

FEDERATION AMONG UNEQUALS; IMPLICATIONS AND MODERATION OF POLITICAL ASYMMETRY IN ETHIOPIA'S FEDERAL SYSTEM

**ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES
CENTRE FOR FEDERAL STUDIES**

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Addis Ababa, Ethiopia

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LIST OF ACRONYMS

ANDM	Amhara National Democratic Movement
ANDP	Afar National Democratic Party
BGPDUF	Benishangul-Gumuz Peoples Democratic Unity Front
CSA	Central Statistics Agency
EPDM	Ethiopian Peoples' Democratic Movement
EPRDF	Ethiopian People's Revolutionary Party
EPRP	Ethiopian People's Revolutionary Democratic Front
FDRE	Federal Democratic Republic of Ethiopia
GPDM	Gambella People's Democratic Movement
HoF	House of Federation
HNL	Harari National League
HPR	House of Peoples' Representatives
MEISON	Amharic Acronym for All-Ethiopian People's Socialist Movement
OLF	Oromo Liberation Front
OPDO	Oromo Peoples Democratic Organization
SEPDF	Southern Ethiopia Peoples Democratic Front
SNNPRS	Southern Nations, Nationalities, and Peoples Region State
SPDP	Somali People's Democratic Party
TGE	Transitional Government of Ethiopia
TPLF	Tigrayan People's Liberation Front

List of Maps and Tables

Maps

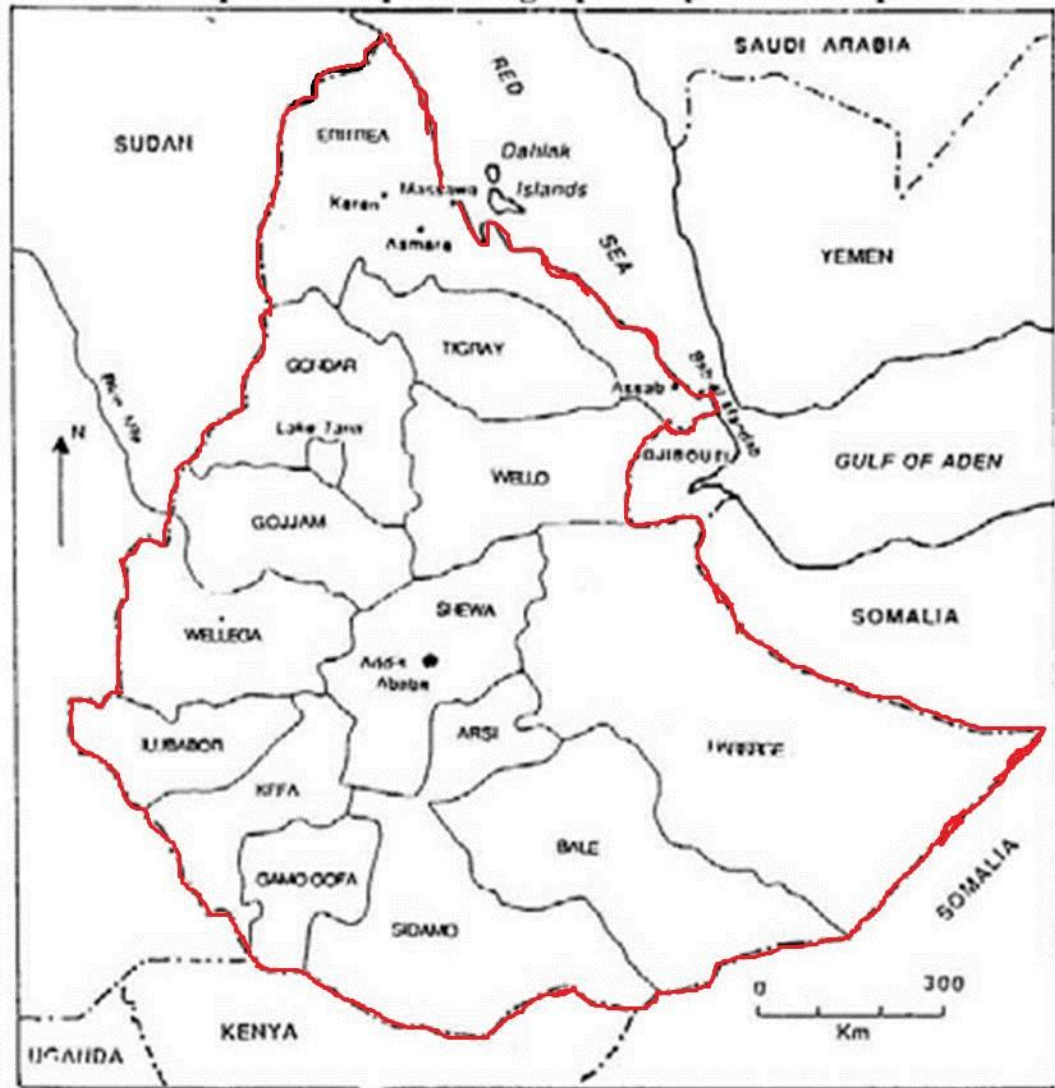
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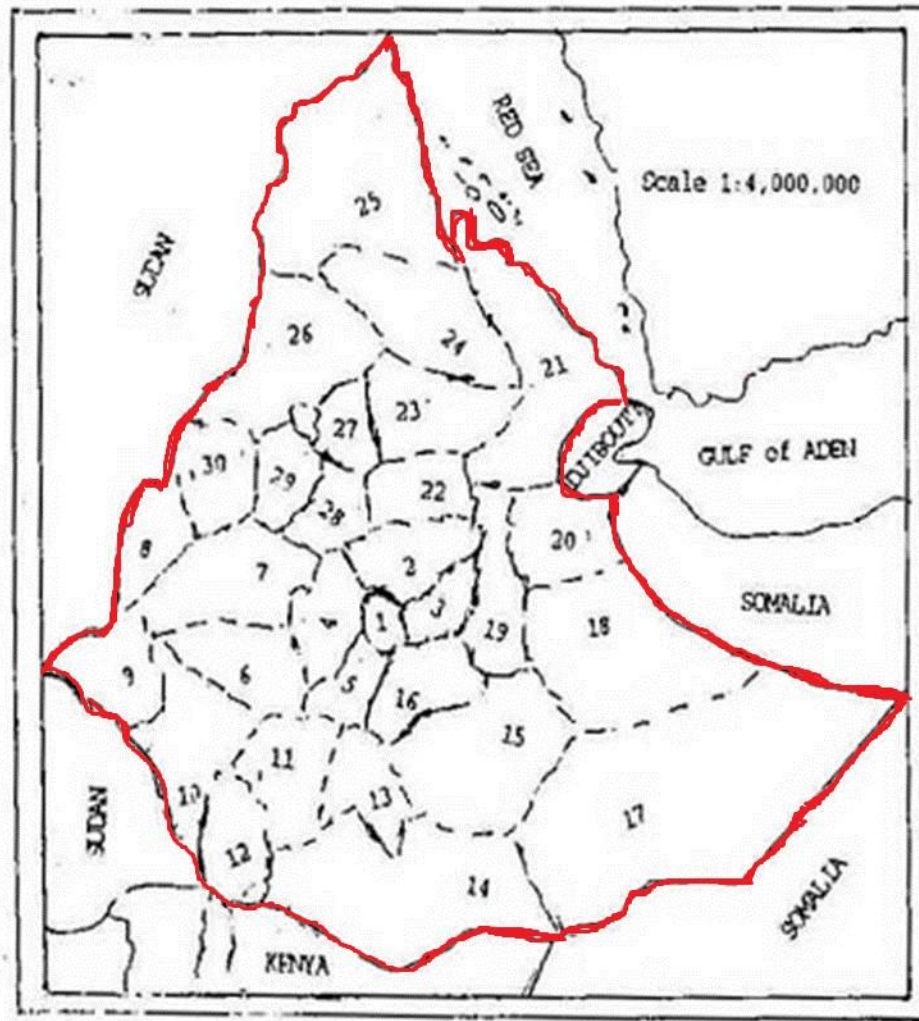
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Map1.

Pre-1988 Map of Ethiopia: Geographically delimited provinces



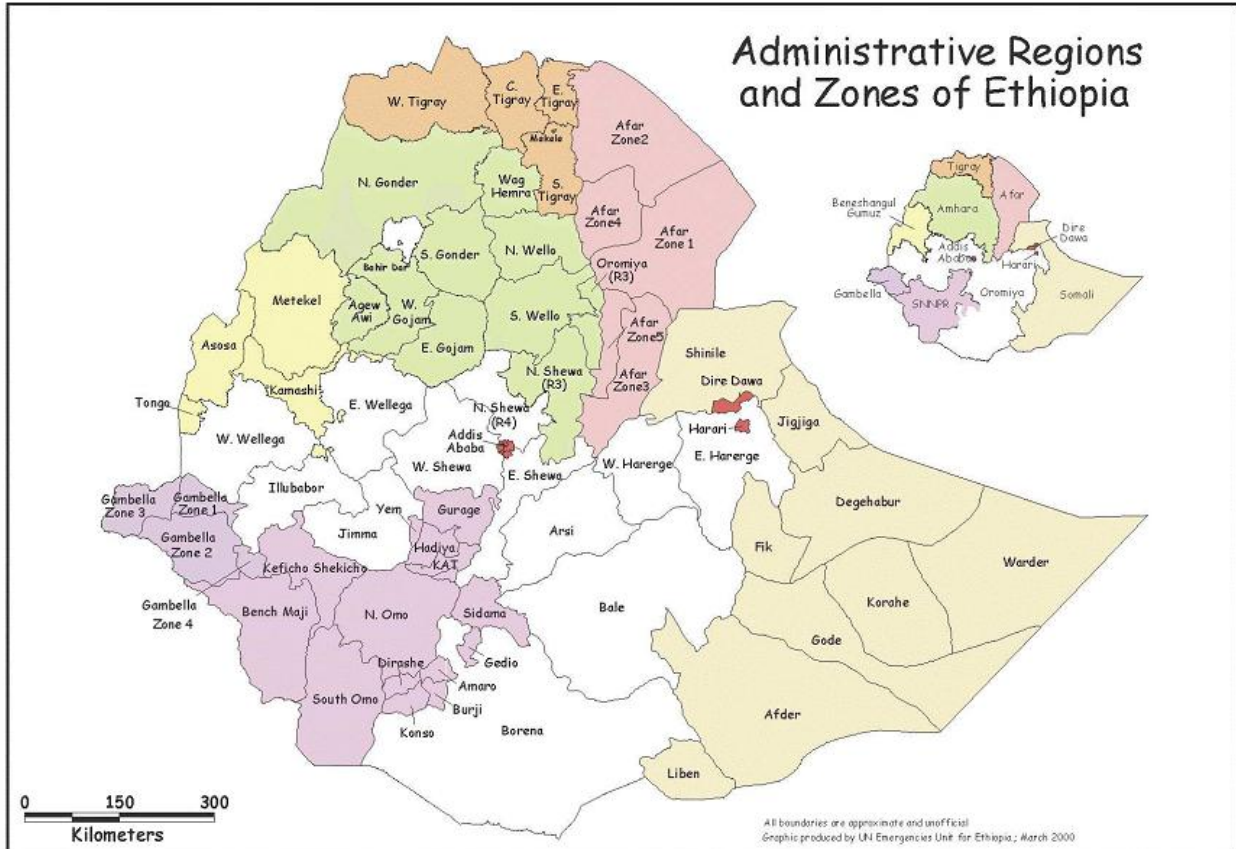
Map 2. The 1988-1991 Ethiopia's Map, Regional Administrations and Autonomous Regions



LEGEND

- | | | |
|------------------|--------------------|--------------------|
| 1 Addis Ababa | 11 Northern Omo | 21 Aseb |
| 2 Northern Shewa | 12 Southern Omo | 22 Northern Wollo |
| 3 Eastern Shewa | 13 Sidamo | 23 Southern Wollo |
| 4 Southern Shewa | 14 Borena | 24 Tigray |
| 5 Western Shewa | 15 Bale | 25 Eritrea |
| 6 Illubaor | 16 Arsi | 26 Northern Gonder |
| 7 Wellega | 17 Ogaden | 27 Southern Gonder |
| 8 Assosa | 18 Eastern Hararge | 28 Eastern Gojjam |
| 9 Gambella | 19 Western Hararge | 29 Western Gojjam |
| 10 Keffa | 20 Dire Dawa | 30 Metekele |
- - International Boundary
 — Regional Boundary

Map 3. The Current Map of Ethiopia; Federated Units and Administrative Zones



Chapter one

Introduction

1.1 Background to the Study

In the wake of 1991, some two years after the collapse of the Berlin Wall, which coincided with the dissolution of the Union of Soviet Socialist Republics, the brutal military regime and its unprecedented policy of centralization were consigned to the dustbin of history as the armed movements from the regions managed to secure impressive military victory and control Addis Ababa, a capital city deserted by its 17 years reigned dictator. The demise of the military regime and the coming to power of the nationality-based movements undoubtedly marked the failure of a project that aimed at creating a modern and centralized state¹ and ushered in a new era in the Ethiopian history where official multiparty democracy and ethnic nationalism have become the twin foundations of the emerging political order.²

The federalization of the Ethiopian state along linguistic/nationality line, which was initiated by the Transitional Government of Ethiopia in a claimed effort to ensure the right of ‘nation, nationalities and peoples’ of Ethiopia to self-determination,³ was formalized in the 1995 FDRE constitution. The country, thus, joined the family of world federations which currently encompasses over 40 percent of the more than 7 billion of the world’s population.⁴

The Ethiopian federal system is composed of nine full-fledged member states⁵ and two Federal chartered city-governments, i.e. Addis Ababa and Direedawa. For most of these constitute units are more or less established along ethno-linguistic line, despite the fact that

¹ As quoted in Andreas Eshete, Abuses and Uses of Cultural Diversity: African Past, Ethiopian Present in Alem Habtu (ed.), 2012, *Equality and Unity in Diversity for Development, 5th International Conference on Federalism* (Addis Ababa: Central Printing Press), page 41 (Ellipse added)

² Merera Gudina, 2003, *Ethiopia: Competing Ethnic Nationalisms and the Quest for Democracy, 1960-2000* (Chamber Printing House) page 118

³ Assefa Fiseha, 2006, Theory versus practice in the implementation of Ethiopia's ethnic federalism in Turton, D. (ed.) *Ethnic federalism: The Ethiopian experience in Comparative Perspective* publisher 131-164, page 132

⁴ R.L. Watts, 2008, 3rd edition, *Comparing Federal systems*, (Montreal & Kingston: McGill-Queen’s University press), page 1

⁵ See Article 47 of the 1995 Constitution of Federal Democratic Republic of Ethiopia (Hereinafter the FDRE constitution).

none of them are ethnically homogenous,⁶ Federal Ethiopia can be considered to be the extreme example of ethnic-based federation.⁷

Consequently, as territorial, demographic, and economic considerations were not seriously taken in state making,⁸ geographic and demographic asymmetries among federated units are rife.⁹ The federation comprises states whose sizes range from a micro-state of Harari comprising 0.25% of the total population to the state of Oromia which constitutes about 35 % of the total population of the federation.¹⁰ Despite these variations, all nine full-fledged regional states have equal constitutional status and symmetrical powers and competences.¹¹

Nevertheless, it has to be noted that establishing federal constituent units, which are identical in all respects, is impractical. Political asymmetry arising from the dissimilarities in population, territorial size, economic character, and resources and wealth among federated units are more or less bound to exist. In spite of variance in the degree of asymmetry, these sorts of dissimilarities, which are otherwise called political asymmetry¹², are inevitably a feature of every federation;¹³ ‘some level of political asymmetry is inherent in the federal system’.¹⁴ It is, therefore, safer to say that, albeit the extremity of political asymmetry, the Ethiopian federal system is not unique to have such kinds of variances.

⁶ Jon Abbink, 1997, Ethnicity and Constitutionalism in Contemporary Ethiopia, *Journal of African Law* 41: 159-174. Page 163

⁷ Ronald L. Watts, 2007, Multinational federations in comparative perspective in M. Burgess and J. Pinder (ed.) *Multinational Federations* (Routledge, USA and Canada) 225-247, page 232

⁸ Alemante G. Selassie, 2003, Ethnic federalism: Its promise and pitfalls in Africa, *Yale Journal of International Law* 28(1) 51-107 page 69

⁹ Assefa Fiseha, 2006, *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study*, page 97; Berhanu Gutema, 2006, *Restructuring State and Society: Ethnic Federalism in Ethiopia*, (PhD dissertation, Aalborg University), page 98; Asnake Kefale, 2009, *Federalism and Ethnic Conflict in Ethiopia*, (a doctoral thesis, Leiden University), page, 80.

¹⁰ Quoted in Merera Gudina, 2011, *Ethiopia: From Autocracy to Revolutionary Democracy*, (Chamber Printing House.) page 81

¹¹ Lovise Aalen, 2002, *Ethnic Federalism in a Dominant party State: The Ethiopian Experience 1991-2000*. (Bergen: Chr. Michelesen Institute), page 55. See also FDRE constitution Article 47/4.

¹² Many scholars interchangeably use ‘de facto Asymmetry’ and ‘Political Asymmetry’ to describe such variations in federal system. The same approach is also adopted in this study though ‘political asymmetry’ is commonly used.

¹³ As quoted in Alixindra Funk, 2010, *Asymmetrical Federalism: A Stabilizing or Destabilizing Factor in the Multinational Federation? a comparative study of asymmetrical federalism in Canada and Spain*, (unpublished MA thesis), page 10

¹⁴ Assefa Fiseha, 2006, *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study*, page 126

Seen in this light, ‘the geographic definition of federal subject is one of the profoundly important parameters of design’¹⁵ as the configuration of federal constituent units is crucial for the functioning of the federal system.¹⁶ It is also imperative to give due attention to the relative population and territorial size of sub-national governments in designing federal structure, and to look into the implications of political asymmetry witnessed in the Ethiopian federal system for the working of the federal system.

1.2. Problem Statement

Multinational federation is neither an easy option nor a panacea for all political ills of human society.¹⁷ However, well-designed federations have worked and may work under certain conditions given that multinational federations have their own unique features and operate in a varying set of complex societal circumstances and contexts.¹⁸ The degree of symmetry and asymmetry within federations can be mentioned as one of important conditions that form the set of complex circumstances and context where federations are evolving and operating.¹⁹

Political asymmetries in federal systems, like that of Ethiopia, are of vital political significance as they affect the relative capacity of different constituent units to exercise their powers and competences, and the degree of a constituent unit’s influence within majoritarian federal institutions where representation is based on the principle of ‘one person-one vote’,²⁰ in the Ethiopian case, for example, the House of Peoples’ Representatives (HPR). Besides, as Ronald Watts warns, political asymmetry, in its extreme form, may give rise to tension and instability.²¹ Also federations, in which there is a big disparity in population and land area size

¹⁵ M. Filippov, 2004, *Designing Federalism: A Theory of Self-Sustainable Federal Institutions*. (Cambridge University Press, New York.) page 67

¹⁶ Gunther Baechler, 2007, Territorial vs. Ethnic and Personal Federalism Issues & Practice in *Reading on Governance & development* Vol x (page 26-37), page 36

¹⁷ Ronald L. Watts, 2007, Multinational federations in comparative perspective, in Michael Burgess and John Pinder (ed.), 2007, *Multinational Federations*. (Routledge), page 226.

¹⁸ *Ibid*

¹⁹ M. Filippov, 2004, *supra* note 15, page 67

²⁰ R.L. Watts, 2008, 3rd edition, *Comparing Federal systems*. Montreal & Kingston: McGill-Queen’s University press, page 126-7

²¹ *Ibid*, 72

and resource among their constituent units, would probably be unbalanced²² and ‘tend to foster among the larger and more viable states an attitude of self-sufficiency, separatism, and intolerance.’²³ Equally important, effective federal design should put in place appropriate mechanism that can make sure that ‘no subject or subset of them can “capture” the center to the disadvantage of the rest.’²⁴ To be critical, the impact of asymmetry on the operation of the federation cannot be uncovered solely by ‘*a priori* reasoning’; it is the empirical inquiry into the actual operation of a given federation that unveils the implications of the political asymmetry.²⁵

The vital importance of political asymmetry for the success or failure of federations notwithstanding, the implications of the existing conspicuous political asymmetry in Ethiopia’s Federal system has not received appropriate attention, if not entirely go undiscussed.²⁶ Asnake Kefale, in his doctoral thesis, introduced the theoretical underpinnings of political asymmetry, identified major asymmetrical elements in the Ethiopian Federation and briefly discussed its ‘impact on political stability from two angles, horizontal and vertical.’ Assefa Fisseha, on his part, has considered political asymmetry as one of important factors in his analysis of the Ethiopian federal system from the comparative perspective.

Besides, Aalen identified political asymmetry along with party system as a key factor that significantly impact the operation of a federal political system and discussed the asymmetrical elements witnessed in the Ethiopian federal political system. Also it has to be acknowledged that a passing note is made by a number of other Authors. However, it is hard to locate in-depth analysis of the elements of political asymmetry and the implications of this asymmetry

²² Yash Ghai and Jill Cottrell, 2007, Federalism and State Restructuring Nepal: the challenge for the constituent assembly; *Report of a Conference organized by the Constitutional Advisory Support Unit*, UNDP 23-24 March 2007, Godavari, Nepal, page 17-18

²³ Alemante G. Selassie, 2003, Ethnic federalism: Its promise and pitfalls in Africa, page 92, Asnake, 2009, *Federalism and Ethnic Conflict in Ethiopia*, page 32

²⁴ M. Filippov et.al, 2004, *supra* note 15, page 63,

²⁵ R.L. Watts, 2000, Asymmetrical Decentralization: Functional or Dysfunctional, Paper Presented at *International Political Science Association*, (Québec City, Québec, Canada), page 10

²⁶ See, for example, Assefa Fiseha, 2006, *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study*, and Asnake Kefale, 2009; *Federalism and Ethnic Conflict in Ethiopia*, (a doctoral thesis, Leiden University) (Chapter 4). Aalen Lovise, 2002, Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000, *Report R 2002: 2* (Chr. Michelsen Institute Development Studies and Human Rights).

for the function of the Ethiopian federation and its moderation within the Ethiopian federal system.

Against this backdrop, the core problem this study attempted to address is *‘to what extent the political asymmetry, particularly that arises from the variation among full-fledged federated units in terms of their land area and population size, impacts the operation of Ethiopia’s ‘multinational’ federal political system and its moderation within it’.*

To this end, the study will also try to answer the following questions:

- ☛ What are the preconditions of asymmetry and the asymmetrical elements in Ethiopia’s ethnic-based Federal arrangement?
- ☛ What are the actual and potential implications of political asymmetry arising from the relative population and areal size of the federal constituent units for the working of the Ethiopian federation?
- ☛ What are the actual and potential roles of pertinent formal and informal federal institutions in moderating the asymmetries witnessed in the Ethiopian federal system?
- ☛ Which possible corrective measures can be taken to moderate the political asymmetry in the Ethiopian federalism relating with the three selected regional states?

1.3. Objectives of the Study

The general objective of the study is to examine the implications of political asymmetry, particularly that arising from the variations in terms of territorial and population size of fully-fledged sub-national governments, for the working of the Ethiopian federal arrangement. The paper also has the following specific objectives:

- ☛ Identify the asymmetrical features of the Ethiopian Federal system,
- ☛ Explore the potential and actual implication of political asymmetry arising from the relative population and areal size of the federal constituent units for the working of the Ethiopian federation,

- ☛ Describe the potential and actual role of informal and formal institutions in moderating the political asymmetry observed in the Ethiopian Federalism,
- ☛ Examine the precondition of political asymmetry relating with the experience of Ethiopia's ethnic federalism, and
- ☛ Assess the possible corrective measures to lessen the political asymmetry in the Ethiopian Federal system in general, and relating with the three selected regional states in particular.

1.4. Scope of the Study

This study focuses on examining the implications of political asymmetry witnessed in the Ethiopian federalism, particularly that arising from the disparity in terms of the relative territorial and population size of regional states, for the operation of the federal system. However, the researcher has given special attention to three regional states; namely, State of Amhara, State of Oromia, and State of Harari, with the objective of exploring the implications of political asymmetry. In assessing the actual and potential role of formal and informal federal institutions, institutions that are germane to the theme of the study will be the focus of discussion, viz. the House of Federation and the ruling front. The former is selected for it is traditionally expected to play this moderation role, from the formal institutions, while the latter is chosen for the ruling front is widely known for its pervasive role in shaping the actual operation of the federal system, from the informal institutions. As the present day regional states configuration more or less came into being after the enactment of the 1995 FDRE constitution, the paper therefore focuses on the post-1995 relevant developments relating with the study area.

1.5. Limitations of the Study

This thesis is not without limitations. Given that the implications of political asymmetry, particularly variation in territorial and population size among federated units for the working of the Ethiopia's federal system is the focus of this study, the implications of different kinds of political asymmetries observed in the Ethiopian federal arrangement will not be meticulously discussed though not entirely left untouched. Constitutional asymmetry, if any

such asymmetry in the Ethiopia's federal system, will not be addressed in detail. Besides, mention has to be made of the grave financial and time constraints that immensely limited this study.

1.6. Significance of Study

As is already noted, it is impossible to find entirely symmetrical federation. It is also said that asymmetrical elements of federal systems are not without implications. The study, by attempting to critically examine the impacts of political asymmetry on the working of the Ethiopian federal system, will provide empirical research findings to symmetry-asymmetry debate in all federations in general, and in multi-national federations in particular. It is also hoped that the study will offer a fresh insight of the implications of the asymmetrical elements of the Ethiopian federation for the operation of the federal system and the moderation of the impacts of political asymmetry so that it will serve as a base for future further in-depth researches into the matter. Besides, policy makers may make use of the findings of the study to reform the Ethiopian Federal system in general, and the configuration of constituent units in particular.

1.7. Methodology and Methods of the Study

The qualitative research method has been employed to conduct this study. Literature study, in-depth interviews and cautiously used personal observations are also used as methods of data collection.

Literature study

As the researcher chiefly rely on secondary data, an appropriate literature study has been conducted to conceptualize asymmetry within federal system and to elucidate the implications of political asymmetry in the Ethiopian federation. Documentation such as magazines, articles, newspapers, periodicals, journals and books, as well as information retrieved from the internet has been utilized.

In-depth Interviews

Unstructured and semi-structured interviews and personal discussions with 15 key informants have also been conducted in order to fully appreciate the matter. In most cases, face to face interview has been used; but, in some cases, where the interviewees are not available to face to face interview or there is the need for follow up interviews, telephone interview was employed. The key informants are selected for their knowledge of the issue.

Case Selection

The researcher has given relatively more focus to the experience of three regional states i.e. State of Amhara, State of Oromia, and State of Harari to investigate the matter. The State of Oromia, State of Amhara and the State of Harari people are selected because of these regional states can conspicuously illustrate the asymmetrical features of the Ethiopian federal system with regard to population and land area size.

Data Analysis

In qualitative research, credible analysis of qualitative data is indispensable. ‘Credible conclusions are believable when accompanied by strong evidence, clear logic, valid data, and the ruling out of alternative explanations.’²⁷ In this study, it is tried to analyze qualitative data in such a way that we make sure the arguments are sound and the conclusions are credible.

1.7. Structure of the Chapter

The study is organized in such a way that it comprises six chapters. This introduction of the thesis is the first chapter of the study. The second chapter of the paper is devoted to lay a theoretical groundwork for the paper. Specifically, the chapter briefly discusses the notion of asymmetry and symmetry in federalism, preconditions of asymmetry, and classification of asymmetry i.e. constitutional asymmetry and political asymmetry or *de jure* and *de facto* asymmetry in the context of multinational federation.

The third chapter attempts to briefly and critically examine the Ethiopian federal arrangement with particular emphasis to the preconditions of political asymmetry, *raison d’être* of the Ethiopia’s ethnic-based federal formula and the design of federal constituent units. The

²⁷ Robert K. Yin, 2011, *Qualitative Research from start to finish*, (The Guilford Press: New York), page, 78

structural aspects of the Ethiopian federal political system are also summarized in this chapter.

The major political asymmetrical features of the Ethiopian Federal system have been dealt in detail in fourth chapter of the paper. The actual and potential impacts of the glaring political asymmetry arising from the relative land area and population size of member states upon the operation of the federal system is dealt with in the fourth chapter of the paper. The fifth chapter of the thesis focuses on exploring the moderation of the corrosive impacts of political asymmetry within the Ethiopian federation. In the sixth chapter, the last section of the paper, the conclusions and recommendations of the study are summarized.

Chapter Two

Political Asymmetry within Multinational Federations: a Brief Survey of Literatures

2.1 Introduction

It is widely agreed that theoretical discourses provide researchers with an analytical framework to observe, analyze and interpret the collected data and arrive at logical conclusions and plausible recommendations. They also help to put the issues in the already established theoretical perspectives. In fact, theoretical discussions in a research usually concentrate on areas that make a vital contribution to explain and interpret ‘the reality as well as to establish an analytical framework for observing and conceptualizing the empirical findings’.²⁸ As a wide range of related issues can be raised, here the focus is on some selected theoretical issues that are highly relevant to appreciate the notion of political asymmetry within multinational federations, thereby the chapter lays a theoretical groundwork for the forthcoming discussions on the implications of political asymmetry for the operation of the Ethiopian federal political system.

To be more specific, the chapter in an effort to meet the aforementioned objective attempts to take a brief look at the meaning of federalism and federation and glimpses the commonalities and dissimilarities among federations. Also it is tried to clearly conceptualize multinational federalism, to highlight the ambivalent views with regard to the value of federalism as diversity accommodative tool and to emphasize that multinational federation is neither an easy option nor a panacea for all political ills of human society. Besides, political asymmetry, as one of the conditions that profoundly affects the working of a federal system, is discussed at length giving greater attention to preconditions of political asymmetry, implications of political asymmetry for the functioning of a federal system and the corrective measure that can be taken to moderate the corrosive impacts of political asymmetry.

²⁸ Berhanu Gutema, 2006, *supra* note 9, page 23

2.2 Federation and Federalism

Though the origin of the federal idea, as Herman Finer wrote 80 years ago, dates back to the ancient history of human being, '[i]ts theory and practice in the modern state are not older than American federation' founded in 1787.²⁹ To one's surprise, clear distinction between federalism and federation did not appear in the scene of theoretical discourses of federalism till 1982, when Preston King's judicious book came out. Following P. King's³⁰ lead to distinguish between the two terms, authors, like Michael Burgess,³¹ the late Daniel Elazar³² and Ronald Watts,³³ further elaborated and developed on his lead. Now it is next to impossible to talk of this distinction³⁴ without referring to the works of these intellectual heavyweights of federalism. Hence no attempt is made here to make an exception in this regard.

Federalism, as normative and philosophical principle, 'refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule'.³⁵ The values of simultaneously advancing both self-government and shared government or 'of combining unity and diversity' are, therefore, essences of federalism as a normative notion. Using this normative principle as a recipe, different species of political institutions, 'ranging from "quasi-federations" and "federations" to "confederacies" and beyond', can be institutionalized.³⁶ In

²⁹ Quoted in Jennifer Smith, 1998, The Meaning of Provincial Equality in Canadian Federalism, *Working Paper 1998(1)*, Intergovernmental Relations, Queen's University

³⁰ Michael Burgess, 2006, *Comparative Federalism; Theory and practice*, page 2 (noting '[h]is *Federalism and Federation* [Preston King's book entitled *Federalism and Federation*, 1982] was a new and different approach to the subject. It enabled scholars to research an old subject without becoming ensnared in the familiar but futile debate about definition.')(Ellipses added)

³¹ Michael Burgess, 1986, *Federalism and Federation in Western Europe*. (London: Croom Helm).

³² Daniel Elazar, 1987, *Exploring Federalism*. (Tuscaloosa, AL: University of Alabama Press)

³³ Ronald Watts, 1999, 2nd edn., *Comparing Federal Systems*, Montreal and Kingston: McGill-Queen's University Press.

³⁴ This distinction, however, should not be construed in a way that it overlooks the very complex relationship existed between them. As M. Burgess, 2006, *supra* note 30, page, 2, stated, 'Federalism informs federation and vice versa.'

³⁵ R.L. Watts, 2008, *supra* note 4, page 8,

³⁶ *Ibid*, page 8 and Daniel Elazar, 1987, *supra* note 32, page 11-12

this case, federation, as a set of institutions, happens to be one of the varieties within the broad ‘genus’ of federal political system.³⁷

Federation, as Michael Burgess aptly defined, refers to ‘a distinctive organizational form or institutional fact the main purpose of which is to accommodate the constituent units of a union in the decision-making procedure of the central government by means of constitutional entrenchment.’³⁸ To be critical, this definition of federation is more or less similar with Preston King’s definition of the same term, which, probably for the first time, appeared in his seminal study published in 1982.³⁹

In spite of the fact that there is no universally accepted definition for federalism⁴⁰ and federation, many renowned authorities on the discipline have come up with a number of definitions that have many elements in common.⁴¹ The definitions stated above are, however, neither representative nor are they accepted by everyone, but they may help to make one understand the distinction between two terms. Cognizant of the fact that the space does not allowed us to exhaustively survey and discuss at length different, if not totally unrelated, definitions of both terms, the following definitions adopted as a working definition for their analytical relevance.

In this study, the term ‘federalism’, thus, denotes a normative and philosophical notion that promotes and recommends a multi-ordered government in which self-governing units share a common political centre. On the other hand, ‘federation’ refers to a distinct institutional arrangement which mainly aimed at accommodating the federated units in the decision making procedure of the general government by constitutionally entrenched means.

³⁷ According to Ronald Watts, 2008, *supra* note 4, ‘the term “federal political systems” refers to a broad category of political systems in which, by contrast to the single central source of political and legal authority in unitary systems, there are two (or more) levels of government thus combining elements of shared-rule (collaborative partnership) through a common government and regional self-rule (constituent unit autonomy) for the governments of the constituent units.’ Federation is therefore a subset of federal political system.

³⁸ Michael Burgess, 2006, *supra* note 30, page 2

³⁹ See Preston King, 1982, *supra* note 30, page 77

⁴⁰ Will Kymlicka (1998). ‘Is Federalism a Viable Alternative to Secession?’, in P. Lehning (ed.) (1998) P. Lehning, (ed.) (1998). *Theories of Secession* (London: Routledge), page 117

⁴¹ For fuller discussion of distinctions between federation and federalism See R.L. Watts, 2008, *supra* note 4

2.3 Commonalities and Variances among Federations

It is crystal clear that federations do largely result from ‘unique conjunction of conditions and institutions’ of their own⁴² but, as members of a distinct species, they have many features in common. Comparative studies have also revealed that federations ranging from the first modern federation of United States of America to the relatively young federations, like Iraq and Nepal; from the failed federations of Yugoslavia and Union of Socialist Soviet Republic (USSR) to the successful federations of Switzerland and Germany roughly share a number of commonalities regardless of the varying historical, social and cultural context they originated from and were/are operating.⁴³

Ronald L. Watts, in summarizing these commonalities among federations, wrote:

Common characteristics of federations [...] are: the existence of two or more orders of government each acting directly on their citizens; a formal constitutional distribution of legislative and executive authority and allocation of revenue resources to the different orders of government; a supreme written constitution not unilaterally amendable by either order of government and requiring a measure of consent from each order; an umpire, usually in the form of courts, to adjudicate disputes between governments; processes and institutions to facilitate intergovernmental collaboration for those areas where governmental responsibilities are shared or inevitably overlap; and provision for the designated representation of distinct regional views within the federal policy-making institutions, usually including some form of federal second legislative chamber.

It is also worth stressing that, despite similarities, striking variations among federations are not uncommon. As one author briefly summed up, federations show a discrepancy in the degree of representativeness of the institutions of the general government, ‘in the powers they distribute to the different levels of government and in the manner that these

⁴² Ronald Watts, 1988, *Federal Systems and Accommodation of Distinct Groups: a comparative Survey of Institutional Arrangement for Aboriginal Peoples*. Institute of Intergovernmental Relations, Queen's University Kingston, Ontario, page, 16

⁴³ Ronald L. Watts, 2007, Multinational federations in comparative perspective, in Michael Burgess and John Pinder (ed.), 2007, *Multinational Federations*. (Routledge), page 226, (ellipse added)

competencies are distributed.⁴⁴ More relevantly, for our purpose, federations vary in ‘the number, relative size and symmetry or asymmetry of the constituent units’⁴⁵ and in the ‘multi-ethnic’ and ‘mono-ethnic’ character of the federation⁴⁶. They also vary in their *raison d’être*. Interestingly, these particular variations are of vital importance as they significantly affect the relative effectiveness of a federation as much as ‘the general decision to adopt federation as a form of government.’⁴⁷ ⁴⁸The following sub-sections of the chapter will dwell upon specific types of federations whose *raison d’être* is accommodation of diversity; namely multinational federation. First, some ground-clearing; making some relevant points on the patterns of diversity within a state, then discussion on federalism as diversity accommodative tool in the context of plurinational state would be in order.

2.4. Patterns of Diversity within the State

Despite some arguments to the contrary, many authors rightly declared that the apogee of the ‘nation-state’ model, which originated in Europe and was successfully spread out to the rest of the globe, has already passed⁴⁹ as the world is changing in such a way that the importance of the state is critically diminishing, if not disappearing, and its sovereignty is also transforming.⁵⁰ These changes are mainly caused by the pressure from three sides; the rise of globalization and the emergence of strong transnational and international regimes from above; the emergency of new social and political movements at sub-state territories from

⁴⁴ Yonatan T. Fesseha, *Institutional Recognition and Accommodation of Ethnic Diversity: Federalism in South Africa and Ethiopia*, 2008, (PhD Dissertation submitted to University of The Western Cap.) Available at http://etd.uwc.ac.za/usrfiles/modules/etd/docs/etd_gen8Srv25Nme4_5952_1262639555.pdf (accessed on December 20, 2011), page 76-77

⁴⁵ Ronald Watts, 2008, *supra* note 4, page 19

⁴⁶ John McGarry and Brendan O’Leary, 2007, Federation and managing nations, in Michael Burgess and John Pinder(ed.), 2007, *Multinational Federations*. (Routledge), page 181

⁴⁷ Ronald Watts, 2007, *supra* note 7, page, 227

⁴⁸ This implies that the choice-making of constitutional makers never end by picking up federation among the major form of government since the menu does not provide them with a one-fit-for-all federal model that can be comfortably transplanted.

⁴⁹ See, for example, Eric Hobsbawm, 1990, *Nations and Nationalism since 1780*, (Cambridge: Cambridge University Press); Daniel J. Elazar, 1996, From Statism to Federalism: a Paradigm Shift, *International Political Science Review*, 1996, Vol. 17, No. 4, 417-429.

⁵⁰ Michael Keating, 2001, *Plurinational Democracy; Stateless Nations in a Post-Sovereignty Era*. (Oxford University Press).

below; and laterally, the ascendance of neo-liberal market deregulation and ‘the advance of civil society in formerly state-bound countries’.⁵¹

As a matter of fact, the centuries-old nation-state building projects⁵² did not succeed in creating a purely mono-nation-state, nor did they eliminate the possibility of the emergence of new nationality claims within.⁵³ Accordingly, great deals of present-day states are composed of more than one nationality and a significant number of them are also staring a measure of nationality claims in the face.⁵⁴

Since these nation-state building projects have pursued differing paths, they have achieved a varying degree of ‘success’ and have been experimented in extremely divergent set of conditions and contexts, among others,⁵⁵ the diversity within states has no end of diversities. ‘Diversity of diversities’ (borrowing R. Simeon’s terminology)⁵⁶, therefore, seems to be inescapable.⁵⁷ Will kymlicka, the leading contemporary authority on multiculturalism, makes

⁵¹ Michael Keating, Michael Keating, 2001, Nations Without States: The Accommodation of Nationalism in the New State Order in Michael Keating and John McGarry (eds.), *Minority Nationalism and the Changing International Order*. (Oxford: Oxford University Press), page 20

⁵² Of course, states, like United State of America, Germany and France, have achieved considerable degree of homogeneity and built a dominant national culture to which most of their citizens identified with through a deliberate endeavour at building a state of one nationality that eliminate or dominate sources of cultural diversity. Despite this modest ‘success’, ‘the existence of rooted ethnocultural or ethnolinguistic minorities’ continues to be the feature of these states (Wayne Norman, 2006, page xiii). On the other hand, Iceland and Korea, as Will kymlicka, 1995, *Multicultural Citizenship* (Oxford: Oxford University Press), page 176) noted, are oft-cited as examples of states that are more or less culturally homogenous.

⁵³ Historic nation-state building projects, excepting that of Switzerland, have originated from ‘a particular cultural tradition and territorial heartland that formed the core of an expanding national identity’, and utilizes the state apparatus to forge a culturally homogenous ‘nation-state’ (Rainer Bauböck, 2001, United in Misunderstanding? Asymmetry in Multinational Federations, *ICE - WORKING PAPER SERIES*; page 10-11). This aspect of the nation-state building project coupled with the changing world state of nature provides a fertile ground for the emergence and the underpinning of nationality claims. However, this alone, as hinted earlier, is not enough to fully appreciate this complex phenomenon which is partly, if not entirely, explained by country-specific factors.

⁵⁴ W. Kymlicka, 1995, *Multicultural Citizenship* (Oxford: Oxford University Press), page 1

⁵⁵ Wayne Norman, 2006, *Negotiating Nationalism, Nation-building, Federalism, and Secession in the Multinational State*. (Oxford University Press Inc., New York),

⁵⁶ Richard Simeon, 2007, Managing Conflicts of Diversity in *Unity in Diversity: Learning from Each Other*, Conference Reader of the 4th International Conference on Federalism, Nov. 2007, New Delhi, page 104.

⁵⁷ States, like India and Nigeria, are composed of dozens of nationalities and linguistic communities unlike some other states predominantly comprise a handful of nationalities. Canada and Australia, for example, have aboriginal nationalities. In some states, like Iraq and Lebanon, nationality claims dominantly came into view on the bases of religious identities. Cantonal identities are more pronounced than religious and linguistic identities in Switzerland. Asymmetry among nationalities in terms of the degree of political saliency identities achieved within a given state can be identified in many states. Some states share a common nationality, which achieved a measure of solidarity beyond the state boundary, with their adjacent states (for example, Kurds in the Mideast, Somalis in the horn Africa). Intriguingly, some nationalities do not occupy a given territory as a group or a significant part of the group constitutes a minority in another territorially-concentrated nationality. European Jews and Gypsies are usually referred to as non-territorial minorities.

out two patterns of ethnic diversity within states i.e. ‘multination’ (‘multinational’) state and ‘polyethnic’ state. The term ‘multinational’ states stand for those states which comprise two or more national groups⁵⁸ who consider themselves as distinct communities and claim some kind of autonomy or self-administration in order to preserve their distinct identity. The ‘poly-ethnic’, on the other hand, represents those states which consist of various ethnic communities (usually immigrants⁵⁹) seeking greater recognition of their ethnic identity, not primarily in the form of self-governing arrangement.⁶⁰

On the other hand, David Miller identifies three patterns of social division; namely, ethnic cleavages, rival nationalities and nested nationalities.⁶¹ The first category comprises multiethnic, but not multinational, states which are composed of ‘two or more distinct ethnic groups⁶² each of which is nonetheless able to participate in a common national identity.’ The

⁵⁸ Kymlicka, 1995, *supra* note 54, page 11, defined ‘nation’ as ‘a historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture.’

⁵⁹ Michael Keating, 2000, *So Many Nations, So Few States: Accommodating Minority Nationalism in the Global Era*, in Alain-G. Gagnon and James Tully (eds.), *Multinational Democracies* (Cambridge: Cambridge University Press), page 42, argued that the distinction between ‘polyethnic’ and ‘multinational’ state (immigrants and national minorities) ‘does help us limit the implications of recognizing self-government and allows for an argument which is historically rooted. It does not, however, travel well beyond North America or back in time. In Europe just about every ethnic and national group can be considered either immigrants or natives, depending on what the cut-off date is and who is doing the defining.’

⁶⁰ Will Kymlicka, 1995, *supra* note 54, page 10-17

⁶¹ D. Miller, 2001, *Nationality in Divided Societies* in A.-G. Gagnon and J. Tully (eds.), 2001, *Multinational Democracies* (Cambridge: Cambridge University Press.), page, 300

⁶² For D. Miller, ethnic groups are ‘a set of people with a distinct set of cultural values and a shared language, who recognize their cultural kinship with one another, and engage in practices that set them apart from outsiders.’ However, they, according to him, don’t claim for political autonomy as ‘ethnic identity involves no particular territorial claim.’ Despite Kymlicka’s emphasis on the Immigration as a principal source of ‘polyethnicity’ of the state, he does seem at the same wave length with Miller when he argued that ethnic groups ‘are not ‘nations’, and do not occupy homelands. Their distinctiveness is manifested primarily in their family lives and in voluntary associations, and is not inconsistent with their institutional integration. They still participate within the public institutions of the dominant culture(s) and speak the dominant language(s)’ Kymlicka, 1995; *supra* note 54, 14. He goes further and states that ethnic groups, at least theoretically, can be a nation ‘if they settle together and acquire self-governing powers’. In the similar vein, John Pinder noted that where national groups ‘are not geographically concentrated, they may form part of a multi-ethnic rather than a multinational state’ (though many of the contributors of the book he co-edited interchangeably used both terms for states which are composed of more or less territorially concentrated nationalities) John Pinder, 2007, *Multinational Federations: Introduction* in Michael Burgess and John Pinder(eds.), 2007, *Multinational Federations*, (Routledge), page 4. In this case, the threshold to qualify to be a nation seems having a particular territory as a homeland. This kind of conceptualization of ethnic group is also roughly accepted by scholars, like R. Watts (, 2007; 227). However, some other scholars stress the degree of national consciousness to seek an independent statehood to distinguish a ‘nation’ from an ethnic group. T.H. Eriksen, 1993, *Ethnicity and Nationalism: Anthropological Perspectives* (London: Pluto Press), page 30, who is well-aware of the complex relationship between terms ethnic group and nationality, for example, contends that ‘many ethnic groups do not demand command over the state’ unlike nations which have close association with independent statehood. More critically, Brass (as quoted in Yonatan, 2008, *supra* note 44, page 39) noted ‘If an ethnic group seeks some form of autonomy or self-government, then it has transformed into a nation.’ However, the sensible, by no means unanimously agreed, distinction between an ‘ethnic group’ and a ‘nation’ is that the latter, in contrast to the former, developed a strong sense of national consciousness which cannot be addressed by the mere recognition as

second type of social division includes states which consist of ‘groups with mutually exclusive national identities each seeking to control all or part of the territory of the state’ and, therefore, their relationship is antagonistic. Miller’s third category, nested nationalities, is found when more than one territorially-concentrated ‘communities exist within the framework of a single nation, so that members of each community typically have a split identity. They think of themselves as belonging both to the smaller community and to the larger one, and they do not experience this as schizophrenic, because their two identities fit together reasonably well.’⁶³ However, in practice, as is acknowledged by authors,⁶⁴ sorting out unequivocally a given diversity within a state in such a way that it fits into these categories is no easy task.

To add a point that deserves more than just a footnote, some scholars are not comfortable with ‘multinational’ states as a legitimate category of classification. ‘There is clear evidence of some genuine intellectual discomfort about this use of terminology and its accuracy in portraying different kinds of nationalism.’⁶⁵ In this regard, Michael Keating,⁶⁶ who has reservations about the appropriateness of the term ‘multinational’ to describe the pattern of cultural diversity in some states grouped so, perhaps more aptly, adopts the term ‘plurinational’ in lieu of the more common ‘multinational’ ‘in order to express the plurality not merely of nations, but of conceptions of nationality itself.’⁶⁷ Nationality is, therefore, ‘not to be seen as a monopolistic identity but can rather take multiple forms within population groups and within individuals.’ According to him, ‘people are able to live with several

distinct identity. At this juncture, non-territorial concentration of ethnic groups might be appeared as one of the reasons that limits ethnic groups aspiration to recognition and political representation alone.

Not less interestingly, some authors make a distinction between decent-based and culture-based conception of national identity. As Kymlicka 1995, *supra* note 54, page 23-24, noted ‘some national groups define themselves in terms of blood’. The Afrikaners in South Africa and the German nation, where membership is determined by descent, not culture, are the case in point. In such a case, it is not one’s integration into the culture that determines his/her identity but he/she is required to have at least one German or Afrikaner grandmother (Sinisˇa Malesˇevic´, 2006, *Identity as Ideology Understanding Ethnicity and Nationalism* (PALGRAVE MACMILLAN), page 25).

⁶³ *Ibid.*, page, 304

⁶⁴ W. Kymlicka doubts the applicability of his model to the Black Afro-Americans. Similarly, D. Miller also acknowledges the limits of his categorization to include the aboriginals.

⁶⁵ M. Burgess; 2006, *supra* note 30, page 130

⁶⁶ Michael Keating, 2001, *supra* note 50, page 19

⁶⁷ *Ibid.*

identities'. Also national-related identities 'are not always monolithic and exclusive' though this can be the case when they are faced with external threats. One can, therefore, comfortably be British, Scottish and European or, to make it more closer to our case, one can be Walloite, Oromo, Ethiopian, and African. By the same token, Miguel Salazar asserts that these national-related identities tend to occur in concentric circle where their relative importance ebbs and flows as 'situational factors play an important role in determining their role or effect on behaviour.'⁶⁸ More critically, David Miller stated that concentric circle is not always the case; sometimes we can think of overlapping circles in which 'people identify to some degree with neighbouring communities as well with more inclusive ones.' (A Scottish Catholic living in Glasgow may feel some affinity with Irishmen across the water as well as with Scotland, Britain, etc.)⁶⁹

The term 'plurinational', as M. Keating stated, emphasizes the plurality of national-related identities anyone can have, as opposed to 'multinational'⁷⁰ that seems to imply 'distinct national communities living together.'⁷¹ The term also accentuates the transformation of modern state from the nation-state model to the plurinational state model which does not prescribe or pretend to be a 'home state' of a homogenous nation in sharp contrast to the former model which largely advocates for the conterminous existence of state boundary and national boundary.⁷² In this study, we frequently use the term plurinational state referring to states that are composed of two or more nationalities seeking a measure of autonomy and self-government. I must also concede that there is no rigidity to rigorously use only one of the terms as is the case in many works in the study area including those of Michael Keating.

In conclusion, despite utmost effort to forge a 'nation-state' out of many ethnonational groups, rarely did the 'nation-state' building project succeed in creating a purely homogenous

⁶⁸ Quoted in Biniyam Negash, 2007. *The Ethiopian Nationalism in the 'New Political order' of Ethiopia (1991-)*. (Addis Ababa University, unpublished BA senior essay) page 6-7

⁶⁹ David Miller, 2001, *supra* note 61, page 304,

⁷⁰ In this connection, W. Kymlicka, 1995, *supra* note 54, page 13, despite the fact that he is of the opinion that equating citizens' loyalty to the state with membership of a national group is misleading, clearly noted that labeling 'states as 'multination' states is not to deny that the citizens view themselves for some purposes as a single people'

⁷¹ Michael Keating, 2001, *supra* note 50, page 19

⁷² He therefore recommends 'plurinational' democracy (plurinationalism), not multi-national federalism, to accommodate the diversity of plurinational state believing that multinational federation is not adequate to meet the complex plurinational reality.

state and in utterly eliminating the possibility of the emergence of the nationality claims. The recent evolution of the state system, which favours local and supra-state forces at the expense of the state, has also further exposed the shaky grounds of the 'nation-state' model. Plurinational reality, far more than mono-nationality, is hence the characteristic feature of the contemporary modern states. However, it has to be born in mind that the mere existence of variety of identity markers, like language, race, religion, and colour, as a means of social distinction within state does not necessarily lead to inter-group conflict, nor does it automatically imply the prescription of autonomy arrangement or multinational federation. 'The politics of pluralism comes to the fore only when historical, economic and social circumstances deem cultural distinctiveness a politically relevant divide.'⁷³

2.5. Federalism as Diversity Accommodative Tool

States' responses to nationality claims based on politically relevant identity related divides varies significantly ranging 'from oppression and ethnic cleansing to accommodations of ethnic claims through affirmative policies, special forms of representation, power sharing, and the integration of minorities.'⁷⁴ Federalism, therefore, comes into sight as one of states' responses to deal with identity related claims.

The founding fathers of United States of America first devised federalism in 1787 with the objective of building a larger polity out of formerly-discrete smaller colonies.⁷⁵ These federal organizing principles moved across Atlantic to Europe to serve, *mutatis mutandis*, the same purpose. Nowadays, federalism, however, can serve a number of purposes beyond what the authors of *The Federalists* envisaged two centuries ago.⁷⁶ It also assumes various forms as a response to the partly unique pressing problem(s) of the state in question.⁷⁷ Of late, 'one particular area where federalism is increasingly prescribed is in the accommodation of

⁷³ Yonatan. 2008. *supra* note 44, page 66

⁷⁴ Y. Ghai, 2000, Ethnicity and autonomy: A framework for analysis in Y. Ghai (ed.) *Autonomy and Ethnicity: Negotiating Competing Claims in Multi-ethnic States*, (Cambridge: Cambridge University Press), page 1

⁷⁵ Donald Horowitz. 2007. The Many Uses of Federalism in *Drake Law Review*, 2007, Vol.55. 953-964, page, 956

⁷⁶ *Ibid*, page, 957

⁷⁷ Jonathan Rodden. 2004. Comparative Federalism and Decentralization: on Meaning and Measurement in *Comparative Politics*, July 2004, 481-500. page 489

territorial divisions and the management of ethno-linguistic conflict⁷⁸ in the context of plurinational state.

As hinted at in the preceding discussions, federation ‘as an institutional design was not originally developed specifically to deal with multinational situations’.⁷⁹ Also there does seem to exist no ‘inherent connection between federalism and cultural diversity’ though its popularity as a normative principle to manage and accommodate conflicts of diversity is growing.⁸⁰ Prior to the end of World War II, as Ronald Watts argued, ‘federalism was treated with benign contempt as an incomplete national government or a transitional model of political organization.’⁸¹ However, since 1945, its potential to deal with plurinational situation and ‘to combat remote, undemocratic and ineffective central governments’ has widely been recognized.⁸² It has also received a tremendous attention in academic circles starting from the last decade of the last century and is coming into prominence at the dawn of the twenty-first century.⁸³ In many parts of the world, ‘the boom in the study of federalism is accompanied by growth in its applied side’.⁸⁴

More recently, following federalism’s assumption of this role, though some question the validity of the dichotomy,⁸⁵ a number of scholars have made distinction between uninational/mononational⁸⁶ and multinational federations. As Wayne Norman⁸⁷ rightly put it,

⁷⁸ Jan Erk & Lawrence Anderson (eds.), 2010. *The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?* (Routledge Taylor and Francis Group, London and New York), page 1

⁷⁹ Ronald Watts, 2007, *supra* note 7, page 227

⁸⁰ W. Kymlicka, 1995, *supra* note 54, page 28

⁸¹ Quoted in Jan Erk, 2008, Explaining Federalism: State, society and congruence in Austria, Belgium, Canada, Germany and Switzerland, (Routledge Taylor and Francis Group, London and New York), page 3

⁸² *Ibid*

⁸³ Alain-G. Gagnon, 2007, Democratic Multinational Federalism Under Scrutiny: Healthy Tensions and Unresolved Issues in Canada in Michael Burgess and John Pinder(eds.), 2007, *Multinational Federations* (Routledge).

⁸⁴ Jan Erk and L. M. Anderson (eds), 2010, *supra* note 78, page 1

⁸⁵ For strong critique of the validity of the distinction made between mononational and multinational state see Nenad Stojanović, 2010, *Mononational and Multinational State: A valid dichotomy?* in Conference Legal Reasoning and European Law: the Perspective of Neil MacCormick, European University Institute, Fiesole, 21 May 2010

⁸⁶ Some writers prefer to use the term ‘territorial federation’ in the place of mononational/uninational federation. (See, for example, Philip Resnick, Toward a multinational federalism, in Leslie Seidle (ed.), *Seeking a New Canadian Partnership: Asymmetrical and Confederal Options*, Montreal, Institute for Research on Public Policy, 1994, p. 71.); Will Kymlicka, 1998. Is Federalism a Viable Alternative to Secession?, in P. Lehning (ed.), 1998, *Theories of Secession* (London: Routledge), page 121; Wayne Norman, 2006, *supra* note 49, page 87, Gunther Baechler, 2007, Territorial vs. Ethnic and Personal Federalism Issues & Practice in *Reading on Governance & development*. Vol. x, 26-37). However, as both forms of federations are conventionally territorially based arrangements, the term territorial federation is consciously ignored in this study. For our purpose the term multinational federation

the core difference between them lies in their respective *raison d'être*.⁸⁸ In line with this classification, mononational federations 'may be nationally homogeneous (or predominantly so), or they are organized, often consciously, so as not to recognize more than one official nationality.'⁸⁹ For them, federation is a tool to build a nation by eliminating internal national and ethnic differences⁹⁰ and to ensure sufficiently decentralized government.⁹¹ United States is commonly cited as a founding and paradigmatic example of mononational federation. On the other hand, the primary purpose multinational federation intends to serve is the accommodation of nationality claims for self-rule, principally by establishing constituent units where at least one of the nationalities forms a clear majority.⁹² Canada, India, and Belgium can be mentioned as examples of multinational federation.

As the candidature of federalism as diversity accommodative device is not without controversy, with these parsimonious introduction of federation as one of diversity accommodative devices, it is an opportune time for us to attempt to offer a thumbnail sketch of the arguments for and against multinational federalism.

2.6. The Case for and against Multinational Federation

Although the multinational federalist perspective⁹³ has received substantial, albeit critical, support among contemporary scholars,⁹⁴ a significant number of scholars are skeptical about

denotes a federation whose primary *raison d'être* is the accommodation of nationality claims for self-rule, principally by establishing constituent units in such a way that at least one of the nationalities forms a clear majority in one of the federated units.

⁸⁷ Wayne Norman, 2006, *supra* note 55, page 87

⁸⁸ It should however be noted that scholars make distinction between mononational and multinational federations on slightly different but highly related bases. As a result, the multinationality of some federations, like Switzerland, heatedly debated among scholars.

⁸⁹ John McGarry and Brendan O'Leary, 2007, Federation and managing nations, in *Multinational Federations* in Michael Burgess and John Pinder (ed.), 2007, ***Multinational Federations***, Routledge, page 182

⁹⁰ *ibid*

⁹¹ John Pinder, 2007, *supra* note 62, page 6

⁹² John Pinder, 2007, *supra* note 62, page 6

⁹³The value of Federation as one of the devices of accommodating nationality claims has been investigated by intellectuals, constitutional lawyers and political scientists, among others, for well over a century at varying degree of attention. However, scholars' position regarding the value of federation as diversity accommodative tool has varied considerably. These differing scholarly positions are of vital significance for they have affected 'the design of particular states.' In this connection, John McGarry and Brendan O'Leary identified four major positions which are articulated by scholars from various interrelated disciplines. The first scholarly position, which can be termed as 'Jacobin Unitarism' for its close association with the position of French revolutionaries, considers federation as 'incompatible with equal citizenship and a sovereign people,' and they also regarded it as 'a road block in the path of authentic, indivisible, monistic popular sovereignty' and more forthrightly as state destroying. As John McGarry and Brendan O'Leary argued, the second position 'advocated federation as a tool for nation building and sometimes saw it as a stepping stone towards a more centralized unitary state.' The strategy aims for proliferating 'when possible the multiple points of power

the potential of ‘ethnofederalism’ in dealing with the challenges of plurinational state. A sweeping consensus is not yet reached on the extent multinational federalism accommodates nationality claims for recognition and self determination while at the same time safeguarding the unity of the state and thwarting the possibility of state dismemberment.

The multinational federalists advocate the accommodation of ethnonational groups by granting a measure of autonomy or self-government in which they protect and promote their distinctiveness.⁹⁵ As one of the few devices available for managing or accommodating diversity,⁹⁶ ‘short of secession, most answers to the question of diversity have focused on federalism’,⁹⁷ which prescribes the division of powers between the general and sub-national governments, thereby territorially concentrated nationalities can form majority⁹⁸ in one of the constituent units.⁹⁹ Put differently, plurinational states can make use of federalism ‘to unite people who seek the advantages of membership of a common political unit, but differ markedly in descent, language and culture’.¹⁰⁰ Multinational federalism, as Ramón Máiz aptly stated, therefore, ‘envisages, argues for and supports the possibility of the peaceful, politically complex but economically cohesive and culturally enriching coexistence, within a single state,

away from a focus on ethno-nationalism’ and weakening ‘potentially divisive ethno-nationalism by designing the constituent units to prevent ethnic, linguistic or religious minorities from becoming majorities within constituent units.’ The third perspective on the value of federation as a device of accommodating nationality claims, otherwise termed as cosmopolitan, argued that federations are instrumental to achieve a post-national order that can effectively demobilize all national attachments. 17th century Anarchists, Liberal nationalist and Marxists are mostly considered to be the exponents of this view. The last and the most important point of view for our purpose, which is commonly labeled as multinational federalist, advocates the accommodation of ethnonational groups by granting a measure of autonomy or self-government in which they protect and promote their distinctiveness.

⁹⁴ See, for example, (McGarry and O’Leary 1993; Linz 1997; Hechter 2000; Simeon and Conway 2001; Keating 2001; Kymlicka 1995; Moore 2001; Stepan 1999; Watts 1999; O’Leary 2001; Ferran Requejo, 2005).

⁹⁵ *ibid.*, page 189

⁹⁶ Will Kymlicka, 1998, *supra* note 86, page 120

⁹⁷ Michael Keating, 2001, *supra* note 50, page 108

⁹⁸ It is worth stressing that ‘this recognition’ according to Ronald Watts, 2007, *supra* note 7, page 233, ‘has not necessarily followed a rigorous formula of ‘one nation – one province’.’ John McGarry and Brendan O’Leary, 2007, *supra* note 80, page 189, are also at the same wave length with Watts’ remark. (noting: ‘Multinational federalists reject the view that every minority must inevitably seek its nation state, and maintain that even among those that do they may settle for their own region instead. They argue that if the provincial borders of the component units of the federation match the boundaries of the relevant national, ethnic, religious or linguistic communities, i.e. if there is a ‘federal society’ congruent with the federating institutions, then federation may be an effective harmonizing device. That is precisely because it makes an ethnically heterogeneous political society less heterogeneous through the creation of more homogeneous subunits.’). Admittedly, as Rainer Bauböck, 2001, *supra* note q, page 5 noted, ‘in Switzerland and India many internal federal boundaries correspond to language differences of this kind without turning cantons and states into separate nations and the federation into a multinational one.

⁹⁹ W. Kymlicka, 1995, *supra* note 54, page 27

¹⁰⁰ Forsyth, M. (ed.), 1989, *Federalism and Nationalism* (Leicester: Leicester University Press), page 4

of a plurality of nations, with acknowledged cultural differences, that are endowed with institutions of self-government.¹⁰¹

However, critics of federalism as diversity accommodative tool (over)emphasized the scepticism of scholars and ‘the terrible track record’ (to use the J. Snyder’s phrase)¹⁰² of federalism in dealing with the challenges of plurinational society. Accordingly, Jan Erk and L. M. Anderson argued that, the growing recent enthusiasm for federalism multi-ethnic states notwithstanding, ‘ethnofederalism’ is fraught with paradox in theory and practice; ‘institutions, policies, and practices that are designed to manage divisions may also ensure the perpetuation of these very divisions.’¹⁰³ Therefore, multinational federal arrangement according to them, may actually promote secessionism rather than resolve it by freezing the fluid identities, providing incentives to mobilize people for secessionist cause, rendering institutions that facilitate collective action, and reducing the costs of secession.¹⁰⁴

In a similar vein, Philip G. Roeder contended that ‘the consequences inhere in the institutional arrangements of ethnofederalism and autonomy’, which are with demons that are unlikely to exorcise, are quite different from that of ‘simple federalism’ (non-multinational federalism).¹⁰⁵ These institutions of multinational federalism ‘shape the agenda of politics and distribute power in ways that create or keep alive conflicts among competing nation-state projects’ which is not the case in ‘simple federalism’ and unitary arrangements.¹⁰⁶ He is thus pessimistic about the long lasting and fundamental positive effect of the common tinkering reforms that aim at getting these institutional arrangements right for the simple reason that ‘the devil is not in the minor details that distinguish one form of ethnofederalism or autonomy arrangement from others, but in the fundamental institutional differences between ethnofederal and autonomy institutions, on the one hand, and simple federal and unitary

¹⁰¹ Ramón Máiz, 2005, Nation and deliberation Democracy, in Ramón Máiz and Ferran Requejo (eds.) 2005, *Nationalism and Multiculturalism* (FRANK CASS PUBLISHERS), page 64

¹⁰² J. Snyder, 2000, *From Voting to Violence: Democratization and Nationalist Conflict*. (New York: Norton), page 327

¹⁰³ Jan Erk and L. M. Anderson (eds), 2010, *supra* note 78,

¹⁰⁴ *ibid*

¹⁰⁵ P.G. Roeder, Ethnofederalism and the Mismanagement of Conflicting Nationalisms in Jan Erk and L. M. Anderson (eds), 2010, *The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?* (Routledge Taylor and Francis Group, London and New York), page 17-18

¹⁰⁶ *Ibid*, page 24

institutions on the other.¹⁰⁷ He is also of the opinion that arguments that back ethnofederation or autonomy usually revolve around the immediate impact of arrangements on agendas and capabilities. However, these arguments, the author argued, are criticized of short-termism, of its emphasis on ‘satisfying the greed and grievance on both sides in the existing conflict’, of ‘structuring identities, capabilities and opportunities that can cause the escalation of conflict’, of its less attention to ‘predation by the ‘homeland’ government once they are empowered and the general government is weakened, and of failure to ‘appreciate how the arrangements trap politics between two perils; namely, centralization and dissolution’.¹⁰⁸

However, many, if not all, points made above are, *mutatis mutandis*, bought into by most multinational federalists. Also the paradox of federalism is widely acknowledged by renowned scholars who are optimistic about federalism’s bid for diversity accommodation.¹⁰⁹ Interestingly, almost all prominent multinational federalists do not pretend to present federalism as a panacea for all problems of plurinational state in spite of their firm conviction that federalism can provide a positive response to what Michael Burgess¹¹⁰ described as the ‘most complex and challenging of contemporary problems of the modern state in the twenty-first century’.¹¹¹ It is not also uncommon to regard federations in general, and multinational

¹⁰⁷ *Ibid*, page 24

¹⁰⁸ *Ibid*, page 18

¹⁰⁹ See Will Kymlicka, 1998, *supra* note 86, page, 138 (noting: this indeed is the paradox of multinational federalism: while it provides national minorities with a workable alternative to secession, it also helps to make secession a more realistic alternative to federalism.). See also Simeon, R. and Conway, D.P. (2001) Federalism and Management of Conflict in Multinational Societies, in A. Gagnon and J. Tully (eds.) *Multinational Democracies*. (Cambridge: Cambridge University Press), page 338-339(noting: ‘We must recognize, however, that federalism is often not a stable solution. By providing resources and institutional levers to nationalist elites, it can produce a dynamic of ‘disbuilding,’ in which demands for increased powers can lead to further calls for autonomy, the only logical stopping place for which is secession. It may well be that once such a dynamic is established, a kind of ‘path dependency’ develops which is very hard to reverse.’). Similarly, Y. Ghai, 2000, *supra* note 74, page 24-25, recognized this puzzle of multinational federalism and autonomy arrangement.(noting: ‘But autonomy can also be fragmenting, pigeonholing and dividing communities. Sometimes, in an attempt to preserve the integuments of a state, autonomy is so structured that it is difficult to find the common ground on which the communities can find a moral or political basis for coexistence.’)

¹¹⁰ Michael Burgess and John Pinder (ed.), 2007, *Multinational Federations*. (Routledge).

¹¹¹ See, for example, M. Burgess; 2006, *supra* note 30, page 110; Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 335; Linz, Juan, 1997, *Democracy, Multinationalism and Federalism*, paper presented at the International Political Science Association Conference (August), Seoul, page 15; Ronald Watts, 2007, Multinational federations in comparative perspective, in Michael Burgess and John Pinder(ed.), 2007, *Multinational Federations*. (Routledge), page 244; Ferran Requejo, 2005, *Multinational Federalism and Value Pluralism; The Spanish Case*. (USA and Canada, Routledge), page 96

federations in particular, as unstable¹¹² and ‘difficult polities to govern’¹¹³ among contemporary academics. In a nut shell, a wide range of scholarly works ‘pointed up a variety of paradoxes, pitfalls and dangers that would threaten such a federation from the moment it was launched.’¹¹⁴ In such a case, it would be reasonable to posit a question: ‘what is wrong with multinational federalists to promote and popularize this partly ‘hazardous enterprise’ (borrowing M. Burgess’s terminology) as a solution to address nationality problems?’

Scholarly answers to this question revolve around the very set of circumstances and contexts that twist the policy community’s arm to adopt a specific type of federal arrangement i.e. multinational federation. As alluded to in earlier discussions, in the plurinational state where nationalist claims for recognition and self-determination gains ascendancy and conflicts are rife owing to a battery of complex reasons, it has almost become unacceptable to entirely ignore or undemocratically approach this problem. Since 1970s, the ‘nation-state’ model has given a way to multinationalism and, thus, the need for accommodation of nationality claims has downed on to both political philosophers and policy makers of most democracies.¹¹⁵ This accommodation, more often than not, ‘has typically taken the form of multinational federation’¹¹⁶ which ‘represents a compromise, a balance between those who want a tight, unitary system of government and those who may prefer separation.’¹¹⁷ David Cameron, in emphasizing the same very fact that compelled constitution makers to resort to multinational federalism, argued that, contrary to the assumptions of classical theorists, the founders of contemporary federations are confronting with new and complex challenges of their time. Today, ‘federal lawgivers are’, according to D. Cameroon, ‘often faced with the bleaker task of taking something apart, of replacing an existing political union that has ceased to be just or viable with a more complex political association constructed on the foundation of

¹¹² Will Kymlicka, 1998, *supra* note 86, page, 135; Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 335

¹¹³ Ronald Watts, 2007, *supra* note 7, page 229

¹¹⁴ Michael Burgess, 2009, ***Territorial and Non-Territorial Identities: Multinational Federalism in Multinational Federation***, Paper prepared for the conference ‘Multinational Federalism in Perspective: A Viable Model?’, Universite du Quebec a Montreal (UQAM), Montreal, Quebec, Canada, 25-27 September 2009, page 1

¹¹⁵ Will Kymlicka, 1995, *supra* note 54, page 20

¹¹⁶ *ibid*

¹¹⁷ Y.Ghai, 2000, *supra* note 74, page 24

pluralism.¹¹⁸ Federation is, therefore, ‘appropriate only at certain times and in certain circumstances’¹¹⁹ when unitarism and mono-national federation are not promising candidates, if they become a candidate at all, to accommodate such conflicting aspirations of peoples under the plurinational state, among others.¹²⁰

The other point often made by the critics of multinational federalism focuses on the track record of federalism as diversity accommodative device. The critics found the track record of multinational federation terribly poor. ‘Of the eighteen ethnofederations that existed from 1901 to mid-2008, eight broke up through secessions. Another five saw recentralization or never actually implemented the devolution of powers due to autocratic rule. One remained under international administration.’¹²¹ For them, the failure of a number of federations from Austro-Hungary and Ethiopia (Ethio-Eritrea)¹²² to the USSR and Yugoslavia shows nothing but the unworkability of multinational federalism in accommodating diversity.¹²³

Contrariwise, J. McGarry and B. O’Leary reject this gloomy ‘assessment of the track record of multinational federations’.¹²⁴ They argued that ‘the major federal failures, including the Soviet Union, Yugoslavia,¹²⁵ Czechoslovakia and Nigeria were or have been, to a significant extent, sham or pseudo-federations’. According to them, the absence of ‘democratic civic nationalist (unitarist or national federalist) alternatives that would have worked better’ along with the

¹¹⁸ David Cameron, 2006, *Making Federalism Work in Iraq*, page 2, available at www.forumfed.org (accessed on 12 September, 2012)

¹¹⁹ M. Burgess; 2006, *supra* note 30, page 109

¹²⁰ Ronald Watts, 2007, *supra* note 7, page 229; Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 365

¹²¹ P.G. Roeder, 2010, *supra* note 105, page 23

¹²² P.G. Roeder, 2010, treated the 1952 Ethio-Eritrean federation as multinational federation. Nevertheless, I don’t think the federation qualifies for the definition presented by the author to ‘ethnofederation’. He defined, ‘ethnofederation’ as ‘a specific type of federalism [federation] where at least some, if not all, the constituent units of the federation are homelands controlled by their respective ethnic group’. As is clearly known, there is no such thing as Eritrean nation (at least at the time of federal experiment). Eritrea was/is a home for a number of nationalities. As C. Clapham, 1994, Ethnicity and the National Question in Ethiopia in Peter Woodward and Murray Foryth (eds.), 1994, *Conflict and Peace in the Horn of Africa* (Aldershot: Dartmouth), page 33, aptly stated, ‘Eritrea is as much an ethnic mosaic as the rest of Ethiopia.’ Hence, it is not safer to consider Ethio-Eritrean federation as multinational federation.(Ellipses added)

¹²³ See, for example, J. Snyder, 2000, *supra* note 102, page 327

¹²⁴ John McGarry and Brendan O’Leary, 2007, *supra* note 46, page 189-

¹²⁵ As Geoffrey Sawyer, 1969, *Modern Federalism* (London: C. A. Watts & Co.), page 58, observed two decades before this federations consigned to the dust bin of history, ‘The Communist federations of the Soviet Union and Yugoslavia are not functionally federal, for there is a genuine “suspicion that the federal form of their written constitutions is not merely a ‘form’ but a ‘sham’, the ‘real’ government being vested in the highly centralized Communist Party hierarchy.

successful multinational federations, like Canada and Switzerland, weakened the argument against multinational federalism. Seen in this light, they do seem correct when they concluded that the failure of multinational federations, *ipso facto*, does not necessarily corroborate the unworkability of multinational federalism.

In conclusion, arguments in support of multinational federalism do not idealize multinational federalism as a panacea for all political ills of humanity, nor do they attempt to gloss over the paradox of multinational federalism. They, rather, rightly put forward multinational federalism as one of the few devices available for managing or accommodating ethnic diversity though the mere existence of ‘federal institutions are no guarantee of either success or failure’.¹²⁶ On the other hand, the critics of multinational federalism are criticized for they have not yet succeeded in making a strong case for a viable alternative¹²⁷ as much as they did in unearthing and emphasizing the bleaker facets of multinational federations.

It is now clear that multinational federation is no easy option to operate; neither is it stable and unproblematic polity to govern. However, federalism can ‘play an important, constructive role in mediating relations between different’ nationalities by defusing conflicts and appropriately protecting and promoting the cultural distinctiveness of nationalities.¹²⁸ Admittedly, the candidacy of multinational federalism as diversity accommodative tool is far more justifiable than that of unitarism and, of mono-national federalism.¹²⁹ Stated otherwise, it is difficult to think of any form of effective accommodation of nationality claims within a single plurinational state that do not embrace the federal ingredients.¹³⁰ Most contemporary scholars seem to agree that, despite all these difficulties to sustain multinational federations, despite the virtual impossibility of making broad generalizations about the success of federation in plurinational societies, well-designed federations have worked and may work

¹²⁶ Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 365

¹²⁷ M. Burgess; 2006, *supra* note 30, 110

¹²⁸ Y.Ghai, 2000, *supra* note 74, page 24

¹²⁹ Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 365; M. Burgess; 2006, *supra* note 30, page 131

¹³⁰ Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 365

under certain conditions¹³¹ as multinational federations have their own unique features and operate in a varying set of complex societal circumstances and contexts.¹³²

In this regard, scholars emphasize different, but highly related, conditions for the success of a multinational federation. For example, R. Simeon and Conway stress the need for factors, like ‘shared values, an integrative party system, responsive general government’ that hold groups together and counterbalances the excess of autonomy and self-administration of nationalities.¹³³ On the other hand, J. McGarry and B. O’Leary proffer, along with democracy and the consociational arrangements at the centre vital to nurture consensual politics in a multinational federation, a statistical ‘*Staatsvolke*’¹³⁴ can provide the glue to hold nationalities in a federation together.¹³⁵

R.L. Watts, on his part, accentuates, *inter alia*, the essentiality of ‘institutional arrangements and political processes’ that guarantee effective autonomy and self-government for component nationalities in order to accommodate ‘their desire to maintain their identities, distinctiveness and self-fulfillment’ together with effective shared rule.¹³⁶ Mention also has to be made of the degree of symmetry and asymmetry within the multinational federation as it significantly affect the ‘autonomy or self-rule for the constituent national groups within a multinational federation’ and the working of the federal system.¹³⁷ Having this in mind, asymmetry within federations in general and political asymmetry within multinational federations in particular will be discussed at length in the section to come.

2.7. Political Asymmetry: Some Conceptual Notes

Some five decades ago, a scholar by the name of Charles D. Tarlton published an incisive fourteen page-long article titled *Symmetry and Asymmetry as Elements of Federalism: a Theoretical*

¹³¹ Ronald Watts, 2007, *supra* note 7, page 230

¹³² Anastassia Obydenkova, 2004, The Role of Asymmetrical Federalism in Ethnic-Territorial Conflicts in the Era of Democratization: the Russian Federation as a case study *EUI working paper* SPS No.2004/16, page 21; M. Burgess; 2009, *supra* note 103, page 24

¹³³ Simeon, R. and Conway, D.P., 2001, *supra* note 109, page 364-5

¹³⁴ It is defined as ‘a national or ethnic people, who are demographically and electorally dominant’ though not necessarily an absolute majority of the population.

¹³⁵ John McGarry and Brendan O’Leary, 2007, *supra* note 46, page 197-203

¹³⁶ Ronald Watts, 2007, *supra* note 7, page 246

¹³⁷ *Ibid*, 231

Speculation in The Journal of Politics. In this concise and economically phrased piece, Tarlton introduced,¹³⁸ probably for the first time, the concept of symmetry and asymmetry as elements of federal systems and underscored its vital importance for the functioning of a federal system.¹³⁹ It is, however, two decades after the coming out of his article that the subject has begun receiving a renewed attention¹⁴⁰ among academics who are prominently from western plurinational states, like Canada, India, Belgium, and Spain.¹⁴¹ This growing scholarly interest has helped the emergence of a relatively comprehensive understanding of the notion of symmetry and asymmetry in federal system by elaborating on Tarlton's lead.

For Tarlton, symmetry, as antithesis of asymmetry, denotes 'the level of conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and to the other component units.'¹⁴² According to him, in an ideal symmetrical federation the division of powers between the two orders of government will virtually follow the same pattern, each component units of the federation will have almost the same relationship to the general government; representation of federated units in the federal government would be based on the similar criteria, and 'support of the activities of the federal government would be equally distributed'.¹⁴³

On the other hand, asymmetry in a federal system refers to 'a situation where the diversities within the larger society find political expression through component governments 'possessed of varying degrees of autonomy and power'.¹⁴⁴ In the ideal asymmetrical model, federations would comprise of 'political units corresponding to differences of interest, character, and makeup that exist within the whole society'.¹⁴⁵ However in reality, federations never follow both ideal models. Given that federated units are mostly historical entities and never created

¹³⁸ M. Burgess; 2006, *supra* note 26, page 215

¹³⁹ See Charles D. Tarlton, 1965, Symmetry and Asymmetry as Elements of Federalism: a Theoretical Speculation in *The Journal of Politics*, Vol. 27, No. 4 (Nov., 1965), 861-874

¹⁴⁰ To be critical, the latter scholarly works principally focus on one form of outcome of asymmetry i.e. constitutional asymmetry unlike Tarlton who seemed to discuss asymmetry only in terms of political asymmetry and in the context of federation alone.

¹⁴¹ Ferran Requejo, 2005, *supra* note 106, page 45

¹⁴² Charles D. Tarlton, 1965, *supra* note 139, page 867

¹⁴³ *Ibid*, page 868

¹⁴⁴ Quoted in Ronald Watts, 2000, *Asymmetrical Decentralization: Functional or Dysfunctional* Paper Presented at International Political Science Association Québec City, Québec, Canada August 2000, page 6

¹⁴⁵ Charles D. Tarlton, 1965, *supra* note 128, page 869

by mere artificial design,¹⁴⁶ it is unrealistic to imagine federal component units exactly equal in all respects and they would, thus, actually be placed on a continuum on which complete symmetry or complete asymmetry form the theoretically possible.¹⁴⁷

In spite of the unavoidability of some form of asymmetry in every federation, the nature and degree of asymmetrical outcomes significantly differ from federation to federation; the conditions that give rise to asymmetry are not also the same.¹⁴⁸ Besides, it is common and important to distinguish between preconditions of asymmetry and asymmetrical outcomes to fully appreciate and clearly comprehend the nature and degree of asymmetry and their impact upon the working of a federal political system. As one author metaphorically advises ‘we must not confuse the fish with the water that they swim in.’¹⁴⁹ Cognizant of this, we make distinction between ‘the conditions that lead to asymmetry and its actual relations or outcomes’¹⁵⁰ and separately deal with them.

2.7.1. Preconditions of Asymmetry

As is indicated in the above introductory note, asymmetries arise from the existing preconditions within federal political systems. There are historical, economic, social, ethnic and cultural factors that give rise to asymmetry in federal systems, especially in plurinational federations.¹⁵¹ These pre-conditions are consistent with ‘Livingston’s focus upon the federal qualities of society which are then articulated through federal institutions.’¹⁵² Michael Burgess and Franz Gress categorized preconditions of asymmetry into two, namely; socio-economic and cultural-ideological preconditions based on what they called ‘objective empirical

¹⁴⁶ Ivo D. Duchacek, 1988, Dyadic Federations and Confederations. *Publius*, Vol. 18, No. 2, Bicomunal Societies and Politics (Spring, 1988), pp. 5-31., page 22

¹⁴⁷ Wilfried Swenden, 2000, Asymmetric Federalism and Coalition-Making in Belgium, *Publius*, Vol. 32, No. 3 (Summer, 2002), pp. 67-87, page 68

¹⁴⁸ Funk, 2010, *supra* note 13, page 8

¹⁴⁹ M. Burgess; 2006, *supra* note 30, page 217

¹⁵⁰ M. Burgess; 2006, *supra* note 30, page 215

¹⁵¹ R.L. Watts, 2005, *A Comparative Perspective on Asymmetry in Federations*, **Asymmetry Series** 2005 (4): Institute of Intergovernmental Relations, School of Policy Studies, Queen’s University, <http://www.queensu.ca/iigr/working/asymmetricfederalism.html> (accessed September 27, 2012), page 2

¹⁵² R.L. Watts, 2000, *supra* note 25, page 7

criteria'.¹⁵³ The authors also discussed a number of specific preconditions under the umbrella of two categories as follows:

a). **Political Cultures and Traditions:** This denotes the habits or customs that reflect a culture and traditions of a federal political system. These social tendencies, which characterize the state and constitute parts of its received traditions, can be witnessed in every federation and are of importance 'for the way in which they inform differential philosophical, political, legal and constitutional discourses.'¹⁵⁴ For instance, the German federation is known for its commitment to realize the 'equivalence of living conditions' across the Landers¹⁵⁵ unlike the Swiss federation which puts emphasis on 'non-Promotion of Equal Living Conditions', thereby upholding the autonomy of Cantons.¹⁵⁶

b). **Social Cleavages:** This refers to the politically important societal divides, like religious, national, linguistic and cultural markers in a polity, which can be broadly categorized as 'cultural' factors.¹⁵⁷

c). **Territoriality:** It is a spatial notion and connotes the way politics is affected by space and by relationships between different areas including 'centre–periphery relationships, urban–rural contrasts and the strains and tensions associated with metropolitan developments.'¹⁵⁸ As Michael Burgess rightly observed, territoriality interact closely with the non-territorial social divisions, like nationality.¹⁵⁹ Conventionally, the politics of recognition, as noted earlier, come to the fore when territory is combined with politically relevant social cleavages to produce a set of cleavage patterns.

d). **Socio-economic Factors:** This precondition refers in particular to substantial economic disparities among regions within a federal political system, 'and the needs or expectations that

¹⁵³ Michael Burgess and Franz Gress, 1999, Symmetry and Asymmetry Revisited" In Robert Agranoff (ed.) **Accommodating Diversity: Asymmetry in Federal States**, (Baden-Baden: Nomos Verlagsgesellschaft) 43-56. See also M. Burgess; 2006, *supra* note 26, page 215

¹⁵⁴ M. Burgess; 2006, *supra* note 30, page 215

¹⁵⁵ *ibid*

¹⁵⁶See Thomas Fleiner, 2002, Recent Developments of Swiss Federalism, in *Publius: The Journal of Federalism*, 32 (2), Spring, 2002,

¹⁵⁷ M. Burgess; 2006, *supra* note 26, page 216

¹⁵⁸ *ibid*

¹⁵⁹ M. Burgess; 2006, *supra* note 30, page 216

arise from these disparities.¹⁶⁰ It is also imperative to take into consideration the structure of the country's economy and its underlying socio-political features to fully appreciate the socio-economic factors as one of the preconditions of asymmetry.¹⁶¹ As a result, the component unit's economic weaknesses and strengths comparing with both the other federated units and the country's economy as a whole would be important as it furnishes 'the basis for asymmetrical perceptions and behaviour'.¹⁶²

e). **Demographic Patterns:** Population is an important factor of asymmetry. Not only are demographic patterns the function of country and component units economies but also population is considered to be as an objective factor in the sense that it happens to be where it is. It is also worth stressing that the size of the population as much as the nature and composition of the population determines the asymmetrical perceptions and behavior. It is also inescapable to look at key factors, like fertility rates, immigration patterns and labour market structures that might affect the demographic patterns to comprehend precondition of asymmetry in a federation.¹⁶³ 'Closely related to this precondition is the issue of representation and the fact that demographic patterns may contribute to unequal representation of citizens throughout the federation.'¹⁶⁴

In this connection, Ron Watts, despite the fact he is clearly taking about constitutional asymmetry, identified two broad categories or rationales for asymmetry within a state. These are politically driven and capacity driven factors.¹⁶⁵ According to him,

Political rationales¹⁶⁶ for asymmetry relate to situations where a territorially defined group for reasons such as those categorized by Burgess and Gress, press for a differential political relationship with central government. Such regional demands for increased autonomy are sometimes based on a claim to self-determination. [...] By contrast to politically driven pre-conditions for

¹⁶⁰ Funk, 2010, *supra* note 24, page 9

¹⁶¹ Michael Burgess and Franz Gress, 1999, *supra* note 148, page 49

¹⁶² *ibid*

¹⁶³ *ibid*

¹⁶⁴ Funk, 2010, *supra* note 13, page 9

¹⁶⁵ R.L. Watts, 2000, *supra* note 25, page 7

¹⁶⁶ Though it might be linked with other factors, like in the case of Hong Kong, politically driven asymmetry is often associated with ethnic differences.

*asymmetry are capacity driven pre-conditions. Diverging capacities to maintain effective subnational governments may make differentiated decentralization or noncentralization desirable. Thus, differences among subnational governments in terms of financial and trained human resources may be a major motive for the adoption of asymmetrical arrangements for subnational governments and lead to differing degrees of decentralization or noncentralization among them. Typical examples of such factors at work are the differentiation between provinces or states and territories in a number of federations, (e.g. Canada, Australia and India) and the debate in a number of African countries about the inappropriateness of a "one size fits all" decentralization in a number of African states where regions are at different stages of development.*¹⁶⁷

Here it is important to emphasize that the asymmetrical outcomes in federal political systems arise from a number of underlying diversities within the society which complexly comprises a set of elements of preconditions from categories of ours though it is hard to picture any sort of asymmetrical outcomes bereft of the aforementioned preconditions of asymmetry. Therefore, each category should not be viewed as it is discretely found having no relationship with other categories of preconditions, but one can identify complex relationship between and among these groupings. It is to say that the social cleavages, for example, may complexly converge or diverge with one or more than one factors, like territoriality, socio-economic or/and demographic patterns.

Also there is no one common single important particular precondition that is responsible for asymmetrical outcomes in all federal political systems. The major preconditions that give rise to asymmetrical outcomes in a federation clearly vary from federation to federation as all federations are in many ways sue generis. For example, in a federation which is predominantly homogenous the contribution of social cleavage for the existence of asymmetrical outcomes might be too small, whereas the opposite might be true for federations which are evidently plurinational. The preconditions for asymmetrical outcomes in federal political systems significantly vary, so must the asymmetrical outcomes as the preconditions essentially determine the degree and nature of asymmetry.

¹⁶⁷ R.L. Watts, 2000, *supra* note 24, page 7 (Ellipse added)

2.7.2. Outcomes of Asymmetry

The term asymmetrical outcome, which is commonly referred to as asymmetry in federal political systems, according to Watts, denotes ‘the relations of different member states to the federal or central authority, to other member states and to the system as a whole’¹⁶⁸ that stem from *supra* discussed preconditions.¹⁶⁹ As is underscored earlier in this section of the chapter, the existence of a certain degree of asymmetrical relations or outcomes in every federation notwithstanding, considerable variance in the degree and nature of asymmetrical outcomes is quite evident. The other significant distinction that has to be made in the analysis of symmetry and asymmetry as relationships within federal systems is, thus, between the different forms of asymmetrical outcomes. Scholars commonly identified two forms of asymmetrical outcomes; namely, political asymmetry (*de facto* asymmetry) and constitutional asymmetry (*de jure* asymmetry).¹⁷⁰ The former, political asymmetry, denotes ‘the actual practices or relationships arising from the impact of cultural, social and economic differences among constituent units within a federation’ while constitutional asymmetry (*de jure* asymmetry) ‘refers to asymmetry embedded in constitutional and legal processes, where constituent units are treated differently under the law.’¹⁷¹

In spite of the proclivity of scholarly works for closely associating asymmetric federalism with only constitutionally and legally entrenched asymmetrical relations,¹⁷² our conceptualization of

¹⁶⁸ *ibid*

¹⁶⁹As the issues of symmetry and asymmetry can be raised in the context of wider genus of federal political systems including devolved unitary governments other than federation, the analysis of asymmetrical outcomes may include other species of federal political system other than federations. However, the emphasis of the analysis here is on the context of federation in general and multinational federation in particular.

¹⁷⁰See, for example, J. Webber, 1994, *Reimagining Canada: Language, Culture, Community, and the Canadian Constitution*, (Montreal: McGill-Queen’s University Press.); R.L. Watts, 2000, *supra* note 25; F. Requejo, 2001, Political Liberalism in Multinational States: The Legitimacy of Plural and Asymmetrical Federalism—The Case of Spain, in A-G. Gagnon and J. Tully (eds) **Multinational Democracies**. (Cambridge: Cambridge University Press.); M. Burgess; 2006, *supra* note 30,

¹⁷¹ R.L. Watts, 2005, ***A Comparative Perspective on Asymmetry in Federation***, Asymmetry Series 2005(4). (Institute of Intergovernmental Relations, School of Policy Studies, Queen’s University), page 2

¹⁷²Though this distinction between political and constitutional asymmetry is of paramount significance and widely recognized among academics of federalism, most scholars including some those who are accepted this distinction do not give due emphasis to political asymmetry. More often than not, if they talk of asymmetrical federalism, they mean a federal political system in which ‘one or more regions are vested with special powers not granted to other provinces’ (See, for instance, Yash Pal Ghai, 2002, Constitutional Asymmetries: Communal Representation, Federalism, and Cultural Autonomy in Andrew Reynolds (ed.), 2002, **The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy**. (Oxford University Press Inc., New York) page 156) which can be otherwise called constitutional asymmetry. As we can observe from even a brief survey of scholarly works on

asymmetric federalism goes well beyond federal arrangements having legally and constitutionally entrenched asymmetrical relations. It embraces federalism based on unequal powers and relationships in political, administrative and fiscal arrangements spheres between fully-fledged federated units¹⁷³ as well. Having made these introductory points, we shall discuss below at some length two forms of asymmetrical outcomes with greater emphasis to political asymmetry.

2.7.2.1 Constitutional Asymmetry

As hinted at in the preceding discussion, the formal allocation of constitutional powers and competences to sub-national governments has been symmetrical in most federations. Constitutional asymmetry, which most obviously resides in both constitutional and legal processes where fully-fledged member states of the federation have varying degree of constitutionally and/or legally-stipulated autonomy and power, is, therefore, less common. However, a significant number of federations have found that the only way to accommodate the diversity between the regions seeking different levels of autonomy is to incorporate asymmetry in the constitutional distribution of powers and have done so.¹⁷⁴ *De jure* asymmetry, therefore, ‘emerges out of deeply rooted historical factors, and is often a response to the existence of plurinational diversity.’¹⁷⁵ Some of often mentioned examples of constitutional asymmetries include Quebec and Nunavut in Canada, Bavaria in Germany, Sabah and Sarawak in Malaysia, Jammu and Kashmir, and Punjab in India, the German-

asymmetrical federalism, except some remarkable studies by the doyens of federalism, (to mention some of them, R.L. Watts, 2000, *supra* note 25, M. Burgess; 2006, *supra* note 30, Michael Burgess and Franz Gress, 1999, *supra* note 142.) political asymmetry has seldom been a focus of attention comparing with constitutional asymmetry which has received a far more attention among scholars. Scholars tend to centre on constitutional asymmetry for the reason that this form of asymmetrical outcome seems at odd with the classical conception of federalism which presupposes the constitutional and legal symmetry among federated units. Most classical federal theorists including Charles Tarlton, who is widely credited for introducing the concept of asymmetry, did not envisage constitutional asymmetry as part of their theory. Scholars who emphasize the need for constitutional symmetry on the one hand, and some others who accentuate the need for asymmetrical constitutional power on the other, focus on constitutional asymmetry to justify their cause. The dys/functionality of constitutional asymmetry, which is not universal unlike political asymmetry which is unavoidable and typical to every federal political system, is heatedly debated. As a result, it is still receiving remarkable attention.

¹⁷³ We employ the term ‘fully-fledged constituent units’ to technically exclude variety of units, like federal capital districts, federally administered territories, or peripheral federacies and associated states, which often have substantially different relationship with the general government and other fully-fledged federated units in contrast to the fully-fledged component units of a federation.)

¹⁷⁴ Anastassia Obydenkova, 2004, The Role of Asymmetrical Federalism in Ethnic-Territorial Conflicts in the Era of Democratization: the Russian Federation as a case study **EUI Working Paper** SPS No.2004/16, available at www.iuc.it (accessed September, 2012), page 22

¹⁷⁵ Jaime Lluch, 2011, Autonomism and Federalism in **Publius: The Journal of Federalism** Advance Access published May 27, 2011, page 4; Ferran Requejo, 2005, *supra* note 100, page 45

speaking language community in Belgium, Catalonia, Euzkadi and Galicia in Spain, and complex autonomy arrangement in Russia.¹⁷⁶

As Michael Burgess aptly stated, constitutional entrenchment of asymmetry can be done in more than one ways. ‘Typically it can be accommodated in the formal distribution of legislative and executive jurisdiction, but it can also be formalized in the entrenchment of a Bill of Rights, in the formal processes of constitutional amendment, in the role of constitutional courts and in the overall evolution of the constitution via judicial review.’¹⁷⁷ Not only are there a number of ways for entrenching *de jure* asymmetry in a constitution, but different approaches has also been followed to establish asymmetrical arrangements.

In this regard, Watts discussed three approaches. ‘One has been to increase from the norm the federal authority (i.e., to reduce regional autonomy) in particular member states for certain specified functions within the federal system’ in sharp contrast to the second approach that ‘has been to increase from the norm the jurisdiction of particular member states (i.e., to increase regional autonomy).’ The third approach is one in which there is formal constitutional symmetry in allocation of power and competences to federated units, but it has a constitutional provision ‘that permit member states in certain cases to “opt in” or “opt out” of these assignments.’¹⁷⁸

2.7.2.2 Political Asymmetry

Unlike the less common asymmetrical relations and practices entrenched in a constitution, asymmetries arising from the dissimilarities in population, territorial size, economic character, and resources and wealth among federated units are universal and more or less bound to exist in every federation. Admittedly, as Ivo D. Duchacek rightly stated some forty four years ago, ‘there is no federal system in the world in which all the component units are even approximately equal in size, population, political power, administrative skills, wealth, economic development, climatic conditions, predominance of either urban or rural interests,

¹⁷⁶ R.L. Watts, 2008, *supra* note 4, page 127-8

¹⁷⁷ M. Burgess; 2006, *supra* note 30, page 221

¹⁷⁸ R.L. Watts, 2008, *supra* note 4, page 127-8

social structure, traditions, or relative geographic location'.¹⁷⁹ Those differences have 'meant that in practice significant variations in the political influence and actual powers of the constituent units have been common in federations.'¹⁸⁰ In effect, in spite of variance in the degree of asymmetry, most federations have been marked by political/*de facto* asymmetry arising from the afore-mentioned unavoidable variations among their units.

Political asymmetry has a number of dimensions. The variations in (1) size of constituent units affecting their relative power and influence; (2) relative fiscal capacity, financial resources and autonomy of the constituent units; (3) basis of representation of member states in federal institutions; and (4) the differential nature and role of regional political parties within the political system are commonly regarded as the major aspects of political asymmetry. In the following subsection, it is attempted to briefly review these major aspects of political asymmetry.

Disparity in Population and Territorial Size and Wealth of Constituent Units

Variations in territorial and population size and wealth of component units are one of the dimensions of *de facto* asymmetry. Political asymmetries in federal systems represented by differences in the size and population of constituent units are of vital political significance as they affect the relative capacity of different constituent units to exercise their powers and competences, and the degree of a constituent unit's influence within majoritarian federal institutions where representation is based on the principle of 'one person-one vote'.¹⁸¹ This kind of asymmetry between larger and smaller units is an endemic problem in every federation because of 'the dual composition of the federal polity whose members are the constitutive units as well as the individual citizens.'¹⁸² This has two particularly significant

¹⁷⁹ Ivo D. Duchacek, 1970, **Comparative Federalism: The territorial dimension of politics**. (New York: Holt, Rinehart and Winston, Inc.), page 280

¹⁸⁰ R.L. Watts, 1998, *supra* note 41, page 20

¹⁸¹ R.L. Watts, 2008, *supra* note 4, page 126

¹⁸² Rainer Bauböck, 2000, European Union and the Politics of Identity, **ICE - Working Paper Series** No.8 June 2000 (Austrian Academy of Science).

facets;¹⁸³ ‘one is the existence of one or two dominant member states or regional units; the other is the relative powerlessness of particularly small member states or regional units.’¹⁸⁴

It is not uncommon to find a relatively larger unit(s)¹⁸⁵ in many federations. The Flemish Region within the current Belgian Federation, Jamaica within the abortive West Indies Federation (1958-62), East Bengal within Pakistan prior to its secession in 1971, Punjab Province within Pakistan today, Russia within the former USSR, and the Czech Republic within the former Czechoslovakia are notable examples of the single constituent units that are/were home to more than half of the total population of the federation. Ontario and Quebec in Canada, and New South Wales and Victoria in Australia are prominent examples of two fully-fledged federated units which have jointly constituted more than 50 percent of the total population. Moreover, there are also a number of constituent units within federation that have contained a significant size of the total population though the degree of variance is not that much impressive comparing with the above two categories. California and New York in US and Uttar Pradesh, Bihar and Maharashtra in India are good examples in this regard.¹⁸⁶

By contrast with the afore-mentioned examples of large constituent units, most federal political systems also consist of some very small fully-fledged member states with a minuscule proportion of the total population the state. Wyoming, Alaska and Vermont in the United States; Sikkim, Mizoram, Arunachal Pradesh and Nagaland in India; Appenzell-Inner Rhodes in Switzerland; Bremen in Germany; and La Rioja in Spain are some of federated units that have constituted less than one per cent of the total population of the federation.¹⁸⁷

¹⁸³ The notion of smaller and larger federated units is basically determined in the context of a particular federal political system. The largest member state of India, Uttar Pradesh, has far more population than that of all world federations with the exception of United State. Bremen, the smallest unit in Germany with a population of 0.6 million, is larger than that of many micro-federations. The sensible comparison, therefore, must not go beyond the territory of the federation in question.

¹⁸⁴ R.L. Watts, 2000, *supra* note 25, page 13

¹⁸⁵ Maria Ackrén Conditions for Different Autonomy Regimes in the World: A Fuzzy-Set Application (Åbo: Åbo Akademi University Press), page 91, noted that ‘Size, in the matter of categorizing states, has two major dimensions, one where population size matters and the other where territorial area matters. It is accepted that the more people living in an area, the larger the unit. Large units have therefore large populations, while small areas have small populations. When the territorial dimension is used, it is argued that large units have large areas at their disposal and small units have small areas.’

¹⁸⁶ See R.L. Watts, 2000, *supra* note 25, page 13-16

¹⁸⁷ See *ibid*

Fiscal Capacity of Constituent Units

Fiscal capacity is another dimension of *de facto* asymmetry closely linked to the population and territorial size of constitutive units. ‘A larger wealthier unit has the resources and political pull to be able to maintain a certain relative autonomy in the federation.’¹⁸⁸ When constituent units are endowed with more resources their capacity to exercise constitutionally guaranteed powers and competences is significantly increased and they also depend little upon federal purses.¹⁸⁹ California in the United States, Ontario and Alberta in Canada, Victoria and New South Wales in Australia, and Zurich in Switzerland have been among the major ‘examples of large and wealthy component units that have been able to assert their relative autonomy in federations’.¹⁹⁰

Though one may deduce conversely that all fiscally weaker member states cannot be independent from federal grants, and tend to be more politically submissive, this assumption is hardly substantiated by enough evidences as there are many more factors, for instance, the variance in political cultures that exist within a federation and the influence this has on the way a constituent unit shapes its policies and exerts its power.¹⁹¹ As is the case in the Atlantic Provinces of Canada, smaller federal units have heavily relied on financial transfers from the general government, whereas Milne has questioned the widely held view that smallness of the constituent units has led to high degree of relative dependency in these provinces.¹⁹²

Representation of Constituent Units at the General Government

The other important dimension of political asymmetry is the representation of constituent units in the institution of the general government. It is widely agreed that representation ‘facilitates expression and protection’.¹⁹³ In federation, particularly in multinational one, providing sub-state units with constitutionally defined self-administration does not fully

¹⁸⁸ As quoted in Funk, 2010, *supra* note 13, page 11

¹⁸⁹ R.L. Watts, 1999, The Theoretical and Practical Implications of Asymmetrical Federalism in Robert Agranoff (ed.) **Accommodating Diversity: Asymmetry in Federal States** (Baden-Baden: Nomos Verlagsgesellschaft), page 33

¹⁹⁰ R.L. Watts, 2000, *supra* note 25, page 17

¹⁹¹ M. Burgess; 2006, *supra* note 30, page 218

¹⁹² R.L. Watts, 2000, *supra* note 25, page 17

¹⁹³ M. Burgess; 2006, *supra* note 30, page 120

realize the aspirations of nationalities if it is not complemented with some form of representation at the centre.¹⁹⁴ This is mainly because of the autonomous existence of the regional states are highly affected by the decisions made at the center.¹⁹⁵ More importantly, the presence of representative and inclusive federal government structure has an indispensable contribution in providing ‘the glue to hold the federation together’.¹⁹⁶

In most federations, representation in at least one chamber, in most cases the lower chamber, of the federal legislature is based on the principle of ‘one person one vote’, meaning that constituent units will be represented in proportion to the size of their population unlike the second chamber which is mostly organized in such a way that it guarantees a measure of malapportioned, not always symmetrical, representation to the constituent units.¹⁹⁷ Given that federations are rife with variations in the population and territorial size of their member states, ‘the inevitable effect has been a considerable *de facto* asymmetry in the power and influence exerted in federal legislation and policy-making by representatives of the larger member states when compared with representatives of the smaller states.’¹⁹⁸ It is also important to take into consideration the composition of the house and powers and competences entrusted to the second chamber in examining the political asymmetry arising from the relative representation of the sub-national units in the second chamber of the federal parliament. Not less importantly, the relative power and influence of fully-fledged component units is also affected by the form of representation and/or power sharing arrangement in other federal formal and informal of institutions including federal executive, defence force, inter-governmental institutions and federal political parties/coalitions.

Political Parties and Party System

Political parties have been described as the core institutions of democracy and necessary for the flourishing of democracy that express, defend and promote diversity, and as such are a

¹⁹⁴ Yonatan T. Fesseha, 2008, *supra* note 44, page 127

¹⁹⁵ *Ibid*

¹⁹⁶ R.L. Watts, 2008, *supra* note 4, page 72

¹⁹⁷ Jonathan Rodden, 2004, *supra* note 45, page 490

¹⁹⁸ R.L. Watts, 2000, *supra* note 25, page 14

function of both symmetry and asymmetry.¹⁹⁹ They are, therefore, one area where distinct *de facto* asymmetry among member states within federal political system can be witnessed. Regional/nationality parties officially claiming that they are representing a distinct regional/nationality interest or federal parties which are dominant in particular constituent units might vary across the member states. These variations and the role of these parties at the centre and their relations to those parties operating in other constituent units or at the federal level are part and parcel of an asymmetrical party system²⁰⁰ and are of immense importance since the ‘variations in the number of parties, which parties dominate, and the predominance of national or distinctive state parties may affect the different policy emphases and the potential for conflict or harmony with other member states within the federal system.’²⁰¹

2.7.3. Implications of Political Asymmetry

As is hinted above, political asymmetries are not without implications. Both larger and smaller sub-national governments can be sources of tension between the common state and the particular component units²⁰² and, ‘where these disparities are serious; these will often have a corrosive effect upon relations between member states.’²⁰³ As John Pinder aptly observed, ‘even among democratic states within a federation, a state so big as to be a hegemon can present great difficulty. Either it will dominate the other states, which they are not likely to accept for any length of time, particularly if they include nations; or it will defer to them to an extent that its citizens are not likely to tolerate.’²⁰⁴ Similarly, Alemante G. Selassie recognized the problem when he wrote that the asymmetry ‘tend to foster among the larger and more viable states an attitude of self-sufficiency, separatism, and intolerance,’²⁰⁵ putting the survival of the federation at risk. Equally significant, given that larger units, more often than not, tend to be wealthier than smaller ones, the wealthier and

¹⁹⁹ M. Burgess; 2006, *supra* note 30, page 220

²⁰⁰ *Ibid*

²⁰¹ R.L. Watts, 2000, *supra* note 25, page 14

²⁰² Anastassia Obydenkova, 2004, *supra* note 132, page 20

²⁰³ R.L. Watts, 1998, *supra* note 41, page 20

²⁰⁴ John Pinder, 2007, *supra* note 62, page 8

²⁰⁵ Alemante G. Selassie, 2003, Ethnic federalism: Its promise and pitfalls in Africa, *Yale Journal of International Law* 28(1) page 92,

the larger constitutive units may feel bitter about being part of a federation, 'if the perceived²⁰⁶ economic benefits of union are not commensurate with their financial contributions.'²⁰⁷ It is also worth adding that, where constituent units are of the huge size, questions arise about the responsiveness of the federated units to the interests of respective individual citizens or to distinct local communities²⁰⁸ as opposed to that of the relatively small sub-national governments, which bring government closer to the people and tend to be more responsive and more efficient.²⁰⁹

On the other hand, micro-sub-national governments are not insulated from the consequences of political asymmetry. Smaller member states in relation to the federal whole and the other member states tend to be weaker. They will be dominated by the federal government, which has a far more human and financial resources comparing with those of the smaller member states. And the effectiveness of these states' self-rule in the face of center domination will be undermined.²¹⁰ Consequently, these component units will be anxious about their relative powerlessness within the federation and will face difficulties in matching the benefits of economy of scale in providing comparable public services.²¹¹ The fears and anxieties of the weakest units such as tiny Sikkim in India or Bremen in Germany have frequently been a source of tension and²¹² danger of 'dissatisfaction and resistance to the federal way of life'.²¹³

Unless corrective policy measures put in place, political asymmetries arising from the variation of fiscal capacity of constituent units may result in failure of the federation to ensure the provision of comparable services to all its citizens without forcing them to be subject to

²⁰⁶One should not underestimate the consequence of the perception of the constituent units whether it can be supported by facts on the ground or not. As Ivo Duchacek, 1970, *supra* note 179, page 282, accurately observed, sub-national governments may perceive 'the objective facts of disparity of power either correctly or incorrectly', but both can have real consequences.

²⁰⁷ M. Burgess; 2006, *supra* note 30, page 218

²⁰⁸ R.L. Watts, 2008, *supra* note 4, page 72

²⁰⁹ Ferran Requejo, 2005, *supra* note 110, page 52-53, Yash Ghai and J. Cottrell, 2007, *supra* note 74, page 18

²¹⁰ John Pinder, 2007, *supra* note 62, page 8

²¹¹ R.L. Watts, 2000, *supra* note 25, page 14

²¹² *Ibid*

²¹³ M. Burgess; 2006, *supra* note 30, page 218-219

excessively different tax rates and are also likely to have a corrosive effect on cohesion within a polity.²¹⁴

To sum up, in a federation, federated states can be big enough to be hegemon or small enough to be powerless. Member states can also be wealthier enough to be intolerant or poor enough to be entirely dependent on federal grant. The elites/citizens of larger and wealthier member states may perceive their membership of the federation as resentful or the smaller units' elites/citizens might be overwhelmed by their powerlessness and perceive their position in a federation as a real loser. The member state that does not meaningfully represented in federal institutions, which play a consequential role in the life of the federation, would be forced to live up to the decisions they wouldn't accept otherwise. The regional/nationality-based party/coalition dominating the constituent units develop a confrontational relationship with the federal party/coalition in power at the centre and other regional/nationality-based parties/coalitions which are dominant in other member states.

In such circumstances, tension and conflicts arise from the glaring political asymmetry are to witness in a federal political system. Also it seems safer to say that the implications of political asymmetry are likely to show a significant increase when different aspects of political asymmetry found overlapped one another in a federal political system. It is to say that, when the wealthier and fiscally strong states are bigger in their population and land area size while the relatively fiscally weak states have smaller population and land area size, the impacts of the political asymmetry can be upsurged. More relevantly, in multinational federations, where member states are more or less delineated along nationality lines, the afore discussed relations between member states tend to take a nationality form, and concomitantly the tensions and conflicts between member states and the centre and among member states can be considerably aggravated and may lead to the disintegration of the polity.

In this regard, Filippov and his colleagues seem right when they argued that 'in nearly all cases of federal failure we can find one group or another that succeeds ultimately in capturing control of the center, leaving the losers in this contest to wield the only "institutional" sword

²¹⁴ *Ibid*

left – the federation’s dissolution.²¹⁵ By the same fashion, one author also stated that plurinational states are ‘more likely to collapse when they contain a core ethnic region that is significantly more powerful and populous compared to the other federal units and exerts great influence over the central government.’²¹⁶ Wholly consistent with this view is Rainer Bauböck’s more relevant observation that ‘even if a multinational federation appears to be relatively stable it may well be that excessive asymmetry is an inclined plane on which federations will glide downwards towards eventual dissolution.’²¹⁷ These authors should not be regarded as doomsayers who pessimistically predict the dismemberment of federations, particularly multinational federations since the corrosive effect of extreme asymmetry is more or less recognized by leading scholars of federalism. Admittedly, the experience of most federations with one or two hegemonic component units has asserted that tensions and instabilities arising from the glaring political asymmetry are rife.²¹⁸ However, it should be noted that the impact of asymmetry on the operation of the federation cannot be uncovered solely by ‘*a priori* reasoning’; it is the empirical inquiry into the actual operation of a given federation that unveils the implications of the political asymmetry²¹⁹ as there are a number of mechanisms that are put in place to moderate political asymmetry. Let’s have a brief look at some of these corrective measures.

2.7.4. Corrective measures

We argued earlier in this chapter that well-designed multinational federations have worked and may work under certain conditions. As is noted *supra*, despite the existence of some political asymmetry in every federation, glaring political asymmetry may affect the operation of the federation and has been a source of tension and instability. Ergo, political asymmetry has often brought on endeavours at corrective measures that lessen the implication of

²¹⁵ M. Filippov et.al, 2004, *supra* note 15, page 91

²¹⁶ Katia Papagianni, 2006, *Accommodating Diversity: Federalism, Autonomy and other Options*, OSLO forum 06, page 51

²¹⁷ Rainer Bauböck, United in Misunderstanding? Asymmetry in multinational Federation, *ICE- Working Paper Series*, Vienna, Austria, page, 1.

²¹⁸ R.L. Watts, 2000, *supra* note 25, page 14

²¹⁹ R.L. Watts, 2000, *supra* note 25, page 10

political asymmetry for the operation of federal political system.²²⁰ ‘These have included moderating the political influence of larger regional units at the federal level by establishing a federal second legislative chamber with representation weighted to favour smaller regional units, and assisting less wealthy regional units by redistributive equalization transfers’²²¹ and downsizing a giant member states by sub-dividing into two or more states.²²² The implication of political asymmetry can also be moderated within the ruling political party/coalition.²²³

a). Weighted Representation in Second Chamber

Bicameral legislature is one of the common features of federations. The establishment of the federal second legislative chamber is commonly associated with the representation of regional views.²²⁴ In effect, a measure of symmetrical representation of member-states in federal second chamber irrespective of variation in their territorial and population size is common, if not universal. This *de jure* arrangements for a federal second chamber has often moderated the *de facto* asymmetry in the influence of large versus smaller member states²²⁵ as the greater influence of the larger member states in popular chamber is balanced by the malapportioned representation of constituent units in second chamber.

However, as Ronald Watts rightly noted, the degree to which federal second chamber plays this role hinges on ‘the relative power and competence of the chamber and the degree of symmetry in the representation of member states within the federal second chamber.’²²⁶ Put differently, second chambers, which are not constitutionally entitled with significant powers and competences to check the federal popularly-elected lower chambers, have little chance to be an arena of moderation. The same can be said when second chamber is not organized in such a way that it guarantees weighted representation that favours the smaller units.

b). Federal Equalization Transfer

²²⁰ R.L. Watts, 2008, *supra* note 4, page 72

²²¹ *Ibid*

²²² Ivo D. Duchacek, 1988, *supra* note 146, page 22, M. Filippov et.al, 2004, *supra* note 15, page 91, Wayne Norman, 2006, *supra* note 55, page 101 and John Pinder, 2007, *supra* note 62, page 8

²²³ R.L. Watts, 2000, *supra* note 25, page 10

²²⁴ M. Filippov et.al, 2004, *supra* note 15, page 118

²²⁵ R.L. Watts, 2000, *supra* note 25, page 18

²²⁶ *Ibid*

As noted earlier, discrepancies within each federation in terms of their relative wealth have been a factor affecting the influence of particular constituent units in the dynamics of federal politics.²²⁷ Tensions and instabilities that might arise from such a gross economic disparity between component units can be moderated by the federal redistributive equalization transfer. Seen in this light, federal equalization grants have been employed not simply to correct horizontal imbalances in among constituent units by filling fiscal gaps, ‘but also to moderate the corrosive impact upon political cohesion within a federation arising from disparities of wealth among different regions or national groups.’²²⁸

c). Moderation within the Ruling Party/Coalition

It is logical to state that political organizations express difference and are also deemed to be ‘vehicles of diversity’ as particular constellations of cleavage patterns and vested interests are represented by partisans.²²⁹ Despite the asymmetrical influence of different constituent units in federal politics, the ruling coalition of political parties which took control of the chief policy-making offices of the general government might serve as an arena of moderation where regional/nationality interests can be aired and bargained.²³⁰ Even an integrated political party, like the Indian Congress Party, coalitional in character and has been endowed with a well-defined federal structure that has been supportive of state autonomy, can be a locus of mediation and arbitration between competing factions representing varying regional interests.²³¹ Viewed from this perspective, we can speculate the moderation of a glaring political asymmetry among federated units within an integrated ruling party or governing coalition of parties.

d). Boundary Redrawing: as a corrective measure

In principle, no one or two constituent states should be so hegemon as to be able to override the other constituent states and twist federal government’s arm to pursue policy that favours

²²⁷ R.L. Watts, 2008, *supra* note 4, page 73

²²⁸ R.L. Watts, 2007, *supra* note 7, page 235-6

²²⁹ M. Burgess, 2006, *supra* note 30, page 220

²³⁰ R.L. Watts, 2000, *supra* note 24, page 18

²³¹ M. Filippov et.al, 2004, *supra* note 15, page 221

them. Similarly, no constituent state should be too small as to be unable to maintain its independence within the sphere of functions allocated to it.²³² However, in reality, most federations are composed of units that are extremely unequal in many respects including territorial and population size.²³³ As indicated above, some authors emphasize the need for redrawing the boundary of the federated units in order to moderate extreme *de facto* asymmetry among constituent units in terms of territorial and population size. The circumstance that allow one or few federated unit(s) is/are, by virtue of its population or resources, equipped to exert a significantly greater impact on the center than the rest and to takeover of the center can, in most cases, be avoided by a careful (although not necessarily feasible) design.²³⁴ Federations, like United States, avoided the kind of asymmetry that plagued the USSR and Czechoslovakia in an act of conscious design by requiring subdivision of vast member states as a precondition to join the union. Alas, redrawing federal units' boundary is no easy option and it is also theoretically and practically controversial.

In this regard, John McGarry argued that, though there are some cases where nationalities are happy with such arrangement, designing internal boundary by sub-dividing nationalities into a number of units cannot be welcomed by the mobilized nationalities for 'it rules out collective self-government, and neither affirms plurinationality'.²³⁵ He²³⁶ also accentuated that the partition of the nationalities particularly where they already enjoy autonomy within an undivided 'homeland' has often not been realized without coercion.²³⁷ Admittedly, democratic internal border change in federations has been very rarely witnessed.²³⁸

Despite the practical difficulty of redesigning the size of the constituent units, it has to be born in mind that democratic boundary changes which approved by the concerned

²³² As quoted in Ivo D. Duchacek, 1988, *supra* note 146, page 22

²³³ Yash Ghai and Jill Cottrell, 2007, *supra* note 74, page 18

²³⁴ *Ibid*, page 66

²³⁵ John McGarry, 2007, Asymmetry in Federations, Federacies and Unitary States in *Ethnopolitics*, Vol. 6, No. 1, 105 – 116, March 2007 page 109

²³⁶ Though J.McGarry rightly pointed out the degree of mobilization of nationalities as important factor, his emphasis on the indivisibility of nationalities (minorities) is considerably driven by his presupposition of the existence of statistical majority (staatsvolk) within federations which is not the case in federations, like ours.

²³⁷ *ibid*, page 107

²³⁸ Wayne Norman, 2006, *supra* note 55, page 106

populations should not be ruled out as corrective measure in order to moderate glaring political asymmetry that can give rise to instability and tension and lead to the disintegration of the polity.

Concluding Remarks

Federations, as a distinct institutional arrangement, have a number of characteristics in common along with remarkable differences among them. Multi-national federation is, thus, a specific type of federation whose primary *raison d'être* is the accommodation of nationality claims for self-rule, principally by establishing constituent units in such a way that at least one of the nationalities forms a clear majority in one of the federated units.

Though federalism is a notion that is historically or morally unrelated to any regulation of conflicts of diversity, of late, it has been often prescribed and adopted to accommodate nationality claims for recognition and self-determination in the context of plurinational states comprising two or more nationalities. Nowadays, though the multinational federalist perspective advocating the accommodation of ethnonational groups by granting a measure of autonomy or self-government in which they protect and promote their distinctiveness has received substantial, if not uncritical, support among contemporary scholars, a sweeping consensus is not yet reached on the extent multinational federalism accommodates nationality claims for recognition and self-determination while at the same time safeguarding the unity of the state and thwarting the possibility of state disintegration.

It is submitted that, despite all these difficulties to sustain multinational federations, despite the virtual impossibility of making broad generalizations about the success of federation in plurinational societies, it is hard to imagine any form of effective accommodation of nationality claims within a single plurinational state that do not embrace the federal ingredients. Adopting Winston Churchill's remark on democracy, it can be said that multinational federation is the worst form of government to manage the nationality claims, except for all the others. It is also worth noting that well-designed federations have worked and may work under certain conditions given that multinational federations have their own unique features and operate in a varying set of complex societal circumstances and contexts.

The degree of symmetry and asymmetry within federations can be mentioned as one of important conditions that form the set of complex circumstances and context where federations are evolving and operating. In spite of the unavailability of some form of asymmetry in every federation, the nature and degree of asymmetries significantly differ from federation to federation and the conditions that lead to asymmetry are not also the same. Asymmetrical outcomes within federal political systems arise from the existing preconditions, like historical, economic, social, ethnic and cultural diversities. Asymmetrical outcomes can be political/*de facto* or constitutional/*de jure*; the former denotes the actual practices or relationships arising from the impact of cultural, social and economic differences among constituent units within a federation while the later refers to asymmetry embedded in constitutional and legal processes, where constituent units are treated differently under the law.

Political asymmetry represented by the disparity in population and territorial size and wealth of constituent units, fiscal capacity of constituent units, among others, are of vital political significance as they affect the relative capacity of different constituent units to exercise their powers and competences, and the degree of a constituent unit's influence within federal institutions where representation is based on the principle of 'one person-one vote' is also affected. Glaring political asymmetry within federation tend to give rise to tensions and instabilities which may end up with the disintegration of a federation. These corrosive impacts of extreme asymmetry on the operation of a federation mostly induce corrective measures in order to moderate the asymmetry and lessen its implication. In this regard, the weighted representation of constituent units in second chamber to counterbalance the dominance of larger units in popular lower chamber, the federal redistributive equalization transfers to help the poorer component units to catch up the wealthier ones, the redrawing of internal boundary to reduce the influence of hegemon unit/s by sub-dividing it/them into smaller units, and moderation within the ruling party/coalition can be considered as correcting measures.

Chapter Three

Federal State Restructuring and the Making of Constituent Units in Ethiopia's Federal System: a Bird's Eye View

3.1 Introduction

The federal restructuring of the Ethiopian state along linguistic/nationality line, which was initiated by the Transitional Government of Ethiopia in a claimed effort to ensure the right of nationalities of Ethiopia to self-determination, was formalized in the 1995 FDRE constitution. The country, thus, officially joined the family of world federations which currently encompasses over 40 percent of the more than 7 billion of the world's population renamed as Federal Democratic Republic of Ethiopia.²³⁹

It is argued earlier in this thesis that political asymmetry in federal political systems, like that of Ethiopia, emanate from a set of preconditions of asymmetry. Also it is stated that this preconditions are greatly varies from federation to federation as federal political system do largely result from unique conjunction of conditions and institutions of their own. Bearing this in mind, the chapter mainly attempts to give general introduction about the Ethiopian federal system and to look at the major preconditions that gave rise to the political asymmetry witnessed in Ethiopia's federal system in relation to the varying population and territorial size of the federal constituent units.

To this end, it is tried to highlight the historical background to the federalization of the Ethiopian state and the structural aspect of the federal system where self-rule and shared-rule are supposed to be exercised. Also the process of federalization in general and the making of the Ethiopian federal constituent units in particular is discussed at some length with the objective of exploring the very condition that gives rise to existing configuration of constituent units.

²³⁹ Ronald Watts, 2008, *supra* note 4, page 1

3.2. Ethiopia's Road to a Federation: a Brief Historical look

Ethiopia, the ancient eastern Africa state with a population of about 90 million representing more than 80 nationalities²⁴⁰ and a number of religious groups, is considered one of the cradles of world civilization. Though one thousand B.C. is conventionally²⁴¹ regarded to be as the beginning of the recorded history of the Ethiopian state, it has become now safer to say that the Ethiopian past can be traceable back to the 'pre-historic' period on the basis of recently conducted archeological and linguistic researches which constituted the more scientific perspective in the study of Ethiopian history.²⁴²

Ethiopia, with the exception the short-lived federal experiment with Eritrea, has never been formally federal until 1995. In contrast to the pre-modern one that approximated a quasi federal system,²⁴³ much of the modern history of Ethiopia in general, and the reign of Haileselassie I and Mengistu in particular was characterized by a zealous attempt at making a 'modern' and centralized unitary state, a state evidently insensitive to local preferences and, in many ways, instrument of economic exploitation, among others.²⁴⁴ Oddly enough, the 1974 Ethiopian Revolution, which effectively dispensed with the *ancien régime* and its exploitative *gebbar* system, did not succeed in doing away with the centralization and 'modernization' drive that was patently sought by its predecessor, the last monarch of the modern Ethiopian state.²⁴⁵ Instead, squashing all contending progressive Pan-Ethiopian political parties including the pioneering EPRP and *Meison*, which were formed by forces which spearheaded and were

²⁴⁰ Ethiopia is a state of minorities as no single nationality qualified to form a statistical majority.

²⁴¹ However, 'the Ethiopian historiography', as Merera Gudina, 2011, *Ethiopia: From Autocracy to Revolutionary Democracy*. (Addis Ababa: Chamber Printing House) page 1, aptly noted, 'is fraught with controversy'; different and most of the time opposing conceptualization of the Ethiopian history in general, and the modern Ethiopian history in particular, is not uncommon.

²⁴² Bahru Zewde, 2002, *A History of Modern Ethiopia; 1855-1991* (2nd edn.)(London: James Currey), Lapiro G. D., 1982, *Ye'ethiopia Rejim Yehizibina Mengist Tarik* (A long history of People and State in Ethiopia)(Addis Ababa: Chamber Printing House).

²⁴³ Christopher Clapham, 'Constitutions and Governance in Ethiopian Political History,' in *Constitutionalism: Reflections and Recommendations, Symposium on the Making of the New Ethiopian Constitution* (Addis Ababa: Inter Africa Group, 1993), page 29, Bahru Zewde, 2008, what did we dream? What did we achieve? and where are we heading? In Bahru Zewde, 2008, *Society, State and History; Selected Essays* (Addis Ababa University Press.) page 358

²⁴⁴ John Markakis, 1994, Ethnic Conflict and the State in the Horn of Africa in Katsuyoshi Fukui and John Markakis (eds.), 1994, *Ethnicity and Conflict in the Horn of Africa* (Athens: Ohio University Press), page 223-224

²⁴⁵ Christopher Clapham, 2002, Controlling Space in Ethiopia. In Wendy James et al (eds) *Remapping Ethiopia: Socialism and After*. (James Currey), page 14; Assefa Fiseha, 2008, Federalism, Diversity and the Regulation of Conflict in the Horn a paper presented at *the Second Conference on Constitutionalism & Human Security in the Horn of Africa*, 7 August 2008 Addis Ababa, Inter-Africa Group, page 64

instrumental in bringing about the February Revolution, the military Dergue continued to work day and night to build a highly centralized ‘socialist’ state where all powers vested in the ‘big man’, namely; Mengistu Hailemariam.²⁴⁶ The resentment, that became prevalent in Ethiopia when the military Dergue turned out to be more centralized and authoritarian than its monarchical predecessors, manifested itself mainly in nationality-based armed movements which later successfully toppled the regime in May 1991.²⁴⁷

Following the hard won impressive military triumph of TPLF-led coalition; namely, Ethiopian Peoples’ Revolutionary Democratic Front, establishing a stable government and state reordering were of necessity to secure a political legitimacy among the wide range of Ethiopian Society.²⁴⁸ More importantly, ‘just as political legitimacy for the new government after 1974 revolution lay in solving the land question, no government following the derg could hope to win legitimacy and support without addressing’ the problem of national integration.²⁴⁹ Measures that were taken at that point in time altered in many ways the political landscape of the state. It is, thus, widely agreed that, as was the case some 17 years back from then, the demise of the military dergue amounted to more than just a change of a particular regime.²⁵⁰

The nationalist movements, which were noticeably over-represented in the process of re-ordering the Ethiopian state while the Pan-Ethiopian political groupings were excluded or chose not to be part of it,²⁵¹ sought to devise a kind of arrangement that fundamentally ‘cut

²⁴⁶ Merera Gudina, 2011, *supra* note 241, page 48

²⁴⁷ Paul B. Henze, 1994, Ethiopia and Eritrea in Transition: the Impact of Ethnicity on Politics and Development Opportunities and Pitfalls in H. Marcus, 1994, *New Trends in Ethiopian Studies: papers of the 12th International Ethiopian Studies*. (Lawrenceville: Red Sea Press.) page 120; John Markakis, 1994, Ethnic Conflict and the State in the Horn of Africa in K.Fukia and J. Markakis (eds.), 1994, *Ethnicity and Conflict in the horn of Africa*. (London: James Currey and Athens: Ohio University Press.) page 224; Kjetil Tronvoll, 2000, *Ethiopia: a new start?* (London: Minority Rights Group International) page 15, Christopher Clapham, 2002, *supra* note 232, page 26

²⁴⁸ Kjetil Tronvoll, 2000, *Ethiopia: a new start?* (London: Minority Rights Group International.), page 18

²⁴⁹ *Ibid*

²⁵⁰ Leenco Leta, 1998, The Making and the Unmaking of Ethiopia’s Transitional Charter, in in Asafa Jalata (ed.) *Oromo nationalism and the Ethiopian discourse: The search for freedom and democracy* (Lawrenceville New Jersey: The Red Sea Press), page 51;

²⁵¹ Theodore Vestal, 1999, *Ethiopia: a Post-Cold War African State*. (London: Praeger.) page 7; International Crisis Group, Ethiopia: Ethnic Federalism and Its Discontents, *Africa Report* No. 153, 2009, page 3,

through the century-old tangled knot of iniquitous oppressive centre-periphery relations²⁵² and that recognizes the right of nationalities to autonomy and self-determination²⁵³. To this end, federalism with its ‘multinational’ variant was chosen to be the organizing principle of the state. A new constitution of Federal Democratic Republic of Ethiopia, which was ratified in December 1994; adopted in May 1995 and came into force on 22 August 1995,²⁵⁴ was proclaimed to become a ‘covenant’ in which the self-ruling Ethiopian ‘nation, nationalities, and peoples’ with shared institutions at the centre agreed to continue living under the Ethiopian state.²⁵⁵

The federal option, somewhat contentious though initially was,²⁵⁶ is now no longer a subject of political controversy in Ethiopia as all serious Ethiopian political groupings have accepted it as a viable system of government to best manage the plurinationality of Ethiopia given that unresponsive centralized system was proved to be inadequate to deal with the many problems of the Ethiopian state.²⁵⁷ However, the nationality/linguistic-based federal reconstitution and the existing particular federal experiment, which is, more or less, a single handed initiative of EPRDF, has never been, in theory and in practice, an issue of consensus among major political forces and is one of the highly controversial political issues in post-1991 Ethiopia.²⁵⁸ In other words, what was/is mostly controversial was/is not the decision of the

²⁵² John Markakis, 2007, Federalism and Constitutionalism in the Horn of Africa in *Conference on Constitutionalism and Human Security in the Horn of Africa*, October 1, 2007 Addis Ababa (Inter-Africa Group), page 58

²⁵³ Alemante G. Selassie, 2003, Ethnic federalism: Its promise and pitfalls in Africa, *Yale Journal of International Law* 28(1) 51-107, page 65

²⁵⁴ Berhanu Gutema Balcha, 2009, Constitutionalism in the Horn of Africa: Lesson from the new constitution of Ethiopia, *DIIPER Research Series Working Paper NO. 15*, page 1

²⁵⁵ See the preamble of the 1995 FDRE constitution.

²⁵⁶ Some political forces, which were active in the time of constitution making, were a staunch supporter of a unitary system of government. The party of the renowned surgeon, Professor Asirat Woldeyes, All Amhara People’s Organization, was the case in point. However, the party, which was later renamed as All Ethiopian People’s Organization, embraced federal option though it remains to be a vocal critic of the existing federal experiment.

²⁵⁷ Samuel Assefa, 1993, Of Federalism and Secession in *Constitutionalism: Reflections and Recommendations, Symposium on the Making of the New Ethiopian Constitution* (1993) 113-125, page 115; Kidane Mengisteab, 1997, New Approach to State Building in Africa: The Case of Ethiopia’s Ethnic-Based Federalism. *African Studies Review* Vol.40 (3): 111-132, page 115

²⁵⁸ See, for example, John Markakis, 2007, Federalism and Constitutionalism in the Horn of Africa in *Conference on Constitutionalism and Human Security in the Horn of Africa*, October 1, 2007 Addis Ababa (Inter-Africa Group). Page 58; Bahru Zewde, 2008, *supra* note 230, page 358 and Alem Habtu, 2007, Citizenship, ethnicity and group rights in the Greater Horn of Africa with a case study of Ethiopia in *Conference on Constitutionalism and Human Security in the Horn of Africa*, October 1, 2007 Addis Ababa (Inter-Africa Group); John Young, 1996, Ethnicity and Power in Ethiopia in *Review of African Political Economy*, Vol. 23, No. 70 (Dec., 1996), pp. 531-542, page 538; Merara Gudina, 2003, Ethiopia: Competing ethnic nationalisms and the quest for democracy 1960-2000 (Addis Ababa: Shaker Publishing), page 137

TPLF/EPRDF-dominated transitional government to adopt federalism, *qua* federalism, as organizing principle of the Ethiopian state but the form of particular federal formula chosen in a claimed effort to ensure the equality of nationalities.

Authorities on Ethiopian federalism identified a number of possible driving forces that propelled the new rulers to champion the particular federal reconstitution that is unique and controversial in many ways. Alem Habtu,²⁵⁹ for example, stated that the federal restructuring ‘was largely a consequence of political necessity and ideological orientation.’ By the same token, M. Burgess observed that ‘[T]he creation of an ethnic based federal state in Ethiopia in 1995 can be partly explained by what we might call the Marxist-Leninist-Stalinist ideological legacy and the peculiar nature of the circumstances in 1991 of an EPDRF victory in the civil war against the Derg Communist regime.’²⁶⁰

Political necessity, for Alem, refers to the post-dergue circumstance of Ethiopia which was dominated by the nationalist movements, some among whom expect from the transitional government nothing short of independent statehood.²⁶¹ According to him, ‘[t]here seemed little alternative at the time to some sort of ethnic federalism, if the EPRDF were *to establish its rule and retain the country as one.*’²⁶² On the other hand, the ideological orientation denotes the creed of the EPRDF, the political organization which was instrumental in introducing the federal formula. ‘The ideological antecedents of the EPRDF’s multiethnic federalism project can be traced to the front’s Marxist-Leninist ideology and its conception of “the national question.”’²⁶³ As is argued by many scholars, notwithstanding the absence of Marxist

²⁵⁹ Alem Habtu, 2005, Multiethnic Federalism in Ethiopia: A Study of the Secession Clause in the Constitution in *Publius*, Vol. 35, No. 2 (Spring, 2005), pp. 313-335 page 322

²⁶⁰ M. Burgess; 2009, *supra* note 103, page 15

²⁶¹ There are authors who question the validity of the bleaker assessment of the then situation. In this connection, Berhanu Gutema in his PhD dissertation titled *Restructuring State and Society: Ethnic Federalism in Ethiopia* argued that ‘there are disagreements whether the 1991 Ethiopian situation was in a verge of state disintegration or not. It is well known that some liberation movements were actively operating in the country, but except some of the movements like the EPLF, TPLF and to some extent OLF, the others did not show any noticeable military pressure to challenge the centralized military regime.’

²⁶² Alem Habtu, 2007, *supra* note 243, page 27 (Ellipse and emphasis added)

²⁶³ Alem Habtu, 2005, *supra* note 259, page 322

lexicons from the mouths of the EPRDFites out of the blue,²⁶⁴ the ruling front's confidence in Leninist/Stalinist 'national policy' to solve Ethiopia's problem of national integration was hardly eroded. Even though some consider Marxism as a cover,²⁶⁵ many scholars defensibly draw a parallel between the Leninist theory of federalism and the Ethiopian federal experiment.²⁶⁶

Despite the ambivalent views in explaining the impelling cause for the adoption of the particular federal formula, it can be safely said that the federal system did not stem from below, the people; nor was it the result of a broad-based bargaining,²⁶⁷ but rather it is more of an imposition from above.²⁶⁸ It seems because of this, scholars, like Edmond Keller, described the Ethiopian federal system as a 'putting together' federation.²⁶⁹

3.3 Introductory Notes on Ethiopia's Federal Structure

As is the case in other federal systems, the Ethiopian federal system is composed of two tiers of government. Article 50 of the existing Ethiopian constitution establishes two levels of government namely, the Federal Government and the Regional States²⁷⁰ (*keilils*). The Federal Democratic Republic of Ethiopia is 'parliamentary that allows the legislature to exercise

²⁶⁴ Realizing that the new world order was clearly hostile to any form of communist regime, the front was coerced into adopting some policies which are antithetical to the front's Marxist view. However, it was in 2003 the party unequivocally renounced Marxism and devised a new official party platform ending days of obscurity.

²⁶⁵ In this regard, Merera Gudina, 2003, *supra* note 2, page 119-161 argued that 'the moving spirit and guiding ideology' of state reordering was Tigrean nationalism which 'has been more of resurgence nationalism- to regain the centrality of Tigray in the Ethiopian State.'

²⁶⁶ See, for example, E. Keller, 1998, Regime change and ethno-regionalism in Ethiopia: The case of Oromo, in Asafa Jalata (ed.) *Oromo nationalism and the Ethiopian discourse: The search for freedom and democracy* (Lawrenceville New Jersey: The Red Sea Press), page 114; Aklilu Abraham, Ethnicity and Dilemmas of State Making: Ethnic Federalism and Institutional Reforms in Ethiopia in *International Journal of Ethiopian Studies*, Vol. 2, No. 1/2 (Summer/Fall 2005-2006), page 90; Alem Habtu, 2005, *supra* note 243, page 322; Negede Gobeze, 2004, *Hige-Mengist Mirchana Demokiras Be'ethopia (Constitution, Election and Democracy in Ethiopia)*. (ASEOP publisher, USA.), page 89-144; David Turton, 2006, Introduction, in David Turton (ed.), 2006, *Ethnic Federalism: the Ethiopian Experience in Comparative Perspective*. (Addis Ababa: Addis Ababa University Press), page 2; Asnake kefale, 2009, *supra* note 9, page 64-65; M. Burgess, 2009, *supra* note 103, page 17,

²⁶⁷ John Young, 1996, *supra* note 243, page 531

²⁶⁸ Mohammed Hassen, 1998, The Macha-Tulama Association, 1963-1967 and the Development of Oromo Nationalism, in Assafa Jalata(ed.), 1998, *Oromia Nationalism and the Ethiopian Discourse: the Search for Freedom and Democracy* (Lawrenceville, NJ & Asmara: The Red Sea Press Inc.), page 185; Theodore Vestal, 1999, *supra* note 238, page 166-7, James Paul, 2000, Ethnicity and the New Constitutional Order of Ethiopia and Eritrea, in Yash Ghai (ed.), *Autonomy and Ethnicity: Negotiating Competing Claims in Multiethnic States* (Cambridge: Cambridge University Press), page, 189; Berhanu Gutema, 2009, *supra* note 9, page 16

²⁶⁹ Edmond Keller, 2002, Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia in *African Journal of Political Science (2002)* Vol.7 No. 1, 21-50, page 24

²⁷⁰ In this study, Federated Units, Constituent Units, Regional States, States and Member States are interchangeably used to designate the self-ruling units of the Ethiopian Federation.

oversight and control over the executive'.²⁷¹ The powers and competences of the federal government are limited to matters expressly enumerated under Article 51 and 55 of the constitution.²⁷² The Prime Minister is the head of federal executive while the President is the head of state with 5 years and 6 years term respectively. As is the case in any parliamentary form of government, the Prime Minister shall be elected from and by members of the lower chamber, House of Peoples' Representatives in our case,²⁷³ and will be the Commander-in-Chief of the army and Chairperson of the Council of Ministers.²⁷⁴ The powers and functions of the president who shall be elected by the joint session of the two houses are essentially ceremonial. Strangely enough, the Ethiopian federal constitution limits the term of the President only for two times²⁷⁵ while it remains silent regarding the term of the powerful Prime Minister.

Article 53 of the Federal constitution of Ethiopia establishes two houses.²⁷⁶ The House of Peoples' Representatives (HPR), the lower house of the parliament, 'is the highest authority of the Federal Government'.²⁷⁷ HPR is a real legislature body of the government 'which enjoys the decisional, control and representative powers'.²⁷⁸ The members of the house shall be directly elected by the electorates for five years tenure by first-past-the-post electoral system.²⁷⁹ Moreover, at least twenty seats of the house are reserved to minority ethnic groups.²⁸⁰

²⁷¹ Muhammad Habib, 2010, *The Ethiopian Federal System; the Formative Stage* (Freidrick –Ebert-Stiftung, Addis Ababa Office and Forum Federalism and Democracy, Master printing PLc.,) page 10

²⁷² Hashim Mohammed, 2010, Federalism in Ethiopia, *a paper submitted to the International Conference on Dynamics of Constitution Making in Nepal in Post-conflict Scenario*, January 15_17, 2010, Nepal Constriction Foundation, Kathmandu, Nepal. Available at <http://asd.org.np/en/repository/international-conference/59-dr-hashim-mohammed-tewfik/download> (accessed on January 5, 2012.), 2010, page 22

²⁷³ Article 73(1), FDRE constitution

²⁷⁴ Article 74(1), FDRE constitution

²⁷⁵ Article 70(4), FDRE constitution

²⁷⁶ See Ronald L. Watts, Ronald L. 'Comparing Federal Systems.', 1999; 86-87

²⁷⁷ Article 50, FDRE Constitution

²⁷⁸ Tsegaye Regassa, 2004, *State Constitution in Federal Ethiopia: a preliminary observation*. Available at <http://camlaw.rutgers.edu/statecon/subpapers/regassa.pdf> (Accessed on the December 20, 2011), page 25

²⁷⁹ Article 54, FDRE constitution

²⁸⁰ Article 54(2), FDRE constitution

The House of Federation, which constitutes the upper house of the Federal Parliament, is an unusual institution in many ways and typically an Ethiopian creation. In the first place, the house is not the house of member states i.e. regional states²⁸¹ but rather it is composed of representatives of ‘Nations, Nationalities and Peoples’ directly elected by the people or appointed by the regional state councils.²⁸² Secondly, unlike most of other federal upper houses whose primary role is ‘legislative, reviewing federal legislation with a view to bringing to bear upon it regional and minority interests and concerns’,²⁸³ the Ethiopian federal second chamber has no or limited role in this respect.²⁸⁴ As one author aptly notes, its law making power, if it is law making power at all, is only confined to ‘such specific matters as constitutional amendment, initiation of draft civil laws, approving draft procedural rules for the Constitutional Inquiry Council and adoption of its own internal administration rules’.²⁸⁵ Uniquely enough, the House of Federation has an important competence of interpreting the supreme law of the state instead.²⁸⁶ Besides, the House of Federation has also other important competences including the power to ‘determine the division of revenues derived from joint federal and state tax sources and the subsidies that the federal government may provide to the states.’²⁸⁷

Regarding the third branch of the government i.e. the judiciary, the constitution establishes only a Supreme Court at federal level²⁸⁸, ‘leaving the establishment of Federal High Courts and First Instance Courts to the House of Peoples Representatives, which may decide by a two-thirds majority vote to set up such courts nationwide or in some parts of the country when it deems it necessary.’²⁸⁹ Practically, the three tiered judicial system consisting

²⁸¹ Yonatan Fesseha, 2008, *supra* note 37, page 453

²⁸² In practice, however, members of the House of Federation are elected by the State Council. No popular election has been conducted by any of regional state to elect the members of the House of Federation.

²⁸³ Ronald L. Watts (1999, 97)

²⁸⁴ In effect, observers, like P.H. Brietz, Ethiopia’s “Leap in the Dark”: Federalism and Self-determination in the New Constitution, in *Journal of African Law*, Vol. 39, No. 1 (1995), page 21 and Berhanu Gutema, 2009, *supra* note 9, page 3, find it difficult to consider the Ethiopian legislature as a bicameral.

²⁸⁵ Hashim Mohammed, 2010, *supra* note 257, page 27

²⁸⁶ Article 62 FDRE constitution

²⁸⁷ Article 62(7) FDRE constitution

²⁸⁸ Article 78(2) FDRE constitution

²⁸⁹ Hashim Mohammed, 2010, *supra* note 257, page 27

of Federal High court and First Instance Court in addition to constitutionally established Federal Supreme Court forms the judiciary of the federal government.²⁹⁰

The Ethiopian federation is composed of nine member states, namely 1) The State of Tigray, 2) The State of Afar, 3) The State of Amhara, 4) The State of Oromia, 5) The State of Somali, 6) The State of Benshangul/Gumuz, 7) The State of the Southern Nations, Nationalities and Peoples, 8) The State of the Gambella Peoples and 9) The State of the Harari People.²⁹¹

Despite some dissimilarity in form of their state legislature,²⁹² all nine member states have more or less similar governmental structure, viz., legislative, executive and judicial body. The president of respective regional states shall be the head of the government. The supreme courts of states are the highest judicial power in their jurisdiction. The constitution also gives the power to sub-state units to organize their own local governments.²⁹³

Like the federal government, regional states have constitutionally listed exclusive powers and competences, not to mention the residual powers that are left to them.²⁹⁴ Speaking in comparative terms, despite arguments to the contrary, constitutional division of powers between the federal and state governments ‘suggests that the power of Ethiopian states in relation to the federal government is overwhelming, at least where self-rule is concerned.’²⁹⁵ The constitution also enumerates the exclusive and concurrent taxation powers of federal and state governments.²⁹⁶ However, enquiries into these constitutional provisions insinuate that most of buoyant taxing powers are allocated to the federal government so that the federal government is far more fiscally powerful than the regional governments.²⁹⁷

²⁹⁰ *ibid*

²⁹¹ Article 47 FDRE constitution

²⁹² Some states (SNNPR and Harari People Regional states) have a bi-cameral legislature.

²⁹³ Article 50, FDRE constitution

²⁹⁴ Article 52 FDRE constitution

²⁹⁵ Assefa Fiseha, 2006, *supra* note 9, page 145

²⁹⁶ See Article 96, 97 and 98 of the FDRE constitution

²⁹⁷ See Tegegn Gebre-Egziabher and Kassahun Berhanu, 2006, A Literature Review of Decentralization in Ethiopia, in Taye Assefa and Tegegn Gebre-Egziabher, 2006, *Decentralization in Ethiopia* (Addis Ababa: Forum for Social Studies), page 53

3.4. The Making of Constituent Units in Ethiopia

It is crystal clear that sub-national governments ‘representing one of the orders of government constitute the building blocks on which a federation is based.’²⁹⁸ When a unitary state goes federal, designing constituent units usually becomes one of the very essential, most of the time contentious, tasks of federal restructuring²⁹⁹ as ‘the delimitation of federal units will be crucial for the functioning of the federal system; it will have a decisive influence on the power balance within the state; it will be important for the development of forms of political mobilisation; it will influence the relations between communities and within communities.’³⁰⁰ As a matter of course, federalization of the Ethiopia state entails the division of the state into nine fully-fledged federated units and two chartered cities. In the following paragraphs, an attempt is made to go over the thumbnail sketch of the making of constituent units as part of the federalization of the Ethiopian state.

Crucial decisions regarding the design of the constituent units had been made in the four-year long transitional period which was a prelude to the Ethiopian federal experiment formalized by the 1995 federal constitution. Stated more bluntly, ‘a new ethnic-based map of [federal] Ethiopia and its regional states was introduced already’ in the first years of the transitional period.³⁰¹ Though the charter of the Transitional Government of Ethiopia did not enumerate the regional/local governments and left the matter to be determined by a law, it clearly envisaged that the geographic definition of regional/local administrations would be based on the sole criterion i.e. ‘nationality’.³⁰² The charter also stipulated that ‘nations, nationalities, and peoples’ shall manage their ‘own affairs within its own defined territory’ with the objective of realizing their right to ‘self-determination’³⁰³ assuming that each nationality/linguistic community has defined territory.

²⁹⁸ Ronald Watts, 2008, *supra* note 4, page 71

²⁹⁹ Ghai, Yash and Jill Cottrell, 2007, *supra* note 19, page 71

³⁰⁰ Gunther Baechler, 2007, *supra* note 16, page 36

³⁰¹ Jon Abbink, 1997, Ethnicity and constitutionalism in contemporary Ethiopia in *Journal of African Law* 41: 159-174, page 163

³⁰² See Article 13 of the Transitional Period Charter. Negarit Gazeta, No 1, 1991 (stating: ‘there shall be a law establishing local and regional councils for local administrative purposes defined on the basis of nationality.’)

³⁰³ Article 2/b, Transitional Period Charter

What follows is the passing of the proclamation No.7/92 in mid January 1992 to establish national/regional self-government.³⁰⁴ The proclamation, which was a real precursor of the form of federal system Ethiopia would adopt, divided the country into 14 self-governing regions, named as *keilil* (region) simply prefixed by their respective numbers. Corresponding to the stipulations of the transitional charter regarding the making of states which was greatly influenced by the Stalin's theory of nationality,³⁰⁵ the carving out of regional/local governments was conducted in such a way that the political boundary of administrative units coincides with the cultural one³⁰⁶ at regional, Zonal and woreda levels.³⁰⁷ Shortly afterwards, the number of regions, however, reduced from the initially created 14 regions to 10 regions subsequent to the merger of five southern Ethiopia regions (region 7, 8, 9, 10 and 11) to establish the Southern Ethiopia Peoples Region³⁰⁸ in line with 'a resolution passed by the first congress of the Southern Ethiopia Peoples' Democratic Coalition',³⁰⁹ a multi-ethnic 'pan-region' political organization evolved into a unified movement as a latecomer partner of the ruling front.³¹⁰

³⁰⁴ Daniel Gamachu, 1994, A Nation in Perpetual Transition: The Politics of Changes in Administrative Divisions and Subdivisions in Ethiopia in H. Marcus (ed.), 1994, *New Trends in Ethiopian Studies; Papers of the 12th International Conference of Ethiopian Studies* Michigan State University 5-10 September 1994 (The Red Sea Press Inc), page 106

³⁰⁵ Asnake Kefale, 2009, *supra* note 9, page 65

³⁰⁶ It is widely agreed that the Transition Government of Ethiopia heavily relied on research result and 'nationalities map' of the Institute for the Study of Ethiopian Nationalities (ISEN) to identify nationalities and determine the geographic definition of nationalities. (See John Young, 1998, Regionalism and democracy in Ethiopia. *Third World Quarterly* 19: 191-204, page 193; Jon G. Abbink, 1998, New Configurations of Ethiopian Ethnicity: The Challenge of the South, in *Northeast African Studies* Vol.5, No.1 (New Series) 1998, pp.59-81, page 62; Alem, 2007, *supra* note 243, page 66) The Institute for the Study of Ethiopian Nationalities (ISEN) is a political research organization established in 1983. The institute, staffed by intellectuals from a wide range of disciplines, organized by the Dergue in an effort to transform the Provisional Military Administrative Council to People's Democratic Republic of Ethiopia and drafting the 1987 constitution. The institute was mandated to come up with recommendations that guide the reform of the administrative structure of state within the scope of unitarism, among others. The administrative structure attempted to put in place following the enactment of the 1987 constitution was predominantly guided by the recommendations of the institute. (interview with Hailu Ar'aya (Ph.D.), March, 2013)

³⁰⁷ Daniel Kendie, 2003, The Causes of the Failure of the Present Regime in Ethiopia in *International Journal of Ethiopian Studies*, Vol. 1, No. 1 (Summer/Fall 2003), pp. 177-213, page 191; Assefa Fiseha, 2006, Theory versus practice in the implementation of Ethiopia's ethnic federalism in D. Turton (ed.), *Ethnic federalism: The Ethiopian experience in comparative perspective* (Athens: Ohio University Press) 131-164, page 132

³⁰⁸ Hashim Tewfik, 2010, *Transition To Federalism: The Ethiopian experience*, (Forum of Federations), page 7

³⁰⁹ Daniel Gamachu, 1994, *supra* note 289, page 106

³¹⁰ Secretariat of the Council of the EPRDF, Public and Foreign Relations Department, 2013, *EPRDF: in Brief*, (Rehobot Printers), page 31

As has been noted earlier in this chapter, it was this territorial definition of regional states, which, after certain modifications, was later constitutionalized in 1995. Addis Ababa, the capital city of the federation, was relegated to the chartered city and the new chartered city by the name of Direedawa³¹¹ was also established owing to the failure of Somali and Oromia regional states to come to terms regarding the ‘ownership’ of the commercial multi-ethnic city i.e. Direedawa.³¹² Other regions of TGE elevated to member state of the federation by taking new names. Accordingly, six of nine fully-fledged federated units (the State of Tigray, the State of Afar, the State of Amhara, the State of Oromia, the State of Somali and the State of Benshangul/Gumuz) named after the dominant nationality(s) living in respective regional states.³¹³ Two ‘multi-ethnic’ constituent units; namely, the State of the Southern Nations, Nationalities, and Peoples, and the State of Gambella Peoples, took ethnically-neutral name.³¹⁴ Vaguely, the State of Harari people, as we shall see below, named after the minority nationality of the regional state.³¹⁵

Even from this brief glance at the making of federated units in Ethiopia, it can be generally said that the newly-established regional states accorded a status of member state are in many ways ahistorical,³¹⁶ ‘a significant and deliberate departure from the former provincial experience’ is evident.³¹⁷ Also the redrawing of the administrative map of the post-1991 Ethiopia, as hinted at earlier on, was basically followed top-down approach. Besides, it is no exaggeration to say that the foremost driving force of the whole process of state making was to make sure that ‘nation, nationalities and peoples’ establish a ‘mother state’ to exercise their right to self-determination.³¹⁸ It was also, perhaps mistakenly, believed that dividing a single linguistic community into two or more federated units has never been convenient to develop

³¹¹ No single line of the Ethiopian federal constitution of 1995 talks about the establishment of the Chartered City of Direedawa. The establishment of the Chartered city of Direedawa came into view following the enactment of the Proclamation 416/2004 by federal legislature.

³¹² Merera Gudina, 2003, *supra* note 2, page 139; Gebre Hiwot Tesfai, 2013, *The Practice of Fiscal Federalism in Ethiopia: Assessment, 1991-2010*, (unpublished Ph.D. thesis: University of Fribourg).

³¹³ See Article 47(1), FDRE constitution

³¹⁴ *Ibid*

³¹⁵ *Ibid*

³¹⁶ Bahru Zewde, 2008, *supra* note 230, page 355

³¹⁷ Assefa Fiseha, 2008, *supra* note 232, page 69

³¹⁸ Interview with Negaso Gidada (Ph.D.), March, 2013.; Minute of the Ethiopian Constitutional Assembly, 1994, Vol. 4, page 80-81

its culture and language. The craving out of constituent units has to, therefore, be conducted in conformity with Article 39 of the Constitution,³¹⁹ which guarantees important collective rights to nationalities including the heatedly debated right to secession.³²⁰

As a result, economic rationalities, administrative convenience and other important factors were left unconsidered or not seriously considered in the designing of the member states of the Ethiopian federation. More relevantly, the process of state-making, which more or less attempted to follow a rigorous formula of ‘one nationality–one province’, did not succeed in creating neither ethnically homogenous constituent unit nor fairly symmetrical and ethnically homogenous federated units. As the major territorially-concentrated state-owning nationalities greatly varies in terms of their population and territorial size, glaring asymmetry in this regard is, as we shall see in the chapters to come, clearly evident.

In addition to this, hard-to-justify inconsistency in granting ‘mother state’ to nationalities also magnifies the disparity among the member states of the Ethiopian Federation. Put differently, the architects of the federal formula unconvincingly granted federal statehood for smaller nationalities while denying the same constitutionally-stipulated right to the relatively larger, economically more viable and numerically stronger nationalities so that asymmetry in relation to the population and land area size of the constituent units happened to be the feature of the federal system. It is also worth adding that the importance of a degree of balance among regional states in federal system did not dawn on to the architect of the federal restructuring.³²¹

To be critical, the major failure of the previous governments was hardly related with the administrative division they adopted, but rather with the language and cultural policy they pursued and their patent policy of centralization, among others. It is, therefore, misleading to

³¹⁹ The Minute of the Ethiopian Constitutional Assembly, 1994, Vol. 4, page 81.

³²⁰ However in practice, the state reorganization was not without anomaly as it is not clear why some numerically strong nationalities denied the status of region while other tiny nationalities were allowed to establish their own region.

³²¹ In this connection, Merera Gudina noted that the ‘lumping together of the Southern Ethiopian Peoples seems to be motivated both to create a counter-weight to the most populous and vast Oromia region that can cast its shadow across the country and administrative convenience for central control.’ However, it seems the impracticality of ‘one nationality-one province’ formula along with the disastrous failure of the regime in creating ‘artificial’ nationalities that gave birth to SNNPRS.

put all the blame on the administrative division of the past since governments were not even willing to recognize the right of all Ethiopian nationalities to develop their language and culture and to decentralize meaningful powers to the local administrations. More importantly, as the experience of other multinational federations (to name some; Switzerland, India, and Nigeria) clearly asserts, the sub-division of linguistic/ethnic communities into one more rather ethnically/linguistically homogenous smaller units does not meaningfully affect the exercising of the rights of nationalities to develop their own language and culture. As E. Keller aptly noted, '[P]ower could be devolved to states that are relatively ethnically homogenous but smaller and avoid the complication created by the promise of self-determination based upon large nationality based states.'³²² What's more, given that the powers and competences of constituent units are not confined to language and culture development alone, fair balance has to be struck among important considerations including language, identity, economic viability, administrative convenience, and relative population and land area size in designing the member states. With this somewhat lengthy discussion of the making of regional states in the Ethiopian federation, let's glance some salient features of regional states focusing on the selected three regional states; namely, State of Amhara, State of Oromia and State of the Harari People.

3.5. Some Features of the Selected Constituent Units Highlighted

The State of Amhara

The State of Amhara, 'Region Three', as was designated in the proclamation No. 7/92, 'the State of Amhara', as is called in the FDRE constitution, or 'Amhara National Regional State'³²³, as is put in Amhara State Constitution, which stretches from the center of the state toward North up to Tigray and to West to the Ethio-Sudanese border, is one of the member states of the Ethiopian Federation. Currently, the state, comprising of 11 zonal administrations, 167 *woredas* and city administrations and about 3461 *kebeles*,³²⁴ is a home for

³²² Edmond Keller, 1998, *supra* note 251, page 122(*Ellipse added*)

³²³ Article 1, *The 2001-Revised Constitution of the Amhara National Regional State*

³²⁴ Amhara Regional National State, Bureau for Governmental Communication Affaires, 2004, *Bihere Amhara: Ye2003 Yemereja Metsehaf, (The Amhara Nation: 2003 Information Book)*

more than five nationalities including the dominant Amharic Speaking community, which accounts for 91.5 per cent of the total population of the regional state.³²⁵ The Amhara state constitution recognizes those minority nationalities and creates a special territorial entity called as the Nationality Zone with a power to have their own council.³²⁶ Accordingly, the Argoba, Awi, Himra and Oromo people established their own Nationality Zone (Woreda, in the case of the people of Argoba).³²⁷

As already indicated, the Amhara state was clearly carved out in an effort to establish a ‘mother state’ for the Amharic-speaking community. Given that there has never been a region named Amhara with the territorial extent of the present day Amhara³²⁸ with some exceptions,³²⁹ and that there was no such clear sign of call for having their own state on the part of the people concerned or political groupings claimed to represent the people, if there was any,³³⁰ the state of Amhara is, to a greater extent, an artificial creation of state restructuring. As a matter of fact, notwithstanding the fluidity of provincial boundaries and the frequent changes in names and hierarchies of provinces,³³¹ ‘the historically authentic regions of the Amharic speaking peoples have been Gonder, Gojjam, Wollo, Shawa, etc’³³² as those provinces more or less survived for well-over a century.³³³

³²⁵ Federal Democratic Republic of Ethiopia Population Census Commission, 2008, *Report of the 2007 population and Housing Census*, Addis Ababa (December 2008)

³²⁶ Christophe Van der Beken, 2007, Ethiopia: Constitutional Protection of Ethnic Minorities at the Regional Level, *Africa Focus*, Vol. 20, Nr. 1-2.

³²⁷ Wagawu Hailu, 2001 E.C., Meseretawi Yebahil Lewut Edget Tekuamiwech in Amhara National Regional State Culture and Tourism Bureau, 2001 E.C., *Ye’Amara Hizib Bahilina Kuankua (Culture and Language of the Amhara People)* (Addis Ababa: Birihanina Selam Printing Press)

³²⁸ Bahru Zewde, 2008, *supra* note 230, page 355

³²⁹ However, there were times when a region called Amhara existed. Bahru Zewde, 2008, *supra* note 230, page 355, the distinguished Ethiopian historian, identified the medieval period of Amhara region which roughly located around the present day southern Wallo and Northern Shewa. There were also regions called central Amhara and Selale and northern Amhara in early 1930s, immediately before the invasion of the colonial Italy. Most strikingly of all, the short-lived Amhara region which was created by the Italian occupier had many features in common with the present day Amhara region. This region, like that of the present one, more or less included the historic regions of Wallo, Shewa, and Gojjam. (See Daniel Gamachu, 1994, *supra* note 289, page 92-95).

³³⁰ In this regard, Edmond Keller, 1998, *supra* note 251, page 113, the American Political Scientist, stated that, ‘no political organization that predominantly represented the formerly politically ruling ethnic group, the Amharas, was a signatory to the Charter or represented in the council.’ However, it should be noted that there were individuals who participate in the process.

³³¹ Donald Levine, 1965, *Wax and Gold: Tradition and Innovation in Ethiopian Culture* (Chicago: the University of Chicago Press.); Daniel Gamachu, 1994, *supra* note 289, page 112; Assefa Fiseha, 2007, *Federalism and the Accommodation of diversity in Ethiopia* (Postbus: Wolf Legal Publishers), page 11;

³³² Bahru Zewde, 2008, *supra* note 230, page 355

³³³ See Daniel Gamachu, 1994, *supra* note 289.

Added to this artificiality of the state, there was no scholarly consensus whether ‘Amhara’, at least at the time of federal structuring, exist as a distinct nationality group,³³⁴ if the ‘authority’ of determining the existence of a given nationality group (or one’s identity) is bestowed on scholars! Frustratingly complex the issue is, it is hardly possible to do justice to many facets of the issue in a brief survey like this. What can be stated with a degree of certainty is the fact that there was no clearly noticeable Amhara-based nationality claim whatsoever at that juncture³³⁵ and those historically-evolved regional identities were far more politically relevant than the dubious ‘Amhara linguistic nationalism’.³³⁶ Even after about two decades of federal experiment as a single federated unit, it can be arguably said that substantial changes in this regard seem far from being observed.³³⁷ In many ways, Pan-Ethiopianist view³³⁸ and ‘multiculturalism’ remain to be one of the defining features of the constitution of the state and the practice of the regional government.³³⁹

It is also worth mentioning that the Amhara regional state with the land area size of 188,000.8 square Km³⁴⁰ and a population size of 17.2 million³⁴¹ is too big to manage from one centre. It

³³⁴ See Mesfin WoldeMariam, 1996 E.C., *Yekihidet Kulkulet* (Addis Ababa); Takkele Taddese, 1994, Do the Amhara Exist as a Distinct Ethnic Group? in H. Marcus (ed.), 1994, *New Trends in Ethiopian Studies; Papers of the 12th International Conference of Ethiopian Studies*. Michigan State University 5-10 September 1994 (The Red Sea Press Inc); Amhara National Regional State Culture and Tourism Bureau, 2001, *Ye’Amara Hizib Bahilina Kuankua (Culture and Language of the Amhara People)* (Addis Ababa: Birihanina Selam Printing Press); Andargachewu Tsigie, 1984, *Ye’Amhara Hizib keyet Wede Yet?(Whither the People of Amhara?)*

³³⁵ As quoted in the Minute of the Ethiopian Constitutional Assembly, 1994, Vol. 4, page 84, Addisu Legessa, the then Secretary General of the Assembly, argued that the administrative divisions of the previous governments were not to ensure the equality of the language and culture of peoples and especially they made the people of Amhara not to be conscious of its national identity. From this, one can assert that the creation of Amhara National Regional State partly aimed at teaching the people to be conscious of its identity.

³³⁶ Daniel Kendie, 2003, *supra* note 289, page 18, Mesfin Wolde-Mariam, 1996 E.C., *supra* note 319 ; Alem Habtu, 2007, *supra* note 243, page 71;

³³⁷ Though the Amhara, as Alem Habtu, 2007, *supra* note 243, page 71 noted, is mostly ‘an (externally defined) ethnic category’, it has now become clear that people have taught to identify themselves with Amhara identity, particularly for formal businesses. However, the regional identities remain strong in popular culture. Except in songs that purposely enumerate the Ethiopian nationalities, rarely do folk songs make mention of Amhara. More importantly, despite the fact that some Pan-Ethiopian political parties predominantly, if not wholly, draw support from the region, no Amhara-based political organization except the Amhara National Democratic Movement, which was originally a Pan-Ethiopian movement, is active in the Ethiopian Politics.

³³⁸ This Pan-Ethiopianism is not, however, without problematic. There are cases where their definition of ‘Ethiopia’ is too narrow to be Pan-Ethiopia. As the witty Ethiopian political scientist and politician Dr. Merera Gudina semi-jokingly put it in his recent interview with Ethiochannel, Amharic weekly, the Amharas want to give the certificate of authentic Ethiopianess to others, basing on their conception of Ethiopia. In his recently published autobiographic book, he also emphasized this problem as one of the stumbling blocks that hinder the democratization of the plurinational Ethiopia.

³³⁹ See *The 2001-Revised Constitution of the Amhara National Regional State*; Wagawu Hailu, 2001 E.C., *supra* note 327

³⁴⁰ Quoted in Berhanu Gutema, 2006, *supra* note 9, page 100

³⁴¹ Federal Democratic Republic of Ethiopia Population Census Commission, 2008, *Report of the 2007 population and Housing Census*, Addis Ababa (December 2008)

is administratively inconvenient and distant and less responsive to its people.³⁴² The lack of sophisticated infrastructure coupled with the inadequately empowered local governments³⁴³ has made the administrative inefficiency of the regional state worse. For the people of North Shewa of Amhara region, the ill-advised *café para todos* (coffee for all)³⁴⁴ approach of the regime and the concomitant establishment of Amhara region has resolved the never-asked-question³⁴⁵ of its own and gave the people a heavy administrative burden³⁴⁶ to bear as the newly-established capital city of the region, Bahirdar, is 718 Km far from their traditional centre, Addis Ababa.³⁴⁷ What's more, in spite of the remarkable growth of urban centers all across the region and the country since the coming to power of EPRDF, the establishment of influential single centre for the vast population and land area size of the region significantly slowed the realization of a more remarkable growth of the pre-1991 regional centers, namely, Debre Markos, Dessie and Gonder.

The State of Oromia

The Oromia regional state, which was known as Region 4 in the transitional period, with a total population of 27 million, of which 88 percent are ethnically Oromo,³⁴⁸ is essentially

³⁴² Bahru Zewde, 2008, *supra* note 230, page 355

³⁴³ See, for example, Fenta Mandefro, 1998, *Decentralisation in post-Derg Ethiopia: aspects of federal-regional relations*. (Addis Ababa: Addis Ababa University: Unpublished Master Dissertation.); Meheret Ayenew, 2002, Decentralization in Ethiopia: Two Case Studies on Devolution of Power and Responsibilities to Local Government Authorities in Bahru Zewede and S. Pausewang (eds.), 2002, *Ethiopia: the Challenge of Democracy from Below* (Uppsala: Nordiska Afrikainstitutet; Addis Ababa: Forum for Social Studies); Meheret Ayenew, 2006, A Rapid Assessment of Wereda Decentralization in Ethiopia in Taye Assefa and Tegegne Gebre-Egziabher, 2006, *Decentralization in Ethiopia*(Addis Ababa: Forum for Social Studies); Zemelak Ayele, 2011, Local government in Ethiopia: still an apparatus of control?, in Law, Democracy and Development, Vol 15(2011)(accessed on September 20, 2012) available at <http://dx.doi.org/10.4314/idd.v15i1.7>

³⁴⁴ The term employed by the critics of Spanish government's policy of treating similarly both historic minority nationalities and castile regions by giving symmetrical autonomy to all provinces including those which do not ask for it .(Quoted in John McGarry, 2007, Asymmetry in Federations, Federacies and Unitary States in *Ethnopolitics*, Vol. 6, No. 1, 105 – 116, March 2007 page 108)

³⁴⁵ Even in line with the historical interpretation of the incumbent regime, the Amharic speaking community has no questions related to language and culture as the people has no the experience of such thing as "national oppression" or "cultural domination", which is widely claimed to be a root cause for the emergence of nationality-based movements in the rest of Ethiopia.

³⁴⁶To be critical, the existing administrative inconvenience could be abated, if not wholly assuaged, when and if modern infrastructures are expanded.

³⁴⁷ Amhara Regional National State, Bureau for Governmental Communication Affaires, 2004, *Bihere Amhara: Ye2003 Yemereja Metsehaf, (The Amhara Nation: 2003 Information Book)*, page 225

³⁴⁸ Despite the existence of significant size of internal minority within the region, the Oromia state constitution, however, neither recognizes these nationalities nor envisages any specific arrangement to ensure the political representation of 12 percent non-Oromo people. Fittingly, the practice so far does not drop a hint of recognizing and accommodating these internal minorities including a significant concentration of Amharic speaking population living in many towns and urban areas that, according to Berhanu Gutema, 2006, *supra* note 9, page 101, 'should enjoy a comparable status as the Oromo live in Amhara regional state.' On the other hand, in

created for the Oromo people to exercise their self-administration rights.³⁴⁹ A region/province by the name of Oromia³⁵⁰ has never been the constituent province of the modern Ethiopian state.³⁵¹ However, the Oromo and Sidama region of the Italian occupying force,³⁵² which is the only region clearly associated with the people of Oromo of Ethiopia, included some parts of the nowadays Oromia which is composed of 265 rural woredas, 39 urban centers and 6342 kebeles with 360,000.0 square km land area size.³⁵³

Contrary to the case of Amhara, political mobilization along Oromo identity was rife since 1970s.³⁵⁴ In the wake of the demise of the military Dergue, the Oromo Liberation Front (OLF), a nationality-based movement which had been active in some parts of Western and Southeastern Ethiopia³⁵⁵ with the objective of winning the independence of Oromia from the ‘colonial Ethiopia’,³⁵⁶ emerged as a major political force representing the people of Oromo and joined the Transitional Government as a second strong partner with authentic interests of its own.³⁵⁷ There were also other nationality-based political groupings, like Islamic Front for the Liberation of Oromia, whose constituency was among the Oromo people. Despite

recently published article authored by Yonatan T. Fesseha and Christophe Van der Beken, it is argued that, despite some degree of hesitancy on the part of the regional state, the proclamation that granted a measure of autonomy to city-administration may ‘allow individuals that belong to non-indigenous internal minorities to manage their own affairs without seriously undermining the rights of the indigenous ethnic groups.’ (See Yonatan T. Fessaha and Christophe Van der Beken, 2013, Ethnic Federalism and Internal Minorities: the Legal Protection of Internal Minorities in Ethiopia, in *African Journal of International and Comparative Law* 21.1 (2013): 32–49, page 45-49.) It is not however clear whether the stated objective of the regional state’s move is to accommodate these internal minorities. In many ways, it seems plausible to assert that the State of Oromia, along with some other relatively homogenous regional states, is characterized less by multinationalism. Instead, these states partly witness characteristics of states what Brubaker dubbed as ‘nationalizing’ state though ours are federated units as they seem to embark on ‘nation-building’ project of their own at regional level, a project which is proved to be feckless at state level.

³⁴⁹ Federal Democratic Republic of Ethiopia Population Census Commission, 2008, *Report of the 2007 population and Housing Census*, Addis Ababa (December 2008).

³⁵⁰ As Assafa Jalata, 2001, *Fighting against the Injustice of the State and Globalization: Comparing the African American and Oromo Movements* (New York: Palgrave) page 153, footnoted, ‘Oromos call their region or country Oromia.’ However, Gadaa Melbaa, 1980, *Oromia: A Brief Introduction*, (Finfine), argued that the term ‘Oromia’ was used by the Oromo Liberation Front as a name for the vast region inhabited by the people of Oromo.

³⁵¹ Bahru Zewde, 2008, *supra* note 230, page 355

³⁵² See Daniel Gamachu, 1994, *supra* note 289, page 92-95

³⁵³ Bureau of Finance and Economic Development, 2008, *Socio-economic Profile of Oromia National Regional State*, Finfine

³⁵⁴ Bereket HabteSelassie, 1980, *Conflict and Intervention in Horn of Africa* (New York: Monthly Review Press), page 81-86

³⁵⁵ Bahru Zewde, 2002, *A History of Modern Ethiopia; 1855-1991* (2nd edn.)(London: James Currey), page 262

³⁵⁶ Bereket HabteSelassie, 1980, *supra* note 338, page 83

³⁵⁷ Merera Gudina, 2003, *supra* note 2, page 121

some difference regarding the geographic scope of Oromia,³⁵⁸ there seemed to exist no disagreement among the major architects of state restructuring (EPRDF and, to a lesser extent, OLF) about the conception of self-determination and the establishment of self-determining Oromia. Seen in this light, it is safer to argue that the establishment of Oromia was enthusiastically sought by Oromo elites who were active at the time of state reconstitution. Even now, little has changed., it is hard to locate major differences among main Oromo political parties (from Oromo Liberation Front to Oromo Democratic Front, from Oromo People's Federalist Congress (OPFC)³⁵⁹ of *Medrek*³⁶⁰ to Oromo People's Democratic Organization (OPDO) of EPRDF) in this regard despite all except OPDO strongly question the genuineness of the federal arrangement and the commitment of the ruling party in putting into practice of constitutionally guaranteed individual and collective rights.³⁶¹

Along these lines, it can be generally said that the making of the State of Oromia was in the best interest of the Oromo elites though it is hard to make a case for the establishment of the region in terms of administrative viability and democratic participation.³⁶² Consistent with what is said about the administrative inconvenience and the sluggishness of State of Amhara, the State of Oromia, which is the largest member state of the Ethiopian federation with the land area size that equals that of Germany, is too big to manage from a remote centre. Besides, Oromo lands included under the region are fragmented and stretched out from Southern tip of Ethiopia to Western Ethiopia border by the way of Addis Ababa, *Finfine*- as the Oromo elites often want to call it in Oromiffa.³⁶³

³⁵⁸ OLF version of Self-determining Oromia is far larger than the present day Oromia as its map of Oromia extends as far as Raya and Azebo, Southern Tigray. Dr. Negasso Gidada told the author of this thesis that there was a heated debate about the areas that should be included under the Oromia region. According to him, some argued that Amharic speaking peoples of North Shewa of Amhara region would have a 'self-determining' nationality zone within Oromia that stretches to the Southern tip of Tigray.

³⁵⁹ It is a recently formed party after the merging of the Oromo People's Congress and Oromo Federalist Democratic Movement which have been led by Dr. Merera Gudina and Bulcha Demekisa, respectively.

³⁶⁰ *Medrek* (Ethiopian Federal Democratic Unity Forum) is a truly multi-ethnic opposition front which was initiated by the leading ex-EPRDF high-ranking politicians (Dr. Negasso Gidada (former President of the FDRE) and Siye Abrha (former Minister of Defence)), among others, and joined by a number of wide-ranging opposition political forces.

³⁶¹ See the political programs of those parties.

³⁶² Gebre Hiwot Tesfai, 2013, *supra* note 297, page 15

³⁶³ See Map 3

In spite of the fact that the people of Oromo consider themselves to be descended from a common ancestor; speak a mutually intelligible Afaan Oromo (Oromiffa) and roughly share a common culture, certain differences in cultural elements and dialects are not uncommon.³⁶⁴ Variations in terms of way of life, economic character, and ecology across the region are conspicuously evident. It is also worth adding that regional identities, like Wellega, Shewa, Arsi, Harar, have achieved a degree of saliency though they are not as important as in the case of regional identities in Amhara Regional state, for the reason that political mobilization along Oromo identity has achieved greater saliency. The relatively more powerful and distant centre of Oromia cannot be sensitive enough to effectively deal with these regional variations within the regional state given that local administrations are not strong enough to responsively address these local preferences. However, mention has to be made here of the benefits of the large size of the regional state in successfully reaping the economies of scale, among others.

Once again in line with our observation of Amhara regional state, the growth of urban centers in Oromia could have been more remarkable if the region had had several major urban centers with a status of regional capital. As a matter of fact, though Adama, otherwise called Nazret, is considered to be the *de facto* capital city of the state, the State of Oromia has no regional capital city which is under its meaningful control as Addis Ababa,³⁶⁵ its *de jure* capital, is a constitutionally recognized self-administering chartered city. The slower growth of the once high-flying city of Jimma in the context where favourable policy put in place can be partly explained in the relegated status of the historical city³⁶⁶ of Abba Jifar.³⁶⁷

³⁶⁴ In addition to this, some authors emphasize the importance of regional identities (Shewa, Wellega, Bale, Arsi and Harar etc.) in relation to Oromo identity. However, Authors, like Assefa Jalata, 2001, *supra* note 334, page 74, find it unacceptable and even they consider it as an attempt to 'destroy or suppress Oromo national identity'.

³⁶⁵ Adama served as the official capital city of Oromia for some years until Addis Ababa was reinstated as official capital city of the regional state following the 2005 election aftermath political unrest. EPRDF took serious measures following the 2005 election with the objective of regaining popular support. The reinstatement of Addis Ababa as a capital city of Oromia was one of these measures.

³⁶⁶ Sarah Vaughan, 2003, *Ethnicity and Power in Ethiopia*. (Unpublished Ph.D. Dissertation: The University of Edinburgh), page 226

³⁶⁷ Abba Jifar was the renowned Oromo leader of Lima state whose capital city was Jimma. Abba Jifar built magnificent palace in the historic city of Jimma.

The State of Harari People

The State of Harari People, Region 13 of the transitional period, includes areas located around the fortified city of Harar;³⁶⁸ a city which has been officially registered as an Ethiopian National Heritage site since 1974 and was designated a UNESCO world heritage site in 2006.³⁶⁹ The City of Harar, which had been a heart of a long-established emirate of its own,³⁷⁰ mostly served as a centre of the Eastern Ethiopian province by the name of Hararghe³⁷¹ since the Menelikan conquest of 1887.³⁷² It was after the overthrow of the Military Dergue and the establishment of the Transitional Government of Ethiopia, Region 13, a 'home-region' for the people of Harari, came into being and later formalized in the FDRE constitution.

The regional state, an enclave within the State of Oromia, is the tiniest member states of the Ethiopian federation with a population size of 183, 344³⁷³ and 300 square km land area size.³⁷⁴ Of the total population of the Harari people regional state, Hararis constitute 8.65 per cent while Amharas and Oromos constitute 22.7 and 56.4 per cent respectively.³⁷⁵ Guraghes, Somalis, and Tigreans, among others, have also a significant presence in the regional state.³⁷⁶ However, the regional state took the name of minority nationality and was structured in such a way that it 'artificially maintains a disproportionate 'balance of power' between the small Harari community, and the much larger Amhara and Oromo populations living outside the walled city but within the boundary of the state.'³⁷⁷

The establishment of the Harari regional state combined with the unusual governmental structure of the regional state, which, for some, 'seems to be more primitive than democracy

³⁶⁸ Sarah Vaughan, 2003, *Ethnicity and Power in Ethiopia*. (Unpublished Ph.D. Dissertation: The University of Edinburgh), page 230

³⁶⁹ UNESCO, *Harar Jugol: the Fortified Historic Town* (Accessed on April 23, 2013), available at whc.unesco.org/en/list/1189

³⁷⁰ Bahru Zewde, 2002, *A History of Modern Ethiopia; 1855-1991* (2nd edn.)(London: James Currey), page 63

³⁷¹ See Daniel Gamachu, 1994, *supra* note 289, page 92-95

³⁷² Bahru Zewde, 2002, *A History of Modern Ethiopia; 1855-1991* (2nd edn.)(London: James Currey), page 63

³⁷³ Federal Democratic Republic of Ethiopia Population Census Commission, 2008, *Report of the 2007 population and Housing Census*, Addis Ababa (December 2008).

³⁷⁴ Quoted in Berhanu Gutema, 2006, *supra* note 9, page 100

³⁷⁵ Federal Democratic Republic of Ethiopia Population Census Commission, 2008, *Report of the 2007 population and Housing Census*, Addis Ababa (December 2008).

³⁷⁶ *Ibid*

³⁷⁷ Sarah Vaughan, 2003, *supra* note 349, page 230

in the days of Aristotle,'³⁷⁸ is an undisputed 'constitutional oddity'³⁷⁹ and the issue of political controversy.³⁸⁰ It is, thus, small wonder that many eminent scholars of the Ethiopian federalism are not yet clear with the rationale for this anomalous state of affairs or have not yet been convinced by the often forwarded justification. In spite of the fact that the official explanation for the establishment of the regional state and the existing arrangement of the regional state mainly revolves around the Hararis' 'special "historical pre-eminence and cultural heritage"' and the need for preserving this,³⁸¹ other competing explanations emphasize the centrality of 'some sharp negotiating, and elevated lobbying, by the cohesive, articulate, and wealthy Harari community, led by the Harari National League, HNL.'³⁸²

Speaking in general terms, unlike the larger constituent units discussed above, smaller territories, like the State of the Harari People, often face problems related to lack of economies of scale, among others, for they are too small to reap economies of scale.³⁸³ On the other hand, 'the motivation for smaller, self-governing political units has been accentuated by the desires to make governments more responsive to the individual citizen and to give expression to primary group attachments.'³⁸⁴ Seen in this light, the tiniest state of Harari people have no problems of administrative inconvenience and democratic participation resulting from the population and land area size of the regional state. The region, however, is clearly too small to reap the benefits of economies of scale. It is too costly to institute a police college or teachers training college to meet the demands of the region.

³⁷⁸ Merera Gudina, 2003, *supra* note 2, page 139

³⁷⁹ Sarah Vaughan, 2003, *supra* note 349, page 230

³⁸⁰ Surprisingly, the minute of Constitutional Assembly on relevant Articles (Article 39, 46, and 47) of the draft constitution did not even make mention of the issue.

³⁸¹ Quoted in Aalen Lovise, 2002, *Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000*, **Report R 2002: 2** Chr. Michelsen Institute Development Studies and Human Rights, page 67; Sarah Vaughan, 2003, *supra* note 349, page 230

³⁸² Sarah Vaughan, 2003, *supra* note 349, page 231

³⁸³ Maria Ackrén, 2009, *Conditions for Different Autonomy Regimes in the World: A Fuzzy-Set Application* (Åbo: Åbo Akademi University Press), page 96

³⁸⁴ Maria Ackrén, 2009, *supra* note 349, page 91

Concluding Remarks

The Ethiopian federal system, which was introduced by the EPRDF-led transitional government, was formalized by the enactment of the 1995 FDRE constitution. The introduction of the federal system is partly justified by the political expediency of the post-1991 Ethiopia and the Marxist-Leninist ideological baggage of the victorious nationality-based movements that toppled the military junta. The formation of the Ethiopian federal system was essentially revolutionary and was not the result of a broad-based bargaining. It is more of a single-handed initiative of EPRDF in a claimed effort to address the problem of national integration. Though this particular linguistic/ethnic federal state restructuring remains to be contentious, the federal option is now no longer a subject of political controversy in Ethiopia as all serious Ethiopian political groupings have accepted it as a viable system of government to best manage the plurinationality of Ethiopia.

The federation is comprised of nine fully-fledged member states which were predominantly carved out based on linguistic/nationality criterion with the objective of ensuring the right of nationalities to self-determination up to the point of secession. Economic rationalities, administrative convenience and other important factors other than linguistic/national identity were left unconsidered or not seriously considered in the designing of the member states of the Ethiopian federation. Also there was no clear attempt at balancing the population and territorial size of federal constituent units in the making of federated units. Political asymmetry arising from the relative size of member states, among others, is, thus, clearly visible. The single important condition that gives rise to an immense disparity in terms of population and areal size of member states is the regime's attempt at carving out the regional states along ethno-linguistic lines. The chapter to come focuses on identifying the asymmetrical elements and examining its implication and moderation.

Chapter Four

Political Asymmetry and its Implications in Ethiopia's Federal System

4.1. Introduction

In view of that political asymmetry is unavoidable, the Ethiopian federal political system is not unique to witness political asymmetry that arises from the relative population and land area size, wealth, administrative capacity, level of socio-economic development, revenue generating capacity, among others. What remain important are, thus, the degree of asymmetry witnessed in the federal political system, the extent to which the political asymmetry impacts the operation of the federal system, and the mechanisms put in place to moderate the political asymmetry.

The aim of this chapter is, thus, to identify asymmetrical elements and examine the degree of political asymmetry and to assess the potential and actual implication of the political asymmetry witnessed in Ethiopia with particular emphasis to the political asymmetry arising from the relative population and areal size of the constitutive units.

Structurally, the first section of the chapter attempts at outlining the *de facto* asymmetrical elements of the Ethiopian federal system. The disparities among regional states in terms of population and territorial size, socio-economic development, fiscal dependence, and variations in relation to the party system and the heterogeneity and 'mono-nationality of regional states are discussed in the section.

The second part of the chapter investigates the actual and potential implications of political asymmetry for the functioning of the Ethiopian federal system in the light of the theoretical groundwork laid earlier in this thesis. Besides, it is tried to provide the thumbnail sketch of the functioning of the Ethiopian federal system by summarizing findings of some studies on the operation of the federal of system.

4.2. Political Asymmetry in Ethiopia's Federal System

As is noted in the preceding chapter, asymmetrical outcomes are classified into political asymmetry (*de facto* asymmetry) and constitutional asymmetry (*de jure* asymmetry). The former denotes the actual practices or relationships arising from the impact of cultural, social and economic differences among constituent units within a federation, while the latter refers to asymmetry embedded in constitutional and legal processes, where constituent units are treated differently under the law.

As a general rule, the constitutional asymmetry is less common comparing with the political asymmetry, which is inherent to all federal political systems. Admittedly, it can be generally said that constitutional asymmetry among Ethiopia's regional states is nonexistent for the FDRE constitution proclaims that 'Member States of the Federal Democratic Republic of Ethiopia shall have equal rights and powers'³⁸⁵ and enumerates equal powers and competences for all fully-fledged regional states.³⁸⁶

However, for some, Article 49 (5) of the FDRE constitution, which stated that 'the special interest of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters arising from the location of Addis Ababa within the State of Oromia, shall be respected,' is an exception in this regard.³⁸⁷ Nonetheless, the constitution seems simply to determine the relationship between the self-governing Addis Ababa and the State of Oromia whose capital city is peculiarly self-governing chartered city. The constitution does not give more power to Oromia comparing to other regional states which have full control on their capital city, but rather stressing the autonomy of Addis Ababa while diminishing the role of Oromia in the affairs of its capital city. It is, therefore, difficult to consider it as constitutional asymmetry in the sense that the term applied in other federal political systems like, Russian federation or Indian federation.

³⁸⁵ Article 47(4), FDRE Constitution

³⁸⁶ See Article 52, 97, and 98 FDRE Constitution

³⁸⁷ See, for example, Solomon Negussie, 2006, **Fiscal federalism in the Ethiopian ethnic-based federal system** (Postbus: Wolf Legal Publishers), page 83.

On the other hand, since establishing federal constituent units, that are identical in all respects, is impractical, political asymmetry among member states of the Ethiopian federation in terms of population and territorial size, wealth, administrative capacity, among others, as we shall see below, is evident. The following discussion focuses on these *de facto* asymmetrical elements with particular emphasis on variations among member states in terms of population and areal size.

4.2.1. Disparity in Land Area and Population Size

Variation in terms of population and land area size of the federal constituent units is one of the conspicuous asymmetrical elements that are observed in Ethiopia. As is depicted below in Table 4.1, the largest member state of the Ethiopian federation, Oromia, is 1200 times bigger than the smallest member state, Harari, which covers only 0.002 % of the total territory of the federation. The land area size of State of Oromia is three times bigger than the State of the Southern Nations, Nationalities, and Peoples, which approximates the average territorial size of nine fully-fledged constituent units of the Federation. Besides, the land area size of State of Oromia is almost twice of the territorial size of the second largest member state of the Ethiopian federation, the State of Amhara. Interestingly, about 2/3 of the total land area size of the country is occupied by the three largest regional states i.e. Oromia, Somali and Amhara leaving the rest for six full-fledged member states and two chartered cities.

Table 4.1. **Land area size of Regional States**

No	Regional State	Areas in square km	Per cent	Area of the R. State to average area of full-fledged States	Area of the R. State to the largest	Area of the R. State to the smallest
1	Tigray	60,000.2	5.5	0.5	0.16	200
2	Afar	77,000.0	7.1	0.6	0.21	256
3	Amhara	188,000.8	17.3	1.5	0.52	627
4	Oromia	360,000.0	33.2	3	1	1200
5	Somali	215,000.9	19.8	1.8	0.59	717
6	Benshangul-Gumuz	46,000.8	4.2	0.4	0.12	153
7	SNNPRS	112,000.0	10.3	0.9	0.31	373
8	Gambella	26,000.1	2.3	0.2	0.07	87
9	Harari	300	0.02	0.002	0.0008	1

Sources: Compiled from Ministry of Economic Development and Cooperation, **Welfare Monitoring Unit, Poverty Situation in Ethiopia**, Addis Ababa, March 1999);

Like the variations in terms of the land area size of the regional states, the population size of regional states shows a discrepancy ranging from a micro-state of Harari comprising 0.23% of the total population to the state of Oromia which constitutes about 36 % of the total population of the federation.³⁸⁸ As is indicated in Table 4.2, the population size of three regional states, namely; Harari, Benishangul-Gumuz, and Gambella is far less than 1 million and in sum constitutes only less than two percent of the total population of the Ethiopian state. The population size of State of Oromia, State of Amhara and State of Southern Nations, Nationalities, and Peoples altogether comprises more than 80 % of the total population of the federation. The population size of the rest three regional states (State of

³⁸⁸ Quoted in Merera Gudina, 2011, **Ethiopia: From Autocracy to Revolutionary Democracy**, Chamber Printing House. page 81

Tigray, State of Somali, and State of Afar) is less than the average population size of full-fledged member states of the federation.

Table 4.2 **Population Size of Regional States**

No	Regional State	Population	Per cent	Population of the R. State to Average population of full-fledged States	Population of the R. State to the largest	Population of the R. State to the smallest
1	Tigray	4,314,456	5.8	0.54	0.15	23.5
2	Afar	1,411,092	1.9	0.18	0.05	7.69
3	Amhara	17,214,056	23.3	2.19	0.63	93.88
4	Oromia	27,158,471	36.7	3.45	1	148.1
5	Somali	4,439,147	6.0	0.56	0.16	24.21
6	Benshangul-Gumuz	670,847	0.9	0.085	0.02	3.65
7	SNNPRS	15,042,531	20.4	1.91	0.55	82.04
8	Gambella	306,916	0.4	0.039	0.011	1.67
9	Harari	183,344	0.2	0.023	0.0067	1

Sources: Compiled from Federal Democratic Republic of Ethiopia Population Census Commission, 2008, **Report of the 2007 population and Housing Census**, Addis Ababa (December 2008).

Interestingly enough, the relative population size of federated units, as is clearly accentuated by the projection of Central Statistics Agency of Ethiopia, would continue to widen in parallel with the growing population size of the federation. Put in another way, the population sizes of the larger constituent units would be steadily getting larger and larger than that of the smaller constituent units given that the population growth rate is approximately the same. For example, the share of the Oromia region from the total population of the federation is projected to be 35, 466, 978 (37.5 %) when the size of the Ethiopia populations reaches about 95 million in 2017, whereas the population size of the Harari State projected to be 244, 756 (0.25 %). *Ceteris paribus*, it is, therefore, safer to note that the percentage of the Oromia region would steadily grow and there is no significant sign of reversal within a decade to come.

Table 4.3 **Projected Population Sizes of Regional States**

No	Regional State	Estimated Pop'n size (2012)	Percent	Projected Pop'n size (2017)	Percent	Projected Pop'n size (2022)	Percent
1	Tigray	-		5,247,804		5,739,273	
2	Afar	1,590,167		1,812,558		2,033,445	
3	Amhara	19,220,068	22.9	21,135,272	22.4	22,875,470	21.7
4	Oromia	31,094,226	37.13	35,466,978	37.5	39,981,137	38
5	Somali	5,026,830		5,748,462		6,506,235	
6	Benshangul Gumuz	918,408		1,065,166		1,219,300	
7	SNNPRS	16,976,752		19,170,511		21,492,434	
8	Gambella	370,194		435,284		588,523	
9	Harari	213,751	0.25	244,756	0.25	276,494	0.26
Total		83,742,600		94,351,506		105,161,596	

Sources: Compiled from CSA, 2013, **Report of the 2007 population and Housing Census Inter-Census Population Survey 2012 Report**, Addis Ababa.

It is also worth adding that the Ratio of the population size of the two federated units viz. Harari and Oromia states is one of the highest in the world. As Ronald Watts summarized, Ethiopia's ratio is the third highest next to India and European Union out of ratio of the population size of the largest and the smallest full-fledged constituent units of 27 federal systems.³⁸⁹

As hinted at in earlier chapters, the relative land area size of the constituent units is of vital importance for the reason that the larger units tend to have large populations and areas at their disposal, while small ones tend to be with small populations.³⁹⁰ Along with this line, except for the State of Somali which is sparsely populated, most of the bigger Ethiopian constituent units in terms of land area size are also inhabited by the larger population. The

³⁸⁹ See R.L. Watts, 2008, 3rd edition, *Comparing Federal systems*, Montreal & Kingston: McGill-Queen's University press, page 73

³⁹⁰ Maria Ackrén, 2009, *Conditions for Different Autonomy Regimes in the World: A Fuzzy-Set Application* (Åbo: Åbo Akademi University Press), page 91

State of Oromia and State of Amhara are cases in point. More importantly, State of Oromia and State of Harari people, which are strikingly big and small respectively in terms of population and territorial size, are the major source of asymmetry that arises from the relative size of federated units of the Ethiopian federation.

4.2.2. Disparity in Level of Socioeconomic Development

When the Ethiopian state turned into a *de facto* federation some 22 years ago, there has been disparity among regional states in terms of economic character, administrative capacity, revenue generating capacity, wealth and resources. Though Ethiopia was generally considered to be one of the world's poorest states, some parts of the state have been relatively poorer than others for a number of reasons. Regions, like Tigray, have been devastated by two decades long ruinous civil war, among others. Most of the hitherto marginalized peripheral regions have not yet developed the administrative capability to fully exercise their right to self-administration.³⁹¹

As a result, distinction was initially made between war-ravaged Tigray and other regions that were relatively less affected by the war. Also the still survived classification of regions into an emerging (or less developed) and developed regions³⁹² is made in recognition of 'the dichotomy that prevails between the 'highland/central' and 'lowland/peripheral' regions.'³⁹³ The highland regions, like, Amhara, Oromia, Harari, Tigray and SNNPR, are 'relatively well off in terms of social and physical infrastructure as compared to the lowland regions – Somali, Afar, Benishangul-Gumuz and Gambella'³⁹⁴ as the latter's 'access to state's development programmes has been very minimal or negligible' due mainly to 'the weak and limited capacity of the overall state-led development programmes in Ethiopia.'³⁹⁵

³⁹¹ Assefa Fiseha, 2006, *supra* note 9, page 153

³⁹² The official policy documents and state media consistently make distinction between emerging and relatively well-off regional states. Interestingly, the FDRE constitution mandated the government to 'provide special assistance to' nationalities 'least advantaged in economic and social development.'

³⁹³ Asnake kefale, 2009, *supra* note 9, page 86

³⁹⁴ *Ibid*

³⁹⁵ Berhanu Gutema, 2006, *supra* note 9, page 134

To be more specific, the dichotomy between these two groups of regional states can be exemplified with the relative capacity of the regions to staff their own bureaucracy by competent human power of their own origin, to provide comparable public services including health, education, transportation, municipal services, and to ensure administrative efficiency, among others. By and large, the emerging regions have been doing poorly on these scores while the relatively well off regions perform pretty well in relative terms.³⁹⁶ It is, however, worth adding that, as a closer look into the socio-economic data reveals, the variation among regional states in terms of socio-economic development is not that much remarkable.³⁹⁷

4.2.3. Horizontal Fiscal Imbalance

It is rarely 'possible to design a federal constitution in such a way that the allocation of autonomous revenue resources to each level of government can match precisely their expenditure responsibilities.'³⁹⁸ Horizontal and vertical imbalances in this regard, thus, seem to be unavoidable. Fiscally speaking, the Ethiopian federal constituent units are gravely dependent on the general government for most of buoyant taxing powers are allocated to the federal government.³⁹⁹ More relevantly, as the Ethiopian regional states are comparatively varied in terms of their revenue generating capacity, wealth and resources, some variance in the degree of constituent units' dependence on the federal government to cover the costs of public service is evident. The horizontal fiscal imbalances of regional states, as Solomon Nigussie stated, can better be indicated by calculating 'the percentage of revenue raised by each region relative to the respective expenditure.'⁴⁰⁰ Based on this calculation, the World Bank study revealed that:

³⁹⁶ J. Young, 1999, Along Ethiopia's western frontier: Gambella and Benishangul in Transition, in *The Journal of Modern African Studies*, 37, 2 (1999), pp. 321-346; Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers), page 113

³⁹⁷ See Berhanu Gutema, 2006, *supra* note 9, page 104-6(He analyzed the relative accesses of regional states to public services and regional states' health and nutritional status; and concluded that 'socio-economic developments do not show much variation across the regional states')

³⁹⁸R. Watts, 1994, Contemporary Views on Federalism, in De Villers, B. (ed.) *Evaluating federal systems* (Dordrecht: Martinus Nijhoff), page 18

³⁹⁹ Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers).

⁴⁰⁰ *Ibid*, page 173

the regional states, with the exception of the Addis Ababa and Dire Dawa, are classified into four categories: 'one with ratios consistently between 20 and 30 per cent (Tigray, Amhara, Oromiya and SNNP), second of those consistently exhibiting ratios below 10 per cent (Benishangul/Gumuz and Gambella), third of consistently declining (Somali) and fourth fluctuating (Afar and Harari)' (World Bank 2000: 26). In case of individual regional state, from 1993 to 1998 the regional budgets' share of internal revenue for the five years average for Tigray was 23.6 percent, Amhara 18.6, Oromia 28.4, SNNP 20.4 and Harari 19.4. ... Some of the 'poorer' regional states like Afar, Somali, Benishangul and Gambella have only covered less than 10 percent of their respective regional budget through their own internal revenue.⁴⁰¹

Nonetheless, the above analysis does not tell the whole story about the variations among regional states in terms of wealth and resource as 'a few regions with higher level of economic activity like Oromia would have self-financed their expenditures and other regions such as SNNP and Amhara could have also been in a better position to finance their expenditures'⁴⁰² if states' taxation powers had been broadened.

4.2.5. Ethnically 'Homogenous' Versus Heterogeneous Regional States

It is argued earlier on that, though Ethiopia is a state of tens of nationalities, the Ethiopian federation, whose claimed foremost driving force of the whole process of state making was to make sure that 'nation, nationalities and peoples' establish a 'mother state' to exercise their right to self-determination, is composed of only nine full-fledged member states and two Federal chartered city-governments, i.e. Addis Ababa and Diredawa. Consequently, some five 'major' nationalities, viz. Tigray, Afar, Amhara, Oromia, and Somali, owned their own 'mother states' where respective nationalities achieved an overwhelming majority, while other nationalities formed a multi-ethnic regional states in which no single nationality achieved majority. Benishangul-Gumuz, SNNPRS, Gambella are cases in point in this respect.

⁴⁰¹ Quoted in Berhanu Gutema, 2006, *supra* note 9, page 86

⁴⁰² *Ibid*, page, 133

4.2.5 Asymmetries in Relation to the Party System

As we shall see later in this chapter and chapters to come, the Ethiopian People's Revolutionary Democratic Front (EPRDF) with its constituent parties and affiliates has dominated the Ethiopian politics since the overthrow of the military regime in May 1991. In spite of the official claim that the governing front is composed of equal and autonomous mainly ethnic-based parties, many observers emphasized the asymmetrical power relation between TPLF and other constituent parties, i.e. ANDM, OPDO, and SEPDM within the party.

It is not uncommon among writers to use phrases, like 'the commanding real core of Ethiopia's ruling party',⁴⁰³ 'the dominant force in Ethiopian politics',⁴⁰⁴ 'commands supremacy in the organizational hierarchy of the Front',⁴⁰⁵ 'the dominant partner in the ruling EPRDF coalition',⁴⁰⁶ 'the most influential party in the EPRDF',⁴⁰⁷ among others, in describing the importance of TPLF within the EPRDF. There are also authors who comfortably use interchangeably TPLF and EPRDF as synonymous assuming that other constituent parties of the ruling front are nothing short of the single-handed creation of TPLF to serve as its satellites in their respective constituencies. It is also often claimed that there was clear presence of senior TPLF cadres in regional states playing a key role as advisers to the presidents of regional states at the formative stage of the federal experiment.⁴⁰⁸

Not less interestingly, the leadership of the ruling front acknowledges the relative strength of TPLF. It is reasoned out that, as TPLF spearheaded the armed struggle that eventually toppled the military dictatorship, and 'has many senior cadres, well-trained and experienced fighters, and in the beginning the largest numbers of members in the EPRDF coalition,' it is

⁴⁰³ Merera Gudina, 2003, *supra* note 2, page 118

⁴⁰⁴ Roza Ismagilova, 2004, Ethnicity and Federalism: the Case of Ethiopia in *Africa: Rivista trimestrale di studi e documentazione dell'Istituto italiano per l'Africa e l'Oriente*, Anno 59, No. 2 (Giugno 2004), pp. 179-200, page 192

⁴⁰⁵ Aklilu Abraham, Ethnicity and Dilemmas of State Making: Ethnic Federalism and Institutional Reforms in Ethiopia in *International Journal of Ethiopian Studies*, Vol. 2, No. 1/2 (Summer/Fall 2005-2006), page 107

⁴⁰⁶ Assefa Fiseha, 2006, *supra* note 9, page 147

⁴⁰⁷ Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers), page 101

⁴⁰⁸ Andargachew Tsigie, 1997, *Netsanetin Yemayawek Netsa Awuchi, (Liberator who knows not Liberty)*, page 277

natural that TPLF is the relatively stronger partner within the EPRDF.⁴⁰⁹ On the other hand, the relative weakness of other member parties of EPRDF in terms of their popular support and membership base, and the concomitant dependence of parties on TPLF is more or less evident.⁴¹⁰ It is, therefore, fair to acknowledge this asymmetry and is plausible to argue that there has been clear asymmetrical relationship between TPLF and other member parties of the front.

Despite the existence of this asymmetrical power among constituent parties, a shift in balance of power within EPRDF seems to be occurring as a result of a battery of reasons including the split within TPLF,⁴¹¹ the broadening of the front's membership base,⁴¹² the natural aging and passing away of the first generation of TPLF leadership,⁴¹³ and the leadership renovation program of the front,⁴¹⁴ among others. The importance of this asymmetry, thus, seems to be fast decreasing though the relative influence of TPLF on some federal governmental bodies is still remarkable⁴¹⁵ and its economic might which can be illustrated by a greater influence of TPLF-owned huge business empire called Endowment Fund for Rehabilitation of Tigray,

⁴⁰⁹ Quoted in Aalen Lovise, 2002, *supra* note 9, page 82

⁴¹⁰ Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia's Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies),

⁴¹¹ TPLF has lost its most important and experienced party ideologues including Seye Abraha, Alemseged Gebreamlak and Tewolde Woldemariam who were playing a key role in EPRDF representing TPLF. As Aalen noted, 'All of these joined the TPLF early, they were all part of TPLF's inner circles.'

⁴¹² Following the 2005 election, EPRDF has taken a number of important measures including broadening its membership base. As disclosed in Secretariat of the Council of the EPRDF, Public and Foreign Relations Department, 2013, *EPRDF: in Brief*, (Rehobot Printers), page 3, 'The number of the individual members under the member parties of the EPRDF has increased gradually. It was around 700, 000 on 2005 and 2013 grow to 6.5 million.' As this policy of membership expansion has been implemented across the country, it significantly changed the front's membership base and could enhance the leadership pool of the relatively less strong member parties.

⁴¹³ In this regard, the passing of, Meles Zenawi, an influential leader from TPLF, who was the chairman of the front since its inception and the head of government of the country since the overthrow of Dergue, should be mentioned.

⁴¹⁴ Though it is too early to talk about the impact of the recently introduced front's leadership renovation program, it can be generally said that the influential leaders of the front are giving a way to the so called the members of the 'new generation' of leadership who more or less joined the front after 1991.

⁴¹⁵ Despite remarkable success of the regime in conscripting soldiers from hitherto marginalized peripheries, the regime is criticized for the highest echelon of Ethiopia's Defence force hardly resembles the nation it is committed to fight and die for. Historical reasons are no longer convincing for the reason that 21 years could have been enough to create competent strategic military officers if the ruling elite had been serious about it. Worse still, rounds of military promotions after the passing of Meles Zenawi have further reinforced the domination of the high-level management of the army by veteran TPLFites. Truth be told, the pre-1991 Ethiopian army was far more representative in this regard.

(EFFORT)⁴¹⁶ is still there. However, the perception of TPLF high level leadership's dominance at federal level compared to that of other regional member parties more or less endures to this day.⁴¹⁷ The issue has also been raised in the election campaigns by contending political parties.⁴¹⁸

The other important asymmetry with regard to the party system in Ethiopia's federal system is the distinction between the member parties and affiliate organizations. As is noted earlier, EPRDF is composed of four member parties, i.e. TPLF, ANDM, OPDO, and SEPDM whose constituencies are Tigray, Amhara, Oromia and SNNPRS. However, other regional states are governed by the affiliate parties which have not yet acquired the full membership status of EPRDF.⁴¹⁹ Harari National League of Harari regional state, Afar National Democratic Party (ANDP) of Afar, the Somali People's Democratic Party (SPDP) of Somali, Gambella People's Democratic Movement (GPDM) of Gambella, and Benishangul-Gumuz Peoples Democratic Unity Front (BGPDUF) of Benishangul-Gumuz are affiliates of the ruling front.⁴²⁰ Despite the closer tie of these parties to their 'mother organization' which is more or less instrumental in creating them and shaping their agenda,⁴²¹ these parties have no clear and formal representation and meaningful participation at all level of EPRDF's organizational structure.

⁴¹⁶ In this connection, Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia's Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 272 wrote that 'Although there is no public information regarding the nature, capital, operation and management of these businesses, some unofficial sources estimate that the TPLF has more than 50 parapartals with capital of over Birr 3.5 bn (roughly £320 m), the ANDM has five with capital of Birr 350 m (£3.2 m), OPDO has seven with the capital of Birr 150 m (£ 14 m) and the SEPDM has only one with capital of Birr 12m (£1.1 m).

⁴¹⁷ Addis Times, 2012, (Amharic Magazine) *'Yehiwuhat Yebiret Medaf' (TPLF's Iron Hand)*, December 2012 Vol.1 No.1o;

⁴¹⁸ Asnake kefales, 2009, *supra* note 9, page 85

⁴¹⁹ Seiko Toure, the head of public and foreign relations department of EPRDF secretariat, explains that the social formation of the constituency of the affiliate parties, which gives special place for the tribal leaders, does not allow them to be a member of EPRDF, a front emphasized the importance of political ideology more than anything else. (Interview with Seiko Toure, April, 2013)

⁴²⁰ Merera Gudina, 2011, *supra* note 228, page 180

⁴²¹ Aalen, 2002, *supra* note 9, page 83

4.3. The Implications of Political Asymmetry for the Operation of the Ethiopia's Federal System

As one can easily observe from the above discussions, the *de facto* asymmetry among full-fledged constituent units of the Ethiopian federation is conspicuously visible. It is also pointed out in the previous chapters that the working of the federal political system, like that of Ethiopia, can be significantly affected by the political asymmetry witnessed within it, among other things. However, as we shall see further down, an inquiry into the actual operation of Ethiopia's federal system insinuates that the implications of the political asymmetry arises from the relative population and land area size of the Ethiopian constituent units for the functioning of the federal system has not been as conspicuous as the asymmetry itself. It is because of mainly the anomalous evolution of the federal system which has been, to a greater extent, functioning as a centralized system dominated by the highly-centralized front as opposed to the constitutionally envisaged non-centralized federation. As is roughly shared by a number of researchers who closely investigated centre-state relations in the Ethiopian federal system,⁴²² the autonomy of regional states is tremendously compromised. It is here important to discuss at some length the functioning of the Ethiopia federal system prior to proceeding with our discussion on the implication of political asymmetry.

4.3.1. The Operation of the Ethiopian Federal System

Notwithstanding the vital role of a constitution in providing a formal legal framework to establish federal institutions and in making clear the *de jure* relationship among these institutions, the actual functioning of a federal system can hardly be grasped by a constitutional level analysis alone since the operation of a system is significantly affected by the economic, political and social conditions where it functions.⁴²³ An ardent understanding

⁴²² See, for example, Aalen, 2002, *supra* note 9, page 83; Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers); Assefa Fiseha, 2006, *supra* note 9, page 157; Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia's Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 253; Kalkidan Kassaye, 2010, *Center - State Relations in the Ethiopian Federal Setup: Towards Coercive Federalism? A view from the Practice* (Addis Ababa University: Unpublished MA thesis).

⁴²³ Aalen Lovise, 2002, *supra* note 9, page 65

of the functioning of a federation can be, thus, realized after a closer examination of ‘the interaction of societies, structures and processes’.⁴²⁴

No matter how the constitution is carefully designed to ensure self-administration of the constituent units and co-management of the general government, ‘[n]either shared rule nor self-rule’, as John Pinder rightly noted, ‘will function unless they are supported by patterns of behaviour that enable the institutions to wield their powers effectively, including the commitment of politicians and citizens to the proper working of the federal institutions, respect for the autonomy of the states and readiness to reach accommodation when there is conflict between the two.’⁴²⁵ Admittedly, as many studies on the Ethiopian federal experiment have plausibly pointed out, there has often been a massive gulf between the constitutional promise and the delivery, between rhetoric and reality, between theory and practice.

It is stated earlier on that the ‘covenant’ of the Ethiopian federal reconstruction, the FDRE constitution, is generous enough to guarantee significant powers and competences to federated units and/or nationalities to manage their own affairs and proportional representation at the centre despite some overlaps in some respects. The constituent units are also constitutionally commanded to devolve adequate power to local governments.⁴²⁶ It can, therefore, be generally said that decentralization/non-centralization is, therefore, the defining feature of the federal system that the constitution intends to institutionalize.

Contrary to the constitutionally envisaged more or less non-centralized federation, the Ethiopian federal system has been, to a greater extent, functioning as a centralized system.⁴²⁷ It is widely (though far from unanimously) agreed that the domination of the federal and regional state governments by a highly centralized political front composed of mainly ethnic-based parties is largely responsible for the anomalous evolution of the Ethiopian federal system.⁴²⁸ In effect, the ruling front, whose commitment to the democratization of the state

⁴²⁴ R. Watts, 1994, Contemporary Views on Federalism, in De Villers, B. (ed.) *Evaluating federal systems* (Dordrecht: Martinus Nijhoff), page 13

⁴²⁵ John Pinder, 2007, page 15

⁴²⁶ See Article 50(4), FDRE Constitution

⁴²⁷ Assefa Fiseha, 2006, *supra* note 9, page 158

⁴²⁸ Aalen Lovise, 2002, *supra* note 9, page 65

against the backdrop of the political culture of authoritarianism is dubious,⁴²⁹ as we shall see in the next chapter, remains to be the heart and soul of the federation in many ways.⁴³⁰

Likewise the normative foundation of the Ethiopian federal experiment, which owes much to the Leninist conception of national self-determination,⁴³¹ the working of the Ethiopian federations is in some way analogous to the experience of the sham failed Eastern Europe federations,⁴³² which were under the control of an all-powerful vanguard communist party.⁴³³ Still consistent with Leninist praxis, the autonomy of the regional states is largely confined to

⁴²⁹Merera Gudina, 2011, *supra* note 228,

⁴³⁰The indispensability of the party has also been roughly acknowledged by the leadership of the party. As the late Prime Minister Meles Zenawi said in one of the 2005 election campaign meetings attended by the researcher, 'we have observed that the split within the TPLF leadership has been significantly felt across the country. We have learnt from this that the party should not be that much indispensable. We are therefore trying to make the party redundant.'

⁴³¹The Leninist conception of federalism as diversity accommodative tool argued that nationality claims had to be accommodated 'en route to a global socialist and communist order' which is indisputably internationalist vision. (John McGarry and Brendan O'Leary, 2007, *supra* note 46, page 188) Federation, therefore, can be employed to accommodate nationality claims in such a way that it paves, or at least doesn't thwart, a way for the realization of the international communist society. (M. Filippov et.al, 2004, *supra* note 15, page 91) Though they viewed federation, at least ideally, as 'a voluntary association of sovereign states for the achievement of a common purpose', and they, perhaps with a measure of political idealism, believed that it is the public benefits from the voluntarily created federation that safeguard the unity of the state and get rid the threat of secession, they, in practice, as the experience of USSR clearly showed, heavily relied on party centralization to maintain the unity of the polity. (Ramesh D. Dikshit, 1971, Geography and Federalism in *Annals of the Association of American Geographers*, Vol. 61, No. 1 (Mar., 1971), 97-115, page 105).

Philosophically speaking, Marxism, Walker Connor wrote, is not compatible with its powerful contemporary 'ism'; namely, nationalism as the former overemphasizes proletarian internationalism and the centrality of class division in human society whereas the latter considers intra-national distinction as all-powerful. (W. Connor, 1984, *The National Question in Marxist-Leninist Theory and Strategy*. (Princeton, NJ: Princeton University Press), page 6). But in practice, 'Marxists not only learned to accommodate themselves to an expedient co-existence of with a world filled with nationalism, but they also developed a strategy to manipulate nationalism into the service of Marxism.' (*ibid*, page 7)

As a reflection of this, despite his initial reluctance, Lenin attempted to smartly incorporate nationalism into the internationalist Marxism. (Stanislaw Ehrlich, 1984, Theoretical reflections on Federations and Federalism *International Political Science Review*, Vol. 5 No. 4, 1984 359-367, page 362-3; John McGarry and Brendan O'Leary, *supra* note 46, page 189) As W. Connor summed up in briefest fashion, Lenin's strategy has three major elements: (1) 'prior to the assumption of power, promise to all national groups the right of self-determination, while proffering national equality to those who wish to remain within the state' (2) 'Following the assumption of power, terminate the fact – though not necessarily the fiction- of a right to secession, and begin the lengthy process of assimilation via the dialectical route of territorial autonomy for all compact national groups' and (3) 'Keep the party centralized and free of all nationalist proclivities.' As one can easily infer from this, Lenin's policy is not genuinely formulated to address the nationality problems. John McGarry and Brendan O'Leary are right when they concluded that the resemblance of Leninist strategy with that of the genuine multinational federalist is superficial for both policies formulated basing on different assumptions to serve quite different purposes.

⁴³² Asnake kefafe, 2009, *supra* note 9, page 64-65

⁴³³In this regard, Rekha Saxena, 2010, *Intergovernmental Interactions in the Indian Federal System*, PSA 2010, page 21, emphasizing the immense influence of party system on the functioning of the federal system, wrote that 'the constitution of the U.S.S.R. was on paper the most federal document granting the federating units the right to secede. Yet, in its actual working, it was so highly centralized on account of the Communist Party being the only political formation legally sanctioned to contest elections that in practice it was a unitary political system par excellence.' Unlike the case of U.S.S.R, Ethiopia is, at least constitutionally, a multi-party democracy.

competences which are closely related with language and cultural matters. Leenco Lata,⁴³⁴ who had had a brief chance of closely working with the ruling elites in the transitional government representing OLF, relating Ethiopia's experience with that of Leninist national policy, noted:

Consistent with the Leninist precepts that influenced it, the federation instituted by the TPLF reflected the formal devolution of power to the various federal regions and even the enshrinement of the right to secession in the Constitution of its so-called Federal Democratic Republic of Ethiopia (FDRE). Whatever power was devolved in the public sphere was, however, effectively withdrawn by the actual centralisation of power in the dominant ruling party, the TPLF.

As a result, rarely did the federal system experience tensions between the general government and regional state governments⁴³⁵ which is commonplace in federal systems.⁴³⁶ Except for boundary disputes and inter-ethnic conflicts among contiguous constituent units, the relationship between regional states unusually runs smooth.

Additionally, in contrast to the widely agreed wisdom that 'federation has never been static structures'⁴³⁷, the Ethiopian federal structure more or less continues to exist as was architected years back though the Ethiopian political landscape has been essentially changing in relation to where it was in 1991. The FDRE constitution, which was in many ways a copy of the program of EPRDF,⁴³⁸ did not pass through a single formal amendment while its South African contemporary has been amended for 23 times. Neither did the constitutional interpretation, unlike the judicial review of USA, help the constitution to be a 'living document', for the Ethiopian peculiar institutional arrangement for constitutional adjudication is not doing well,⁴³⁹ among others. Despite the fact that this anomalous state of

⁴³⁴Leenco Lata, 2004, What next in the Horn of Africa? Reconsidering the state and self-determination in Assefa Jalata, 2004, *State Crises, Globalisation and National Movements in North-East Africa*. (Routledge), page 216-217

⁴³⁵ Assefa Fiseha, 2006, *supra* note 9, page 152

⁴³⁶As M. Filippov et.al. 2004, *supra* note 15, page 69-71 rightly noted, 'ongoing intergovernmental bargaining is a necessary and uniformly healthy characteristic of democratic federalism, and only needs to be prevented from taking destructive forms.' Bargaining over jurisdictional rules is 'a healthy feature of a vital federation.'

⁴³⁷ R. Watts, 1994, Contemporary Views on Federalism, in De Villers, B. (ed.) *Evaluating federal systems* (Dordrecht: Martinus Nijhoff), page 14

⁴³⁸ Merera, 2003, *supra* note 2, page 127-128

⁴³⁹Professor Andreas Eshete, who is generally sympathetic to the existing federal arrangement, complains the failure of the system in this regard. He believed that the power of constitutional adjudication should be that of the Judiciary so that it helps the

affairs has essentially been the defining feature of the working of the Ethiopian federal system, one should not fail to notice the inevitability of changes in the operation of the federal system as the system could not function independent of the ever-changing internal and external political factors.⁴⁴⁰ Accordingly, ‘the federalisation of Ethiopia should be seen as a process in constant change, and not as a fixed system.’⁴⁴¹ Against this backdrop, attempt is made to explore the potential and actual implications of the political asymmetry that particularly arise from the relative population and land area size of federated units.

4.3.2. The Implications of Political Asymmetry

4.3.2.1. A Centre Susceptible to Few States’ Domination

The political significance of *de facto* asymmetries in federal systems, like that of Ethiopia, lies on their effect upon the relative capacity of different constituent units to exercise their powers and competences, and the degree of a constituent unit’s influence within majoritarian federal institutions where representation is meaningfully affected by the size of population. Viewed from this perspective, notwithstanding the symmetrical basis of representation, the representation of regional states in federal legislature exhibits an eye-catching variation because of the variance among regional states in terms of population size. As is summarized in Table 4.3., the representation of regional state in the Ethiopian federal lower chamber, House of People’s Representatives, which is deemed to be the sole real legislative body of the government with decisional, control and representative powers, varies from the two seats of Harari⁴⁴² to 178 seats of Oromia. Regional states of Gambella and Benishangul-Gumuz along with Harari are represented by less than 10 parliamentarians.

Oppositely, Oromia and Amhara Regional States’ representatives in aggregate are comprised of about 58 % of the total members of the HPR. If we add the representatives of the

entrenchment of the culture of constitutionalism. (Professor Andreas Eshete, interview with Sheger 102.1 Fm, Yechewta Engida Radio show).

⁴⁴⁰ Aalen Lovise, 2002, *supra* note 9, page 103

⁴⁴¹ *Ibid*

⁴⁴² Note has to be made that one of the two seats is practically taken by the representatives of Oromo People’s Democratic Organization while the rest is occupied by the representative of Harari National League.

SNNPRS to the sum of Oromia’s and Amhara’s parliamentarians, the result would be far more enough to achieve absolute majority in the lower chamber. Any alliance between Oromia and Amhara or Oromia and SNNPRS would be at ease to form a federal government⁴⁴³ and enact laws in all matters that are exclusively enumerated to the federal government.⁴⁴⁴

Table 4.4. Representation of Regional States in Federal Legislature

No	Regional State	Population	No of Representatives in HPR	Percent	No of Representatives in HOF	Percent
1	Tigray	4,314,456	38	6.94	7	5.1
2	Afar	1,411,092	8	1.46	2	1.48
3	Amhara	17,214,056	138	25.22	23	17
4	Oromia	27,158,471	178	32.54	26	19.25
5	Somali	4,439,147	23	4.20	5	3.7
6	Benshangul -Gumuz	670,847	9	1.65	5	3.7
7	SNNPRS	15,042,531	123	22.49	62	45.9
8	Gambella	306,916	3	0.59	4	2.96
9	Harari	183,344	2	0.65	1	0.7
Total			547*		135**	

Sources:

- House of Federation, 2003 E.C., **The Representation of Nationalities in the Fourth Round of the House of Federation** (Addis Ababa: Meraf Printers).
- Federal Democratic Republic of Ethiopia Population Census Commission, 2008, **Report of the 2007 Population and Housing Census**, Addis Ababa (December 2008)
- National Election Board of Ethiopia, 2010,

*The total seats of HPR become 547 including the seats allotted to chartered cities and minorities.

⁴⁴³ See Article 73, FDRE Constitution

⁴⁴⁴ See Article 55, FDRE Constitution

** It is only fully-fledged states which have representatives in HOF.

As Assefa Fiseha accurately noted, the power of federal law making 'is completely in the hands of the largely populated states.'⁴⁴⁵ In effect, the election of the prime minister would easily fall to them so that the office of the prime minister would provide them with a wide range of sweeping powers including the nomination or appointment of ministers,⁴⁴⁶ presidents of federal courts⁴⁴⁷, and members of the national election board.⁴⁴⁸ It should, however, be noted that, despite the fact that these give them a clear opportunity to dominate the highest authority and the highest executive body of the federal government, these alliances of few states could not amend a single Article of the federal constitution owing to the rigid amendment procedure of the constitution.⁴⁴⁹

Not less importantly, unlike the smallest states which have diminished role in the House, regional states with larger populations have a significant presence in the House of Federation despite the outstanding representation of SNNPRS⁴⁵⁰ in the House of Federation.⁴⁵¹ The House derives about 46 % of its members from the extraordinarily ethnically-heterogeneous regional state of Southern Nation, Nationality and Peoples while about 38 % of members come from Oromia and Amhara. The micro-federated unit Harari sends only one representative to the second chamber of the Ethiopian Federation.

The House of Federation, as is outlined in the previous chapter, has hugely important competences, like constitutional interpretation, determining the division of revenues derived from joint federal and state tax sources and the federal equalization transfer to regional states.

⁴⁴⁵ Assefa Fiseha, 2007, *Federalism and the accommodation of diversity in Ethiopia* (Postbus: Wolf Legal Publishers), page 97

⁴⁴⁶ Article 74(2), FDRE Constitution

⁴⁴⁷ Article 81(1), FDRE Constitution

⁴⁴⁸ Article 102(2), FDRE Constitution

⁴⁴⁹ See Article 105, FDRE Constitution

⁴⁵⁰ It is worth stressing that the immense importance of SNNPRS in the House of Federation is not emanated from the relative size of its population and land area size, but rather it is a result of asymmetry with regard to the degree of homogeneity/heterogeneity of the regional states.

⁴⁵¹ Strictly speaking, the HOF is not a majoritarian institution where representation is based on the principle of 'one-person-one-vote'. Though it is essentially a house of nationalities, it gives a degree of weight to population size of the nationalities as each nationality shall have one representative with one more for each 1 million additional population.

For decisions of the house shall be passed by a majority vote of the members⁴⁵², not only the ‘covenant’ of the Ethiopian federal system being interpreted by a purely political organ as many critics pointed out, but also the constitution can be interpreted by the single constituent unit, i.e. SNNPRS, if the regional state finds 6 votes from other regional states.⁴⁵³ Interestingly, the division of revenues derived from concurrent tax bases, like ‘large-scale mining, all petroleum and gas operations, and royalties on such operations’⁴⁵⁴ can also be determined by an alliance of SNNPRS and Oromia, Amhara, or Tigray. In a very real sense, if the much-awaited petroleum of Ethiopia is discovered in one of the regional states, no regional state other than SNNPRS has a weighty say in the apportionment of the revenue that derived from it.⁴⁵⁵ It is also important to note that there were times where the SNNPRS has achieved majority within the HOF. The regional state lost its majority within the HOF when the representation of nationalities in the house revised in line with the 2007 population census result. In those years, HOF was theoretically under the full control of the single regional state.

It is, therefore, no exaggeration to say that the Ethiopian federal system can easily be under the domination of few regional states or nationalities so that these states can overrule the other states and bend the will of the federal government to their own advantage. The smaller units’ elites/citizens would be overwhelmed by their powerlessness and perceive their position in a federation as a real loser. What can be offered from the centre to smaller units is a junior partnership for the federation. In such a case, the effectiveness of shared rule and self-rule of smaller regional units can be at risk and the Ethiopian federal system would become prone to unhealthy tensions and instability between the centre and states and among states.

⁴⁵² Article 46/3 and 14/1 Proclamation No.251/2001: *A proclamation to consolidate the House of the Federation of the FDRE and to define its powers and responsibilities*, July 2001.

⁴⁵³ There were times where the SNNPRS has achieved majority within the HOF. The regional state lost its majority when the representation of nationalities in the house revised in line with the 2007 population census result. In those years, HOF was theoretically under the full control of the single regional state.

⁴⁵⁴ See Article 62(7) and 98(3), FDRE Constitution

⁴⁵⁵ Lidetu Ayalew, 2002 E.C., *Medlot (Scale)*, (Progress Printing Press), page 339-341

As is hinted in our theoretical introduction of the implication of political asymmetry in the context of multinational federation, the overlap between federated units and national/linguistic communities can easily toughens the tensions and instability among the federated units and fan the flames by giving other sensitive dimension for the intergovernmental interaction. Admittedly, in the Ethiopian federal system where constituent units more or less carved out along national/linguistic lines, there is a clear chance where tension and conflict between constituent units may slide into the conflict between national/linguistic communities. It can, therefore, be said that the implications of political asymmetry for the working of the Ethiopian federal system would be compounded by the very 'multinational' nature of the federal system.

In this connection, Christopher Clapham,⁴⁵⁶ viewing the implications of political asymmetry from a very practical perspective, argued that, when and if alliance between and among larger units is proved to be impossible, the federal system would become the political ring for heavyweight political wrestlers from the two big nationalities.

*There has as yet, however, been no attempt to grapple with the problems posed by the two big states [Oromia and Amhara], which, but for the overarching structure currently provided by the EPRDF, would impose a deeply unstable bipolar system on the federation as a whole, with the two big nationalities structurally locked into conflict with one another and seeking competitive alliances with the different 'minorities'.*⁴⁵⁷

Relatedly, Messay Kebede, acknowledging the disproportionate nature of regional states as one of the problems of the existing federal design, also indicated:

The disproportion, essentially caused by the relatively huge size of Oromia and the Amhara region, creates imbalance, which imbalance provokes an unhealthy competition for the capture of the federal power between groups claiming to represent important ethnic groups. Naturally, the competition is perceived as a threat by minority groups, but it is also a constant menace to national unity. The existence of two disproportionately

⁴⁵⁶ Christopher Clapham, 2006, Afterword, in Turton, D. (ed.) *Ethnic federalism: The Ethiopian Experience in Comparative Perspective*, 231-240, page 233

⁴⁵⁷ *Ibid* (Ellipse added)

*vast and self-sufficient regions is constant incentive for secessionist or hegemonic tendencies.*⁴⁵⁸

The analysis of Messay Kebede is consistent with the experience of other federations where the larger and self-sufficient units ‘tend to become more powerful, and are more likely to become the constituencies of territorial conflict.’⁴⁵⁹ The Ethiopian federation, as is precisely described by one Author, could, therefore, ‘become the hostage of either the partnership or animosity of the two big regions.’⁴⁶⁰

Ironically, the Ethiopian federal ‘covenant’, which is claimed to be introduced as an instrument to protect the right of Ethiopian nationalities to self-determination and to redress historically unjust relations among nationalities, does not put in place proper mechanisms to curb the capture of the centre by few larger units. The only fallback that is left to the resented nationalities/states, for example, smaller nationalities, is their right to secession which is impractical and costly in many ways. Seen in this light, one of the biggest design faults of the Ethiopian constitution is that its failure to ensure that no federated units of the federation can capture the center to the disadvantage of the rest along with maintaining a balance between the centre and member states.⁴⁶¹ Though everything seems to go safe now, this flawed institutional arrangement is potentially a powder keg of an issue that has the possibility to explode in the future.

4.3.2.2. Controversy in the Apportionment of Federal Equalization Transfer

The relative population size of regional states has significantly contributed for the precariousness of federal redistribution regimes introduced to apportion the federal grant to the regional states. As the federal grant has been the major bread and butter of the sub-state

⁴⁵⁸ Messay Kebede, 2012, *Medrek's Path to Unity and Charisma*, page 2 (accessed on May, 2013,) available at www.zehabesha.com

⁴⁵⁹ Quoted in Asnake kefale, 2009, *supra* note 9, page 278

⁴⁶⁰ *Ibid*

⁴⁶¹ M. Filippov et.al, 2004, *supra* note 16, page 63, argued that the federal design should not necessarily limit itself or even focus on how to strike a fair balance between the center and those subjects but rather should focus on finding ways to ensure that no subject or subset of them can “capture” the center to the disadvantage of the rest.

governments, the redistribution regimes have been subjects of political controversy.⁴⁶² ‘There has been disagreement between the three larger regions (Oromia, Amhara and SNNPR) and smaller regions (Tigray, Afar, Somali, Harari, B-G [Benishangul-Gumuz] and Gambella) on the weight given to population size in the revenue sharing formula.’⁴⁶³ The larger units want the population factor to weigh more complaining that the per capita share of the federal subsidy of these larger regions⁴⁶⁴ has consistently been far lower than the relatively smaller units including Tigray and Harari which are good standing regions in terms of their level of socio-economic development.⁴⁶⁵

Added to this unhealthy mix, regional states, like Oromia, which have grave dissatisfaction over the system of fiscal equalization transfer, are widely considered as ‘a storehouse of Ethiopia’s wealth’ and they are also a major contributor for national economy.⁴⁶⁶ As Berhanu Gutema aptly noted, ‘if most of the taxes and revenue sources are left to the regional governments there could be a severe horizontal imbalance in budget that could create few wealthy regions, but by putting many of the regions in a precarious financial condition, particularly the fiscal condition of the disadvantaged regions would be very fragile.’⁴⁶⁷ Given that a numerical majority and the relative wealth of Oromia lingers on on the part of Oromo elites, the controversy and anomaly in the apportionment of federal equalization transfer might have far-reaching adverse repercussions by providing the Oromo movements with ‘an

⁴⁶² Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers), page 218-219; Merera Gudina, 2003, *supra* note 2, page 175, Asnake kefales, 2009, *supra* note q, page 90

⁴⁶³ Asnake kefales, 2009, *supra* note q, page 90

⁴⁶⁴ Despite the fact that these larger regional states overtly expressed their resentment in the parliamentary session over the apportionment formula of federal equalization transfer, one should not fail to acknowledge the pervasive role of the vanguard party in getting resolved these disputes. Consistent with our analysis of the functioning of the Ethiopian federal system, major compromises and decisions with regard to federal grant apportionment have been made within the party, more correctly the ruling front. For example, SNNPRS securing the majority within the House of Federation had never used its power to change in its favour. Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia’s Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 242, subscribed this analysis and noted that ‘During the past decade, the central political leadership has made frequent changes in the indicators and weights of transfer formulas. The decision-making process has been dominated by the central political leadership or the executive branch of the central government.... The House of Federation, which is formally responsible for managing the transfer system, has been acting as a rubber stamp. The debates in the House of Federation have not been effective in changing or adjusting the draft formulas presented to the House.’

⁴⁶⁵ See Merera Gudina, 2003, *supra* note 2, page 176-179; Berhanu Gutema, 2006, *supra* note 9, page 137; Asnake kefales, 2009, *supra* note 9, page 90;

⁴⁶⁶ Merera Gudina, 2003, *supra* note 2, page 175

⁴⁶⁷ Berhanu Gutema, 2006, *supra* note q, page 133-134

important agitational weapon in mass mobilization.’⁴⁶⁸ It can also buttress the elite’s perception of OPDO as an inferior partner in EPRDF and a collaborator in the pillage of Oromo’s resources.

4.3.2.3 Smaller State-owning Nationalities: an Object of Envy

The other important implication of political asymmetry arises in relation to the inconsistency of the federal system in granting ‘mother state’ to nationalities. As is argued earlier on, the claimed foremost driving force of the whole process of state making was to make sure that ‘nation, nationalities and peoples’ establish a ‘mother state’ to exercise their right to self-determination. It is also noted that the Ethiopian federation comprising 80 plus nationalities is composed of only nine fully fledged constitutive units though many of nationalities were granted sub-state semi-autonomous zonal and woreda-level administration.

However in practice, the state reorganization was not without anomaly as it is not clear why some numerically strong and relatively viable nationalities are denied the status of State while other tiny nationalities, like Harari, were allowed to establish ‘their own’ regional state. The granting of ‘unusual’ ‘mother-state’ to Harari people makes the claims of nationalities, like Sidama, which are clearly far more viable in many respects compared to their Harari counterpart, to statehood stronger. In the context of political system where a great deal of importance is attached to ethnic nationalism, micro-federated units, like the State of Harari people, hence, tend to be objects of envy for those nationalities which seek to acquire the status of member state since state-owning nationalities enjoy benefits that are beyond symbolic value.

Financially, there is a clear difference between those nationalities which owned their own states and those nationalities supposedly exercising their right to self-determination at zone and woreda level. Solomon Negussie, in exemplifying this disparity, notes:

Sidama, for example, has a comparable population size to the Tigray Region, although the former is at zonal level and with lesser amount of grants. In another comparison, the Bench Maji Zone (in SNNP region) which, according to a report

⁴⁶⁸ Merera Gudina, 2003, *supra* note 9, page 175

submitted to the HOF, has a comparable level of development to that of the Gambella region, received a considerably lower amount of grant than the latter.[In 1998/99, Gambella which had a population of 220, 000 received a 143 million birr grant; the Benchi Maji zone with a population 323,000, received a 33 million grant]. We may compare Dire dawa with its neighbour Harari, having almost the same geographic size, population and socio-economic conditions but receiving almost half of allocated to Harari.⁴⁶⁹

He goes further and rightly asserts that this practice that seems relatively favour state-owned nationalities might ‘stimulate a claim for statehood at a given time’ and reinforce the existing claims and ‘have adverse implications for the economic and political development of the country.’⁴⁷⁰

Similarly, we can make distinction between state-owning nationalities and non-state owning nationalities with regard to the amendment procedures of the FDRE constitution. As is clearly put in the constitution, there are two methods of constitutional amendment. Though both amendment procedures are rigid, the relatively laxer amendment procedure would apply for all articles except chapter three of the constitution, Article 104 and Article 105. According to Article 105 of the constitution, the amendment of Articles included in the Chapter three of the constitution, which specified fundamental human rights and freedoms including the controversial Article 39, Article 104 and Article 105 will be realized if and only if it is supported by the councils of all states among others. The amendment of other provisions of the constitution has to be supported by 2/3 of councils of member states in addition to other requirements.

In such a case, the Ethiopian member States, therefore, have an important role in the amendment of the Ethiopian federal constitution. In the first amendment procedure, all member states have a power to veto any amendment motions in articles in question. The federated units has meaningful role in the second constitutional amendment procedure too. Compared with the power of non-state-owning nationalities in this regard, state-owning

⁴⁶⁹ Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers), page 233-4

⁴⁷⁰ *ibid*

nationalities, thus, have far stronger bargaining position in the amendment of the covenant of the federal arrangement, thereby playing a greater role in a life of the federation.

Not less importantly, the Ethiopian State TV allots air time to all member states. Regional states broadcast using the working language of respective regional states. The Afar Regional state has a program in its working language while numerically strong nationalities, like Sidama, do not enjoy this benefit. These state-owning nationalities can wave their own flags; sing their own national anthem; write their own constitutions. In sum, state-owning nationalities enjoy powers and competences that are constitutionally guaranteed to both nationalities and constituent units as opposed to non-state owning nationalities which mainly enjoy the power and the competences that are explicitly given to ‘nation, nationalities and peoples of Ethiopia’.

As a result, smaller state-owning nationalities tend to be objects of envy. This inconsistency of the Ethiopian federal restructuring in relation to granting ‘mother state’ to nationalities, hence, induces tension in the federation. Also the relatively stronger non-state-owning nationalities would be coerced into asking for their own state. If we once start to grant ‘mother state’ to smaller nationalities, it is like unpacking the Pandora’s box as it is clear that granting ‘mother-state’ to all more than 80 Ethiopian nationalities is only theoretically possible.

Concluding Remarks

The political asymmetry witnessed in the Ethiopian federation with regard to the relative population and territorial size of constituent units is the glaring one. Despite most of regional states are either too big to be hegemon or too small to be viable, regional states, like Oromia and Amhara from the bigger states and Harari, Gambella and Benishangul-Gumuz from the smaller, contribute a lot for the asymmetry witnessed in this regard. Besides, there are also relatively less conspicuous variations among federated units in terms of their level of socio-economic development, administrative capacity, and other elements of diversity related to the party system.

The glaring political asymmetry arising from the relative population and territorial size of federated units has actual and potential corrosive impacts upon the operation of the Ethiopian federation, the federation which has been more or less functioning as a centralized system owing hugely to the highly centralized governing party which dominates the federal and regional governments since the federalization of the Ethiopian state.

As a result of the existing political asymmetry, the Ethiopian federal system can easily be under the domination of few regional states or nationalities so that these states can overrule the other states and bend the will of the federal government to their own advantage left the smaller units' elites/citizens overwhelmed by their powerlessness. In such a case, the effectiveness of shared rule and self-rule of smaller regional units would be at risk and the Ethiopian federal system would become prone to unhealthy tensions and instability between the centre and states and among states.

The excessive political asymmetry in terms of population and territorial sizes of federated units has also significantly contributed for the precariousness of federal redistribution regimes introduced to apportion the federal grant to the regional states and has induced political controversy. Moreover, in the context of political system where a great deal of importance is attached to ethnic nationalism, micro-federated units, like the State of Harari people, hence, tend to be objects of envy for those nationalities which seek to acquire the status of member state since state-owning nationalities enjoy benefits that are beyond symbolic value. It is also important to bear in mind that the overlap between federated units and national/linguistic communities can easily toughens tensions and instabilities among the federated units and fan the flames by giving other sensitive dimension for the intergovernmental interaction as there is a clear chance where tension and conflict between constituent units may slide into the conflict between national/linguistic communities.

It is, therefore, plain as the nose on one's face that the glaring political asymmetry witnessed in the Ethiopian federal system has corrosive impacts that potentially but surely impede the working of the Ethiopian Federation. However, the actual implications of the political asymmetry arises from the relative population and land area size of the Ethiopian constituent units for the functioning of the federal system has not actually been as conspicuous as the

asymmetry itself for a number of reasons. The next chapter will examine the moderation of political asymmetry in the Ethiopian federation.

Chapter Five

The Moderation of Political Asymmetry in Ethiopia's Federal System

Introduction

The preceding chapter attempted to discuss asymmetrical elements and to unearth the corrosive impacts of the glaring political asymmetry on the functioning of Ethiopia's federal system. As is argued in the second chapter of the paper, such political asymmetries induce corrective measures. Political asymmetry can, therefore, be moderated by consciously designed formal federal institutions and/or by expediently developed informal institutions, among others. Federal redistributive equalization transfers, in addition to filling the fiscal gap of states, are also mostly employed to moderate the corrosive impact of political asymmetry arising from disparities of wealth among different regions. Downsizing giant member states by sub-dividing into two or more states can also be adopted as a corrective measure.

In this light, the chapter will examine the moderation of political asymmetry in the Ethiopian Federal political system. The first section of the chapter critically scrutinizes the role of relevant formal and informal federal institutions in moderating the corrosive impacts of political asymmetry. We choose the ruling front from the informal formal institutions and the House of Federation from formal ones considering the greater actual and potential moderation role of these federal institutions.

The federal equalization grant in Ethiopia's federal system as a corrective measure to lessen the impacts of political asymmetry is also briefly examined. The final section of the chapter discusses at length many aspects of territorial reorganization of member states as corrective measure including the constitutionality and feasibility of territorial reorganization of larger 'mono-national' federated units in the context of the existing constitutional and political *modus vivendi* of Ethiopia. Besides, the chapter assesses the possible corrective measures and reforms that should be taken with the objective of addressing the problem of glaring political asymmetry with the Ethiopian 'multinational' federation.

5.1. The Role of Formal and Informal Institutions

As Ethiopia's informal and formal federal institutions are so many in number, the focus here is confined to the consciously selected ones, viz. the House of Federation and the ruling front. The former is selected for it is traditionally expected to play this moderation role, from the formal institutions, while the latter is chosen for the ruling front is widely known for its pervasive role in shaping the actual operation of the federal system, from the informal institutions.

5.1.1. The House of Federation

It is often said that the federal second chamber has an important role in moderating the *de facto* asymmetry in the influence of larger versus smaller member states as the greater influence of the larger member states in popular chamber is balanced by the malapportioned representation of constituent units in second chamber. It is, however, submitted earlier on this paper that the degree to which federal second chamber plays this role has hinged on the organization of second chamber, the relative power and competence of the chamber and the degree of symmetry in the representation of member states within the federal second chamber, if they are the house of member states. To what extent the Ethiopian second chamber, the House of Federation, is fitting to play this moderation role?

As is outlined in the previous chapters, Ethiopia's second chamber is unique in many ways. Firstly, despite the fact that the House of Federation, subscribing to the federal tradition, is an arena where regional interests get representation, federal constituent units have no direct representation in the HOF. They are Ethiopian 'Nation, Nationalities and Peoples' which are represented in the House of Federation. For the members of the House of Federation are practically elected by the state council, some five relatively 'mono-national' constituent units seem to have direct representation in the house and a relatively more control over the election of members representing respective nationalities. In ethnically heterogeneous

regional states, ‘the representatives shall be elected with the full participation of the councils’ of special nationality zones and *woredas* in addition to the council of regional states.⁴⁷¹

Secondly, the House of Federation, as noted earlier, has no meaningful legislative powers to enact laws on federal matters and to review and check the legislations of the House of People’s Representatives.⁴⁷² Other powers and competences of the HOF listed under Article 62 of the 1995 federal constitution also could not help it to play a meaningful role in counter balancing the dominance of larger states/nationalities in the popular house of the federation.⁴⁷³ It is, however important to note that the House of Federation has an important power of reviewing the constitutionality of laws enacted by the House of People’s Representatives. Thirdly, the representation of member states within the federal second chamber is significantly affected by the number of nationalities found in respective member state and the size of their population. As a result, significance presence of larger units within the HOF is observable though it is not as striking as their representation in lower chamber.

Seen in this light, the Ethiopian second chamber is not able to play a significant role in moderating the conspicuous political asymmetry that arises from the relative population and land area size of the Ethiopian federated units as the dominance of larger units in lower chamber is further reinforced by their significant presence in the second chamber; the bargaining position of smaller units in the HOF remains weak and the House has no legislative power to check the popular chamber. Worse still, the functioning of the HOF itself, as we have seen earlier, is also potentially prone to considerable impacts of the existing political asymmetry. However, still problematic though it is, the House of Federation may lessen the tensions arising from this asymmetry by forging solidarity among Ethiopian nationalities and by serving as an arena of intergovernmental interaction.

To recapitulate, the House of Federation does not have meaningful powers and functions to significantly moderate the corrosive impact of political asymmetry upon the operation of the

⁴⁷¹ Article 47/6 Proclamation No.251/2001: *A proclamation to Consolidate the House of the Federation of the FDRE and to define its powers and responsibilities*, July 2001.

⁴⁷² Assefa Fiseha, 2007, *Federalism and the accommodation of diversity in Ethiopia* (Postbus: Wolf Legal Publishers), page 97

⁴⁷³ Article 62, FDRE Constitution

Ethiopian federal system. Guaranteeing some important powers and competences to the House of Federation alone could not considerably enhance the capability of the house to play such a role for the very reason that the shortcomings of the HOF in playing the moderation role are not confined to its powers and functions. The mode of representation in the House of Federation also deserves due attention. Without going through an extensive overhaul in terms of its structure, mode of representation and power and competence, the HOF could not have a potential to moderate the political asymmetry witnessed in Ethiopia's federal system. Mention, however, has to be made that, though reforms in the House of Federation could considerably enhance the ability of the house to moderate political asymmetry, effective moderation of the glaring political asymmetry arising from the relative size of member states needs to be complemented by other reforms including territorial reorganization of the member states as an attempt at equalizing the extremely unequal states within an important federal institution may cause resentment on the parts of the exceptionally larger units.

5.1.2. Moderation within the 'Vanguard Party'

It is hinted at in earlier discussions that the Ethiopian Peoples' Revolutionary Democratic Front has been, to greater extent, perhaps more than anything else, instrumental in introducing and shaping the evolution of the Ethiopia's federal system. 'The dominant party has a strong economic power as it owns businesses producing private goods; and excessive political power as it controls both the executive and legislature in all parts of the country.'⁴⁷⁴ Witnessing the exaggerate version of many other parliamentary federal political systems,⁴⁷⁵ the Ethiopian executive branch is powerful enough to silence the legislature through a tight party discipline where party evaluation and democratic centralism⁴⁷⁶ play a central role.⁴⁷⁷

⁴⁷⁴ Paulos Chanie, 2007. *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia's Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 320

⁴⁷⁵ R. Watts, 1994, Contemporary Views on Federalism, in De Villers, B. (ed.) *Evaluating federal systems* (Dordrecht: Martinus Nijhoff), page 20-21

⁴⁷⁶ As V. Filatov, 1978, Democratic Centralism in E.Blinov, 1978, *Socialism: Theory and Practice, Soviet Monthly Digest* (Novosti Press Agency Publishing House), page 57, noted 'the term "democratic centralism" first appeared in the resolution of the party [Russian Communists' party]'s Tamerfors Conference held in 1905, and in the following year the fourth Party Congress incorporated it in Party Rules.' 'Democratic Centralism' according to Filatov, is 'the guiding principle of the organizational structure of the Soviet Communist Party, embodying the unity of two elements-democracy and centralism. Democracy in the party is expressed above all

Most important decisions, which substantially influence or guide the whole process at all level of governmental bodies, have been made within a high-level party leadership of the front that has controlled the all-powerful executive.⁴⁷⁸ More often than not, the formal institutions are subordinate to the highly centralized informal ‘EPRDF’s network of partner organization and affiliates’⁴⁷⁹ and ‘they can only serve those who are at the centre of power in both the central and regional states.’⁴⁸⁰ As the political space has been significantly shrunk in favour of EPRDF, the ruling front’s dominant position has rarely been challenged by the opposition parties.⁴⁸¹ The glaring political asymmetry witnessed in Ethiopia’s federal political system mainly arising from the relative population and land area size has, therefore, been greatly moderated within the ruling front whose nature tremendously shaped the formation and operation of the Ethiopian federalism. As we shall argue further below, it is not the mere centralized nature of the ruling front that helped it to play this moderation role, but rather its organizational structure that has equalized political parties that claim to represent strikingly unequal constituencies along with asymmetrical power relation within the ruling front.

EPRDF, originally a coalition of two insurgencies, namely; TPLF (est.1975) and the Ethiopian People’s Democratic Movement (currently, ANDM (est.1982)), which was later

matters are settled collectively and all party workers, guiding boards and institutions are elected and accountable to those who elected them and are replaced by them. Unity of action would not be possible without a firm consistent leadership from a single centre, without the authority of ideas becoming the authority of power. The latter is achieved thanks to centralism, i.e. strict discipline and the binding character of decisions of higher bodies in relation to lower ones.’ EPRDF, originally a coalition of Marxist parties, has adopted this Leninist party organization principle. Authors, like Andargachew Tsigie, 1997 E.C., *Netsanetin Yemayawek Netsa Awuchi, (Liberator who knows not Liberty)*, argued that the existing highly centralized party organization of EPRDF is not a result of just the mere adoption of the front the principle of Democratic Centralism, but rather the party’s overemphasis to centralism at the cost of inner party democracy.

⁴⁷⁷ Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia’s Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 320-321

⁴⁷⁸ Merera Gudina, 2003, *supra* note 2, page 146; Leenco Lata, 2004, What next in the Horn of Africa? Reconsidering the state and self-determination in Assefa Jalata, 2004, *State Crises, Globalisation and National Movements in North-East Africa*. (Routledge), page 216

⁴⁷⁹ Aalen Lovise, 2002, *supra* note 9, page 99; Berhanu Gutema, 2006, *supra* note 9, page 116

⁴⁸⁰ Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia’s Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), page 321

⁴⁸¹ Theodore Vestal, 1999, *Ethiopia: a Post-Cold War African State*. (London: Praeger.); Merera Gudina, 2011, *Ethiopia: From Autocracy to Revolutionary Democracy*, Chamber Printing House. page 159-184; Bahru Zewede and S. Pausewang (eds.), 2002, *Ethiopia: the Challenge of Democracy from Below* (Uppsala: Nordiska Afrikainstitutet; Addis Ababa: Forum for Social Studies);

joined by OPDO (est.1990) and SEPDM (est.1992), was founded in 1989.⁴⁸² The organizational structure of EPRDF consists of the General Congress, the Council of the EPRDF, and Executive Committee, among others.⁴⁸³ The General Council of the EPRDF is the highest authority of the front with the powers of approving, amending and changing the program and the statute of the front, and of formulating front's national policies and strategies, among others.⁴⁸⁴ The meeting of the General Congress of the EPRDF, which is convened in every two years, is to be attended by equal numbers of representatives from four constituent parties.⁴⁸⁵

Table 5.1. Representation of Member Parties

No	Member parties/ Affiliates	Party Members	No of Rep. in General Congress	No of Rep. in Council of EPRDF	No of Rep. in Executive Committee	No of Rep. in HPR (2010)	Population of the Constituencies
1	TPLF	NA	Equal but unspecified	45	9	38*	4,314,456
2	ANDM	NA	>>	45	9	138	17,214,056
3	OPDO	NA	>>	45	9	180**	27,158,471
4	SEPDM	NA	>>	45	9	122***	15,042,531
EPRDF		6.5 million	Total	180	36	499****	

Source:

- Secretariat of the Council of the EPRDF, Public and Foreign Relations Department, 2013, **EPRDF: in Brief**, (Rehobot Printers)
- Federal Democratic Republic of Ethiopia Population Census Commission, 2008, **Report of the 2007 Population and Housing Census**, Addis Ababa (December 2008)
- National Election Board of Ethiopia, 2010,

* Following the death of the late PM Meles Zenawi, the number of TPLF's MPs is decreased to 37

⁴⁸² Secretariat of the Council of the EPRDF, Public and Foreign Relations Department, 2013, *EPRDF: in Brief*, (Rehobot Printers), page 2

⁴⁸³ *Ibid*, page 6

⁴⁸⁴ *Ibid*

⁴⁸⁵ *Ibid*

** OPDO has two representatives from Dire dawa and Harari along with affiliate parties.

*** One independent candidate has won in the 2010 election from the region.

**** Total member of EPRDF's MPs includes those elected from Addis Ababa.

The council of the EPRDF, which is the second highest body next to the General Congress, is composed of equal representatives from all member parties. Currently, each member party sends 45 delegates to the council, which has 180 members. The council of EPRDF is answerable to the General Congress.⁴⁸⁶ The other important organ of EPRDF is the executive committee. It is an organizational body of EPRDF where most important power of decision making is concentrated as most of its members are top authorities of regional and federal governments. As is indicated in Table 4.4., every member party is represented by nine members.

As is summarized in the above Table, the representation of member parties in three main organizational bodies of EPRDF is equal. This means OPDO, which is claimed to represent about 35 % of the total population of the country and has 180 parliamentarians in the sole law-making chamber of Ethiopia, and TPLF, which represents 6 percent of the total population of the federation with 38 HPR's seats, have equal representation in the front's main organizational bodies. Accordingly, the seemingly strong bargaining position of OPDO and ANDM in the formal organizations, like HPR, and the dominance of SEPDM in HOF are significantly diminished, rather moderated, in the major organizational bodies of EPRDF where critical decision-making powers are vested in. Numerically speaking, four member parties have, therefore, equal leverage at their disposal to influence the decision-making process within the ruling front.

Despite equal representation of member parties within EPRDF, the bargaining position of member parties within EPRDF has been considerably impacted by a number of asymmetries arising from the relative competence of member parties' leadership, the relative economic might of the parties, the relative solidity of the support they get from their constituency, and the relative membership base, among others. For example, TPLF, which has a relatively firm

⁴⁸⁶ *Ibid*, page 12

support base, stronger economic might,⁴⁸⁷ competent military and political leadership, and greater contribution in the fight against the Dergue regime and in the establishment of the front, has taken an active part in front's operations⁴⁸⁸ regardless of smaller population size of its constituency.⁴⁸⁹ As this asymmetry among constituent parties has not reinforced the political asymmetry arising from the relative population size of the member states, the importance of the relative population size of their constituencies has been significantly compromised.

However, the afore-discussed moderation of political asymmetry within the ruling front is not without pitfalls. In the first place, there is no clear mechanism where affiliate parties that claim to represent five relatively smaller regional states participate in the decision-making process within EPRDF. Secondly, as everything else, the party system in general and the nature of the front in particular are susceptible to changes. These changes in the party system and in the balance of powers of member parties within the ruling front could easily debilitate the moderation role of the party. One should not undermine the importance of political asymmetry in a circumstance where the integrated party system is lacking and the balance of power within EPRDF changed in such a way that size of population and membership matter most. It is not, therefore, prudent to heavily count on the highly centralized opaque front for the moderation of the glaring political asymmetry given that the formal federal institutions are not practically and potentially fitting to moderate the political asymmetry arising from the relative areal and population size of the member states of Ethiopian Federation.

⁴⁸⁷ Member parties have their own business empires despite differences in the strength of their economic power. (See Berhanu Gutema, 2006, *supra* note q, page 114).

⁴⁸⁸ Notwithstanding equal representation of member parties in all publicly-known structure of the ruling front, the powerful political bureau of the ruling front, otherwise called polit bureau, has been overwhelmingly dominated by TPLF cadres up until the split of the TPLF in 2001. (Paulos Chanie, 2007, *What One Hand Giveth, the Other Hand Taketh Away: Ethiopia's Post-1991 Decentralization Reform under Neo-patrimonialism* (Unpublished Ph.D. Dissertation: The Institute of Social Studies), Interview with Negasso Gidada.

⁴⁸⁹ Aalen Lovise, 2002, *supra* note 9, page 99; Solomon Negussie, 2006, *Fiscal federalism in the Ethiopian ethnic-based federal system* (Postbus: Wolf Legal Publishers), page 117;

5.2. Federal Equalization Transfer: as an Instrument of Moderation

The corrosive impact of political asymmetry that might arise from a gross economic disparity among the Ethiopian component units, as alluded to earlier on, can be moderated by the federal redistributive equalization transfer. Fittingly, the Ethiopian federal equalization transfer mainly aims at rectifying the horizontal fiscal imbalance and the disparity in terms of socio-economic development of regional states and filling the grave fiscal gap of regional states to discharge their expenditure responsibilities. As is proclaimed in the constitution, ‘Government shall provide special assistance to Nation, Nationalities and Peoples least advantaged in economic and social development’.⁴⁹⁰ The fiscally strong federal government is in a good position to rectify the horizontal imbalance and disparity in terms of socio-economic development.

Accordingly, all federal equalization transfer regimes seriously take into account the relative level of economic development of regional states in apportioning the federal grant to regional states. Despite some inconsistencies,⁴⁹¹ the per capita share of federal subsidy of the relatively less developed regional states is higher than that of the relatively well-off regional states. It can be, therefore, generally said that the Ethiopian federal equalization transfer has had positive impact upon the political asymmetry arising from the relative gross socio-economic development of member states.

5.3. Territorial Reorganization: Equalizing the Unequals

It has been submitted that, despite the theoretical and practical controversy of redrawing the boundary of the federated units, the democratic boundary changes which approved by the concerned populations should not be ruled out as a corrective measure in order to moderate glaring political asymmetry that can give rise to instability and tension and leads to the disintegration of the polity. Along this line, given the compelling corrosive impact of the

⁴⁹⁰ Article 89(4), FDRE Constitution

⁴⁹¹ Mostly, Tigray’s per capita share of federal subsidy is comparable to that of the relatively less developed regional states, whereas the Somali regional states has been received less share of federal subsidy up until 1998.(See Merera Gudina, 2003, *supra* note 2, page 174-180)

political asymmetry arising from the relative areal and population size of the member states of the Ethiopian federation and the administrative inconvenience of larger units, a number of commentators of the Ethiopian federal political system advised the downsizing of the larger constituent units into relatively smaller units.⁴⁹² For Christopher Clapham and Messay Kebede, the sub division of the two hegemon states of the Ethiopian federation, namely; States of Oromia and Amhara, is a precondition if a stable and democratic federal state is to flourish in Ethiopia.

It is here important to raise some questions. How much this proposition moderate the political asymmetry witnessed in Ethiopia's federal system? To what extent is it politically feasible in the context where highly ethnicized politics has become the *modus vivendi* of the state? Can we make differentiation between these two regional states in this regard? Does the existing constitutional order allow us to modify the boundaries of these regional states? Let's consider these questions in a few words.

Though the proposition of sub-dividing these regional states into smaller units does not offer commonly-agreed specific number of proposed units, it is crystal clear that the sub-division of this two big regional states into two or more relatively smaller, but viable, regional states substantially alter the characteristic feature of the Ethiopian federal system with regard to the *de facto* asymmetry stemming from the relative population and areal size of the member states. However, one has to be careful not to undermine the contribution of micro-regional states for the glaring political asymmetry in question. It is, therefore, worth stressing that the issue of micro-regional states should not be off-limits, but rather it deserves appropriate attention in redrawing the boundary of regional states with the objective of moderating the corrosive impacts of political asymmetry in the Ethiopian federation, among others. Equally important, the effectiveness of this proposition in lessening the political asymmetry considerably

⁴⁹² See, for example, Christopher Clapham, 2006, Afterword, in Turton, D. (ed.) *Ethnic federalism: The Ethiopian Experience in Comparative Perspective*, 231-240, page 234; Assefa Fiseha, 2007, *Federalism and the accommodation of diversity in Ethiopia* (Postbus: Wolf Legal Publishers), page 139; Bahru Zewde, 2008, what did we dream? What did we achieve? and where are we heading? In Bahru Zewde, 2008, *Society, State and History; Selected Essays* (Addis Ababa University Press.) page 355; Asnake kefale, 2009, *supra* note 9, page 278; Messay Kebede, 2012, *Medrek's Path to Unity and Charisma*, page 2 (accessed on May, 2013.) available at www.zehabesha.com

depends on similar positive measures that have to be taken in the structure and practice of formal and informal institutions.

The other very important issue that has to be touched on is the political feasibility of this proposition. To begin with, many, if not most, federal states have gone through a varying rate of recurrence of border changes of their constituent units and of establishment of new states out of the originally created ones⁴⁹³ though state border changes and establishment of new constituent units are not an easy matter. Most importantly, the partition of the nationalities particularly where they already enjoy autonomy within an undivided 'homeland' has often not been realized without coercion.⁴⁹⁴

Added to this difficulty, the issue of boundary in the Ethiopian federal system is not simply an issue of internal boundary for supposedly self-governing 'nation, nationalities and peoples' since the boundary of nationalities have constitutionally-envisaged prospect of becoming the boundary of the future independent state of the nationality concerned, in case of secession. Therefore, unlike any of other existing federal systems, the issue of boundary change in Ethiopia is of immense importance for the 'self-governing' 'nation, nationalities and peoples'. Seen in this light, the difficulty of breaking up the two big regions of Ethiopia's federation into smaller units is clear as a day.

However, democratic boundary redrawing can be realized if we make sure that all pertinent stakeholders are sensible about the corrosive impacts of the political asymmetry along with the benefits of the relatively optimal units in terms of democratic participation and administrative convenience, among others, and we take important supplementary measures that significantly protect the vested interest of these regional states. In addition to this, boundary redrawing should follow holistic approach by take into consideration all important factors and care must be taken not to harm the very purpose of the federal system.

⁴⁹³ For example, the Nigerian Federation, which initially came into being with three states, has become a federation of 36 member states (Rotimi Suberu, 2006, *Federalism and the Management of Ethnic Conflict: The Nigerian experience* in Turton, D (ed.) *Ethnic federalism: The Ethiopian experience in a comparative perspective* (Athens: Ohio University Press)). By the same token, India has increased its fully-fledged member state from 15, in 1956, to 28. We found the establishment of Jura canton from the canton of Bern, in Switzerland.

⁴⁹⁴ *ibid*, page 107

Despite similarities, the two big regional states, as alluded to earlier, witness significant variations in terms of the degree of mobilization and the attitude of their respective elites towards the territorial reorganization of member states in the Ethiopian federation. It is, therefore, important to seriously take into account the peculiarity and sameness of regional states in order to propose workable solution that can be accepted by all pertinent stakeholders.

Finally, let's have a look at the constitutional base of boundary redrawing of regional states. In the main, the usual rule⁴⁹⁵ of border changes is that a federated unit's boundaries cannot be unilaterally changed without the consent of the concerned state, yet the constitutional procedures regarding boundary changes and establishment of new states differ significantly from one federation to another.⁴⁹⁶ As one can easily observe from the relevant provisions of the Ethiopian federal constitutions, in sharp contrast to the unique Indian experience, the Ethiopian federal system does not guarantee the power of establishing new member state to the federal government. The power of establishing constituent units seems to be that of nationalities, not necessarily of member states, as some of members states are strikingly plurinational. In this regard, the 1995 federal constitution of Ethiopia is straightforward enough to declare that 'nation, nationality and people' within the existing member states can join the federation as a fully-fledged constituent unit whenever they want to be if they fulfill the fairly lax constitutional requirements.⁴⁹⁷

However, there is no explicit constitutional provision that can be invoked to sub-divide the predominantly 'mono-national' regional states with the objective of establishing new federated units, if not local governments. The absence of a ready-made constitutional recipe available for redrawing the boundary of these regional states does not, of course, mean that

⁴⁹⁵ However, it should be noted that the experience of India where the general government is constitutionally entitled to create new constituent units by its own and the practice in Nigeria where state boundaries time and again changed by unconstitutional or extra constitutional measures of the general government tell different story.

⁴⁹⁶ John Kincaid, *Comparative Observations*, (Forum of Federations and International Association of Centre of Federations), page 21

⁴⁹⁷The Siliti case tells us an interesting story. The Silite people, which had been considered part and parcel of the Guraghe people up until the referendum held to determine the nationality of the people, were not constitutionally entitled to establish its own state. However, after the referendum that affirmed the separate nationality of the people of Silite, the people have the right to establish its own state in accordance with Article 47 (2) the FDRE constitution.

the constitution offers us no guidance on how to establish new federated units from the already existing relatively ‘mono-national’ regional states. If so, what guidance does the constitution offer in this regard?

This question can be answered by raising two important points, viz. the consent of the people concerned and the ‘unconditional right of nation, nationalities and peoples to self-determination, including the right to secession.’ It is undeniable that almost all relevant constitutional articles including Article, 39, 46, 47, 48 and 50(4) give significant weight to the consent of people in changing the boundary of the existing regional states and establishing new constituent units. It is also stated that all member states are constitutionally entitled to organize themselves as they wish though the constitution is not clear whether it includes the power to organize themselves into two or more fully-fledged member states. As the unification of four southern Ethiopian states into a single state⁴⁹⁸ was supposedly justified by the consent of the people of the regional states concerned, it is logical to think that the subdivision of the existing relatively mono-national regional states into two or more regional states can also be defensibly justified by the consent of the people. More importantly, it has to be recalled that Ethiopian nationalities, where ‘all sovereign power resides in’⁴⁹⁹, have unconditional right to self-determination up to the point of divorce from the federation. The power to reorganize themselves on the interest of the people concerned into two or more member states is an element of the right to self-determination, or it is not beyond the right to secession. Seen in this light, if these self-determining nationalities want to reorganize themselves into two or more constituent units, it could not be but consistent with the constitution.

Concluding Remarks

Impacts of the glaring political asymmetry arising from the relative population and land area size of the Ethiopian constituent units upon the operation of the Ethiopian federal system

⁴⁹⁸ It has to be recalled that the coming together of these regional states carried out before the formalization of the Ethiopian federal system. As the *de jure* federalization of the state has changed little from the *de facto* (1991-1995) federal experiment of the state regarding the issues under discussion, the assertion should not be regarded as inappropriate.

⁴⁹⁹ Article 8, FDRE Constitution

have not actually been menacing due largely to the moderation of the asymmetry within the highly centralized ruling front which dominates the federal and regional state executives and legislatures through the network of member parties and affiliate political organizations.

It is, however, worth stressing that the federal formal institutions, which are formalized in the 1995 Ethiopian constitution, offer no serious mechanism to curb the domination and the capture the center by few federated units of the federation to the disadvantage of the rest along with maintaining a balance between the centre and member states. The Ethiopian second chamber, which is traditionally expected to play the role of moderating political asymmetry that arises from the relative population and territorial size of member states by counter balancing the relative dominance of larger units in lower chamber, has no significant actual and potential role in moderating the political asymmetry within the Ethiopian federal system.

Given the absence of such mechanism in the formal federal institution and that the moderation of the political asymmetry with the ruling front is not without pitfalls, the glaring political asymmetry could have a devastating impact upon the operation of the Ethiopian federal system unless efforts are made to take comprehensive corrective measures that include the reforming of the practice and structure of formal and informal federal institutions and the territorial organization of regional states.

Chapter Five

Conclusions and Recommendations

5.1. General Conclusions

The federal option for the Ethiopian state restructuring came to the fore in 1991 once the century old experiment in building centralized and ‘modernized’ nation-state aborted and failed to survive in the face of the armed struggle waged by nationalist movements, among others. The federal option, contentious though initially was, is now no longer a subject of political controversy in Ethiopia as all serious Ethiopian political groupings have accepted it as a viable system of government to best manage the plurinationality of Ethiopia. However, the existing particular federal experiment, which is, more or less, a single handed initiative of EPRDF, has never been, in theory and in practice, an issue of consensus among major political forces.

In this regard, the designing of constituent units of the Ethiopian federation along ethno-linguistic lines remains one of the most contentious features of the federal restructuring. The newly-established regional states accorded a status of member state are in many ways ahistorical and significant departure from the former administrative division is evident. The foremost driving force of the whole process of state making, which was essentially followed a top-down approach, was to make sure that ‘nation, nationalities and peoples’ establish a ‘mother state’ to exercise their right to self-determination. As a result, economic rationalities, administrative convenience and other important factors other than linguistic/national identity were left unconsidered or not seriously considered in the designing of the member states of the Ethiopian federation.

More relevantly, the process of state-making, which more or less attempted to follow a rigorous formula of ‘one nationality—one province’, did not succeed in creating a degree of symmetry in terms of population and territorial size of federated units. It is, thus, this imprudent rigorous formula of the regime that gave rise to excessive disparity among regional states in terms of their areal and population size given that Ethiopian nationalities remarkably

vary in this regard. It is also worth stressing that the hard-to-justify inconsistency of the process of state making in granting ‘mother state’ to nationalities also magnifies the disparity among member states of the Ethiopian Federation. The State of Harari people is the case in point, in this regard.

Federal Ethiopia is not unique to exhibit political asymmetry that arises from the relative population and land area size, wealth, administrative capacity, level of socio-economic development, and revenue generating capacity of fully-fledged member states despite the extremity of the degree of political asymmetry witnessed in Ethiopia’s federal political system. As is revealed in chapter four of the paper, the *de facto* asymmetry among full-fledged constituent units of the Ethiopian federation, particularly arising from the relative population and land area size, is conspicuously visible. To be more specific, State of Oromia and State of Amhara, and State of Harari people, which are strikingly big and strikingly small respectively in terms of their population and territorial size, are the major source of glaring asymmetry that stems from the relative population size of federated units of the Ethiopian federation.

The working of the federal political system, like that of Ethiopia, can be impacted by the glaring political asymmetry witnessed within it, among other things. However, an inquiry into the actual operation of Ethiopia’s federal system insinuates that the implications of the political asymmetry arises from the relative population and land area size of constituent units for the functioning of the federal system has not been as conspicuous as the asymmetry itself. The main reason behind this is the anomalous evolution of the federal system which has been, to a greater extent, functioning as a centralized system dominated by the highly-centralized front that effectively equalizes the unequal regional states. Nevertheless, the potential corrosive impacts of glaring political asymmetry witnessed within the Ethiopian federation upon the operation of the federal system are irrefutable.

The centre of the Ethiopian federal system is susceptible to be under the domination of few larger regional states or nationalities so that these states can overrule the other states and bend the will of the federal government to their own advantage. The legislative and the executive branch of the federal government can easily be controlled by alliances of few regional states or they can become arenas of infightings among these regional states in an

effort to establish and maintain alliances. The smaller units' elites/citizens would be overwhelmed by their powerlessness and perceive their position in a federation as a real loser. In such a circumstance, the effectiveness of shared rule can be obstructed; the self-administration of smaller regional units can be at stake; and the Ethiopian federation would become prone to unhealthy tensions and instability between the centre and states and among states.

The implications of political asymmetry are not confined to this. The political asymmetry arising from the relative population size of regional states has significantly contributed for the precariousness of federal grant redistribution systems introduced to apportion the federal grant to the regional states. The relatively larger units and smaller ones have often clashed regarding the weight given to the population of regional state in the apportionment of the federal equalization transfer as the wealthier and the larger constituent units felt that their resource is disproportionately taken from them.

Additionally, state-owning micro-federated units, like the State of Harari people, tend to be objects of envy for those more viable non-state-owning nationalities which seek to acquire the status of member state since state-owning nationalities enjoy benefits that are beyond symbolic value. This might induce tension and instability in the Ethiopian federation and may give rise to the perilous no end of proliferation of regional states given the lax procedure of establishing 'mother-states' for territorially-concentrated non-state-owning nationalities.

The Ethiopian federal 'covenant', which is claimed to be introduced as an instrument to protect the right of Ethiopian nationalities to self-determination and to redress historically unjust relations among nationalities, does not put in place proper mechanisms to curb the domination and the capture of the centre by few larger units. The Ethiopian second chamber, which is traditionally expected to play the role of moderating the corrosive impacts of political asymmetry that arises from the relative population and territorial size of member states by counter balancing the relative dominance of larger units in lower chamber, has no significant actual and potential role in moderating the political asymmetry within the Ethiopian federal system. The powers and functions given to the HOF and the mode of representation and the nature of entities represented within it significantly impede the

possible capacity of the House of Federation to play such a moderation role. No other formal federal institution is constitutionally envisaged to moderate the corrosive impacts of political asymmetry witnessed in the Ethiopian federal political system. The only constitutional fallback, if it is a fallback at all, that is left to the aggrieved nationalities/states, for example, smaller nationalities, is their right to secession which is impractical and costly in many ways. The failure of the Ethiopian federal constitution to ensure that no federated units of the federation can capture the center to the disadvantage of the rest is one of the biggest design faults of the federal 'covenant'.

The corrosive impacts of the glaring political asymmetry arising from the relative areal and population size of fully-fledged member states of the Ethiopian federation are predominantly moderated within the all-powerful informal institution, i.e. the Ethiopian peoples' Revolutionary Democratic Front (EPRDF). The ruling front comprising four member parties (TPLF of Tigray, ANDM of Amhara, OPDO of Oromia, and SEPDM of SNNPRS) and other affiliate parties (HNL of Harari, ANDP of Afar, SPDP of Somali, GPDM of Gambella, and BGPDUF of Benishangul-Gumuz), has been dominating the federal and regional state executives and legislatures through the network of member parties and affiliate political organizations since the overthrow of the military junta. The real power of decision making is concentrated on the highly centralized and disciplined ruling front. More often than not, the formal institutions are subordinated to the decision of the high-level leadership of the party.

It is not, however, the mere dominant and centralized nature of the ruling front that helped it to play this moderation role, but rather its organizational structure that has equalized political parties that claim to represent strikingly unequal constituencies along with asymmetrical power relation within the ruling front. The representation of constituent parties of the ruling front whose constituencies have the potential to dominate the centre (Oromia and Amhara) is symmetrical within all publicly-known structure of the ruling front. Interestingly, the relative strength of TPLF representing about 6 % of the total population of the federation has also significantly diminished the importance of population size and degree of representation in formal federal institutions.

However, the moderation of the impacts of political asymmetry upon the functioning of the Ethiopian federal political system within the ‘vanguard’ party has a number of pitfalls. Firstly, there is no clear mechanism where affiliate parties that claim to represent five relatively smaller regional states participate in the decision-making process within EPRDF. Secondly, as everything else, the party system in general and the nature of the front in particular are susceptible to changes. These changes in the party system and in the balance of powers of member parties within the ruling front could easily debilitate the moderation role of the party. It is not, therefore, prudent to heavily hinge on the highly centralized opaque front for the moderation of the glaring political asymmetry as the formal federal institutions are not practically and potentially fitting to moderate the political asymmetry arising from the relative areal and population size of the member states of Ethiopian Federation.

What can be stated with a degree of certainty is the fact that the corrosive impact of the glaring political asymmetry can easily disrupt the anomalous functioning of the Ethiopian federal system if and when the integrated party system is lacking and the balance of power within EPRDF is changed in such a way that population and membership size matters most. Although everything seems to go safe now, the flawed federal institutional arrangement is potentially a powder keg of an issue that has the possibility to explode in the future and that leads to the disintegration or the unconstitutional and coercive centralization of the Ethiopian federation. The unreformed federal Ethiopia has, therefore, no enduring future.

5.2. Recommendations

Bearing in mind that the compelling potential impacts of the glaring political asymmetry arising from the relative population and land area size of the fully-fledged member states of the Ethiopian federation upon the operation of the Ethiopian federal system; the apparent pitfalls of the actual moderation of these impacts within the dominant and highly-centralized ruling front and the actual failure and the potential incapacity of the formal federal institutions to moderate the impacts of the political asymmetry witnessed in the Ethiopian federal political system, the following recommendations are submitted:

- 1) *The ruling front, the Ethiopian Peoples' Revolutionary Democratic Front, should be well aware of the greater potential impacts of political asymmetry arising from the relative population and areal size of member states and must have the political will to take serious corrective measures.*
 - a) It is crystal clear that the dominant and centralized nature of the ruling front has camouflaged a number of problems of the existing federal arrangement. Put differently, the real consequences of some features of the constitutional federal arrangement of the Ethiopian state have not yet come into view. Despite the fact that this anomalous state of affairs has essentially been the defining feature of the working of the Ethiopian federal system, one should not fail to keep in mind the inevitability of changes in the operation of the federal system as the system could not function independent of the ever-changing internal and external factors. The leadership of the ruling front should, thus, manage to take necessary measures with the objective of making sure that the formal federal institutions smoothly function even in the absence of the ruling front and/or its nature that gave birth to and maintains the existing anomalous state of affairs.
 - b) One of the preconditions of successful reforms is the democratic participation of all relevant stakeholders in the initiation, articulation, policymaking and implementation of reforms. The ruling front should, hence, include all important stakeholders in the decision-making processes to take serious measures that can effectively address the challenges of political asymmetry.
- 2) *Pertinent formal federal institutions have to be reformed in such a way that they moderate the corrosive impacts of political asymmetry.*
 - a) There is the need for clear bicameralism. Bicameral legislature is one of the defining features of almost all federations. The second chamber need to have a power to check decisions of the lower chamber and even to veto some legislations that considerably affect the interests of member states. The Ethiopian federal system, however, lacks an institution that effectively checks and reviews the decisions of the popularly elected

lower chamber. It is difficult to consider the Ethiopian federal legislative body as bicameral since the House of Federation does not have meaningful powers and functions to check and review the decisions of the House of People's Representatives. Mention must be made of guaranteeing some important powers and competences to the House of Federation alone could not considerably enhance the capability of the house to play the moderation role for the very reason that the shortcomings of the HOF in playing the moderation role are not confined to its powers and functions.

- b) Member states of the Ethiopian Federation have to have a chamber where they have direct representation so that they can directly influence the co-management of the centre.
 - c) A measure of symmetrical representation of member-states in federal second chamber irrespective of variation in their territorial and population size is of necessity. The mode of representation in the house of member states should, therefore, favour the smaller constituent units in order to balance the greater influence of the larger member states in popular chamber. To be critical, effective moderation of the glaring political asymmetry arising from the relative size of member states needs to be complemented by other reforms including territorial reorganization of the member states as an attempt at equalizing the extremely unequal states within an important federal institution may cause resentment on the parts of the exceptionally larger units.
 - d) The existence of formal intergovernmental interactions institution is of huge importance as it can be an arena to manage conflicts arising from the conspicuous political asymmetry witnessed in the Ethiopian federal political system.
- 3) *Democratic territorial reorganization of member states contributing a great deal for the existing glaring political asymmetry should not be ruled out as a corrective measure in order to moderate political asymmetry that can give rise to instability and tension and lead to the disintegration of the Ethiopian polity.*

Though it might be considered desirable, establishing perfectly equal constituent units in all respects is only theoretically possible. No effort should, thus, be made to create perfectly symmetrical constituent units. What is important is preventing the political

asymmetry from being the menace to the stability of the federal political system. In this regard, some federations have avoided this threat from the start by the conscious act of sub-dividing larger units. Unfortunately, the Ethiopian federal state restructuring did not succeed in striking a measure of balance in the population and territorial size of fully-fledged member states and extreme imbalance is clearly visible in this regard.

In principle, the territorial reorganization of some regional states whose contribution for the political asymmetry is exceptionally paramount (State of Oromia, State of Amhara and State of Harari) substantially alter the characteristic feature of the Ethiopian federal system with regard to the *de facto* asymmetry stemming from the relative population and areal size of the member states. Practical difficulties are, however, evidently visible as the already existing regional states have a vested interest in keeping the present arrangement and the apparent dominance of the politics of ethnic nationalisms which tend to consider the nationality claims uncompromising and absolute. Given the greater potential cost of political asymmetry the Ethiopian state cannot afford, consensual and painstaking territorial reorganization of those member states should be recommended with the objective of substantially lessening the degree of asymmetry within the Ethiopian federal system.

It is clear that the establishment of Oromia was enthusiastically sought by Oromo elites who were active at the time of state reconstitution. Also almost all currently active Oromia-based political parties are in favour of 'one Oromia' and they tend to be suspicious of the well-intention of those who advocate the geographic reorganization of the Ethiopian state and the sub-division of Oromia into some more regional states. In such a case, it seems to be politically unwise, at least for the time being, to propose the sheer sub-division of State of Oromia. This does not, of course, mean that there is no 'middle ground,' just as one can come up with a workable solution that suggests the sub-division of Oromia into four or five fully-fledged regional states while the overarching Oromia with single national anthem and flag, which has vertically delegated powers with regard to cultural and educational matters, among others, is

maintained. The nomenclature of the smaller regional states can also take names, like East Oromia, West Oromia, to emphasize the ‘oneness’ of Oromia. Despite a measure of structural complexity, this proposition, in addition to addressing the problem of political asymmetry, can ensure administrative convenience, democratic participation and the flourish of a number of urban growth centers while maintaining the collective management of Oromia.

The circumstance in the state of Amhara is somewhat different. There was no clearly noticeable Amhara-based nationality claim whatsoever at the time of the federalization of the Ethiopian state. Even after about two decades of federal experiment as a single federated unit, substantial changes in this regard seem far from being observed. Interestingly, those historically-evolved regional identities (Gojjam, Gonder, Wallo, Shewa, etc.) are still far more politically relevant comparing with the ‘pan-Amhara’ nationalism. In such a circumstance, the reorganization of State of Amhara into three or four regional states can be safely recommended.

The third case, State of Harari People, the smallest constituent unit of the federation, is substantially different from the above two cases. Sub-division is not the case in point. At least two alternatives can come into view with regard to reforming the Harari state with the objective of lessening the degree of political asymmetry. The first option is the merger of Harari with one of the smaller Oromia regional states as self-governing internal minority. The second one is reorganizing the state as a federal chartered city while respecting the self-administration of the Harari people. The second option is more politically feasible as it partly maintains the autonomous existence of the regional state as fully-fledged regional state. The joining of Harari the team of Addis Ababa and Dire dawa as a chartered city not only minimizes the degree of political asymmetry witnessed within the Ethiopian federal political system but also the Harari would no longer be an object of envy.

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