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Center for Federal Studies

**Minority Rights Protection in Oromia National
Regional State: A Case Study of the Zay People**

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Fulfillment of the Requirements for the Masters of Arts (M.A) in
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Acronyms

EPLF----- Eritrean Peoples' Liberation Front
EPRDF----Ethiopia Peoples' Revolutionary Democratic Front
FDRE-----Federal Democratic Republic of Ethiopia
FGD----- Focal Group Discussion
HPR-----House of Peoples Representatives
HoF--- ----House of Federation
ICCPR ---International Covenant on Civil and Political Rights
ILO-----International Labor Organization
KIT-----Key Informants Interview
LN-----League of Nation
OLF----- Oromo Liberation Front
OPDO----Oromo People Democratic Organization
PCIJ----- Permanent Court of International Justice
Proc.No ---Proclamation Number
SNNP----- Southern Nations, Nationalities and Peoples
TGE -----Transitional Government of Ethiopia
TPLF-----Tigray People Liberation Front
UDHR-----Universal Declaration of Human Rights
UN-----United Nations
WWII-----World War the Second

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Abstract

This paper investigated the constitutional and practical protection of minorities, particularly the Zay in Oromia regional state protected in compliance with the FDRE constitution. For this purpose, secondary sources such as relevant legal literatures, books, laws, articles and journals were analyzed while structured and unstructured in-depth interviews with key informants, personal observation, and focus group discussions were the primary sources employed.

In the FDRE Constitution ethnic groups which are territorially defined have become the bearers of sovereign power and entitled to the right to self-determination. Oromia is one of the nine states though none of the regions are homogenous as there are dispersed internal ethnic minorities which either belongs to the majority nation in other region or double minority groups (which are neither dominant at national level nor at regional level) which have got very little attention in the constitution of both levels. The Constitution of Oromia does not recognize the existence and the distinct identity of ethnic minority groups in this region though the 2007 population census indicates that there are almost all dispersed ethnic groups in this region. Numerically, each is below 1% except the Amhara people which constitute 7.2%.

The Zay are sparsely populated in the region no have absolute defined territorial boundary. No guaranteed representation for Zay ethnic minority in this region at any administrative level. The territoriality principle left the Zay unrecognized as nation, nationality and people. However, the Zay have the right to non-territorial (personal) autonomy for representation, cultural and linguistic rights in the region.

CHAPTER ONE

Introduction

1.1 Background

Minorities exist in all countries of the world. However, in most states of the world, minority rights are undermined under the disguise of nation-building subordinating to the identity, culture, language and religion of one or very few ethnic groups. For instance, though Ethiopia is characterized by considerable diversities in socio-economic, ethnicity, culture, language, religion and traditional governance structures, the Ethiopian leaders throughout the 20th century strived for the creation one nation by denying and attempted to eradicate ethnic diversities not by recognizing diversities (Beken, 2007:105). Moreover, in spite of the reality on the ground, the aim of those rulers were building Ethiopian nation under the ethnic identity of one Nation (under the dominance of the culture of Amhara) (Beken, 2007: 105; Aberra, 2008:1). This has created a sort of dissatisfaction to many ethnic groups. Consequently, after the downfall of the dictator military regime in 1991, the ethnic based coalition liberation movement fronts, under the guidance of Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) declared their aim to fundamentally changing the strategy of nation building on the base of the accommodation of ethnic diversity. Particularly, the 1995 FDRE constitution declared a federal form of government in accordance with ethnic-based territories that never done before. Furthermore, the Federal constitution, apart from enshrining fundamental rights of individuals in an extensive way, declared self-determination up to and including secession an unconditional, fundamental right of every 'nation, nationality and people' of Ethiopia (See FDRE constitution Article 39).

Although ethno-federation is one of the mechanisms whereby differences are tolerated and minority rights are protected, there is fear that, in the present Ethiopian federal context, minorities in each state may fall under the dictate of the mainstream ethnic group (Beken, 2007:113-14). As Yonatan stated 'there is a substantial risk that the regional majority considers the minorities as outsiders (Yonatan, 2010:56). There is also a strong concern that 'minorities face stronger discrimination from regional authorities than they usually encounter from central government' (Ibid). For example, though there are numerous minority ethnic groups in Oromia regional state (See the Oromia National Regional State Constitution Art.2), minorities in the

region are constitutionally as well as practically not recognized. Specifically, the Zay people can be mentioned as a typical example. They claimed the right to recognition and representation at different times. However, the federal and regional governments do not give attention. Still they are people who are not officially recognized as distinct minority ethnic group.

1.2 Statement of the Problem

Among scholars there is a wide acceptance that general human rights cannot give adequate protections to minorities. In other words, it has been found necessary to have special rights to protect their interests. Hailbronner has written that “Although the League of Nations Minorities System became obsolete after World War II, its basic idea of special rights and public action in ethnic, linguistic or religious groups gained wide acceptance” (Hailbronner, 1992:123). The silence of the UN Charter or/and the Universal Declaration of Human Rights regarding minorities did not silence the claimants. Not accommodating differences became a source of conflict both within states and beyond, particularly after the Cold War. For Kymlicka “the question of minority rights has moved to the forefront of political theory”(Kymlicka, 2001:17). Hence, the importance of minority rights, in countries which have diversified societies, is unquestionable.

As a ‘nation of nations’ Fasil (1997), different ethnic groups live in Ethiopia in different regional states which constitute the federation. Oromia Regional State is not an exception to this; almost all ethnic groups exist in the region. None of them were recognized by the 1995 Regional Constitution and by 2001 Revised Constitution of the same and have not enjoyed minority rights protection both in the Regional constitution.

In the same vein, both the 1995 and 2001 Revised Oromia Regional constitutions did not give equal rights for both the Oromo and non-Oromo and the minorities. It recognized only the Oromo people as the bearer of power. Furthermore, the preamble of the regional constitution, does not refer to the people of the Oromia region, but simply states “*the Oromo People*” (Beken, 2007:118). Additionally, Article 8 of the Oromia Constitution provides that “Sovereign power in the region resides in the people of the Oromo Nation---” (see Art. 8 of 2001 Oromia Revised Constitution).

As cursory shows, the Oromia constitution does not refer to ethnic groups other than the Oromo themselves. However, there are minority ethnic groups in the region; such as Zay, which are neither recognized nor administer themselves as a distinct nationality. It did not clearly acknowledge such like minority ethnic groups in the region. Additionally, at this time the language and cultural identities of the Zay are at the verge of extinction due to the absence of due attention by the regional and federal governments. These reflect the fact that they are not officially recognized and are not exercising their right of self-administration. This problem, therefore, deserves attention. Put it in general terms, hence; the central problem is- to what extent does the right of minority groups protected in Oromia regional state in federal Ethiopia?

1.3 Research Questions

As has hinted above, the focus of the study is theoretical and empirical investigation on the protection of the rights of minority Zay people in Oromia regional state. Hence, the central question of the study is – To what extent the right of minority Zay people in Oromia regional state is being recognized and protected in Ethiopia Federation? The study will be guided by the following sets of key research questions:

- 1) Does Ethiopian federalism meets its promise of protecting the right of minority groups such as the Zay people in Oromia regional state? If so how? If not, why not?
- 2) Is the Zay people fulfill the definition of 'nation, nationality and people' as per Article 39 of FDRE Constitution? If so, why and how? If not, why?
- 3) To what extent are the rights of minority groups in general and Zay people in particular recognized and protected in Oromia regional state both at constitutional and practical level in compliance with the FDRE constitution?

1.4 Objective of the Study

The study has general and specific objective.

1.4.1 General Objectives

- 1) To assess whether minorities in the Oromia National Regional State are constitutionally and practically protected and recognized in generally in compliance with the Federal Democratic Republic of Ethiopia and the Zay within the current Ethiopian Federalism.

1.4.2 Specific Objectives

- 1) To identify whether the current government minorities protection address the issue of the Zay.
- 2) To determine whether the Zay fulfill the definition of ‘nation, nationality or people’ as per Article 39 of the Federal Constitution.
- 3) To identify factors which have hindered the Zay from being recognized as distinct people since the adoption of the Federal and Regional constitutions.

1.5 Significance of the Study

The study has many significances. First, the research will help to inform policy makers to implement efficient institutional and other relevant options to minority rights protection at federal and regional levels. Secondly, researchers may use the study as reference when they engage to study the issue of minority and the research also expose the problems of the Zay people to other researchers more engage in studying the problems of this ethnic group and to suggest solution. Thirdly, the finding of the research particularly will enable the Zay people to know their rights. Generally, the research tries to come up with practical problems related to implementation of the federal constitution provisions concerning minorities and the Oromia constitution that does not acknowledge the existence of minority ethnic group in the region. Finally yet importantly, the research finding fills the gaps in the existing laws governing ethnic minorities’ protection particularly the Zay minority in Oromia National Regional state. The study, therefore, tries to come up with the reasons for failure of recognition and self-administration of the Zay people as distinct people and to use the rights guaranteed in the Federal constitution, particularly Article 39 of the Federal Constitution and thereby suggest solutions to the concerned bodies to respond appropriately.

1.6 Research Methodology

In order to achieve the objective of the research and answer the fundamental research question, methodologically, the research will be based on a qualitative approach. Both primary and secondary sources of data collection used to gather relevant information on the issue under study. The methods of data collection include structured and un structured in-depth interviews with key informants, personal observation, and focus group discussions. Besides, written primary data’s such as government and non-governmental reports, party programs and publications, letter

exchanges. Key informants were selected based on their representative value and their knowledge of the information needed for the study. They were selected from elders, women, political elites of the Zay people, government officials, scholars, political leaders. Moreover, other relevant issues on the subject will be browsed from internet and other printed materials. Books, journals, articles, Federal and Regional constitutions and reports will be additional source of secondary data. The data interpreted and analyzed thematically. In order to find out the reasons, analysis of legal has been carried out. Informants from the Zay people and from regional officials concerned with the issues were interviewed. Respondents represent different age groups, occupations, and education backgrounds, the majority being ages 25-45, government employees, degree and secondary high schools levels, respectively. The data collected through Key Informants Interview (KII) and Focus Group Discussion (FGD) is analyzed qualitatively based on descriptive analysis.

Scope of the Study

Minority rights include a set of rights reserved to only a minority group. This paper discusses the right to recognition and self-administration of minorities in the Oromia Region and representation of minorities at Regional and Federal levels with the focus on the Zay people. However, this does not mean that other rights will not be seen. The meaning is that the paper more deal with the three rights mentioned; but it discussed other rights as found necessary to elaborate the aforementioned rights. In the discussion on these rights, factors, which have affected the Zay people in making use of such rights, are within the scope of the paper. However, it is out of the scope of this paper to address the consequences of lack of self-determination. Again, as exception, and if they are found necessary, some consequences will be covered.

1.7 Limitation of the Study

The following constraints may reduce the quality of the research;

1. Financial, Absence of logistic and time constraints to go through the study;
2. Lack of adequate relevant data on time because of the reluctance of the concerned interviewees and absence of documented data that the researcher wants to analyze.

1.8 Organization of the Study

The structure of the paper divided into five chapters. Including this introductory chapter. Chapter two deals with Literature review/ empirical literature and conceptual and theoretical framework of minorities in general and their rights in international level will be discussed in a brief way. Definition of minorities, types of minorities and some lists of their rights but with special emphasis on self-determination will be explored. This gives a reader a clue about minorities and their rights in international law against which to evaluate Ethiopian laws regarding minorities. Chapter three deals with the general background of the Zay. Chapter four deals with the protection of minorities in the Oromia National Regional State and the minority right protection the case of Zay people. Analysis of the Regional Constitution will be made with reference to the actual practice. The findings explored in detail why the Zay failed to be treated as 'nation, nationality or people'. The rights of the Zay to self-determination, particularly recognition, self administration and representation, will be also assessed. Under the fifth chapter, the paper finalized by drawing conclusions and recommendations.

CHAPTER TWO

Literature Review

2.1 Empirical Literature

There are abundant researches, which attempted to discuss minority rights protections in federal Ethiopia. For instance, Belay Shibeshi (2010) studied about Kimant in Amhara regional states in partial fulfillment of the requirements for the Degree of Master of laws in human rights. He tried to identify and explain whether the Kimant ethnic group is distinct from the regional Amhara ethnic groups. Furthermore, the work of Belay more concentrated on the rights of Kimant recognition, representation and self- administration as nation, nationality and people. Tokuma Daba (2010) studies about minority in Oromia regional state in general and particularly, minorities in first grade cities in Oromia in partial fulfillment of the requirements for Masters Degree in Constitutional and Public laws. The Oromia regional state legally does not protect the right of minorities in the region. However, the study more gives attention to representation it has its own gap. Minorities should have to be recognized before represented in regional as well as federal institutions. On the other hand, Christophe Van der Beken (2007) studied about Constitutional protection of ethnic minorities at regional level in Ethiopia. Here the researcher compares how regions in Ethiopia acknowledge minorities' protection in their constitution.

However, very few studies dealt with the protection of the rights of Zay people in Oromia regional states. To the best of my knowledge, there were no in-depth studies on the right of Zay people. With the exception of Michael A. Vinson (2012) research on the Ethnographic study of the Zay people emphasized on the Zay struggle for recognition and representation the study area has been not sufficient in empirical information. Moreover, the study has been given more attention to representation. Besides, sufficient attention has not been given to the issue of recognition as minority right protection for Zay people. However, recognition of minorities within states is the precondition for other rights. Owing to the absence of sufficient and critical investigation, there is the need to explore the problem to help this ethnic group to more give attention to ask recognition; other right might follow after recognition. As a result my study more focuses on this literature gap areas.

2.2 The Theoretical and Conceptual Definition of Minorities

Epistemologically, the term "minority" is derived from Latin word "minor". Nevertheless, there is no universal and authoritative definition of minority under international law. Even if, issue of minorities rights protection dated back to the era of League of Nations (LN); the international law did not attempt to define minority. The universally accepted and binding definition minority was left to domestic affairs of each member state. Additionally the 1948 Genocide Convention, which is claimed to be the first international instrument to protect the minorities' existence after World War Second (WWII), also did not define minority.

During the League of Nations (LN) the concept "minority" – understood as "a group of persons of different race, religion or the language rather than the majority living within the state. Moreover, Concerning the Greco-Bulgarian case (Henrard: 2002:19) regarding the acquisition of polish nationality", International court of Justice (PCIJ) made an effort to define the concept of minority as "inhabitants who differ from the rest of population in race, language or religion" (Ibid.). As per the opinion of the court, on the basis of the bilateral treaty, it is possible to prescribe the definitional features of the concept of minority.

Accordingly, minority is described as:

A group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identify of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their tradition, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the sprit and traditions of their role and rendering mutual assistance to each other (Ibid:19.).

This definition doses not deal with the meaningful components of the definition of minorities such as *numerical factor, non-dominance and nationality*. However, it has its own contribution for the successive understanding of the term as it "links the objective and subjective markers together" with the purposive orientation of preserving and developing special characteristics of minority group (Shaw, 1999:9).

The history changed only after the setting up of the UN sub-commission on the prevention of Discrimination and the Protection of minorities, and drafting Article 27 of the International Covenant on Civil and Political Rights (ICCPR) which is adopted in 1966. Though it is not defining the concept minority, Art.27 of ICCPR is prominently relevant provision of internationally binding instrument related to the protection of minority rights (Kovacevic, 2001:3). Article 27 of the ICCPR stated that “in those states in which ethnic, religious or linguistic minorities exist, persons belong to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own cultures, to progress and practice their own religion, or to use their own language (Henrard, 2002:20).” However, except listing what type of rights minorities enjoyed, the ICCPR has not defined the concept of minorities.

Even minority is not defined in the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic or Religious Minorities, which is the first international instrument to deal with minorities concerns in a separate instrument. In other words, there has never been an official authoritative definition of minority (Belay, 2010:20). Moreover, different scholars tried to define minorities in different ways. For instance; Francesco Capotorti, a special Rapporteur of the UN sub-Commission defined minority as:

A group numerically inferior to the rest of the population of a state, in a dominated position, whose members being nationals of the state possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, religion or language (cited in Tokuma, 2010:17).

This definition has both objective and subjective criteria. In order to fulfill the objective criteria, a minority group has to exhibit distinctive ethnic, cultural, religious or linguistic characteristics different from the rest of the population. The subjective criteria are more of a psychological makeup in which a group has to have a sense of identity manifested in a collective manner (Aberra, 2008:28-30). According to Capotorti definition, there are five criteria to be fulfilled by a group to be a minority. First, they should be group of persons whose distinctions are based on *ethnic, linguistic or religious* backgrounds in a state in which they constitute a minority. Secondly, the group should be in a position of *non-dominance*. Thirdly, their number should be *less than* the rest of the population of a state. Fourthly, they should be *nationals of a state*, as

opposed to non-nationals, say immigrants and refugees. Lastly, there should be *solidarity* among the group in preserving their distinction. Up until now, his definition is the most widely accredited definition concerning the concept minority (Nowak, 1993:487). In fact, lawyer Jules Deschenes reformulated Capotorti definition, even though it remains substantially the same. Jules defined minority as:

A group of citizens of a state constituting a numerical minority and in a non dominant position in that state, endowed with ethnic, religious, or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and law (Cited in Tokuma, 2010:12).

Both definitions incorporated the same elements of objective and subjective classification. The first refers ‘nationals’ of the state, the second to ‘citizens’ of the state – illustrating a clear intent to exclude non-nationals for minority states. However, the Deschenes’s definition has further been criticized for including a limitation to the aim of achieving equality in fact and law (Packer, 1993:24-27).

Also other authors proposed definition of the concept minority. Yet, most of them failed to incorporate the salient features of minorities. For instance, the definition suggested by Fawcett fails to incorporate both the nationality requirements and the non-dominance position (Fawcett, 1971:4). Ede’s definition as cited in Henrard is designed in broader sense as referring to nations, ethnic, cultural and linguistic groups which significantly differ from the majority and are non dominant in the societies in which they reside (Henrard, 2002:24). The previously mentioned discussion revealed that there are various understanding of minorities and absence of consensus on the definition of minorities. However, lack of universal and acceptable definition of minority has not discouraged the concerned group from claiming their rights, nor does the international community refrain from the protection to minorities. Of course, lack of consensus on the definition of minority has its own negative impacts on the effective implementation of minority rights. It is logical to argue that before the thing to be owned should be discussed, the owner of it should be first known clearly-the holder of the rights should precede the rights. Even if there is no agreed definition of minority, there are identified minorities under international human rights law which are discussed in the next section.

2.3 Types of Minorities under International Human Rights Law

Even though article 27 of the ICCPR has mentioned only three types of minorities, namely; ethnic, linguistic and religious minorities, the following types of minorities are found in the world today:

2.3.1 Ethnic Minorities

Before a systematic replacement of the word ‘racial’ to ‘ethnic’ by the UN sub commission in 1950, the word ‘racial’ was used to identify minority groups. Even the UN had been using the word ‘racial’ before 1950 (Rehman, 2004:14). Ethnic minority encompasses all common decent or biological origin, cultural and historical characteristics, while racial minority implies to innate (natural) physical features. For a group of people to qualify ethnic minority it should exhibit both the objective and subjective markers (Tokuma, 2010:28). Ethnic groups are entitled to claim minority protection only when they have cultural, historical and linguistic characteristics that distinguish them from the rest of the population (Aberra, 2008:34).

In general, ethnicity is sometimes confused with ‘race’ and interchangeably used. However, under article 27 of the ICCPR, ethnic minority rather than race is protected. In short, ethnic minorities are considered unique by outsiders because of their distinct culture, language, custom or tradition. For instance, see the case of Oromo, Sidama and Agaw. They are racially the same (Cushitic), but ethnically different, for they have different language and culture.

2.3.2 National Minorities

There is some confusion between ethnic minority and national minority. In many literatures and laws they are interchangeably used. Yet, there are some differences between the two terms. While national minority relates to those groups who have been already in their historic homeland and nationals of the state, ethnic minority may include both nationals and non-nationals (Belay, 2010:25; Aberra, 2008:29). There is an endeavor to lay down the scope and contents of the concept national minority. For instance, as per Art.1 of recommendation No 1201(1993), ‘national minorities’ are:

Residents of a state and citizens thereof of having strong and long lasting ties with that state, having distinguishing ethnic, religious or linguistic characteristics, having a representative number in the state although the members of the group are significantly

less than the rest of the citizens and that have the motivation to preserve and perpetuate their distinguishing characteristics (see Parliamentary Assembly, Council of Europe, Recommendation 1201(1993)).

The basic difference between ethnic minority and national minority is that the later considered national minority when “(it) has an image of its collective past image and when its members are aware of and responsive to that image” (Aberra, 2008:37). In short, in most of the case ethnic minorities considered unique by outsiders because of more of their objective markers such as distinct culture, language, custom or tradition though they may not as such conscious enough to promote their separate identity. By the moment they are in need of preserving their distinct identity they may qualify national minority. In the case of national minorities the groups “self-identification” is highly important though it should be backed by certain objective markers.

2.3.3 Linguistic Minorities

As culture and common psychological makeup matters in case of ethnic minorities, having distinct language is a key factor to identify linguistic minorities from the rest of the population. In multi-lingual states, certain groups may demand special treatment to retain their language using in both public and private affairs. They are identified on the basis of the language they speak, write or use in private and in public affairs which is distinguishable from the national or regional language (Aberra, 2008:35) and their desire to preserve and promote of their distinct language. A mere existence of distinct linguistic group may not entitle them to establish institutions and separate schools to teach their language unless there is significant number of member of the group. If their distinctness and the burden it shoulders on the state justifies Art. 27 of the ICCPR recognize the rights of these groups to use their language in public and private settings.

Moreover, protection of the linguistic group is just protecting the dignity of the individuals belonging to such group. The following passage shows the values of language:

[L]anguage is not just a means of communication as some would like to reduce it to; its purpose goes beyond effective communication. The marginalization of minority languages and cultures in multinational societies stems predominantly from such myopic

conception of languages, in purely instrumental terms. The fact, however, is that language is an embodiment of a way of life for the speakers of the language. . . . In sum, one's language is the language of one's heart, the only language that can make matters of the heart such as beauty, love and tenderness a reality (Yared, 2009:189-190).

To sum up, whatever the arguments of either perspective may be, linguistic minorities are recognized under international law and states' constitutions.

2.3.4 Religious Minorities

Although neither religion nor minority religion is defined under international law, the UN has provided protection to those who seek to preserve their religious identities. Religious minority within the UN law might refer to as a group of persons who manifest religious thoughts that differ from the religion of the majority people (Abera,2008:35-36).Apart from the guarantee against discrimination based on religion under general individual human rights, article 27 of the ICCPR and the Minority Declaration do recognize religious minorities. One of the basic concern is the minority group should not be forced to change their religion, unless they voluntarily incorporate themselves to the national religion or religion of the majority group in the state they reside.

2.3.5 Indigenous peoples

Different authors tried to define indigenous peoples in different times. One definition is proposed by José R. Martinez Cobo, Special Rapporteur appointed by the UN Sub- Commission on the Prevention of Discrimination and the Protection of Minorities. He defined indigenous peoples as the following:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that have developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. This historical continuity may consist of the continuation, for an extended period reaching into the present of one of or more of the following factors:(a) Occupation of

ancestral lands, or at least part of them;(b) Common ancestry with the original occupants of these lands;(c) Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, life style, etc.);(d) Language (whether used as the only language, as the mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language);(e) Residence in certain parts of the country, or in certain regions of the world;(f) Other relevant factors (Cobo, 1986:1-4).

The Cobo definition, generally regarded to be the most widely accepted (Wiessner, 1999:110). Additionally the definition of indigenous people found in Article 1 of International Labor Organizations (ILO) Convention No. 169 of 1989 as follows:

(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retains some or allox their own social, economic, spiritual, cultural and political characteristics and institutions(Weissner, 1999:112).

International Labor Organization(ILO) is the first international body that address the issue of indigenous peoples by adopting it in 1957.In 1982 the UN economic and Social Council approved the creation of a Working Group on indigenous peoples and that body come up with a draft Universal Declaration on the Rights of Indigenous Peoples ,which has been revised in 1988 and 1989.With respect to indigenous groups, even if they are in their original land, parts of their lands have been overtaken and their socio-political and cultural institutions are being threatened to disappear by the newcomers who have dominated and outnumbered them (Tokuma, 2010:30).

2.4 Minority Rights and Their Protection Mechanisms

2.4.1 Minority Rights

It is believed that upholding and accommodating diversity by promoting distinct identity of minorities decisively contributes to the "political and social stability of states in which they live" (Klebes, 1995:92). Accordingly, the beneficiaries of the rights under Article 27 ICCPR are persons belonging to "ethnic, religious or linguistic" minorities and the 1992 Declaration adds the category "national" minorities. In multi-ethnic states the spirit of Art.27 can be construed as accommodation of diversity without endangering national integrity designing system in which forces of involuntary assimilation offset secessionist sentiment. Some of these rights are the right to self-determination, right to equality and non-discrimination as they are enshrined under the UN charter and various international conventions and national constitutions. In addition, Individual human rights have incalculable importance for protection of minority rights. By virtue of the United Nations Declaration on Rights of Indigenous Peoples, adopted by the human Rights council in June 2006 and by the general Assembly in September 2007, indigenous peoples have the right to self-determination. This is not the case for ethnic, religious, and linguistic minorities whose right is to enjoy their own culture, to profess and practice their own religion and to use their own language is enshrined in article 27 of the ICCPR.

2.4.2 Types of Minority Rights

The concerns of minorities require sets of rights mainly considered to protect of interests of minorities. There is no universal accepted list of minority rights. However, culture, language, tradition and religion, the special circumstances are taken into consideration to determine what rights may be granted to specific population groups (Hailbronner, 1992:120). Therefore, some of the general accepted listed minority rights are:

2.4.2.1 Existence/Recognition

The term "Existence" has been used in various contexts and with different conceptualizations. Minorities have the right to exist, and to be recognized as the groups they define themselves to be. It is the founding block of other rights of minorities. Even the right to retain distinct identity presupposes the right to existence (Aberra, 2008:54). Distinct identities of minorities such as linguistic, religious and cultural identities can be a point of concern when the right to physical existence and preserve separate identity are respected (Henrard, 2002:12).

Despite the importance of official recognition, states deny the existence of minorities within their territory a view to avoiding protection of their rights. For example; states may intentionally act or adopt policies that are intolerable by national, ethnic, linguistic or religious minorities. These planned measures to cause the physical exclusion of the minorities constitute a crime under International Law (Alston, 2002:261). Minorities' recognition by the surrounding community is a necessary condition for social and emotional development whereas lack of recognition causes considerable harm (Perez, 2012:29). This shows that international community has acknowledged the supremacy of the right to existence by imposing law on states in which groups resides to make an effort that realizes the right (Alston, 2002:261.). The UN human rights instruments prohibit discrimination based on differences in ethnicity or race, language or religion. In other words, a group is guaranteed to be different and this difference should be recognized (Ibid: 262). Of course, the core point in minority protection is preserving their separate identity (Akermark, 1997:23) if the group desires.

The other issue associated with the recognition of minority is what number is adequate to grant such status. In this regard, it is noted the presence of 'sufficient elements to indicate that a minority exists' should force the applicability of the relevant international law (Henrard, 2002:45). The ICCPR Article 27 linked to minority and other related provisions of international law connected to minority rights protection do specify the number of minority. In any case, what matters is the existence of elements, which distinguish a group to protect their identities from the majority.

2.4.2.2Linguistic Rights

Language plays an indispensable role in the day-to-day activities of societies in the world. It is not only served as medium of communication but also it is “a source of pride, self-esteem and identity” that characterizes the society (Tsunoda, 2005:141). In other words, it plays vital role for diplomatic coexistence and social life of human beings. That is the reason why every linguistic group strives to preserve its own language is an intrinsic identity values. That is why Fishman states that “ethnic identity becomes meaningless without the linguistic dimension” (Fishman, 1998:141). It also serves as storehouse of minorities' culture, history, and tradition

and, in effect of their identity (Aberra, 2008:56). In order to practice culture there must be a right to use one's own language hence language and culture are essential elements of one's identity.

On the other hand, a group has a right to speak and write in its own language, to get public services in its language, depending on size of the population. In addition, state cannot remain language neutral, as it is impossible to run the government without having one or more working language. Not only neglecting the languages but also states may deliberately undermine the language of minorities to make the feel inferior the linguistic group. Minority groups whose language is neglected may feel that they are excluded and they can hardly preserve their distinct identity, and endanger their opportunity to equally participate in political, social and economic affairs. In multi-lingual states, 'it is difficult to the state to remain language neutral in its contracts with the public'(Varennnes,1994:82). Especially in multi-lingual state, a language policy should take into account the competing claims of the existing linguistic groups in its decision to determine which language or languages it uses in political, judicial and educational institutions.

However, until today, there is no universally accepted minimum threshold as to the exact numerical size of a linguistic group that is entitled to get the positive state protection. Owing to this, it is difficult to find similar trend in multi-lingual states. In such cases, it is better to accord protection without discrimination on grounds of language. In countries such as India and Ethiopia which are so diverse, it is important to secure equal minority protection to all diversities.

2.4.2.3 Cultural Rights

Today in the world the culture of societies is different from place to place. In addition to language culture is one of the ingredient elements of ethnicity. Even if there is no universal agreed definition of culture, it is a way of life of society. As an element of ethnicity, as stated under Article 27 of ICCPR cultural minorities are entitled to recognition and protection of their right to enjoy their own culture with other members of the group. The state as it does respect the dominant culture should also respect the minority's culture.

As much as possible in multi-cultural states, cultural diversity should be promoted by adopting accommodative educational and cultural policies and strategies if not it exacerbates conflict. Owing to this, states should refrain from depriving members of minorities from enjoying their culture in order to destroy their distinctiveness. Thus, in plural state cultural minorities should have the opportunity to practice, develop, promote and educate their generation their culture, and states should facilitate by extending preferential treatments depending on perception of the minority group and economic capability of the state in which minorities reside (Nowak, 1993:501). Therefore, there should be equal recognition of all cultures, which does not violate the rights of others, principally the rights of individuals.

2.4.2.4 Political Participation and Representation Rights

In addition to linguistic and cultural rights, the rights to participate and represented by minorities in the administration of state either at the central or regional level is essential. Each country is different and has its own political structures and mechanisms for representation. These mechanisms include effective representation in national executive branch, in the mechanisms of decision-making such as public institutions, and in the civil service (Saban, 2006:563). Representation in forums which deal with the distribution of national resources is particularly a key (Lijphart, 2004:97). Another important strategy involves participation in areas regarding adjudicative and administrative powers and the formulation and implementation of policy at different levels of governance (Aberra, 2008:64-65). Beyond influencing the decision of majority, it enables minorities to feel belongingness.

The government should not refrain from imposing unfounded restriction on minorities' participatory rights but it should facilitate the process of participation of minorities. Thus, participatory right includes the right to be guaranteed for minorities to participate by its own freely made decision to public discussion at any level of government. Owing to this, in addition to constitutional recognition of human rights, minorities deserve considerable share in the socio-political affairs and policy measures of the state. As a result, proportional political spaces for representation should be given to minorities at all levels of the government and at every branches of the government. Through this right that minorities share power in the administration of the state to protect their interests and strengthens their relations with the state in which they reside.

2.5 Minority Rights and Self-Determination

2.5.1 Application of Self-determination to Minority

Minority rights and minorities are closely related with self-determination. As minority rights are exercised by minorities to safeguard them from the domination of the dominant society, so is the right to self-determination exercised by holders of the right to safeguard them from the domination of the mainstream society or the state. In other words, both concepts imply protection of the dominated groups from the dominating society of the state. However, despite their similarity in purposes, the application of self-determination with respect to minorities' rights is not specified under international law, nor is there general consensus among writers about the scope of the right to self-determination. This is due to the fact that the holders of the right to self-determination are not definitely identified. However, it does not hinder ethnic minorities from claiming when it is found necessary.

As a principle, right of self determination was enshrined under the Charter of United Nations and the ICCPR Article 1, but the beneficiaries of self-determination have never been conclusively determined by the scholars and international society. Even if, the beneficiaries not specifically determined peoples under colonialism and any other foreign domination were right holders of self-determination (Freeman, 1999:356). However, at the end of colonialism and foreign domination came issues of application of self-determination to sub-nation groups of sovereign states (Ibid.). If peoples refer to subsections of a state, and then ultimately self-determination right to such groups, then it will be applicable equally to the protection of minorities in a state. Moreover, the African charter on Human Rights recognizes all peoples whether colonized or oppressed as right holders to self-determination.

But, still the concept of self determination is subject to deep debate especially in multinational state. Some times by employing the principle of self determination and federal arrangement unity of a state may be perpetuated whereas in other cases appeal to self determination is a pre text to secession (Tokuma, 2010:46-47). Self-determination occurs in various ways depending on the circumstances that trigger the population group in need of it. It is also recognized as a right of minority groups within a larger political entity as recognized in Art.27 of ICCPR and in 1992

UN Declaration on Minorities (Henrard and Simiss, 1999:22-26). Usually, minority groups claim the right to internal self-determination which includes freedom to choose one's own government, the right of a group to be free from another's rule and to choose the sovereign and the right to democratic government. It is also meant to be the right of members of a group to freely determine or choose the system and the authorities that will implement the genuine will of the people. Hence, it has both internal and external dimension. The later dimension is concerned about international status of a people (Ibid.). Instead of external self-determination minority groups are entitled to internal self-determination.

2.5.2 Protection Mechanism of Minorities via Self-Determination

The existence of rights does not guarantee their implementations. The effectiveness of rights depends on their enforcement mechanisms. Minority rights are sometimes identified with self-determination short of secession, which is called internal self-determination, for these rights are to be exercised within the borders of the state (Buchanan, 1995:54). In a same vein, Henrard and Smis argued: whereas the external dimension of the right to self-determination would be mainly concerned with the international status of a people (one example of which is secession), the internal dimension would rather be related to the internal state structure as well as to certain legal regulations to accommodate the population diversity of a state in a (more) optimal way (Henrard and Simiss, 1999:22).

However, if worsen minority groups may unilaterally claim the right to secede from the state in which they reside; if it secured consent of the state from which secession is claimed (Ibid: 24). In the same way, Henrard and Simiss argued: the external dimension of the right to self-determination would be mainly concerned with the international status of a people (one example of which is secession (Ibid: 22). However, there is an argument that no legal ground for the non-colonized population group to claim the right to secession under international law. It is only applicable under restrictive circumstances particularly where the existence and identity of the minority groups is under risk and the right to self-determination is rejected (Ibid: 24). Under this section, we will see enforcement mechanisms of minority rights at national levels.

2.5.2.1 Federalism

Federalism is a system of governance in which at least two levels of governments exist. It may be based on territorial or ethno-linguistic lines. Nowadays, federation is found to be a means to provide political expression for diversities that result from religious, ethnic or linguistic difference to forge unity out of diversity. Especially in multi-ethnic states, federal system of governance is taken as one of the best mechanism by which forces of territorial autonomy and national unity are balanced. Despite its base and nature federalism divides sovereignty between the constituent units and the union government. That is why it is defined as a form of political association in which two or more states constitute a political unity with a common government, but in which these member states retain a measure of internal autonomy (Watts, 1966:9).

The concept federalism which comes from the word “*foedus*” i.e *covenant* signifies that it is a pact between sovereign population groups to form one polity which has international legal personality (Elazar, 1987:2-7). Even if there is difference in the extent and scope of authority of the units in federal arrangement, none of the two levels of the government is superior to each other (Assefa, 2007:228). Both are sovereign in their respective sphere of jurisdiction though they are coordinate governments. The federating units maintain their exclusive powers in areas where diversity is required and share power at the federal level proportionally in the three branches of the union government. Indeed, federalism has special significance for ethnically heterogeneous society since it minimizes the majority’s chance to marginalize and exclude minorities from the sphere of political and socio- economic spaces. In doing so, it reduces the political hegemony of the majority since minorities influence the decision of the majority group.

Understanding its merits in heterogeneous states, India, Canada and Ethiopia have adopted federalism by devolving power to the federating units. Of course, if based on mutual consent, federalism is a concrete manifestation of the right to internal self-determination of specific communities in multi-ethnic state. It has also the potential to accommodate the legitimate desire of all ethnic, linguistic or religious communities for self- government and protection of their distinct identities. It is considered as a suitable form of internal self-determination rendering secession unnecessary and undesirable (Tokuma, 2010:52).

Nonetheless, it does not equally guarantee self-administration for every minority groups since mere territorial federalism cannot secure self-determination for dispersed minorities as it does for those territorially concentrated ones. Territorially concentrated minorities exercise the right to self-determination by sending delegates to the organs of the federal government and constituent units, and actively participating in both horizontal and vertical intergovernmental policy networks, and play significant role in federal civil service and judiciary. It may not easily operate in multi-ethnic states unless they are territorially concentrated. In states where ethnic groups are dispersed across the country and difficult to arrange in strata to a particular region territorial federalism may reinforce ethnic tension as it does not help to manage ethnic identity conflicts. Hence, it opens new doors to an ethnic antagonism by creating new inter-regional minorities (Beken, 2009:217).

However, in multi-ethnic societies national groups looking for political spaces subjected this kind of assumption to be questioned. If federal arrangement is necessitated because of diversity, minorities at the federal level (see French speakers in Canada) may become majority group at the regional level where as members of the majority at the national (English speakers in Canada) level and members of minorities (double minorities- see all nations in Gambella) at national level still remain minority groups in constituent units (Ibid.). As much as possible territories are designed on the basis of major diversities that are capable of distinguishing certain group (Assefa, 2007:166). Each series of diversity may require due attention and political expression (Smith, 1995:5-6) within the majority if it is difficult to have the home land states for all those minority groups. Hence, in order to have accommodated diversities, Except the opportunity to have their own states, minorities in majority are entitled to get adequate representation and influence the policies in the constituent state and retain their separate identity.

In multicultural/ethnic federation individual rights and group rights or equality of ethnic groups are competing interests. Maintaining of the balance requires political integration of diversity (building in) become healthy only where federal executive, judiciary, other justice institutions, civil service; education, cultural institutions etc., proportionately incorporate employees from all section of society (Assefa, 2007:168). The federal arrangement by territorializing the state to ensure the right to self-rule to the nationalities, the constitutions either grants mother states to the

nationalities or ensure self-rule to the nationalities at local government (Ibid.). Accommodations of social, political and cultural diversities within the federal arrangement play significant role for perpetuation of federalism. The success of federations is also influenced by other extra-constitutional factors since federalism is more of political than legal matter. In most of the cases federal institutions are reflections of the federal qualities of society. Particularly in ethnic federation which has the rationale behind is accommodating ethno-linguistic diversity and to bring unity out of diversity, the political expression of diversity at all levels of the government is a key factor for the stability of federation (Assefa, 2007:190-192). Thus, all political, economic and social calculations should take in to account to protect the interest of minority groups.

2.5.2.2 Autonomy

In a state, all minority groups may not be given the status of membership unit of the federal government. They may be too small to attain and sustain such status. As a result, such minorities will be given a limited autonomy within the units of the federal state to self-administer based on their aspirations and peculiarities. Some might argue that there can be no right to autonomy in international law, because it is impossible to force state to order its constitution in a particular way; such would be interference in the “domestic jurisdiction” of a state contrary to Article 2(7) of the UN Charter (see Article 2 of UN Charter).

The concept of autonomy falls short of granting full fledged independence but enables the inhabitants of a territory to control their economic, social and cultural identity (Yonatan, 2007:110). However, the scope and type of autonomy differs from state to state depending on the needs and size of the group concerned. What matters is whether it addresses the questions of the minorities desiring to preserve and promote their culture, languages, religion and history. In this regard, the right to autonomy is not confined only to territorially concentrated minority groups since dispersed minority groups also claim personal or cultural autonomy (Welhengama, 2000:92).

Territorial federalism guarantees autonomous exercise of certain power for territorially concentrated majorities. But, because of many reasons it is rarely possible to find homogeneous ethnic, cultural, linguistic group concentrated in one region, canton or province. In cases where there are dispersed minority groups in constituent units cultural autonomy is recommendable. As

cited in Welhengama, Ede states that cultural autonomy as the "right to self rule by a culturally defined group, in regard to matters which affect the maintenance and reproduction of the culture" (Ibid:102). Cultural autonomy is exercised only by the people who are culturally distinct from the rest of the population in the state though their autonomy is restricted to cultural affairs (Ibid:105).

2.5.2.2.1 Territorial Autonomy

Territorial autonomy involves the granting of separate powers of internal administration, to whatever degree, to regions possessing some ethnic or cultural distinctiveness without those areas being detached from the state (Crawford, 1979:211-212). It provides political and governmental authority over the region to which power is devolved, and can be understood as independence of action on the internal and domestic level (Ibid.). Those who are territorially defined exercise the right to self administration by establishing their own sub-national or local governments (Ibid:113). But, because of many reasons it is rarely possible to find homogeneous ethnic, cultural, linguistic group concentrated in one region, canton or province.

For territorial autonomy the boundaries of geographical entities be it regions or local government must be defined (Yonatan, 2007:111). To implement the right to self-determination of the regional ethnic minorities, the regional constitutions adopt an ethnic-territorial strategy. This means that they, following the example of the federal constitution, grant their ethnic minorities the right to their own sub-regional territorial entity. For, instance the Nuer, Anuak and Majang have their own 'Administration of Nationalities' in Gambella; the Himra, Awi and Oromo have their own 'Nationality Administration' in Amhara and in the Southern region all nations, nationalities and peoples have a right to their own 'Zone' or 'Special Woreda (district)'.

2.5.2.2.2 Non- Territorial Autonomy

In cases where there are dispersed minority groups in constituent units cultural autonomy is recommendable. Non-territorial autonomy can be described as follows: A non-territorial jurisdiction exists when independent public authority is exercised in respect of certain individuals throughout the state irrespective of the fact that those individuals are residing in territorial jurisdictions in which other individuals are subject to similar public authority from territorially delineated jurisdictions (De Velliers, 2012:31). Non-territorial autonomy rests on two

principles, firstly the decentralization of decision-making to a group rather than to a geographical territory, and secondly the clothing of such a group with public powers as a form of government in contrast to a private club or an association (Ibid:31). Non-territorial or cultural autonomy can therefore be granted to a linguistic, cultural or religious minority group as a legal entity with public law legislative and executive status and functions to operate as an organ of government (Ibid:33). Cultural councils are clothed with the powers of government in the same way than a regional or local government. The jurisdiction of such a cultural council applies to its members regardless where they reside in a region or country (Ibid.). The autonomy of the minority and its ability to manage and control its own affairs through a cultural council are therefore not dependent upon the members of the group forming a majority at a regional or local level.

As cited in Welhengama, Ede states that cultural autonomy as the "right to self rule by a culturally defined group, in regard to matters which affect the maintenance and reproduction of the culture" (Ibid: 102). Cultural autonomy is exercised only by the people who are culturally distinct from the rest of the population in the state though their autonomy is restricted to cultural affairs (Ibid: 105). What matters is whether it addresses the questions of the minorities desiring to preserve and promote their culture, languages, religion and history. Cultural autonomy is generally speaking adequate for minorities who live dispersed in the country but have a strong political will for self-government and articulate their claims as such. The community is entitled to different, wide-ranging rights in political, economic and social life, although these rights have so far usually been limited to matters of culture, language, religion and education (Ibid:39).

In Ethiopia there are minorities' dispersedly populated in regional states those have no territorially defined boundaries. For instance, the minorities Zay people in Oromia National Regional State are sparsely populated have the rights of cultural or personal autonomy. But in Ethiopian constitution and Oromia National Regional State there is no provisional guide to protect the sparsely populated ethnic minorities. In order to guarantee unity as well as diversity, it would furthermore be advisable to link non-territorial autonomy with political participation (e.g. through guaranteed representation, minority vetoes) in the territorial administrations.

2.6 Minority Rights Protection under FDRE Constitution

2.6.1 General Overview of Minority under FDRE Constitution

Having more than 80 ethno-lingual groups, Ethiopia is one of the world's oldest countries with a high level of diversities (Beken, 2007:2; Ayalew, 2011:7). It is a country characterized by a large diversity of languages, cultures, religions, socio-economic activities and traditional governance structure (Beken, 2007:2). Though it is debatable, this large societal diversity is of much more recent origin. It arose in the aftermath of a territorial expansion of the empire of Abyssinia at the end of the nineteenth century (Ibid.). History told that the modern Ethiopia created in the late 19th and early 20th Centuries (Bahiru, 1991:60).

Starting from its modern creation, different forms of state building mechanisms have been crafted by the respective leaders of the country. Emperor Menelik II (1889-1913) during his expansion aimed to transform the diversified (heterogeneous) group into homogeneous Ethiopian nation (Beken, 2007:2). Specifically, the regime strived to erase diversity than recognize the ethnic identity of the non-Amhara peoples and to replace it with the identity of one nation (an Amhara identity). The Amhara language (Amharic), culture and religion were strongly propagated and all other languages, cultures and religions were degraded (Ibid.). Important instruments in this *Amharisation* policy were the administration and education that exclusively used Amharic. At that time, Menelik sent governors from the center to administer the lands of the local residents at the peripheries, which at the end downgraded the residents to be tenants on their own land and became victims of national oppression.

The nation building process during the Emperor Haile Sellassie's regime has also crafted a system of centralized power. Though there was institutional arrangement to accommodate diversities, the emperor sought to gain some control over local government by placing it in the hands of the central administration (Ayalew, 2011:7). For instance, there was a bicameral parliament: the Senate and the Chamber of Deputies. Member of the Senate were appointed by the Emperor while the Chamber of Deputies' were, at least nominally, elected (Ibid.). Practically, accommodation of diversities did not appear in both houses mainly due to the domination of the nobility and elites who advocated for the religious origins of imperial power and extended the centralization process.

The Dergue (military junta), which came into power by the 1974 revolution, re-established the local administrative levels that started by its predecessor Emperor Menelik. The administrative units divided into 14 provinces (*kifle hagers*) and divided them into 102 sub-regions (*awrajas*) and 556 districts (*weredas*) (Ayalew, 2011:8). However, due to the centralized policy of the regime the process of establishing local administration had only little positive effect on enhancing the concerns of minorities (Ibid.).

In this time, Ethiopian national identity was equated with the ethnic identity of one particular group (Beken, 2007:106). This policy of assimilation into Semitic (mainly Amhara) culture and the cross century disregard of other ethno-lingual identities by the central government created secessionist movements in various areas. It will be immature idea to think of protection of minorities rights under monarchical and military regime system of government (Belay, 2010:38). The rulers favored one culture, one language, and one religion with unitary system of government. As a result, the Dergue came under increasing pressure from regional and ethnic movements (Beza, 2013:77). Accordingly, an alliance of different secessionist ethnic movements overthrew the military government in 1991.

After the fall of the military dictatorship of Mengistu Haile Mariam in May 1991, under the guidance of the EPRDF (the *Ethiopian Peoples' Revolutionary Democratic Front*), a coalition of ethnic-based secessionist movements, such as OLF (Oromo Liberation Front), TPLF (Tigray People Liberation Front) and others declared their aim of radically breaking with a strategy of nation building based on ethnic discrimination (Beken, 2007:106). Instead, they strived to create Ethiopian national identity by recognizing ethnic diversity in the country (Ibid.). With the establishment of the Transitional Government of Ethiopia (TGE) in 1991 and the adoption of the Transitional Period Charter, Ethiopia entered into a constitutional process that has deeply transformed the formal structure of the state. Since 1995, Ethiopia is implementing an ethno-linguistic federal constitution. This constitution has established nine ethnically based regional states to accommodate ethnically diverse society of societies with a political history of ethnic domination (Mehari, 2010:127). As sovereign and the owner of the constitution, each 'nation, nationality and peoples' is granted equality in culture, language and dignity. Federal form of

government is formed on the basis of territory and language to enable them self-rule and self-determination (see the 1995 FDRE Constitution Article 46).

In Ethiopia, a remarkable formal recognition of the existence of minority groups traces its origin in the 1991 Charter of the Transitional Government of Ethiopia (see the 1991 TGE Charter Article 13). On the basis of this provision, Proc. No. 7/1992 and Proc.No.11/1992 define minority nationality as "nationality or people which cannot establish its own Woreda Self-Government" owing to smaller size of their population (see the 1992 Proclamation for the establishment of the National/Regional Self-governments). However in compliance with the majority of multi-cultural countries/states' constitutions, the FDRE constitution does not provide express and direct definition of minority groups. In the eyes of the framers of the FDRE Constitution, if all 'nations, nationalities and peoples' of Ethiopia are guaranteed the right to full self-determination and exercise self-governance (Tokuma, 2010:56) in an autonomous manner, there will be a less probability of oppression and discrimination in which the issue of minority phenomena arises. This constitution does not identify the numerical threshold below which a group is considered minority nationality (Ibid.).

Moreover non-territorial ethnic groups which are found in a dispersed manner in each territorially defined nation are not taken in to account. Nonetheless, Proc.No.111/1995 defines minority nationality as "a community determined by the Council of Representatives or its successor to be or a comparatively smaller size of population than that of other nations/nationalities." From a close reading of Art.54 (3) and Proc. No. 111/1995 one can understand that it is nations, nationalities and peoples the population size of which is insignificant (may be below 100,000 inhabitants) that are entitled to be considered minority nationality. However, As per Proc.No.532/2007 Art.20 (1(a)) arrangement of electoral districts on the basis of 100,000 people is no more working. As per Art.20 (1(d)) of this proclamation states minority nationalities believed to require special representation shall be determined by the HoF (see the 2007 Amended Electoral Law Article 20(1)). Owing to, identifying which nationalities are entitled to special representation cannot be identified until the HoF determines. But, it is clear that minority nationalities reside either within the nation, nationality or people that has already established their own homeland; region or local administration or they come together to form one local

government. Hence, minority nationalities are entitled to reserved seat in HPR. In addition to reserved seat minority nationalities are also entitled to cultural and linguistic rights since they constitute nation/ nationality as envisaged under Art.39(5).

Though Art.25 of the FDRE constitution guarantees the principle of equality and disallows unfair discrimination on the basis of language, ethnic affiliation, religion and other contingencies, it merely protects individual human rights without extending any protection to group specific rights of dispersed ethnic minorities (see the 1995 FDRE Constitution Article 25). Unless, we adopt special rules to guaranteed representation and to the right to cultural autonomy of dispersed ethnic minority groups in each State Councils, Zonal and Woreda Councils, dispersed ethnic minorities may remain unprotected at regional level.

As far as minorities concerned in numerical size all Ethiopian ethnic groups deserve minority protection at federal level. Despite its numerical size, the Amhara had been the most powerful almost for a century. Still because of the past dominance, the Amhara people is benefited as their linguistic dominance is maintained not only at federal level but also since the working languages of many constituent states maintained to be Amharic (Beken, 2007:205). Of course, those regional governments have chosen Amharic as their working language considering it is neutral to the conglomeration of nations in a particular region as none of them are numerically dominant. Moreover, most of the nations deserve minority protection at regional level and at local level since only few nations managed to have their own separate regional or local autonomy (Ibid). Hence, the members of almost all ethnic groups in Ethiopia constitute minorities at sub-national levels. Therefore, their existence, the right to participation and Self governance as a group is invisible. In the next section the scope of minority rights under FDRE Constitution are briefly analyzed in light of the above discussion.

2.6.2 The Scope of Minority Rights in the FDRE Constitution

2.6.2.1 The Right to Existence

All minority groups claim become meaningless unless their physical, moral and cultural existence have got legal and practical protection. The right to existence both as an individual and as a group is a building block for every right to be claimed. That is why a number of authors

consider the right to existence as the supreme human right (Aberra, 2008:4). As provided in ICCPR (see Article 6(1&2) of ICCPR and the FDRE (see Article 14 and 15 of FDRE Constitution) Constitution the right to life is inviolable and inalienable. Physical or moral extermination of minority groups are treated criminal acts under international law. The bearer of the right cannot voluntarily relinquish his right to existence let alone unilateral violation of it by the state. Because of being the founding right, usually the right to existence is non-derogable both in international and national human right instruments (see Article 4 of ICCPR) though the right to life is derogable in the FDRE Constitution (see the 1995 FDRE Constitution Article 93(3)).

Moreover, since nations are the bearers of sovereign power, at a federal level there is no neglected nation the existence of which is at risk. However, owing to the territoriality definition of nations, there are members of ethnic groups constituting majority in one region but constitute minority in the other regions with or without having defined territory. Usually, such groups of population which are not territorially identified and dispersed are neglected in some regions from being the owner of the region in which they reside. Thus, it is those ethnic groups which reside in an identifiable territory that are beneficiaries of the scheme of minority protection.

2.6.2.2 The Right to Equality

The right to equality is needed in multi-ethnic state so as to distribute ethno-national justice among ethnic groups beside among individuals. The FDRE Constitution assumes an obligation to respect and promote the right of citizens and nations and rule of law. Ethiopia has also ratified international instruments such as ICCPR which bans unfounded discrimination on the basis of “race, colors, language, religion, national and social origin, birth and other status. The FDRE Constitution states everyone is equal before the law without any discrimination based on race, national, nationality or other social origin, color, sex, language, religion, political or other opinion, property, birth or other status (see the 1995 FDRE Constitution Article 25). In the provision of the FDRE Constitution, which deals with equality, it seems that this right is given to individuals not for groups. However, if the rights to equality of individuals who are members of minority groups are protected, some authors say that the minority groups are at equal footing with the majority.

In our case, for instance, how can the Zay enjoy such rights in equal footing with the Oromo, being the mainstream state, who have already enjoyed those rights? In this respect, the Constitution fails to adequately protect the rights of ethnic minorities. Even though the protection of minorities is inspired by the principle of equality, it requires state to take positive measures to create favorable conditions to make minorities express their characteristics and to develop their culture, language, religion, traditions and customs. Under article 39(2) and (3) of FDRE Constitution each 'nation, nationality or people' are guaranteed to develop and promote its culture, history and language, and to establish self-government (see the 1995 FDRE Constitution Article 39). However, the FDRE Constitution does not provide for special measures or affirmative action in favor of minorities.

2.6.2.3 The Right to Self-Determination

The concept and dimensions of the right to self-determination is very broad and multi dimensional. Self-determination is one of the most important rights of oppressed population groups because of its multi-faces. It can be seen at the same time from political, economic, social and cultural rights. Additionally, the right to secession is also part and parcel of the right to self determination of 'nations, nationalities and peoples' regardless of their numerical, historical and political status. (Ibid.). The only limitation to 'nations, nationalities and peoples' right to self-government is that all regional or local organs should discharge their duties and exercise their rights within the framework of democratic principles, rule of law and in accordance with the mandatory rules and sprits of FDRE Constitution (see the 1995 FDRE Constitution Article 52(2)). In reality, there are only nine Regional Sates and two City States for nearly around eighty nations in the county. But, theoretically the door is not closed for every nation, nationality and peoples to establish its regional state in the future (see the 1995 FDRE Constitution Article 47(2)).

2.6.2.4 The Right to Self Administer (Self rule)

The right to self-government as an element of the right to self-determination exists for all nations, nationalities and peoples. It is limited self-determination in areas of political and economic affairs at sub-governmental level. Each nation of Ethiopia has the right to full measure of self-government which consists of the right to establish institutions of government in territory

they inhabit and equitable representation at both federal and state government level (see the 1995 FDRE Constitution Article 39(3) & 47(2)).

The FDRE Constitution is unique in granting, theoretically, to all nations regardless of their numerical size and political self-consciousness to exercise the right to self government. In practice, there are various models applied in sense that while some nations managed to establish their own homeland regions others have established sub regional autonomy by establishing their own separate Zone or Woreda. There are also ethnic groups who do not have either regional, Zonal or Woreda level autonomy. Only insignificant powers are reserved to regional governments (Aberra, 2008:120-121).

2.6.2.5 Cultural and Linguistic Rights

Among the most crucial affairs that need special care in multi-ethnic state is language and cultural policy to accommodate diversity. Therefore, in multi-linguistic states we need to take care as far as language is concerned. In order to practice once culture there must be a right to use one's own language as language and culture are indispensable (Welgehama, 2000:103-105). There is no one ethnic group that constitutes 50% in the federation of Ethiopia though Oromo constitutes the largest group. As far as the ethnic constitution of each state none of the nine states are homogeneous (Tronvol, 2000:19). In fact the Oromo, Amhara, Tigray, Somali and Afar people dominate in their respective regions with significant numbers of minorities in each. In SNNPs, Gambella, and Benshangul Gumuz, the range may vary from 4 to 56 minority nationalities in which there is no dominant ethnic group. When we see the city-states of Addis Ababa and Dire Dawa they are inhabited by diverse society (Ibid.).

The FDRE constitution, under Art.5 (1) and (2), states that all Ethiopian languages enjoy equal state recognition and Amharic is the working language of the federal government but does not spell the official language for communication between the federal government and the states although as a matter of practice Amharic is maintained. The ethno-linguistic groups demand for cultural preservation and distinctiveness by vesting the mandate to determine the working language of their respective state by the state legislatures (see the 1995 FDRE Constitution Article 5(3)). This opens the way for the states to adopt their own official languages. Except the

historical imposition in the guise of one nation, one language and one religion motto, there was no justification at the beginning to deny other languages. For instance, even the Oromo Language is in a better position than Amharic in number of speakers, economic contribution and size of the territory occupied by the speakers if it gets the status at the center (Tokuma, 2010:67).

In spite of the preamble of FDRE constitution that promises to rectify past injustices it looks that Art. 5(1) and (2) of the FDRE Constitution contradict each other because it is difficult to give equal state recognition to all languages in the existence of one federal working language. The right of ethnic groups to officially use their own language in public affairs is constitutionally recognized (see the 1995 FDRE Constitution Article 39(2)) only when they are territorially concentrated. Hence, the language policy has failed to accommodate some people in the cities of the regions since they speak Amharic because of the past assimilation. Though the official language in Oromia, Afar and Somali is language of the dominate group it is also true that the federal arrangement is made on the basis of not purely language patterns but also ethnic background (see the 1995 FDRE Constitution Article 46).

As clearly provided in the FDRE Constitution the building blocks of the federation are nations, nationalities and peoples of Ethiopia in which sovereign power is vested by the constitution. It is a given fact that in multi-ethnic federations like Ethiopia in which the objective of the federation is forging unity out of diversity, the issue of language policy touches every aspect of the Countries political, economic, social, cultural and educational affairs. If cultures are promoted and preserved through language, it is inevitable to practice and attend education through mother tongue up to certain levels. Without learning through mother tongue, it is difficult to develop the language, culture and maintain equality of cultures and minimize subordination of languages. Through learning one's own language it is possible to exchange the culture of one another in which sense of belongingness, tolerance and pluralism develops.

2.6.2.6 Representation

Every nation, nationality and people of Ethiopia has the right to equitable representation and this is guaranteed under Art.39 of the FDRE constitution. In the first place, though no one ethnic group is dominant in Ethiopia; the sum of Oromia and Amhara is more than required majority in

lower house. In fact, they do not quantify 50% of the second chamber but still they are leading in having larger numbers of seat in this chamber. But it is challenging to minorities to overcome unless they always side with one another. Minority ethnic groups have not given the opportunity to counter balance the majority tyranny in lower house during law making and issuance of policy at the center since House of Federation has no law making power in proper sense.

2.6.2.6.1 Representation in the House of Peoples Representatives (HPR)

The FDRE Constitution having adopted the West Minster model empowered the HPR, the lower house, to have final say on political issues. The House of Peoples' Representatives has the power of legislation in all matters assigned by the constitution to Federal Jurisdiction (see the 1995 FDRE Constitution Art. 55(1)). The members of the House are elected by means of general and direct elections under the *first-past-the-post* electoral system. It is the supreme political organ so that enacts laws in compliance with the constitution (see the 1995 FDRE Constitution Article 50 & 51). Since the regional governments are established along with ethnic lines, this electoral system 'runs the risk that the one seat in each electoral district will be won by the candidate who represents the interests of the largest ethnic group in the district' (Beken, 2007:108-109). This is more dangerous for minorities within regional states as it may leave them with no representative in the house. For instance; see the Zay people in Oromia National Regional State. The total number of the members of the house should not exceed 550 of which minority nationalities should have at least 20 seats (see the 1995 FDRE Constitution Art.54(1-2)). However, this is not fully applicable even if there is no restriction based on population size of minorities that qualify for special representation in the HPR. Dispersed ethnic groups in self-administering nations are represented by the representatives of those territorial defined self-administering nations which are the dominant group in a constituency. They are not also entitled to special representation, as they are not nationalities because of the territoriality principle.

2.6.2.6.2 Representation in the House of Federation (HoF)

The Ethiopian Federation, uncommon to other federations, created a second chamber of the parliament with no law making power. The House of Federation is empowered to interpret the constitution, decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession and promote and ensures equality among nations,

nationalities and peoples (See the 1995 FDRE Constitution Art. 62). The Constitution also grants the House with the power to resolve trans-boundary conflicts between nations (Ibid.).

According to article 61 of the FDRE Constitution, this House is composed of representatives of nations, nationalities and peoples. Therefore, as Yonatan Fesseha noted, ‘strictly speaking, the House of Federation is not composed of representatives of the nine states’ (Yonatan, 2007:20). The members can also be elected either directly by the people in the respective region or indirectly from the State Councils. In practice, all members of the House of the Federation are elected by the regional parliaments and, therefore, no direct elections for the House of the Federation take place in Ethiopia. However, the system of representation which is adopted in Article 62(2) has again compromised the role of this institution in protecting the rights of minorities. One additional representative for each one million of its population (Assefa, 2007:139-145) shall represent each Nation or Nationality. In this system, as Yonatan rightly pointed out, ‘small ethnic groups are likely to be outvoted easily by the numerically strong ethnic groups’ (Yonatan, 2007:22).

2.7 Conclusion

The FDRE constitution is equally advanced with regard to human rights protected under international law. Art.9(4) states that “all international agreements ratified by Ethiopia are an integral part of the law of the land”. Ethiopia has also ratified international instruments such as ICCPR which bans unfounded discrimination on the basis of “race, colors, language, religion, national and social origin, birth and other status.”If the rights to equality of individuals who are members of minority groups are protected, we can say that the minority groups are at equal footing with the majority. But it is practically impossible to protect minority in regions with the majority. Even though the protection of minorities is inspired by the principle of equality, it requires state to take positive measures to create favorable conditions to make minorities express their characteristics and to develop their culture, language, religion, traditions and customs.

The FDRE Constitution also recognizes the right to self-determination of 'nations, nationality and people'. It can be understood as the right to autonomy (self-government), the right to speak their own language preserve their own culture, history, identity and to separate institutions. The right to secession is also part and parcel of the right to self determination of nations regardless of

their numerical, historical and political status. The right to self-government as an element of the right to self-determination exists for all nations, the makers of the FDRE Constitution. It is limited self-determination in areas of political and economic affairs at sub-governmental level. Each nation of Ethiopia has the right to full measure of self-government which consists of the right to establish institutions of government in territory they inhabit and equitable representation at both Federal and state government level.

In reality, there are only nine Regional States and two City States for nearly around eighty nations in the country. But, theoretically the door is not closed for every nation to establish its regional state in the future. The FDRE Constitution is unique in granting, theoretically, to all nations regardless of their numerical size and political self consciousness to exercise the right to self-government. In practice, there are various models applied in sense that while some nations managed to establish their own home land regions others have established sub regional autonomy by establishing their own separate Zone or Woreda. However, there are currently small ethnic groups have not got such status in the country. For instance; the Zay people.

Additionally, the FDRE constitution, under Art.5(1) and (2), states that all Ethiopian languages enjoy equal state recognition and Amharic is the working language of the federal government but does not spell the official language for communication between the federal government and the states although as a matter of practice Amharic is maintained. For all in light of international instruments theoretically FDRE Constitution recognizes the right to self government, the right to speak their own language preserve their own culture, history, identity and to separate institutions for nations, nationalities and peoples' of Ethiopia. However, practically there are ethnic groups having their own region in other or not are constitutes minority in other region in Ethiopia does not have such status in the country.

CHAPTER THREE

Description of the Zay

3.1 People

The Zay people are one of the minority ethnic groups in Ethiopia. The Zay represent an ethno-linguistic minority group within the Ethiopian context that still preserves its own linguistic and cultural identity. They mostly reside in Eastern Shewa and Arsi Zone of Oromia National Regional State. The Zay language belongs to one of the Semetic languages which are mainly spoken in the north and partly in the central and eastern parts of the country and is closely related to the languages spoken by the Gurage ethnic group. According to local traditions compiled by Tuma Nadamo (1982), ancestors of the Zay people are a result of a joining of three streams of people that crossed the water to the islands of Lake Ziway sometime between the early 14th and the middle of the 17th century for different reasons (Tuma Nadamo (1982) cited in Mirutse, 2001:84). Additionally Paul Henze also expressed the ancestors of Zay people as most likely moved on a large scale to the islands during the Oromo expansion during the 16th and 17th centuries (Henze 1973:31).

Physically, they mainly inhabit the five islands of Lake Zway, especially the three islands *Tullu Guddo*, *Tsedecha* and *Fundurro*, and the shores of Lake Zway (Meyer 2001:317). According to Tilahun the number of islands that are inhabited by the Zay people reduced to two: *Tullu Guddo* and *Tsedecha* (Tilahun, 2007:1). Currently the two larger islands, i.e. *Debre sina* and *Galila*, with the exception of some priests who perform church services there at special holidays abandoned because of shortage of agricultural land (Ibid:4). The Zay people who moved out from these islands have mainly settled on two shore areas locally is known as Bochesa and Makdella, found along the south eastern and northern sides of the lake respectively. At this time, around 2,000 people are living on *Tsedecha*, an island with plenty of land for agriculture. *Tullu Guddo*, the biggest island in the lake, is accommodating around 1,200 persons. *Fundurro* is settled by 150 persons (Meyer 2001:319) and about 1000 reside in Bochesa and 500 in Makdella (*Interview with eastern Shewa OPDO representatives, Meki town, 17 December 2015; Ziway town, 18 December 2015a*).

Despite the Zay names, the southeastern islands are often only known by their Oromo names. *Tullu Guddo* ('big mountain' in Oromo) is called *Debre Tsion* 'mountain of Tsion' in Zay. *Tsedecha*, which refers to a kind of acacia in Oromo, is known as *Aysut* in Zay. *Funduro* is a composite name with the Oromo words of *fula* 'face' and *dura* 'in front of'. In Zay, it is known as *Famat* (*Interview with Ato Nafkot Obso, Ziway (Batu) town, 18 December 2015*). This island is also known, especially by Amharic speakers, as *Getesemai*, literally 'decoration of heaven' (Meyer, 2002:36-37).

Different scholars suggested that the islanders had a long history of trade interaction with the surrounding Oromo people. It may be therefore in that trade interaction that the surrounding Oromo people gave these names to the islands based on their size, type of vegetation and nearness (Endashew, 2005:2). According to Endeshaw (2005), the surrounding Oromo people call the Zay, *laak'i* meaning 'paddlers' or 'rowers of boats'. Another Oromo designation was 'worm eater' (Tesfaye, 1988: 23), which is out of use today. This designation refers to the frequent consumption of fish by the Zay – a food item not liked by the Oromo. Moreover, there is now a day a continuous influx of people from the occupied islands to the main land in search of arable land. Religiously the Zay people are all Orthodox Christians who have kept their faith for Centuries.

3.2 Economic Activity of Zay

As the Zay ethno linguistic group was confined to the five islands and the shores, their livelihood, largely, is hinged to the lake. In Zay economic life, fish was important not only as food but also its fat was used as house light before the introduction of gas-oil to the islands. It was also one form for the payment of tribute to the central government after 1886 (Tuma, 1982:20). Fishing is now the main income of the islanders and became even an important aspect of Zay identity. In spite of the significant role that fishing has been playing, the livelihood history of the Zay is not entirely hinged to fishing. They have been engaged in other additional activities such as weaving, cultivation of small plots of land, and, to a less significant degree, herding and small-scale local trade. Weaving, which is believed to have been introduced to the islanders by the immigrants from Menz in the 16th century, flourished around the 17th century and enhanced the trade relation between the Zay and the Oromo (Tuma 1982: viii; Tesfaye 2007.:33-34). One of the agricultural produces, *dagussa* 'finger millet', is an important

ingredient in their food and the traditional drink which (Henze, 1973b:80-81) expressed as the pungent golden brew made from the black grain.

As time passes by, the Zay faced significant changes in their environment, language usage and cultural heritage due to influences of other dominant languages and cultures. Hence, the changes in the livelihood of the Zay may trigger a change in their identity. As Tuma indicates, despite plentiful supply of fish for several hundred years, the Zay had a subsistence economy during the 19th and early 20th centuries (Tuma, (1982: vii-viii). He further states that unlike their neighbors on the mainland around the lake (i.e. the Oromo), the Zay were predominantly fishermen. This historical analysis gives a clue to the longstanding history of the Zay as fishermen.

3.3 The Zay: Demography

The Zay people are sparsely located in Eastern Shewa Zone and Arsi Zone. Although the Zay life can be said to be centered around the islands, due to the churches, currently most of the Zay population lives in the mainland towns and villages, most notable Ziway (Batu), Meki, Bochesa, and Mekdella (Michel, 2012:29). As land, the islands are characterized by Rocky Mountains and stony nature, and much of it is not suitable to cultivation (Ibid.). The principal crops grown on the islands were cotton (for weaving) and grains like finger millet (Dagussa), Teff, and Barley.

Climatically, however, the islands and the area surrounding Lake Ziway, like other Rift Valley areas has a wet season from July to September, the main rainy season and a dry and wind season from October to January (Mirutse, 2001:84). Generally, around the lake area it is wet and characterized by arid climate. As a result, their livelihood basically depends much on subsistence agriculture and traditional fishery. The exact population size of the Zay, did not appear on any Ethiopian National Population and Housing Census. Although there is lack of official census concerning the Zay at present, according to local information from government officials and the group of Zay struggling for its recognition and representation, the population is estimated to be 14000 (*Local Census Estimation from Meki Agricultural Office and Interview with Ato Temesgen Wold medhin, Bochessa, 21 February 2016 and Interview with Ato Afeworki Gebrehanna, Mekdella, 22 February 2016*).

There might not have been known the exact population size of the Zay. On the other hand; the Zay had also never been recognized as distinct people and represented in the two federal houses. The Transitional Government of Ethiopia (TGE) did not include the Zay people among the ethnic groups eligible to establish national/regional self-government. However, this law was essential during the transitional period and was a preface to the Federal Constitution.

3.4The Origin of the Zay

The origin of Zay is still a controversial issue. There is no evidence as to the origin of the name Zay or Ziway. However, oral tradition traces the time at which the word Zay has been coined back to the 9th century when the first Ge'ez-speaking immigrants to the area were shocked by the landscape of the islands and subsequently named them Zay, which means 'this thing' or 'this place' (Tesfaye 2007:5). The word gradually became the name both for the ethno-linguistic group and the area. According to a somewhat similar oral tradition, Zay is a combination of two Ge'ez words, *z* and *way*, used by the first religious refugees from the north. The Ge'ez word *z* is equivalent to 'this' and *way* is an exclamation of surprise or sorrow. The people used these words when they tried to cross the lake and suddenly as they were sinking, pointing their fingers towards the islands. The people who made it to the islands called themselves *Zay* (Meyer 2001:319).

Meyer (2001:317), on the contrary to Tesfaye (2007) and Leslau (1960) draws a clear delineation between the name of the Zay ethno-linguistic group and their language, Zay, vs. the name for the lake, Ziway, which was later extended to the nearby town on the southwestern shores of the lake. Meyer (2001:317) makes clear that the term Zay refers to both the ethno-linguistic group and the language while the word Ziway refers to the lake and the town. The Zay elders believe that their ancestors came to the islands at various times from different places (Meyer 2002:37). Tuma too, assumes that the original homeland of the Zay was not a single historical place and, consequently, the Zay ethno-linguistic group does not have a common ancestor origin (Tuma, 1982:1-2). He also provides different oral traditions of the Zay origin, which is dated back to medieval times.

The Zay ethno-linguistic group is believed to be the result of three main movements and interactions of people during the 13th and 14th centuries. The three groups – *Aren*, *Obborubar*

and *Zafit* – are believed to be the most ancient people who lived on the shore of Lake Ziway in ancient times (*FGD in Meki, 17 December 2015; FGD in Ziway, 18 December 2015; Mekidella, 22 February 2016 and Bochessa, 21 February 2016*). Later, many of them were pushed towards south-west from their original place by unknown warriors while the remaining few people were able to cross the lake most probably by boats and settled at the three south-eastern islands: *Tullu Guddo, Tsedecha* and *Funduro*. Having fled from the warriors, the *Aren* and *Obborubar* minority settled on the south-eastern part of the *Tullu Guddo* Island. The *Zafit* were able to cross to the *Funduro* and *Tsedecha* islands and settled there (Tuma, 1982:1-2). Later in the middle of the 16th century, these three tribes were joined by a group of people who came from *Menz*, led by a certain man known as *Askusillase*. He was wise and powerful enough to seize power from the then ruling group and consolidated his power all over the islands. Subsequently, he named the various islands uniformly as *Zay* and made them a single independent entity under his leadership. The language also came to be known as *Zay* since then (Tuma, 1982:9; Tesfaye, 2007:21).

Another oral tradition links the Muslim *Silt'e* (East Gurage) to the *Zay* during the Oromo expansion that eventually resulted in a new language with profound lexical similarity with the *Silt'e* language (Tuma, 1982:9, 11-12; Shin and Ofeansky, 2013: 436). Meyer also mentions another oral tradition according to which the etymology of *Zay* is related to the Ethiopian Bible, especially to the Psalms of Dawit 118/119, in which the letter *z* of the alphabet is pronounced as *Zay* (Mayer, 2002:36). Discussing the history of *Zay* settlement in the current Ziway area, Henze widens the geographical area that the *Zay* had inhabited to three other lakes: *Langano, Shala* and *Wonchi* (Henze, 2007:114). He explains that the *Zay* living on Lake Ziway remained tenaciously Christian even though they were isolated from the center of the Ethiopian church until Menelik II conquered the region in the 1880s. However, this is only a recent complex of historical developments. The culture of the *Zay* on the islands developed during the middle ages (Henze, 1973:77). Despite the various explanations based on the folk-etymology and the references from the Bible, the name *Zay* does not give many clues of its origin (Meyer 2001:319).

3.4 Factors of Migration

3.4.1 Religious Refugees from Aksum

According to Zay oral tradition, the first wave of refugees to the Lake Ziway area was during the reign of Gudit, a *Falasha* queen who destroyed churches and killed priests during 9th century. However, the term “*Falasha*” is a bit misleading here, as it is more likely that she was Agaw, a Cushitic group, and the name *Falasha*, or Beta Israel was applied to this group around the 15th century (Abbink, 1990:420). They came from Aksum for the reason that of she brought tabot from North Tigray (Aksum) to hide on the islands from destruction. This war was against the kingdom, the Solomonic dynasty, and the Church. At that time, they fled from the north in Aksum to Southern Ethiopia, and they came to Lake Ziway area. According to the historical tradition, these people were, before being Christian, were Jews (Ibid.). These people first came in 842 with all their Judaist culture and the new teaching of Christianity. Forty years they settled here, and after forty years the ark and the king went back to Aksum, Yodit Gudit was dead and gone, so they went back. The others, who have stayed behind, are the fathers of today Zay (Ibid:421).

3.4.2 The Invasion of Azmach Sebhat

The second historical migration of Zay inhabitants comes from the southern attack of *azmach* Sebhat, an imperial commander during the reign of Amda Tsion I around 1323 (Michael, 2012:37). *Azmach* Sebhat was from the town of Gura'e in Akala Guzay (now Eritrea). People from this migration have inhabited the villages of Aymellel on Tullu Guddo Island (Ibid.). It is claimed that these settlers came from *Aymellel* in Gurage land and are the descendants of the militia that came with *azmach* Sebhat. Both Bahru Zewde and LeBel in their work have noted that the local traditions of the *Aymellel* Gurage (also known as Kistani, or Sodo Gurage) also trace their origins back to *azmach* Sebhat (Bahiru, 1972:37; LeBel, 1974:102). Moreover, the work by Denberu Alemu details the Gurage tradition that both the Zay and the Gurage have some *gosas* in common (Denberu, 1995:19). Accordingly, there is a group based relationship between the Zay and the Gurage, particularly the *Aymellel* Gurage (Michael, 2012:38). The *Aymellel* Gurage also uses *Ager* to distinguish between kin groups. These relationships also lead us into some of the themes we have mentioned, most notably those of Christianity and migration. Even now the *Aymellel* Gurage are predominantly Orthodox Christians (Ibid.). Migration is

rather obvious that the militia first settled in *Aymellel* and then some of them migrated to the islands.

3.4.3 The Invasion of Zara Yaqob

The third historical migration of the Zay people connected with the war between Zara Yaqob and Ahmad Badlay of Dawaro. This was done in response to Ahmad Badlay's rebellion against the empire (Pankhurst, 1968:36-38). After the defeat of Ahmad Badlay, Zara Yaqob placed a garrison of soldiers in the area as a means to safeguard the frontiers of the empire, the descendants of whom are said to be the members of the modern day Zay, Gurage and other groups (Michael, 2012:38). Others support this noting that the Zay and Gurage, along with the dynasties of Wollamo, Amarro-Koyra, Gangero, Dorze, Bosha, and Kaffa all claimed Tigray descent (Haberland, 1964:237). It is said to be these soldiers who formed another wave of settlement on the islands.

3.4.4 Religious Refugees: Ahmad ibn Ibrahim al-Ghazi Invasion

The last historical migration connected with origin of Zay people related with religious refugees of Imam Ahmed ibn Ibrahim al-Ghazi in 1527 to the area. The Lake Ziway district was located in a territory known as Waj, about which little is known (Braukampers, 2004:43). Both the Gurage and Zay claim to be the descendants of religious refugees fleeing the wars with the Imam (Michael, 2012:39). It was not only Christians who were fleeing the destruction of the Imam, but the muslims also came from Harar to Lake Ziway at this time. Accordingly, many ethnic groups living in the eastern part of Gurage claim to be descendants from Harar.

As many told the origin of the Zay people is more or less connected with religious and war refugees in different parts of Ethiopia. In the same vein, other members of the Zay people claim the Zay place of origin is northern part of Ethiopia in Tigray, the place today Aksum.

3.5 Language

As we have seen in chapter two, language is one of the criteria that define an ethnic group in Ethiopia. The Zay have their own language called *Zagna*. Zay is one of the severely endangered languages of Ethiopia spoken by a few thousand speakers. Jordan et al. indicate that the Zay speak Oromo and Amharic in addition to their mother tongue referred to as *zayna* (Jordan et al,

2011:11). In Meyer's study, the language is called *j zaj af*, which literally means 'language/mouth of the Zay'(Meyer, 2001:317).The language of zay influenced by other languages, such as Amharic. Leslau and Boone et al. give an account of the linguistic contact between Amharic and Zay through religious activities (Leslau, 1999: xvii; Boone et al., 2007:1).

Endeshaw and Meyer comment on the absence of reliable information on the number of Zay speakers mentioning that no appropriate census has been taken for this ethno-linguistic group (Endeshaw, 2005:9; Meyer, 2005:15). Meyer estimates the Zay population speaking zayna on the islands and the hinterlands in 1999 to be between 4,900 and 14,000 speakers (Meyer 2005:15). According to this information, the total Zay speaking population at the five islands as well as in the hinterland was 13,665 (Ibid.). The minority status of the Zay is confined by Jordan et al. who report, "the 1994 Population and Housing Census of Ethiopia contains no information with reference to the Zay people"(Jordan et al., 2011:4). Furthermore, the Zay were not mentioned in the subsequent 2007 Population and Housing Census probably because the census sometimes counts different languages as one, for example Eastern Gurage contains Wolane and Zay (Hudson, 2012: 209). Another indicator for the severe level of the endangerment is the absence of monolingual Zay speakers. For instance, notes that there are no monolinguals in Zay; in addition to their mother tongue, they also know Amharic and/or Afan Oromo (Meyer, 2001:318). Jordan et al. analyze the linguistic domains in which Zay is actively used (Jordan et al., 2011:12). According to Jordan et al. on *Tullu Guddo*, Zay is the only language used in the family domain, while Afan Oromo is the only language used for communicating with siblings and children in Bochesa. Additionally, Zay, Afan Oromo or Amharic are used when communicating with parents or spouses in Bochesa. On the other hand, Zay is used when communicating with friends or elders on *Tullu Guddo*, while at Bochesa, Afan Oromo is the only language employed in this function. The report shows that Zay is not used in other discourse domains such as in administration or at markets, where Oromo and Amharic are used. The reason behind this is Amharic is the islanders' foremost language of religious activities and Oromo is the language that schooling is conducted in, as they live in an Oromo area (Jordan et al. 2011:3).

In a plan that seems to make their language grow, the Zay once demanded the right for self-determination (Meyer 2005:15). In line with this, Brenzinger argues that the Zay are presently in

a position to practice their constitutionally guaranteed right to self-determination regardless whether they are indigenous to the region or migrated to present day Oromia (Brenzinger, 1997:212). This throws light on two points: little or no attention has been paid to the Zay community as such, and to their language and culture in particular.

Wedekind and Wedekind believe that Zay is one of the well-studied Ethiopian languages and state, "Zay (Lak'i) is a language which is comparatively well-researched – with the exception of its socio-linguistic aspects and its developments during recent decades"(Wedekind and Wedekind, 1994:1). As elaborated in Tilahun, "from a purely descriptive perspective, the Zay language is a fairly studied language among the East Gurage languages"(Tilahun, 2007:5). There is a general agreement that the Zay speak a semitic language. The language is classified as one of the transversal South Ethio-Semitic languages which are further sub-divided into a northern and southern branch. According to this categorization, Zay is part of East Gurage languages together with Silte and Wolane (Meyer, 2005:21). Henze also correlates the language and culture of the Zay with Harar (Henze, 2000:114).

Although the language is believed to have no dialect variation of any kind (Shinn and Ofcansky, 2013:436), the intense contact with Oromo has enhanced dialectal variation (Meyer, 2006b:5). Tesfaye reports that Zay is an amalgamation of Ge'ez, various Gurage varieties, Tigrinya, and Amharic (Tesfaye, 2007:6). The Zay also seem to be historically and linguistically attached to the Harar, the Kistane and the Silte. According to historical accounts the Zay exchanged goods with the Kistane and the Silte in the 19th century (Tuma, 1982:26). This trade relation might have resulted in the intermingling of languages and cultures. Moreover, Silte seems to be closer to the Zay than any other language.

Tuma Nadamo further argued that physically the Zay may be worth careful study before they become too intermixed with the surrounding peoples. This is the way that he tried to indicate the language was an endangered language even at that time. Although in earlier times it was widely spoken in the Islands of lake Ziway, presently, very few of the population speak the language called Zagna (Michael, 2012:111). They do not have an alphabet yet. Among the reasons for the decrease of the number of the speakers of the Zagna in favor of Oromic were: primary schools

were (are) run only in Oromic (Ibid: 112). On the other hand; to find job and other opportunities in the government offices knowing the working language in Oromia National Regional State is important for the Zay (Ibid.).

3.6 The Zay Political Tradition

The Zay political traditions refer to the ways in which the Zay have ruled themselves, both independently and co-dependently of the state. Since the Zay were "rediscovered" by the Ethiopian State under Menilek II, they have gone through three different types of political systems. Before the arrival of *Asku sellasie*, the Zay are said to have been ruled by a council of *bekur* (elders). After *Asku Sellassie*, the Zay were ruled by the *balabbat* system. Before *Asku sellasie* arrived, the people were ruled by the elders who were said to be the descendants of the Levite priests exiled from Aksum during the time of Yodit. As I Interview elders, they all told me that how *Asku sellasie* became first the leader of the Zay:

When he arrived the area, the people lived there and Asku Sellassie came to discuss with them how the island should be governed. As a result, Asku Sellassie himself elected as the leadership of the area. With this, Asku Sellassie took over the leadership of all five islands. He appointed five men to rule each of the islands. Each of the five rulers appointed twenty-five people under them to help rule. They helped make decisions about the islands, people, and problems. All the men would meet on Famat, one of the five islands to make decisions. At that time if anyone committed a crime they met on Famat to discuss the crime. If it was a bad crime, murder, theft, or fighting, they first call the accused and advise them that they should change their ways. If the person does not change they would decide to kill them. To kill them they would tie a large stone to them and throw them in the lake. At that time, this is how people were punished (Interview with elders in Meki, 17 December 2015; Ziway, 18 December 2015).

The Zay were ruled by *Fit Dagna* (a code of law) passed by a *Zay Shengo* (a meeting of Zay) held on Famat by the *Bekur* (elders) elected from different *gosas*. The number of representatives varied according to the population of one's extended *gosa* group (Michael, 2012:113). *Fit Dagna* deals with: crimes (the killing of people, burning of houses, theft, assault, etc.), land administration, weddings and engagements (known as *Fija*), funeral ceremonies, inheritance,

attacks on farms (if grazed by another persons' cattle, goats, and sheep), and abusing, blaming, and insulting individuals. They implemented the *Fit Dagna* passed by the *Zay Shengo*, a much smaller version of a modern parliament (Ibid:114). When *Asku sellasie* took power he exercised this power with his advisors and *Dagna* appointed by him. The elected elders brought cases to him if they could not be solved by themselves (Ibid.). During this time the *balabbat* feudal system was introduced and the electoral system of the *Zay* was weakened and finally abolished during Haile Selassie's reign. Though very weak, this system still exists as a form of self-governance among the *Zay*. The *balabbat* system also has a conflict resolution mechanism known as *Bekur*. It is quite similar to the Oromo conflict resolution known as *Jarsa Biyaa*:

*When someone had a fight with another, the people called for a judgment place and came together there. After the elders are elected they go to the quarreling parties individually. Then they make a resolution to the conflict. If the person who committed the crime, when one person insults another, the payment for this is clothes. If one person assaults another person, the elders will decide to resolve the conflict they have to kill a sheep for the person. After this the conflict is supposed to be solved. It is still used today. When they elect the *Bekur*, they don't have to be older, but must have good qualities such as a good speaker, fair, just, etc. An example of a case is two men insulted each other and we told them this was not good. When someone hit someone with a stick we resolved the people who spilt blood. A person who fights by spear, etc. When they want to resolve a conflict, some want to call the police then the case will be judged in court. The *Zay* have always used *Bekur*, from *Asku sellasie* to now (Interview with elders in Bochessa and Makdella, 21 December 2015; Interview with elders in Meki, 17 December 2015 and Interview with elders in Ziway, 18 December 2015).*

During Menilek's southern campaign he passed by Lake Ziway, and after Alibo (then *balabbat* of the *Zay*) convinced him of his royal ancestry, was reconfirmed as leader and given the title of *Balambaras*. Elders told me that when Menilek was moving to subdue the Arsi Oromo:

*He saw the islands and called Alibu, the then *balabbat*, and discussed with him about problems facing the *Zay* such as absence of enough land to plough and a conflict with the Oromo, who would not let the *Zay* to the market. Then Menilek found a resolution between the *Zay* and the Oromo. They let them go in peace to the market area. The*

Oromo gave the Zay land to plough on the mainland. When Menilek left the area he [reconfirmed] Alibu as balabbat. As a result the Zay gave Menilek dried fish, money and bulukos as tribute. Menilek also helped Zay people, giving each one a cow. Alibu controlled all this area on behalf of Menilek. At that time some people didn't accept Alibu's rule, if this happened he would have them tied for a few days, after this they usually accepted his rule. The process also continued during Haile Selassie regime by his successor (Interview with elders in Bochessa, 21 February 2016; Makdella, 22 February 2016; Meki, 17 December 2015 and Ziway, 18 December 2015).

The area given to Alibu to rule is said to be the traditional settlement area of *Ager* – the first three migrations – and seems to reaffirm this area as being historically Zay before the invasion of the Imam and the arrival of the Oromo. Still today we can find small pockets of Zay, around Sheshamene and lakes Langanu and Shala. These Zay are said to be from the *Ager* migrations and belong to various *gosas* such as Worre, Degoy, Akakle, and Ertube. Despite being given this area to rule, it seemed that the Zay ruled in name only, due to small numbers and a lack of political resources it was simply not feasible to control the vast area.

The emperor Haile Selassie also gave land to the Zay in Mekdella and around Meki as part of a *sefera* (resettlement) program (Pankhurst, 1992:36). With the advent of the Derg, the *balabbat* system was dismantled in favor of a policy of creating *kebeles*. The same informant notes the changes that came with the Derg:

After this Biru and Duga Wake controlled until 1966 E.C. The Derg regime came and took power. With the Derg each island elected its own leader through the kebele. Each island was ruled independently. They elected someone who was talented. They elected a chairman for two years, and if they were good they would be reelected (Personal discussion with Ato Hamiza Nuguse, Meki, 17 December 2015).

At first the government tried to have the Zay merge with the nearby Oromo, especially in Herrera. However, because of protests from the Zay, they were given their own *kebele*. The Zay were also given land by the Derg, and informants note that land was given in Mekdella, Meki, and Herrera (Ibid.). The Zay men elected from their respective islands run these *kebeles*. The Zay administered their *kebeles* until 1995 and the change of the political system. So at the central level the Zay were "represented" by a member of the Zay community who was chosen solely

because he was Zay. However, despite having a community member in the *Shengo*, it seems that nothing could be done to promote the Zay in any way.

3.7 Conclusion

The Zay are minority ethnic group in Ethiopia settled on the islands of Lake Ziway and on shores of the lake. The Zay represent an ethno linguistic minority group within the Ethiopian context that still preserves its own linguistic and cultural identity. The Zay language belongs to one of the Semitic languages which are mainly spoken in the north and partly in the central and eastern parts of the country and is closely related to the languages spoken by the Gurage ethnic group. Physically, they mainly inhabit the islands of Lake Zway, especially the three islands *Tullu Guddo*, *Tsedecha* and *Fundurro*, and the shores of Lake Zway (Meyer 2001:317). Currently the two larger islands, i.e. *Debre sina* and *Galila*, with the exception of some priests who perform church services there at special holidays abandoned because of shortage of agricultural land (Tilahun, 2007:1). The Zay ethno-linguistic group was confined to the five islands and the shores, their livelihood, largely, is hinged to the lake. In Zay economic life, fish was important not only as food but also its fat was used as house light before the introduction of gas-oil to the islands. It was also one form for the payment of tribute to the central government after 1886 (Tuma, 1982:20). Fishing is now the main income of the islanders and became even an important aspect of Zay identity.

There is no evidence as to the origin of the name Zay or Zway. However, oral tradition traces the time at which the word Zay has been coined back to the 9th century when the first Ge'ez-speaking immigrants to the area were shocked by the landscape of the islands and subsequently named them Zay. Zay means 'this thing' or 'this place' (Tesfaye 2007:5). Tuma, too, assumes that the original homeland of the Zay was not a single historical place and, consequently, the Zay ethno-linguistic group does not have a common origin (Tuma, 1982:1-2). He also provides different oral traditions of the Zay origin, which is dated back to medieval times. The Zay ethno-linguistic group is believed to be the result of three main movements and interactions of people during the 13th and 14th centuries.

Even if they asked the right to recognition and representation including self-administration as distinct ethnic groups at different times they are not got attention by the federal government and the regional government. So, the government should have to give attention for this minority ethnic group in order to develop and promote their language and culture.

CHAPTER FOUR

The Oromia Region Constitution, Minority Rights and the Rights of the Zay People

4.1 Accommodation of Diversity: The Regional Constitution

The Oromia National Regional State is one of the members of the federation, and it has adopted its own constitution in 1995 and revised in 2001. As a result, in this chapter, an analysis will be made whether the Oromia National Regional State constitution respects the rights of minorities' incompliance with FDRE Constitution and how it protects them. The actual practice of these rights in the region will also be assessed. Particularly, the reasons why the Zay have not been recognized as 'nation, nationality or people', whether they can fulfill the requirements to be recognized as such, and their rights will be discussed. For this purpose, the Constitution of Oromia, the ruling party regulation and proclamation No. 116/2006 and the practice of minority rights in the region will be analyzed.

Oromia Regional State is a home of various ethnic groups. According to the 2007 population and housing census, Oromia has a total population of 27,158, 471. From this number the Oromo constitute 87.8%, Amhara 7.2%, Gurage 0.93% and other ethnic groups 4% (see the 2007 Housing and Population Census). The Oromo people have occupied a total surface area of 353690 Km² which is also the largest surface area (Beken, 2007:7). It is divided in to eighteen administrative zones and one Special Zone Administration i.e. Addis Ababa (*Finfine*) Zuria.

The region has inhabited by many minority ethnic groups for a long period of time. Among from these ethnic groups only the Amhara ethnic groups to some extent have got practical protection in the area of education, even if the Oromia region constitution recognizes 'the Oromo People'. Practically, there is a chance to the Amhara people in urban centers of Oromia to teach their children in Amharic in primary schools. However, there are minority ethnic groups, such as Zay, which are neither recognized nor administered themselves as a distinct ethnic group. On the other hand, all minorities in the region are sparsely populated; they do not have their own defined territory. In our case the Zay are also sparsely populated in the region, particularly in East Shewa and Arsi zone. Even if they do not satisfy the "territorial component" of Article

39(5) of FDRE Constitution to establish local government to self-rule; the Zay have cultural (personal) autonomy to develop and preserve their language and culture respectively in the region.

4.2 The Legal and Practical Protection to the Rights of Ethnic Minorities in Oromia

4.2.1 Recognition

The 2001 revised Constitution of Oromia claims as the region is established only for Oromo people (see Art.8 the 2001 Oromia Revised Constitution). To this effect, the constitution expresses itself as it is an agreement among Oromo people despite important presence of other ethnic groups in this region. The sovereign power in the region resides in the people of Oromo. This indicates that Oromia region belongs to Oromo people. However, Art.2 (2) of the Oromia Constitution acknowledges that Oromia is not purely inhabited by Oromo people. It states, Oromia is populated by people of Oromo nation and other peoples.

On the other hand, Art.39(6) of the Oromia Constitution stipulates that the people of Oromo nation shall be construed as those people who speak the Oromo Language, who believe in their common Oromo identity, who share a large measure of a common culture as Oromo and who predominantly inhabit a contiguous territory of the region. In addition, it recognizes both the subjective and objective markers of the concept Oromo people. As objective markers language, culture and identifiable predominantly contiguous territory are required whereas believing in common identity of Oromo is provided as subjective marker. For this reason the Zay might not believe common identities of Oromo. The Zay have their own common identities of culture and custom.

Of course, this provision defines merely the majority in the region. The practice finds its basis in Art.33 of the Oromia Constitution which states that any Ethiopian resident in the region and who speaks the working language of the region has the right to be elected or employed to any public office in the region (see the 2001 Revised Oromia Constitution Art.33). In light of this, nomination of members of legislative, executive, judiciary and the civil service in this region operates more or less in line with Art.33 of the constitution.

4.2.2 The Right to Residence

Every ethnic group in the Oromia region can own property, freely choose their place of residence etc. Particularly, the requirement of living in identified closest territory to be qualified a nation out rightly excludes dispersed minorities from claiming group specific rights to which territorially concentrated groups are entitled (See the 1995 FDRE Constitution Art.39(5)). Hence, not only the Constitution of Oromia but also the FDRE Constitution has not recognized dispersed minority groups. However, as expressed in this section the dispersed minorities have cultural (personal) rights though establishing local government is controversial.

Though there is no nation, other than the Oromo in Oromia in the real sense of Art.39 (5)of the FDRE Constitution, in the regional state of Oromia there are around 3,312,091 non-Oromo residents which belong to ethnic minority groups (see the 2007 Housing and Population Census). In the first place the preamble of the Oromia Constitution considers only Oromo people as a sole maker of the constitution. However, the practice indicates that there is relatively positive attitude to acknowledge certain ethnic diversity in the region.

There is provision in the Oromia Constitution that gives hint for the protection of sparsely populated minority ethnic groups. In the majority of towns and cities of Oromia there is Amharic speaking schools which are financed by the regional government (Interview with Ato Merga Feyisa Head of Educational Bureau, 28 March 2016).In fact, in this region, ethnic groups other than Oromo and Amhara have no chance to teach their children by their mother tongue language. Because of insignificant number of those ethnic groups and economic constraints it is difficult to establish to provide primary education by the mother tongue of every dispersed ethnic minority groups (Ibid.). This indicates that in Oromia the practice by far extends to better protection to Amhara ethnic minority groups.

4.2.3 The Right to Equality and Non-discrimination

The dispersed nature of ethnic diversity in Oromia made it difficult to extend territorial based protection to non-Oromo ethnic minorities. Art.33 of the revised Oromia constitution is highly essential provision which guarantees the right to equality and non-discrimination as it entitles every Ethiopian citizen to assume political authority and to be employed in every sector provided

if s/he speaks the working language of the region. Equal participation in politics is also guaranteed in directives passed by the ruling party, Oromo Peoples Democratic Organizations (OPDO) in which any Ethiopian citizen who accepts the program of the ruling party can be a member of the *Caffee*, executive and the judiciary without any discrimination if he speaks the working language of the region (see the 2007 Party Regulation of OPDO Art. 11 & 16(1)). To be recruited in the civil service there is no regard to one's ethnic identity, speaking the working language of the region is sufficient. The Zay as minority are recruited in the civil service without any discrimination in the region. There are numerous number of the Zay civil servants recruited in Agriculture, Education and other sectors in Meki and Ziway (Personal discussion with Ato Alemu Bekele; Head of East Shewa Civil Service and Good Governance Office).

4.2.4 The Right to Self-Determination

Under FDRE constitution every nation, nationality and people of Ethiopia are entitled to the right to self-determination regardless of their past political status and numerical size. For instance, the FDRE constitution recognizes the Harari people as distinct ethnic nations without taking into account the numerical size to self-administration. The right to secession which is an external self-determination is provided in the constitution of Oromia. But there is no ethnic minorities groups identified to secede which have defined contiguous territory in the region.

4.2.4.1 The Right to Autonomy

Autonomy is a means through which ethnic groups administer itself within its territory. The right to self-determination may not be confined to territorially defined groups as it can be exercised by non-territorial minority groups though it differs from the right exercised by those territorially defined ones. Those who are territorially defined exercise the right to self-determination by establishing their own sub-national or local governments while non territorial groups exercise the right to cultural autonomy which can be exercised by having guaranteed representation and exercising their own culture and language both at public and private affairs provided they constitute the above certain minimum threshold (Aberra, 2008:56).

The right to cultural autonomy as group specific right of dispersed minority groups in both the FDRE constitution and the constitution of Oromia has been given too small attention. It is clear that more emphasis is given to territorially defined groups in the Federal Constitution. Similarly,

the rights to cultural autonomy as group specific right of ethnic groups who resides in Oromia are not explicitly recognized in the constitution of Oromia. But, practically to some extent, for that of Amhara minority groups, there are certain indications in which they are exercising the right to cultural autonomy as their children can learn by their mother tongue and has established their own private primary schools which deliver primary education by their own language (Ibid.). Moreover, informally, Amharic is also used in courts and other administrative institutions for oral communication.

One may argue that the Oromia constitution when it excludes the minorities by stating “we the Oromo people ...” is complying with the definition of nation, nationality and people as per art 39(5) of the FDRE constitution which reads, nation, nationality and people means ‘a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological makeup and who inhabit an identifiable, predominantly contiguous territory.’ There is unclear standard at international and national (FDRE) levels as to the status of groups who constitute dispersed minority in one or more regions having their own home region in which they constitute majority. However, it is obvious minority groups need special protection and special representation but in the case of the regional state of Oromia, no such an arrangement at regional level.

4.2.5 Cultural and Language Rights

By exercising language and cultural rights minority groups preserve their distinct identity. As already stated language is not only a means but also an end (Yared, 2009:5). It is the most explanatory feature of culture, since it constitutes the vehicle through which culture and history of a group are transmitted (Timo, 2000:27). As per Art.5 of the Oromia constitution, the regional state of Oromia opted to use Oromo Language as the working language. People who do not speak Oromo Language are linguistic minorities. The fundamental right of minority groups, the right to maintain their distinct identity is not expressly recognized under Art.39 (1) of the constitution of Oromia. This provision simply states that “the people of Oromo nation shall have the right to maintain their national identity, preserve and promote their history and heritage, to speak, develop and make use, in any other manner, of their own language and enjoy their

culture.” Nothing is provided as to the rights of ethnic minority groups to exercise their cultural rights though not prohibited.

Currently, there are different private Oromo Language or Amharic speaking primary schools though there is no other language speaking schools despite the existence of more than 60 ethnic groups in the region. Ato Merga Feyisa head of Oromia Educational Bureau stated that the Oromia Educational Bureau is expected to offer education by the working language of the region (Interview with Ato Merga Feyisa, 14 February 2016). Even if there is a demand from other ethnic minority to teach their children by their mother tongue as he explained it is unaffordable to provide in all languages of ethnic minorities in the region. Owing to this, currently non-Oromo ethnic minorities chose one of the two since there is no other option. Normally, minority groups are expected to know the working language of the region. Besides, it is not economical to recognize every language in the region as working language of the region (Ibid.). As a result, the Zay ethnic groups who are in a minority status have not used their language right like mother tongue education because of economic and practical difficulties.

4.2.6 Participation and Representation

Minority groups need to participate in socio-economic and political affairs. They need special representation in different government organs since they are numerically permanent losers. In 1995 the Oromia National Regional State for the first time established by recognizing three major organs of regional government: the State Council, Administration and the Judiciary) (see the 1995 Oromia Constitution Article 8). After the Constitution revised in 2001 Caffee Oromia is established as the supreme political organ of the region (see the preamble of the 2001 Revised Oromia Constitution). An individual citizen of Ethiopia and resident of the region are legible to be elected if he speaks the working language of the region.

On the other hand, the Constitution of the region said nothing related to the guaranteed representation of ethnic minorities. As a group, ethnic minorities have rare opportunity to be represented at *Caffee* since minorities may not win election when they compete with majority. However, it does not mean there is no possibility of having members of *Caffee* who are non-Oromo ethnic minorities. It is clearly provided in the regulation of the ruling party; any resident

of the region can be the member of the ruling party, Oromo Peoples Democratic Organization (see the 2007 amended Party Regulation). So that he will be nominated and appointed to be member of Caffee provided he is loyal to this party. It is also true at the lower level local government (Woreda and kebele councils).But, in the Constitution of Oromia nothing is provided considering accommodation of ethnic minorities in administrative council. In a similar way at Regional, Zonal, City Administration, Woreda and kebele levels it is possible for both Oromo and non-Oromo people to be appointed to key political positions if he knows the working language of the region.

Although there is absence of discrimination on basis of recruitment and appointment in Oromia (Art.33 of the constitution) there is also no provision in the constitution of Oromia that contain guaranteed representation in judicial organ. Furthermore, any one whose educational status, ethnical background, competence and age meet the standard set by the judicial organ can be nominated and appointed. However, recruitment of the judges is centralized at the regional level as ethnic minority groups do not have the right to territorial self-administration. Additionally, the Zonal and Woreda levels are not ethnic-based territorial entity as they are only designed on the basis of administrative convenience. In the regional Constitution there is no such guaranteed minorities' rights recognition. It only gives rights merely for the Oromo people. The case in point is the Zay People, as we shall see in the next subsection.

4.3The Accommodation of Zay in Oromia Regional State

After the 1995 FDRE Constitution designed, various rights were given to the Nations, Nationalities and People of Ethiopia. Accordingly, representation in the House of People's Representatives (parliament), linguistic and cultural rights, and self-administration through a *liyyu woreda* (a special district reserved for minority ethnic groups) (Michael, 2012:95). These issues have been especially relevant in Ethiopia since the arrival of the new government in 1991.Out of the emerged nine ethnically based administrative regions (known as *kilil* in Amharic), and two federally administered cities. The regions are divided into zones, which are in turn divided into *woredas* (districts) that are composed of *kebeles*. The Ethiopian Constitution recognizes that within these ethnically defined there may be ethnic minorities that deserve recognition and representation.

Accordingly, the Zay as minority in Oromia National Regional State have been trying to achieve both a *liyyu woreda* to administer themselves and a representative since 1991 without success (Michael, 2012:10-11). It seems that when dealing with recognition and the creation of *liyyu woredas*, it is not a federal issue but a regional issue that we are dealing with, as it is the regional government who has the power to grant the Zay their own *woreda* (Ibid:95). However, the federal government that could give the Zay a representative in the Council of People's Representatives, but has so far done nothing. Despite the lack of success, the Zay have continued to push for recognition and representation. In recent years they have stepped up pressure on the government with more petitions and letters expressing their wishes. Owing to this, the Zay have sent various letters to the House of Federation asking for a representative in the Council of People's Representatives. The federal government responded but told the Zay that they need to take this issue up with the Oromia Regional State (Ibid.).

4.4 The Oromia Regional State and the Zay

With the new Constitution we have seen that various rights were given to the Nations, Nationalities and People of Ethiopia. It seems that when dealing with recognition and the creation of *liyyu woredas*, it is not a federal issue but a regional issue that we are dealing with, as it is the regional government who has the power to grant the Zay their own *woreda* (Michael, 2012:95). However, it is the federal government that could give the Zay a representative in the Council of People's Representatives, but has so far done nothing (Ibid.). The Zay have sent various letters to the House of Federation the current asking for a representative in the Council of People's Representatives. The federal government responded but told the Zay that they need to take this issue up with the Oromia Regional State.

The Oromia Regional State was officially created in 1994 with the approval of the Ethiopian Constitution. Shortly afterwards different policies were created to make the Oromo ethnic group more distinct from the others. One of these policies focused heavily on language. As a newly autonomous regional state, the Oromia Regional State decided that *Afaan Oromo* would be the primary language taught in schools (see the 2001 Revised Oromia Constitution Art.5). *Afaan Oromo* was standardized and switched from using *fidel* (the Saba script) to Latin characters. This is an understandable policy if the area were homogeneously Oromo; however, the Oromia

Regional State has sizable minority groups. From the preamble of the Oromia Constitution, we can see that it is geared toward the Oromo people.

A remarkable feature of the Oromia Constitution is that the zone – the administrative level under the region – was not created for minority groups, as it was, for instance, in the Amhara Regional State created nationality administration or the Southern Nations, Nationalities and Peoples’ Regional State created Liyyu Zone for minorities (Beken 2007:122). Furthermore, the *Caffee Oromia* (regional parliament) has no guarantee of representation for minority groups and only elects Oromo’s to the House of Federation. Under the federal Constitution, the Zay have a claim for ethnic recognition and representation at different times. In fact the Zay have asked for recognition and representation at all levels on a number of occasions. They have asked in 1987, 1998, 2001, and 2002 and again in 2004 in E.C applications were submitted to the House of Federation and responses (neither affirmative nor negative) were given saying that they wanted to do study of the area to determine whether or not representation or a *liyyu woreda* could be granted to the Zay. The HoF even sent a letter to the Oromia Regional state telling them to help the Zay with the issues, however; no such help was given (See appendix 1).

4.4.1 Grounds of Failure of Recognition of the Zay

Under this subtitle, an attempt is made to assess the efficacy of the constitution and the reasons for the failure of recognition of the Zay as ‘nation, nationality and people’s of the region and the country.

4.4.1.1 The inadequacy of Constitutional Provisions

The Zay had been recognized by *de facto* in Ethiopia under different governors before the adoption of current Constitution in 1995 as distinct ethnic group. In other words, they were in existence when both the Federal and the first Regional Constitutions were adopted in 1995. They have been denied their *de jure* existence while they have ever *de facto* existed. This does not mean that they do not have the right to recognition. Both the federal and the regional constitutions give recognition as ‘nation, nationalities and peoples’ as far as the group satisfies the requirements of article 39(5) and article 39(6) of their respective constitution.

According to the definition given by Art.39 (5) of the FDRE constitutions the Zay, are not a “Nation, Nationality or People” and should not be recognized as such. They are a group of people who call themselves Zay, they share both common cultures and customs, share a common language *Zayna*, are predominantly Orthodox Christians, but they are not inhabit an identifiable territory – except few, most of them sparsely populated in different woredas and towns of eastern Shewa and Arsi zone. Additionally, the Zay might be not satisfy the definition given by the revised Oromia Regional state constitution expressed under Art. 39(6). In any way, even if the Zay have been continued longing for recognition since the adoption of the Federal and Regional constitutions, they could not be successful to date.

4.4.1.2 Lack of Political will both at Federal and Regional Level

Sometimes it is difficult to distinguish the distinction between political considerations from legal issues. Particularly, in sensitive cases like minority issues, we cannot separate political considerations and commitments from legal issues especially in the implementation processes. Thus, it is relevant to take into consideration the political commitments concerning minorities since the change of government in the country, for “it is appropriate to make the observation that the effective realization of the constitutional provisions is partly determined by the political context” (Beken, 2007:105). This can better be appreciated by considering the situations of ethnic groups which have been already recognized and those which are not still recognized in the region. For instance, the Harari ethnic groups which are less in numerical size and populated intermingled with the Oromo's are recognized and achieve the right to self-administration and representation in the federal houses. For this reason, the political commitment more affect minority than constitutional provisions.

On the other hand, it is possible to assess whether there were reasonable political considerations regarding those ethnic groups in Oromia region which are not constitutionally recognized. To the knowledge of the writer, the Zay did not play significant contribution and role in favor of the ruling party for the downfall of military junta. So, with respect to the Zay, there are no noticeable political conditions in their favor of the ruling party, when it came to power in 1991. However, starting from the time of the Transitional Government of Ethiopia, there has been strong opposition from the government to the claim that the existence of distinct people called Zay. The

idea of being officially recognized by the federal and regional government is something that is very important to the Zay. With recognition, the Zay would be able to have a representative in the Council of People's Representatives, be given a *liyyu woreda* so that they could administer themselves, teach their children in *Zayna*. However, the regional government and federal government without any reason silent to recognize the Zay ethnic group.

For the Zay, the lack of recognition is always an issue to be discussed among them. It is not known exactly why the Zay have been denied recognition. According to one Zay, a response from the Oromia Regional State would go something like this: Okay (the Zay) people, it first need deep analytical studies how, where and when did they come to the islands? The Regional State believes that the Zay are from Tigray. But the Zay are not all of Tigray descent, as we have seen, the Zay are made up of different waves of peoples that originated in different places and also intermixed with those already in the area, namely the Aren. Moreover, if it is an issue of "who was there first?" both the Zay and the Oromo ethnic group have claim to the area. Nonetheless, the Zay have a stronger claim to the area than the Oromo, who only came in the 15th century, while the Zay have a claim beginning in the 9th century (Michael, 2012:109-110).

4.5 Rights of the Zay People

4.5.1 Recognition

Ethnic, linguistic or religious groups have a right to existence and this existence should be recognized by the state within which they reside. Denial of such recognition implies denial of their existence and this is a clear violation of the international human rights. Considering this, some states do not give recognition to the various ethnic groups in their regions. For instance, the preamble of the Oromia Regional Constitution, starts with the phrase '*we the Oromo peoples of the Oromia National regional State*', by this they fail to recognize other minority ethnic groups; such as the Zay. For this reason, the idea of being officially recognized by the Ethiopian government is something that is very important to the Zay community to develop and promote their language, culture and history (Michael, 2012:109). So yet again we can see domination from the state in so far as they refuse to recognize the Zay as a viable ethnic group. Politically, linguistically, numerically, and economically, the Oromo are able to dominate the Zay in all arenas. It is true that the Zay are small in number, but this has not stopped other groups from

being recognized in the region. For instance; the Harari ethnic groups. Moreover, to be recognized as distinct ethnic groups the minority should satisfy the Constitutional criteria for the definition of an ethnic group, Article 39(5) of FDRE constitution. It states that “A Nation, Nationality or People . . . is a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.” Let us see the elements in the following;

4.5.2 Contiguosness

The group claiming recognition does not reside in contiguous geographical area. Few of the Zay inhabit an identifiable contiguous territory. Even if it is not absolute contagious, the Zay are populated on the islands. But most of them reside on shores around lake Ziway, such as Mekidella and Bochessa villages and in Ziway and Meki towns with Oromo ethnic groups and others. Although determination of such issue is a matter of objective reality. According to Ato Lemma Megersa the Speaker of Caffee Oromia and Ato Girma Hailu Eastern Shewa Zone Administration Administrator; the Zay do not have absolutely contiguous defined territory to be recognized as distinct ethnic group and to self-rule in the region. From this it is possible to reach the conclusion that the settlement of the Zay do not fulfill the legal requirements.

4.5.3 Language

The second element is an intelligible language among the group. It is true that, language is one of the criteria that define an ethnic group in Ethiopia. Based on this the Zay have their own common language (*Zayna*). Currently, although it is threatened to be on the verge of extinction, it has speakers as mother tongues. On *Tullu Guddo* Island, *Zayna* along with Afan Oromo used within the family, Where as Amharic used in Orthodox church for preach while Oromo is the only language used when communicating with children in Boch’eessa (Interview in Bochessa town, 21 December 2015). Furthermore; *Zayna*, Afan Oromo, or some times Amharic is used when communicating with parents or spouses in Boch’eessa.

Zayna is also used when communicating with friends or elders on *Tullu Guddo* Island but, in Boch’eessa, Afan Oromo is the only language used in such situations. In town, where matters of administration are concerned or at markets, the *Tullu Guddo* and Bochessa interviewees all use

Oromo or Amharic. Amharic is used for public worship in both places. Zayna is used when the *Tullu Guddo* interviewees pray at home, and either Zayna or Afan Oromo is used for prayer at home in Bochessa. Amharic is also used for counting money or other things on *Tullu Guddo* Island, and either Amharic or Afan Oromo is used for these purposes in Bochessa. But Afan Oromo used as local working language in all areas of the islands and the nearby villages (Ibid.).

4.5.4 Belief in Common or Related Identities

The third requirement is that the group should have a ‘belief in common or related identities.’ As we saw in chapter three, the Zay believe as they have common ancestors, *Aren or Wazero gosas*. Most of the interviewees reside in Bochessa, Meki and Ziway (Batu) towns, claim Zay has ancestors different from the neighboring ethnic Oromo and other ethnic groups. In this regard, it is concluded from the interviewees’ religion, *descent*, and language as major factors that can easily help them to identify someone as *Zay today*.

4.5.5 Common Culture or Similar Customs

The fourth requirement to be met by the claimant is that the group should ‘have or share a large measure of a common culture or similar customs.’ Culture is in short a way of life of a group or a community as distinct from others. It includes, among others, eating habits, dressing style, religious rites, traditions, histories and the like. So the Zay people share both common cultures and customs.

4.5.6 Common Psychological make-up

The last but, not the least, element that the claimant group should satisfy is: the group should exhibit ‘a common psychological makeup.’ This element is more of subjective one. It relates to feelings and desires of the people, their reflections towards them and the other. Moreover, the Zay believe as they are disadvantaged for a long time. As a result, they want to have this corrected and want to promote their own culture, history, language, religion and traditions. They are conscious of their Zay identity. Almost all of the Zay interviewees have feeling with respect to the failure of the government to include the Zay in the whole Census including the 2007 Population and Housing Census as nations. The interviews felt that the act of the government not only deprives the identity, religion, culture, language and history from being promoted and respected, but also denies the existence of Zay and discriminates them from other ethnic groups.

The Constitutional criteria for the definition of an ethnic group, Article 39(5) of FDRE Constitution states that

“A Nation, Nationality or People . . . is a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory”(see the 1995 FDRE Constitution Article 39). From the above facts, it is impossible to conclude the Zay fulfils the requirements provided for recognition as ‘nation, nationality or people’ under article 39(5) of the FDRE constitution. They are a group of people who call themselves Zay, they share both common cultures and customs, but they do not have defined contiguous territory. Thus, due to the absence defined territory the Zay as minorities in the Oromia region are not entitled to the status of nation, nationalities and people.

Some may argue that the Oromia Constitution excludes the minorities by stating “we the Oromo people” One can further argue that from practical point of view also, it is difficult to recognize and grant the right to territorial autonomy to the minorities as there be many ethnic groups sparsely populated in this region (Tronvoll, :2000:227). It is also true in case of the Zay people, since they are sparsely populated in the region. However, even if it do not fulfill the requirement criteria of Art. 39(5) of FDRE Constitution; sparsely populated minority ethnic groups have the right to non-territorial autonomy which includes power sharing, representation, cultural and linguistic rights. For this reason the Zay have the right to get non-territorial (personal) autonomy to develop and preserve their language and culture in the region.

4.6 Internal Self-determination

Self-determination is commonly defined as the right of allowing a people to freely determine their political status and freely pursue their economic, social and cultural development (Bely, 1994:275). Self-determination is a bundle of rights of minorities. As a logical order, once a group is recognized as a distinct people what follows is to exercise the rights reserved to such status. However, it does not work in case of the Zay as ‘nation, nationality, or people’ or in short, as a minority. Thus, since they do not fulfill the constitutional criteria definition of Art. 39(5) of FDRE Constitution the Zay should not have a right of self-determination. Self-determination is commonly classified as internal and external depending on the aspirations of the group. For the

purpose of this paper, we are only interested in the internal aspect. Some aspects of internal self-determination are dealt with:

4.6.1 Self-rule (Self-government)

Self governance is defined as the “right of each member of the community to choose in full freedom the authorities that will implement the genuine will of the people.” Self governance is all about the autonomy of a people to regulate its own affairs in its own ways. Among other things, self-government consists in deciding how the internal structure of government is organized, protecting the territorial integrity and autonomy in the area of organization, deciding on personnel, finance, rule making and regulating the means and duration of relations with other autonomous and semi autonomous entities (Gunlicks, 1988:145). Critical therefore it is the ability of people to decide on how to govern itself, when to govern itself and when to associate with, in addition to whom to associate with.

In Ethiopia, according to article 39(3) of the Federal Constitution, each ‘nation, nationality, or people’ have a ‘full measure of self-government.’ The same right is provided under Article 39(2)(3) of the Oromia Regional Constitution and such right is solely given to ‘the Oromo people’ not taken into account other ethnic group within the region. What self-government includes is stated in both constitutions includes the right to establish institutions of government within the territory of minority. However, the Zay do not have a right to establish self-administration institutions within the Oromia Regional State. They are sparsely populated within the region. They do not have defined territory they occupied. Accordingly, they have right to personal autonomy/cultural autonomy than the right to self administration as distinct people. The Oromia Constitution does not give the place for minority to exercise such rights. However, according to the key informants interviewed in Meki, Bochessa, Mekdella and Ziway they want to self-administer themselves to develop and promote their identity, culture, history and language at local level (*Woreda level*). Of course there is no question in the importance of the establishment of local self-government by a distinct group in order to protect and promote its unique identities.

4.7 Cultural and Linguistic Rights

Culture, language and religion are, among others, identity features of the group and which the group desires to maintain and protect (Henrard, 2000:243). The Zay people, as we saw in chapter

three, have their own distinct culture and language which are at the verge of extinction due to influences from the dominant Oromo culture and language. They are in dire need of protection and preservation to pass to the next generation. As a result the Zay people struggle for many years for the protection of such status. At the national level, Article 39(3) of the Federal Constitution provides that “Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language ; to express, to develop and to promote its culture ; and to preserve its history.” On the other hand, Article 39(1) of the revised Oromia Region Constitution, states that the ‘Oromo people’ in the region has the right to preserve its own National identity and strive towards its due respect, maintain, enrich and care for its legacy and history as well as utilize and enhance its own language (see the 2001 Revised Oromia Constitution Article 39).

Therefore, according to the FDRE Constitution article 39(3) the Zay as distinct nationality has right to assert, develop and promote its own culture, religion, language and history as means of preserving its national identity. But the Oromia Regional State Constitution do not protect minority rights within the region, they solely protect the rights of majority (the Oromo People). But it should not be taken as a ground for denying them for recognition of their culture and language. However, in practice the federal and regional governments not do attention for the recognition of the Zay identity. So the theory and practice in Ethiopian federation is different.

4.8 The Right to Political Participation and Representation

The interests of a minority group may be affected not only by what goes on in its territory, but also by those decisions which take place at the regional or federal level. As a result, the group should be represented proportionally to reflect its interests and concerns. Accordingly, in Ethiopia, each ‘nation, nationality and people’ has the right to equitable and fair representation in state and federal governments (See FDRE Constitution Art. 39(3)). However, in Oromia Region the right to political participation and representation is given only to the Oromo People. Participation does not merely mean representation in the parliament, either in the House of Peoples’ Representatives, or in the House of Federation. There is no any provision concerning minority rights protection in Oromia Region Constitution. However, as the Zay ethnic group sparsely populated have the right to non-territorial (personal) autonomy in order to achieve

representation. Denying such right will have negative repercussions on the enjoyment of other rights of the group.

4.9 Affirmative Action

An affirmative action is a special measure attached with disadvantaged groups in a state. It is an action to treat members of the minority differentially. It is indispensable in the implementation of minority rights. For minority rights enforcement requires positive actions on the part of the state. In this respect, neither the Regional, nor the Federal Constitutions does provide for special treatment of minorities in the enjoyment of their rights. The Federal Constitution treat each 'nation, nationality and people' equally as if they are all on equal footing. However, the Oromia Constitution gives such status for the Oromo People due to the sovereign power resides in the hands of the Oromo People. In this respects, the Oromia Constitution protect better those who may be considered dominant and are constitutionally recognized. Even if the Zay asked the Federal and Regional governments for the protection and recognition of their cultural and linguistic identities at different times they have not got a positive response from the concerned bodies. Accordingly, there is no constitutional and practical support made with a view to protecting and promoting the Zay identity, culture, language and history.

CHAPTER FIVE

Conclusion and Recommendation

5.1 Conclusion

Contemporarily, protection of minority rights has become a burning issue in many parts of the world. Minority rights in favor of ethnic minority rights have become vogue in human rights discourse and among scholars and activists despite the fact that there is no a separate international convention on the rights of minorities. Some countries' laws and practices in this regard are promising, among which is post-1991 Ethiopia. By incorporating self-determination as a constitutional right of sub-national groups or 'nations, nationalities or peoples', Ethiopia has gone far not only in Africa but also in the world. Not only is self-determination made a constitutional right, but also it is unconditional. Moreover, the main concern of FDRE Constitution is empowering those ethnic groups which inhabited in an identifiable contiguous territory to exercise the right to territorial autonomy in which they determine their destiny by having their own institutions and governments. The identity and language of the Region, Zone or Special Woreda is equated to the identity of those nations which managed to have their own region, Zone or special Woreda.

The FDRE Constitution excludes dispersed ethnic minorities from being beneficiaries of the rights of "nations, nationalities and peoples of Ethiopia" enshrined in the constitution. The fact ethnic groups should occupy an identifiable contagious territory to claim group specific right has left some of the members of historically dominant groups to remain minority groups in almost all regions in the country. For instance, in our case the Zay in Oromia region. The territoriality approach has also left the Zay people none beneficiaries of those rights exercisable by those ethnic groups which are territorially concentrated (nations/nationalities). Though the territorial approach seems inclusive enough at national levels (since all ethnic groups are sovereign), direct adoption of this approach to regional level out rightly deprives of certain ethnic groups to exercise the sovereign power at regional level. Ethnic minorities in Oromia region are not recognized as bearers of sovereign power. The constitution of this region does not acknowledge the rights to preserve the distinct identity of minority groups since it is only the majority that is entitled to preserve its distinct identity. Taking their vulnerable nature no ethnic minority groups

entitled as a group to guaranteed representation in any organ of the region at any administrative level. As a result, due to the territoriality principle the Zay as minority ethnic groups sparsely populated within East Shewa zone and Arsi zone have not recognized as distinct nations/nationality. So the constitutional law affected minority in Oromia regional state, particularly the Zay to be recognized as distinct nations to develop and preserve their language and cultural identities.

In fact, of the ethnic minorities in Oromia, the Amhara people have been practically enjoying some minority rights which are not stated in the constitution. There is undeniable fact that all ethnic minority groups in Oromia are not treated alike since members of Amhara ethnic groups are relatively more privileged than others. The member of Amhara people can send their children to the regional government financed schools where education in primary school is offered in Amharic in almost all urban areas. Giving the Amhara minorities the right to educate their children by mother tongue in primary school is not enough but to some extent better protection than others. Moreover, in practice oral communication and litigation in courts and other offices indicates that ethnic minority groups capable of speaking Amharic are in a better opportunity than those who speak neither Oromo Language nor Amharic. The Oromia government is also not ready to offer primary education in a language other than Oromo Language and Amharic (being considered as a federal working language).

As provided under Art 39 of the Oromia Constitution the right to preserve their separate identity, to develop their culture and to promote their language is guaranteed only for Oromo people. Even the Amhara ethnic group, the largest group next to Oromos does not deserve territorial autonomy in the region as they are not residing in an identifiable contiguous territorial area; they exist in urban centers of the region mixed up with Oromo and other people. The regions are already allowed to exercise cultural autonomy in the sense that they can exercise their culture, dressing style, and custom, write their history by their language. Since there are also ethnic minority groups small in number within the region that requires special attention hence they also deserves to exercise their cultural rights cultural autonomy though it is economically unaffordable to government to sponsor every dispersed minority group the right to attend primary education by mother tongue.

The fact that Ethiopia is among the poorest countries in the world, the numerical size of almost all minority groups and the dispersed nature of ethnic minority groups may subject the region to unbearable burden if those all dispersed ethnic groups are going to be entitled to be financed by the regional government to exercise even cultural autonomy. Moreover, this kind of protection generates conflict as every dispersed ethnic minority in each region claims the same. As Oromia is part and parcel of Ethiopia and other regions in the country where different ethnic minorities reside, the issue of minorities cannot be treated in isolation. That is, the territorial autonomy claim will potentially be of all minority groups which are not manageable. Whereas the fundamental assumption of Ethiopian federalism is rectifying historical injustice by the means of empowering endogenous people who are territorially defined.

This does not mean that the principle of non discrimination and equality is violated in Oromia. The human right schemes are by far better in advancing the equality and non discrimination of members belonging to ethnic minorities. Beginning from Art.33 of the constitution of Oromia, different ethnic group composition of the civil service, absence of ethnic criteria to be recruited in the judiciary and the possibility for any other resident to be member and the head of the ruling party substantiated with the reality in almost all the institutions in Oromia reflect the absence of non-discrimination and the equal treatment among all Ethiopian resident of the region. Owing to this, many Zay ethnic origins are employed as regional civil servants. Unlike the constitution, the party regulation, Proc.No.116/2006 and the practice acknowledge the existence of ethnic diversity in Oromia. However, in any of the three independent administrative level of the region no guaranteed representation to ethnic minority groups including Zay those asked recognition and representation at different times.

For all, the central problem is to what extent does the right of minority groups protected in Oromia regional state in Ethiopia federation? The main research question is does the Ethiopian federalism meets its promise of protecting the right of minority groups such as the Zay people in Oromia regional state. In my opinion, the FDRE Constitution does not answer the 'nations, nationalities and peoples' question of Ethiopia comparing with its promises when it came to power after the downfall of military junta. First, as it expressed in the FDRE Constitution Art.39 states every nation, nationalities and peoples of Ethiopia have the right to self-determination up

to secession. However, practically it protects the rights of majority ethnic groups those territorially bounded. But as it stipulates in the Constitution there are ethnic groups not having their own territorial region but sparsely populated in some regions till today marginalized.

Secondly, the FDRE Constitution stipulates in article 54(3) that minority ethnic groups are automatically represented in House Peoples representatives. As a result 20 seats in the house reserved for this minority ethnic groups. But it say nothing about the numerical size of minority in the constitution. However, there are minority ethnic groups like the Zay those not represented in the house. On the other hand, minority in Oromia National Regional State are constitutionally not protected. Furthermore; the Constitution of Oromia does not recognize the existence and the distinct identity of ethnic minority groups in the region though the 2007 population census indicates that there are almost all ethnic groups sparsely populated in this region. Numerically, each is below 1% except the Amhara people which constitute 7.2%.

5.2 Recommendation

First since the practice in the regional state of Oromia recognizes the existence of internal ethnic minorities, it needs to get constitutional base. Minority ethnic groups need to have proportional representation in Caffee and in the Regional Constitutional Interpretation Commission.

Second though it is economically difficult to finance for the regional government the right of each dispersed minority ethnic groups to preserve their distinct identity by practicing their culture, tradition and learning in their language. For a time being give non-territorial (personal) autonomy to the Zay for representation, cultural and linguistic development. Special attention has given for non territorial autonomy otherwise the bad effect may not be restricted only in Oromia as that caused today in Southern Nations, Nationalities and Peoples in the case of Konso.

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2. Interview with Ato Afeworki Gebrehanna, Mekdella, 22 February 2016.
3. Interview with elders in Meki, 17 December 2015; Ziway, 18 December 2015; Bochessa, February 2016; Makdella, 22 February 2016.
4. Interview with Ato Merga Feyisa Head of Educational Bureau, 14 February 2016.
5. Interview with Ato Lemma Megersa Speaker of Caffee Oromia, 14 February 2016.
6. Interview with Ato Girma Hailu Eastern Shewa Administration Administrator, 15 February 2016.

