

**FREEDOM OF EXPRESSION IN THE CONTEXT OF DEVELOPMENTAL  
STATE: THE CASE OF ETHIOPIA**

**By**

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STATE: THE CASE OF ETHIOPIA**

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School of Law of Addis Ababa University**

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## Declaration

I, Solomon Goshu Shiferaw, hereby declare that this dissertation is original and has never been submitted before for any degree or examination in any other institution. I also declare that all the sources I have used or quoted have been indicated and duly acknowledged as complete references.

Solomon Goshu Shiferaw

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This dissertation has been submitted with my permission as a supervisor.

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## **List of abbreviations**

DS	Developmental State
EA	East Asia
EPRDF	Ethiopian Peoples' Revolutionary Democratic Front
FE	Freedom of Expression
FDRE	Federal Democratic Republic of Ethiopia
ICCPR	International Convention on Civil and Political Rights
RD	Revolutionary Democracy
WWII	Second World War

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## **Abstract**

Both policy-makers and scholars have turned their attention to the Developmental State model as a means for alleviating poverty in developing countries. Both theoretical analysis and the empirical track record of the East Asian Development States point to the model's ability to achieve growth and development in a very short period of time. However, these Developmental States were not "right-friendly". Particularly, their treatment of civil and political rights including freedom of expression has been criticized for not being in conformity with international standards they subscribed to. The constitutional democracy that Ethiopia has introduced through the Federal Democratic Republic of Ethiopia Constitution has provided the ideals of democracy. Thus, democratic process is a precondition to every activity of the government. Consequently, Ethiopia has pledged to adopt Democratic Developmental State rather than the mainstream Developmental State. The paper attempts to explore the status of freedom of expression in line with the recent political and legal history after the Developmental State model is introduced in Ethiopia. Given the history of gross and systematic human rights violation in Ethiopia, the adoption of the Developmental State model is feared for having a negative effect on the status of freedom of expression in the country. The paper argues that most of the signs are indicative of the materialization of this fear. And, given its diversity and plurality, Ethiopia cannot afford to delay the full application of freedom of expression indefinitely. The adoption of the Developmental State model was necessitated by the urgency and intensity of the need to address the country's chronic poverty. However, without building democracy and its necessary components, including the freedom of expression, the development cannot be sustainable

## **Key words**

Developmental state, freedom of expression, revolutionary democracy, civil and political rights, socio-economic rights, instrument to development, Ethiopia

# Chapter One

## Introduction

### 1.1 Background of the study

“Freedom of expression illustrates the justifying point of basic individual rights. The powerful do not welcome public criticism. In their eyes, the costs of speech generally outweigh the costs of suppression. On the other hand, the absence of public deliberation would mean that unexamined preferences of officials would be imposed on the public even in the face of foreseeable harm or failure. To guarantee political speech, laws must permit dissent.”<sup>1</sup>

These appealing words on freedom of expression (FE) were uttered by Professor Andreas Eshete in 1993 when Ethiopians and foreigners were having a thorough discussion on the future of the country. After 22 years, Professor Andreas’ early warning has emerged as a source of controversy when scholars attempt to explain the treatment of FE and evaluate the records of the Ethiopian government led by Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF) since then. Some argue that the EPRDF government does not welcome public criticism and there is a little tolerance for alternatives in the current political settlement.<sup>2</sup> It is also contended that threats to EPRDF are all too easily seen as threats to government or to the public good.<sup>3</sup>

Ethiopia is a “constitutional democracy” since 1995. The Federal Democratic Republic of Ethiopia (FDRE) Constitution was adopted in 1994 and entered into force in 1995.<sup>4</sup> Though it is the fourth written Constitution in the country’s history, in terms of guaranteeing all types of rights and liberties, it is the most liberal one. In terms of substance, the current Constitution is by far better than its predecessors in laying the foundations for democracy, pluralism and the

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<sup>1</sup> Andreas Eshete, *Implementing Human Rights and a Democratic Constitution in Ethiopia*, 21 A JOURNAL OF OPINION 8, 9 (1993).

<sup>2</sup> Berhanu Gutema Balcha, *Constitutionalism in the Horn of Africa: Lesson from the New Constitution of Ethiopia*, 15 DIIPER RESEARCH SERIES WORKING PAPER 1, 15 (2009).

<sup>3</sup> Jean-Nicolas Bach, *Abyotawi Democracy: Neither Revolutionary nor Democratic, a Critical Review of EPRDF’s Conception of Revolutionary Democracy in Post-1991 Ethiopia*, 5 (4) JOURNAL OF EASTERN AFRICAN STUDIES 641-663 (2011).

<sup>4</sup> Federal Democratic Republic of Ethiopia (FDRE) Constitution Proclamation no 1/1995.

protection of basic human rights.<sup>5</sup> The enumerated fundamental rights and freedoms in the FDRE Constitution are progressive and impressive.<sup>6</sup> The explicit recognition of the whole range of human rights set in international human rights conventions in a chapter that deals with fundamental rights and freedoms which constitutes one-third of the constitution shows the interest in establishing a democratic order informed and rooted in international standards.<sup>7</sup>

Notwithstanding such normative advances, in terms of enforcement, serious obstacles have been observed in the Ethiopian constitutional order. A constitutional state is by definition a state where the powers and policy choices of political organs are limited by constitutional requirements.<sup>8</sup> A democratic constitution should compel government to be responsive and answerable to citizens.<sup>9</sup> A constitutional democracy must allow fair and robust rivalry for political office.<sup>10</sup> In this context, it is argued that the practice in Ethiopia shows that the dominant political force is dictating its terms without any limitation and rivalry.<sup>11</sup> Some even go to the extent of arguing that: “With the adoption of the FDRE Constitution, one might have reasonably hoped for the dawn of a democratic era and constitutional rule in Ethiopia. Political developments in Ethiopia since the adoption of the Constitution have dashed such hopes. At the moment, Ethiopia cannot be called a constitutional democracy by any stretch of the imagination.”<sup>12</sup>

It is within this context that Ethiopia has introduced the developmental state (DS) model of governance to accelerate development in 2005. In fact, modern states of the world have designed

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<sup>5</sup> Adem Kassie Abebe, *From the ‘TPLF Constitution’ to the ‘Constitution of the People of Ethiopia’: Constitutionalism and Proposals for Constitutional Reform*, in CONSTITUTIONALISM AND DEMOCRATIC GOVERNANCE IN AFRICA: CONTEMPORARY PERSPECTIVES FROM SUB-SAHARAN AFRICA 85, (Morris Kiwinda Mbondenyi and Tom Ojienda ed., Pretoria University Law Press, South Africa, 2013).

<sup>6</sup> Chi Mgbako et al, *Silencing the Ethiopian Courts: Non-Judicial Constitutional Review and Its Impact on Human Rights*, 32 FORDHAM INT’L L.J., 259, 260-261 (2008).

<sup>7</sup> Sehen Bekele & Tsegaye Regassa, *Democratization in a Developmental State: The Case of Ethiopia*, 1 UNDP ETHIOPIA REPORT 1, 18 (2012).

<sup>8</sup> Adem Kassie Abebe, *A Constitution without a Guardian: Is the Ethiopian Constitution Really Supreme?*, 5 ETHIOPIAN HUMAN RIGHTS LAW SERIES 9, 11 (2013).

<sup>9</sup> Andreas, *supra* note 1 at 8.

<sup>10</sup> *Ibid.*

<sup>11</sup> Sarah Vaughan, *Revolutionary Democratic State-building: Party, State and People in the EPRDF’s Ethiopia*, 5 (4) JOURNAL OF EASTERN AFRICAN STUDIES 619-640 (2011).

<sup>12</sup> Gedion Timotheows, *Tackling the Imperial Premiership and Abuse of Incumbency: Ideas for Constitutional Reform in Ethiopia*, 6 ETHIOPIAN CONSTITUTIONAL LAW SERIES 162, 210 (2014).

and implemented different approaches they deemed best to achieve development.<sup>13</sup> How to address national development problems is a fundamental agenda common to most of the countries, even if there is a debate with regard to the what and how of development. The quest for designing better system and the kind of implementation process that should take place from among the available dominant approaches (development paths) can inform the discourse on the most effective development model.

Since Second World War (WWII) there has been a major debate about the role of the state in the development process. Of course, it is asserted that the general consensus has emerged in recent times that the state has a crucial/vital role to play in socio-economic development.<sup>14</sup> The consensus as regards the indispensable role of the state in development is however not matched by a consensus as regards the ‘type’ or ‘nature’ of the state most likely to fulfill this vital developmental role. This question is important in the Ethiopian context because it is now firmly established in the literature that the government of Ethiopia has come up with a policy which identifies the state as an effective instrument for development.

That being said, some are doubtful if the constitutional democracy prescribed and sanctioned by the liberal multiculturalist Constitution of Ethiopia could accommodate the DS model.<sup>15</sup> The main focus of this paper is to examine the place of FE in the DS model in the context of Ethiopia.

## **1.2 Problem Statement and relevance of the study**

The struggle for better respect for FE has had a long history. This struggle basically compounded within the content of the international human rights instruments and the jurisprudence developed by domestic courts. However, since WWII ideology seems to dictate the shape of freedom of expression. While the liberal West still insists that the ideals of freedom of expression should be

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<sup>13</sup> See generally MICHAEL P. TODARO & STEPHEN C. SMITH, *ECONOMIC DEVELOPMENT* (11th ed., Addison-Wesley, Boston, 2012), and WILLIAM EASTERLY, *THE ELUSIVE QUEST FOR GROWTH*, (The MIT Press, Cambridge, 2001).

<sup>14</sup> ECONOMIC COMMISSION FOR AFRICA, *Governing Development in Africa: The Role of the State in Economic Transformation*, 75-94 (2011).

<sup>15</sup> Sehen & Tsegaye, *supra* note 7 at 15.

fully implemented under all circumstances, the developing countries following the DS model particularly the East Asian DSs gave priority to socioeconomic rights. To a certain extent, they even accept impediments on freedom of expression as collateral damage as long as the rate of economic growth and development is satisfactory.<sup>16</sup>

The concept of Democratic Developmental State (DDS) has evolved to ensure the continuous use of human rights including FE. The impacts of the DS model on democracy including FE has been the subject of ongoing debates and a growing field of literature among scholars of economics, law and political science. The body of literature seems to be shifting from a focus on the absence of democracy to the possibility of realizing democracy under such a model. Where one group argues that in the 20th century DSs, democracy was scarce, another group contends that 21st century DSs have no option but to subscribe to the ideals of democracy including FE for different reasons.<sup>17</sup>

The Ethiopian DS model argues that a DS can and must be democratic. As such Ethiopia took an initiative to establish DDS model which tries to accommodate all generations of rights and is in accordance with the FDRE Constitution. However, with introduction of legislations that restrict rights than expand them, with very limited political space and strong criticism of authoritarian tendencies, one cannot avoid but ask if in fact the Ethiopian DS model is in line with the FDRE Constitution, with a particular emphasis on FE.

The number of scholarly writings in this area particularly the context of the Ethiopian DS is very limited. As most of the existing scholarships portray DS and FE as incongruous trying to find a working space is not unavoidable. This research hopefully contributes to clarifying the issues and hopefully brings forward some thought to filling the gap. It could be used as a knowledge base for students and could initiate further research for academics and researchers. It could inform the decisions of policy makers and political thinkers in the future.

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<sup>16</sup> Tsun Hang Tey, *Confining the Freedom of the Press in Singapore: A "Pragmatic" Press for "Nation-Building"?*, 30 (4) HUMAN RIGHTS QUARTERLY 876-905 (2008).

<sup>17</sup> Richard Child Hill, Bae-Gyoon Park & Asato Saito, *Introduction: Locating Neoliberalism in East Asia*, in LOCATING NEOLIBERALISM IN EAST ASIA: NEOLIBERALIZING SPACES IN DEVELOPMENTAL STATES 1, 16 (Bae-Gyoon Park, Richard Child Hill, & Asato Saito, ed., Blackwell Publishing, West Sussex, 2012).

### **1.3 Research Questions**

This thesis endeavours to answer one main question, i.e., have the adoption of the DS model impacted the situation of FE in Ethiopia as recognized by the FDRE Constitution? Within the embrace of this broad question, the following specific questions are addressed: What is the scope and content of FE in the Ethiopian DS model? What are the points of debate in relation to the Ethiopian DS model and constitutionalism? And how has it all translated into the exercise of the right?

### **1.4 Methodology**

The thesis primarily relies on desk research of relevant materials on the subject. It will review and analyze primary sources (interviews and observation and secondary sources (books, journal articles...)). The few individuals selected for the interview are believed to offer insight on the topic on account of their position and year of exposure to the media industry and governance. Documentations, including official reports and policy documents, newspaper accounts, and existing literature or formal studies are also used. Comparative reviews, particularly with DS models in South Korea, Japan, Singapore and Botswana will be made when relevant.

### **1.5 Scope of the study**

The study focuses on FE as a case study to show the overall impact the DS model of governance brings on the protection of rights in Ethiopia. The research emphasizes on the law and policy and as such does not look into actual events in all aspects of FE due to lack of comprehensive information, although scanty reference is made.

### **1.6 Organization of chapters**

The thesis is organized into four chapters. This chapter introduces the research, with the background and research questions. It informs the reader of the research area, the research problem, and the methods of analysis. Chapter two presents the theoretical framework of the thesis. It addresses the concept and purpose of FE and DS emphasizing on their particular importance to developing countries. Thus, the policies and experiences of Japan, Singapore and

Botswana are also examined. Chapter three examines the relationship between FE and DS and tries to identify the outcomes of the Ethiopian experience. An attempt will be made to show the impacts of the DS model on FE in Ethiopia in this chapter. The conclusion and recommendations complete the thesis in chapter four.

## Chapter Two

### Fundamentals of Developmental State and Freedom of Expression

This chapter deals with the theoretical perspectives of the DS and FE, and their implementation in different contexts particularly in developing countries. It generally introduces the concept and basic characteristics of the DS and its challenges, and briefs on the basic principles of FE.

#### 2.1 Fundamentals of Developmental State

##### 2.1.1 The Concept of Developmental State

The term DS is not clearly defined, but was coined by Chalmers Johnson to identify a state-led development model when he published his book, *MITI and the Japanese Miracle* in 1982.<sup>18</sup> The term has been used to refer to state-led economic planning as experienced in the countries of East Asia (EA) and some other countries who won the label since the 1970s.<sup>19</sup> That is why the term ‘DS’ was initially and is still, frequently used to describe countries such as Japan, South Korea, Taiwan, Singapore and Viet Nam, which have experienced rapid economic growth through state-led policies or interventions.<sup>20</sup>

However, for Johnson, the critical element of the DS was not its economic policy, but its ability to mobilize a nation around economic development.<sup>21</sup> For him, ‘DS’ is defined as the seamless web of political, bureaucratic and moneyed influences that structures economic life.<sup>22</sup> Johnson explains the state constructed under the DS model as “neither socialist, nor free market.”<sup>23</sup>

Similar to Johnson, Fritz and Menocal defined a DS as a state that possesses the vision, leadership and capacity to bring about a positive transformation of society within a condensed

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<sup>18</sup> Meredith Woo-Cumings, *Introduction: Chalmers Johnson and the Politics of Nationalism and Development*, in *THE DEVELOPMENTAL STATE* 1, 1-2 (Meredith Woo-Cumings ed., Cornell University Press, Ithaca, 1999).

<sup>19</sup> Sehen & Tsegaye, *supra* note 7 at 3.

<sup>20</sup> Laura Routley, *Developmental States: A Review of the Literature*, 3 *ESID WORKING PAPER* 3, 4 (2012).

<sup>21</sup> Cited in Woo-Cumings, *supra* note 18 at 6-7.

<sup>22</sup> Andrzej Bolesta, *China as a Developmental State*, 5 *MONTENEGRIN JOURNAL OF ECONOMICS* 105, 105 (2007).

<sup>23</sup> Woo-Cumings, *supra* note 18 at 1-2.

period of time.<sup>24</sup> They observe that through the expansion of public services such as education, health care and agricultural extension DSs enhance opportunities to participate in the modern economy.<sup>25</sup> In the context of EA in the late twentieth century, it is argued that DS manifested itself as ‘the phenomenon of state macroeconomic planning’ that supports and coordinates the developmental efforts of all relevant actors towards their common interest.<sup>26</sup>

The nature of the DS is seen in two components: ideological and structural. According to Mkandawire, economic growth is the center of the ideological aspect of DS:<sup>27</sup>

In terms of ideology, a developmental state is essentially one whose ideological underpinning is ‘developmentalist’ in that it conceives its ‘mission’ as that of ensuring economic development, usually interpreted to mean high rates of accumulation and industrialization. At the ideational level, the elite must be able to establish an ‘ideological hegemony’, so that its developmental project becomes a ‘hegemonic’ project to which key actors in the nation adhere voluntarily.

The structural component gives the state the capacity to effectively implement policy. Such capacity is a result of political, institutional, and technical factors resulting from the autonomy of the state.<sup>28</sup> Such factors enable the state to execute national development, through steady high rates of economic growth and structural change.

### **2.1.2 Basic Features of the Developmental State**

There are fundamentally different variants of the DS. Even in the EA context the characteristics of the DSs is not the same. However, many scholars agree that there are some crucial and commonly held features that define the DS.<sup>29</sup> Among these key features of DSs, state-led development is the key one. How states should intervene in the market, and what role the state

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<sup>24</sup> Verena Fritz & Alina Rocha Menocal, *Developmental States in the New Millennium: Concepts and Challenges for a New Aid Agenda*, 25 (5) DEVELOPMENT POLICY REVIEW 531, 533 (2007).

<sup>25</sup> Ibid.

<sup>26</sup> Bolesta, *supra* note 22 at 106.

<sup>27</sup> Thandika Mkandawire, *Thinking about Developmental States in Africa*, 25 (3) CAMBRIDGE JOURNAL OF ECONOMICS 289, 290 (2001).

<sup>28</sup> Ibid.

<sup>29</sup> Those who argue that DS is only a governance model or growth path and deny its ideological component presents this lack of commonly held features as evidence to support their argument.

should play in development has remained a controversial topic.<sup>30</sup> The set of neoliberal policies advocated by academics, policy makers, and political elites, which eventually converged in what came to be known as the ‘Washington Consensus’, which primarily aim at reducing the state involvement in the economy, has dominated the international economic and political arena since the early 90’s. Rather than seeing the state as the agent which could act to produce growth, these neo-liberal approaches saw the state as part of the problem and pushed to reduce its size and influence in order for development to take off.<sup>31</sup> The Washington Consensus had three big ideas: a market economy, openness to the world, and macroeconomic discipline.<sup>32</sup> More generally, the Washington Consensus has come to be associated with ‘market fundamentalism,’ the view that markets solve most, if not all, economic problems by themselves.<sup>33</sup>

As opposed to the Washington Consensus, the DSs justify their active involvement in the economy with the presence of market failures in the developing countries. The belief that market failure is a pervasive feature of the underdeveloped economy led the state to have an important role to play in correcting it.<sup>34</sup> The assumption in DSs is that developing economies are surrounded with imperfections in information, limitations in competition, and incomplete markets.<sup>35</sup>

In the DS model, the state is expected to play a leading role in terms of planning, investments, and directives.<sup>36</sup> Particularly in developing countries, the model encourages the active role of the state in the early stages to successfully achieve economic growth. The EA governments pursued a series of policies, including tariff protection, subsidies, and other types of controls aimed at developing selected productive sectors of economic activity.<sup>37</sup> The superior economic

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<sup>30</sup> Routley, *supra* note 20 at 4-5.

<sup>31</sup> *Ibid.*

<sup>32</sup> Narcís Serra, Shari Spiegel, & Joseph E. Stiglitz, *Introduction: From the Washington Consensus Towards a New Global Governance*, in *THE WASHINGTON CONSENSUS RECONSIDERED-TOWARDS A NEW GLOBAL GOVERNANCE* 3, 3 (Narcis Serra & Joseph E. Stiglitz ed., Oxford University Press, Oxford, 2008).

<sup>33</sup> *Ibid.*

<sup>34</sup> Ziya Öniş, *The Logic of the Developmental State*, 24 (1) *COMPARATIVE POLITICS* 109, 109 (1991).

<sup>35</sup> Serra, Spiegel, & Stiglitz, *supra* note 32 at 3-4.

<sup>36</sup> Hugo Radice, *The Developmental State under Global Neoliberalism*, 29 (6) *THIRD WORLD QUARTERLY* 1153, 1154 (2008). *See also* Öniş, *supra* note 34 at 110.

<sup>37</sup> Esteban Pérez Caldentey, *The Concept and Evolution of the Developmental State*, 37 (3) *INTERNATIONAL JOURNAL OF POLITICAL ECONOMY* 27, 27 (2008).

performance of the EA economies is to a large extent the consequence of very high levels of investment by the state.<sup>38</sup> Of course, more investment was channeled to certain key industries than wouldn't have occurred in the absence of government intervention, and they were exposed to international competition in foreign markets by design.<sup>39</sup>

Another characteristic of DSs is the emphasis and achievements on accelerated economic growth and development. In the DS model, economic development defined in terms of growth, productivity, and competitiveness, constitutes the single-minded priority of state action.<sup>40</sup> In some quarters, rather than seeing growth as part of development, the terms *development* and *growth* are used interchangeably. In recent times, however, developmental economists show that the two terms do not have the same meaning even if they are closely related.<sup>41</sup> Commonly economic development is measured by using rates of growth of income per capita or per capita Gross National Product (GNP) to take into account the ability of a nation to expand its output at a rate faster than the growth rate of its population, without taking into consideration the living conditions of people.<sup>42</sup>

Amartya Sen aptly argues that “economic growth cannot be sensibly treated as an end in itself; development has to be more concerned with enhancing the lives we lead and the freedoms we enjoy.”<sup>43</sup> He argued:

In the “people centered development” the focus is on the reduction or elimination of poverty, inequality, and unemployment as well as improvement in the quality of life (higher incomes, better education, higher standards of health and nutrition, greater individual freedom, and a richer cultural life) reflected through gains in literacy, schooling, health conditions and services, and provision of housing.<sup>44</sup>

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<sup>38</sup> Öniş, *supra* note 34 at 111-112.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Id.*, 111.

<sup>41</sup> Sehen & Tsegaye, *supra* note 7 at 3.

<sup>42</sup> *Ibid.*

<sup>43</sup> AMARTYA SEN, DEVELOPMENT AS FREEDOM 14-15, (Alfred A. Knopf, Inc., New York, 1999).

<sup>44</sup> *Ibid.*

The autonomy of the bureaucracy is another feature of the DSs. In the DSs, the bureaucracy is given sufficient scope to take initiatives and operate effectively. This is true particularly in the EA DSs. They established a specialized bureaucratic apparatus that had ample powers and coordinated the developmental efforts, at least in their initial stages.<sup>45</sup>

In EA, the bureaucrats discharge their key responsibility under the umbrella of state agencies that created an alliance between politics and the economy where the objective of the political elite is to legitimize the actions of the elite bureaucratic agencies and make space for the latter's actions.<sup>46</sup> As the bureaucrats were expected to keep constant contacts with the politicians and the society to make an informed decision on matters that fall under their jurisdiction, they served as a bridge between the political leadership and the society.<sup>47</sup>

The major challenge the bureaucrats faced in EA was avoiding pressures from both the sides of politicians and the business people.<sup>48</sup> One way they used to avoid such an unhealthy pressure was establishing close institutionalized links between the elite bureaucracy and private business for consultation and cooperation.<sup>49</sup> These organizational and institutional links were crucial in generating a consensus on goals, as well as in exchanging information, both of which constitute essential components of the process of policy formulation and implementation.<sup>50</sup>

In this context, the professionalism of the bureaucracy is important in the DS to protect itself from the arbitrary interference of the political elites. Of course, the bureaucracy needs to protect itself from the undue interference and pressure while at the same time maintaining its connections with the society. In other words, the autonomy has to be embedded. Peter Evans' term 'embedded autonomy' describes this double move of the bureaucracy not being adversely influenced by interest groups but remaining connected enough to society in order to act to ensure

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<sup>45</sup> Caldentey, *supra* note 37 at 27.

<sup>46</sup> Öniş, *supra* note 34 at 111.

<sup>47</sup> *Ibid.* This is what nodal agencies or pilot organizations like the Japanese Ministry of International Trade and Industry (MITI) and the South Korean Economic Planning Bureau (EPB) did. *See* for details Caldentey, *supra* note 37 at 28-29. Vivek Chibber, *Building a Developmental State: The Korean Case Reconsidered*, 27 (3) *POLITICS & SOCIETY* 309, 313 (1999).

<sup>48</sup> Öniş, *supra* note 34 at 111.

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

growth and (to an extent) redistribution.<sup>51</sup> This embedded autonomy is seen not only to be a condition which enables the emergence of DSs but rather it is seen by many to be one of the factors which necessarily has to be present for a state to be considered developmental.<sup>52</sup>

Developmental structures or state capacity is another feature for the DSs. To completely transform a state to DS, the political will to follow developmental policies should be supported by the institutional, technical, administrative and political capacity to implement these policies.<sup>53</sup> The capacity of the EA states to implement effective and coherent development strategies both institutionally and socio-politically is well recognized.<sup>54</sup>

Successful DSs, within the bureaucracy, require enhanced capacity of its agencies and institutions formulate and implement policies. One way to enhance their capacity and the means to do that is through securing their internal cohesiveness.<sup>55</sup> The most important means for the state to secure internal coherence is for it to be endowed with an effective, rule-following bureaucracy.<sup>56</sup>

The capacity of DSs will be enhanced in the presence of development-oriented leaders. DSs need a committed leadership that is embedded in the 'right' context of demands.<sup>57</sup> They are usually characterized by a leadership which is strongly committed to developmental goals, and which places national development ahead of personal enrichment and/or short-term political gains.<sup>58</sup>

Committed and development-oriented leadership usually creates national consensus by forging different interests of the society and pointing them to the same direction. It is submitted that the

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<sup>51</sup> John L. Campbell, *Book Review: Peter Evans, Embedded Autonomy: States and Industrial Transformation*. Princeton: Princeton University Press, 1995, 27 THEORY AND SOCIETY, 103-146 (1998).

<sup>52</sup> Routley, *supra* note 20 at 20-21.

<sup>53</sup> Mkandawire, *supra* note 27 at 290.

<sup>54</sup> Öniş, *supra* note 34 at 110-111.

<sup>55</sup> Vivek Chibber, *Bureaucratic Rationality and the Developmental State*, 107 (4) AMERICAN JOURNAL OF SOCIOLOGY 951, 951-952 (2002).

<sup>56</sup> *Id.*, 952.

<sup>57</sup> Fritz & Menocal, *supra* note 24 at 534-535.

<sup>58</sup> *Ibid.*

absence of national consensus will hinder the success of developmental states.<sup>59</sup> State capacities generally cannot increase if a developmental commitment among the state elite is missing or insufficiently resolute.<sup>60</sup> It is usually necessary for the elite to expound a vision that connects the state and society in a mutually binding way, through some form of shared 'national project'.<sup>61</sup>

## 2.2 Fundamentals of Freedom of Expression

It is difficult to define the concept of freedom of expression (FE). FE refers to a bundle of rights including, but not limited to, the right to impart, seek, and receive information and ideas without any barrier. In other words, FE is the liberty to freely say what one pleases, as well as the co-related liberty to hear what others have stated.<sup>62</sup> In this context, it is important to note that there exists very little difference between FE, right to FE, freedom of speech, freedom of information, and freedom of the press.<sup>63</sup>

FE covers all forms of expression including television, radio, newspaper, magazine, book, motion picture, and electronic documents on computer network.<sup>64</sup> In some contexts, freedom of speech could specifically refer to communications through the medium of the broadcasting media while freedom of the press is related with the print media. The freedom comprises, within its content, three other freedoms: freedom of opinion, freedom of information and freedom of the press, these three liberties being interdependent and unable to manifest one in the absence of the other.<sup>65</sup> Freedom of opinion refers to the rights of the individual to hold and impart opinions of his/her choice. To put it differently, freedom of opinion involves both an 'inner' (*holding* personal views) and an 'outer' element (*expressing* personal views).<sup>66</sup> The expression aspect of it

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<sup>59</sup> Id, 535.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Elisabeth Zoller, *The United States Supreme Court and the Freedom of Expression*, 84 INDIANA LAW JOURNAL 885, 887-888 (2009).

<sup>63</sup> Daniela Valeria Iancu, *Freedom of the Press - A Component of Freedom of Expression*, 1 ACTA UNIVERSITATIS DANUBIUS JURIDICA 57, 58 (2010).

<sup>64</sup> 7 THE WORLD BOOK OF ENCYCLOPEDIA 506, (2001).

<sup>65</sup> Iancu, *supra* note 63 at 59.

<sup>66</sup> Daniel Overgaauw, *The Paradoxes of Liberty: The Freedom of Speech (Re-) Considered*, 2 (1) AMSTERDAM LAW FORUM 25, 25 (2010).

consists of the right to speak out privately or publicly.<sup>67</sup> The later part of freedom of expression encompasses the right to dissent and the right to disagree.<sup>68</sup>

Freedom of information is related with the right to have access to information and not to be subjected to censorship. It also embraces the right to distribute literatures and necessarily protects the right to receive literatures which is distributed. It is said that liberty in circulating is an essential to the freedom as a liberty of publishing since publication without circulation would be little value.

Access to means of expression is in many cases a necessary condition for participation in the political process of any nation, and therefore something to which citizens have an independent right.<sup>69</sup> The state has to ensure that the principal means of expression in the society do not fall under the control of any particular segment of the community.<sup>70</sup>

Freedom of the press is mostly understood in the context of the institutional aspect of FE. Individual citizens may lack the resources to compile and assess the relevant information by themselves.<sup>71</sup> Rather they rely on the media outlets to serve them as a principal instrument by accomplishing the necessary fact-finding mission.<sup>72</sup> In other words, freedom of the press is the right of the media institutions and the individuals exercising their FE through them.

FE is one of the basic human rights recognized under all major international and regional human rights instruments. The International Covenant on Civil and Political Rights (ICCPR),<sup>73</sup> which Ethiopia ratified on 11 June 1993, imposes formal legal obligations on State Parties to respect its provisions, and guarantees in Article 19 the right to FE in the following terms:

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<sup>67</sup> THE WORLD BOOK OF ENCYCLOPEDIA, *supra* note 64 at 506.

<sup>68</sup> Zoller, *supra* note 62 at 887-888.

<sup>69</sup> Thomas Scanlon, *A Theory of Freedom of Expression*, 1 (2) PHILOSOPHY AND PUBLIC AFFAIRS 204, 223 (1972).

<sup>70</sup> *Ibid.*

<sup>71</sup> Anthea J. Jeffery, *Free Speech and Press: An Absolute Right?*, 8 (2) HUMAN RIGHTS QUARTERLY 197, 197 (1986).

<sup>72</sup> *Ibid.*

<sup>73</sup> Adopted by the U.N. General Assembly on December 16th, 1966, and entered into force on March 23rd, 1976.

- (1) Everyone shall have the right to freedom of opinion.
- (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Regional human rights instruments, including the African Charter on Human and Peoples' Rights (ACHPR),<sup>74</sup> for which Ethiopia is a party since 15 June 1998, also protect FE in terms that are generally similar to the ICCPR.

The human rights instruments noted above, as well as the jurisprudence of international judicial bodies and of courts in many democratic jurisdictions, affirm the fundamental importance of FE as a key human right underpinning democracy and levy upon states the responsibility to respect, protect and fulfill the right of freedom of expression.<sup>75</sup>

Like many other rights the right to FE is not formulated as an absolute right. Those who establish the inalienable nature of FE have tried their best to widen the scope of the right. On the other hand, those whose focus is on the damages or bad consequences of FE find ways of restricting it. However, determining the proper limits of FE is one of the most difficult and challenging of tasks.<sup>76</sup>

Reasonable restraints on FE as may be required for the general good is acceptable in most cases.<sup>77</sup> As a matter of principle, the government must show strong grounds for interference.<sup>78</sup> In all probability, it is argued that the government should not prohibit the expression of an idea

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<sup>74</sup> African Charter on Human and People's Rights (ACHPR), adopted by the Assembly of Heads of States and Government of the Organization of African Unity (OAU), at their 18<sup>th</sup> Ordinary Conference held in Nairobi, Kenya June 26<sup>th</sup> 1981, OAU-Document CAB./LEG/673 Rev. 5, which came into force on 21<sup>st</sup> October 1986.

<sup>75</sup> ARTICLE 19, *The Legal Framework for Freedom of Expression in Ethiopia* 1, 7 (2003). See also The Human Rights Committee Fact Sheet No. 15 (Rev.1) Civil and Political Rights.

<sup>76</sup> Jeffery, *supra* note 71 at 198.

<sup>77</sup> STEPHEN M. FELDMAN, *FREE EXPRESSION AND DEMOCRACY IN AMERICA: A HISTORY* 1-2 (The University of Chicago Press, London, 2008).

<sup>78</sup> ERIC BARENDT, *FREEDOM OF SPEECH* 7 (Oxford University Press, Oxford, 2005).

simply because society finds the idea itself offensive or disagreeable.<sup>79</sup> In this context, Barendt rightly states: “[i]t would be inconsistent with any free speech principle, worthy of the name, if a publication could be stopped on the ground merely that it is offensive to some people, or could be penalized because it contributes to disorder or lowers the government’s authority or reputation.”<sup>80</sup>

Similarly, all international and regional human rights treaties of the twentieth century, including ICCPR, recognize that limitations can be placed on FE under certain conditions.<sup>81</sup> Article 19(3) of the ICCPR lays down the conditions which any restriction on FE must meet, and state that any restriction on FE must meet a strict three-part test. This test, which is considered to be a high standard that any interference must overcome, requires that any restriction on FE shall be prescribed by law, must be imposed to serve a legitimate aim, such as protection of national security, public morals, public order, and public health and should be necessary in a democratic society.<sup>82</sup>

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<sup>79</sup> Feldman, *supra* note 77 at 2.

<sup>80</sup> Barendt, *supra* note 78 at 7.

<sup>81</sup> Elisabeth Zoller, *Freedom of Expression: “Precious Right” in Europe, “Sacred Right” in the United States?*, 84 INDIANA LAW JOURNAL 803, 804-805 (2009).

<sup>82</sup> ARTICLE 19, *supra* note 75 at 12.

## Chapter Three

### Freedom of Expression in the Context of Developmental State: The Case of Ethiopia

#### 3.1 Aspirational Developmental State in Ethiopia

In Ethiopia, the term DS is increasingly being used only in recent times.<sup>83</sup> It is argued that identifying DSs prior to their attainment of successful growth is an extremely difficult task.<sup>84</sup> As a result, one writer used the phrase ‘aspirational DS’ to refer to the Ethiopian case while stating the fact that the political actors are stating an intention to create a DS since 2012.<sup>85</sup> This is of course in line with the view that DS does not necessarily develop as long as ‘the stuff of ambition or the moral ambition to develop’ is available.<sup>86</sup>

Despite being in the pipeline since 2001, it is only after 2005 that Ethiopia has officially endorsed the DS path.<sup>87</sup> Particularly, it is asserted that the controversial 2005 general election has given a big boost for the emergence of the policy of developmentalism.<sup>88</sup> In 2006, the then Prime Minister, Meles Zenawi, produced a paper entitled “*African Development: Dead Ends and New Beginnings*”, and in his 2012 article ‘*States and Markets: Neoliberal Limitations and the Case for a Developmental State,*’ he explained the model of DS and the prerequisites of the state required to successfully implement it. Meles declaimed that the views expressed in both writings is personal and do not necessarily reflect the official position of the Government of Ethiopia. However, subsequent party and government documents on DS seem to be revisions of these papers. Moreover, upon his death, in the official obituary, the party has acknowledged that all the

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<sup>83</sup> Fana Hagos Berhane, *Law and Development Paradigm*, in LAW AND DEVELOPMENT, AND LEGAL PLURALISM IN ETHIOPIA 17, 28 (Elias N. Stebek and Muradu Abdo, ed., JLSRI, Addis Ababa, 2013).

<sup>84</sup> Fritz & Menocal, *supra* note 24 at 534.

<sup>85</sup> Routley, *supra* note 20 at 12.

<sup>86</sup> Woo-Cumings, *supra* note 18 at 4.

<sup>87</sup> Alex de Waal, *Ethiopia: Is State-Building Still Possible?*, in THE REAL POLITICS OF THE HORN OF AFRICA: MONEY, WAR AND THE BUSINESS OF POWER 155, 167-168 (Alex de Waal ed. 2015).

<sup>88</sup> Asnake Kefale Narratives of Developmentalism and Development in Ethiopia: Some Preliminary Explorations (2010), [http://scholar.google.com/scholar\\_url?url=http://aegis-eu.org/archive/ecas4/ecas-4/panels/41-60/panel-57/Asnake-Kefale-Full-paper.pdf&hl=en&sa=X&scisig=AAGBfm1n4kkTDWmYGuZ-18wLoBur4\\_cb7g&nossl=1&oi=scholar/](http://scholar.google.com/scholar_url?url=http://aegis-eu.org/archive/ecas4/ecas-4/panels/41-60/panel-57/Asnake-Kefale-Full-paper.pdf&hl=en&sa=X&scisig=AAGBfm1n4kkTDWmYGuZ-18wLoBur4_cb7g&nossl=1&oi=scholar/) (last visited June 23, 2015).

major policies and strategies of the government particularly those explaining the DS model are designed by the late Prime Minister.<sup>89</sup>

In these two papers, Meles argued that the DS resolves both political and socioeconomic problems of a developing country. First and for most, Meles argued that the purpose of DS for developing countries is rectifying pervasive market failure that is inherent and to some extent definitional to a development deficit in these countries. For Meles, the existing market in these countries is not guiding resources to growth inducing sector and largely the market is not providing enough incentive for a benevolent private sector investment on growth accruing sector.<sup>90</sup>

Meles contended that as the African states are naturally composed of group of people who responds and maximizes both individual and collective interests, it is possible to have a state clean of all rent seeking tendencies.<sup>91</sup> Generally, he admitted that African states have a history of rent seeking and predatory but not because of the size of the state. He noted that rent seeking and patrimonial states are not about the size of the government.<sup>92</sup>

To the contrary, Meles was of the opinion that if the state is in position to create the proper blend of norms, values and rules to reduce uncertainty and transaction costs, no matter what the size of the government accelerated growth and development will be achieved.<sup>93</sup> The creation of such social values and norms is called social development or social capital accumulation. For Meles, social development is thus not only an essential element of development but also a critical instrument of accelerated economic growth.<sup>94</sup>

The works of Meles and the official documents of the government show that the Ethiopian DS model gives emphasis to phased structural transformation that began with agricultural development and later spilled over into industry. Recent publications of the ruling party explain

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<sup>89</sup> For this reason, in this thesis whenever the idea of Meles is referred, it can be considered the official stance of the government as well.

<sup>90</sup> Meles Zenawi, *States and Markets: Neoliberal Limitations and the Case for a Developmental State*, in GOOD GROWTH AND GOVERNANCE IN AFRICA: RETHINKING DEVELOPMENT STRATEGIES 140, 142-143 (Akbar Noman *et al* ed., Oxford University Press, Oxford, 2012).

<sup>91</sup> *Id*, 143-144.

<sup>92</sup> *Ibid*.

<sup>93</sup> *Id*, 146-147.

<sup>94</sup> *Ibid*.

in detail how economic transformation is at work in the country.<sup>95</sup> The documents contend that the economic successes that the country witnessed in the last decade or so should be credited to the democratic developmental strategies and practices.

On the other hand, almost all of the opposition political parties accuse the regime of using development as an instrument of consolidating its grip on power by undermining constitutional democracy. Temesgen Zewdie, one of the influential leaders of Coalition for Unity and Democracy (CUD aka Kinjit) and former MP, maintains that in the name of economic development the ruling elites are using the model so as they would not face the challenges of democratic dissent and preserve their illegitimate and unconstitutional authority to misrule without the democratic consent of the people.<sup>96</sup> In the same way, it is argued that the DS model is an attempt to justify a heavy hand in the Ethiopian economy by the government.<sup>97</sup> According to Messay Kebede, the recourse to the DS model has a purpose of creating the conditions for a long-term rule of EPRDF by ‘siphoning off popular support from opposition parties to the point of making them irrelevant’.<sup>98</sup>

Despite such criticism, EPRDF contends that the adoption of DS is a well weighed response to the existing bad conditions in the country. In fact, when the ruling party came to power in 1991 Ethiopia was still suffering from ‘two decades of civil wars, famine, ethnic conflicts, military dictatorship, the lowest level of development, and a weakly construct state’.<sup>99</sup> As a result, the country’s economy was deteriorating leading to drought, poverty, unemployment, very poor human development indicators, and the government did not have adequate financial resources at its disposal to provide essential public services.<sup>100</sup> Thus, it is argued that the new government of

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<sup>95</sup> Six publications on different topics including the GTP evaluation were distributed in the party’s 9<sup>th</sup> Annual Conference in Bahir Dar on March 2013. But the publication entitled ‘*Seketamawi Ye Tehadiso Guzuachin Ena Mechiw Bruh Tesfachin*’ (March 2013) details the successes of developmental state in Ethiopia, see pp. 43-87.

<sup>96</sup> Temesgen Zewdie, EPRDF’s Way of Denying the Inalienable (08 February 2016), <http://addisfortune.net/columns/eprdfs-way-of-denying-the-inalienable/> (last visited Feb. 22, 2016)

<sup>97</sup> Tsehai Alemayehu, *The Ethiopian Developmental State: Requirements And Perquisites*, 7 (8) JOURNAL OF BUSINESS AND ECONOMICS RESEARCH 11, 16 (2009).

<sup>98</sup> Messay Kebede, *The Fallacy of TPLF’s Developmental State* (2011), <http://www.ethiopianreview.com/content/33340/> (last visited June 11, 2015).

<sup>99</sup> THE WORLD BANK (2013), *Building the Developmental State – A Review and Assessment of the Ethiopian Approach to Public Sector Reform*, (Report No: ACS3695), ii.

<sup>100</sup> Ibid.

Ethiopia embarked upon a long term strategy of state transformation that ultimately found expression in the political leadership's vision of a "DS".<sup>101</sup> As will be explained below, some argue that in the years between 1991 and 2005 EPRDF was preparing the country for take-off through the Revolutionary Democracy (RD) ideology.

As it is common in DS, now, the Ethiopian government actively involves and intervenes in the market or the economy. Accordingly, Ethiopia's DS model has given power and authority to the government bureaucracy to plan, supervise, and implement the developmental processes of the country.<sup>102</sup> In fact, it is indicated that the DS model gives due attention to priority industries such as garments and textiles, agro-processing, meat processing, leather and leather products, and construction.<sup>103</sup> The ruling party's political leaders argued that the decision for the state to actively lead the development process is fruitful.<sup>104</sup>

For Elias Nour, in the context of Ethiopia, institutional capabilities which are conditions for effective developmental pursuits and for the corresponding rise in standards of living include 'the requisite knowledge base, work ethic, level of trust in the society, the culture of saving and investment, conducive laws and policies, good governance, and meritocratic job assignments.'<sup>105</sup>

However, compared with the EA countries there is great gap between the situation in Ethiopia and the EA DSs on the creation of autonomous bureaucracy. While the traditional EA DS model relies on an independent state bureaucracy committed to economic growth and transformation, within the Ethiopian approach the ruling party overlaps with state administration at all layers.<sup>106</sup>

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<sup>101</sup> Ibid.

<sup>102</sup> Asayehgn Desta, *The Effects of Rent-seeking in Dissipating Developmental Efforts: The Ethiopian Experience*, 2 (1) INTERNATIONAL JOURNAL OF BUSINESS AND MANAGEMENT TOMORROW 1, 2 (2012).

<sup>103</sup> ARKEBE OQUBAY, *MADE IN AFRICA: INDUSTRIAL POLICY IN ETHIOPIA* 79 (Oxford University Press, Oxford, 2015).

<sup>104</sup> Alex de Waal, *The Theory and Practice of Meles Zenawi*, AFRICAN AFFAIRS 148, 152 (2012).

<sup>105</sup> Elias N. Stebek, *Ambiguities and Inconsistencies in the 'Prescriptions' toward 'Development'*, 6 MIZAN LAW REVIEW 311, 332 (2012).

<sup>106</sup> Emanuele Fantini, *Developmental State, Economic Transformation and Social Diversification in Ethiopia*, ISPI 1, 4 (Report No. 163, 2013).

As a result, the civil service in Ethiopia is not immune from politics<sup>107</sup> and the public sector has not been able to either to retain or attract capable people.<sup>108</sup>

Assefa notes that, in some institutions, EPRDF's reform agenda has been used as a means to avoid 'unwanted technocrats' and replace them by political loyalists.<sup>109</sup> He writes: "Instead of insulating this sector from politics, EPRDF indeed attempts to swell its size by increasing its members in the civil service. It is widely believed that recruitment, retention and promotion to higher positions within the civil service are very much influenced by membership in the ruling political party and political affiliation."<sup>110</sup>

In any country, the amount and types of FE will vary with the form of government, the degree of political stability, the level of wealth, the state of technology, the general level of education, the culture, and the structure of the news media and other media of expression and communication, and numerous other factors.<sup>111</sup> No doubt, these factors are of significant importance for Ethiopia as well. However, the primary emphasis lies only on the model of governance. The focus of this thesis is therefore, examining the impact of the model of governance, if there is any, on FE in Ethiopia.

### **3.2 Illiberal measures?**

Generally speaking, in Ethiopia, the tradition of suppression reigns over the tradition of dissent when it comes to using FE for political purposes.<sup>112</sup> However, the FDRE Constitution and the legal framework governing FE have provided a powerful means to change this deeply rooted culture in the country. In fact, FE and freedom of the press were some of the many fundamental rights recognized by the Transitional Government of Ethiopia (TGE) under the leadership of

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<sup>107</sup> Recently the government has engaged in massive indoctrination program in the civil service and the higher learning institutions.

<sup>108</sup> Assefa defines civil service as experts that implement policies and whose tenure is not dependent on elections but on merit and efficient delivery of services. See Assefa Fiseha, *Development with or without Freedom?*, in REFLECTIONS ON DEVELOPMENT IN ETHIOPIA: NEW TRENDS, SUSTAINABILITY AND CHALLENGES 69, 73 (Desalegn Rahmato et al, ed., Forum for Social Studies and Friedrich Ebert Stiftung, Addis Ababa, 2014).

<sup>109</sup> Id, 76.

<sup>110</sup> Ibid.

<sup>111</sup> LARRY ALEXANDER, IS THERE A RIGHT OF FREEDOM OF EXPRESSION?, 186 (Cambridge University Press, New York, 2005).

<sup>112</sup> STUDY ON THE POLITICAL TRANSITION IN AFRICA: ETHIOPIA CASE STUDY 286 (Costantinos Berhe et al eds., Global Coalition for Africa Centre for Human Environment, Washington D.C, 1994).

EPRDF. Moreover, the transitional government has made commitments to promote civil liberties and pledged to support FE.<sup>113</sup> Indeed, after many decades of total government control over the mass media, the decision to abolish formal censorship bodies that existed for many decades during the previous regimes was a fundamental change.<sup>114</sup> Except during brief spells of turmoil in central government, the country ‘never enjoyed an uncensored press before’.<sup>115</sup> In addition, private press was allowed in the Transitional Charter.<sup>116</sup> Then, when a Press Law was promulgated in October 1992, details were sorted out.<sup>117</sup> These measures led to an unprecedented proliferation of privately run newspapers and magazines.<sup>118</sup>

At the beginning of the transitional period, the government has tolerated numerous critical and sometimes misinforming or abusive articles and cartoons, which were published in the private press.<sup>119</sup> In fact, it is indicated that many of the publications were almost unanimously hostile to the government that makes way for their existence, and all too eager to find fault.<sup>120</sup> The government’s patience and tolerance was withdrawn in final phases of the transition where the authorities took strong measures against the private press on many occasions, particularly over articles that dispute the government policies.<sup>121</sup>

Then the 1995 FDRE Constitution comes into effect, which in Article 29 provides a comprehensive guarantee for FE. The international and regional human rights instruments which clearly guarantee FE are expressly incorporated into the Constitution.<sup>122</sup> Sub-Article 1 and 2 of Article 29 provides the basic principles of FE with similar words to that of the ICCPR. Likewise, the Constitution under Article 29 (3) (a) prohibits any form of censorship. Furthermore, in Art.

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<sup>113</sup> Berhane G. Mariam, *The Ethiopian Freedom of Mass Media Has Been Disregarded and Still Remains in an Uncertain Future*, 4 NORD-SUD AKTUELL 641, 642 (2002).

<sup>114</sup> *Ibid.*

<sup>115</sup> Andreas, *supra* note 1 at 10.

<sup>116</sup> The Transitional Period Charter of Ethiopia, *Negarit Gazzeta*, No. 1, 22<sup>nd</sup> July, 1991, Art. 1.

<sup>117</sup> Proclamation 34/1992, published on 21 October 1992, *Negarit Gazeta*, 52<sup>nd</sup> year, No. 8.

<sup>118</sup> Shimelis Bonsa, *The State of the Private Press in Ethiopia*, in ETHIOPIA: THE CHALLENGE OF DEMOCRACY FROM BELOW 184, 184 (Bahru Zewde & Siegfried Pausewang ed., Nordiska Afrikainstitutet, Uppsala and Forum for Social Studies, Addis Ababa, 2002).

<sup>119</sup> Berhane, *supra* note 113 at 642.

<sup>120</sup> SARAH VAUGHAN & KJETIL TRONVOLL, THE CULTURE OF POWER IN CONTEMPORARY ETHIOPIAN POLITICAL LIFE 72 (Sida Studies No. 10, 2003).

<sup>121</sup> Berhane, *supra* note 113 at 642.

<sup>122</sup> Article 9 (4) of the FDRE Constitution.

29(3) (b) it guarantees “access to information of public interest”. Sub-article 4 and 5 of the article require the state as well as the private media to be operationally autonomous and to entertain diversity of opinion.

One has to be aware that a constitution only reflects commitment to a general concept of FE.<sup>123</sup> But the particular understandings or conceptions of that freedom in a specific country are best elucidated by subordinate laws and examination of the practice. Thus, it is important to highlight how the general concepts of FE as enshrined under the Constitution have been treated in the subordinate legislations and practiced upon the country’s political scene.

It was still early for FE to be conceptualized and applied when the government was speculating to switch its growth model to DS at the end of 2005. In this respect, Gedion Timothewos writes that the constitutional guarantee of FE is not effective in fostering political dissent and freedom of the press as there is hardly any free press or freedom for political dissent on the ground despite what the Constitution provides.<sup>124</sup>

Unexpectedly, in the run up to the 2005 elections, both government media and the private press enjoyed extensive freedom during the campaign period and on voting day. Back then, Bereket Simon, the former Minister of Information, said “[w]e wanted the people to feel free, to believe in themselves. To see that governments can be criticized if it’s well founded, to show that governments are accountable to the public and that they are bound to be criticized if they make mistakes. We wanted to show we were a tolerant government.”<sup>125</sup>

But the situation took a dramatic turn in the aftermath of the election. Fifteen journalists were among the more than 100 opposition party leaders and civil society leaders that were arrested and tried in the aftermath of the election.<sup>126</sup> The journalists were primarily charged with crimes of “treason” or as “conspirators” of the opposition who were accused of “attempted

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<sup>123</sup> Barendt, *supra* note 78 at 3-4.

<sup>124</sup> Gedion Timothewos, *Freedom of Expression in Ethiopia: The Jurisprudential Dearth*, 4 (2) MIZAN LAW REVIEW 201, 205 (2010).

<sup>125</sup> Quoted in Nicole Stremlau, *The Press and the Political Restructuring of Ethiopia*, 5 (4) JOURNAL OF EASTERN AFRICAN STUDIES 716, 724 (2011).

<sup>126</sup> *Id.*, 716-717.

genocide’, ‘armed rebellion’ and "outrage against the constitution and the constitutional order." They were also accused of trying to stage a conspiracy to overthrow the government.<sup>127</sup> Only a few journalists were charged with violations of the press law.<sup>128</sup>

After 2005, different laws have been enacted by the Ethiopian parliament which challenges liberal understanding of civic and political rights, and narrow political space. The mass media and access to information proclamation, the broadcasting proclamation, the anti terrorism proclamation, and the charities and societies proclamation are some illustrations of that.

Freedom of the Mass Media and Access to Information Proclamation 590/2008 under part III introduced freedom of information law. Indeed, this law on the right of access to information is the first of its kind in the country.<sup>129</sup> Under this law, constitutional and legislative safeguards for access to information in Ethiopia are provided. Consequently, it is pointed out that this is ‘a clear departure from the past and one step forward in the right direction in the field of information’.<sup>130</sup>

However, areas of public and official activity that are excluded from press scrutiny and inquiry or deemed secret under Proc. 590/2008 which include protection of public peace and security, security of individuals, property and witnesses, protection of impartiality of judicial process and criminal investigation, protection of national security, defense, cabinet security, protection of international relations, protection of unlimited and open discussions between ministers and civil servants and protection of impartiality of decisions, and protection of law enforcement operations without obstruction, are highly criticized for being vague and ambiguous.<sup>131</sup> In addition, as the lists of limitations are so broad, it seems that the principle of access to information is guaranteed in exceptional circumstances.

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<sup>127</sup> Tracy J. Ross, *A Test of Democracy: Ethiopia's Mass Media and Freedom of Information Proclamation*, 114 PENN ST. L. REV. 1047, 1052-1053 (2010).

<sup>128</sup> Stremlau, *supra* note 125 at 716-717.

<sup>129</sup> Derbew Temesgen, *Legal Safeguards for Freedom of Information in Ethiopia*, 1 ETHIOPIAN BAR REVIEW 125, 128 (2010).

<sup>130</sup> *Id.*, 129.

<sup>131</sup> Ross, *supra* note 127 at 1055.

Some commentators argue that these limitations are not even in conformity with the Constitution. For one researcher, such prohibited matters are broad enough to make the government's intention of creating an open and transparent government to be ideal.<sup>132</sup> Concerns have been raised locally and internationally that the law is designed to safeguard government information rather than facilitate transparency and public debate.<sup>133</sup> It is contended that the law is 'intended to curb criticism of government leaders and policies, and aims to fortify government officials and institutions with a shield of secrecy impregnable to the prying eyes of the press'.<sup>134</sup>

Even under the Constitution, there are a number of questions that need to be addressed when one comes to limitations imposed on FE through duly enacted laws. Sub-Article 6 and 7 of Article 29 of the Constitution provide limitation grounds on FE. As indicated earlier, the three-part criteria to limit FE includes prescribed by law, serving legitimate aim and necessary in a democratic society. Taking into account this international principle of human rights, which the Constitution makes the benchmark for the interpretation of its bill of rights, the limitation criteria outlined in the Constitution seem to have some gaps.

Article 29 (6) states that limitations of FE can only be made through laws. Thus, it fulfills the first criteria. Under the international instruments, in addition to being prescribed by law, limitations on FE must be necessary in a democratic society to advance the general welfare or the rights and freedoms of others, public health, public moral, safety, order or national security in order to be considered legitimate. Similarly, Article 29 (6) provides the kinds of limitations on FE.

However, the list of grounds is not in conformity to the international instruments. In fact, although the list appears to be exhaustive, it leaves out some grounds of limitation that are usually considered as legitimate grounds of limiting free speech such as national security, public order, public health and the need to uphold the integrity of the judicial process and the fair trial

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<sup>132</sup> Id, 1058-1062.

<sup>133</sup> T. S. Skjerdal, *Between Journalism 'Universals' and Cultural Particulars: Challenges Facing the Development of a Journalism Programme in an East African Context*, 1 JOURNAL OF AFRICAN MEDIA STUDIES 23, 25 (2009).

<sup>134</sup> Ross, *supra* note 127 at 1058-1062.

rights of individuals.<sup>135</sup> For this reason, the list of grounds for limiting freedom of expression, expressly mentioned in the Constitution cannot be taken as an exhaustive list. The danger of this implication is that it seems to invite additions of other “reasonable” grounds of limitation which might ultimately result in a very long list that would jeopardize FE.<sup>136</sup>

Moreover, Article 29 (7) stipulates that “Any citizen who violates any legal limitations on the exercise of these rights may be held liable under the law”. It seems Art. 29 (7), in the absence of Art. 29 (6), only provided the first requirement of the limitation. In relation to this issue, Gedion writes: “If read by itself without taking sub-Article 6 into account, this article might be understood as saying that so long as a limitation of the right has a legal or statutory basis, it is acceptable.”<sup>137</sup> Perhaps the same reason has tempted one researcher to conclude that the country is turning into governance of ‘rule by law’ rather than rule of law while emphasizing that post-2005 legislations have not taken the legitimate aim and democratic necessity into consideration.<sup>138</sup>

Similar concern is raised on Article 43 (7) of the proclamation which provides that defamation and false accusation against "constitutionally mandated legislators, executives and judiciaries" will be prosecutable "even if the person against whom they were committed chooses not to press charge[s]." The provision is also viewed as ‘intending to insulate officials from the embarrassment that accompanies a decision to lodge a complaint’.<sup>139</sup>

The other important legislation on FE is Broadcasting Service Proclamation No. 533/2007 which amended Broadcasting Proclamation No. 178/1999. According to Article 23, bodies not to be issued with licenses include foreigners and political parties. Article 30 (4) lists grounds for limitations on broadcasting media which include undermining the belief of others; committing a

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<sup>135</sup> Gedion, *supra* note 124 at 219-220. See also, Yonas Birmeta, *Freedom of Expression and Crimes against Honor under Ethiopian Law: An Assessment of their Compatibility*, 2 ETHIOPIAN HUMAN RIGHTS LAW SERIES 99, 103 (2008).

<sup>136</sup> Gedion, *supra* note 124 at 219-220.

<sup>137</sup> *Id.*, 213-214.

<sup>138</sup> Adem Kassie, *Rule by Law in Ethiopia: Rendering Constitutional Limits on Government Power Nonsensical*, CGHR WORKING PAPER 1-17 (University of Cambridge Centre of Governance and Human Rights, Cambridge, 2012).

<sup>139</sup> *Id.*, 8.

criminal offense against the security of the State, the constitutionally established government administration or the defense force of the country; maliciously accusing or defaming nation/nationalities, or peoples; and causing dissension among nationalities. As pointed out earlier, in addition to being vague and ambiguous, the proclamation introduces blasphemy and national security as limitation grounds which are clearly absent from the Constitution.<sup>140</sup>

Article 43 of the Broadcasting Proclamation imposes obligation, not only on the state but also on private broadcasting outlets, to allocate free air-time to political parties. However, this right is limited to election times. It is doubtful if these limitations are consistent with the Constitution's stipulations that the state media should be operationally independent from the government and that it should entertain diversity of opinion in the interest of the effective functioning of democracy.<sup>141</sup>

In practice, there is a strong claim that the situation facing human rights defenders and journalists has continued to deteriorate since the passing in 2009 of the Proclamation on Charities and Societies and the Proclamation on Anti terrorism.<sup>142</sup> For instance, under Article 6 of the Anti-terrorism proclamation, journalists are punished with rigorous imprisonment from 10 to 20 years when they publish or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement or other inducement to them to the commission or preparation or instigation of an act of terrorism. Moreover, Articles 12 and 14 of the proclamation give the national security intelligence services unfettered powers to search and impound broadcast equipment and force journalists to reveal sources of their stories. The proclamation has been used to threaten with prosecution human rights activists and journalists for any acts deemed to be terrorism under the

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<sup>140</sup> There is another alternative argument which says that since the FDRE Constitution is interpreted in light of international instruments, and national security is recognized as a limitation ground, it does not mean it is deliberately excluded.

<sup>141</sup> Andargachew Tiruneh, *The State Media in Ethiopia: An Investigation into Whether or not it is a Public Service Media*, 11 ALEMAYEHU HAILE MEMORIAL FOUNDATION'S BULLETIN 50, 62-63 (2013).

<sup>142</sup> Agnès Callamard, *Accountability, Transparency, and Freedom of Expression in Africa*, 77 (4) SOCIAL RESEARCH 1211, 1229-1230 (2010).

law's vague definition of the term.<sup>143</sup> Particularly, the government is continuously accused of using the anti-terrorism proclamation to squash freedom of the press, as well as dissent.

Abusing the anti-terrorism proclamation to attack critical minds is best exemplified with the case of Zone 9 bloggers. On 25 and 26 April 2014, six Zone 9 bloggers (Atnaf Berahane, Mahlet Fantahun, Natnael Feleke, Befeqadu Hailu, Zelalem Kiberet, Abel Wabela) and three journalists (Tesfalem Waldyes, Asmamaw Hailegeorgis, and Edom Kassaye) were arrested by Ethiopia's government. The arrest led to widespread outcry even among those generally supportive of the ruling party's policies.<sup>144</sup> Friends and readers portray the Zone 9 bloggers as young and principled activists pressuring Ethiopia's government to respect the country's liberal 1995 constitution.<sup>145</sup> Before their arrest, they were engaged in advocating freedom of expression.<sup>146</sup>

Initially, the authorities suspect that the bloggers were working with foreign advocacy groups to try to create unrest using social media. Later on, the bloggers including Soliana Shimelis (in absentia) were charged with terrorism. What is frustrating for many is the fact that, after spending a jail term of more than a year they were proved innocent on October 16, 2015. The decision seems to justify the observations of some commentators which accuse the Ethiopian government of failing to balance the essential right of free speech with national security interests.<sup>147</sup>

In May 2012, the African Commission on Human and Peoples' Rights (the African Commission), in its report entitled *Resolution on the Human Rights Situation in the Democratic Republic of Ethiopia* states that it is gravely alarmed by the arrests and prosecutions of journalists and political opposition members, charged with terrorism and other offences including treason, for exercising their peaceful and legitimate rights to freedom of expression and freedom of association. It also calls on the Government of Ethiopia to remove restrictions on

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<sup>143</sup> Ibid.

<sup>144</sup> William Davison, Arrests headline Ethiopia press freedom fears (01 May 2014), <http://www.aljazeera.com/indepth/features/2014/04/arrests-headline-ethiopia-press-freedom-fears-201443012294640663.html/> (last visited Feb. 22, 2016)

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Lindsay Church, Striking the Balance: Combating Terrorism and Preserving the Freedom of Expression in Ethiopia (January 26, 2016), <http://www.harvardilj.org/2016/01/striking-the-balance-combating-terrorism-and-preserving-the-freedom-of-expression-in-ethiopia/> (last visited Feb. 22, 2016)

freedom of expression imposed on the Mass Media by the Access to Information Proclamation and the Anti-terrorism Proclamation that do not conform to rights of freedom of expression provided in international human rights law.

These legal and administrative measures coupled with the practice have substantially changed the state of FE in Ethiopia after 2005. It is noted that the adoption of the DS model in Ethiopia heralded the digression on FE. Tamrat Gebregiorgis, managing editor of the private business weekly *Fortune*, notes that after the adoption of the DS drastic regression from the Constitution based on the laws and the politics is observed. He says:<sup>148</sup>

The FDRE Constitution is a liberal document. But over the years I see regression on the Ethiopian political landscape, and particularly from the side of the ruling party in eroding freedom of expression. Since 2005 EPRDF has come to believe that its outlook and view has to prevail over all others. This has resulted in a regression of allowing dissent to be expressed in public.

Another indicator of the impact of the DS model on FE is the fact that after 2005, the number of private newspapers and magazines has greatly reduced.<sup>149</sup> After the 2005 violence, the majority of the newspapers that were opposed to the government were closed either because their editors and journalists had been arrested, fled the country or due to the printing presses refusing to print their papers.<sup>150</sup> As a result, the impact of the private press is significantly weaker than what it was prior to 2005.<sup>151</sup>

The Ethiopian DS model also shares some features with other DSs on how to handle FE. These include instrumental value of FE, prioritizing socio-economic rights, ideological hegemony, and pushing the private media aside and imposing development journalism.

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<sup>148</sup> Interview with Tamrat Gebregiorgis, Managing Editor of *Fortune*, in Addis Ababa, (May 27, 2014).

<sup>149</sup> Terje S. Skjerdal & Charles Muiro Ngugi, *Institutional and Governmental Challenges for Journalism Education in East Africa*, 28 AFRICAN JOURNALISM STUDIES 176, 177 (2007).

<sup>150</sup> Stremlau, *supra* note 125 at 717.

<sup>151</sup> *Ibid.*

### 3.2.1 Instrumental value of freedom of expression

As noted above, FE has both intrinsic and instrumental values.<sup>152</sup> As the primary emphasis of DSs is to achieve development in a very short period of time, in the initial stages of the DSs, the intrinsic value of FE is not recognized. Rather, FE is suppressed unless its instrumental value is recognized.<sup>153</sup>

Similarly, Ethiopia seems to narrow the scope of FE as it can be inferred from the great deal of emphasis on its use as an instrument of development. The government perceives FE as part of its ‘political project’.<sup>154</sup> Against the basic assumption of the federal normative framework of the Constitution which empowers local administrations to participate in the decision-making process, the government directs policies from the centre. In this context, even if FE is utilized to ‘consult the masses’, the federal government usually do not change its policy afterwards.<sup>155</sup> To the contrary, freedom of discussion and criticism by its members will not change the intended outcome as the “democratic centralism” principle of the ruling party helps to maintain ‘unity of action’.<sup>156</sup> Thus, EPRDF considers the instrumental value of FE and uses it only when ‘beneficial for consolidating power and making better policies’.<sup>157</sup> As a result, the government limits the use of FE to the discussion on the issues of development, rather than broadly enforcing it to reach a consensus on the major issues defining the system such as constitution, issues of succession, federalism, and land reform.<sup>158</sup> Consequently, the state media outlets are allegedly operating with similar philosophy and working procedures to that of the EPRDF.

In the context of using FE as an instrument of development by DSs, its facilitative role for the creation of national consensus and in ensuring accountability on the development project can be

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<sup>152</sup> Yvonne M Burns, *Freedom of Expression under the New Constitution*, 30 (3) THE COMPARATIVE AND INTERNATIONAL LAW JOURNAL OF SOUTHERN AFRICA 264, 266 (1997).

<sup>153</sup> For instance, the DS of Singapore has attracted persistent criticisms from international organizations for being suppressive of freedom of expression. It is argued that freedom of expression serves the executive's narrow political interests rather than promoting independent reporting. As a result, the press control regime has turned the press into an established political institution in Singapore, playing a role of maintaining the status quo. See Tey, *supra* note 16 at 876-878.

<sup>154</sup> Stremlau, *supra* note 125 at 717.

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*

<sup>157</sup> *Id.*, 728.

<sup>158</sup> *Ibid.*

mentioned. The presumption is that, unless national consensus is created on the core values and goals of the society, development will be impeded.<sup>159</sup> While emphasizing on the need to establish broad-based national consensus and warning against exclusion and suppression, Anthea J. Jeffery argues that suppression can only confer a false sense of temporary security; whereas freedom of utterance, even though it is rebellious, constitutes a safety valve that gives timely warning of dangerous pressures in the society.<sup>160</sup>

Of course, it is not important and even impossible for any state to attain 100% consensus in general. But at least there is a need to have consensus on some major issues like on the basic rules of the game. How to create national consensus which outlines ways of conducting developmental roles and how to sustain it is rather a complicated matter in the newly emerging DSs such as Ethiopia. This is where observers witness a delink between a model of a DS and the aspiration of the government in going towards a DS and the practice on the ground. Even those sympathetic to the ruling party question if it is possible to create a common ‘mindset of value’ in a country as vast and diverse as Ethiopia in a short period of time.<sup>161</sup> Similarly, it is submitted that, without first creating consensus and the needed (political) elite coalition around the developmental agenda, shifting towards the DS model may be problematic for Ethiopia.<sup>162</sup> The ruling party also insists that national consensus is important if Ethiopia is going to achieve the desired transformation. For Meles, building consensus on the rules of the game is not only consistent with the requirements of a DS but may also reinforce and consolidate it.<sup>163</sup>

However, those in the opposition camp contend that against its continuous pledge to work on the creation of national consensus, the government is preventing its realization in practice. For instance, Merera Gudina<sup>164</sup> highlights that the ruling party’s hegemonic aspiration is what is

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<sup>159</sup> Jeffery, *supra* note 71 at 210-211.

<sup>160</sup> *Id.*, 205-206.

<sup>161</sup> Alex de Waal, *supra* note 104 at 154.

<sup>162</sup> Sehen & Tsegaye, *supra* note 7 at 14.

<sup>163</sup> Meles Zenawi, African Development: Dead Ends and New Beginning (August 2006), [africanidea.org/m\\_zenawi\\_aug\\_9\\_2006.pdf/](http://africanidea.org/m_zenawi_aug_9_2006.pdf/) (last visited Feb. 22, 2016)

<sup>164</sup> Merera Gudina is a renowned politician and a political scientist active in the Ethiopian politics since 1960s student movement.

preventing the creation of national consensus.<sup>165</sup> He also points out that even if the constitutional framework allows the operation of independent press which can facilitate national consensus, in practice; it has been working under very precarious conditions.<sup>166</sup> One of the major criticisms against the ruling party is related with the fact that the EPRDF's contribution 'to facilitate dialogue or advance broad-based democratic development' is minimal.<sup>167</sup>

In the context of achieving national consensus on core agendas, the role of FE particularly the media is crucial. Free exchange of ideas is considered the best way to identify point of differences and bargain over them. However, in Ethiopia, the tendency of the media is either taking sides and aggravating the problem or merely reflecting on the views and attitudes of the existing polarized and divided societies in the country without trying 'to reconcile differing perspectives on the present and future of the Ethiopian state.'<sup>168</sup> This is probably why Simon Gebremedihen argued that the contents in both the private and the government mass media institutions are not suited to creating national consensus.<sup>169</sup> In relation to this, Stremlau writes: "The emphasis on the developmental state, and the use of the media for such ends, has ignored the latter's potentially powerful role as a space for elite negotiation and reconciliation."<sup>170</sup>

On the other hand, it is asserted that creating a national consensus is not a primary value for the press, rather it is incidental. For instance, Tamrat says: "Our job is to reflect the reality on the ground. Our job is to help people make an informed decision by informing them timely, accurately, and credibly. If that does not promote consensus, then that is it. And if it does, that is a byproduct."<sup>171</sup>

The instrumental value of FE is also vital to ensure accountability. It is obvious that, just like any other projects, those who are responsible for the development projects need to be accountable for

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<sup>165</sup> Merera Gudina, *The Elite and the Quest for Peace, Democracy, and Development in Ethiopia: Lessons to be Learnt*, 10 NORTHEAST AFRICAN STUDIES 160 (2003).

<sup>166</sup> *Id.*, 153-154.

<sup>167</sup> Stremlau, *supra* note 125 at 727-728.

<sup>168</sup> *Ibid.*

<sup>169</sup> Cited in BIRHANU OLANA DIRBABA, *JOURNALISM IN THE CONTEXT OF ETHIOPIAN MASS MEDIA: ESSAYS, RESEARCHES AND REFLECTIONS* 45 (Addis Ababa, 2009).

<sup>170</sup> Stremlau, *supra* note 125 at 729.

<sup>171</sup> Interview with Tamrat Gebregiorgis, Managing Editor of *Fortune*, in Addis Ababa, (May 27, 2014).

their actions. This starts with systematic pre-evaluations to ensure that all the required components for development are present.<sup>172</sup> Furthermore, beginning with the design, such a process requires thorough testing until all its contributors and participants can stand behind it and are willing to be accountable for the end product or products.<sup>173</sup>

In relation to the Ethiopian DS model, Assefa notes that the high economic growth that has been registered for a number of years is overshadowed by corruption.<sup>174</sup> It is also contended that, to build a DS in Ethiopia, rent seeking and patronage, which are closely related with corruption, within the ruling party needed to be thoroughly tackled first.<sup>175</sup> FE particularly investigative reporting can help reduce these problems by ensuring accountability.

### **3.2.2 Prioritizing socio-economic rights**

DSs argue that progress in the areas of social and economic areas is the necessary and sufficient condition for full-fledged practice of FE as outlined in the international human rights instruments.<sup>176</sup> In other words, economic growth and development must first be firmly realized before individuals fully enjoy their civil and political rights including FE.<sup>177</sup> The greater emphasis on development activities in these countries led at times to restrictions upon the exercise of certain human rights, particularly civil and political rights.<sup>178</sup>

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<sup>172</sup> J. Paul Martin, *Development and Rights Revisited: Lessons from Africa*, 3 (4) INTERNATIONAL JOURNAL ON HUMAN RIGHTS 91, 91-92 (2006).

<sup>173</sup> Id, 92.

<sup>174</sup> Assefa, *supra* note 108 at 79.

<sup>175</sup> Alex de Waal, *supra* note 104 at 151-152.

<sup>176</sup> It is interesting to note that classical EA DSs like Japan, Korea and Vietnam were not signatories to the international human rights instruments before they successfully transform their economies. Japan, Korea and Vietnam signed the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1979, 1981, and 1982, respectively. Singapore is still not a signatory to both agreements.

<sup>177</sup> Roland Burke, *Some Rights Are More Equal than Others: The Third World and the Transformation of Economic and Social Rights*, 3 (3) AN INTERNATIONAL JOURNAL OF HUMAN RIGHTS, HUMANITARIANISM, AND DEVELOPMENT 427, 427-428 (2012).

<sup>178</sup> Id, 436. For instance, in Singapore, the enjoyment of civil and political rights was contingent on cultural and economic particularities, viewing any overemphasis on individual rights as impeding development objectives. See also Li-ann Thio, *Singapore: Regulating Political Speech and the Commitment “to Build a Democratic Society”*, 1 (3) INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW 516, 522-523 (2003).

Official reports of the Ethiopian government indicate that the country has achieved encouraging development results, maintaining an economic growth rate of around 11 % for the last decade.<sup>179</sup> Even if the disagreement between international financial institutions and the government of Ethiopia on the rate of growth is rather obvious, the former still confirms that the country's economic growth is one of the highest in Africa.<sup>180</sup> The peculiarity of the Ethiopian case lies in the fact that the process of economic growth is not driven by natural resources extraction.<sup>181</sup>

As a result of strong economic growth, the government of Ethiopia is bringing the poverty rate down.<sup>182</sup> The expansion of public services such as education, health care and transportation is the primary objectives of the DS of Ethiopia and its investment in infrastructure is the highest in the African continent.<sup>183</sup> In fact, there has also been significant improvement in infrastructure such as roads and telephone services.<sup>184</sup> Access to health centers also improved reducing child mortality significantly.<sup>185</sup> Moreover, export has risen sharply and series of hydroelectric dams have boosted the economy.<sup>186</sup>

In line with these successes in the socio-economic areas, Ethiopia seems to push the place of FE from its holistic purpose to that of accelerating these specific priority areas. Ideally, even as an instrument of development, FE could help to ensure the fair distribution of the wealth created as an outcome of the development projects. However, in the Ethiopian context, the role of FE in adjusting the fair distribution of wealth is insignificant as the great majority of the media outlets are owned by the state and the government is not making it an agenda. Despite this, in the literature, it is claimed that there is disaffection regarding the division and sharing of power, resources, and social opportunities.<sup>187</sup> Moreover, even in the presence of high rate of economic

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<sup>179</sup> Among many official publications of the government and the ruling party, *See Seketamawi Ye Tehadiso Guzuachin Ena Mechiw Bruh Tesfachin* (March 2013), at 43-87 and Tir-Yekatit 2004 E.C. issue of *Addis Raey*, at 34-46.

<sup>180</sup> THE WORLD BANK (2015), *Ethiopia Poverty Assessment 2014*, (Report No. AUS6744). See also THE WORLD BANK (2015), *Ethiopia's Great Run: The Growth Acceleration and How to Pace It*, (Report No. 99399-ET).

<sup>181</sup> Fantini, *supra* note 106 at 2.

<sup>182</sup> For instance, between 2004/2005 and 2010/2011 the poverty rate decreased from 38.7 to 29.6%. *See* THE WORLD BANK (2012), *Economic Update*.

<sup>183</sup> Assefa, *supra* note 108 at 79-80.

<sup>184</sup> *Ibid.*

<sup>185</sup> *Ibid.*

<sup>186</sup> *Ibid.*

<sup>187</sup> Sehen & Tsegaye, *supra* note 7 at 15.

growth in the country, it is claimed that DS policy of the government has further widened the gap between the few rich who get richer and the millions of poor who continue to go hungry as the majority of Ethiopians have failed to share the benefits of this economic growth.<sup>188</sup> Similarly, Elias argues that even if there are commendable achievements in infrastructure, economic growth and integration with the global economy, the success is well short of the real yardsticks when it comes to ‘sustainable development’ and in social wellbeing with a broader mass-base rather than elite affluence.<sup>189</sup> These crucial issues are yet to be the main agendas in the private as well as public media in the country.

As opposed to this, the government maintains that income distribution is one of the key ingredients of the DS model. In fact, much of the growth in the past five years is in agriculture which employs more than 70 million Ethiopians. This has been provided as evidence that the DS model is indeed broad-based and sharing the benefits fairly and equitably is the utmost priority to the government.<sup>190</sup>

In addition, the Ethiopian government argues that it recognizes no hierarchy of importance between civil liberties and the right to social and economic development. Rather it affirms the interdependence of the two set of rights as neither can yield the desired result independent of the other.<sup>191</sup> On the other hand, the practice implies that emphasis is given to social and economic rights as is common in other DSs. It is argued that the ideological shift towards the DS gives priority to the socio-economic sector than civil rights and political freedoms.<sup>192</sup> The government also asserts that ‘in the absence of equal access to the means of economic development and fair distribution of income, exercise of civil liberties is bound to remain the preserve of the fortunate few, inviting mass discontent and political polarity.’<sup>193</sup>

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<sup>188</sup> Asayehgn, *supra* note 102 at 2.

<sup>189</sup> Elias, *supra* note 105 at 331.

<sup>190</sup> While the draft document of GTPII evaluates the performance of agriculture in the last five years, it explains its distributive nature. See at 19-22.

<sup>191</sup> FDRE GOVERNMENT COMMUNICATION AFFAIRS OFFICE (2015), *The Ethiopian Human Rights Landscape in the Context of Right-Based Approach to Development*, Addis Ababa, at 47-48.

<sup>192</sup> Assefa, *supra* note 108 at 68.

<sup>193</sup> FDRE GOVERNMENT COMMUNICATION AFFAIRS OFFICE, *supra* note 191 at 32-33.

As was the case in the earlier stages of EA DSs, in Ethiopia as well, it is believed that as the economy develops, the other rights will progress in time.<sup>194</sup> Meles argued that liberal civil and political rights have no meaning in a context of abject poverty or political chaos.<sup>195</sup> Thus, development and a strong state were prerequisites for human rights, and Ethiopia needed to establish these first.<sup>196</sup> Similarly, Assefa is of the view that improvement in the socio-economic sector has the potential to create a middle class that will show less tolerance towards the authoritarian state in the long run.<sup>197</sup> Consecutive economic growth, expansion of infrastructure, improved access to education and health and pro poor policies are given the highest national priority by the Ethiopian government. In Assefa's terms "If it succeeds in achieving this, it produces an educated, informed and demanding middle class, the very forces that put pressure for change and political liberalization."<sup>198</sup> This is what actually transpired in the DSs of EA.<sup>199</sup>

Similarly, it is argued that Meles was of the opinion that the full exercise of FE should be delayed for the sake of solidifying the DS.<sup>200</sup> He argued that the new economic structures and institutions required their own political organization such as a hegemonic party; and free press

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<sup>194</sup> T.S. Twibell, *Ethiopian Constitutional Law: The Structure of the Ethiopian Government and the New Constitution's Ability to Overcome Ethiopia's Problems*, 21 LOY. L.A. INT'L & COMP. L.J. 399, 466 (1999).

<sup>195</sup> Cited in Alex de Waal, *supra* note 104 at 155.

<sup>196</sup> *Ibid.*

<sup>197</sup> Assefa, *supra* note 108 at 68.

<sup>198</sup> *Id.*, 85-86.

<sup>199</sup> In fact, the East Asian DSs died after successfully transforming the nation using the economic development and growth. See Robert Pekkanen, *After the Developmental State: Civil Society in Japan*, 4 JOURNAL OF EAST ASIAN STUDIES 363, 363 (2004). For instance, in South Korea, the private sector challenged the state's ability to perform services and demands to provide them itself as the development brought wealth and power to new classes and social groups, who use their newly acquired status to press for more independence. See Eun Mee Kim, *Contradictions and Limits of a Developmental State: With Illustrations from the South Korean Case*, 40 (2) SOCIAL PROBLEMS 228, 232 (1993). In addition to the private sector, South Korea faced new demands from middle class groups demanding more democracy and from working classes no longer content with rapid but very inequitable economic growth. See JOHN MINNS, *THE POLITICS OF DEVELOPMENTALISM: THE MIDAS STATES OF MEXICO, SOUTH KOREA, AND TAIWAN 2* (Palgrave Macmillan, New York, 2006). As a result, the country has broadened and deepened its democratic credentials. See also Lisa Blomgren Bingham, Sun Woo Lee, and Won Kyung Chang, *Participatory Governance in South Korea: Legal Infrastructure, Economic Development, and Dispute Resolution*, 19 GLOBAL BUSINESS AND DEVELOPMENT LAW JOURNAL 375, 376 (2006). This democratization has had many positive effects on Korean politics and society, such as human rights improvement, a better reflection of public opinion in policymaking, fair elections, as well as freedom of speech. See Uk Heo, Hougcheul Jeon, Hayam Kim and Okjin Kim, *The Political Economy of South Korea: Economic Growth, Democratization, and Financial Crisis*, 1 CONTEMPORARY ASIAN STUDIES SERIES 1, 2-3 (2008).

<sup>200</sup> Quoted in Medhane Tadesse. *Meles Zenawi and the Ethiopian State*, (2012), <http://aigaforum.com/articles/medhaneye-on-meles-zenawi-and-power.pdf> (last visited May 17, 2015).

distracts such agendas of the DS particularly in its formative stage.<sup>201</sup> Similarly, the Ethiopian government recently states: “Indigenization of universal human rights principle in a closed tradition-bound society could never be realized in a space of a decade or two. It will even take longer to fulfill human rights in poverty-stricken Ethiopia.”<sup>202</sup>

Despite this emphasis on the socio-economic rights, the Constitution places equal weight on all generations of rights. The Ethiopian Constitution recognizes democracy, human rights and individual liberties alongside socio-economic rights. Thus, in Ethiopia, the government’s determination of putting economic growth first and rights/democracy next is not only problematic but also contradicts with the spirit of the Constitution.<sup>203</sup>

### 3.2.3 Ideological hegemony

There appears to be a correspondence between the media in the West and the liberal or neoliberal ideology. In fact, in the literature, it is argued that, globally, multinationals, including those which own the giant media corporations, are more effective deliverers of a uniform neo-liberal world view.<sup>204</sup> Thus, the media in the West, it is argued, by promoting the liberal or neoliberal ideology ensures the reach of the West beyond its borders.<sup>205</sup>

On the other hand, DSs contend that the ideology of the West is not suitable for developing countries.<sup>206</sup> In fact, during the 1990s, the rapid development of many Asian economies led to claims for the superiority of a so-called ‘Asian model’ of democracy as an alternative to the

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<sup>201</sup> Ibid.

<sup>202</sup> FDRE GOVERNMENT COMMUNICATION AFFAIRS OFFICE, *supra* note 191 at 30.

<sup>203</sup> Assefa, *supra* note 108 at 68.

<sup>204</sup> Anita Franklin & Roy Love, *Whose News?: Control of the Media in Africa*, 25 REVIEW OF AFRICAN POLITICAL ECONOMY 545, 545-546 (1998).

<sup>205</sup> EDWARD S. HERMAN & NOAM CHOMSKY, *MANUFACTURING CONSENT: THE POLITICAL ECONOMY OF THE MASS MEDIA* xviii (Pantheon Books, New York, 2002).

<sup>206</sup> For instance, Lee Kwan Yew, the former Prime Minister of Singapore, preferred ‘Asian values’ which mainly focuses on the need to sacrifice individual freedoms in favor of the collective good which is defined by the rulers of the day, to provide better solutions. *See* Hill, Park, and Saito, *supra* note 17 at 9-10. Even if such emphasis is criticized for eventually compromising the essential character of the rights themselves, taking them from freedoms focused on the individual to more collective and state-centric measures, it defined the Asian society. *See* also Burke, *supra* note 177 at 428.

Western liberal model.<sup>207</sup> Emphasizing on the strength of Asian culture and values such as family solidarity and community discipline in contrast to the perceived social decay of the West in general and the United States in particular, the ‘Asian model’ proponents argued for the virtues of semi-democratic or soft-authoritarian political models which privileged hierarchy and order over individualism and competition.<sup>208</sup> Similarly, it has often been argued that the emphasis on political freedom, liberties and democracy is a specifically “Western” priority, which goes, in particular, against these “Asian values”.<sup>209</sup>

In Ethiopia, the sort of democracy that the Constitution seems to accept is the liberal one. Most importantly, the inherent and universal values of democracy itself such as freedom, human rights, empowerment, and participation are the cardinal principles of the Constitution that need to be considered in designing any development model in the country.<sup>210</sup> However, liberalism has become a target from 2006 onward, when thinkers identified capitalist rent-seeking systems and rent collectors as antidemocratic and antidevelopment forces against which the Ethiopian government had to “struggle”.<sup>211</sup>

As opposed to this, the EPRDF claims that the sort of democracy developing in Ethiopia is home grown and unique. In the vernacular of the EPRDF this new variant of democracy was/is called ‘Revolutionary Democracy’ (RD). Officially, the RD has served as the ideology of the ruling party until 2005. However, of late EPRDF seems to have shifted from the ‘more ambiguous’ ideology of RD to that of DS.<sup>212</sup>

The ideology of the RD seems to have provided a foundation to the DS model of growth. It is generally characterized by state control of the economy, and restricts the ideology of the liberal West. Under this ideology, citizens’ enjoyment of freedom of speech and the press is highly restricted.<sup>213</sup> The main reason for such restriction is the strong belief of the ruling party on

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<sup>207</sup> BENJAMIN REILLY, *DEMOCRACY AND DIVERSITY: POLITICAL ENGINEERING IN THE ASIA-PACIFIC* 194 (Oxford University Press, New York, 2006).

<sup>208</sup> *Ibid.*

<sup>209</sup> Sen, *supra* note 43 at 149.

<sup>210</sup> Fana, *supra* note 83 at 29.

<sup>211</sup> Bach, *supra* note 3 at 650.

<sup>212</sup> Assefa, *supra* note 108 at 69-70.

<sup>213</sup> Bach, *supra* note 3 at 641.

“democratic centralism” which is key for the success of the social revolution that is expected to be led by a vanguard party without any internal difference.<sup>214</sup> It is clear from the foregoing that FE is considered a distraction against the fulfillment of such grand project. Furthermore, one commentator observes that RD ‘propagates for a state apparatus that exercises effective control over the political, economic and social activities of society.’<sup>215</sup> The party-in-government became a significant employer, the owner of substantial property, a large bureaucracy, and an institution from which millions of members and their families acquired a certain social status.<sup>216</sup>

Generally, in line with the above characteristics, RD is incompatible with FE, or at least its intrinsic value. For instance, it is indicated that even if the Constitution espouses the liberal ideals of FE, the ruling party under the guidance of RD has not properly accepted a watch-dog press.<sup>217</sup> Moreover, the fact that the ideology works under the culture of ‘democratic centralism’ based on a vanguard party is against the basic tenets of FE.<sup>218</sup> As opposed to serving as a forum for all stakeholders, under RD, FE serves the ruling party as ‘an important discursive tool of legitimation as well as fighting tool against internal and external opponents or critics.’<sup>219</sup>

When one compares the ideology of the RD and the key features of the DS model, it is easy to identify certain common characteristics. Both the DS model and the ideology of RD operate under the top-bottom decision making process, i.e. they apply centralization. They give preference to the ‘right to basic needs’ such as food and shelter over FE.<sup>220</sup> They also prioritize the so-called “rights of the masses” over the “ruling classes” or elites.<sup>221</sup> It is also observed that both suppress individual freedom in expectation of a future society to be liberated from poverty and backwardness.<sup>222</sup>

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<sup>214</sup> Ibid.

<sup>215</sup> Adem, *supra* note 138 at 12.

<sup>216</sup> THEODORE M. VESTAL, ETHIOPIA: A POST-COLD WAR AFRICAN STATE 186-187 (Praeger Publishers, Westport, 1999).

<sup>217</sup> Id, 187.

<sup>218</sup> Bach, *supra* note 3 at 642-643.

<sup>219</sup> Id, 643-644.

<sup>220</sup> Stremlau, *supra* note 125 at 728.

<sup>221</sup> Ibid.

<sup>222</sup> Vestal, *supra* note 216 at 186.

International rights groups have always contested the treatment of FE in Ethiopia under the ideology of RD and of late under the DS model. In fact, it is not uncommon to see and hear International NGOs observing press freedom like Article 19, Freedom House, International Press Institute, and Reporters Without Borders give dismal ratings for Ethiopia when it comes to respecting the constitutional right of FE. And Ethiopia's rank in the Worldwide Press Freedom Index has never been good. Moreover, accusations by various human rights activists and 'champions' of FE in relation to deliberate acts of stifling FE through unconstitutional and illegal means are vehemently denied by the Ethiopian government. For the Ethiopian government, behind the negative campaign against Ethiopia's treatment of FE lies the liberal ideology which is accused of promoting the vested interest of the West.<sup>223</sup> It is argued that the missions of these international non-governmental organizations (INGOs) and Think Tanks around the non-western world are largely funded by powerful corporations with self-serving global agenda.<sup>224</sup>

In addition, the government contends that even if the private press is struggling with structural and administrative problems, the fact that it is, in the majority of instances, subservient to the neoliberal ideology is aggravating its condition.<sup>225</sup> In his exclusive interview with state owned magazine, *Zemen*, the former Head of the Government Communications Affairs Office, Redwan Hussien, points out that the curriculums of the journalism Schools in Ethiopia are oriented with the liberal ideology and hence amendment has to be incorporated to fine tune their thinking in the framework of development journalism.<sup>226</sup>

For the government of Ethiopia, every culture will have its distinctive ways of formulating and supporting FE and that is exactly what the country is doing.<sup>227</sup> In relation to the issue, Arkebe states: "There seems to be disagreement among external observers about whether, for instance, the ruling coalition is really in favor of 'neoliberalism', but what is clearer is that, for good or ill, the coalition does not neatly meet the typical criteria for 'good governance'."<sup>228</sup>

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<sup>223</sup> FDRE GOVERNMENT COMMUNICATION AFFAIRS OFFICE, *supra* note 191 at 3.

<sup>224</sup> *Ibid.*

<sup>225</sup> THE FDRE DEVELOPMENTAL AND DEMOCRATIC MASS MEDIA DRAFT POLICY AND STRATEGY 15 (Addis Ababa: Government Communications Affairs Bureau, 2015).

<sup>226</sup> ZEMEN MAGAZINE, June 2014 Issue, 6.

<sup>227</sup> FDRE GOVERNMENT COMMUNICATION AFFAIRS OFFICE, *supra* note 191 at 21-22.

<sup>228</sup> Arkebe, *supra* note 103 at 73.

Hegemonic leadership over a society occurs when people unite around the material interest and cultural outlook of a dominant group in such a way that the advance of the dominant group is perceived as the advance of the society as a whole.<sup>229</sup> The ruling party in Ethiopia is developing such a tendency of ‘I know it all for you!’. Those who do not adhere and comply with official development policies and guidelines are considered as traitors.<sup>230</sup> The discourse about economic development and the fight against poverty become therefore a vector of access or exclusion from the resources controlled by the state.<sup>231</sup> In this context, Tamrat says:<sup>232</sup>

When there is a choice to be made between ideological preferences and respecting the law, I don’t know where the loyalty for such people who advance ideological hegemony lies to. The regime allows the existence of dissent and it plays its game within the bounds of the rule. We have opposition political parties, civil society organizations, publications not controlled by the state. Some of the publications are even as loud as calling for the overthrow of the government by popular revolt. Yet, whatever they do, it is very much controlled and monitored. However, the ruling party may aspire for hegemonic status. As a result, it may want to push the media it controls through the state to promote that. I see that they are pushing right and left and closing in on every leftover here and there.

### **3.2.4 Pushing the private media aside and imposing development journalism**

DSs insist that the private media do not promote government or public interest. For this reason, Public Service Broadcasting (PSB) or Public Service Publisher (PSP) is preferred as opposed to private media.<sup>233</sup> DSs perceive the giant media corporations in the West promoting the interest of the few liberal economic elites. In fact, the media in the West play a key role to advance the interests of the few economic elites and propagandize on their behalf as the later control and finance them.<sup>234</sup>

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<sup>229</sup> Hill, Park, and Saito, *supra* note 17 at 4.

<sup>230</sup> Fantini, *supra* note 106 at 5.

<sup>231</sup> *Ibid.*

<sup>232</sup> Interview with Tamrat Gebregiorgis, Managing Editor of *Fortune*, in Addis Ababa, (May 27, 2014).

<sup>233</sup> In Singapore under Lee, almost all of the domestic news media were owned by the government, and all foreign news media were subject to strict regulation. See WILLIAM J. TALBOTT, WHICH RIGHTS SHOULD BE UNIVERSAL?. 39 (New York: Oxford University Press, 2005).

<sup>234</sup> Herman & Chomsky, *supra* note 205 at xi.

In principle, the private media can help the government perform better by putting direct and indirect pressures through its own scrutiny, assessment and evaluation.<sup>235</sup> In practice, however, the contribution of the private media in Ethiopia is insignificant. In fact, the records of the private press in Ethiopia are low in terms of creating ‘an informed public or exposing the deeds and misdeeds’ of the government.<sup>236</sup> Private media is usually associated with newspapers and magazines. Unlike the print media, the broadcasting media seems to be a government monopoly. Despite the fact that the Broadcasting Proclamation 533/2007 allows commercial stations, the government has been extremely cautious in granting licenses for private radio stations. In February 2006, the first private licenses were granted to two local commercial FM stations.<sup>237</sup> Even these two companies are allegedly led by journalists seen as sympathetic or aligned to the ruling party.<sup>238</sup> Similarly, the non-governmental Radio Fana is considered as the *de facto* establishment of the ruling party.<sup>239</sup>

According to the FDRE Developmental and Democratic Mass Media draft Policy and Strategy, the government relies on the services of the public media while the document without any distinction speaks of the dangers of the private media.<sup>240</sup> It is also the assessment of the draft Policy that the private media in general and the print one in particular is following a direction which is destructive and stick with a rent seeking behavior. In the earlier policies, the ruling party also underlines that, if not controlled effectively, the private media may threaten the well being of the system.<sup>241</sup> EPRDF believes that the political parties and the business people with rent-seeking behavior are behind the operations of the private media industry.<sup>242</sup>

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<sup>235</sup> Zekarias Ken’ a, *Media and Development in Ethiopia*, 9 ECONOMIC FOCUS 24, 35 (2005).

<sup>236</sup> Terje S. Skjerdal & Hallelujah Lule, *Uneven Performances by the Private Press in Ethiopia: An Analysis of 18 Years of Press Freedom*, 3 JOURNAL OF COMMUNICATION & LANGUAGE ARTS 44, 46 (2009).

<sup>237</sup> Skjerdal, *supra* note 133 at 24.

<sup>238</sup> Stremlau, *supra* note 125 at 721. Of course, even if from what transpires from the content and position of the broadcasting Zami looks to demonstrate such a claim, Sheger seems to be relatively well balanced. Obviously, Sheger highly concentrates on soft social issues and avoid hard core politics in the majority of its air time. Continuing with this tradition, recently licensed station Bisrat has exclusively devoted its airtime to entertainment.

<sup>239</sup> Vaughan & Tronvoll, *supra* note 120 at 72.

<sup>240</sup> Deliberations on the draft policy and strategy are ongoing since August 2015.

<sup>241</sup> YE DEMOCRACY SEREAT GENBATA TIGEL ENA ABYOTAWI DEMOCRACY (STRUGGLES ON BUILDING A DEMOCRATIC SYSTEM AND REVOLUTIONARY DEMOCRACY), (Addis Ababa: Ministry of Information, 2007), 84. (Amharic, translation mine)

<sup>242</sup> *Id.*, 85.

Obviously, the fact that the private media are seen as a voice for the opposition is not contested.<sup>243</sup> It is pointed out that, in the majority of instances, the private media concentrated on entertaining sensational and inaccurate stories, and attack and distort the motivation of government officials, while championing the interests of particular groups.<sup>244</sup> Speaking about the private press, Meles Zenawi once told reporters that he had seen or heard of no improvement in the quality of the press products, which still dwell on destructive and war-inciting false propaganda.<sup>245</sup>

On the other hand, it is submitted that unlike the public media, the private media allows a space for literate elites to engage in political debates.<sup>246</sup> Particularly, the opposition parties, civil society and citizens access the private press and share their views on diverse matters where in the majority of instances alternative ideas are provided.<sup>247</sup>

Under these conditions, the government has put its faith on public or state-controlled media to resolve all the problems of the private media. It is argued by the government that the public media is free from these weaknesses. It is implicit in Art. 29 (5) of the Constitution that the government will continue to own and control media outlets. It is argued that while the provision may appear to be about promoting diversity of views, the indirect constitutional legitimization of the state's control over the media is contrary to the principle that state broadcasters must be transformed into public service broadcasters.<sup>248</sup> This principle is clearly affirmed by Principle 6 of the African Commission *Declaration of Principles on Freedom of Expression in Africa*, which states: "State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government."

As can be observed from its policies and practice, having the key media outlets at its disposal, the Ethiopian government has shaped its media policy around the concept of development

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<sup>243</sup> Skjerdal & Ngugi, *supra* note 149 at 183.

<sup>244</sup> Paul B. Henze, *Reflections on Development in Ethiopia*, 10 (2) NORTHEAST AFRICAN STUDIES 189, 199 (2003).

<sup>245</sup> Cited in Berhane, *supra* note 113 at 643-644.

<sup>246</sup> Stremlau, *supra* note 125 at 716.

<sup>247</sup> Andargachew, *supra* note 141 at 60.

<sup>248</sup> ARTICLE 19, *supra* note 75 at 17-18.

journalism.<sup>249</sup> The Ethiopian state media have made development journalism a key concept in official policy documents after the adoption of the DS model.<sup>250</sup> The key concern that frames the Ethiopian development journalism policy is economic poverty as all societal forces, including the media, are expected to take part in the process of leveling Ethiopia among middle-income countries within 20-30 years.<sup>251</sup>

During the 1970s, development journalism was used to promote particular development strategies to solve a developing nation's problems.<sup>252</sup> Generally, the principal arguments in favor of development journalism include the following:<sup>253</sup> during the initial period of growth in developing countries, stability and unity must be sought; criticism must be minimized and the public faith in governmental institutions and policies must be encouraged; the duty of the media is to promote the satisfaction of immediate material needs of a developing nation such as food, shelter, energy, and health by reporting positively on steps taken in the process; in a society in which the great majority of the population has no formal education, the publication of conflicting policies or of criticism of existing policies is confusing to the people and hinders the attainment of development goals; and unlike state-owned media privately owned media cannot be trusted to serve the interests of the public as they are owned by a wealthy few, who by their very nature, present only commercial, sectional or foreign interests.

For this reason, development journalism became popular with DSs in the 1970s and 1980s as a way to utilize the media for social and national growth.<sup>254</sup> These DSs willingly adopted the model and adjusted it to their system of governance.<sup>255</sup> For instance, 'development journalism' has been used to investigate problems of the developing countries.<sup>256</sup> However, later on the process, the notion of development journalism was associated with the fact that "bad"

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<sup>249</sup> Terje S. Skjerdal, *Development Journalism Revived: The Case of Ethiopia*, 32 (2) AFRICAN JOURNALISM STUDIES 58, 58 (2011).

<sup>250</sup> Id, 59.

<sup>251</sup> Id, 65.

<sup>252</sup> Jeffery, *supra* note 71 at 212.

<sup>253</sup> Id, 212-214.

<sup>254</sup> Skjerdal, *supra* note 249 at 58.

<sup>255</sup> Ibid.

<sup>256</sup> Rolf Annas, *News Flow out of Africa: Are Western Media Striving for Excellence in Communication Standards?*, 18 (2) AFRICAN JOURNALISM STUDIES 196, 198 (1997).

development news (including criticism of government development strategies) should not be reported at all.<sup>257</sup> As a result, it has faced strong criticism from the West.<sup>258</sup>

Now, the consensus is that development journalism without constructive criticism of the government and its leaders is meaningless. For Xu, development journalism reports on achievements and shortcomings in development; focuses on long-term development; stays independent from government and critiques its leaders; focuses on development issues while working constructively with the government in nation-building; and empowers ordinary people.<sup>259</sup>

However, the Ethiopian way seems to deviate from such an approach. In fact, the government is always accused of using the state media for propaganda.<sup>260</sup> Moreover, the main focus of the development journalism is on the positive promotion of development efforts, rather than critical investigation.<sup>261</sup> In the majority of instances, the state-controlled media neglects critical stories, avoid oppositional voices, and hide information from the public.<sup>262</sup> For these reasons, EPRDF's development-oriented state-owned media is heavily criticized.

Art. 29 (4) and (5) of the Constitution require the state media to be operationally autonomous and to entertain diversity of opinion. In practice, however, the state controlled media is accused of serving the ruling party only.<sup>263</sup> Absolute control of the public media is one manifestation of abuse of incumbency in the context of using government institutions and resources to the advantage of the ruling party.<sup>264</sup> Now, it is noted that the media policy has resulted in a very partisan state media which is a propaganda machine for the ruling party.<sup>265</sup> Rather than using the

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<sup>257</sup> Jeffery, *supra* note 71 at 212.

<sup>258</sup> *Id.*, 214.

<sup>259</sup> Cited in Skjerdal, *supra* note 249 at 63.

<sup>260</sup> Stremlau, *supra* note 125 at 716.

<sup>261</sup> Skjerdal, *supra* note 249 at 66. Even in Singapore, it is allowed to report mistakes, corruption, and be critical of some policies. It is, however, not allowed to ridicule or lampoon the political leadership. *See* Tey, *supra* note 16 at 882.

<sup>262</sup> Skjerdal, *supra* note 249 at 69-70.

<sup>263</sup> Andargachew, *supra* note 141 at 62-63.

<sup>264</sup> For further information *See* Gedion Timotheows, *Tackling the Imperial Premiership and Abuse of Incumbency: Ideas for Constitutional Reform in Ethiopia*, 6 ETHIOPIAN CONSTITUTIONAL LAW SERIES 162-210 (2014).

<sup>265</sup> *Id.*, 207-208.

state-run media to create a forum where all stakeholders in the spirit of democracy engage in constructive exchange of ideas and views, the government has adopted a policy of using media to discredit its opponents and reassert its leadership.<sup>266</sup>

Of course, in principle, EPRDF admits that the state or public media should not restrict itself in explaining government policies and programs and state government activities but it should include the public's comments and serve as a medium for discussion on these issues.<sup>267</sup> It is not clear whether EPRDF is recognizing merely the right of expression on behalf of the mass population or opening its door for all sorts of discussion to the extent of letting its decision-making process be influenced with the outcomes of these free discussions.

Similarly, the educative role of the media is particularly essential in many developing states following the DS model. In fact, the media plays a key role to assimilate the changes in the political, economic, and social structures to the society to resolve the problems of underdevelopment.<sup>268</sup> Furthermore, the media can articulate the advantages and disadvantages of different development strategies help to relieve the pressure on strained formal educational facilities, warn of the dangers of overpopulation and the need to conserve resources, and stress the common humanity which underlies ethnic and cultural differences.<sup>269</sup>

In the same way, in a country where the teachings of religious establishments gave primacy to religious, moral, social and cultural pursuits rather than economic endeavours, the media plays a greater role to instill the developmental thinking in Ethiopia.<sup>270</sup> For instance, the state can use the media to guide and lead the private sector from its preference (rent seeking) to its long-term interest (value creation).<sup>271</sup>

All of the journalists working in private newspapers this writer talked to are against development journalism. For instance, Tamrat Gebregiorgis explains that development journalism is not

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<sup>266</sup> Stremlau, *supra* note 125 at 722.

<sup>267</sup> YE DEMOCRACY SEREAT GENBATA TIGEL ENA ABYOTAWI DEMOCRACY, *supra* note 237 at 88.

<sup>268</sup> Jeffery, *supra* note 71 at 198.

<sup>269</sup> *Ibid.*

<sup>270</sup> Elias, *supra* note 105 at 329.

<sup>271</sup> Alex de Waal, *supra* note 104 at 153.

something his newspaper is interested in. Tamrat says: “I don’t understand what exactly development journalism embodies. The newsroom and the publisher will decide on the content of every publication to promote values it is established for. For example, in the sense of culture, economy, and politics, *Fortune* is a deeply liberal publication. It does not mean that we are against the developmental project. But we promote a kind of state that is very small but very effective”.<sup>272</sup>

Melaku Demissie, managing editor of the bi-weekly Amharic newspaper *Reporter*, while admitting that the private media has its own problems, he opines that the DS model has further distanced the private media from engaging in the core issues of the country.<sup>273</sup> Even if Melaku accuses EPRDF of violating constitutionally enshrined protections for freedom of expression, he expresses that most of the private media practitioners forget that the press is a platform to exchange diverse views and opinions. He explains that rather than preparing the media platform to suit the ‘market place of ideas’, and to report the opinions, ideas, feelings, and needs of citizens, journalists in the private media provide themselves as ‘change agents’ and serve as instruments of ‘political activists’ and ‘propagandists’. Melaku also observes that professionalism, ethics, responsibility, independence are lacking in the private press despite encouraging improvements after 2005.

In similar vein, Bruh Yihunbelay, managing editor of the English weekly *The Reporter*, notes that the government or the ruling party cannot escape blame for the unhealthy state of affairs between the government and the private press as the efforts to change the situation is close to nil.<sup>274</sup> Bruh indicates that the DS model has pushed and polarized the private media which are trying to build credibility in the public together with the press the government regarded as a threat to public order.

Muluken Yewendwesson, editor-in-chief of the English business oriented weekly *Capital*, indicates that even if the main purpose of both the government and the media is to serve the best

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<sup>272</sup> Interview with Tamrat Gebregiorgis, Managing Editor of *Fortune*, in Addis Ababa, (May 27, 2014).

<sup>273</sup> Interview with Melaku Demissie, Managing Editor of *Reporter*, in Addis Ababa, (May 21, 2014).

<sup>274</sup> Interview with Bruh Yihunbelay, Managing Editor of *The Reporter*, in Addis Ababa, (May 26, 2014).

interest of the public, since the government considers itself alone as guardians of the public interest, it presumes bad motive of the private press.<sup>275</sup> He argues that this is the main reason why the interaction between the government and the private press is not going well.

Messay Wondimeneh, Deputy Chief Producer of FM 97.1, a station operating under the Ethiopian Broadcasting Corporation (EBC), states that the implementation of the philosophy and basic principles of development journalism in state-controlled media like EBC has huge gaps and it is only in the process.<sup>276</sup> He attributes these gaps to three basic reasons: One, lack of understanding the concept of development journalism; Two, the concept is new to the industry and some of the journalists are resisting it; Three, lack of cooperation from relevant bodies including government officials and opposition party leaders.

Messay also defends the criticism that claims state-owned media outlets have bias and partisanship towards the ruling party. He states:<sup>277</sup>

Ethiopian Broadcasting Corporation is a public media so we serve the public not the government or the ruling party. We offer constructive criticism on the government as well through our special programs. My hope is it will get better in the future. The legal framework and our editorial policy guarantee our independence. The fact that we have become a corporation will help as do better as there are changes in terms of administration, accountability, and finance. Differentiating editing from censorship is one of the challenging tasks for journalists. As a result, some mistakes might happen. However, we always try to be fair and balanced for everyone.

### **3.3 Democratic Developmental State in Ethiopia: Rhetoric or Reality?**

Ethiopia does not just adopt the DS model; rather, to give primacy to its democratic ideals, its DS is called Democratic Developmental State (DDS). Thus, at least in theory, the Ethiopian model upholds the ideals of democracy including FE. According to official government reports and party reports, the government of Ethiopia is determined to accelerate and maintain

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<sup>275</sup> Interview with Muluken Yewendwesson, editor-in-chief of *Capital*, in Addis Ababa, (February 17, 2014).

<sup>276</sup> Interview with Messay Wondimeneh, Deputy Chief Producer of FM 97.1, in Addis Ababa, (March 28, 2015).

<sup>277</sup> Ibid.

development while strengthening its democratic agenda.<sup>278</sup> Meles argued that a DS can be a democratic state, and indeed that a DDS is likely to be more successful in its development efforts than others.<sup>279</sup> He even argued that democracy is so important that if the price to be paid for having it is a limited reduction in growth, it is not too much of a price.<sup>280</sup> He also stated: “[I]f a developmental state were to also be democratic, the "hegemonic" nature of its development project would be achieved faster and held more deeply because it would emerge from free debate and dialogue.”<sup>281</sup>

The supreme law of the land, the Constitution, obliges the Ethiopian state to be democratic. As such, it is normal to expect an environment of governance in Ethiopia where the civil society, the current government, the various opposition groups, and the population in general advance their enlightened self-interests.<sup>282</sup> Moreover, independent scholars, civil society, and opposition groups can discharge their responsibilities by providing critical input and offer alternative suggestions on important matters of public policy including development in Ethiopia using such a forum.<sup>283</sup>

Obviously, in the presence of democracy FE flourishes. In the other direction, FE plays a key role in establishing, consolidating, and maintaining democracy. As a matter of principle, the people must be able to discuss political issues openly, without fear of governmental punishment, or democracy cannot exist.<sup>284</sup> In the West, democracy’ is almost always assumed to bring economic development, social harmony, enhancement of human rights, etc.<sup>285</sup> It is also submitted that the chances of achieving broad-based and participatory development and popular mobilization increases in the presence of democracy.<sup>286</sup>

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<sup>278</sup> Sehen & Tsegaye, *supra* note 7 at 1.

<sup>279</sup> Meles, *supra* note 163 at 2.

<sup>280</sup> *Id.*, 10.

<sup>281</sup> *Id.*, 14.

<sup>282</sup> Sisay Asefa, *Developing Democratic Institutions in Ethiopia: The Challenge of Building Enabling Institutions for Economic Growth and Development*, 10 NORTHEAST AFRICAN STUDIES 67, 67-68 (2003).

<sup>283</sup> *Id.*, 107-108.

<sup>284</sup> STEPHEN M. FELDMAN, *FREE EXPRESSION AND DEMOCRACY IN AMERICA: A HISTORY 1* (The University of Chicago Press, London, 2008).

<sup>285</sup> SYLVIA CHAN, *LIBERALISM, DEMOCRACY AND DEVELOPMENT 1* (Cambridge University Press, Cambridge, 2004).

<sup>286</sup> Gordon White, *Towards a Democratic Developmental State*, 37 (4) INSTITUTE OF DEVELOPMENT STUDIES BULLETIN 60, 61 (2006).

The democratic participation theory of FE submits that FE must prevail in any system that claims to uphold democratic values as it is almost universally recognized that FE is central to democracy.<sup>287</sup> The three common requisites of democracy are: a well-informed citizenry, freedom to participation in the decision-making process and ensuring the accountability to the government officials who are exercising power on behalf of citizens.<sup>288</sup> FE facilitates free political debate which is necessary to enable people to make informed choices and the function of a democratic system depends upon the maintenance and protection of FE.<sup>289</sup>

As opposed to this, the history of the most successful DSs indicates that their governance was fundamentally incompatible with pluralistic forms of democracy and appeared to be authoritarian.<sup>290</sup> In DSs like Taiwan, the phenomenal economic development was achieved under an authoritarian regime that extended strong control over society, where laws and state institutions mainly served the development driven authoritarian government rather than constraining it.<sup>291</sup> In the same way, in classic developmental states, single ruling parties often played a prominent role and did not allow the opposition to have the required space to influence the political economy of the state.<sup>292</sup>

The justification provided by these states is that they need not be democratic if the primary goal is economic transformation. They argue that DSs need to be authoritarian states to be autonomous from class interests and the demands of pluralized groups, and also to possess the required force to implement its policies.<sup>293</sup> They observe that the authoritarian character of the state ensures that competing interests based on class, class fraction or sectors are subordinated to

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<sup>287</sup> Gilbert Marcus, *Freedom of Expression under the Constitution*, 10 SOUTH AFRICAN JOURNAL OF HUMAN RIGHTS 140, 140 (1994).

<sup>288</sup> Stanley Naribo Opuamie-Ngoa, *Functional Democracy and Mass Media: A Critique*, 4 (2) GLOBAL MEDIA JOURNAL 1, 1 (2010).

<sup>289</sup> Marcus, *supra* note 287 at 141.

<sup>290</sup> Vicky Randall, *Political Parties and Democratic Developmental States*, 25 (5) DEVELOPMENT POLICY REVIEW 633, 633 (2007).

<sup>291</sup> Jiunn-Rong Yeh, *Democracy-Driven Transformation to Regulatory State: The Case of Taiwan*, NATIONAL TAIWAN UNIVERSITY LAW REVIEW 31, 33 (2008).

<sup>292</sup> Randall, *supra* note 290 at 649.

<sup>293</sup> Kim, *supra* note 199 at 229.

the state's goals.<sup>294</sup> They note that as democracy has an inherent tendency to disperse power and slow down decision-making processes, it exposes the state to different and contradictory societal demands.<sup>295</sup> Democracy is also regarded as a potential impediment at the early stages of development and a 'luxury which poor societies can ill afford'.<sup>296</sup> In order to follow a strict developmental path, it is argued, one needs to limit society's ability to counteract the state's efforts, mentioning the difficulty to sustain the DS in a fully democratic system in which people enjoy extensive rights.<sup>297</sup>

For Johnson, democracy has never been the source of legitimacy for the DSs. Rather, the legitimacy of DSs come from the overarching social projects their societies endorsed and they carried out or the state's achievements, not from the way it came to power.<sup>298</sup>

Despite constitutional safeguards, some argue that the democratization process in Ethiopia has a high ingredient of rhetoric not backed by practice.<sup>299</sup> EPRDF uses democracy as a tool to reach development, rather than an objective in itself.<sup>300</sup> In this context EPRDF states that democracy is a key instrument in promoting the struggle of putting in place the developmental political economy, and removing the rent seeking political economy.<sup>301</sup>

As a result, the ruling party is accused of imprisoning the leaders and supporters of the opposition, and cracked down on pro-democracy militants, the press, and human-rights activists in the past two decades.<sup>302</sup> One commentator argues that "if democracy is the way for extricating Ethiopians from the present abyss, then one must take democracy seriously-which means going

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<sup>294</sup> Hugo Radice, *The Developmental State under Global Neoliberalism*, 29 (6) THIRD WORLD QUARTERLY 1153, 1154 (2008).

<sup>295</sup> Fritz & Menocal, *supra* note 24 at 536-537.

<sup>296</sup> White, *supra* note 286 at 61.

<sup>297</sup> Bolesta, *supra* note 22 at 107-108.

<sup>298</sup> Chalmers Johnson, *The Developmental State: Odyssey of a Concept*, in THE DEVELOPMENTAL STATE 32, 52-53 (Meredith Woo-Cumings, ed., Cornell University Press, Cornell, CA, 1999).

<sup>299</sup> J. Abbink, *Discomfiture of Democracy? The 2005 Election Crisis in Ethiopia and Its Aftermath*, 105 (419) AFRICAN AFFAIRS 173, 174 (2006).

<sup>300</sup> Bach, *supra* note 3 at 649-650.

<sup>301</sup> See the 2006 EPRDF Congress Report.

<sup>302</sup> Maimire Mennasemay, *A Millennium Democratic Goal for Ethiopia: Some Conceptual Issues*, 55 (1) AFRICA TODAY 3, 3 (2008).

beyond the ritual of elections and tackling the political, social, and economic totality of the Ethiopian experience of destitution.”<sup>303</sup>

One can observe from the practice of the Ethiopian DS model that priority is given to socio-economic rights at the expense of civil and political rights. The suppression of opposition members and their leaders, civic organizations, independent media, trade unions, and critics could be presented as evidence.<sup>304</sup> Particularly, EPRDF is accused of “tolerating elite opposition voices and parties as long as they are not a serious distraction to its rule.”<sup>305</sup> Making it more like the classical DSs than what it promises to be.

Some fear that constructing the DS in Ethiopia will “further elongate the agenda of democratic transitions, a process which has taken long already.”<sup>306</sup> For instance, the last two national elections have resulted in the EPRDF absolutely dominating the parliament. In the current parliament there is no single seat for the opposition. Setting aside the weaknesses of the opposition camp, the DS model seems to give the EPRDF extra courage to delay the democratization process. In this context, Assefa argues that, among other things, the relatively improved service delivery at grass roots level coupled with controlled freedom to the fragmented opposition (due to lack of clear and coherent alternative policy, owing to pressure from outside, lack of internal democratic practice and power rivalry within itself) yielded in one party dominated electoral outcome.<sup>307</sup>

It is pointed out that democracy in the DSs is different from the ideals of democracy as known in the liberal West. Kenichi Ohno, a senior researcher at GRIPS, defined Democratic Developmentalism (DD) as “a political regime in which a developmental party remains in power for a long time by consecutively winning free elections which permit multiple parties, under which policies that punish rent seeking and encourage productive investment are implemented

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<sup>303</sup> Id, 4.

<sup>304</sup> Melakou Tegegn, *The EPRDF vis-à-vis Ethiopia's Development Challenges*, 6 (4) AFRICAN IDENTITIES 445, 448 (2008).

<sup>305</sup> Stremlau, *supra* note 125 at 728.

<sup>306</sup> Sehen & Tsegaye, *supra* note 7 at 15.

<sup>307</sup> Assefa, *supra* note 108 at 84-85.

with a strong state guidance.”<sup>308</sup> For Ohno while full democracy realizes popular participation, political competition, and policy debate in the true sense, DD can be construed as a variation of democracy which is realistic, manageable and consistent with the national goal of a poor country that faces many constraints and problems.<sup>309</sup> In democracy, the possibility of power change is a real one, and it is highly unthinkable that one party will consistently keep winning elections for a number of decades.<sup>310</sup> By contrast, the DD has a hidden mechanism which effectively prevents the opposition from winning such as the distribution of benefits, social and economic organizations which support the incumbent government, regulation of activities by opposition parties and anti-government organizations, and so on.<sup>311</sup>

Many non-state actors including opposition parties complain that the ideology of the ruling party exclude them from contributing for the betterment of Ethiopia. Mushe Semu, former President of the Ethiopian Democratic Party (EDP), argues that EPRDF cannot claim to be democratic as it has developed a sense of exclusivity and consider itself the only body with a divine responsibility to extricate Ethiopia from abject poverty.<sup>312</sup> He said:<sup>313</sup>

EPRDF does not like to win over the ideas of those individuals outside of its sphere of influence in a peaceful way. Rather it attacks organs and individuals who hold different ideas. The former requires skill and capacity, time, money and knowledge. EPRDF prefers the easier route by applying force to resolve every problem.

In a nutshell, one can conclude the way the Ethiopian government is treating FE has serious constitutional implications. For one, due to restrictions in freedom of expression democratic culture has lagged behind. In addition, constitutionalism and rights-based development remains very weak. Moreover, pluralism, multi party democracy and other principles in the Constitution are compromised by the application of DS.

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<sup>308</sup> Kenichi Ohno, *Ethiopia: Political Regime and Development Policies*, THE NATIONAL GRADUATE INSTITUTE FOR POLICY STUDIES 1, 4 (2009).

<sup>309</sup> Id, 5.

<sup>310</sup> Id, 5-6.

<sup>311</sup> Ibid.

<sup>312</sup> Interview with Mushe Semu, former President of the Ethiopian Democratic Party (EDP), Addis Ababa, (July 24, 2014).

<sup>313</sup> Ibid.

## Chapter 4

### Conclusions and Recommendations

The thesis concludes that the adoption of the DS model have had an impact on the place of freedom of expression in Ethiopia as recognized by the FDRE Constitution. The Constitution provides for a sound legal framework to advance the ideals of freedom of expression that helps the country's governance in many fronts.

However, these constitutional ideals have not always been put in practice and in Ethiopia deliberately so. After 2005 the legal and administrative measures and attitude of the government have raised questions about constitutionalism in the country. These measures are particularly triggered by the country's adoption of the DS model. Mainly, this is manifested in the illiberal laws such as the Freedom of the Mass Media and Access to Information Proclamation, the Broadcasting Proclamation, the Anti-terrorism Proclamation, and the Civil Societies Proclamation.

Even though the political culture of Ethiopia has been very intolerant of dissent and criticism in public even before the DS model, the shift in governance has exacerbated such culture. The number of media outlets substantially declined, the impacts of civil society and political parties which serve as alternative power source become insignificant. Consequently, to challenge or criticize of decisions (or policies), or questioning the competence of those in power has remained to be a rare phenomenon. This makes freedom of expression very fragile in Ethiopia.

The development journalism introduced after 2005 has reduced the public media to a propaganda machine instead of critical reporting. This is a complete contrast to the Constitution that provides for transparency and accountability as working principles of government operation, such emphasis impedes public access on the affairs of the government. This practical role of the public media doesn't go along with the constitutional stipulation that the public media should entertain diversity of opinions. Developmental journalism also excludes the private media which are critical of the government from getting access to state information.

While the government is trying to push the economy using the DS model, the space left for freedom of expression is very restricted as a result. After the adoption of the DS, the propagandist nature of the media is intensified more than ever, and the status of civil and political rights is deteriorating. The model is also a threat to the emergence of independent civil society in Ethiopia as the hegemonic aspiration of the ruling party intends to dictate all walks of life in the country as it wishes.

Yet, even in such a context, freedom of expression should be considered comprehensively with particular emphasis on processes and outcome evaluation of development. Freedom of expression can play a key role in Ethiopia's pursuit of achieving accelerated development. Experiences from democratic countries show that, mass media can change politics and culture, support democracy and market developments by facilitating the free flows of information that help citizens to share diverse ideas in order to develop their economic and social affairs.

Dialogue is a very important step towards successful realization of the DS model. Relevant stakeholders need to understand and appreciate why such a policy is indeed enacted. The government needs to be open enough to clarify the justifications behind the policy. In the presence of exclusion and discrimination against some portion of the public the government cannot claim to be a democratic developmental state. In line with the relative success in the socio-economic areas, the government should listen and include the ideas of stakeholders as much as possible.

However, to be able to achieve broad-based participation, revisiting the conformity of some of the illiberal proclamation having a negative impact on freedom of expression and democracy with the Constitution is vital. For instance, provisions dealing with vague and ambiguous restrictions like national security, defamation of public officials, and due process of law under Procs. 590/2008 and 533/2007 and the Anti-terrorism law should be amended. Moreover, access to information law that creates bureaucratic hurdles should be eased.

Human right being very critical to Ethiopia, and being an end in its own right must mean policies and strategies of governments must respect it as that is why it is in the Constitution. In the

absence of full-fledged protection for freedom of expression, in the long run the political space will diminish and it might result in the collapse of the state. Although it seems successful now, the state should consider the emerging dynamics in the system. Let alone the principles of the Constitution the rhetorical narratives of a democratic DS is not being respected. Urban educated population, globalization, youth influence, social media and the like would call for truly applying the Constitution and the democratic developmental state not in paper but in practice.

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