



Conflict Management in the Ethiopian Multi-national Federation

A Critical Examination

Both the theoretical literature and the empirical track record of federations point to federalism's ability to manage conflicts of diversity and preserve peace. Both policy-makers and scholars have turned their attention to federalism as a means for managing conflict between central governments and sub-national groups as well as conflict among sub-national groups themselves. This paper attempts to examine Ethiopia's multi-national federal experiment with an eye on conflict management.

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Abstract

Both policy-makers and scholars have turned their attention to federalism—or decentralized governance—as a means for managing conflict between central governments and sub-national groups as well as conflict among sub-national groups themselves. Both the theoretical literature and the empirical track record of federations point to federalism’s ability to manage conflicts of diversity and preserve peace. More particularly, multi-national federalism has considerable, albeit critical support, among contemporary academics (Hechter 2000, Linz 1997, Keating 2001, Kymlicka, 1998, Kymlicka 2001, Moore 2001, Stepan 1999, Watts 1999, McGarry and O’Leary 1993, O’Leary 2001). This paper argues that multi-national federalism is the sure way to peace and development in Ethiopia, as it is the only way to manage the Ethiopian ethnic diversity peacefully, democratically and respectfully. The paper attempts to explore the evolution of Ethiopian multi-national federation against the back drop of its recent political and legal history. Given its history of gross and systematic group domination and discrimination (ethnic, religious, linguistic, etc.), the adoption of a multi-national federation is not a luxury that Ethiopia can afford but a necessity. The adoption of a multi-national federation was necessitated by the urgency and intensity of the need to address the claims of the country’s ethnic groups of historic discrimination and inequality, and to build a multi-national democracy. The multi-national nature of the new Ethiopian federation can be gathered from the following three sites. First, the 1995 Federal constitution vests sovereign powers with the nations, nationalities, and peoples of the country (Article 8). Second, the Federal constitution entitles the nations, nationalities, and peoples the right to self-determination including and up to secession (Article 39). Third, all Ethiopia’s nations, nationalities, and peoples have equal representation in the House of Federation (HoF), which is vested with the ultimate power to interpret the constitution (Article 39 cum 61-62). The paper aims to explore the institutions, policies, and practices of conflict management in the context of Ethiopian multi-national federation.

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May peace prevail on Earth

Alemayehu Fentaw

Chapter One

Federalism and Conflict Management

1.1. Federalism: Conceptualized

It is common among students of federalism to distinguish between federalism and federation as two distinct concepts, referring to different aspects of federal theory. Federalism refers to the philosophical perspectives promoting the federal solution while federation is an empirical phenomenon, a particular form of institutional arrangement.¹ According to Stanford Encyclopedia of Philosophy, “Federalism is the theory or advocacy of federal political orders, where final authority is divided between sub-units and a center.”² Federalism, as a normative political philosophy, prescribes the use of federal principles, i.e. combining joint action and self-government³. ‘Federal political systems’ is a descriptive catchall term for all political organizations that combine what Daniel Elazar called ‘shared rule and self-rule’. Federal political systems, thus broadly construed, include federations, confederations, unions, federacies, associated states, condominiums, leagues, and cross-border functional authorities⁴. There are, however, divergent views about what constitutes a federal system and what criteria should be used to distinguish federations from other political systems. Preston King has therefore tried to make a minimalist definition, including the core characteristics of a federal political system:

Basically we propose that any federation should be regarded as an institutional arrangement, taking form of a sovereign state, and distinguished from other such states solely on the fact that its central government incorporates regional units into its decision procedures on some constitutionally entrenched basis.⁵

In a federal state, “sovereignty is constitutionally split between at least two territorial levels so that units at each level have final authority and each act independently of the others in some

1 Burgess, Michael (1993). 'Federalism and federation: a reappraisal' in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf, p.4; King, Preston (1982). *Federalism and federation*. London: Croom Helm, p.76; Watts, Ronald (1998). 'Federalism, federal systems and federations'. *Annual Review of Political Science*: 119

2 Andreas Follesdal, “Federalism”, [The Stanford Encyclopedia of Philosophy](http://plato.stanford.edu/archives/win2003/entries/federalism), Edward N. Zalta (ed.), URL=<<http://plato.stanford.edu/archives/win2003/entries/federalism>>

3 Preston King, 1982. *Federalism and Federation*. London: Croom Helm.

4 Daniel Elazar, 1987. *Exploring Federalism*. Tuscaloosa: University of Alabama.

5 King, supra note 3, at 77

area.”⁶ Therefore, the essence of a federation is that the territorially based regional units, called states, provinces, regions, *Länder*, republics, or cantons, are represented at the central level of government, and that this representation is constitutionally guaranteed. This implies that the central government cannot change the rights and responsibilities of the constituent units without changing the constitution, and that constitutional amendments require consensus from all or the majority of the units.

Federations are very distinct federal political systems. In a genuinely democratic federation there is a compound sovereign state, in which at least two governmental units, the federal and the regional, enjoy constitutionally separate competencies - although they may also have concurrent powers. Both the federal and the regional governments are empowered to deal directly with their citizens, and the relevant citizens directly elect the federal and regional governments. In a federation, the federal government usually cannot unilaterally alter the horizontal division of powers: constitutional change affecting competencies requires the consent of both levels of government. Daniel Elazar says: “If a political system is established by compact and has at/least two ‘arenas,’ ‘planes,’ ‘spheres,’ ‘tiers’ or ‘levels’ of government, each endowed with independent legitimacy and a constitutionally guaranteed place in the overall system, and possessing its own set of institutions, powers, and responsibilities, it is deemed to be federal.”⁷ To apply this definition to determine whether a state has a federal system we must be able to locate a compact. Presumably, this is a constitution or a constitution-like document. The problem in Africa is that such formal agreements may exist but may not guide behavior. Elazar seems to recognize this problem when he amends his definition by saying that “Only in those polities where the processes of government reflected federal principles is the structure of federalism meaningful.”⁸

Therefore, federation automatically implies a codified and written constitution, and normally is accompanied at the federal level by a supreme court, charged with umpiring differences

6 Follesdall, *supra* note 2, *Ibid*

7 Elazar, *supra* note 4, *Ibid*

8 _____(1979). “The Role of Federalism in Political Integration” pp. 29-30

between the governmental tiers, and by a bicameral legislature – in which the federal as opposed to the popular chamber may disproportionately represent the smallest regions. The authority of each government is derived from a constitution rather than from another government.

Federations vary in the extent to which they are majoritarian in character, but most constrain the power of federation-wide majorities. They constrain the federal demos, though there is extensive variation in this respect⁹. The United States, Australia and Brazil allow equal representation to each of their regions in the federal chamber, which means massive over-representation for the smaller ones. Other federations also over-represent less populous units, but not to this extent. Federations differ additionally in the competences granted the federal chamber. Some, such as the US Senate are extremely powerful, and which is arguably more powerful than the House of Representatives because of its special powers over nominations to public office and in treaty-making; others, including those in Canada, India, and Belgium are weak¹⁰. Constitutional change can be blocked by individual regions in some instances, although normally a veto requires a coalition of regions. A federation is majoritarian to the extent that it lacks consociational practices of executive power-sharing, proportionality principles of representation and allocation, cultural autonomy and veto-rights; and it is majoritarian to the extent that it lacks consensual institutions or practices – such as the separation of powers, bills of rights, and courts and monetary institutions insulated from immediate governing majorities. A majoritarian federation concentrates power-resources at the federal level and facilitates executive and legislative dominance either by a popularly endorsed executive president or by a single party premier and cabinet.

The federal principle of separate competencies says nothing about how much power each level enjoys. Regions in some federations may enjoy less de facto power than those in decentralized unitary states. The constitutional division of powers is not always an accurate guide to policy-making autonomy and discretion enjoyed by different tiers. Some powers may have fallen into abeyance, or the superior financial and political resources of one level

9 Alfred Stepan (2001). *Arguing Comparative Politics*, Oxford: Oxford University Press, pp 340-57.

10 Ronald Watts (1998). 'Federalism, Federal Political Systems, and Federations.' *Annual Review of Political Science* 1: 117-37.

(usually the federal) may allow it to interfere in the other's jurisdiction. A better indicator of the degree of autonomy enjoyed by regions may be the proportion of public spending that is under the control of the respective levels.

A key distinction for our purposes is that federations can be multi-national/multi-ethnic or mono-national in character. In the former, the boundaries of the internal units are usually drawn in such a way that at least some of them are controlled by national or ethnic minorities. In addition, more than one nationality may be explicitly recognized as co-founders and co-owners of the federation. The first such federation was Switzerland, established in its current form in 1848, and the second, Canada, established in 1867. The Indian subcontinent was divided after decolonization into the two multi-ethnic federations of India and Pakistan. Africa has two federations, Nigeria and Ethiopia, while South Africa appears federal in all but name. The communist Soviet Union, Yugoslavia and Czechoslovakia were organized as multi-national federations, and the Russian Republic (RSFSR), one of the constituent units of the Soviet Union, was itself organized along federal lines. These communist federations did not bestow genuine democratic self-government on their minorities, and fell apart in the early 1990s, although Yugoslavia continued as a dyadic federation incorporating Serbia and Montenegro until 2003, when it was transformed into a confederation renamed Serbia and Montenegro that looked likely to dissolve into two independent states. Bosnia became a multi-national federation under the internationally enforced Dayton Agreement of 1995, with one of its units itself being another bi-national federation of Bosnians and Croats. Belgium has recently evolved into a federation, and both Euro-optimists and pessimists think that the European Union (EU) is moving in the same direction. Multi-national federations have been proposed for a significant number of other divided societies, including Afghanistan, Burma, China, Cyprus, Georgia, Iraq and Indonesia.

National federations may be nationally or ethnically homogeneous (or predominantly so), or they are organized, often consciously, so as not to recognize more than one official nationality --- often this happens in such a way that the state's national and ethnic minorities are also minorities in each of the constituent units. The intention behind national federalism is nation-building, the elimination of internal national (and perhaps also ethnic) differences. The founding and paradigmatic example of a national federation is the United States. Its model was adopted by the Latin American federations of Mexico, Argentina, Brazil and Venezuela.

Germany, Austria, Australia, and the United Arab Emirates are also national federations. American and American-educated intellectuals often propose national federations as a way to deal with ethnic heterogeneity in post-colonial and post-communist societies.

Table 1. Examples of National and Multinational Federations

National federations	Duration	Multinational Federations	Duration
Argentina	1853 -	Belgium	1993 -
Australia	1901 -	Bosnia	1995 -
Austria	1920 -	Burma	1948 -
Brazil	1891 -	Cameroon	1961 – 1972
Germany	1949 -	Canada	1867 -
Mexico	1917 -	Czechoslovakia	1968 – 1992
United Arab Emirates	1971 -	Ethiopia	1992 -
United States	1789 -	India	1947(50) -
Venezuela	1960 -	Malaya	1957 – 1963
		Malaysia	1963 -
		Mali	1960 – 1960
		Nigeria	1960 -
		Pakistan	1947 – 1971
		Russia	1993 -
		South Africa	1996 -
		Soviet Union	1918 – 1991
		St. Kitts-Nevis	1983 -
		Switzerland	1848 -
		West Indies Federation	1958 – 1962
		Yugoslavia/Serbia and Montenegro	1992 -
		Yugoslavia (Former)	1953 – 1992

Source: www.forumfed.org

Federations can also be distinguished according to their level of democracy. Some such as Canada, the United States, and Belgium should be seen as maturely democratic while others, such as Malaysia and Nigeria as partially democratic while still others, such as the communist federations of the Soviet Union, Yugoslavia and Czechoslovakia as undemocratic. Another distinction is between genuine federations on the hand and pseudo-federations on the other depending on whether the government is democratic or not. There is an increasingly popular view in the academic literature on federalism that this distinction is unimportant. Several eminent American scholars thus interpret the failings of the communist federations as an indictment of (multi-national) federalism *per se*. For them, it is the structure of the state that matters. The truth, however, is that democracy matters most, as does the type of democratic system.

It is important to note that federalism is treated here as a normative concept. Yet such treatment is meant to enhance a proper appreciation of what federalism offers in view of such unfavorable conditions as will be discussed later in this chapter. To oversimplify, federalism as a normative concept is not what we consider as a normative concept in its traditional sense, like liberalism or socialism, which provides answers to general questions of the good life, but more as a “programmatically orientation,”¹¹ or as an “institutional modality.”¹² Indeed, I subscribe to Andreas’s position that federalism should be treated “under the aspect of nonideal theory,”¹³ which in the words of John Rawls, “deals with unfavorable conditions, that is with the conditions of peoples whose historical, social, and economic circumstances make achieving a well-ordered regime, whether liberal or hierarchical, difficult, if not impossible.”¹⁴ Andreas remarks that “Federalism is a public value tailored to conditions

11 Graham Smith, Federalism: the Multiethnic challenge (London and New York: Longman, 1995),27

12 Ibid

13 Andreas Eshete, “Ethnic Federalism: New Frontiers in Ethiopian politics,” paper presented at the 1st National Conference on Federalism, Conflict and Peace Building, Addis Ababa, 5-7 may 2003, p 8

14John Rawls, The Law of Peoples in Stephen Shute et al (eds), On Human Rights: The Oxford Amnesty Lectures (New York: Basic Books, 1993), p. 68.

unfavorable to constitutional democracy that are not universal but rather peculiar to certain societies.”¹⁵

For Andreas a general justification of federalism grounded in “an invariant particularist value”¹⁶ is utterly indefensible. Instead, federalism is justified to the extent that it comes to terms with the unfavorable conditions that prompted it in ways that enhance or, at least, do not compromise democratic ideals of universal reach”¹⁷

1.2. Federalism and Conflict Management

Although federalism in its original form was not designed to regulate conflicts triggered by diversity (ethnic, religious, racial, etc.), it is today conceived as one of the better devices to calm inter-group or intra-state conflicts. Horowitz (1997), McGarry and O’Leary (1995), Coakley (2000), Hechter (2000) and Ghai (2000) are among those who argue for federalism as an appropriate method to accommodate difference in multicultural states. Horowitz classifies federalism as one of the structural techniques in conflict regulation. Together with electoral reform, federalism is the device to change the institutional format in which conflicts occur, “altering the structure of incentives for political actors without making any promises about ethnic outcomes”.¹⁸ The aim is to make it pay to co-operate across ethnic boundaries. His prime example for this is Nigeria, where the change of federal structures through altering the number and ethnic composition of the federal units from the 1st to the 2nd republic has subdued conflicts among ethnic groups. Hechter claims that to the degree that federalism increases self-government, the demand for secession is correspondingly reduced.¹⁹ Federalism is seen as a stabilizing measure, because it meets the claims for autonomy by concession instead of repression.

15 Andreas, Supra note 9, at 8

16 Ibid

17 Ibid

18 Horowitz, Donald (1997). 'Ethnic conflict management for policy makers' in Montville, Joseph V. (ed.) *Conflict and peacemaking in multiethnic states*. New York: Lexington Books, p.121

19 Hechter, Michael 2000. *Containing nationalism*. Oxford: Oxford University Press, pp. 142-145

Scholars, policy-makers, and statesmen have experimented with several strategies for containing political violence in internally divided states—be it ethnic conflicts, territorial cleavages, separatism, or rebellions. Although there is little consensus as to what constitutes the most suitable strategy for achieving peace, there seems to be a growing agreement that, at best, we can hope to achieve conflict management—not necessarily conflict elimination. Common strategies include coercion, assimilation, secession and power-sharing. These all face serious problems, which has led some scholars to view federalism as a promising alternative. So, what is it about federalism that makes it a promising alternative? By definition, federalism includes autonomy for the state's sub-units, while leaving the international borders intact. According to William Riker's classic definition, A constitution is federal if (1) two levels of government rule the same land and people, (2) each level has at least one area of action in which it is autonomous, and (3) there is some guarantee (even though merely a statement in the constitution) of the autonomy of each government in its own sphere.²⁰ In combining regional self-rule and shared governance, federalism may represent a compromise between regional minorities, who seek self-determination and/or protection of their rights, and the central leadership of the state, who is reluctant to give up territory. Though the specific federal design is typically not specified, the literature increasingly argues that federalism can peacefully accommodate heterogeneous groups by decentralizing key policies and thus providing a stake for ethnic elites in the maintenance of the existing state.

More particularly, multi-national federalism has considerable, albeit critical support, among contemporary academics (Hechter 2000, Linz 1997, Keating 2001, Kymlicka, 1998, Kymlicka 2001, Moore 2001, Stepan 1999, Watts 1999, McGarry and O'Leary 1993, O'Leary 2001). Some supporters make quite remarkable claims for federalism. Von Beyme, referring to western democracies, contended that 'Canada is the only country in which federalism did not prove capable of solving ... ethnic conflict'.²¹ Others are more modest: Kymlicka defends multi-national federalism in principle while acknowledging its challenges in practice (Kymlicka, 2001). Kymlicka (1998) argues that federalism does not prevent secession, but is rather a stepping stone for groups who are opting for independence. Along with Trudeau, he argues that the presence of regional autonomy in federal states increases the

20 Riker, William. 1964. *Federalism: Origin, Operation, Significance*. Boston: Little, Brown and Company, p.11

21 Von Beyme, K. (1985). *Political Parties in Western Democracies* Aldershot: Gower, p.121

desire for more autonomy, and this leads to instability and increased nationalism.²² Examples from Canada and Spain, where boundaries are drawn along ethnic or national lines, show that federalism has not eliminated the claims for secession. In Spain, the federal system is asymmetrical: the historic nationalities have gained more autonomy than the other regions. One of the implications of an asymmetrical federal system is that the more autonomy a state gains, the less influence it will have on central level. When this is the case, it will be less tempting for a region to remain within the wider framework, and more attractive to secede. Kymlicka concludes that “the more successful a multinational federal system is in accommodating national minorities, the more it will strengthen the sense that these minorities are separate peoples with inherent rights to self-government, whose participation in the larger political country is conditional and revocable”²³

O’Leary and McGarry remind us, however, that federalism has not solved conflicts in multiethnic states because minorities are still outnumbered on the federal level. Examples from Nigeria, India and Canada show that federalism has not solved conflicts based on differences, but has only managed and regulated them.²⁴ Multi-national federalists have been influential in the development of federations in the former British Empire, notably in Canada, the Caribbean, Nigeria, South Africa, India, Pakistan, and Malaysia. Austro-Marxists and even some Marxist-Leninists were multi-national federalists and have had an enduring impact in the post-communist development of the Russian Federation, Ethiopia, and the rump Yugoslavia. While unitarists have presently been in the ascendancy in Eastern Europe, multi-national federalism has become more popular in Western Europe, both amongst proponents of the federalisation of the European Union, and amongst power-holders in established states - as the decision to create a federation in Belgium attests. Multi-national federalists are often *soft* minority nationalists, but they also include state elites who believe that accommodating national minorities holds the key to stability and unity. They include the Quebec Liberal Party, the Basque Nationalist Party (PNV), and the Catalan *Convergència i Unió*. The most ambitious multi-national federalists of our day are those who wish to develop the European

22 Cited in Burgess, Michael (1993). 'The political uses of federalism' in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf, 18

23 Kymlicka, Will (1998). 'Is federalism a viable alternative to secession?' in Lehning, Percy M. (ed.) *Theories of secession*. London: Routledge, p.140

24 (1995:34)

Union from its currently largely confederal form into an explicit federation, a ‘Europe of the nation-states and a Europe of the citizens’, as the German foreign minister recently urged.²⁵

Plainly the multi-nationalists’ defense of federation as a way of managing nations – to each nation let a province be given – is not able to accommodate those minorities that are so small in number or dispersed, that they cannot control federal units or provinces. This includes francophones who live outside Quebec, Flemish-speakers in Wallonia, Francophones in Flanders; and small and scattered indigenous peoples in Australia, India and the Americas. Multi-national federalists reject the view that every minority must inevitably seek its nation-state, and maintain that even amongst those that do they may settle for their own region instead. They argue that if the provincial borders of the components of the federation match the boundaries of the relevant national, ethnic, religious or linguistic communities, i.e. if there is a ‘federal society’ congruent with the federating institutions, then federation may be an effective harmonizing device. That is precisely because it makes an ethnically heterogeneous political society less heterogeneous through the creation of more homogeneous sub-units. Multi-national federalism thus involves an explicit rejection of the unitarist and national federalist argument that self-rule for minorities necessarily conflicts with the territorial integrity of existing states. It is also a *prima facie* challenge to the tacit Gellnerian notion that in modern times the equilibrium condition is one sovereign state, one culture (or nation) (Gellner 1983). If we treat broadly the ‘political unit’ in Gellner’s definition, to encompass regional or provincial units in a federation, then his theory can accommodate such arrangements, but at the significant concession of recognizing that federal systems are compatible with dual and possibly multiple nationalities.

Liesbet Hooghe (2004) and André Bächtiger and Jürg Steiner (2004), for instance, point to how federal institutions have met minority demands for policy-making authority over education and language, which has alleviated grievances. Indeed, Nancy Bermeo (2002) finds that both democratic and non-democratic federal regimes do better than unitary regimes in terms of accommodating armed rebellion, political and economic discrimination, as well as political, economic, and cultural grievances. She argues that these findings are to be expected

25 Fischer, J. (2000). “Apologies to the UK, but ‘Federal’ is the Only Way.” *The Independent* May 16: 4.

because “(f)ederal systems provide more layers of government and thus more settings for peaceful bargaining. They also give at least some regional elites a greater stake in existing political institutions”²⁶. These findings echo Ted Gurr (2000), Michael Hechter (2000), and Alfred Stepan (1999) in suggesting that decentralized governance reduces the incidents of nationalist rebellion by funneling ethnic collective action into forms of protest within the bounds of “normal” politics. Likewise, Arend Lijphart (1990) points to regional autonomy (if not federalism) as part of successful power-sharing. To these federal advantages one can add the check that federal institutions provide on the central government (Weingast 1995)—a significant concern of ethnic minorities fearful of being swept aside in national politics by ethnic majorities. Drawing on neo-realist international relations theory, David Lake and Donald Rothchild (1996) argue that this is exactly how federalism can contain ethnic conflicts by mitigating the ethnic security dilemma.

More often than not, many a student of federalism tends to take American Federalism for the standard case of federalism. However, the U.S. model of federalism is just one form of federalism. As Richard Simeon and Daniel-Patrick Conway have rightly observed, “[t]here is no single model: federations differ along a great many dimensions, and each is in some sense sui generis”²⁷ Ferran Requejo has this to say:

If we remain within the orbit of American federalism, the answer to the question about the possibilities of regulating democratic citizenship in [multinational] societies is basically a negative one... It is fundamentally a ‘territorial’ model, and one that is governed by homogenizing interpretations of the democratic concept of ‘popular sovereignty’- which avoids that basic question, unanswered in democratic theory, about who the people are, and who decides who they are- as well as ideas about equality of citizenship and equality between the federated units.²⁸

26 Bermeo, Nancy. 2002. “The Import of Institutions,” *Journal of Democracy* 13 (2): p.99

27 James Tully (ed.), Multinational Democracies (Cambridge: Cambridge University press, 2001),329

28 Ibid

Alfred Stepan remarks that “[d]espite the prestige of this U.S. model of federalism, it would seem to hold greater historical interest than contemporary attraction for other democracies”²⁹. Therefore, this paper is limited to the multinational cases, as they are traversed by cultural pluralism, and hence, particularly useful for our purposes.

Stepan, in a seminal article, has identified two processes of federalization: ‘coming together’ and ‘holding together’.³⁰ The former refers to a situation where a formerly independent states form a union by ceding or pooling sovereign powers in certain jurisdictions for the sake of goods otherwise unattainable. ‘Holding together’ federations arise from a previously unitary state to prevent a violent breaking apart of the multinational polity. Such federations, more often than not, give certain members of the federation particular jurisdictions. In asymmetric federations, the constituent units have different bundles of authority; some may, for instance, have special rights regarding language or culture.

Stepan contends that a democratic federation affords “credible guarantees” in the form of “some policy areas that are constitutionally beyond the scope of the centre, and some that are constitutionally beyond the scope of the sub-units. As the citizenry is at the same time subject to two different governments each of which is sovereign in some areas, a democratic multinational federation “can therefore be subject to centrifugal and/or centripetal pressures leading to the breakdown of the system. Extreme centrifugal pressures could manifest themselves by violent efforts by culturally distinctive sub-units to secede. Extreme centripetal pressures could be manifested by the coercive abolition by the centre of the constitutionally guaranteed areas of authority of the sub-units.”³¹ He goes on to say that:

Given the above potential pressures threatening to cause a breakdown of multinational federations, the more citizens in the sub-units feel there are

29 Alfred Stepan, “Federalism and Democracy: Beyond the U.S. Model” 10 Journal of Democracy 4 (Oct. 1999) p, 21

30 Ibid

31 Alfred Stepan, Federalism, Multi-National States, and Democracy: A Theoretical Framework, The Indian Model and a Tamil Case Study, June 1, 2003 version, forthcoming in Shankar Bagpai, ed, *Managing Diversity in Democracies: India and the United States in Comparative Perspective*, p.12

resources that they value, and have reasonable access to, such as security, polity-wide careers, and participation in a large common market, while at the same time, securely enjoying autonomy in areas such as language, education, and communications, the more likely dual loyalty to the centre and the sub-units is politically possible, and the less likely secessionist efforts can be presented as absolutely necessary for the dignity and development of the nation. If a situation similar to what I have just described prevails, violent secessionists may exist, but they will tend to be weakly supported.³²

According to Alfred Stepan, asymmetric federations assign different linguistic, cultural and legal competences to different sub- units in order to hold the multinational polity together. The crux of the issue, as Stepan sees it, is to accept federalism as a source of collective rights. As he pointed it out. “[u]nder the symmetrical American model, many of the things that are most essential in a multinational context cannot be accomplished.”³³ He goes on to say that:

[...] while individual rights are universal, it is simply bad history to argue that in actual democracies all rights have been universal. Frequently, the struggle to reexamine the imperatives of political integration with the legitimate imperatives of cultural difference has led countries to award certain minorities group-specific rights such as those given to French speaking Quebec in Canada, to cultural councils in Belgium and to Muslim family courts in India.³⁴

In India, religious rules determine family law with the effect that citizens belonging to different faiths are subject to different legal norms, and secular courts apply the law of the respective religious community. What defines the bounds of pluralism for Stepan? Obviously, human rights define the bounds of pluralism for Stepan as for Rawls. As Alfred Stepan notes “it is the obligation of the democratic state to ensure that no group-specific right violates individual or universal rights.”³⁵ For Rawls, human rights, being a distinct category of rights,

32 Ibid

33 Ibid

34 Ibid

35 Ibid

give answer to the question of the limits of toleration. "They are part of a reasonable law of peoples," he writes, "and specify limits on the domestic institutions required of all peoples by that law. In this sense, they specify the outer boundary of admissible domestic law of societies in good standing in a just society of peoples."³⁶ On his view, human rights play the following roles: (1) the legitimacy as well as decency of a regime and its legal order hinges upon the fact that it honors the basic human rights of its citizens; (2) they also warrant justified and forceful intervention, in the event of their violation, by other peoples; and also (3) they serve as a limit on whatever diversity that may exist among peoples.³⁷

In a multinational federation, citizens of member states can be subject to different laws. Reginald Whitaker emphasizes:

Modern federalism is an institutionalization of the formal limitation of the national majority will as the legitimate ground for legislation. Any functioning federal system denies by its very process that the national majority is the efficient expression of the sovereignty of the people. This defiantly has largely been resolved in federalist theory as students of federalism have accepted the legitimacy of divided sovereignty in a federation.³⁸

It has been argued that asymmetrical federalism goes hand in hand with the practice of legal pluralism. Gagnon has the following to say:

Asymmetrical federalism follows the same path as federalism in the reconceptualization of citizen equality from the model of a unitary state in which all are treated identically under the law, but pursues the course a little further. It does so by accepting the belief that

36 John Rawls, *The Law of Peoples* in Stephen Shute et al (eds), On Human Rights: The Oxford Amnesty Lectures (New York: Basic Books, 1993), p.69

37 Ibid

38 Cited in James Tully (ed.), Multinational Democracies (Cambridge: Cambridge University press, 2001),p.319

dissimilarity in jurisdiction as well as laws in appropriate for individual member states of a federation.³⁹

According to Richard Simeon the term ‘managing conflicts of diversity’ connotes “a top-down concern of the majority that tends to see ethno-cultural diversities in their midst as a ‘problem’ to be contained, in order to ensure peace and stability, or even to maintain the continued hegemony of the majority.”⁴⁰ Simeon suggests five criteria of managing conflicts of diversity⁴¹:

- (1) Stability: countries must find ways to manage their diversities in ways that minimize the likelihood of violence and of threats to the integrity of the state itself.
- (2) The management of conflict must be fully consistent with the values of constitutionalism, the rule of law, and democratic practice, including especially the full inclusion of minority groups in democratic politics, and their rights to free expression and participation in the political process.
- (3) The normatively justified management of inter-group conflict must include some measure of ‘recognition.’ That is to say that the existence and the identity of minority groups must be accepted and valued; they are not to be seen as the alien and dangerous ‘other.’ Difference is not simply something to be managed; it is also something that must be accommodated.
- (4) The successful management of difference requires that we pay attention to social justice or equality. Stability and order that leaves some groups permanently disadvantaged economically or socially is unacceptable.
- (5) No set of institutional arrangements designed to manage diversity can be successful without some minimum level of trust among groups, and without a basic commitment of all to ‘vouloir vivre ensemble,’ to ‘convivencia,’ or to ‘bundestreue.’

39 Alian G. Gagnon, in James Tully (ed) Multinational Democracies (Cambridge: Cambridge University Press, 2000), p.329

40 Richard Simeon(ed.), Managing Conflicts of Diversity, www.forumfed.org, Canada

41 Ibid

Chapter Two

Evolution of Ethiopia's Ethnic Federalism

2.1. Center-Periphery in the Analysis of Ethiopian Political Development

In the following section a succinct review and interpretation of some of the main developments in Ethiopia's recent history will pave the way for subsequent discussion of the evolution of the current Ethiopian federation. I shall do this, in large part, by adopting a critical attitude in the exploration of literature on history and social anthropology. It has been pointed out that a glimpse at the past is useful. First, it throws significant light on the making of the present political order. Second, it offers a yardstick to measure the distinctive features of the new politics.⁴²

"The roots of Ethiopia's new political order are easier to discern in recent history."⁴³ The political history of Ethiopia is generally analyzed through the evolution of one major cleavage: center/periphery. The center-periphery framework, as an alternative approach to political development, has one novelty: "its emphasis on the crucial role of elites".⁴⁴ According to Edward Shils's formulation, the center constitutes that part of society "in which

42 Andreas Eshete, "Ethnic Federalism: New Frontiers in Ethiopian politics," paper presented at the 1st National Conference on Federalism, Conflict and Peace Building, Addis Ababa, 5-7 may 2003, P.3

43 Ibid, p.9

44 Arend Lijphart, Democracy and Plural Societies: A Comparative Exploration (Bombay: Popular Prakashan, 1989), pp. 20 ff.

authority is possessed,”⁴⁵ while the periphery is constituted by “the hinterland... over which authority is exercised.”⁴⁶ Alternatively, center may also be defined in terms of “... the realm of values and beliefs espoused by the ruling authorities.”⁴⁷ In the words of Arend Lijphart, “[t]he implications of this model for plural societies is that there must be political domination by a center.”⁴⁸

The center-periphery cleavage, manifesting itself in various forms, has affected the political landscape of Ethiopia with variable intensity since the ascension to the throne of Emperor Haile Sellassie. Mapping the history of this cleavage helps to identify what professor Andreas calls the “unfavorable conditions”⁴⁹ that prompted the emergence of federalism in Ethiopia.

During the imperial era, the primary source of conflict was the endless rivalry between the monarchy in the center and the regional nobility. With the overthrow of the monarchy in 1974, the nationalist liberation movements came to replace the nobility as regional forces. Following the demise of the Derg in 1991, the nationalist liberation movements conquered the center. This cleavage, in effect, has historically translated itself into two alternative models of state restructuring: centralist -authoritarian and federalist- democratic.

In what follows I shall attempt to throw light on the relations and tensions between center and periphery by taking a brief excursion back in time with a view to figuring out the “unfavorable conditions” with which the Ethiopian polity was burdened.

45 Ibid

46 Ibid

47 Ibid

48 Ibid

49 Andreas, *supra* n.1, at 9 ff

2.1.1 A Brief Account of Ethiopian Political History

2.1.1.1 Background

The Federal Democratic Republic of Ethiopia (1,112 million km²) is located at the Horn of Africa. It is bordered by Sudan on the west, Kenya on the south, Somalia and Djibouti on the east, and Eritrea on the north. It has a population of some 77 million inhabitants, about 85 per cent of whom earn their living from the land, mainly as subsistence farmers. Agriculture is the backbone of the national economy. The country has a GNP per capita of just 100 US\$, making it the poorest country in the world in 2000, according to the World Bank. Life expectancy at birth is 42 years for males and 44 years for females.⁵⁰

Due to its 3,000 year history, Ethiopia is seen as the oldest “state” in Africa and one of the oldest in the world. Starting from the Da’amat State (ca. 500 BC-100 AD), followed by the advanced civilization of the Axumite Empire and finally the Era of the Princes, Ethiopia has existed within different patrimonial empires. Modern Ethiopia was created by Christian highland rulers largely through twin processes of political subjugation and economic exploitation in the late nineteenth and early twentieth centuries.⁵¹

Emperor Menelik II (r. 1889-1913), spurred on by a fierce ambition of empire-building, embarked on a campaign of expanding his rule from the central highland regions to the South, West and East of the country and established the current map of Ethiopia, a country housing more than eighty different ethnic groups. Bahru Zewde writes that:

Menlik... pushed the frontier of the Ethiopian state to areas beyond the reach even of such renowned medieval empire-builders... as Amda Tseyon ... In the process, the Ethiopia of today was born, its shape consecrated by the boundary agreements made after the Battle of Adwa in 1896 with the adjoining colonial powers.⁵²

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51

52 Bahru Zewde, *A History of Modern Ethiopia 1855-1974* (Addis Ababa: Addis Ababa University Press, 1991), p. 60

Put differently, the nineteenth century witnessed the radical shift of the country from an “outpost of Semitic civilization” to what Carlo Conti-Rossini called “*un museo di popoli*” (a museum of peoples).⁵³

Following his successful campaigns of expansion, if not conquest, to the periphery, Menelik sent governors from the center to administer the periphery. They were sent with contingents of their own so that they would install themselves in the vicinity for their respective administrations. Having been unsalaried, the administrators along with their soldiers were maintained by a system which in lieu of wages allotted each man the overlordship of certain number of tenants. In the words of Margery Perham, “the land was regarded ... as confiscated to the crown, a varying proportion being allotted to the conquered chief and people and the rest used to reward or maintain Amhara, and especially Shoa soldiers, officials and notables.”⁵⁴ As a result, the subject people were literally reduced to tenants and become victims of national oppression.

2.1.1.2 Center and Periphery in Post-Liberation Ethiopia

Haile Sellassie’s rule (r.1930-1974) was marked by a ceaseless rivalry between the monarchy and the nobility. The promulgation of the first constitution in 1931 was seen as the first move towards settling the center-periphery rivalry by affirming the absolute power of the crown. Andreas remarks that “[t]he political triumph of the center over the regions, initiated and legitimated by the constitution, was practically demonstrated when the Emperor prevailed over Abba Jiffar II of Jimma and Ras Hailu of Gojjam in 1932.”⁵⁵ Apart from a brief interlude during the Ethio-Italy war (1935-1941), Emperor Haile Sellassie resumed the historic task of centralizing the state which he had begun in the first half of the decade following his ascension to the throne. In connection with this, Bahru Zewde has the following to say:

53 Cited in Donald N. Levine, Greater Ethiopia: The Evolution of a Multiethnic society 2nd ed (Chicago and London: The University of Chicago Press 2000), p 20

54 Margery Perham, The Government of Ethiopia (Evanston: North western University press, 1969), pp. 295-296

55 Andreas, supra note 1, at 10

The period after 1941 witnessed the apogee of absolutism. The tentative beginnings in this direction of the pre-1935 years matured into untrammelled autocracy. The power of the state reached a limit unprecedented in Ethiopian history.⁵⁶

Donald Levine, in the preface to the second edition of *Greater Ethiopia* has also this to say:

Throughout Ethiopian history there have been tensions between the national center and diverse regional and ethnic groups. Yet the bureaucratic centralization of the postwar years was bound to exacerbate these tension.⁵⁷

Although the 1955 revised constitution granted basic freedoms to speak, to assemble and to vote, essentially it was, to use Bahru's words, "a legal charter for the consolidation of absolutism."⁵⁸ Article 5 expressly spells out the absolute powers of the emperor: "By virtue of His Imperial Blood, as well as by the anointing which he has received, the person of the Emperor is sacred, His dignity... inviolable and His power... indisputable."⁵⁹ In the words of John Spencer, the 1955 constitution was "a screen behind which conservative positions could be entrenched."⁶⁰ Furthermore, Amharic was made the official language, and what is worse, it alone was used in all the newly established institutions. The Ethiopian Orthodox Church was accorded the official status of national religion.⁶¹

Now let us turn to a brief discussion of the resistance that Haile Sellassie's rule faced from the periphery. First, his autocratic rule was met with peasant rebellions, and latter with nationalist resistance in Eritrea, in Tigray, in the Oromo areas, in Sidamo, and in Ogaden. Andreas writes succinctly that:

56 Bahru, supra note 35, at 201

57 Levine, supra note 36, at XIV

58 Bahru, supra note 35, at 206

59 The Revised Constitution of the Empire of Ethiopia, Negarit Gazeta, Proclamation No. /1955

60 Cited in Bahru surpa note 35 at 206

61Andreas, supra note 1, at 10

Nationalist struggle was a reaction against the suppression of national and regional identity as well as the encroachment on land often by people from other nationalities. Peasant revolts were directed against the growing burdens of taxation and tenancy, highhandedly administered by officials appointed or backed by central government.⁶²

It is very important at this juncture to note that there has been a shift of emphasis from an all inclusive national identity to a particularist national (ethnic) identity. In the words of Donald Levine “primordial assertions germinated during the last years of Haile Sellassie and sprouted under the Derg.”⁶³

In view of the foregoing, it should be clear that both Menelik and Haile Sellassie pursued three distinct but interrelated goals, namely, centralization, modernization and integration.⁶⁴ Although all of them had a lasting effect on the legal and political culture of the country, I would like to, by de-emphasizing modernization, draw attention to centralization and integration, and try to make a general remark about unity and diversity in contemporary Ethiopia.

In an effort to bring about national integration, emperors Menelik and Haile Sellassie embarked upon cultural and religious homogenization by way of Amharization and Orthodox Christianization. First, Menelik’s conquest of the southern areas resulted in the suppression of local customary law by Abyssinian (Amhara-Tigre) traditional laws and practices. The southern conquest had the same effect on the indigenous laws as colonialism in most the third

62 Ibid

63 Levine, *supra* note 36, at XIV

64 Paul H. Brietzke, Law, Development and the Ethiopian Revolution (London and Toronto: Associated University press (1982), p. 26

world countries.⁶⁵ Next, the legal transplants of the 1950's and 1960's , on which I shall dwell later, had a detrimental effect on customary laws of the country in general. Paul H. Brietzke, commenting on the integration attempts, wrote that:

Strong disintegrative forces exist in most societies, but Ethiopia is nonintegrated even in comparison with most other Third World states; internal armed combat has been a constant feature ... Traditional integrative devices such as conquest, the charismatic authority of an emperor, and the progressive Amharization of an Ethiopian national culture and legal system... failed to secure a high degree of national unity- the ultimate prize of social integration.⁶⁶

2.1.1.3 The 1974 Coup: The Rise of Socialist Autocracy as the Centralizing Ideology

As Lovise Aalen, commenting on the tendency to describe the events of 1974 as a revolution, points out: “Although the events in 1974 are most commonly described as a revolution, implying fundamental changes to the society *the continuities from the imperial regime to the new military regime became more apparent as the years went by after the coup.*”⁶⁷ (Italics mine) Andreas is clear on this point:

The government that supplanted Haile Sellassie *perpetuated his quest for centralization* (italics mine). The overthrow of the monarchy offered an opportunity to reconsider Ethiopia's imperial status and to redress the plight of aggrieved cultural communities, who increasingly saw themselves as captives of the empire. Despite declarations of cultural equality and occasional gestures in the direction of cultural autonomy, the successor regime showed little sign of political will to seize this opportunity. Instead, the

65 Ibid

66 Ibid

67 Lovise Aalen, “Ethnic Federalism in a Dominant party state: The Ethiopian Experience” (M.Phil. diss. University of Bergen, 2001), pp 5-6

commitment was to a unitary state in order to uphold what was called the “indivisibility of Ethiopian Unity”.⁶⁸

The military government’s initial program, Ityopia Tikdem or Ethiopia First, was a telling example of, to use Andreas’s words, “the priority accorded to an inclusive national identity.”⁶⁹ The new regime did not only refuse to give recognition to Eritrean nationalism, but also outlawed any conduct challenging the state’s integrity. Derg’s conception of national unity eventually degenerated into an obsessive dogma which brooked no cultural or ethnic diversity among the peoples of Ethiopia. In fine, Mengistu’s linguistic and cultural oppression, actually, ended up stimulating regionalism and peripheral nationalism in Ethiopia.

Another program, which was meant as a socialist gesture, constitutes a range of radical policies. The most important and comprehensive was probably the land reform whose significance lies not only in demolishing the economic foundation of feudalism, but also in removing a major cause of national discord in some parts of the country. Commenting on the land question alongside the nationality question, Pausewang writes:

In 1974, the key to legitimacy of the new government of the Derg lay in solving the *land question*. The land reform of 1975 was clearly a response to a compelling political demand of necessity. In 1991 no new government could have hoped to win legitimacy without solving the *nationality issue*. A far reaching decentralization was, at that moment, the only chance to keep Ethiopia together. It would be denying realities to ignore this need.⁷⁰ (Italics in the original)

In the following years, the regime focused on the consolidation of its power. Meanwhile, urban opposition forces led by the Ethiopian Peoples Revolutionary Party (EPRP) gathered

68 Andreas, *supra* note 1, at 12

69 *Ibid*

70 Siegfried Pausewang, “Democratic Dialogue and Local Tradition” Ethiopia in Boarder perspective proceedings of the XIIth International Conference of Ethiopian Studies p. 196

momentum and engaged the military government in urban guerrilla warfare. And the military's reaction to EPRP's challenge was fatal. The Red Terror was declared in 1977, where the Derg and its supporters hunted EPRP members, imprisoning 30,000 and killing over several thousand of them.⁷¹

From 1976 onward, demands for regional autonomy became significantly more intense. After 1976, Mengistu emerged as the unchallenged leader, "the continuities from the imperial era became more prevailing."⁷² Like Haile Sellassie, Mengistu who was under the illusion that his regime was that of Ethiopian state, perpetuated the despotic centralization and deprived other regional opposition forces of legitimacy. Under his rule, the nationalist liberation movements replaced the role of the nobility as centrifugal forces. Despite the regime's appeal to a socialist ideology, the Derg was identified with "an Amhara suppresser" by the nationalist liberation movements. Siegfried Pausewang, a close observer of the Ethiopian politico-legal order, has this to say:

Mengistu's regime increasingly reverted to the Pan-Ethiopian ideology of national development, abandoning the initial liberatory promise of the revolution to allow all ethnic groups their freedom of cultural development and ethnic self-determination. Instead, the ideology of 'nation building' with Amharic as the common language and Amhara as the leading nationality was becoming official policy again.⁷³

A coalition of three ethnic insurgent groups, namely, the Eritrean People's Liberation Front (EPLF), Tigray peoples Liberation Front (TPLF), and Oromo Liberation Front (OLF) overthrew the Derg and set up a civilian government in 1991. With the demise of the Derg in 1991, Ethiopia's borders returned to where it was nearly a century ago. In July 1991, the

71 Ibid

72 Lovise, *supra* note 50, at 15

73 Siegfried Pausewang et al, Ethiopia Since the Derg (London and New York L Zed Books, 2002), p. 27

National Conference on Peace and Reconciliation was held in Addis Ababa with a view to laying down the foundations for governance and drawing up a transitional charter of governance. Twenty-seven political groups participated in the charter conference. The charter conference established an 87 -member Council of Representatives (COR), comprising "representatives of national liberation movements, other political organizations and prominent individuals" (Article 7). The COR acted as the national parliament for the two-and- half-year transitional period. EPRDF had the largest voting bloc with 32 seats, followed by the Oromo Liberation front (OLF) with 12 seats. The radical departure from the unitary policies of the two previous regimes provoked immediate opposition from pan-Ethiopian nationalists. At the other extreme, the OLF bolted out of the transitional government in June 1992 and abandoned its participation in the upcoming district and regional elections, accusing EPRDF of election irregularities and alleging that the provision for ethnic and regional autonomy enshrined in the Charter was not faithfully implemented. In April 1993, EPRDF, which has ethnic constituents in Tigray, Amhara, Oromia, and Southern regional states, ousted five Southern political groups (the "Southern Coalition") for expressing sympathy with opposition groups meeting in Paris. Thus, by the time the constitution was crafted in 1995, EPRDF's ethnic federal design, as well as its political legitimacy, was already under challenge in some critical blocs. The transitional COR established a Constitutional Commission to draft a constitution. It later adopted the draft and presented it for public discussion. Then, a Constituent Assembly ratified the federal constitution in December 1994, which came into force in August 1995.⁷⁴

In the July 1991 National Conference on Peace and Reconciliation, Eritrea was represented by EPLF, with an observer status, as it became a *de facto* independent state. Commenting on the 1991 Ethiopian revolution Christopher Clapham writes that:

The overthrow of the Mengistu government in May 1991 amounted to more than the collapse of a particular regime. It effectively marked the failure of a project, dating back to Menelik's accession in 1889 of creating a 'modern' and centralized Ethiopian state around a Shoan core. This project, which provided theme for Haile Sellasie's long reign, was tested to self-destruction by a revolutionary regime which provoked a level of resistance that eventually culminated in the

74 Alem Habtu, *Ethnic Federalism in Ethiopia: Background, Present Conditions and Future Prospects*, Paper Submitted to the Second EAF International Symposium on Contemporary Development Issues in Ethiopia, July 11-12, 2003, The Ghion Hotel, Addis Ababa, pp.15-16

appearance of Tigrean guerrillas on the streets of Addis Ababa – a dramatic reversal of the process which, over the previous century, had seen central armies moving out to incorporate and subdue the periphery.⁷⁵

This assembly, as it appears from its composition, made it crystal-clear that state restructuring, henceforth in Ethiopia, will scrupulously follow ethnic lines. Donald Levine remarks that “[W]hen ... these ethnic insurgent groups overthrew the Derg it was not surprising that ethnic allegiances and identities became politicized in consequence”.⁷⁶ This was evident when the right to self-determination, including and up to secession made its way to the National Charter. Furthermore, Proclamation No. 1/1992 delimited the boundaries of the self-governing ethnically based regions. As Andreas notes : "The history and identity of the protagonists that emerged in the wake of the victory over tyranny thus explains why ethnic federalism proved to be a decisive political instrument in Ethiopia's transition to democracy."⁷⁷

In this manner the ideology of national self-determination and autonomism made its way into Ethiopian democratic political consciousness. In sum, the development of peripheral nationalism, regionalism and autonomism can be regarded as an unintended outcome of the extreme centralization pursued by Haile Sellassie and Mengistu. The rise of regional self-government during the Transitional Period was thus largely due to a desire to establish democratic institutions which would guarantee the right of national self-determination. Since then democratization has been inextricably linked to the protection of the sovereignty of Ethiopia's nations, nationalities and peoples. Such a generalization has its support in the works of several historiographers. A case in point is the following statement by Harold Marcus and Kevin Brown:

75 Christopher Clapham, "Ethnicity and the National Question in Ethiopia", in Conflict and place in the Horn of Africa: Federalism and its Alternatives, Peter Woodward and Murray Forsyth (eds.) (Brookfield: Dartmouth publishing co, 1994), p. 37

76 Levine, supra note 36, XIV

77 Andreas, supra note 1, at 17

The Mengistu regime never understood that the insurgencies in Eritrea and Tigray were political in nature and required a political solution. The leadership in Addis Ababa saw Ethiopia in highly centralized terms and believed that any success by provincial movements would undermine the state's character. Though the struggle was couched invariably in Marxist terms of class and dialectic the fight was between conceptualizations of Ethiopia as a unitary nation or as a federal, even ethnically based, state.⁷⁸

Alfred Stepan points to a major tension between the two processes of 'nation-building' and 'democracy-building' in a comment quoted below:

The bad news is that "nation-building" and "democracy-building" are complementary logics in a mono-national federation but- at least in the short run conflicting logics in a newly democratic multi-national federation. In the normative and sociological context of the modern world, assimilation of two or more cultural nations into one nation-state, in two generations, is extremely difficult. Policies that are imposed to attempt to produce such rapid cultural assimilation will almost certainly tend to generate counter-movements of conflict, disloyalty, and structurally induced exit movements that work against the consolidation, or persistence, of democracy.

The good news is that cultural assimilation is not necessary in order to consolidate democracy. What is necessary is sufficient agreement about the legitimacy of institutions by which the demos, and all its demoi, can produce a central government and regional governments, all of which are bounded by a credible set of broadly accepted constitutional provisions and mechanisms to ensure that both the central and regional governments act within the law.⁷⁹

2.1.2 A Brief Account of Ethiopian Legal History: Does It Matter Politically?

Let us now turn to a brief discussion of Ethiopia's legal history, with an eye to unfolding the political salience of diversity, and the various ways in which diversity was subjected to uniformity by the law. This in a way helps to make out a case for legal pluralism under Ethiopia's new constitutional order.

78 Harold Marcus and Kevin Brown, "Ethiopia and Eritrea, Nationalism Undermines Mass and Technology" in *Ethiopia in Broader Perspective: Papers of the XIIIth International Conference of Ethiopian Studies*, vol. II, K.Fukui et al (eds.) (Kyoto: Shakado Book sellers, 1997), p. 156

79 Alfred Stepan, *Federalism, Multi-national States, and Democracy: A Theoretical Framework, The Indian Model and a Tamil Case Study*, (June 1, 2003 version, forthcoming in Shankar Bagpai, ed, *Managing Diversity in Democracies: India and the United States in Comparative Perspective*, p. 10

Ethiopian legal history may be divided into two periods, taking the year 1957 as a watershed. Until 1957, Ethiopia did not have a distinct formal legal system. Rather, it had, to use the words of Paul Brietzke, “numerous and overlapping systems of laws”⁸⁰ According to Brietzke, there are, on the one hand, "customary rules", which were used to regulate the day-to-day activities of individual members of the numerous ethnic groups. On the other hand, there are "traditional rules", which were used to regulate various relations within the Amhara-Tigre Empire and the Orthodox Church from the 14th onwards. Therefore, during the pre 1957 period, except for the 1923 law of loans, the 1930 Nationality Act and the 1948 statute of limitations. Ethiopian normative orders were informal, unsystematized, undifferentiated and particularistic customary laws. In this connection John H. Beckstrom writes that:

Until 1950s the “laws” of Ethiopia was a rather amorphous mix. There were some legislation in the form of statutes and decrees, primarily in the public law sphere, as well as a Penal code that had been promulgated in 1930. But taking Ethiopia as a geographic whole, *by far the major de facto source of rules governing social relations was found in the customs and traditions of the various tribal and ethnic and religious groupings.*⁸¹ (Italics mine)

Since 1957, however, a comprehensive process of codification, which mainly drew upon European sources, took place in Ethiopia. A Penal Code (1957), Civil Code (1960), Commercial Code (1960), Maritime Code (1960), Criminal Procedure Code (1961) , Civil Procedure (1965). This codification process was guided by the modernization ambition of the Emperor. The Emperor, in the preface to the Civil Code, has pointed out:

The progress achieved by Ethiopia requires the modernization of the legal framework of our empire’s social structure... in order to consolidate the progress already achieved and to facilitate further growth and development; precise and detailed rules must be laid down.

80 Brietzke, supra note 47, at 31

81 Ibid

Thus a comprehensive legal transplant was carried out throughout this period. In other words, the legal rules and principles found in the newly enacted codes had been taken in the main from European sources. Professor Rene David, the draftsman of the Civil Code, commenting on it writes that:

The development and modernization of Ethiopia necessitate the adoption of a “ready-made” system...while safeguarding certain traditional values to which she remains profoundly attached Ethiopia wishes to modify her structures completely, even to the way of life the people. They wish it to be a programme envisaging a total transformation of society and they demand that for the most part, it set out new rules appropriate for the society they wish to create.⁸²

For David, therefore, once Ethiopia had opted for the path of legal modernization, it could not have settled for anything less than adopting a foreign legal system. He maintained the view that it would not have been practical to wait for a law to emerge from within the indigenous culture. This appears starker nowhere than in his statement that Ethiopia could not afford to wait 300 years to have a modern system of private law. The adoption of a Civil Code based on the French model, would according to David, “assure as quick as possible a minimal security of social relations.”⁸³ However, the rationale for these western imports cannot be modernization. It must lie elsewhere. Lawrence Friedman is helpful in unmasking the real motivation: “a single, uniform system of law should act as a tool of unification; like a common language, a common law should help wield a single nation out of the jumble of classes or tribes. ... The new nation will have to be built from the center. The center will have to grow at the expense of provinces...and outlying culture.”⁸⁴

82 Rene David, “A Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries” 37 Tulane Law Review (1963) pp. 188-189

83 Ibid

84 Lawrence M. Friedman, The Legal System: A Social Science Perspective (New York: Russell Sage Foundation 1975), p. 222

Julio Faundez points to a major flaw in David's thought as well as the ill-founded project of adopting a Civil Code based on the French model. Because of its centrality to my critique of the premises and orientations of the past law projects I wish to make throughout this paper, I set it out in its entirety.

David's remarks on Ethiopia's Civil Code could be seen simply as a legal consultant's rationalization of the assignment that he had undertaken. It could be argued that David misrepresents the choice confronting an external legal consultant; for in the statement quoted above he appears to suggest that the choice was between either waiting for a modern indigenous legal culture to emerge or introducing an imported Civil Code. An alternative course of action would have been to ensure that the new legislation was as far as possible consistent with local practices.⁸⁵

Furthermore, Faundez points to an important problem raised by legal transplantation namely, the question of whether the role of an external legal adviser amounts to policy making. This raises the problem of legitimacy of the enacted laws. Brietzke joins tune with us in saying that "the 1960 codes represent an almost complete break with the past. They also illustrate virtually all of the pitfalls that attend legal transplantations."⁸⁶ He goes on to say that:

Notwithstanding the eclectic approach claimed by the French draftsmen [R. David & Jean Escarra], the predominant flavor of the Ethiopian codes is French. The draftsmen displayed an interest in the internal logic of abstract concepts rather than their social effect, and, above an ethnocentrism.⁸⁷

Although it was claimed that a very eclectic approach was deployed, I tend to dismiss as disingenuous such a claim. For the bulk of the legal system, procedures and structures introduced tended to impose western patterns upon a non-western polity. In so doing, much of value in the traditional /customary systems such as informal dispute resolution and group

⁸⁵ Julio Faudnez (ed.), Good Government and Law-Legal and Institutional Reform in Developing Countries (London: Macmillan Press Ltd., 1997) , p. 4

⁸⁶ Brietzke, *supra* note 47, at 226

⁸⁷ *Ibid*

rights tended to be ignored. In short, despite claims that allowances were made for pockets of native jurisprudence, the legal system introduced by these codes worked to the detriment of the customary laws of the various ethnic groups in Ethiopia. According to John Beckstrom, in order for transplants to bring about the desired result, the economic and cultural gaps between the importing and exporting states should be the least. He points out that: “[...] no greater distance has existed between the receiving country and the places of origin of the transplanted laws than in the Ethiopian experience.”⁸⁸

In fact, as David explains, he actually tried to incorporate elements of customary laws into the code. Yet, in the words of Beckstrom, “explicit incorporation was ... minimal.”⁸⁹ Because of diversity of local customs and lack of systematic survey of the same in Ethiopia, “there was little for the draftsmen to draw upon except fragmentary and largely impressionistic reports.”⁹⁰ Beckstrom makes a further point:

Some additional “Ethiopianization” of the codes occurred in the Codification Commission and Parliament before enactment, but this appears to have been as much a reflection of the personal preferences of the elite, urbanized individuals in those bodies as of the customary practices of the Ethiopian masses.⁹¹

Following the tack taken by Getachew, I contend that the codification process failed to understand that the formal legal system only reaches a small section of the population as in most developing countries. Thus, by focusing largely on the formal legal system the codification process went astray, as it ignored customary laws and other informal systems of law. The legitimacy crisis of the formal legal system was further deepened where the application of the codified laws, both in the civil and criminal jurisdiction, has actually been displaced by indigenous norms and practices. As Brietzke points out “Many centuries of legal

⁸⁸ Van Doren, supra note ,at 10ff

⁸⁹ Cited in Brietzke, supra note 47, Id

⁹⁰ Ibid

⁹¹ Ibid

history and social relations are not transformed into a *tabula rasa* by simply legislating custom out of existence”.⁹² That is what Arthur Schiller meant by an Ethiopian “fantasy law”⁹³ embodied in Civil Code Article 3347(1): Unless otherwise expressly provided all rules whether written or customary previously in force, concerning matters provided for in this code shall be replaced by this code and are hereby repealed.

One way to think about the 1960 Civil Code is as a process that has gone on for over 40 years and has been continually challenged. For much of that period, the tendency appeared to be in the direction of greater homogeneity. Since 1991, forces of difference appear to have strengthened the heterogeneity of personal law, culminating in adopting varied family laws by the regional states. Unity, if not better, homogeneity was served powerfully in law by the processes of codification. The homogenization of personal law was effected through an express repeal of the ethnically as well as religiously based personal laws. Besides the great wave of legal codification by the continental European drafter in the mid-twentieth century swept away the particularities of criminal law (Via the penal code of 1957), preserving neither religious nor customary penalties.

Getachew Assefa, an Ethiopian legal scholar, has recently suggested that the adoption of a federal system could give latitude for legal pluralism:

... The existence of the traditional mechanism of undertaking legal affairs in the various Ethiopian communities is one... aspect of the problem of legitimacy crisis of formal legal system. To do away with this problem, mechanisms of harmonizing the modern legal norms and the traditional ones must be designed. With the adoption of the federal form of government in Ethiopia, the system of allowing the play of traditional norms in various parts of the country (the states) could be easily done.⁹⁴

92 Ibid

93 Ibid

94 Getachew Assefa, “Re-evaluating the Legitimacy of the Codified Laws in Ethiopia” 2The Law Student Bulletin2 (February 2001) Law Faculty, AAU, pp.18-27

Before leaving this discussion I want to draw attention to the theme of this paper: If we understand the codification projects as a historical process instead of a one-shot experience, this is the story of the homogenization process. Seen in this light, it forms part of the country's political history. Yet there is a parallel story of the survival of legal pluralism that will be unfolded in due time.

2.2 Ethiopia: A Multinational Democratic Federation

2.2.1. The Nature and Scope of Diversity

The Federal Democratic Republic of Ethiopia (1,112 million km²) is located at the Horn of Africa. It is bordered by Sudan on the west, Kenya on the south, Somalia and Djibouti on the east, and Eritrea on the north. It has a population of over 70 million inhabitants, about 90 per cent of whom earn their living from the land, mainly as subsistence farmers. Ethiopia is more often than not characterised as a deeply divided state in which major political issues are violently contested along the lines of the complex ethnic, religious, and regional divisions in the country. Today, Ethiopia is a multinational federation with more than 80 different ethnic groups. A great variety of languages are spoken in the country—there are approximately 80 languages with some 200 dialects. Although Amharic is the working language of the federal government (Article 5(2)), all Ethiopian languages enjoy equal state recognition under Article 5(1). States determine their respective working language by law (Article 5(3)). Language is not the only difference among Ethiopians—religious practices differ as well. Ethiopians are members of a number of different religions (approximately 40% are Muslim, approximately 40% are Christians, and the remaining 20% are animists and others), yet conflicts because of religious membership are not known.⁹⁵

⁹⁵ Tom Pätz, ETHIOPIA, www.forumfed.org. According to the 1994 Census, Christians (of all denominations) were 62.3% whilst Muslims account for 32.1% of the population. The latest census result, albeit bitterly contested, shows that the Christians outnumber the Muslims by an even wider margin.

The federation is comprised of the federal government and nine member states. Member states are Tigray, Afar, Amhara, Oromia, Somali, Benishangul/Gumuz, Southern Nations, Nationalities and Peoples, Gambela, and Harar. There are 69 nations, nationalities and peoples which have a seat in the House of Federation. These nations, nationalities and peoples belong to 4 different ancestral families without prejudice to their ethnic origin. These 4 ancestral families are the Nilo-Saharan, the Omotic, the Cushitic and Semitic.

The Nilo-Saharans are situated in a more or less continuous line along the western fringes of the country, particularly in the States of Tigray, Benishangul-Gumuz, SNNP, and Gambela. These are Kunama, Gumuz, Bertha, Komo, Bodi, Mursi, Gnagatom, Me'init, Surma, Zilmamo, Anyua, Nuer, Mesenger, and Opo. They are 14 in number.

The Omotic-speaking peoples are situated exclusively in south-western Ethiopia, particularly in Benishangul-Gumuz and SNNP. These are the Shinasha, Mao, Walayta, Basketo, Dimie, Bench, Yem, Male, Ari, Gamo, Zayse, Bena, Tsemaye, Hamer, Kafficho, Shakicho, Dawro, Oyda, Kore, Na'o, Chara, Shecko, Dezi, Gofa, and Konta. This group has 25 ethno-linguistic groups.

The Cushitic family of nations, nationalities and peoples are found mostly in Afar, Oromia, Somali, and SNNP. They are also found, albeit in limited number, in Tigray and Amara. The list of Cushitic family includes Afar, Oromo, Somali, Konso, Sidama, Alaba, Mashole, Kebena, Hadiya, Arbore, Kusme, Dasench, Dobase, Burji, Mosye, Darashe, Tambaro, Donga, Kambata, Gedeo, Gidicho, Irob, AgewAwi and Agew Himra. This group comprises of 24 ethno-linguistic groups. The Oromo now constitute the largest single nationality in Ethiopia; they began to migrate from the south in the sixteenth century, and later settled over large parts of the country. Linguistically closest to the Oromo are the Somali, a predominantly pastoralist people now found scattered in Ethiopia, Djibouti, Somalia and Kenya.

The Semitic family of nations, nationalities and peoples are found in Tigray, Amara, SNNP, and Harari States. This family includes the Tigray, Amara, Argoba, Gurage, Silite, and Harari.⁹⁶ The Semites have played the most dominant role in the country's history. The kingdoms and empires that successively emerged in the region have invariably been under their control, particularly that of the Tigrigna- and Amharic-speaking peoples of the northern and central Ethiopia. The oldest of the Semitic languages, Ge'ez, now confined to ecclesiastical use, has served as a sort of lingua franca of the Semitic-speaking peoples. The most akin to Ge'ez is Tigrigna, which is spoken exclusively in Tigray. Amharic, which used to be the official language throughout most of the history of the modern Ethiopian state and has been relegated to the rank of the working language of the Federal government only recently, is the native tongue of most of the inhabitants of the north-central highlands.

2.2.2. Salient Features of Ethiopian Multi-national Federation

Although the Federal Democratic Republic of Ethiopia was officially established on the 21st of August, 1995, the process of federalization in general and that of devolution of power in particular had started during the transitional period. Edmond Keller observes that:

Ethiopia began as what appeared to be holding together federation in 1991. The Marxist regime had been eliminated and ethnic communities were promised that they could exercise their rights to self determination in the 'new' Ethiopia, a federation comprised of ethnically based states. But, within a year, all that changed and Ethiopia was transformed into what Stepan refers to as a 'putting together' federation. The ruling coalition narrowed and the EPRDF created the so called 'People's Democratic Organizations', mere ethnically based surrogate parties through which it could project the illusion of a multi-ethnic federal state. The EPRDF regime forced out ethnic parties that wanted to assert the right of their regional states to "self-determination up to and including secession" and, through the manipulation of political and administrative institutions, the EPRDF was able to preserve its dominance in the political arena. In the formation of holding together federations, one of the most common justifications given for entering into a federal arrangement is the desire to reduce group conflict, while at the same time demonstrating not only a respect for the diversity of the cultures of the given polity but also a commitment to protecting the integrity of the constituent cultures.⁹⁷

96 FDRE, The Secretariat of House Of Federation Nations, Nationalities And Regional Study Team, December 9, 2007, Addis Ababa; See also Bahru Zewde, *A History of Modern Ethiopia*, Oxford: James Currey, pp. 5-7.

97 Edmond J. Keller (2002), *Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia*, *African Journal of Political Science* Vol 7 No. 1, p. 24

Ethiopian federalism has ethnicity as the first principle of organizing the State. Ethiopian citizens are categorized into their different ethno-linguistic groupings. Member units of the federation are molded by “settlement patterns, language, identity and consent of the people concerned” (Article 46(2)). Ethnic federalism is expressed by the formulation of “We the Nations, Nationalities and Peoples of Ethiopia” (Preamble of the Constitution). Article 1 spells out the nomenclature of the state unequivocally: the “constitution establishes a Federal and Democratic State Structure. Following the preamble, the Constitution vests ultimate sovereignty “in the Nations, Nationalities and Peoples” of Ethiopia. It further stipulates that “this constitution is an expression of their sovereignty.” Article 39 reaffirms this notion of sovereignty by formulating the right to self-determination and secession as entitlements belonging to Ethiopia’s ethno-territorial groups.

The principles of self-determination enunciated in the Transitional Charter informed the new constitution. The self-determination clause of the new Ethiopian constitution largely draws upon the Transitional Charter’s article two, and asserts that “[e]very nation, nationality and people have an unconditional right to self-determination, up to and including the right to secession.” The definition of “nations, nationalities and peoples” is basically the same as in Proclamation No 7/1992: “[...] a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in common or related identities, a common psychological make-up, and an identifiable and predominantly contiguous territory.” Of the criteria set forth, it is only language and territory which are relatively easy to ascertain, and it is therefore justifiable to say that the constituent units of the Ethiopian federation are predominantly defined on a linguistic and territorial basis. Thus, preference is made to the term ethno-territorial groups.

Article 47 lists member states of the Federation. The fourteen autonomous regions defined in proclamation 7/92 are reduced to nine as a result of the merger of the southern regions into one in 1994. Since the sovereignty rests with each nations, nationalities and peoples rather than with the member states of the federation, sub-article (a) stipulates that “Nations, Nationalities and peoples within the states enumerated in sub-Article 1 of this article have the right to establish, at any time, their own states.”

The Federal Democratic Republic of Ethiopia is a parliamentary democracy. Its head of state is the President, who is nominated by the House of Peoples' Representatives and then elected for a six-year term by a two-thirds majority vote of a joint session of Parliament (Article 70). The federal government, with a bicameral parliament and a Prime Minister as head of government, is invested with the power of, among other things, national defense, foreign relations, monetary policies and foreign investment, and the formulation and execution of national standards on health, education, science and technology (Art. 51). The federal Parliament comprises of the House of Peoples' Representatives and the House of Federation. Members of the House of Peoples' Representatives are elected for a five-year term in a "first-past-the-post" electoral system. According to the constitution, this House cannot have more than 550 members, and at least 20 seats are reserved for minority nationalities. Its functions consist of legislative, financial, deliberative, informative, and representative subjects (Article 54). It is also provided with questioning power (Article 55(17)). The composition of the House of Federation is surprisingly very open. The election of members can be direct or indirect—the decision is left to the state councils. Thus, state councils can decide whether they elect the members themselves or whether elections are held. Additionally, each nation or nationality gets one additional member for each one million of its population (Article 61). At present there are 112 members. Of this number, 71 are appointed by the states, and the other 41 seats are apportioned based on population (Article 61).

The various regional states hold extensive powers. They all have equal powers and duties, which is indicative of the constitutionally symmetrical characteristic of Ethiopian federalism. All regional states are entitled to draft and ratify their own constitutions, to enact legislations, to form their own organs of government, to elect own officials, to such state education, to every taxes, to establish and administer state police force. Besides, as per article 52 (1), all residual powers are reserved to the states.

Article 39(2) bestows three distinct but interrelated entitlements upon each ethno-territorial group (a) the right to speak, to write and to develop one's own language; (b) the right to express, to develop and to promote one's own culture; (c) and finally, the right to preserve its history. By this constitutional provision Framers realize and give effect to the multicultural nature of the Ethiopia polity. Sub-article 3 stipulates that each ethno-territorial group "has the

right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation at State and Federal governments.”⁷⁴ This right, I argue that, can be so broadly construed as to include the right to develop and maintain one’s own laws and institutions subject only to the human rights provisions of the federal constitution. Such a construction had been endorsed by the 1997 cultural policy document of Ethiopia. Which stated that the constitutionally guaranteed cultural right includes the right to be governed by one’s personal laws: customary or religious. As per article 62(3), the House of Federation is the competent state organ to “decide on issues relating to ... self determination, including the right to secession.”⁷⁵ Moreover, being the final arbiter of constitutionality, the House is expected to play a vital role in shaping the future of the country’s jurisprudence.

Chapter Three

Conflict Management in the Ethiopian Multi-National Federation

3.1. Prevention and Mitigation of Inter-Ethnic Conflicts

As has been portrayed in the foregoing chapter, the modern Ethiopian state was established by coercion, as a result of a process of conquest by Emperor Menelik II. Its subsequent history has been one of tension between centrifugal and centripetal forces, with the unity and territorial integrity of the empire state maintained essentially through coercion. In the words of Edmond Keller:

Throughout its modern history, Ethiopia has been characterized by ethnic tensions. Until, 1991, however, successive regimes either tried to suppress the unique cultural identities of more than eighty distinct ethno-linguistic groups and, at the same time, to assimilate them into the dominant Amhara culture.⁹⁸

Since the downfall of the Derg, EPRDF has played a decisive role in shaping the country’s political landscape. The ruling party made radical changes to the unitary structure of the state and introduced federalism based upon the principle of self-determination up to secession with

⁹⁸ Edmond J. Keller (2002), Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia, African Journal of Political Science Vol 7 No. 1, p.21

a view to “addressing the claims of ethnic groups in the country of historic discrimination and inequality, and to build a multi-ethnic democracy”⁹⁹. This was followed by the creation of constituent units of the multi-national federation along ethnic lines. The restructuring of the state along ethnic lines and the ensuing devolution of powers contributed, in large part, to the mitigation, if not eradication, of the hitherto ethnic-based armed conflicts among the various ethnic-based national liberation movements and, on balance, is expected to prevent violent inter-ethnic conflicts in the future.

3.2. Causes of a Few of the Ongoing Inter-Ethnic Conflicts: An Overview

Contrary to what some overly simplistic analyses of the implications of diversity in Ethiopia and other countries suggest, diversity is a necessary but not sufficient condition for conflict. In other words, the very fact that a country has different ethnic, communal, religious, and racial groups does not make conflicts and violence inevitable. And for that matter, empirical evidence shows that division and conflict are not dependent on the degree of diversity, as some of the most diverse countries (for example, Switzerland, Belgium, Malaysia and Tanzania) enjoy relative peace and stability, while some of the least diverse are the most unstable or violent (for example, Somalia, Rwanda, Burundi and, Sri Lanka). As shown by James Fearon and David Laitin, “a greater degree of ethnic or religious diversity... by itself” is not “a major and direct cause” of violent civil conflict. Rather, they link violent civil conflict with “conditions that favor insurgency,” including “poverty, which marks financially and bureaucratically weak states.”¹⁰⁰ A lot depends on how the state manages the situation, and the extent to which diversity is politicised, that is, made the basis of political competition and conflicts through the instrumentalisation, manipulation and mobilization of difference in furtherance of constitutive interests. Other factors that have been identified to intervene between diversity and conflict include the role of formal and informal institutions for conflict management, the different sizes of groups relative to the national arena, and the extent to

99 Ibid

100 Fearon, James D., and David A. Laitin. (2003). “Ethnicity, Insurgency, and Civil War.” *American Political Science Review* 97 (1): 75-90.

which different identities overlap with, or crosscut, each other. Rudolfo Stavenhagen argues that:

The term 'ethnic conflict' covers a wide range of situations. In fact, it might be argued that ethnic conflict as such does not exist. What does exist is social, political and economic conflict between groups of people who identify each other in ethnic terms: color, race, religion, language, national origin. Very often such ethnic characteristics may mask other distinguishing features, such as class interests and political power, which on analysis may turn out to be the more important elements in the conflict. Still, when ethnic differences are used consciously or unconsciously to distinguish the opposing actors in a conflict situation—particularly when they become powerful mobilizing symbols, as is so often the case—then ethnicity does become a determining factor in the nature and dynamic of the conflict.¹⁰¹

The phenomenon of ethnicity has been used to cover a range of types of political conflict that are differentiated not merely by the dynamics of competition between rival groups but also by the very significance of ethnicity itself. The reality is that the same label is used here as an umbrella for a great diversity of types of conflict.

The upshot of all this is that there is a set of intervening variables between diversity and conflicts that needs to be interrogated: to unravel the nature of the connection between them and, in particular, to discern the linkages between how identities get mobilized and politicized and how this relates to the level of conflict. The dynamic character of identity formation, mobilization processes, and of the shift from identity-diversity to conflict suggests that interrogation must necessarily be contextual and historical, if we are to capture the ebbs, flows, nuances and changes that are involved. These are the parameters that will guide our analysis of identities and conflicts in Ethiopia in the following sections of this paper. The key questions around which the analysis is organized are: what are the major identities of political salience and how are they related? How and why have they become politically salient? What is the nature of conflicts that have ensued from identity contestation, and how have they been managed or mismanaged?

101 Rodolfo Stavenhagen, "Ethnic Conflict and Human Rights, Their Interrelationship," in Kumar Rupesinghe, ed., *Ethnic Conflict and Human Rights* (Tokyo: The United Nations University and Oslo: Norwegian University Press, 1988), p. 17.

3.2.1. Resources-based conflicts

The adoption of a multi-national federal system “seems to have contributed to the realignment of a number of conflicts which have been labelled as latent ‘ethnic’ disputes. Ethnicity explains neither the causes nor, in many cases, the dynamics of conflict.”¹⁰² Sarah Vaughn and Kjetil Tronvoll go on to write that “ Nevertheless, apparently similar patterns have emerged between agriculturalists and pastoralists, as for instance between Sidama and Guji, in the south Omo between Ari and lowland pastoralists, in the east and center between Kereyu and Afar pastoralists and Oromo and Amhara peasants.”¹⁰³ More often than not, competition for resources had manifested itself mainly in the form of pastoralist conflicts and disputes over scarce resources of land. Pastoralist conflicts have a long history and have existed in the lowland areas of the country particularly in the Afar, Oromia, and Somalia regions. In the words of Vaughn and Tronvoll, “many of these conflicts...have been dormant, but the new constitutional order (and urge to draw boundaries based on ethnicity) has offered new legitimacy to pre-existing competition and antagonism, whilst infusing both with an ethnic dimension.”¹⁰⁴

Amhara-Afar resource based conflicts are also prevalent in the western and southwestern parts. The Amhara-Afar conflicts are mostly triggered by the gradual expansion of Amhara farmers into Afar territories. It was indicated by Afar elders at Daleti and Harihammo that conflicts usually break at places called Horoyti, Beteskan, and Da’oda where the nearby Afar clans claim ownership. Frequent clashes are observed during the main cropping season (*meher*), when every piece of land is covered by crop, as the Amharas try to move into Afar grazing areas. Moreover, conflicts are common during drought years when each group wants to economize its grazing resources. The conflict has been exacerbated by the recent retaliatory attacks of the Amharas killing about 27 Afar women returning home from a nearby town.¹⁰⁵

102 Sarah Vaughn and Kjetil Tronvoll (2003), *The Culture of Power in Contemporary Ethiopian Political Life*, Sida Studies No. 10, p.52.

103 Ibid

104Ibid

105 Bekele Hundie, *Property Rights among Afar Pastoralists of Northeastern Ethiopia: Forms, Changes and Conflicts*, Humboldt University of Berlin, Unpublished, p.13

The Afar-Issa conflict is longstanding and has continued through generations. Initially, the conflict was marked by repeated minor clashes among sub-clans competing for pasture and water. Later, especially during the post-Italian aggression, the conflict evolved to armed clashes among clan members. Similar confrontations had continued between both ethnic groups during the Imperial and Derg regimes. Currently, competition for resources overlaps with disputes over borders and markets. Conflicts between the Garre Somalis and the Borana Oromos were often caused by intense competition over resources such as grazing area and water that have become increasingly scarce due to demographic pressures and environmental degradation. These conflicts have been aggravated by border disputes by both Oromia and Somali State governments. They have become more intractable. These new developments have intensified the mistrust between the two ethnic groups and led to an increase in armed conflicts resulting in huge physical and material loss.

There have been similar conflicts in South Omo and Bench-Maji Zones of the SNNPRS. The conflicts in these areas were caused by seasonal confrontations over grazing land and cattle raids that provoke further attacks and counter attacks. Environmental degradation and its consequential impact of recurrent droughts as well as scarcity of water and pasture are the major causes behind the conflicts in these areas. On top of these, cultural factors such as the hero cult and blood feuds contribute to escalation of conflicts. These are similar conflicts between zones and weredas of the SNNPRS such as those between Sidama and Borena, Borena and Hamer.¹⁰⁶

Conflicts triggered by competition over resources have also occurred between two or more clans of the same ethnic group. For example, in the Somali Region, inter-clan rivalry often entails violent clashes and cattle raids. This usually results in homicides which in turn give rise to blood feuds. Food aid, as a major resource, is also emerging as a new factor in aggravating inter-clan conflicts in the region. Clan members live on permanent settlements which have access to food aid, and that leads to conflict with those who claim the new

106 Abebe, A.(2005) Indigenous Mechanisms for the Prevention of Conflict: The Experience of the Oromo, Proceedings of the Second National Workshop of the Ethiopian Chapter of OSSREA, pp 50-76

settlement areas as their resource base. Competition over new development establishments, like water dams, is also becoming new causes of conflicts. The Daror conflict which escalated in February 2007 and led to the death of about 200 people was caused by a dispute over where to construct the Hafir Dam.

The above recent trends in pastoralist conflicts are related to misconceptions about the Federal system and the involvement of regional and local governments in the conflicts. Each Regional State supported its respective ethnic group rather than searching for common or joint resolution of the conflicts. Thus the conflict has not yet been properly addressed by the local elites who espoused sectarian views and did not accept the ethnic borders of the pastoralist people.

3.2.2. Border conflicts

Inter-regional state conflicts have also emerged following the introduction of ethnic federalism, though Ethiopia's diverse ethnic groups were accustomed to peacefully enjoying their common natural resources in neighboring areas where they have lived together for many centuries. There were, however, lower level inter-ethnic conflicts over land, markets, etc. These conflicts had been being resolved through traditional conflict resolution mechanisms. Illustrations are conflicts between Guji and Sidama in the borders of Oromia and SNNP Regional States, between Oromia and Somali Regional States in the areas of Shinle Zone, between Oromos and and Gumuz in the areas of Eastern Wellega in Oromia and Kamash Zone in Benishangul-Gumuz Regional State and between Metekel Zone and Awi Zone in the Benishangul-Gumuz and Amhara Regional States respectively can be cited as a few instances of border conflicts.¹⁰⁷

The issue at stake in the illustrations above is border disputes demanding demarcations. The culture of aggression inherent in a few of the ethnic groups has also given rise to serious inter-ethnic conflicts. For example, the root cause of the May 2008 conflict between Oromos of

107 Assefa Fiseha (2007). *Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study*, Nijmegen: Wolf Legal Publishers, the Netherlands

Eastern Wellega and Gumuz of Kamash zone could be attributed to border disputes by Gumuz of Kamash zone over the former Dedessa State Farm which is currently administered by the Eastern Wellega zone of Oromia Regional State. However, the violent conflict was triggered by an incident where two members of the Gumuz were attacked by Oromos living in Village 4 of the Eastern Wellega zone following a brawl that occurred in a local bar. After the incident, the Bologiganfo Wereda administration of Benishangul Gumuz Regional State organized a local armed group and attacked the Oromos in Village 4. Similarly, the neighboring Oromia administration retaliated against the neighboring Gumuz communities. All these offensives and counter-offensives resulted in a huge toll and displacements of thousands of people from both Regional States.¹⁰⁸ The major cause of this conflict is absence of well-defined borders between the two Regional States involved in the conflict.

3.2.3. Power rivalries

Power rivalry accounts for many of the conflicts that took place in SNNPRS, Gambella, and Benishangul-Gumuz. A case in point is the rivalry for presidency and other decisive public offices in the SNNPRS between the Wollayita and Sidama ethnic groups.

Anywaa v. Nuer (Gambella)

There has also been power rivalry between the Anywaa and Nuer ethnic groups in the Gambella Regional State. The previous regimes of Ethiopia, esp. the Derg, showed favoritism to the Nuer ethnic group due to the conflicts it had with the neighboring Sudanese government.¹⁰⁹ Many Sudanese Nuers migrated from Sudan and settled as refugees in the Gambella region. This was followed by profound Anywaa hostility in consequence of the Nuer domination over the Anywaa. When EPRDF forces controlled the region, following the downfall of the Derg, the Gambella Peoples' Liberation Movement (GPLM), which was dominated by Anywaa, installed an all Anywaa administration in the region. The Nuer, however, remained discontented with the power sharing scheme as it was disproportionate with their population size as was shown by the 1994 census. There was a period of relative

108 Ethiopian Human Rights Commission(2008), Reports on Conflicts between Gumuz and Oromos, Addis Ababa

109 See Fiseha, 2007

peace lasting for about some five years until January 1998 when a state of emergency was declared authorizing the Federal Defense Forces to intervene in the Region. Violence broke out in December 2000 when the Anywaa attacked the Pignyudo refugee camp killing scores of Nuer refugees. Another conflict erupted on December 13, 2003 which could, to a large extent, be attributed to political rivalry between the Anywaa and Nuer ethnic groups in Gambella. Their rivalry, partly instigated and encouraged by officials of the former military government, revolved around the extent of political representation they had in the administration of the region. This rivalry, which later spread to other ethnic groups and peoples living in the Regional State, was further exploited by political parties that claimed to have represented one or the other ethnic group. The December 2003 conflict was the result of this complex of factors. The conflict on that date and other related events afterwards caused the death of several people belonging to all nationalities and peoples in the region and the destruction of homes and properties.¹¹⁰ This led to the death of many people in Gambella and other towns in the region in 2004.¹¹¹

Although it was the primary responsibility of the State government to arrest the situation, the Federal government intervened, as the situation went beyond the State government's capacity to put it under control upon invitation by the latter. In extending its assistance, the Federal government involved the Federal Police, the Defense Forces, and the Ministry of Federal Affairs. The Federal Police and the Defense Forces were deployed immediately and managed to arrest the situation. The Ministry of Federal Affairs sent an independent investigation commission to find out the causes of the conflict; to identify those responsible for it; and, in collaboration with the police and defense forces, to track down the criminal suspects. The Ministry also coordinated and provided assistance to internally displaced persons, people who had lost their homes or their subsistence during the conflict. Clan leaders also played an important role in peace-building and in the repatriation of internally displaced persons.

110 Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, Ministry of Foreign Affairs, July 2008, Unpublished, Addis Ababa, Para. 101

111 Parliament Investigation Reports, 2004. Feyissa, D. (2006) The Experience of Gambella Regional State. In Turton, D.(ed.) Ethnic Federalism: The Ethiopian Experience in Comparative Perspective. (East African Studies), Oxford: James Currey, pp 208-230.

Besides, local gatherings were convened with a view to promoting reconciliation among residents of the state.¹¹²

Since the police and the defense forces were accused, in carrying out their obligations, of violating the human rights, an independent Inquiry Commission was set up to investigate the allegations to submit a report to the House of Peoples Representatives. The Commission was mandated with the responsibility of investigating the causes of the conflict and the factors that aggravated it, the bodies or individuals responsible for causing and aggravating the conflict, and the consequences of the conflict. The Commission's report denies the commission of systematic violations of human rights by the police or the defense forces. The report, rather, put the blame on individuals belonging to the different ethnic groups within the state.¹¹³ Nevertheless, several suspected private individuals, members of the police and the defense forces, and officials of the state government, were taken into custody and prosecuted in Federal First Instance Courts. Most of those detainees have been convicted, though some appeals are still being heard. The convicted include a member of the defense forces and 6 police officers who received sentences ranging from 2 to 12 years of imprisonment.¹¹⁴

Similar rivalries for power have taken place between the Gumuz and Berta ethnic groups in the Benishangul Gumuz Regional State. The 1994 census showed that the Bertas are the most populous ethnic group in the Region followed by the Gumuz and other non-indigenous groups. Hence, the Bertas claimed the presidential and other regional administration posts of the State government. Moreover, they complained that they were disfavored in the distribution of resources as well as in the development and expansion of infrastructure in their State.¹¹⁵ As a result, the Berta political party boycotted the State government and the Asosa zone of the State was out of the State administration for about nine months in the year 2000. Bertas came back to the State administration after the Ministry of Federal Affairs organized a

112 Supra at note 6, Para.102

113 Ibid, Para.103

114 Ibid, Para 104

115 Kefale, A. (2003) Federalism: Some Trends of Ethnic Conflicts and their Management in Ethiopia. In Nhema, A. G. (ed.) *The Quest for Peace in Africa: Transformations, Democracy, and Public Policy*, pp. 51-72; Vaughn, S. (2007) *Conflict and Conflict Management in and around Benishangul-Gumuz National Regional State*, Ministry of Federal Affairs, Institutional Support Project, Unpublished.

peace conference in 2002. Nevertheless, the Bertas are still dissatisfied with the power distribution in State administration.¹¹⁶

3.2.4. Ethnicity

Ethnicity or identity has been the driving force behind many of the demands for a measure of self-rule in a well-defined territorial level of local government either with the status of a zone or wereda (district) within the Regional State or demands for incorporation into the adjoining State to which their ethnic group allegedly belongs. One of the reasons for these demands is the claim of being different from the ethnic group of the region in which they are located. Some of such demands have been peacefully resolved through referenda supervised by the House of Federation. For instance, previously the Silte and Gurage in the SNNPRS were considered as sub clans of the same ethnic group. Later on, the Silte group argued that their identity was different from the Gurage and demanded to be considered as a separate ethnic group.

The Silte v.the Gurage

With respect to the evolution of Gurage ‘ethnicity’, John Markakis contends that it was constructed for external consumption only, in the context of migration to Addis Ababa, and was hence vulnerable to collapse when the dynamics of interest altered with ethnic federalism. As the imperial subjugation (1875-1885) reduced the Gurage to near serfdom, with the heavy expropriation by northern landlords both of *enset* (false banana, the local staple) and of a tithe paid either in a range of grains not locally produced (which had to be bought), or in coin, the economic need for increased income drove many to Addis Ababa. They went in large numbers both because it was not far, and because the occasional nature of the labour required for *enset* production made seasonal migration a viable option. In Addis Ababa, they excelled in forging economic co-operation and social solidarity, new migrants often finding employment with ethnic kinsmen, and piloting communal credit and informal co-operative associations. A developing reputation for ethnic cohesion was enhanced by the formation of the Gurage Road Construction Association in 1961. It was in the migrants’

116 Ibid

interest to 'expand the social circle on which they could rely for support in the alien urban context'. Furthermore, the image of a large, unified ethnic group was useful to those amongst them dealing with the imperial authorities.¹¹⁷

An important marker of difference seems to have originated two decades earlier, and it is one familiar from the *Simien Omo* case. The Silte language was introduced in eastern Gurage areas (whilst Amharic was used in the rest of Gurageland) under the seventh round of the literacy campaign of the *Dergue* in 1982. The introduction of Silte language reflected certain already existing differences amongst 'Gurage' at that time. Silte people had been the last to migrate to Addis Ababa, and remained longer as manual labourers, entering only later into trade. As Muslims, they kept their children from state schools, so that there were few Silte amongst the prominent Gurage personalities of the time.¹¹⁸

Given the Silte area's relative underdevelopment, inaccessibility, and lack of Amharic, the introduction of the Silte language for literacy made good political sense in 1981. Twenty years later, in the TGE context of ethnic ferment and political expectation, the assertion of Silte as a separate ethnic identity – on all the same grounds - suddenly also made very good political sense. This was particularly the case since, after 1991, a number of factors conjoined to make the relatively better-off Silte of Silti wereda feel that they (and their poorer Silte brethren to the east) were benefiting less from ethnic federalism than the 'verdant and entrepreneurial former Chebo na Gurage Province to the north west', whose members now dominated the Gurage zone.

Although the Silte brought their demand for recognition of their distinct identity before the House of the Federation, the issue was referred back to the SNNPNRS government, and a complex procedure implemented to select representatives for a conference in Butajira in August 1997, to debate and make a decision on the issue. Following elaborate preparation by the ruling party, the 'infamous' Butajira conference declared that Silte were Gurage, a decision which horrified many. However, in April 2000 the House of Federation finally

117 Markakis, J. (1998) 'The Gurage in Ethiopia' in *Ethnicity and the State in Eastern Africa*. M Mohammed Salih and John Markakis (eds.) Uppsala: Nordiska Africainstitutet pp. 131-34; See also Vaughn, S. (2003) *Ethnicity and Power in Ethiopia*, PhD thesis, The University of Edinburgh

118 Vaughn, S, *Ibid*

agreed to reconsider the case. Eventually it was agreed that the issue be resolved by referendum of the Silte weredas. The vote, held between 18 and 26 April 2001, was overwhelmingly for Silte autonomous administrative status.¹¹⁹

The immediate cause for the establishment of a separate Silte zone had been the allegation that the wider Gurage zonal administration was neglecting the development of this already disadvantaged area. As a result, the rhetoric of the new zone's administrators is resolutely, and energetically focused on socio-economic development. Many were members of the Silte independence parties, but are now members of a Silte EPRDF member organisation alongside those who opposed them. The Silte cause, like all others in this discussion, has been defined, shaped, and led by educated (and in this case also wealthy) elites, in the service primarily of their own interests. It is interesting that in this instance, unusually, the upgrading of a particular urban centre has not been an important focus of the nationalist campaign. Here an explanation may be that the more typical situation is distorted by the influence on the Silte autonomy campaign of the large Silte mercantile community in Addis Ababa. This influential constituency has been less interested in the establishment of an urban centre in Silte area from which it could operate (since it is already effectively established in trading networks in the capital, and throughout the country), than in securing a separate allocation of government budgetary resources for its own ethnic zone.¹²⁰

On the other hand, there have been identity-driven conflicts in the Wondo Genet area between residents of the Oromia and SNNPR States.

The marginalization of a minority ethnic group by a majority ethnic group within a certain territory is another cause of conflict. In Keffa zone of the SNNPRS, there have been conflicts between the Manja occupational minority groups and the Keffa majority. The root cause of the conflict is discriminatory measures carried out by the Keffa which is also institutionally perpetuated by influential members of the community. In the Somali Regional State, such disputes have gone to the extent of denying some groups their claimed status as Somalis by others who thought that avoinding such groups would provide a better opportunity for a

119 Ibid

120 Ibid

greater share of the national/ regional resources as was the case with the Ogaden and the Shekash.¹²¹

The establishment of the federative units, i.e. the National Regional States, on the basis of ethnicity has heightened awareness of differences between indigenous and non-indigenous ethnic groups, which in turn has resulted in the non-representation of the non-indigenous groups in State and local governments. For instance, in the Gambella and Benishangul-Gumuz States, all the highlanders (Amhara, Tigraway, Agaw,etc) who have settled in these States since the creation of the modern Ethiopian state and the re-settlement programs of the Derg regime are considered non-indigenous ethnic groups and hence were not allowed to elect or be elected to public offices. Candidates running for Benishangul-Gumuz Regional Council in Bambesi and Assossa electoral collegiats within Assossa Zone were stricken off the registry by a decision of the National Electoral Board (February 18, 2000) upon complaint by representatives of the Berta nationalities on the ground that the said candidates, being non-indigenous, cannot speak the Berta language. Many have contended that this decision was inconsistent with Article 38 of the Federal constitution which guarantees to all citizens without distinction the right to elect and be elected to public offices. This administrative decision had been brought before the House of Federation where it was stricken down as being unconstitutional.¹²² Moreover, the 2007 Electoral Law has abrogated the discriminatory practice and entitles all members of the non-indigenous communities the right to run for a public office provided that they are versed in the working language of the States or the respective constituencies. Since the working language of the Benishangul-Gumuz and Gambella States is Amharic, which is also spoken by most, if not all, of the non-indigenous communities, the said measures would seem to have successfully addressed the prevalent political predicament of the non-indigenous groups who were prohibited from voting or running for public offices.

¹²¹ See Ethiopian Cleaner Power Center, 2007

¹²² Pending and decided cases can be accessed at the website of the Ethiopian House of Federation. www.hof.gov.et

3.3. Potential Causes of Inter-Ethnic Conflicts

Although the main causes of domestic conflicts in Ethiopia pertain to competition over natural resources and power, other potential causes include unequal development, fiscal imbalances, religious diversity, and migration.

3.3.1. Income Inequality and Fiscal Imbalance

Poverty has been the major challenge facing the Ethiopian polity in the last millennium. Moreover, unequal development in terms of natural resources, skilled man power, technological level, physical infrastructures, capacity to provide basic utilities, per capita income, and fiscal imbalances among the regions of the country have re-reinforced the poverty of the country's various ethnic groups. Regions including Benishangul-Gumuz, Gambella, Somali, Afar, and the lowland areas of Oromia did not benefit from the economic development during the previous regimes. The four regional states of Afar, Somali, Benishangul-Gumuz, and Gambella continue to be regarded as marginalized and 'emergent' in view of their relatively low levels of capacity, stability, resources, and physical infrastructure and basic public utilities. The acute historical marginalization of these regions is greatly reduced under a federal arrangement designed to undo the ill effects of the past. For example, there was only one elementary school in the territorial areas of Berta throughout the reign of Emperor Haile Sellasie I. The situation has not yet changed a lot. A case in point is the fact that there are only three secondary schools in Afar State. Only 1% of Afars ever finishes elementary school, and only about 5% has access to health care.¹²³

Besides the fiscal imbalance that exists between the center and the regional states, there are also imbalances between and among regions themselves. For example, the city of Addis Ababa finances almost all its public spending from revenues that it independently generates. In fact, Addis accounts for an average of 34% of the revenues raised by all states. The state that collects the next largest percentage of revenues is Oromia (28 percent), followed by the Amhara Regional State (12%) and the SNNP State (11 %). The lowest collections tend to be in Gambella, Benishangul/Gumuz, Harari, and Afar. It is interesting to note that, of all the tax revenues individual states are able to generate on their own, in Gambella, one of the poorest states, most of the state's revenues collected come from personal income tax paid primarily by

123 Sarah Vaughn and Kjetil Tronvoll 2003, *The Culture of Power in Contemporary Ethiopian Political Life*, Sida Studies No.10, pp.49-50.

government employees. Another interesting statistic is in the category of sales tax on goods, where Tigray and Afar far outpace other states in terms of the percentage of their revenues collected in this category. This is, in large measure, due to taxes levied by state governments against public and private enterprises doing business in these regions. The regions of Benishangul/Gumuz and Gambella are barely able to finance 10% of their public expenditures on their own.¹²⁴

The new Ethiopian constitution calls for fair economic and wealth distribution among the regions and ethnic groups of the country. The House of Federation has used a budget grant formula to allocate resources to regions using the parameters of population size (65%), expenditure needs (25%) and revenue raising capacity (10%) of the Regional States.¹²⁵ Affirmative actions have been taken to support underdeveloped Regional States of the country. Accordingly, peripheral regions were awarded five percent to the disparity in growth. The past budget formulae benefitted those sparsely populated and backward Regional States of the country for over the last ten years. The budget grant formulae used in the past have been seriously challenged by the emerging Regional States. The Heads of the so-called peripheral Regional States expressed their disagreement with the introduction of new parameters in budget grant formula, viz. performance in revenue collection and expenditure. They objected to the introduction of the additional parameters on the ground that they would prevent the least developed peripheral states from securing enough budgetary support. On the other hand, there have been discontents from the larger and relatively developed Regional States that they have been disproportionately subsidizing those Regional States that cannot contribute enough revenue to the Federal treasury from own sources. Besides, the Oromia State has complained that its population size was not properly counted during the 1994

124 Edmond J. Keller (2002), *Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia*, *African Journal of Political Science* Vol. 7 No. 1 p.42

125 The New Federal Budget Grant Distribution Formula, The Federal Democratic Republic of Ethiopia, The House of the Federation, May, 2007 Addis Ababa, Unpublished; See also Fortune, *New Budget Formula Set for 2009: Parameters Expected to Place Regions at Equal Advantage*, Vol. 9, No. 438, Sunday, September 21, 2008

census. Such complaints led to the formulation of the new budget grant formula by the House of federation.

3.3.2. Religion

The major religions of the country, Christianity and Islam, have coexisted peacefully throughout Ethiopia's history, despite the existence of very infrequent conflicts at times. The Ethiopian Orthodox Church, however, had been the official State religion since the times of King Ezana of Aksum until the end of the reign of Emperor Haile Sellasie I. Religious issues had been aspects of conflicts especially in the pastoralist areas of the country during Emperor Haile Selassie's reign. The Derg regime put a stop to the marginalization of other religions in the country and declared a secular state.¹²⁶ The FDRE Constitution has also established a secular state where all faiths enjoy equal recognition and entitlements. In spite of the longstanding harmonious relationship between the two major religions, some conflicts have been observed between Muslims and Christians as in the case of the rural areas of Jimma in the Oromia State in 2006 which was instigated by external extremist forces. In general, religious differences have not been a significant source of conflicts and threats to the peace and security in Ethiopia.

3.3.3. Refugees

Ethiopia has hosted refugees from the Sudan and Somalia since the 1980s and recently from Eritrea. There are 83,471 recognized refugees in Ethiopia, who are mostly from neighboring States.¹²⁷ (See the Table below) They are stationed at centers established through collaboration among concerned government organs and international organizations such as the UNHCR. Since the Somali refugees belong to the Issa clan of Somaliland and had settled temporarily in the surroundings of the Issa clan of the Ethiopian Somali, they had never been a source of any problem. However, as the Sudanese refugees of Nuer origin living in Gambella outnumbered the total local population, and as some of them have also started to

¹²⁶ Tadesse, M. (2003) Religion, Peace and the Future of Ethiopia, Paper Presented at a Conference Organized by the Ministry of Federal Affairs and GTZ, Addis Ababa, Unpublished, pp. 271-283.

¹²⁷ Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, Ministry of Federal Affairs, July 2008, Unpublished, Addis Ababa, Para. 77

inhabit in Itang Wereda, which was predominantly occupied by the Anywaa ethnic group, and have led to a huge increase in the population of Ethiopian Nuer, these demographic developments transformed the Gambella Regional State as whole and the Ithang Woreda in particular to a hotbed of inter-ethnic conflicts.

Table I Recognized Refugees in Ethiopia by Origin

Nationality	Number	No. of Centers/Camps
Eritrean	25,606	4
Somali	27422	3
South Sudanese	26,303	2
Kenya	2,845	2
Others (Urban refugees)	1,295	Addis Ababa
Total	83,471	

Source: Ministry of Foreign Affairs

3.4. The Role of State and Local Governments in Conflict Management

State and local governments have a major responsibility to manage conflicts through joint/inter-governmental collaborative mechanisms. While establishment of comprehensive institutional mechanism of intergovernmental relationship is underway through the cooperation of all concerned, currently, there are several forums and councils by which regional states and the federal government meet and resolve mutual problems. These include a Joint House Speakers Forum (for speakers of the federal houses and regional councils), Education Professionals Forum, the Forums of Dialogue between the House of Federation and each Regional State, Prosecutors' Joint Forum, the Council of Judges, the Five Eastern Adjoining Regional States Joint Forum, the Oromia and Somali Regional States Joint Cooperation Forum, Afar and Tigray, and Afar and Amhara Cooperation Forums, Amhara and Benishangul Gumuz Joint Cooperation Forum, and the SNNPRS and Gambella Joint Forum.¹²⁸ Besides, they have a duty to promote harmonious inter-cultural relationship

¹²⁸ Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, Ministry of Foreign Affairs, July 2008, Unpublished, Addis Ababa, Para. 94

among the country's diverse ethnic groups. Nevertheless, some State and local governments have defaulted to effectively discharge their responsibility pertaining to conflict management for different reasons. First, the understanding of the basic principles of federalism of the State government officials leaves much to be desired. Federalism consists in three basic principles: (1) it is designed to accommodate diversity in the country's political and legal system; (2) it is designed to create a public space where all citizens are entitled to equal respect in all member states of the federation; (3) it strives for economic development and integration by ensuring free mobility of all citizens within its sovereign territorial limits and creating inter-cultural relationships among the various ethnic groups in the country.¹²⁹

The said federative principle, however, would not seem to have been fully appreciated by some, if not all, of the State and local government officials. The officials have not been in a position to develop a legal framework and provide institutional support in line with the Constitution which calls for ensuring smooth relationships between the peoples of the country and the free mobility of individuals from one State to another. For one thing, they more often than not espouse parochial views and much more localized interests that can provoke conflicts. For another, they have neither the capacity nor the awareness of conflict management mechanisms. Consequently, conflicts, in some of the State and local governments, tend to be reinforced rather than managed effectively. Recent measures taken by the Ministry of Federal Affairs with a view to building the conflict management capacity of the State and local government officials are commendable, none the less.

The recent conflict between the Gumuz and the Oromo in the border areas between Eastern Wellega and Kamash zone of Benishangul-Gumuz and the Oromia States can be invoked as a good illustration of the inadequacy on part of the State and local government officials' knowledge in and capacity of conflict management mechanisms. The conflict was caused by disputes over land, which was further aggravated by demographic pressures in both States. To resolve the violent conflicts that broke out in 2004 and 2007 in the border areas between the Oromia and Benishangul-Gumuz States, both States set up a joint committee mandated with

129 Ratnapala, S. (1999) Federalism as a Response to Ethnic Regionalism in Copland, I. and Richard, J.(eds.) Federalism: Comparative Perspectives from India and Australia, New Delhi: Monohar Publishers and Distributors, pp. 113-136

the task of undertaking a study for a lasting cooperation and border demarcation as between the two states. The joint committee had also the mandate to oversee the process of arresting the criminal suspects involved in earlier violent conflicts. Nevertheless, the joint committee undertook, in disregard of the memorandum of understanding agreed to, and came up with a distinct study that goaded the disagreement existing between the two states. Besides, prosecution of the criminal suspects was unreasonably protracted. What's worse, neither of the State governments managed to intervene in time to halt the violence that culminated in the crisis of May 2008. One of the factors that triggered the May 2008 violence between the Oromo and the Gumuz ethnic groups across their regional borders was failure by both State governments to immediately apprehend and prosecute the criminal suspects who participated in the violence of the years 2004 and 2007.

A further reason is that those States that have a pull factor for more new settlements do not have clear guidelines on how to utilize the abundant natural resources within their respective States. That's why settlements on the holdings of the indigenous community by new migrants always tend to breed new conflicts. The problem can be attributed to the State and local government authorities' lack of awareness of and commitment to rights of citizenship. It has also to do with their inability to draw up legal frameworks and guideline for the utilization of natural resources.

If State governments were to cooperate, violence could easily be arrested with least human and material cost. A case in point is the Metekel zone of the Benishangul-Gumuz and the Awi zone of the Amhara States. There had been violent conflicts that led to many deaths and displacements in both states in 1993 and 1994. These conflicts were caused by lack of awareness of the newly introduced federal arrangement in the country and provocations of ethnic cleansing of the non-indigenous settlers in the Metekel zone by the indigenous community. There are still outstanding disputes of land ownership in the borders between both zones of the States. There are around 10,000 illegal migrants per annum crossing the borders of the Amhara State into the Metekel zone of the Benishangul-Gumuz State. Although the potential for conflict was there, no violent conflict erupted between the two States so far owing to the manner they managed their relations.

Another area that calls for collaboration among State governments in Ethiopia is the regulation of traffic in small arms. Illicit trade in small arms in the bordering areas between Ethiopia and Somalia increased after the downfall of the Siad Barre regime in Somalia in 1991. This has posed a serious threat to the pastoralists of Ethiopia. The year 1991 also marked the collapse of the Derg regime in Ethiopia. The armed struggle against the Derg has also left in the hands of the most of the peasants and some of the urban dwellers a mountain of small arms to their disposal. Illicit arms trade from the Sudan through the common borders of the Benishangul-Gumuz and Anhara States have played a major role in the growing traffic in small arms, aggravating the outcomes of violent conflicts in the regions of Benishangul-Gumuz, Amhara, and Oromia.

According to Federal Police records, there were, between 1996 and 1998, a total of 15 incidents of cattle raids perpetrated by individuals carrying small arms. The Federal Police statistics for the year 2006 showed that 6,319,630 ETB was robbed by individuals armed with small weapons.¹³⁰ The increased possession of small arms has aggravated resource- and power-based conflicts among such ethnic groups as between the Gumuz and Oromos, Afar and Issa, etc. Violent conflicts between ethnic groups have resulted in immense human and material cost. For instance, the May 2008 conflict between the Oromo and Gumuz ethnic groups took a huge toll because of the possession of small arms by both parties. The committee set up by the House of Peoples' Representatives to investigate the conflict in the Gambella State noted that the latter's failure to control illicit arms trade contributed partly to the atrocities committed. The prevalent lax practice in the registration of small arms by the State police, sparing any effort to identify the origin of the arms, is a serious cause for worry.

3.5. Federalist Conflict Management Mechanisms

¹³⁰ Arfayne, T. (2007) Light Weapons Licensing in Ethiopia and International Law, LLB thesis, on file with the archives of the ECSC Law Library

3.5.1. State Institutions and Policies

3.5.1.1. Parliament

The FDRE Constitution vests sovereign powers with the nations, nationalities, and peoples of the country. All nations, nationalities, and peoples have fair representation in the House of Federation (HoF), which is vested with the ultimate power to interpret the constitution. The House of Federation, as a representative of the country's diverse ethnic groups, will act in the best interest of the nations, nationalities, and peoples in discharging its duties as the final arbiter of constitutionality. This, in the final analysis, will lead to improved inter-ethnic relations and better conflict management prospects.¹³¹

The HoF currently has 112 members drawn from 69 nations, nationalities and peoples across the country represented in the 9 state councils.

Table II Representation of Nations, Nationalities and Peoples of Ethiopia in the House of Federation

No	Regional State	Members Represented In the House	Number of Nation, Nationalities and Peoples represented in the House
1	Tigray	6	3
2	Afar	2	1
3	Amhara	17	5
4	Oromia	19	1
5	Harari	1	1
6	Somali	4	1
7	Benishangul-Gumuz	5	5
8	Southern Nation And Nationality	54	48

131 Tewfiq, H.(2003). Conflict Management Structures and Intervention under the Ethiopian Constitution, Paper Presented at the 1st National Conference on Federalism, Conflict, and Peace-building, Organized by the Ministry of Federal Affairs and GTZ, Addis Ababa, pp.226-41

9	Gambela	4	4
	Grand Total	112	69

Source: House of Federation, www.hof.gov.et

The House of Federation is the most important and relevant constitutional organ for conflict management. The Federal House was created to maintain and develop the cooperation, partnership and consensual relationships of Ethiopia's ethnic communities on the basis of equality and respect for their diversity while realizing their commitment to uphold the constitution. The competences of the House are, therefore, directly linked with the need to maintain and promote the constitutional compact of Ethiopia's ethnic communities. In this regard, the relevant competences of the House include:

- (a) to interpret the constitution,
- (b) to decide upon issues relating to the rights of Nations, Nationalities and Peoples to self-determination , including the right to secession in accordance with the Constitution,
- (c) to promote the equality of the peoples of Ethiopia enshrined in the constitution and promote and consolidate their unity based on their mutual consent, and
- (d) to strive to find solutions to disputes or misunderstandings that may arise between states.

Although the HoF is mandated to strive to find solutions to disputes or misunderstandings that may arise between states, it is interesting to note that the House is not expressly invested with similar powers in respect to disputes between the federal government and one or more of the member states. Yet, one can contend that the HoF is also competent to arbitrate disputes between the federal government and member state/s.

The HoF has the power to investigate and order Federal intervention in the Regional States provided that it has reason to believe that the constitutional order has been endangered and that peaceful means to avoid the danger has been left out by virtue of Articles 13 and 14 of Proclamation No.359/2003.

The Federal legislature has also directly participated in conflict management through investigations conducted by the Human Rights Commission and by sending MPs to the conflict zones. The Federal government intervenes in the internal affairs of the States under a variety of circumstances to give effective protection and remedies to victims of human rights

violations. Upon request by a regional state council or the highest executive organ to the Prime Minister through the Ministry of Federal Affairs, the Federal Government intervenes where grave and deteriorating security conditions in Regional States occur. The Federal Police or National Defense Forces intervenes to assist regional law enforcement organs to maintain law and order through the use of appropriate measures proportionate to the circumstances.

The House of Peoples' Representatives (HPR) can also extend effective protection against human rights violations by virtue of Article 8 et seq of Proclamation No. 359/2003. The HPR may send a team or inquiry commission, consisting of MPs, to investigate in regional state human rights violations which require Federal intervention upon receipt of such information from the Ethiopian Human Rights Commission, representatives of such Regional State or from any other when the Regional State fails to control the situation. The team compiles and submits, along with recommendations, information gathered within the region where the alleged acts of violations of the human rights have been committed. The report enumerates evidence of human rights violations, the root causes thereof, scope of the problem and persons responsible for it, endeavors made by the state to control such violations and assesses whether or not such state will be able to control the situation.¹³²

The HPR presents a report with justification to the joint session of HPR and HOF on the necessity of the intervention of the Federal Government. Where the joint session is convinced by the report, it gives directives to the Region to control the acts of violations of human rights, and bring to justice those who violated such human rights and take other measures as may be necessary. This intervention enables the victims of racial discrimination to get remedies.

The Constitution also guarantees rights of citizenship and extends equal recognition to all faiths without distinction. Besides, it provides for special support to underdeveloped States through affirmative action. Moreover, due emphasis has been laid on crimes of genocide both in the Federal Constitution and Criminal Code. This protects each ethnic group against ethnic

132 Federal Negari Gazette, Proclamation No. 359/2003

cleansing and genocidal atrocities. Furthermore, the government has identified policy level intervention mechanisms for managing internal conflicts. Ethiopia's Foreign and Security Policies and Strategies Document spells out democratization, decentralization, poverty reduction, respect to individual liberties and collective rights, and the advancement of good governance as core elements of conflict management in the country inasmuch as the root causes of the country's internal strife are abject poverty and lack of good governance.¹³³ The House of Peoples' representatives and the House of Federation have the ultimate powers on legislation, investigation of human rights violations ensuing violent conflicts, and allocation of resources. The Ministry of Federal Affairs has also been established with a special mandate to intervene in the affairs of the States in cases of violent conflicts as between member States of the federation and to build the States' conflict management capacities.

Inter-ethnic conflicts have occurred in some of the states in the country. These conflicts are triggered mostly by water or water use, grazing land, and border issues. The standard practice followed by the House of Federation in resolving border conflicts between member States of the federation has been to hold a referendum, albeit some remain unsettled even today. Referenda were held in different parts of the country to provide solutions to conflicts over land claims among ethnic groups residing in neighboring states. Referenda were conducted in many areas of Oromia and Somali regions to assess public opinion. The referenda were instrumental in resolving some of the conflicts.

The House of Federation has supervised referenda for disputes between some kebeles in the Shinele zone of the border area between Oromia and Somali States. There are also demands for referendum from the Oromia State to resolve the border conflicts with the Benishangul-Gumuz State. Nevertheless, it is argued that holding referenda as a general solution for border and identity issues may not always contribute to sustainable conflict resolution among pastoralist groups and in those territories where inter-ethnic marriages are prevalent. A recent official government report observes that:

The Government is presently determined to provide permanent solutions to all such disputes. Temporary measures such as ensuring the presence of the

¹³³ See Federal Democratic Republic of Ethiopia, the Ministry of Information, 2004

police in conflict areas are taken. For more permanent solutions, the causes of conflicts and possible resolution are being studied and a national strategy for dispute prevention and resolution is being formulated and debated. The Ministry of Federal Affairs is tasked with strategy formulation, manual preparation, and organization of conferences on conflict prevention and resolution.¹³⁴

3.5.1.2. The Ministry of Federal Affairs

The Ministry of Federal Affairs has been established by virtue of Proclamation No. 256/2001. Pursuant to Article 11 of Proclamation No. 256/2001, the Ministry of Federal Affairs has the power to:

1. (a) in cooperation with the Regions, ensure that public peace and order is maintained;
 - (b) without prejudice to the provisions of Articles 48 and 62(6) of the Constitution of the Federal Democratic Republic of Ethiopia facilitate the resolution of misunderstandings arising between Regions;
 - (c) give assistance to the Regions with particular emphasis to the less developed ones;
 - (d) supervise and coordinate the executive organs referred to in Article 5(6) of this Proclamation.
2. Without prejudice to Sub Article (1) of this Article, the powers and duties given to the Ministry of Works and Urban Development by Sub Articles (7)-(11) of Article 16 of Proclamation No. 4/1995 are hereby given to the Ministry of Federal Affairs.¹³⁵

Besides, the Ministry of Federal Affairs in collaboration with the House of Federation plays an important role in maintaining peace and order in the Regional States. For instance, in situations where the constitutional order of a Regional State is jeopardized, the Ministry has the power to give recommendations to the Prime Minister as to whether to assign temporarily the Federal Government personnel for the resumption of regular activities of the region where the capacity of the executive organ of the Region is impaired by the measures taken against officials of the Regional government pursuant to Article 14(3) (a) of Proclamation No

¹³⁴ Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, Ministry of Federal Affairs, July 2008, Unpublished, Addis Ababa, Para. 107

¹³⁵ Federal Negarit Gazette, Proclamation No 256/2001

359/2003. Moreover, the Ministry has the competence to receive requests for Federal intervention from the Regional States where any Region faces a deteriorating security situation and unable to arrest it on its own.¹³⁶

The Ministry of Federal Affairs has participated in conflict management in the States by organizing peace conferences with the conflicting parties, providing capacity development support, and training in conflict management mechanisms to the underdeveloped States. However, research findings reveal that many of the interventions made by the Federal institutions were that of a fire-fighting approach which cannot sustainably address the root causes of the violent conflicts in the country. In the words of the official government report:

As the previous “fire fighting” approach of conflict resolution has not succeeded, more efforts are now directed towards prevention; and an “early warning system” is being studied with the assistance of UNDP. It is anticipated that within a short period of time, the country will have a comprehensive strategy on conflict prevention and resolution; and on the basis of this strategy, extensive measures will be taken to end the occurrence of conflicts.¹³⁷

Some States have also complained that the outcome of the Ministry of Federal Affairs’ capacity development support has not been that significant as the experts assigned for the mission were not well trained and qualified.

3.5.1.3. Inter-Governmental Committees

There are also attempts, at State and local government levels, to create inter-governmental committees designed to manage inter-ethnic conflicts and related issues in the common borders of the States or between different ethnic groups of a State. The existence of the inter-governmental mechanisms has depended on the good will of the States themselves. If the authorities have a good political will as was the case with the Amhara and Benishangul-Gumuz States, the joint committees can contribute significantly towards conflict management in the States. Where political good will lacks on part of the inter-governmental authorities as was the case with the Oromia and Benishangul-Gumuz States, the outcome of the joint

¹³⁶ Federal Negarit Gazette, Proclamation No. 359/2003

¹³⁷ Ibid

committee could aggravate the conflict. Therefore, political good will of the authorities, institutionalization of inter-governmental relationships and collaboration among the parties is required to reinforce the conflict management process in the country.

3.5.1.4. Public Deliberations and Peace Committees

Public deliberations involving heads of regional states are held at various levels to prevent the occurrence of and/or provide lasting remedies to ethnic conflicts, at regional states, zonal, and other lower administrative levels. The conferences are organized by governmental and non-governmental organizations. These conferences and discussions help eliminate misconceptions among ethnic groups and contribute towards building lasting peace.

Some neighboring States have established Peace Committees at various levels of administrative hierarchies which meet regularly to monitor the peace and security of their localities and resolve any issues of ethnic conflicts that may arise. Afar National Regional State has established Peace Committees at neighboring *Kebeles*, *Woredas* and *Zones* with National Regional States of Tigray, Amhara and Oromia and also at the inter-state level. The Committees have been successful in maintaining the peaceful coexistence of the people in the border areas of the States.

Another conflict management mechanism currently in use at State and local government levels is customary conflict resolution mechanisms. These mechanisms have a significant role in resolving intractable inter-ethnic conflicts and improving inter-cultural relationships between different ethnic groups within a State or among different States. The following section deals with legal pluralism which is an important federalist conflict management policy and practice recognized by the Federal constitution.

3.5.2. Legal Pluralism

Following Professors John Van Doren and Paul Brietzke, I maintain that the legal structure in present-day Ethiopian consist of, very roughly, six distinct sources. The current structure of

the legal system can be compared to "layers of rock from different epochs,"¹³⁸ after Van Doren in a more picturesque manner. As we shall see shortly, the Ethiopian polity or, if not better, the diverse ethno-national and religious groups in Ethiopia have always been ordering and structuring the various activities of their individual members as well as the relations among themselves with the help of their numerous and overlapping systems of laws.

Brietzke undertook to identify the constitutive layers of the legal structure until the Derg's period-where his study left off. He discovered pluralism in Ethiopia where, in his own words "diverse customary laws, traditional state-sanctioned laws, Western imports, and recent socialist influenced proclamations continue to coexist."¹³⁹ Van Doren has come up with an extended listing and I, except for adding two more items to such a listing, have largely relied on him. Thus, unlike many jurists and anthropologists, who used to make a simple "modern" /"customary" laws dichotomy in the Third World, the following six sources of law form the six distinct layers of the legal systems' structures. These are: (1) Customary laws; (2) Islamic law; (3) Traditional state-sanctioned laws; (4) Western imports; (5) Socialist influenced proclamations of the Derg, (6) Post-1991 proclamations, mainly the new Ethiopian constitutions, both federal and state, and numerous legislations issued in their wake.

In what might be called a major departure from the received constitutional tradition of the country, the Constitution of the Federal Democratic Republic of Ethiopia provides the framework for the independent validity of non-state or unofficial laws such as customary and religious laws in some fields of social activity. Both formal and informal legal pluralism are discernible in Ethiopia. According to Andre Hoekema formal pluralism "is a legal concept referring to the inclusion within the legal order of a principle of recognizing 'other' law."¹⁴⁰ Article 34 (5) of the federal constitution provides that "This constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious and

138 John W. Van Doren, "Positivism and the Rule of Law, Formal Legal Systems or Concealed Values: A Case Study of the Ethiopian Legal System," Journal of Transnational Law and Policy (spring 1994), p. 5.

139 Paul. H. Brietzke, Law, Development and the Ethiopia Revolution (London and Toronto: Associated university Press, 1982), p. 61.

140 Cited in Dolores A. Donovan et al, "Homicide in Ethiopia: Human Rights, Federalism and Legal Pluralism," 51 The American Journal of Comparative Law (Summary 2003) p. 505.

customary law, with the consent of the parties to the dispute. Particulars shall be determined by law.” Article 78(5) also stipulates, “Pursuant to sub-article (5) of Article 34, the House of Peoples’ Representatives and State Councils can establish or give official recognition to Religious and customary courts that had state recognition and functioned prior to the adoption of the constitution shall be organized on the basis of recognition accorded to them by this constitution.”

As can be gleaned from the above-cited constitutional provisions, formal legal pluralism under Ethiopia’s new constitutional order is confined to certain matters: only personal status and family law. The state legal system, however, carried on to monopolize the public law areas of criminal law, constitutional law, labor/employment law and the like. Only personal law has been singled out for recognition. Nevertheless, this does not rule out the existence and active role of customary criminal courts, which are by far the most important institutions of dispute settlement as some researches indicate. With respect to family matters, there is a dual family law system: the state recognizes official and non- official forums. The official forums consist of courts that are organized in a hierarchical order. The lowest courts are the Regional/Federal First Instance Courts, the High Court and the Supreme Court in that order of superiority. To name but a few of the nonofficial forums in Ethiopia: the Shemagelle (community elders) and the Family council in Tigray and Amhara, the Luba Basa in Oromia, the Xeer in Somalia, the Shari’a courts, and the church tribunals. In addition, the choice whether to take a dispute to regular state courts or to one of those non-official forums is entirely left to the parties.

3.5.2.1. Customary Conflict Resolution Mechanisms

In Ethiopia, where a number of ethnic groups live, there are numerous ethnically-based law systems. Acknowledging this feature of social diversity prevalent in Ethiopia, Conti-Rossini described Ethiopia as "the museum of peoples."¹⁴¹ The customary regimes of the various ethnic groups, consisting of unwritten norms, have been in place for long to regulate the daily lives of the members these groups. Most, if not all, of these groups have their own oral

141 Cited in Donald N. Levine, *Greater Ethiopia: The Evolution of a Multiethnic Society*, 2nd ed. (Chicago and London: The University of Chicago press, 2000), p. 20.

customs which vary from group to group. According to Professor Dolores Donovan and Getachew Assefa, there are more than sixty customary law systems in Ethiopia.¹⁴² They point out that the life style of each ethnic group depends on the geography of the lands which they inhabit. Accordingly, inhabitants of the high mountain plateaus of Ethiopia in the North, West, South-West, South-central and North-west have been settled agriculturalists engaged in the activities of farming and animal herding for ages. "Customary law," Donovan and Getachew write, still, to a large extent, governs the lives of these settled farmers, especially those living in the far corners of the highland states. They are predominantly the Amharas, the Tigreans, the majority of Oromos, and many others such as the Gurage, Sidama, Kembata, and Wolayita, living in the Southern Nations, Nationalities and Peoples Regional State, one of the federating units of Ethiopia."¹⁴³ The nomadic pastoralists, such as the Afar, the Somalis, some part of Oromo, Anywaa, Nuer, in the Eastern, Western, South-Western and North-Western peripheries of Ethiopia, are generally "only loosely linked to the Ethiopian state and their lives are governed by their traditional systems of customary law."¹⁴⁴ In contrast, the formal state legal system had a very limited reach. Donovan and Getachew emphasize that "the modern state legal system governs the lives of the townspeople and those of the highlander farmers who live close enough to urban centers to fall under the influence of urban mores."¹⁴⁵

Since there were hardly any formalized courts administering custom until the end of the 19th century, "each cultural community directed its affairs by a system of cohesion and equity through local notables and chiefs acting as arbiters."¹⁴⁶ Moreover, as the customary laws were not binding, these arbiters could disregard them. The minimal application of the Fetha Negest assured customary laws' position as the dominant legal order regulating almost every dimension of Ethiopian legal life, public and private. Given the vast rural population, which accounts for 85% of the people of the country, and the minimal in the past and the present,

142 Dolores A. Donovan et al, "Homicide in Ethiopia: Human Rights, Federalism and Legal Pluralism," 51 The American Journal of Comparative Law (Summer 2003) p. 505.

143 Ibid, P. 511

144 Ibid

145 Ibid, p.512

146 Getachew Assefa, "Re-evaluating the Legitimacy of the Codified Laws," 2 Law Student Bulletin (Feb 2001), Faculty of Law, AAU, p. 19.

application of the traditional state-sanctioned rules embodied in the Fetha Negest, and the mixing of Islamic law with local customary rules, it is understandable why customary laws become the dominant normative order. Ethiopian customary laws are generally unwritten, unstudied, diverse and largely unaffected by the various edicts issued by monarchs.¹⁴⁷ James Paul, former Dean of AAU Law School, characterized Ethiopian customary laws as "unwritten ... personal, ad hoc, geographically particularistic, informal, and undifferentiated from other norms and usages."¹⁴⁸ Despite such characterization, which is generally true except that they can be differentiated when it comes to individual ethnic group's customs, they played an unprecedented role in the resolution of disputes by virtue of their resilience, in the face of the blanket repeal by Article 3347 of the Civil Code. Commenting on the efficacy of indigenous conflict resolution mechanisms William Ury notes:

Emotional wounds and injured relationships are healed within the context of the emotional unity of the community. Opposed interests are resolved within the context of the community interest in peace. Quarrels over rights are sorted out within the context of overall community norms. Power struggles are contained within the context of overall community power.¹⁴⁹

A. The Luba Basa

Customary conflict resolution mechanisms have managed to survive and are today used to resolve a range of inter- communal and inter-group conflicts. The *Luba Basa* is one such example of a traditional conflict resolution mechanism in Ethiopia that is still practiced among the people of the *Oromo* to reconcile and integrate disputing ethnic groups. The *Luba Basa*, in the main *Oromo* language, *Borona*, means “setting free”, and it involves the integration of traditionally despised groups into the *Oromo*, thereby avoiding a potential conflict that might otherwise arise out of contempt for those groups. Thus, the *Luba Basa* can be considered a preventative mechanism that is essential to the peaceful coexistence of the *Oromo* with their neighboring groups.

147 Margery Perham, *The Government of Ethiopia* (London: Faber and Faber, 1968), p. 40.

148 Cited in Brietzke, *Supra* n. 4, at 32.

149 William Ury, *Negotiating Strategies for the Real World*, Nightingale Conant, USA, 1998, p.28

Indigenous institutions of conflict resolution such as *Luba Basa* often involve elders as trusted and respected mediators who reconcile conflicting groups and settle disputes. Their traditional mediation role help prevent conflicts over control of critical resources such as grazing water, pasture or land from diffusing into violence. This is also true among other pastoralist groups of the Horn of Africa where elders command traditional legitimacy and authority to mediate, arbitrate and suggest a settlement even though they might not have the power to enforce them.¹⁵⁰

B. The Abbo Gereb

The peoples of Wejerat and Raya-Azebo live in the Southern part of Tigray. They are predominantly agriculturalists. Although the formal state legal system, including the Penal Code of 1957, has been extended to the Tigray Region, particularly the rural areas of Wejerat and Raya-Azebo, it has always had difficulty penetrating the traditional informal criminal justice system. The *abbo-gerreb* (literally, father of the river) was and still is the dominant judicial body of the rural communities of Wejerat and Raya-Azebo. The *abbo-gerreb* has a key role in maintaining social cohesion among individual members of these communities. Especially the continued existence of the *abbo-gerreb* would appear to account for the maintenance of local peace and order, and above all sub-regional stability amid revenge killings as well as violent inter-ethnic hostilities.¹⁵¹

The age-old practice of dispute resolution by the ethnically based community elders, known as *abbo-gerreb*, persists to date among the people of Wejerat and Raya-Azebo. In particular since 1991, the *abbo-gerreb* has been re-established with a view to resolving intre-ethnic disputes arising between members of these communities and the neighboring Afar people, in a

¹⁵⁰Edward E. Evans- Pritchard, *Kinship and Marriage among the Nuer*, Oxford University Press, UK, 1990, p. 127

¹⁵¹ Alemayehu Fentaw, *Legal Pluralism: Its Promises and Pitfalls for Ethiopia*, Jimma University Journal of Law (October 2007), Vol. I, No. 1, pp. 50-51

joint venture, by the governments of the Tigray and Afar Regions. As a result, the *abbo-gerreb* currently has jurisdiction over offences such as homicide, cattle raid, and disputes over grazing areas involving residents of the two regions. In short, the powers and functions consist in mediating violent inter-ethnic disputes that would otherwise have to be handled by the state criminal courts. In view of this, we can say that the state courts of these regions have in fact relinquished their jurisdictions in favor of the customary criminal process.¹⁵²

A few words on the customary law of the *abbo-gerreb* are in order. The *abbo-gerreb* is usually composed of three to twelve well-respected elders elected from among members of the community. Settlement of disputes say homicide, by the *abbo-gerreb* needs to be initiated by the individual or family involved. And criminal responsibilities deemed collective rather than individual. With respect to *mens rea*, the general rule is that the mental element is irrelevant in cases of homicide, in so far as the payment of compensation is concerned. The mental element is more often than not taken account of at a later stage while determining the amount of compensation to the victim's family. Thus, there exists three categories of *mesn rea*: a) "*Tsaeda dem*", standing for intentional homicide; (b) "*Keyih dem*", denoting negligence; and (c) "*Tselim dem*", referring to accident. The underlying justification for the payment compensation irrespective of the killer's mental state is the maintenance of absolute peace lest there should arise a blood feud. An amount of up to 10000 Ethiopian Birr is made payable to the victim's family by way of compensation.¹⁵³

With respect to resistance to state judicial authority, officials of the Tigray and Afar regional governments have reported that all of the offences involving residents of the two regions are exclusively brought before the *abbo-gerreb*. Moreover, the vast majority of intra-Raya - Azebo and Wejerat family feuds generated by homicide are dealt with and brought successfully to a halt by the *abbo-gerreb*. Most such cases remain sealed off from the reach of the state criminal courts. There even were instances where persons arrested for homicide were released at the request of the *abbo-gerreb*. In one case of the kind previously stated as inter-ethnic, reportedly after arrest by the police of a suspect, the Tigray and Afar regional

152 Ibid

153 Ibid

government authorities proceeded to settlement of the homicide by the *abbo-gerreb* which ordered payment of compensation, and negotiated withdrawal of charges against the arrested suspect.¹⁵⁴

Another instance of resistance to state judicial authority is found in the case of the *Hatsey brothers*.¹²⁹ In this particular case (Nov. 2000), Abrha Hatsey reportedly stabbed Ato Tsehay with a knife, resulting in the death of the latter. This incident gave rise to a family feud in which a total of five men's lives have been taken. The state police could not arrest any one of the suspected killers, as the killers on both side of the fence had fled to the woods and went into open hostility with them. In response the state police arrested some persons from among relatives of both sides for allegedly indirectly taking part in the cycle of revenge. The state administration, being aware of the gravity of the matter and the ensuing instability, initiated settlement of the homicide by the *abbo-gerreb*. As a result, the perpetrators surrendered to the *abbo-gerreb*. The *abbo-gerreb* negotiated the release of all arrested suspected co-offenders. And having secured their release, the *abbo-gerreb* condemned the five perpetrators as murderers, and then ordered them to pay compensation. In conclusion the formal criminal justice system proves nowhere ineffective in bringing blood feuds to a halt than in Raya and its surrounds. Nothing short of the payment of compensation by the offender and/or his relatives could hope to relieve the victim's relatives of their duty to strike back.¹⁵⁵

3.5.2.2. Religious Conflict Resolution Mechanisms

A. Shari'a Courts

Islamic law takes its place within this pluralist framework as the law applicable to Moslems. As one of the oldest recipients of Islam, Ethiopia has a significant Moslem community. Although there was a general culture of tolerance in Ethiopia, the relation between state and Islam was embarrassing. Historically, the Moslem community was disfranchised, particularly in the Christian highlands, as they were excluded from the traditional land-holding system.¹⁵⁶ The *solomonoid* emperors considering themselves as lord protectors of the

154 Ibid

155 Ibid

156 Bahru Zewde, A History of Modern Ethiopia: 1855-1974 2nd ed.(Addis Ababa: Addis Ababa University Press,2001), p.7

monophysite faith, i.e., Orthodox Christianity, ignominiously marginalised the Moslem community, relegating them to second class citizenship. The Gragh interlude marked a departure from traditional state- Islam relation. Besides, forced conversion was brought to bear upon the Moselm community. The post *Zemene-Mesafint* (Era of Princes) period saw the same tendency, as the empire-building started off by Tewodros. Boru Meda Council is a case in point for which Emperor Yohannes IV had been hailed as a 'saint -hero'. The empire - building process called not just for the reconciliation of the prevalent doctrinal differences within the established Orthodox Christian church, but also for the unification of faith by stamping out Islam of the face of the Christian empire. Following his campaign to Harar, Emperor Menelik II called upon both moslems and christians to live and coexist peacefully.¹⁵⁷

Islamic law has been used to regulate the secular and religious affairs of moslems since time immemorial. In Ethiopia, there are three sects of Islam, all of which belonging to the Sunni tradition. These are: (a) the Shaffi, (b) Hanafi; and (c) Maliki.¹⁵⁸ The long de facto existence of Shaira courts in Ethiopia got recognition in law in 1942 when the *Proclamation for the Establishment of Kadis' Courts* was issued. This proclamation legitimized the competence of Islamic courts in matters relating to marriage, divorce, gifts, succession and will. It provides that "any question regarding marriage, divorce, maintenance, guardianship of minors and family relationship provided that the marriage to which the question relates was concluded in accordance with Mohammedan law or when the parties are all Mohammedans shall fall under the jurisdiction of the Shari'a courts." It further stipulates that the government will appoint the judges including the chief Kadi who was invested with a number of prerogatives ranging from working-out procedures and rendering final decisions in his appellate jurisdiction to attachment and execution.¹⁵⁹

157 Ibid

158 Abdul Wasie Yusuf, "Sharia Courts in Ethiopia: Their Status, Organization and Functions" (1971) (Unpublished Snr. Thesis on file at Addis Ababa University Law Library), p. 21-29

159 Ibid

In 1944, the *Kadis and Naiba Councils Proclamation* No. 62/1944 was promulgated, repealing the earlier proclamation. Under the new proclamation, Shari'a courts were re-established and a new set of courts were introduced. Pursuant to this proclamation, there are three sets of Islamic courts: (1) the Naiba council; (2) courts of the kadis' council and (3) the courts of Shariat.

However, in 1960 a Western-based Civil Code was enacted which purports to repeal Islamic law.¹⁶⁰ Despite the sweeping thrust of the repeal provision, Shari'a courts remain intact and kept on functioning and applying their law independent of the regular state court structure. "The code" Abdulmalik writes, "remained a purely theoretical work devoid of real value in respect to those matters governed by the Sharia rules despite the fact that those matters were supposed to be ruled by the civil code which automatically would have brought the abrogation of the Sharia'a rules by virute of Art. 3347 (1)"¹⁶¹

The 1995 Ethiopian Constitution also recognizes the independent validity of Islamic law and the competence of Islamic courts to adjudicate cases concerning personal and family law.¹⁶²

Article 34 (5) of the federal constitution provides that:

This constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious and customary law, with the consent of the parties to the dispute. Particulars shall be determined by law.

Article 78(5) also stipulates that:

¹⁶⁰ See Article 3344 of the Civil Code of Ethiopia

¹⁶¹ Abdulmalik Abubeker, "Effects of Divorce in the Civil Code and the Sharia [Sic] Law" (1990) (Unpublished Snr. Thesis on file at Addis Ababa University Law Library), p. 7.

¹⁶² Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazette, Year 1, No. 1.

Pursuant to sub-Article (5) of Article 34 the House of Peoples' Representatives and state councils can establish or give official recognition to Religious and customary courts that had state recognition and functioned prior to the adoption of the constitution shall be organized on the basis of recognition accorded to them by this constitution.

In order to execute the above-cited constitutional provisions dealing with legal pluralism, the House of Peoples' Representatives has issued the Federal Courts of Shari'a Consolidation Proclamation No. 188/1999. This legislation spells out the circumstances under which Islamic law can be applied by Shari'a courts. The hitherto existent Shari'a courts have been reconstituted into a three-level federal judicial structure, distinct from the regular federal judicial structure. These are: (1) Federal First Instance court of Shari'a, (2) Federal High Court of Shari'a, and (3) Federal Supreme Court of Shari'a. Like the federal state judicial organs, all the federal Shari'a courts have been made accountable to the Federal Judicial Administration Commission. All of the State Councils have also given official recognition to Shari'a courts within their respective jurisdictions.

Article 4(1) of Proclamation No. 188/1999 stipulates that "Federal Courts of Shari'a shall have common jurisdiction over the following matters:(a)any question regarding marriage, divorce, maintenance, guardianship of minors and family relationships; provided that the marriage to which the question relates was concluded or the parties have consented to be adjudicated in accordance with Islamic law; (b)any question regarding Wakf, gift/Hiba/, succession of wills, provided that the endower or donor is a Muslim or the deceased was a Muslim at the time of his death; (c)any question regarding payment of costs incurred in any suit relating to the aforementioned matters." Moreover,Sub-Article (2) of the same reiterates the principle of parties' consent as the basis for the adjudicatory jurisdiction of Sharia courts. Sharia courts can assume jurisdiction "only where... the parties have expressly consented to be adjudicated under Islamic law." Tacit consent has also been provided for in addition to express consent. Pursuant to Article 5(2), failure to appear before the court amounts to consent to the court's jurisdiction on condition that the defaulting party has been duly served with summons. Thus, the suit will be heard *ex parte*. Sub-Article (3) of the same provides, that "In the absence of clear consent of the parties for the case to be adjudicated by the court of Shari'a before which the case is brought, such [a] court shall transfer the case to the regular

federal court having jurisdiction.” Moreover once a choice of forum has been made by the plaintiff and the defendant has consented to the jurisdiction of such a forum, under no circumstance can either party have their case transferred to a regular court (Article 5(4).)

In **Mrs. Kedija Beshir v. 3rd Naiba Court**¹⁶³ (May 15, 2004) the House of the Federation in its 4th year, 2nd Ordinary Session, endorsed the recommendation of the Council of Constitutional Inquiry to the effect that the procedure followed by the 3rd Naiba Court was against the explicit provision under article 34(5) of the Constitution and hence unconstitutional. This is so because the 3rd Naiba Court continued to hear and and decide the case despite an outright objection to its competence by the petitioners by explicitly expressing their desire not to have their case adjudicated by the same Court in accordance with Article 34(5) of the Constitution. Strange enough, although the case has been appealed to Federal Shari’a High Court, Supreme Shari’a Court and Federal Sheria Supreme Court Cassation Division, all the courts affirmed the decision of the 3rd Naiba Court by rejecting the appeal. The House has therefore decided to nullify the decision of the 3rd Naiba Court pursuant to Article 9(1) of the Constitution which stipulates that “The Constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect.”

¹⁶³ Mrs. Kedija Beshir v. 3rd Naiba Court (May 15, 2004), Council of Constitutional Inquiry, the House of Federation, www.hof.gov.et

Conclusion and Recommendations

Many observers, both Ethiopian and foreign, forecasted, at the time of its adoption, that the country's experiment with ethnic-federalism would be a failure. Its critics argued that politics would become increasingly ethnicized, as long as administrative boundaries and representation in the federal parliament were determined on the basis of ethnicity, and the extreme emphasis on the principle of national self-determination would lead to fractionalization and possibly state failure. This pessimism was to be expected at the time, particularly given that two of the only federal systems to ever grant constituent units the formal right of secession—Yugoslavia and the USSR—had both dissolved in recent years, with the bloody process in the former continuing as Ethiopians proceeded to draw up their new constitution.

Nevertheless, nearly two decades after introduction of ethnic-federalism, not even a single ethnic group has invoked the constitutionally enshrined right of secession and, although ethnic-based opposition movements and complaints of systematic discrimination continue, the country has avoided the level of widespread, brutal inter-ethnic conflict and anarchic central collapse that has plagued two of its neighbors—the Sudan and Somalia, respectively. Particular minority ethnic groups, once dominated by the Amhara ethnic group associated with the imperial monarchy, now have greater opportunity to educate children in indigenous languages, run local bureaucracies, and make more decisions about their own economic and social lives. In these senses, Ethiopian ethnic-federalism can be considered a success, at least at present.

As much as the political recognition of ethnicity has dampened grievances based on deprecation of denigrated languages and cultures, the political salience that ethnicity has been accorded has inevitably increased ethnically inspired hostility between previously dominant and dominated ethnic groups as all are forced to adjust to new terms of interethnic relationships. Alem Habtu joins tune with my conclusion: “Therefore, in the short run, the drive toward cultural pluralism has necessarily intensified inter-ethnic discord instead of cultivating ethnic harmony. In the long run, however, it has the potential to enhance ethnic harmony and equality based on mutual respect and reciprocity; at least, amelioration of ethnic conflict and inequality is not impossible.”¹⁶⁴

What makes the solutions offered by multi-national federalism relevant to Ethiopia is the long-standing demands for managing the problems emanating from diversity in Ethiopia—problems of unequal development of groups and inequitable social and political relations. Viewed in this light, multi-national federalism is the only way to peace and development in Ethiopia. It is the only way to manage the Ethiopian ethnic diversity peacefully, democratically and respectfully.

164 Alem Habtu, *Ethnic Federalism in Ethiopia: Background, Present Conditions and Future Prospects*, Paper Submitted to the Second EAF International Symposium on Contemporary Development Issues in Ethiopia, July 11-12, 2003, The Ghion Hotel, Addis Ababa, p.25

The fact that the FDRE Constitution vests sovereign powers with the nations, nationalities, and peoples of the country and that all nations, nationalities, and peoples have equal representation in the House of Federation (HoF), which is vested with the ultimate power to interpret the constitution leads, in the final analysis, to improved inter-ethnic relations and better conflict management prospects. Besides, the government has identified policy level intervention mechanisms for managing internal conflicts. Ethiopia's Foreign and Security Policies and Strategies Document spells out democratization, decentralization, poverty reduction, respect to individual liberties and collective rights, and the advancement of good governance as core elements of conflict management in the country inasmuch as the root causes of domestic conflicts are abject poverty and lack of good governance. Moreover, the establishment of overarching conflict management institutions like the Ministry of Federal Affairs has contributed a lot to conflict management in the country. What remains to be done in this regard is to establish a standing inter-governmental body comprising of representatives of the Federal government and the State governments. It is also helpful to extend the scope of such a body to the level of local governments.

Institutionalizing conflict management will bring about a paradigm shift from the prevailing "fire fighting" approach of conflict resolution to one of conflict transformation and prevention.

Since the adoption of multi-ethnic federalism in Ethiopia, patterns of domestic conflict have not been such as to challenge the state or the government. Critics have lumped together conflicts of different forms and magnitudes as a general indication of government weakness, or repression. Such conflicts should be disentangled and dissected in terms of the particulars of each case. This holds true of instances of so-called 'ethnic conflict', which often pertain to group rivalries for scarce resources. Whilst a number of the conflicts in the Southern Nations, Nationalities, and Peoples' National Regional State (SNNPRS) can be seen to relate to ethnic federalism, in the sense that they seek to extract maximum potential from federal arrangements, many longer-term conflicts in pastoral areas (OLF, ONLF, for instance), or border regions (Benishangul-Gumuz and Gambella) cannot be seen simply in these terms.

The major limitation on the well functioning of Ethiopia's federal system is the one party dominance that has been in place since the adoption of the Federal constitution in 1994, though EPRDF has been in power since 1991. The problem is not that a single party has been commanding a majority seat in parliament, but that the party strictly adheres to 'democratic centralism'-a principle which is diametrically opposed to political pluralism. There's lack of political pluralism, because the public space has been dominated by EPRDF which is a coalition of four ethnic-based political parties and other affiliated non-member parties that are subservient to the Tigrean Peoples' Liberation Front (TPLF). Therefore, what held the Ethiopian multi-ethnic federation together is coercion, as with the case with most pseudo-federations, rather than consent of the country's various ethnic groups. Ethiopia lacks multi-party democracy. This last fact alone meant that there is no possibility of dialogue or co-operation among the different ethnic groups.

If the current federal arrangement has to successfully hold the diverse ethnic groups together (or put negatively, to survive a violent breaking apart), the ruling party has to discard 'democratic centralism' in favour of political pluralism as it is detrimental to its endeavor of building a genuine multi-national democracy in Ethiopia. In the words of Alem Habtu: "The success of Ethiopia's experiment with multi-national federalism depends on the ruling party's willingness and ability to disengage itself from democratic centralism, extend and consolidate the democratization process, reduce poverty, ensure a sustained economic growth rate, and expand educational coverage."¹⁶⁵

Furthermore, having taken stock of the need to build legitimacy into the formal state legal system and strategic advantage of recognizing customary conflict resolution mechanisms, the federal government should launch a state-led statewide field research by legal anthropologists with an eye to studying and analyzing all of the customary law systems within its boundaries and conforming them to the minimal standards for adequate protection of the human rights of its citizens and extend full public recognition to the ethnically based customary law systems; particularly, redraw the boundaries of formal legal pluralism to accommodate at least the well-established and dominant customary dispute (esp., criminal) settlement mechanisms; stated differently, leave elbowroom for the non-state actors.

165 Ibid

Bibliography

I. Books and articles

Abbink, Jon (2000) 'Violence and the crisis of conciliation: Suri, Dizi and the State in South-west Ethiopia' in *Africa* **70** (4) 527-550.

------(2001) 'The deconstruction of "tribe": ethnicity and power in Southwestern Ethiopia' in *Journal of Ethiopian Studies*, **24**, 1-22.

------(2002) 'Paradoxes of Power and Culture in an Old Periphery' in James, W. *et al.* (eds) *Remapping Ethiopia*, Oxford: James Currey.

Abdullahi Shongolo (1996) 'The Poetics of Nationalism: A Poem by Jaarso Waaqo Qoo'to' in
Baxter, P.T.W., Hultin, Jan, & Triulzi, Alessandro (eds) *Being and Becoming Oromo: Historical and Anthropological Enquiries*, Uppsala: Nordiska Afrikainstitutet, 265-290.

Abebe Zegeye & Pausewang, Siegfried (1994) *Ethiopia in Change: Peasantry, Nationalism*

- and Democracy*, London: British Academic Press.
- Aklilu Abraham 2000. 'Ethiopia: the challenge of federalism based on ethnic restructuring. A case study of the Sidama and Wolaita ethnic groups in Southern Nations, Nationalities and Peoples Regional State (SNNPRS)'.: Robert S. McNamara Fellowship Programme (unpublished).
- Alem Habtu, Ethnic Federalism in Ethiopia: Background, Present Conditions and Future Prospects, Paper Submitted to the Second EAF International Symposium on Contemporary Development Issues in Ethiopia, July 11-12, 2003, The Ghion Hotel, Addis Ababa
- Alem Habtu (1970) 'Regionalism and National Liberation: Some Observations' in *Challenge* **10** (1) February 1970, 46-57.
- Alemayehu Fentaw (2007) Legal Pluralism: Its Promises and Pitfalls for Ethiopia, in Jimma University Journal of Law, Vol.1, No.1, 35-66
- Ali Said (1998) 'Afar Ethnicity in Ethiopian Politics' in Mohammed Salih, M.A. & Markakis, J. (eds) in Mohammed Salih, M.A. & Markakis, John (eds) *Ethnicity and the State in Eastern Africa*, Uppsala: Nordiska Afrikainstitutet, 108-114.
- Alter, Peter (1985) *Nationalism* (trans. McKinnon-Evans, Stuart), New York: Edward Arnold.
- Andargachew Tiruneh (1993) *The Ethiopian Revolution 1974-1987: A Transformation from an Aristocratic to a Totalitarian Autocracy*, Cambridge: Cambridge University Press.
- Anderson, Benedict (1991[1983]) *Imagined Communities: Reflections on the Origins and Spread of Nationalism*, revised edition, London: Verso.
- Andreas Esheté (1970) 'The Problems of Regionalism and Religion: Some Theoretical Considerations' in *Challenge* **10** (1) February 1970, 5-21.
- (1992) 'Taking the Charter Seriously' in *Imbylta* **2** (2) 3-13.
- Asafa Jalata (1993) *Oromia & Ethiopia: State Formation and Ethnonational Conflict 1868-1992*, Boulder: Lynne Rienner.
- (ed.) (1998) *Oromo Nationalism and the Ethiopia Discourse*, Lawrenceville & Asmara: Red Sea Press.
- Asmarom Legesse (1973) *Gada: Three Approaches to the Study of African Society*, New York: Free Press, Macmillan.
- Asmelash Beyene (1991) 'The Nationality Question, Secession and Constitutionalism: The Case of Ethiopia' in Shivji, I.G. (ed.) *State and Constitutionalism: An African Debate on Democracy*, Harare, Zimbabwe: SAPES Trust, 129-147.
- Assefa Endeshaw (1994) *The February 1974 Ethiopian Revolution: an essay for the twentieth anniversary*, London: Ethio-International Press.

- Bächtiger, André, and Steiner, Jürg. 2004 (2004). "Switzerland: Territorial Cleavage Management as Paragon and Paradox." In *Federalism and Territorial Cleavages*, edited by Ugo M. Amoretti and Nancy Bermeo. Baltimore, Md.: Johns Hopkins University Press.
- Bauböck, Rainer. 2000. "Why Stay Together? A Pluralist Approach to Secession and Federation." In *Citizenship in Diverse Societies*, edited by Will Kymlicka and Wayne Norman. Oxford: Oxford University Press.
- Bahru Zewde (1991) *A History of Modern Ethiopia, 1855-1974*, London: James Currey.
- (1994) 'The Intellectual and the State in Twentieth Century Ethiopia' in Marcus, H.G. (ed.) *New Trends in Ethiopian Studies: papers of the 12th International Conference of Ethiopian Studies*, Lawrenceville: Red Sea Press, 483-496.
- (2002) *Pioneers of Change in Ethiopia: the Reformist Intellectuals of the Early Twentieth Century*, Oxford: James Currey, Addis Ababa: Addis Ababa University Press, & Athens, Ohio: Ohio University Press.
- Balsvik, Randi Rønning (1985) *Haile Sellassie's Students: The Intellectual and Social Background to Revolution, 1952-1977*, East Lansing: Michigan State University, African Studies Centre.
- (1994) 'An Important Root of the Ethiopian Revolution' in Abebe Zegeye & Pausewang, Siegfried (eds) *Ethiopia in Change: Peasantry, Nationalism, and Democracy*, London: British Academic Press, 77-94.
- Banks, Marcus (1996) *Ethnicity: Anthropological Constructions*, London: Routledge.
- Bermeo, Nancy. 2002. "The Import of Institutions," *Journal of Democracy* 13 (2): 96-110.
- Bartels, Lambert (1989) *Oromo Religion: Myths and Rites of the Western Oromo of Ethiopia, An Attempt to Understand*, Berlin: Dietrich Reimer Verlag.
- Bassi, Marco (1996) 'Power's Ambiguity, or the Political Significance of Gada', in Baxter *et al.* (eds) *Being and Becoming Oromo*, Uppsala: Nordiska Afrikainstitutet.
- Bassi, Marco (1997) 'Returnees in Moyale District, Southern Ethiopia: New Means for an Old Inter-Ethnic Game' in Hogg, Richard (ed.) *Pastoralists, Ethnicity, and the State in Ethiopia*, London: Haan, in association with the International Institute for African Alternatives, 23-54.
- Baxter, P.T.W. (1978) 'Ethiopia's Unacknowledged Problem: The Oromo' in *African Affairs*, 283-296.
- (1983) 'The Problem of the Oromo or the Problem for the Oromo' in Lewis, I.M. (ed.) *Nationalism and Self-Determination in the Horn of Africa*, London: Ithaca Press.

- (1994) 'The Creation and Constitution of Oromo Nationality' in Fukui, Katsuyoshi & Markakis, John (eds) *Ethnicity and Conflict in the Horn of Africa*, London: James Currey, 167-186.
- (1998) 'Towards Identifying Some of the Moral Components of an Oromo National Identity' in Mohammed Salih, M.A. & Markakis, John (eds.) *Ethnicity and the State in Eastern Africa*, Uppsala: Nordiska Afrikainstitutet, 50-61.
- , Hultin, Jan, & Triulzi, Alessandro (eds) (1996) *Being and Becoming Oromo: Historical and Anthropological Enquiries*, Uppsala: Nordiska Afrikainstitutet. Bayart, Jean-François (1993) *The State in Africa: The Politics of the Belly*, London: Longman
- Bender, M.L., Bowen, J.D., Cooper, R.L. & Ferguson C.A. (eds) (1976) *Language in Ethiopia*, London: Oxford University Press.
- Brietzke, P.H. 1995. 'Ethiopia's "leap in the dark": federalism and self-determination in the new constitution'. *Journal of African Law* 39: 19-38.
- Burgess, Michael 1993. 'Federalism and federation: a reappraisal' in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf.
- 1993. 'The political uses of federalism' in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf.
- Cerulli, Enrico (1956) *Peoples of South-west Ethiopian and its Borderland*, Part III of Forde, D. (ed.) *Ethnographic Survey of Africa, North-eastern Africa*, London.
- Clapham, Christopher (1969) *Haile Selassie's Government*, London: Longman.
- (1988) *Transformation and Continuity in Revolutionary Ethiopia*, Cambridge: Cambridge University Press.
- (1989) 'The Structure of Regional Conflict in Northern Ethiopia' in *Cambridge Anthropology*, special issue on 'Local Warfare in Africa', **13** (2) 3-16.
- (1994) 'Ethnicity and the National Question in Ethiopia' in Woodward, P. & Forsyth, M. (eds) *Conflict in the Horn of Africa*, Aldershot: Dartmouth, 27-40.
- Clay, Jason & Holcomb, Bonnie (1985) *Politics and the Ethiopian Famine*, Cambridge Mass.: Cultural Survival.
- Coakley, John 2000. *The territorial management of ethnic conflict*. London: Frank Cass.
- Cohen, John M. (1995) 'Ethnic Federalism in Ethiopia', in *Northeast African Studies* **2** (2) 157-188.
- & Koehn, Peter H. (1980) *Ethiopian Provincial and Municipal Government: Imperial Patterns and Post-Revolutionary Changes*, East Lansing: Michigan State University Press.

- & Weintraub, Dov (1975) *Land and Peasants in Imperial Ethiopia*, Assen: Van Gorcum.
- Crummey, Donald (1969) 'Tewodros as Reformer and Modernizer' in *Journal of African History*, **10** (3).
- (2000) *Land and Society in the Christian Kingdom of Ethiopia: from the Thirteenth to the Twentieth Century*, Oxford: James Currey.
- Dahl, Robert (1957) 'On the concept of power', in *Behavioural Science*, **2**, 202-3.
- Darkwah, R.H. Kofi (1975) *Shewa, Menilek and the Ethiopian Empire*, London: Heinemann.
- Dawit Wolde Giorgis (1989) *Red Tears: War, Famine and Revolution in Ethiopia*, Trenton N.J.: Red Sea Press.
- De Villiers, Bertus 1994. *Evaluating federal systems*. Dordrecht: Martinus Nijhoff.
- De Waal, Alex 1994. 'Rethinking Ethiopia' in Gurdon, C. (ed.) *The Horn of Africa*. London/ New York: UCL Press/ St. Martin Press.
- Donham, Donald & James, Wendy (eds) (2002[1986]) *The Southern Marches of Imperial Ethiopia*, London & Oxford: James Currey [Cambridge: Cambridge University Press].
- Duchacek, I.D. 1987. *Comparative Federalism: The territorial dimension of politics*. Lanham, Md.: University Press of America.
- Elazar, Daniel J. (1987) *Exploring Federalism*, Tuscaloosa: University of Alabama Press.
- Eller, Jack & Coughlan, Reed (1993) 'The Poverty of Primordialism: The Demystification of Ethnic Attachments', *Ethnic and Racial Studies*, **16** (2).
- Ellis, Gene (1976) 'The Feudal Paradigm as a Hindrance to Understanding Ethiopia', in *Journal of Modern African Studies*, **14** (2) 275-295.
- Enloe, Cynthia H. (1986) *Ethnic Conflict and Political Development*, Lanham: University Press of America.
- Epstein, A.L. (1978) *Ethnos and identity: three studies in ethnicity*, London: Tavistock.
- Eriksen, Thomas Hylland (2002[1stedn1993]) *Ethnicity and Nationalism: Anthropological Perspectives*, (revised Second Edition), London & Sterling, VA: Pluto Press.
- Erlich, Haggai (1986) *Ethiopia and the Challenge of Independence*, Boulder: Lynne Rienner.
- Erlich, Haggai (1996[1982]) *Ras Alula and the Scramble for Africa: A political biography, Ethiopia and Eritrea 1875-1897*, Lawrenceville N.J. & Asmara: Red Sea Press [revised edition of (1982) *Ethiopia and Eritrea in the Scramble for Africa*].

- Esmonde, Peter W. (1994) 'Education among the Southern Silti' in Marcus, H.G. (ed.) *New Trends in Ethiopian Studies: papers of the 12th International Conference of Ethiopian Studies*, Lawrenceville N.J.: Red Sea Press, 137- 164.
- Evans-Pritchard, E.E. (1990) *Kinship and Marriage among the Nuer*, Oxford University Press.
- Freeman, Dena & Pankhurst, Alula (eds) (2001) *Living on the Edge: Marginalised Minorities of Craftworkers and Hunters in Southern Ethiopia*, Addis Ababa: AAU Department of Sociology and Social Administration.
- Freeman, Dena (2001) 'Conclusion I: Power Land, and Craft' in Freeman, Dena & Pankhurst, Alula (eds) *Living on the Edge: Marginalised Minorities of Craftworkers and Hunters in Southern Ethiopia*, Addis Ababa: AAU Department of Sociology and Social Administration.
- Fukui, Katsuyoshi & Markakis, John (eds) (1994) *Ethnicity and Conflict in the Horn of Africa*, London: James Currey.
- Gabreyesus Hailemariam (1991) *The Guragué and Their Culture*, New York: Vantage Press.
- Gadaa Melbaa (1988) *Oromia, an Introduction*, Khartoum: private publication.
- Gebru Tareke (1996[1991]) *Ethiopia: Power and Protest*, Lawrenceville N.J. & Asmara: Red Sea Press [Oxford: Oxford University Press].
- Gellner, Ernest (1983) *Nations and Nationalism*, Oxford: Blackwell.
- Gezahegn Petros (2001) 'Kafa', in Freeman, Dena & Pankhurst, Alula (eds) *Living on the Edge: Marginalised Minorities of Craftworkers and Hunters in Southern Ethiopia*, Addis Ababa: AAU Department of Sociology and Social Administration.
- Ghai, Yash 2000. *Autonomy and ethnicity: negotiating competing claims in multi-ethnic states*. New York: Cambridge University Press.
- Ghose, A.K. (1985) 'Transforming feudal agriculture: agrarian change in Ethiopia since 1974', in *Journal of Development Studies*, **22** (1) 127-49 .
- Gibbon, E (1899) *The Decline and Fall of the Roman Empire*, London.
- Gilkes, Patrick (1975) *The Dying Lion: Feudalism and Modernisation in Ethiopia*, London: Julian Friedmann.
- Greenfield, Richard (1969[1965]) *Ethiopia: A New Political History*, London: Pall Mall Press.
- Grosby, Steven (1994) 'The Verdict of History: the Unexpungeable Tie of Primordality – A Response to Eller & Coughlan', in *Ethnic and Racial Studies*, **17** (2).
- Hagos Gebre Yesus (1970) 'Problem of Regionalism in Ethiopia', in *Challenge* **10** (1) February 1970, 22-35.

- Halliday, Fred & Molyneux, Maxine (1981) *The Ethiopian Revolution*, London: Verso.
- Hallpike, C.R. (1972) *The Konso of Ethiopia*, Oxford: Clarendon Press.
- Healy, Sally (1983) 'The Changing Idiom of Self-Determination in the Horn of Africa' in Lewis, Ioan M. (ed.) *Nationalism and Self-Determination in the Horn of Africa*, London: Ithaca Press.
- Helland, Johan (1997) 'Development Interventions and Pastoral Dynamics in Southern Ethiopia' in Hogg, Richard (ed.) *Pastoralists, Ethnicity and the State in Ethiopia*, London: Haan / Institute for African Alternatives, 55-80.
- Hoben, Allan (1970) 'Social Stratification in Traditional Amhara Society' in Tuden A. & Plotnicov L. (eds) *Social Stratification in Africa*. New York: Free Press.
- Hoben, Allan (1973) *Land Tenure Among the Amhara of Ethiopia*, Chicago: University of Chicago Press.
- Hoben, Susan (1994) 'The Language of Education in Ethiopia: Empowerment or Imposition' in Marcus H.G. (ed.) *New Trends in Ethiopian Studies: Papers of the 12th International Conference of Ethiopian Studies*, Lawrenceville: Red Sea Press, 182-197.
- Hogg, Richard (1993) 'Continuity and Change Among the Boran in Ethiopia' in Markakis, John (ed.) *Conflict and the Decline of Pastoralism in the Horn of Africa*, Basingstoke: Macmillan / Institute of Social Studies, The Hague, 63-82.
- Hogg, Richard (1997) 'Resource Use Conflict in the Middle Awash Valley of Ethiopia: The Crisis of Afar Pastoralism' in Hogg, Richard (ed.) *Pastoralists, Ethnicity and the State in Ethiopia*, London: Haan Publishing / Institute for African Alternatives, 105-122.
- Holcomb, Bonnie K. & Sisai Ibssa (1990) *The Invention of Ethiopia: The Making of a Dependent Colonial State in Northeast Africa*, Trenton N.J.: Red Sea Press.
- Horowitz, Donald L. (1975) 'Ethnic identity' in Glazer, N. & Moynihan, D.P. (eds) *Ethnicity: Theory and Experience*, Cambridge, Mass.: Harvard University Press.
- Horowitz, Donald L. (1985) *Ethnic Groups in Conflict*, Berkeley: University of California Press
- Horowitz, Donald 1997. 'Ethnic conflict management for policy makers' in Montville, Joseph V. (ed.) *Conflict and peacemaking in multiethnic states*. New York: Lexington Books.
- Irvine, K.A. (1965) 'On the Identity of Habashat in the South Arabian inscriptions' in *Journal of Semitic Studies* **10** (2) Autumn 1965.
- James, Wendy, Donham, Donald, Kurimoto, Eisei, & Triulzi, Alessandro (eds) (2002)

- Remapping Ethiopia*, London & Oxford: James Currey.
- Jenkins, Richard (1986) 'Social Anthropological models of inter-ethnic relations' in Rex, John & Mason, David (eds) *Theories of race and ethnic relations*, Cambridge: Cambridge University Press.
- Kelemen, Paul (1985) *The Politics of the Famine in Ethiopia and Eritrea*, Manchester Sociology Occasional Papers, No.17, Manchester University.
- Keller, Edmond J. (2002), Ethnic Federalism, Fiscal Reform, Development and Democracy in Ethiopia, *African Journal of Political Science* Vol 7 No. 1
- King, Preston 1982. *Federalism and federation*. London: Croom Helm.
- King, Preston 1993. 'Federation and representation' in Burgess, M. and Gagnon, A. (ed.) *Comparative federalism and federation*. New York: Harvester Wheatsheaf
- Kurimoto, Eisei & Simonse, Simon (eds) (1998) *Conflict, Age & Power in North East Africa*, London & Oxford: James Currey.
- Laitin, D.D. & Samatar, Said S. (1987) *Somalia: A Nation in Search of A State*, Boulder: Westview Press.
- Leenco Lata (1999) *The Ethiopian State at the Crossroads: Decolonization and Democratization, or Disintegration?*, Lawrenceville N.J. & Asmara: Red Sea Press.
- Levine, Donald N. (1965) *Wax and Gold: Tradition and Innovation in Ethiopian Culture*, Chicago: University of Chicago Press.
- (1974) *Greater Ethiopia: The Evolution of a Multiethnic Society*, Chicago: University of Chicago Press.
- Maknun Gamaledin (1993) 'The Decline of Afar Pastoralism' in Markakis, J. (ed.) *Conflict and the Decline of Pastoralism in the Horn of Africa*, Basingstoke & London: Macmillan / Institute of Social Studies, 45-62.
- Marcus, Harold G. (1975) *The Life and Times of Menelik II: Ethiopia 1844-1913*, Oxford: Clarendon Press.
-, and Kevin Brown, 1997, "Ethiopia and Eritrea, Nationalism Undermines Mass and Technology", in *Ethiopia in Broader Perspective*, Papers of the XIIIth International Conference of Ethiopian Studies, V.II
- Markakis, John & Nega Ayele (1986) *Class and Revolution in Ethiopia*, Trenton N.J.: Red Sea Press.
- (1974) *Ethiopia, Anatomy of a Traditional Polity*, Addis Ababa: Oxford

- University Press.
- (1987) *National and Class Conflict in the Horn of Africa*, Cambridge: Cambridge University Press.
- Markakis, John (ed.) *Conflict and the Decline of Pastoralism in the Horn of Africa*, London: Macmillan, in association with the Institute of Social Studies, The Hague.
- (1997) ‘The Somali in Ethiopia’ in *Review of African Political Economy*, **24** 567-570.
- (1998) ‘The Politics of Identity – The Case of the Gurage in Ethiopia’ in Mohammed Salih, M.A. & Markakis, John (eds) *Ethnicity and the State in Eastern Africa*, Uppsala: Nordiska Afrikainstitutet.
- (ed.) (1993) *Conflict and the Decline of Pastoralism in the Horn of Africa*, London: Macmillan, in association with the Institute of Social Studies, The Hague.
- Mattei Ugo, 1995, “The New Ethiopian Constitution: First Thoughts on Ethnical [Sic] Federalism and the Reception of Western Institutions” in Grande Elisabetta, (ed.), Transplants, Innovation and Legal Tradition in the Horn of Africa. Torino: Lharmattan. Itali
- Pausewang, Siegfried, 1997 “Democratic Dialogue and Local Tradition” in *Ethiopia in Broader Perspective*, Proceedings of the XIIth International Conference of Ethiopian Studies.
- Perham, Margery, 1969, *The Government of Ethiopia Evanston*; Northwestern University Press.
- , 2002, *Ethiopia Since the Derg*. London and new York: Zed Books.
- Pospisil, Lepold, 1972, Anthropology of Law: A Comparative Theory. New Haven: Yale University Press.
- Rawls, John, 1993, The Law of Peoples, in Shute Stephen, and Susane Hurley, eds., *On Human Rights Oxford*: Basic Books.
- Smith, Graham, 1995, *Federalism: the Multiethnic Challenge*. London and New York: Longman
- Stepan, Alfred, 1999, “Federalism and Democracy: Beyond the U.S. Model,” *Journal of Democracy* 10:19-34.

- 1999, "The World's Religious Systems and Democracy: Crafting the Twin Tolerations." Paper delivered at the Mansfield College Conference on Religion and Democracy Oxford, Sep 10-12.
- Suberu. Rotimi T. 2001. *Federalism and Ethnic Conflict in Nigeria*. Washington, D.C.: United States Institute of Peace Press.
- 2004. "Nigeria: Dilemmas of Federalism." In *Federalism and Territorial Cleavages*, edited by Ugo M. Amoretti and Nancy Bermeo. Baltimore, Md.: Johns Hopkins University Press.
- Tully, James, 1995, *Strange Multiplicity: Constitutionalism in an Age of Diversity*. Cambridge: Cambridge University Press.
- Van Doren, John W., 1994, "Positivism and the Rule of Law, Formal Systems or Concealed Values: A Case Study of the Ethiopian Legal System." *Journal of Transnational Law and Policy*.
- Vaughn, Sarah and Kjetil Tronvoll (2003) *The Culture of Power in Contemporary Ethiopian Political Life*, Sida Studies No.10
- (2003) *Ethnicity and Power in Ethiopia*, PhD Diss., Edinburgh University
- Vestal, T 1999. *Ethiopia: a post cold war state*. Westport: Praeger.
- Watts, Ronald 1998. 'Federalism, federal systems and federations'. *Annual Review of Political Science*: 117-137.
- Wheare, K.C. 1953. *Federal Government*. London: Oxford University Press.
- Woodward, Peter, and Murray Forsyth, eds., 1994, *Conflict and Peace in the Horn of Africa: Federalism and its Alternatives*. Brookfield: Dartmouth Publishing Company
- Young, John 1996. 'Ethnicity and power in Ethiopia'. *Review of African Political Economy* 70: 531-542.
- 1997. *Peasant revolution in Ethiopia*. Cambridge: Cambridge University Press.
- 1998. 'Regionalism and democracy in Ethiopia'. *Third World Quarterly* 19: 191-204.
- 1999. 'Along Ethiopia's western frontier: Gambella and Benishangul in transition'. *The Journal of Modern African Studies* 3: 321-346.

II. Legislations

1. The Transitional Period charter of Ethiopia, 199,1 Negarit Gaz. Year 50, No.1
2. Constitution of the Federal Democratic Republic of Ethiopia, 1995, Federal Negarit Gaz. 1st Year No. 1
3. Federal Courts of Shari'a Consolidation Proclamation No 188