview**

Most African countries have adopted the electoral system that most pertains to their colonizers.<sup>46</sup> However, the continent is yet struggling to conduct peaceful and democratic elections in its

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<sup>42</sup> IDEA, ‘International Electoral Standards: Guidelines for Reviewing the Legal Frameworks of Elections’, Guidelines Series, IDEA, p. 21

<sup>43</sup> See generally Ben Reilly and Andrew Reynolds(1999), ‘Electoral Systems and Conflict in Divided Societies’, National Academy of Sciences, Papers on International Conflict Resolution, p. 27-42 also available at <http://www.nap.edu/catalog/9434.html>

<sup>44</sup> Markus Böckenförde, Nora Hedling and Winluck Wahi, Supra note 26, P. 190

<sup>45</sup> Arend Lijphart(2004), ‘Constitutional Design for Divided Societies’, Journal of Democracy, Vol. 15, No. 2, p. 100

member states. Ethiopia being a non-colonized African state may be said it has chosen its own. Accommodation of minority rights is one of the decisive factors to be considered while opting for an electoral system. In the current Ethiopia, the least representative electoral system is in practice i.e *the first-past-the-post* (FPTP). The main argument behind this electoral system, originally developed by Maurice Duverger, is that “because only one candidate from one party can win, candidates tend to cast a wide net to secure as broad a base of support as possible, and this tends to provide inducements for the aggregation of different interests into a fewer number of political parties, which normally should be no more than two.”<sup>47</sup> His conception is more elucidated as follows: ‘Duverger’s belief emanates mainly from his perception that it is natural to have a political dualism. His law of simple-majority single ballot system favors the two-party system mainly depends on two factors: mechanical and psychological factors. These connote the phenomena of polarization and underrepresentation respectively.’<sup>48</sup> He described them as

*“...the mechanical effect refers to electoral systems’ systematic underrepresentation (in the share of legislative seats as compared to popular votes) of ‘3<sup>rd</sup>’ parties. While the psychological effect refers the tendency for votes, realizing that votes for minor parties are not effectively translated into seats, to rally to what they consider the less unacceptable of the two major parties.”<sup>49</sup>*

This law is not holding water in so many African democracies which have entrenched a plurality-majority electoral system in their election process.<sup>50</sup> In a multi-ethnic, multi-lingual and multi-cultural state like Ethiopia, inadequate representation of minorities may cause ‘trauma’ to the effective functioning of the democracy itself.

The Ethiopian electoral system is designed as plurality/majority system i.e *the first-past-the-post*. Article 56 of the 1995 FDRE Constitution provides that “a political party or coalition of political

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<sup>46</sup>Goran Hyden(1993), ‘Electoral Systems Reform’, in Inter Africa Group, ‘Genesis of the Ethiopian Constitution of 1994’, p.18

<sup>47</sup> Maurice Duverger(1954), ‘Political Parties: Their Organization and Activity in the Modern State’, Methuen Co & Ltd, London, p. 17

<sup>48</sup>Andre Blais and R. K. Carty(2011), ‘The Psychological Impact of Electoral Laws: Measuring Duverger’s Elusive Factor’, in David M. Farrell and Mathew Shugart(eds.), ‘Electoral Systems’, SAGE Publications Ltd, Vol. II, p.101

<sup>49</sup>Ibid

<sup>50</sup> See generally Staffan Lindberg(2005), ‘Consequences of Electoral Systems in Africa: A Preliminary Inquiry’, Electoral Studies, Vol.24, 41-64

parties that has the greatest number of seats in the House of Peoples Representatives(HPR) shall form the executive and lead it.”<sup>51</sup> The more ‘pluralistic’ constitutional provision states:

*Members of the House of Peoples Representatives shall be elected from candidates in each electoral district by a plurality of the votes cast.*<sup>52</sup>

This, in other words, means that a candidate who secures the highest number of votes in any given electoral constituency is guaranteed to win the seat without being expected to have any majority of votes. The Amended Ethiopian Electoral Law further strengthens the constitutional provision with regards to the FPTP electoral system. Under the title ‘Electoral System’, it proclaims that:

A candidate who received more votes than other candidates within a constituency shall be declared the winner.<sup>53</sup>

This principle applies for all kinds of elections in the country. Elections conducted in Ethiopia are: General election, Local election, By-election, Reelection and Referendum.<sup>54</sup> Article 54/2 of the 1995 FDRE Constitution cumulative with Article 25 of the Electoral law of Ethiopia Amendment Proclamation No. 532/2007 provides that members of the HPR elected based on plurality of votes cast. Moreover, it is constitutionally stipulated that “...provisions shall be made by law for special representation for minority nationalities and peoples. Members of the House shall not exceed 550; of these, minority nationalities and peoples shall have at least 20 seats.”<sup>55</sup>

The inclusion of this constitutional provision is one appreciable approach. However, envisaging this mechanism of having reserved seats for defined minorities is of a lesser way out in solving the inevitable minority-majority flux.<sup>56</sup> The HPR is said to be the house of representatives of the

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<sup>51</sup>Proclamation No. 1/1995, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia, *Federal Negarit Gazeta*, 1st Year No.1, Addis Ababa, Art. 56

<sup>52</sup> Ibid, Art. 54

<sup>53</sup>Proclamation No.532/2007, ‘Electoral Law of Ethiopia Amendment’, *Federal Negarit Gazeta*, 13th Year No. 54, Addis Ababa, Art. 25

<sup>54</sup> Ibid, Art. 27

<sup>55</sup>FDRE Constitution, Supra note 51, Art. 54(2) cum.(3)

<sup>56</sup> Andrew Reynolds (2006), ‘Electoral Systems and the Protection and Participation of Minorities’, *Minority Rights Group International*, p. 6

Ethiopian people as a whole.<sup>57</sup> However, the FPTP electoral system seems not in a way to attain this. Hence, the Francesco Capotorti's definition of minority works here. It is defined as:

*“ a group, numerically inferior to the rest of the population of a state, in a non-dominant position, whose members being nationals of a state possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religions or language.”*<sup>58</sup>

From this definition, numerical inferiority, language...etc factors all suffice as determining minorities. Therefore, the votes wasted by the mere fact that they have not resulted in the highest cast belongs to the minorities. The constitutionally imposed threshold for minority representation as such makes no difference. Concerning this, Professor Minasea Haile has commented that:

*“The Ethiopian Constitution reflects the danger of the center being hijacked by a few more populous ethnic groups which may affect the aims of nation building when it provides that the number of the HPR's seat shall not be more than 550. Discounting the minority seats, the number of members of HPR will not exceed 530. In the HPR, the populous ethnic groups (the Oromos and the Amharas) could have 304 members, a clear majority of the total membership of the HPR. In accordance with the Constitution, unless otherwise provided, all decisions of the House shall be a majority vote of members present and voting and quorum requirement is the presence of more than half of the members of HPR. Therefore, the combined votes of the Oromos and the Amharas would more than suffice for most of the businesses of the house.”*<sup>59</sup>

Besides HPR, the other federal house is the HoF which is composed of representatives of nations, nationalities and peoples in which each will have at least one representative. The same election casting system applies for the House of Federation except for The 1995 FDRE Constitution gives two alternatives of choosing the members: 1. to be elected by the state

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<sup>57</sup> FDRE Constitution, Supra note 51, Art.54

<sup>58</sup> Francesco Capotorti (1979), 'Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities', UN Doc. E/CN.4/Sub.2/384/ Rev.I., para.568

<sup>59</sup> Cited in TafesseOlika and Aklilu Abraham(2007), 'Electoral Politics, Decentralized Governance and Constitutionalism in Ethiopia', AAU Press, p. 37

councils or; 2. the councils may hold elections to have the representatives elected by the people directly.<sup>60</sup> The second alternative, however, has not yet been implemented in any Regional state.

Each nation, nationality and people shall have one additional representative for each one million of its population.<sup>61</sup> The HoF has no law-making power.<sup>62</sup> Even if it may be argued that the HoF is a house of Nations, Nationalities and Peoples, it can in no legal basis check the excess of democracy in the lower house. Dr. Assefa Fiseha has rightly commented that:

*“Although the Constitution guarantees the various nationalities ‘equitable representation’ in the federal government, close observation of Article 39(3) and 62 reveal that the right to equitable representation in federal government only ensures the various nationalities in the federal executive, in the mostly non-legislative House of the second chamber and perhaps in the federal agents, but not in the federal legislature.”<sup>63</sup>*

Another interesting point that comes to mind here is with regards to Article 62(3) that gives alternatives to choose HoF members directly or through state councils. Tokuma Daba firmly questioned the legitimacy of endowing this power to State councils by saying:

*“If one opposition party totally wins the required majority at Wolayita Zone and establish its Zonal government and the ruling party wins the required majority to establish a government at the State level, in the present scenario the ruling party because of its majority vote in the state council selects representatives in HoF for the Wolayita which the Nation neither directly nor indirectly elected.”<sup>64</sup>*

The drafting process of the FDRE constitution is criticized for not being inclusive.<sup>65</sup> This scenario is exacerbated when coming to the electoral system choice. During the drafting and the

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<sup>60</sup> FDRE Constitution, Supra note 51, Art. 61(3)

<sup>61</sup> Ibid, Art. 62(2)

<sup>62</sup> Ibid, Art. 62

<sup>63</sup>Assefa Fiseha(2007), ‘Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study’, Revised ed., Addis Abeba, Artistic Printing Enterprise, p.143

<sup>64</sup>Tokuma Daba(2010), The Legal and Practical Protection of the Rights of Minorities in Self-Administering Nations of Ethiopia: The Case of Oromia, AAU Law library, unpublished, p.74

<sup>65</sup> See generally James Paul(2000), ‘Ethnicity and the New Constitutional Orders of Ethiopia and Eritrea’, in Yash Ghai(ed.), ‘Autonomy and Ethnicity: Negotiating Competing Claims in Multi-Ethnic States’, Cambridge University

ratification process of the constitution, the electoral system was not a contentious issue.<sup>66</sup> One of the master minds behind this FDRE constitution, Fasil Nahum, on his book mentioned that “the First past the post electoral system that Ethiopia adopted is simple and widely used and no system guarantees proportionately balanced result.”<sup>67</sup>This, however, can be challenged as it has hastily generalized over all electoral systems.

The *First Past the Post(FPTP)* is the most common of single member district electoral systems.<sup>68</sup>Unsurprisingly the other feature of the Ethiopian electoral system is that it is a single member district. It is only one candidate who secured the highest votes is elected for the country’s legislative body-HPR.<sup>69</sup>The country is divided into a number of electoral districts which return a single representative each. The country’s whole territory, based on the number of population, is sub-divided into electoral constituencies which will not be more than 550.<sup>70</sup>Candidates must gain more votes than any other representative so that they will be elected to have a seat in the parliament. That is what is called the “*winner takes all*”. A candidate is not bound to attain any kind of majority. The mere fact that s/he got plurality of votes suffices to be declared the winner; and no other candidate who finishes next to him/her will be given any seat.

With regards to the ballot structure, it is about the candidates that voters chose for. A political party registered in the country can participate in an election by presenting its candidates to the electoral board; and, an individual can run for a poll if s/he fulfills the criteria for candidacy.<sup>71</sup>This, however, is not in *strictu sensu*. The political parties have the lion’s share in dominating the Ethiopian electoral process than their candidates or any given private candidate running for a poll. Moreover, the Ethiopian electoral law does not allow the voter the opportunity

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Press and Andualem Zewdie(2004), ‘Constitutional Formulation in Ethiopia: Since the Dergue’, AAU, PSIR, unpublished

<sup>66</sup>Addis Alem Balema(2003), ‘Economic Development and Democracy in Ethiopia’, PhD dissertation, Rotterdam: Erasmus University, p. 178 cited at Abraha Kahsay(2008), ‘Alternative Mechanisms of Electoral Systems for Vibrant Democracy And All Inclusive Representation in Ethiopia’, AAU, unpublished, p. 64

<sup>67</sup>Fasil Nahum(1997), ‘Constitution For A Nation of Nations: The Ethiopian Prospect’, The Red Sea Press, p. 68

<sup>68</sup> Simon Hix, Ron Johnston and Iain McLean(2010), ‘CHOOSING AN ELECTORAL SYSTEM’, British Academy Policy Center, p. 37

<sup>69</sup> Electoral Law of Ethiopia, Supra note 53, Art. 28(1)

<sup>70</sup> Ibid, Art. 20(1)

<sup>71</sup> Ibid, Art. 46(1) and (5)

to rank their order of preference or divide their votes among candidates.<sup>72</sup> It is only for one candidate that a given voter can choose for.

In general the Ethiopian electoral system is a single member district in district magnitude; a categorical ballot structure which confines the voter to elect for a single candidate only and more importantly, it is a winner-takes-all system by which anyone who secured the highest vote in a given constituency will be declared the winner of the legislative seat.

### **3.2 Comparing the Last three National Elections in terms of converting votes into Seats**

Elections made in pursuance of a given legal framework is a recent experience to Ethiopia which is a mosaic of different nations and nationalities with their own distinct cultural and psychological set-ups demanding a careful design of accommodative framework. The state had struggled to lay a constitutional arena accommodating the interests of these groups. For constitutional purposes the historical development of the Ethiopian state prior to the establishment of the current constitutional order may be divided into four unequal periods: the first, from pre-Christian times to the 18<sup>th</sup> century; the second, the *Zemene Mesafint*(Era of Princes); the third, the modern monarchical period; and the last, the Dergue's period.<sup>73</sup> The 1931 constitution, however, paved the first way for written constitution in the country's history. The Dergue's socialist regime lasted only after 17 years. The longevity of the constitutional orders had been interrupted due to the fact that they were infected at the birth as they were either given from the emperor or reflection of a single party. Even though Ethiopia had conducted elections earlier, it is after 1991 that it has begun to envisage a more comprehensive way of choosing its public representatives.

After a bloody civil war; the current government came to power in 1991 with the Transitional Government of Ethiopia(TGE) charter as its supreme law up until the FDRE's constitution promulgation. The Ethiopian People Revolutionary Democratic Front(EPRDF) quickly convened a peace and reconciliation conference in July 1991. A number of organizations(notably the Ethiopian People's Revolutionary Party, EPRP, Ethiopian Socialist Movement, MEISON, and Coalition of Ethiopian Democratic Front(CEDF) were excluded on the grounds that they refused

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<sup>72</sup> Ibid, Art. 74(1) b The cumulative reading of Art. 28 and 74(1)b of the Ethiopian Electoral law envisage that voters' ballot paper will be invalid if they have marked for more than one candidate.

<sup>73</sup> Fasil Nahum, Supra note 67, p.3

to surrender a commitment to the armed opposition.<sup>74</sup> The exclusion was imputable to the political ideology followed by the leading political organ.

One of the main promises entered by the TGE, led by EPRDF, was the democratization of politics.<sup>75</sup> To this determination the FDRE constitution has prohibited to assume state power in a way other than stipulated under the constitution.<sup>76</sup> This constitutional way of taking power is only through election. In a democratic system, elections do really matter.<sup>77</sup> This is true in Ethiopia *de jure*. The political organization must be legally registered and run for national elections so that they will be recognized as legitimate political power holders.

In an ideal democratic system, political decisions are the reflections of the ultimate preferences of the people. This, however, may be difficult to achieve in practice. That is why political parties are formed to be vehicles in transforming the wishes of the people into reality. In a representative democracy, elections are meant to serve the voters to express their political preferences by making choices between political parties and/or independent candidates.<sup>78</sup> While talking about representative democracy Electoral systems or the manner in which votes are translated into legislative seats are vital elements. This is because they are influential in key governance dimensions and dynamics.<sup>79</sup> Ethiopia had introduced a new state structure in 1991 which is a paradigm shift in many aspects of constitutional terms.

Since the inauguration of the 1995 FDRE Constitution, Ethiopia has conducted five general elections. The 1995, the 2000, the 2005, the 2010 and 2015 national elections are the major reflections of the same that were regularly being held in five years. Here, the study has limited itself to the last three national elections because the 2005 election results are different and the latter are similar with the remaining two. As the main purpose electoral system serves as an

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<sup>74</sup> Sarah Vaughan and Kjetic Tronvoll(2003), 'The Culture of Power in Contemporary Ethiopian Political Life', Sida Studies, No. 10, p. 26

<sup>75</sup> Ibid

<sup>76</sup> FDRE Constitution, Supra note 51, Art. 9(3)

<sup>77</sup> Cees van der Eijk and Mark N. Franklin(2009), 'Elections and Voters', Palgrave Macmillan Publishers, 1<sup>st</sup> ed., p. 220

<sup>78</sup> Ibid, p. 227

<sup>79</sup> Alina Rocha Menocal(2016), 'Why electoral systems matter: an analysis of their incentives and effects on key areas of governance', Overseas Development Institute, p. 1

instrumentality for is the converting of voters choices into national seats; the Ethiopian electoral system shall also be examined in this aspect.

The following table summarizes the 2005 election in pursuance of the votes and seats distribution between the major political parties that had participated in the election. This result is found by the first past the post electoral system that the country is currently using.

Table 1: Showing the votes and seats won by the major political parties in the 2005 National Election

Political Party/Coalition	Valid Votes Won	Votes in percent	Parliamentary Seats Won	Seats Won in Percent
EPRDF	10,260,413	60	327	65.5
CUD	4,594,668	27	109	21.84
UDF	1,741,670	10.2	52	10.42
OFDM	454,435	2.68	11	2.2
Total	17,051,186	100	499	100

*Source: National Electoral Board of Ethiopia(NEBE), 2005*

EPRDF won 60% of the votes which in turn resulted in victory of the 65.5% seats. If the system was PR, the result would have been different as the system obliges to apportion seats in conformity with the votes won. The table is based on the four parties' results. There are other parties which are considered as allied to EPRDF which secured the remaining seats of the parliament.

The 2005 election was considered as a major test for the EPRDF led government.<sup>80</sup>The other general election in Ethiopia was conducted in 2010 which had end up with a land sliding victory for the incumbent political party of EPRDF.

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<sup>80</sup>Merera Gudina(2012), 'Elections and Democratization in Ethiopia 1991-2010', Journal of Eastern African Studies, Vol. 5, Issue 4, p. 4 available online at <http://www.tandfonline.com/doi/full/10.1080/17531055.2011.642524?scroll=top&needAccess=true> visited at 12/10/2017 3:45 AM

Table 2: Showing the votes and seats won by the major political parties in the 2010 National Election

Political Party/Coalition	Total Votes Won	Parliamentary Seats Won	Percent of Total Votes Won	Percent of Seats
EPRDF	26,508,774	545	92.2	99.6
Ethiopian Federal Democratic Unity Forum(Medrek)	1,353,157	1	4.71	0.18
Ethiopian Democratic Party(EDP)	201,382	-	0.7	-
All Ethiopian Unity Party(AEUP)	346,375	-	1.2	-
Coalition for Unity and Democracy(CUD)	85,335	-	0.3	-
Others/ including Independent Candidates	234,662	1	0.82	0.18
Total	28,729,705	547	100	100

*Source: Author's Compilations, <http://africanelections.tripod.com/et.html> and National Electoral Board of Ethiopia(NEBE)*

As the table depicts, seven percent(1,953,620 votes) of the total votes were left unrepresented/wasted. EPRDF and its allies totally won 545 seats out of the aggregate 547seats of the parliament. This figure envisages that the incumbent party, EPRDF, had won 99.6 % of the total seats.

The 2015 general national election is another major electoral event in the country though it had hardly brought significant change to the preceding election.

Table 3: Showing the 2015 Ethiopian General Election Results Election

Political Party/Coalition	Total Votes Won	Parliamentary Seats Won	Percent of Total Votes Won	Percent of Seats
EPRDF	30,985,209	547	91	100
Blue Party	395,271	-	1.16	-
Ethiopian Federal Democratic Unity Forum(Medrek)	1,048,772	-	3.1	-
Ethiopian Democratic Party(EDP)	74,479	-	0.22	-
CUD and UDJ	100,499	-	0.29	-
Others/ including Independent Candidates	1,405,068	-	4.13	-
Total	34,009,298	547	100	100

*Source: Author's Compilations, and National Electoral Board of Ethiopia(NEBE)*

In the 2015 election, EPRDF won 100% of the seats with 91% votes while the remaining 9% were wasted. The last three elections had undoubtedly been comfortable for the ruling party. As far as turning votes into seats is concerned, the results translate a message that the Ethiopian electoral system is a typical example of the 'winner-takes-all'. EPRDF has secured most (not to say all) of the parliamentary seats for the reason that the highest votes went to it.

## **Chapter Four**

### **Reforming the Ethiopian Electoral System**

#### **4.1 The Efficacy of the Current Electoral System: Seeking Justification for the Reform**

The Ethiopian constitution provides for the implementation of multi-party democracy in the country. The introduction of multi-party system is a major departure in the Ethiopian political structure history. But, the entrenchment of the concept in the constitution does not suffice to realize what it does really mean.

Democratization needs an overall reform structurally and in the legal framework too. One of the decisive factors in multi-party politics is the election process which is mainly reflected in the electoral system that the state is following. As mentioned earlier, Ethiopia has constitutionally embraced the family of plurality-majority system called the *first-past-the-post* electoral system.

Ethiopia has recently proposed to reform its existing electoral system. Here, it is tried to elucidate what efficacies does the system really have that can justify its reform.

To begin with the well-known drawback of the plurality majority electoral systems in general and FPTP in particular, the Ethiopian electoral system produces the least representative electoral result. One of the main tasks of an electoral system is to effectively translate electorates' choice into seats won in the legislative chamber.<sup>81</sup> To this end, there is a well-established principle of equality of votes. Votes are equal in principle. The Ethiopian electoral law also reflects the same by declaring that 'each vote shall carry equal weight'<sup>82</sup>. Electoral systems are also expected to set a scheme that efficiently translates votes into seats. The Ethiopian electoral system, however, does not seem to be in that line. The comparison of the last three regimes depicts that there is no major difference in the electoral democracy. The table below confirms the same.

Table 4: Outcomes of Ethiopian Elections under the last three Regimes

Regime	Regime Characteristics	Election Results
Imperial Regime	No parties were allowed	All regime candidates won
Derg Regime	Single Ruling Party	All regime candidates won
EPRDF Regime	Multi-party System	88% victory for the Ruling Party

*Source: Author's compilations and Dessalegn Rahmato and Meheret Ayenew(2004)*

In the words of Horowitz, 'the best electoral system is the one that straightforwardly and most accurately reflects the preferences of voters.'<sup>83</sup> As discussed above, the Ethiopian incumbent political party has won almost all of the parliamentary seats in the last three consecutive general/national elections held. This, however, does not mean that this outcome is solely imputable electoral system that the country is following. Even though there may be other contributing factors, the electoral rule has a significant share in delivering such a result.

In the 2005 election, the major opposition parties had managed to get around 172 legislative seats together. This result, however, is contested in the 2010 and 2015 general elections as the

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<sup>81</sup> IDEA(2002), 'International Electoral Standards: Guidelines for Reviewing the Legal framework of Elections', IDEA, p. 22

<sup>82</sup> Electoral Law of Ethiopia, Supra note 53, Art. 26(3)

<sup>83</sup> Donald L. Horowitz(2003), 'Electoral Systems: A Premier for Decision Makers', Journal of Democracy, Vol. 14, No. 4, p. 115

close look at of these elections' result dispatches that the EPRDF's land sliding victory and the wastage of lots of votes which were polled to other political parties.

The other problem of the current Ethiopian electoral system is its tendency to exclude minority groups in the elected body. It is believed that minority rights can best be achieved and articulated through a combination of majority sensitivity and minority inclusion.<sup>84</sup> The Ethiopian electoral system is the *first-past-the-post* one by which the winner-takes-all. By taking the objective, subjective and the combination of both criteria of defining minorities, Ethiopia is a land of minorities. There is no one ethnic group that claims to be in a majority position of at the federal/national level.<sup>85</sup> The Ethiopian federal system seems to be subscribed on the primordial ideas of ethnicity.<sup>86</sup> The FDRE constitution tries to create majority ethnic groups in at the regional/sub-national level by making ethnicity incongruent with the territorial demarcation of the constituent units of the federation. This ethno-territorial organization left a number of ethnic groups as a majority outside their designated ethno-territorial setting.<sup>87</sup> From this follows that minorities will be unable to be represented in the legislative organ as the *first-past-the-post* has minimal space to be accorded to minorities. It is only the one who secures the highest vote who is declared the winner. In this regard, minorities can have no numerical superiority producing the highest vote in a given constituency. They will be overridden by the majorities. Since the minorities live mixed amongst other groups they are unlikely to secure representation in a 'first past the post' ('plurality-majority') electoral system, and remain largely excluded.<sup>88</sup> Accordingly, the minority groups will be dragged out of the major political activities as they have no dominance that can result in the highest of the votes in most districts.

The third drawback that the Ethiopian electoral system is facing is that it results in the wastage of a number of votes. According to the Revised Electoral law of Ethiopia, 'only a single representative shall be elected to the Federal House of Peoples Representatives from a constituency.'<sup>89</sup> This, in other words, means that the electoral system is a single-member-district

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<sup>84</sup>Andrew Reynolds (2006), 'Electoral Systems and the Protection and Participation of Minorities', Minority Rights Group International, p. 3

<sup>85</sup>HaileyesusChekol(2010), 'Issues of Minority Rights in the Ethiopian Federation', ECMI, No. 59, p. 3

<sup>86</sup>Lovise Aalen(2006), "Ethnic Federalism and Self-determination for Nationalities in a Semi-Authoritarian State: The Case of Ethiopia', International Journal of Minority Group Rights, No. 13, p. 246-247

<sup>87</sup> Haileyesus Chekol, Supra note 85, p. 3

<sup>88</sup>Sarah Vaughan and Kjetic Tronvoll, Supra note 74, p. 21

<sup>89</sup> Electoral Law of Ethiopia, Supra note 53, Art. 28(3)

in which voters have only one vote so that there is a high risk of wasted votes in each constituency. MereraGudina, a prominent politician in Ethiopia, has commented that:

*“Another key element of the constitutional engineering by the ruling party is the introduction of the first-past-the-post electoral system, i.e even a minimal majority is enough to gain the contested seat. The effect is that proportional representation, whether smaller parties can get a voice without necessarily getting the highest number of votes in any of the constituencies, is avoided. In fact, some of the more experienced political party leaders of Ethiopia persuasively argue that the first-past-the-post system, which means ‘winner-takes-all’, is not the ideal type for Ethiopia where national consensus is lacking among the competing parties and the elites of the country.”<sup>90</sup>*

The votes which do not belong to the winning candidate will have no value at all as they will not be translated into the law-making organ.

The Ethiopian electoral system has also a negative influence on the political parties’ behavior. The opposition parties in particular left and boycotted many elections for the reason of fraud and electoral malpractices and/or irregularities.<sup>91</sup>

To alleviate all these deficiencies that the existing electoral system is suffering, Ethiopia seems to be in need to reform its first-past-the-post electoral system.

#### **4.2 The Impact of Reforming the Ethiopian Electoral System**

The Ethiopian government, through the Prime Minister and the Republic’s president, has promised to reform the electoral law of the country in general and the electoral system in particular. To keep its promise, the ruling party has been holding a discussion with other fifteen political parties on the electoral laws; and, they have reached on an agreement on the introduction of a mixed electoral system.

After conducting negotiations for more than two months, the EPRDF and the other opposition political parties settled to institute a mixed parallel electoral system in Ethiopia.<sup>92</sup> It is reported that:

*“At the beginning of the negotiations, EPRDF proposed 90 percent to be taken by the majority vote(First-Past-The-Post) while the remaining 10 percent to be administered by*

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<sup>90</sup>Merera Gudina(2003), ‘Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy, 1960-2000’, Chamber of Printing House, p. 133

<sup>91</sup> See generally Abraha Kahsay(2008), ‘Alternative Mechanisms of Electoral Systems for Vibrant Democracy And All Inclusive Representation in Ethiopia’, AAU, unpublished, p. 77-81

<sup>92</sup> The Ethiopian Reporter, English Version News Paper, November 4, 2017

*the proportional electoral rule. Meanwhile, opposition parties proposed a different arrangement – with the eleven parties that forged unity for this purpose- proposing 50-50 percent arrangement.*”<sup>93</sup>

The agreement encompasses the increment of the House of Peoples Representatives seats by 110 so that the total seats will be 660 and under the proposed electoral scheme, Ethiopia will have a hybrid electoral system composed of 80 percent simple majority and 20 percent proportional vote.<sup>94</sup>This type of electoral system is a mixed parallel system of both plurality-majority and proportional representation.

Lej Mesafint Shiferaw, President of All Ethiopians National Movement Party, talking to the Ethiopian Herald mentioned that “they have agreed with the ruling party on making the electoral system family a majority and parallel system; reached on a deal to make the percent 20 percent to 80 percent respectively; settled to make the threshold one percent; and also accepted the continuation of the electoral management body as Electoral Board.”<sup>95</sup>

So many other states have proposed and actualized the reform of their electoral system. Any new system could be expected to have comparably visible effects elsewhere, but the full effects of a newly introduced system can only be gauged after two or three elections, when politicians and voters have adapted to the incentives.<sup>96</sup> This, however, does not imply that it is impossible to analyze the proposed reform in line with a projected result to come out of it. Here, it is tried to examine the potential impacts that the shift of the Ethiopian electoral system to hybrid plurality-majority and proportional representation parallel system will have.

The parallel system can be defined as:

*‘A mixed system in which the choices expressed by the voters are used to elect representatives through two different systems—one List PR system and (usually) one plurality/majority system—but where no account is taken of the seats allocated under the first system in calculating the results in the second system.’*<sup>97</sup>

The negotiations between the ruling EPRDF and the fifteen opposition political parties are argued to be the result of the protest and unrest that have overwhelmed many parts of the country. Even though so many politicians and commentators raise a question on the genuine

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<sup>93</sup> Ibid

<sup>94</sup> Xinhua, November 5/2017

<sup>95</sup> The Ethiopian Herald, No. LXXIV, No. 78, December 10/2017

<sup>96</sup> Donald L. Horowitz, Supra note 83, p. 121

<sup>97</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis, Supra note 27. P. 104

nature of the negotiations, the political parties taking part there in have send their agreement on the reform of the existing electoral system to the House of Peoples Representatives.<sup>98</sup>The FDRE constitution has enshrined that the electoral system be the *first-past-the-post* as members of the HPR are elected in each electoral constituency by a plurality of the votes cast.<sup>99</sup> Moreover, the number of seats of HPR is restricted to be not more than 550 seats. It is constitutionally proclaimed that:

*“Members of the House, on the basis of population and special representation of minority Nationalities and Peoples, shall not exceed 550”*<sup>100</sup>

Reforming the existing electoral system then demands the amendment of the constitution. Initiation for constitutional amendment must be supported by two-third of HPR or two-third of the HoF or one-third of the state councils by majority so that it can be submitted for discussion and decision to the public; and, all provisions of the constitution, except chapter three, can be amended if the HPR and HoF in a joint session approve the initiation and when two-third of the state councils approve the same with majority votes.<sup>101</sup> Hence, one of the outcomes of the reform, if realized, will be the amendment of the constitution for the first time in its history.

To turn to the substantive impacts that the reform will draw to picture, the above being procedural, there will be a positive reward for the opposition parties which have had almost nil representation in the last two consecutive general elections made under the FPTP system. More parties which refrained from running to a poll scaring the dominance of the ‘vanguard’ incumbent party may engage in elections more actively.

The electoral system applied in a given country can influence “the calculations of politicians about policy choices and it provides them incentives to make narrow or broad based appeals to the people, based upon whether the system encourages the proliferation of political parties or not.”<sup>102</sup> The proposed electoral system for Ethiopia is a mixed-parallel one. This encourages smaller parties to collaborate each other. Under mixed-parallel rules followed in Italy and Japan, where winning PR votes matters but winning simple majority seats does too small parties have a

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<sup>98</sup> Ethiopian Broadcasting Corporation, December 19/2017 News

<sup>99</sup> FDRE constitution, supra note 51, Art. 54(2)

<sup>100</sup> Ibid, Art. 54(3)

<sup>101</sup> Ibid, Art. 104 cumulative with Art. 105

<sup>102</sup>Alina Rocha Menocal, supra note 38, p. 2

much greater incentive to engage in electoral coordination.<sup>103</sup> This emanates from the very characteristics of mixed systems that lay small parties on a dilemma to go in the PR or the plurality votes. This is elaborated as:

*On one hand, to do their best in the PR contest, they need to run candidates in every single member district under their own party's banner. At the same time, they face incentives to cooperate to efficiently translate votes into seats on the single member district side of the ballot...If they resolved in favor of the 'go it alone' approach, the number of parties winning votes in the single member districts is likely to be greatest because the extra supply of candidates in that tier. On the other hand, if parties resolve the dilemma through electoral coordination to maximize seats won the single member district ballot candidates will be lower, driving SMD values down closer to those seen in pure SMD systems.<sup>104</sup>*

The mixed electoral system, in such cases, has the tendency of maximizing coordination between small parties. The last three national elections in Ethiopia envisage that the smaller parties would have secured more seats if they had concerted together. The hybrid plurality-PR system can also produce the collaboration of smaller parties in Ethiopia as they will be caught by the above dilemma.

The other major point worth to mention here is that the one percent threshold proposed by the sixteen parties in their negotiations. Political parties are confined to score at least a one percent threshold of the total votes cast to be considered in the 20 percent parliamentary seats to be accorded proportionally. The electorate votes for the first-past-the-post and the proportional representation votes at the same time. This implies that a candidate has a double-candidacy for both the SMD and PR ballots.

Legal thresholds set in the constitution and/or the electoral laws of the state and district magnitude (how many seats are there in the district) do have similar way of protecting party proliferation by setting a vote threshold necessary to be elected.<sup>105</sup> The Ethiopian legislative body (HPR) is going to have 660 seats out of which 550 seats to be awarded based solely on the first-past-the-post system. That means in the eighty percent of the seats the 'winner-take-all'

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<sup>103</sup> Karen E. Cox and Leonard J. Schoppa(2002), 'Interaction Effects in Mixed-Member Electoral System: Theory and Evidence From Germany, Japan and Italy', *Comparative Political Studies*, p. 1050

<sup>104</sup> *Ibid*, p. 1049

<sup>105</sup> Robert G. Moser and Ethan Scheiner(2004), 'Mixed Electoral Systems and Electoral System Effects: Controlled Comparison and Cross-national Analysis', *Electoral Studies*, No.23, p. 581 also available at [www.sciencedirect.com](http://www.sciencedirect.com)

maintains its legacy. This can still be more than enough for the incumbent party to once again shine as the hegemonic political organ in the country. The remaining 110 seats will be distributed to the parties in proportion to the valid votes they have won nationwide; if the latter qualifies the one percent threshold. Having a threshold is one mechanism of managing uncontrolled multiplication of political parties here and there. They will be forced to come together leaving their extremist position. This concept had its historic origin in Germany to exclude extremist parties from winning seats.<sup>106</sup> The thresholds may be stipulated under the laws governing elections. This is called formal thresholds.<sup>107</sup> When thresholds are low, almost all votes cast in PR elections go towards electing to candidate of choice. This increases the voters' perception that it is worth to go to the polling station, as they can be more confident to influence the election outcome, however small.<sup>108</sup> Having a lower threshold, however, can be considered to assure the effect of pure plurality electoral system than mitigating it. A very small threshold (like 1 or 2 percent) in a system that gained one percent can win a seat in the legislature provides parties the greatest inducement to split into their maximum fractions and it can end up with a parliament of very small political parties making or breaking governments to have disproportionate impact in determining policies or reaching on decisions.<sup>109</sup> The effect of a one percent threshold in the proposed mixed parallel electoral system of Ethiopia will have similar consequence.

The country's federal form of government structure is built mainly on 'ethnicity' as its tool. The average electoral population of the country is approximately 30 million people a one percent of which is 300,000. This number can easily be achieved by a lot of political parties irrespective of whether they are extremists or not. This can enable the latter to win parliamentary seats to get represented in the legislature. The extremists at the same time nationalists advocating for a single ethnic group will be taking their share out of the seats. The country has been suffering from ethnic conflicts across the nation. It seems it has now grown to its apex. The current universities' crises suffice how much the degree of such problem has reached; challenging even the viability

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<sup>106</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis, *Supra* note 27, para. 120

<sup>107</sup> *Ibid*

<sup>108</sup> *Ibid*, para. 104(c)

<sup>109</sup> Donald L. Horowitz, *Supra* note 83, p. 125

of the federal system as a whole. Electoral reforms are expected to have the below considerations:<sup>110</sup>

- Ensuring a representative parliament;
- Making elections accessible and meaningful;
- Providing incentives for conciliation;
- Facilitating stable and effective government;
- Holding government and representatives accountable;
- Encouraging ‘cross-cutting’ political parties;
- Promoting a parliamentary opposition; and
- Cost and degree of administrative effectiveness.

These considerations are vital not only in crafting a new electoral system but also in reforming an existing one. Ethiopia’s current political situation demands reconciliation between antagonistic groups with diverging interests. The threshold shall be designed in a way that can ensure these groups go out of their box to attain larger votes across the country inviting them to widen their base of support in the nation at large. For example in Nigeria,

*‘Where a territory is a proxy for ethnicity because groups are regionally concentrated, presidential elections need to be won not only on the basis of obtaining a set percentage of votes at the regional level.’<sup>111</sup>*

The one percent threshold, which is proposed in the sixteen parties’ negotiations, is too low triggering the exacerbation of the inter-ethnic conflicts in Ethiopia.

The other component of the negotiations that the parties agreed for is that the system is a party close-list one.<sup>112</sup>In this regard, the candidates to be chosen to the seats are going to be determined by the political party and not by the electorate. This method of presenting and electing candidates by the party without seeking the preference of the electorate is criticized for the reason that voters have no influence on who will represent them<sup>113</sup>and having a lesser MP to electorate accountability.

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<sup>110</sup> Andrew Reynolds and Ben Reilly(1999), ‘Electoral System Design’, Stockholm, IDEA, p. 9 cited at Mohamed Salih and Abdallah Hamdok(2007), ‘A Preface to An Inclusive African Electoral System Reform Agenda’, Journal of African Elections, Vol. 6, p. 122

<sup>111</sup> Donald L. Horowitz, Supra note 83, p. 119, 126

<sup>112</sup> Addis TV News, December 10, 2017,

<sup>113</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis, Supra note 27, para. 123

Political parties have mixed responses towards the mixed-parallel system. For some, the initiative for an electoral system and introduction of mixed-parallel system is appreciated but the share of 20 percent awarded for PR is minimum.<sup>114</sup> Some others, especially who are not taking part in the negotiations, what Ethiopia demands is to have genuine and democratic elections which encompass far beyond electoral system reform even though the it may bring positive changes in parties' behavior to participate more intensely than before.<sup>115</sup>

The table below estimates the would have been result in the last two general elections in Ethiopia, if the electoral system was 80/20% FPTP-PR mixed parallel system.

Table 5: The would have been Election Results of Ethiopia in the Proposed Mixed Parallel System

Party	Election Period	Seats won under FPTP	Seats to won from the 20% PR	Votes in % (The threshold being 1%)	Total seats from the Mixed Parallel	Seats in % In the Mixed Parallel
EPRDF	2010	545	95+	86	640	97.4
EPRDF	2015	547	100+	91	647	98.5
Medrek	2010	1	5+	4.7	6	0.91
Medrek	2015	-	3+	3.1	3	0.46
CUD	2010	-	-	0.3	-	-
CUD	2015	-	-	0.29	-	-
Blue	2015	-	1+	1.16	1	0.15
EDP	2010	-	-	0.7	-	-
EDP	2015	-	-	0.22	-	-
AEUP	2010	-	1+	1.2	1	0.15
Others	2010	1	-	-	0.82	0.15
Others	2015	-	4+	4.13	4	0.61

<sup>114</sup> Interview with Robele Tadesse, Chairman of Gada system Party, and Tegistu Awol, president of UDJ, December 21/2017

<sup>115</sup> Interview with Getaneh Balcha, Vice-chairman of Blue Party, December 24/2017

As the table proves, there may be no major power shift in the mixed-parallel system. This picture, however, would have awarded more seats if the constituencies were arranged in a multi-member district. Medrek had its large support from Oromia, SNNPR and Addis Ababa. Whereas, the Blue's support base mainly emanates from Addis Ababa and some parts of Oromia and SNNPR. Electoral system reform can't stand by itself to guarantee democracy. The introduction of a mixed electoral system is welcomed in Ethiopia. But, it has to be full-fledged and corroborated by other institutional and attitudinal changes from inside.

#### **4.3 Points Worth to Consider in the Reform: Ethiopia's Context**

Electoral system design is one of the components of the wider constitutional building process. Hence, due care shall be given in crafting an electoral system so that it will produce the best result contributing positively for the enhancement of the bigger constitutional framework. It is notorious that there is no single electoral system that is immune from any deficiency. All systems have their own advantages as well as disadvantages.

Contextualizing the systems is the effective mechanism to develop an inside-out best fit electoral system. It is stated that:

*'It is important to realize that a given electoral system will not necessarily work in the same way in different countries. Although there are some common experiences in different regions of the world, the effects of a particular type of electoral system depend on a great extent on the socio-political context in which it is used.'*<sup>116</sup>

As can easily be inferred, contextual factors are crucial here, and electoral systems and their effects need to be understood in line with the context that they are sought to operate.<sup>117</sup> From this follows that electoral system designers are advised to consult their proposed system in the eyes of the socio-political, cultural, geographical, religious and other relevant societal factors of the country concerned because the electoral trade-offs vary on the experiences of they have.

The would-be electoral designer is recommended to table all the purposes that the system is deemed to achieve and prioritize among those which are most important to his/her country.<sup>118</sup>

The Ethiopian electoral system (*first-past-the-post*) was embraced in the Constitution for the reason that it can ensure stable government. Undeniably, one of the most praised advantages that

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<sup>116</sup>Ibid, para. 20

<sup>117</sup> Alina Rocha Menocal, Supra note 38, p. 3

<sup>118</sup> Andrew Reynolds, Ben Reilly and Andrew Ellis, Supra note 27, para. 13

the FPTP systems award is stable government. Dawit Yohannes, one of the master minds behind the framing of the FDRE Constitution, once said that:

*“...we debated proportional system, but in the state that Ethiopia is today, we need a strong government which can handle the enormous problems facing us in an effective manner. If we had chosen for a proportional representation system, we would have got a weak government and unnecessary problems. We therefore decided on a constituency(majority based) system as preferable.”<sup>119</sup>*

As can be understood from his words, their priority(may be the sole one) seems to be the guarantee of stable and strong government. It is not surprising for a country which fought a civil war for an entire regime of *Derg* whose downfall was brought mainly by the TPLF’s (Tigray People Liberation Front) military coup. Undoubtedly, the Dawit Yohannes’s mentioned goal of the system has been successfully attained in the last elections even though the state is in continuous ethnic conflicts and unrest.

The basic organizing principle of the Ethiopian federation is ethnicity; Six of the nine fully-fledged federal units(Tigray, Afar, Amhara, Oromia, Somali, and Benshangul/Gumuz States) are named after the dominant nationality living in respective regional states. The organizing principle in this regard is ethnicity. In relation to this, Merera asserted that:

*“A bad beginning is that, following its impressive military victory the EPRDF quickly moved to the remaking of Ethiopia without creating a national consensus over the basics of state transformation, badly needed action for countries like Ethiopia where there are contradictory perspectives regarding the interpretation of the past, the understanding of the present and the vision about the future.”<sup>120</sup>*

Even at the early stage of the Ethiopian ethnic federalism, commentators had forwarded their fear. According to Dessalegn Rahmato, “by returning the land to the people who traditionally settled on it, the reform had resolved the root of the latent(ethnic) conflict and mitigated to a considerable degree...I therefore find the ethnic based politics of the transitional government incomprehensible and dangerous.”<sup>121</sup> This fear now tempts to be actualized. Kjetil Tronvoll and

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<sup>119</sup>Kjetil Tronvoll and Oyvid Aadland(1995), ‘The Process of Democratization in Ethiopia: An Expression of Popular Participation or Political Resistance’, Norwegian Institute of Human Rights, Human Rights Report no. 5, p. 13

<sup>120</sup>Merera G.,(2007), ‘The Problematic of Democratizing a Multi-Cultural society: the Ethiopian Experience’, paper presented at Ethnicity and Democratic Governance MCRI, Montreal, p.14

<sup>121</sup>Dessalegn Rahmato(1992), ‘The Land Question and the Reform Policy: Issues for Debate’ in Dialogue, Journal of Addis Ababa Teachers’ Association, 3<sup>rd</sup> Series, Vol. 1, No. 1, p. 43-57 cited at Kjetil Tronvoll and Oyvid

Oyvind Aadland, after analyzing the democratic process of Ethiopia up until the 1995 election, commented that “to prevent the state from disintegrating due to ethnic cleavages, we believe it is vital that ethnicity does not become the sole valid identity to rally behind in national, or even regional, political context. If so, no collective identity will be attached to the Ethiopian state entity and the common Ethiopian identity which exists now will be eroded.”<sup>122</sup> The country is now at stake due to the holding water of the above expectation. According to IDEA’s study civil liberties and democracy in general is declining in Ethiopia.<sup>123</sup> Currently, protests have erupted along ethnic lines, causing an ongoing state of emergency with continued concerns about the country’s vulnerability to more widespread crisis.<sup>124</sup>

The new electoral system must be crafted in a way that can reconcile ethnic conflicts and bring major contending parties to national consensus. It is bound to encourage the voters’ turnout by providing the mechanism in which every vote counts in the final result.

The members of the HPR and HoF are elected by the plurality of votes system called the FPTP and for almost all decisions of the houses the quorum is the presence of their majority by which the existence of the four big nationalities(Oromo, Amhara, Somali and Tigra) is more than sufficient to pass decisions even affecting other minority groups.<sup>125</sup>

Ethiopia can learn lessons from the two SADC states of Lesotho and South Africa electoral system reforms. Both have revised their systems by abandoning an inherited FPTP electoral system from British in the colonization period. The former was known for unrests caused mainly due to election related conflicts.<sup>126</sup> The newly introduced system of multi-member plurality(MMP) has brought positive results and stability to Lesotho following the May 2002 election.<sup>127</sup> Whereas, South Africa reformed its electoral system in 1994 to Proportional Representation(PR) which has produced inclusive and representative results in the parliament.

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Aadland(1995), ‘The Process of Democratization in Ethiopia: An Expression of Popular Participation or Political Resistance’, Norwegian Institute of Human Rights, Human Rights Report no. 5, p. 49

<sup>122</sup> Kjetil Tronvoll and Oyvind Aadland, *Supra* note 119, p. 53

<sup>123</sup> See Timothy Sisk(2017), ‘The Global State of Democracy: Exploring Democracy’s Resilience’, IDEA, 1<sup>st</sup> ed., p. 42-43

<sup>124</sup> Jeffrey J.(2016), ‘Is Ethiopia Unraveling?’, IRIN News cited in Timothy Sisk(2017), ‘The Global State of Democracy: Exploring Democracy’s Resilience’, IDEA, 1<sup>st</sup> ed., p. 40

<sup>125</sup> Beza Desalegn(2013), ‘The Right of Minorities to Political Participation under the Ethiopian Electoral System’, *Mizan Law Review*, Vol. 7, p. 85-86

<sup>126</sup> Khabele Matlosa(2003), ‘Electoral System reform, Democracy and Stability in the SADC Region: A Comparative Study’, Electoral Institute of Southern Africa, p.33

<sup>127</sup> *Ibid*

The African National Congress (ANC) won 10,601,330 votes (66.4% of the total votes) and won 266 seats (66.5% of the total seats), the New National Party won 1,098,215 votes (6.9% of the total votes) and won 28 seats (7.0 % of the total seats), the Inkatha Freedom Party won 1,371,477 votes (8.6% of the total votes) and won 34 seats (8.5% of the total seats), and the Democratic Party won 1,527,337 votes (9.6% of the total votes) and won 38 seats (9.5% of the total seats).<sup>128</sup>This implies that for a nation like South Africa with different language, color and ethnic composition PR has a great potential to deepen democracy.

The issue in Ethiopian case is that it needs both representative and stable government to entrench viable democratic system into picture. Hence, careful designing is required taking both demands into account.

As far as participation in electoral reforms is concerned, the reform is bound to be participatory of all sections of the society. Limiting itself to the elite only will end-up with unnecessary consequence. Ethiopia has diverse religious, cultural, historical and political classifications of society. This by itself is not a problem. But, if it is not duly managed so as to build an all-inclusive system, it will be a bottle neck resulting in the fragmentation of the overall system. The Ethiopian electoral system reform is not immune from this unless it brings all the concerned to table so that they have discussions and reach consensus on the major issues.

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<sup>128</sup>To see full results visit [www.home.Global.co.za](http://www.home.Global.co.za)

# Chapter Five

## Conclusion and Recommendations

### Conclusion

Elections are the best instrumentalities to the real democracy that most wish to have. The wish to realize; there must be a system that genuinely translates the voices of the people. The very conception of democracy is also seems to seek a means that can precisely bring the sharp end. Having regular elections periodically being one step towards the end, it can in no way be a guarantee of fair result. What more we need is a genuine election through the best electoral system. Electoral systems are the mechanism by which votes are translated into parliamentary seats. They can generally be categorized into three families of plurality-majority, Proportional Representation and Mixed systems. How effective they are is measured in different ways based upon the yardstick that the electoral system designer has employed. There is no agreement as to which electoral system is the perfect one or even the best one. It varies depending on the goal that the state embracing it wants to achieve.

The Ethiopian democratic system is in its infancy. The careful upbringing of it may give birth to a well-accepted structure across the country. The 1995 FDRE Constitution has declared that it is only through election that any organ can take government power. The Ethiopian electoral system is a kind of plurality-majority system also known as the *first-past-the-post*(FPTP). In this system, the candidate/political party scoring the highest votes will be declared the winner in a single member district. Its district magnitude allows for only one representative to be awarded the seat. Hence, this system is called a system whereby the winner-takes-all. The candidates who lost with the remaining votes will have no place to be accorded.

Electoral systems are decisive for the reason that they influence the voters and party behaviors of the country at large. Ethiopia has conducted five national elections in the new regime of EPRDF so far. The results of the last three elections were analyzed in this study. They depict that the ruling party has won the elections on a land sliding level. Following these result, especially the last 2015 general election which was concluded by the 100 percent win for the incumbent party, the Ethiopian government has proposed an electoral system reform.

Every electoral system has its own pros and cons. Electoral systems are bound to be crafted taking the general principles into the contextual realities of the state concerned. Since 1991 Ethiopia has entrenched ethnic-based federalism which resulted in the organization of member

states based on ethnicity. There are socio-politically diverse groups with their own interests. This amalgamated with the diverging interests across the country; the electoral system leaves so many interests unrepresented. The country is also suffering from ethnic conflicts.

The sixteen national parties have agreed to introduce mixed parallel electoral system by which 80 percent to be decided by the current system while the remaining 20 percent is left for proportional representation system. This may bring no major difference to the one-party dominant political system. The introduction being an appreciable step; the designers must take in to account that the local contexts of the country. Ethiopia's current situation is at a cross-cut position demanding a curious constitutional and/or electoral system whereby every vote counts so that it can bring national consensus.

### **Recommendations**

Genuine elections are decisive in democratic system building process. As far as the Ethiopian elections so far is concerned, by many criteria from different observers' view there had hardly been competitive and meaningful electoral process. Among other things, this is imputable to the FPTP electoral system that the country has opted for. The ruling party has registered land sliding victories in most (not to say all) elections. Due to this, there is an initiative to reform the electoral system. The reform must be an all-inclusive holistic measure; and, the designers have to take the following points into account.

The mere electoral system reform does not guarantee democracy. The crafting of electoral systems should be in line with the country's reality. Best practices and systems may be learnt from others but not be prescribed. Contextualizing them is an inevitable step towards designing the best model system. One size cannot fit all. Ethiopia is a heterogeneous state with diverse ethnic, religious and social groups. The electoral system to be implemented must prioritize to effectively translate every vote of these groups into legislative seats. Under or no representation may result in the crushing of the federal structure as a whole.

Ethiopia is a state of minorities. Moreover, it is under pressure from unrests born out of ethnic conflicts. The current electoral system that endows the winner to take it all is a less accepted in mixed societies. For Ethiopia, the best electoral system is proportional representation. The country must be organized in large multi-member districts that will stretch from the current demarcations mostly depending on an ethnic composition. The FPTP system may give rise to a

stable government but it contravenes the very principle of equality of votes as it is susceptible to wastage of votes.

Moreover to manage the PR's risk of unstable government due mainly to the place accorded to extremists there must be a reasonably high threshold. The threshold imposed on parties so that that they can be considered in the apportionment of legislative seats must be between 2 to 5 percent. This can control the proliferation of parties thereby excluding extremists and helping the attainment of stable government.

Ethiopia has opted for the entrenchment of the fixed constitutional representation for minorities which is implied under the FDRE Constitution's minority nationalities and people special representation by reserved parliamentary seats. The power-sharing/representation and vote-pooling mechanisms can add an invaluable asset on the remaking of the Ethiopian electoral system too. The designers must provide a scheme whereby parties exercise their affairs out of their ethnic-centered box.

The negotiation of the political parties is not a sufficient requirement to come up with a new system. A special organ must be established with the task of conducting research on matters to consider as an input. Electoral system reform must be corroborated by other decisive reforms too. Democracy is a holistic concept. Building trust between the NEBE, the government, opposition parties and the public at large must be another major concern. Freedom of expression and assembly must also be well practiced into reality so that the parties have access to address the people assuring meaningful competitions. In a country like Ethiopia where opposition political parties are financially weak, supports and incentives for them is a necessity.

The government must still open the door for the incorporation of other stakeholders from all corners of the society. There must be popular participation as wide as possible. Otherwise, the new system will not be long lasting or in a position to produce the best result.

Generally, the ultimate goal that the Ethiopian new electoral system seek to attain shall be examined based on the yardstick of how it faithfully translates votes of the electorate and represent all by confirming the one-man one-vote principle. In order to bring the best result out of the reform, the Ethiopia's socio-political context shall be taken into consideration and believing that there is no one electoral system that fits all there must be intense research and discussion on all the possible options that Ethiopia have.

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