

Ethiopian Journal of Human Rights

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Table of Content

Articles

Development and Human (In)Dignity: The Impact of Gibe III, Sugar Industrialization and Sedenterization on Minority Agro-Pastoral Groups in South Omo

Fana Gebresenbet1

The Issue of Indigenousness in Ethiopia: A Jurisprudential Dearth

Tefera Degu Addis 30

Ethnicity, Women and Governance at Local Level: The Case of the Kebena Community in Ethiopian Federalism

Sisay Kinfu 57

The Impact of Large-Scale Development Projects on the Kumpal Agaw Minority

Desalegn Amsalu..... 76

Social Exclusion of Marginalized Minorities in Kaffa, Ethiopia

Taddesse Berisso..... 97

The Qemant Ethnicity: Identity Contestations, Negotiations, and Conflicts

Dawit Yosef and Fekadu Adugna 124

A Historical Analysis of Minority Rights in Ethiopia: the Case of Negede Woyto Community

Binayew Tamrat..... 147

Constitutional and Institutional Protection of Minorities in Ethiopia

Marew Abebe Salemot..... 165

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Editor's Note

Meron Zeleke (PhD)

The fifth issue of EJHR critically examines whether Ethiopia's minority rights regime, the core basis of the political legitimacy for the ruling party of the country, has delivered on its promises, i.e. protection of the rights of minority groups in Ethiopia.

Who minorities are and what rights they are entitled to remains a contentious issue. According to the 1992 United Nations Minorities Declaration any reasonable definition needs to include both objective factors (such as the existence of a shared ethnicity, language or religion) and subjective factors (that individuals must identify themselves as members of a minority). What constitutes minority rights and situating them within the broader human rights framework has also been equally problematic. By and large, minority rights are understood as individual and collective rights through which people belonging to minority groups are entitled to enjoy their own culture, to use their own language, to profess and practice their own religion, to have the right to freedom of expression and assembly, to have equal opportunities to education and employment, and to enjoy full participation in public life.¹ As such, minority rights are relational and protective; based, as they were, on the recognition that minorities are in a vulnerable situation in comparison to the majority population and in so long as they aim to protect members of a minority group from discrimination, assimilation, prosecution, hostility or violence because of their status. This implies that minority rights do not constitute privileges, and they are not immune from human rights compliance including respect of the rights of the majority.²

What is progressive about Ethiopia's federal political order is not only the constitutionally sanctioned ethno-cultural justice and self-determination rights of all ethnic groups but also its recognition of the need to redress historically shaped imbalances that have created inequality among groups. Inequality among ethnic groups is recognized

1 Kymlicka, Will. 2008. "The Internationalization of Minority Rights." *International Journal of Constitutional Law* 6(1): 1-32.

2 Staub, Hans and Harry Zohn. 1980. "The Tyranny of Minorities." *Daedalus - The End of Consensus?* 109(3).

as a legacy of historical discrimination by the previous governments. The 1995 Constitution identifies different categories of marginalized groups, which it calls the “historically least-advantaged” people. An exemplary group is the four “developing” regional states of Gambela, Benishangul-Gumuz, Afar and Somali; pastoralists, and national minorities. The federal government not only identifies peoples of these regions as among the ‘least advantaged’ but also makes it a constitutional obligation to provide them with special assistance. National minorities also belong to the category of the least advantaged. There is also the issue of politically disenfranchised and insecure minorities in the newly constituted regional states. Occupational minorities within an ethnic group such as potters, blacksmith and tanners are not only discriminated by the dominant farming communities but also they are stigmatized and de-humanized in many ethnic groups despite or because of their crucial socio-economic and technological contributions to the dominant group (Pankhurst and Freeman, 2003).³

This fifth volume of the EJHR explores the praxis of the constitutionally enshrined minority rights. Although the federal political order has gone a long way in redressing the historical grievances of the country’s ethnic and non-ethnic minorities, how far this has been translated into a reality has been very much debated in post-1991 Ethiopia. As the focus of Ethiopia’s minority rights regime is on ethnic rights, this volume also seeks to generate knowledge on the fate and status of other types of minorities who have been rendered invisible such as occupational minorities.

As a way of addressing the different minority groups the contributions included in this volume tackled a wide range of categories. Three of the articles authored by Fana, Dessalegn, Dawit and Fekadu discuss the intricate and contested political nature of translating and implementing human/minority rights norms and ideals into governance mechanisms by drawing on how development projects impact lives of ethnic minorities. Part of Binayew’s discussion also highlights how various development projects at the shores of lake Tana impacted the lives of the Negede Woyto community. The contribution by Binayew and Tadesse accent the need to adopt a diachronic approach to fully understand contemporary aspects of social exclusion and marginalization. Tadesse’s article critically reflects on the aspects of social exclusion and marginalization of occupational minorities in Kaffa

3 Pankhurst, Alula and Deena Freeman. 2003. *Peripheral people: The Excluded Minorities of Ethiopia*. Hurst.

Zone, Southern Nations, Nationalities and People's Regional State. The theme of indignity and the contentions surrounding indigenous people is often framed as a minority people's issue in the global discourse on indigeneity. Tefera's article eloquently discusses this by reflecting on Ethiopia's lived experience mainly through analysis and assessment of relevant laws and practical self-identification claims. The contribution by Marew gives a critical appraisal of Ethiopia's constitutional order as it relates to minority rights at the regional states level where so-called right-bearing titular and disenfranchised non-titular groups have emerged. Sisay's article on its part reflects on the gendered nature of minority rights by drawing on the lived experience of women's marginalization at customary and religious institutions in a patriarchal social setting of the Kebena community.

I would like to thank members of the editorial and advisory committee of EJHR, the external reviewers involved in the peer review process and the authors for their valuable contributions and ensuring the quality and reputation of the EJHR.

Meron Zeleke, (PhD)

Editor in Chief of Ethiopian Journal of Human Rights

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Development and Human (In)Dignity: The Impact of Gibe III, Sugar Industrialization and Sedenterization on Minority Agro-Pastoral Groups in South Omo

Fana Gebresenbet *

Abstract

Based on extensive field research in South Omo Zone since 2011, this article argues that the human dignity of agro-pastoralist groups was sacrificed to promote developmentalism. This zone is home to sixteen minority groups, thirteen being agro-pastoralists. Deployment of developmental state policy in the 2010s, namely sugar industrialization, made a structural break to the state experiences of most agro-pastoral groups, especially to the Bodi and Mursi in Salamago *Woreda*. The sugar industrialization efforts were enabled by the regulation of the Omo River's flow with the construction of the Gibe III hydro-electric dam to the north. Moreover, the government planned to sedenterize and modernize the agro-pastoral communities, and thereby deliver social services to them. However, these developmental state projects were implemented by going against human security, human development and human rights of the agro-pastoral groups residing in the area. First, the Bodi were not consulted about the projects, but were 'convinced', by a combination of coercion and persuasion. Second, the project was preceded by and conjoined with security campaigns, which led to, among others, the imprisonment of many men from Bodi in Jinka, the Zonal capital. Third, the combination of environmental impacts of the developmental projects and the increasing insecurity seriously impacted food security and led to collective impoverishment of the Bodi. The combination of these three major impacts led to deterioration of the dignity of the Bodi, contrary to what development ideally is about.

Keywords: *minority rights, human dignity, developmental state, KSDP, Bodi, South Omo*

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Introduction

The major policy dilemmas of the past few decades, mainly managing diversity and ensuring the rights of minority groups, are mostly products of expansion of the Ethiopian state at the end of the 19th and early 20th century. The FDRE Constitution (FDRE 1995) instituted a range of frameworks to recognize Ethiopia's numerous cultural groups and accommodate their needs at local, regional and federal levels (Haileyesus 2012; Van der Beken 2012). Thus far, when it comes to weighing the minority-friendliness of the Ethiopian federal order, the general tendency in the literature has been debating whether it has delivered or failed to protect and ensure the rights of such groups (see for example the debate between Getachew (2011, 2009) and Tronvoll (2010, 2008)). Others focused on ethnic groups whose minority status is within a particular regional state where they are considered as non-indigenous, for example the Amhara and Oromo in Benishangul-Gumuz regional state (Van der Beken 2010), and the limits to territorial approach to ensure minority rights (Beza 2019). Few, such as Data's (2012) ethnographic work, shows the intricate and contested political nature of translating and implementing human/minority rights norms and ideals into governance mechanisms.

In this article, a focus on minority rights alone is conceived as too narrow. A more comprehensive notion of human dignity, which in addition to human rights, includes human development and human security, is adopted (Arnold 2017; Somsen 2017; McSherry and Freckelton 2013; Fortman 2011). Using human dignity as an analytical lens, this chapter examines how minority agro-pastoral groups fared when developmentalism became paramount in the priorities of the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), the ruling party. Taking the case of South Omo Zone from South Nations, Nationalities and Peoples Regional State (SNNPRS), this chapter argues that 'Developmental State' policy in agro-pastoral areas came with costs to the dignity of the local community.

Despite the rapid economic growth of the past decade, there have been a half-created grievance; the most notable one related to land expropriations. *Woredas*⁴ surrounding Addis Ababa and the western and eastern lowland regions were epicenters of 'land grabbing' (Makki 2014:90). This has led to critiques and protests in the social and print media and also on the streets, and was more consequential. However,

4 The second lowest administrative unit in Ethiopia.

the impact of these 'developmental' projects to the very basic fabric of an ethnic group was momentous on the Bodi and their immediate neighbors, the Mursi.

The 'late arrival' of the Ethiopian state in the mid-2000s⁵ to Salamago *woreda* of South Omo Zone, inhabited by four small ethnic groups, the Bodi, Mursi, Kwegu and Dime, was a sudden rupture for the communities (Fana 2020). The first intervention was more benign and involved settling food insecure households to the mid-altitude areas between the agro-pastoralist Bodi and agrarian Dime (Ayke 2005). On top of this, the interventions came aggressively with projects such as the construction of Gibe III hydro-electric dam project that commenced in mid-2000s to the north of the *woreda*. The impact of the hydro-electric project, however, reached the *woreda* about a decade later in 2015 by the complete absence of the Omo floods. A third of Bodi's annual diet comes from flood-retreat agriculture, and as such the absence of the floods severely affected food security in the area (Buffavand 2017; Turton 1985).

The Ethiopian Sugar Corporation (ESC) also started land clearing in 2011 in Bodi territory. The zonal and regional governments together started sedenterizing the Bodi immediately afterwards, with the stated intention of easing challenges related to service delivery among agro-pastoral communities; to congregate various public services (such as health, education, agricultural extension, potable water...) at a village center, and thereby reduce the challenges posed by sparse settlement patterns. These two state projects, sugar industrialization and sedenterization, were faced by local resistance, which led to what is dubbed as security/pacification campaigns, leading to tension, conflict and imprisonment of the Bodi in Jinka, the zonal capital located about 110 km away (Fana 2020; Buffavand 2017; Tewolde and Fana 2014).⁶

Hydro-electric dams and agro-industrialization, primarily sugar industrialization, were the hallmarks of the Ethiopian developmental state (Kamski 2019, 2016; Mosley and Watson 2016). These developmental projects in the lower Omo Valley affected many aspects of Bodi's social, economic and political life (Stevenson and Buffavand 2018; Buffavand 2017, 2016). Based on extensive fieldwork

5 The state was practically absent in these lowlands for most of the previous century.

6 As the Gibe III project was hundreds of kilometers to the north of Salamago there was no opportunity for the Bodi and Mursi to resist it.

in South Omo between 2012 and 2018,⁷ involving interviews, focus group discussions and informal discussions with members of the local community, *woreda* and zonal government officials and experts, and experts working for the ESC, this chapter argues that the EPRDF government sacrificed the human dignity of the Bodi minority group for the realization of these development projects. When it comes to prioritization, the government had no qualms about the promotion of these national economic interests, in effect erasing the recorded gains of the federal project.

This argument is made in the following six sections. The first provides a brief review of concepts of minority rights and human dignity. The second highlights the ideological contradictions between EPRDF's ethno-linguistic federalization and the developmental state project. The third introduces the study area, South Omo Zone, particularly Salamago *woreda*, as home to minorities, the dominant livelihoods practiced in these lowlands, and the weak administrative, infrastructural and market integration of the lowlands to the state. The fourth section summarizes the major developmental interventions of the government, Gibe III dam, sugar industrialization and sedenterization, in Salamago. This is followed with a section that identifies and presents three major interacting impacts of these developmental interventions on the Bodi: (1) lack of consultation, (2) imprisonments of large numbers of men and, (3) deteriorating food security. The last section concludes by highlighting the deteriorating human dignity of the Bodi through an interactive condition of socio-economic, conflict and human rights dimensions.

Minority Groups, Minority Rights and Human Dignity: Some Conceptual Issues

By definition, the concept of minority groups is premised on difference, be it racial, religious, or ethnic (Fortman 2011; Kymlicka 2010). A group should not necessarily be a numerical minority to be considered as a

7 During this period, a total of 100 days of fieldwork was conducted for various research projects, among others funded by the Institute for Peace and Security Studies of Addis Ababa University (in 2012 and 2013), the Carnegie Center through the Africa Peacebuilding Network of the Social Science Research Council (in 2017), the SIDERA project (funded by the Economic and Social Research Council) and the Agricultural Policy Research in Africa (in 2018). The findings of these fieldworks are published in various outlets, and duly cited in this article.

minority group.⁸ Rather it is a relational concept, mainly premised on the abuse of power by the dominant majority position (Fortman 2011). Thus, minority rights are mainly meant to defend and promote human rights of minority groups against threats posed intentionally or by indifference of the majority. In effect, the desired end is to ensure that members of a minority group have equal rights as those from majority groups (Kymlicka 2010).

Although legal debates dominate the scene, laws will not change the relationships undergirding majority-minority positions. Rather the focus should be on the public-political construction of a certain idea or group into a hierarchical position (Fortman 2011). As such, ensuring the rights of minority groups will be realized through political processes and public engagements, in addition to legal interventions.

Self-governance is one strategy to ensure the rights of minority groups (Kymlicka 2010). The federal restructuring of Ethiopia in 1995 was an opportunity to create the political space for various minority groups to self-govern at local levels, while ensuring representation at national level. By stating that ‘nations, nationalities, and peoples’ are sovereign (Article 8) and are fully entitled to self-determination (Article 39), the FDRE Constitution provides the legal basis for defending and promoting the interests and rights of minorities. The real challenge is on how to translate these constitutional and other legal provisions into governance mechanisms; without this translation, the legal positions will not be consequential (Data 2012).

This translation became more complicated after the mid-2000s with the ascendance of developmental ideology, at the expense of the ethno-federal arrangement. Economic and resource mobilization interests were given attention by the state than the rights of identity groups. In the peripheral lowlands, such as Gambella and South Omo, the developmental state policy was aggressively implemented before the consolidation of the ethno-federal arrangement. The inability of such groups to make use of the constitutional provisions in the face of increasing violations related to ‘developmental’ projects is leading to calls for adoption of international legal instruments meant to defend the rights of indigenous people (LaTosky 2021; Seyoum 2016; Adem 2009).

8 Perhaps a good example from Ethiopia is the case of Somali and Tigre ethnic groups. Although constitutes a slightly larger population, the Somali are a minority group, while, in many forms, the dominant state culture and political position is favorable to the Tigre. Similarly, in Rwanda, the numerical minority Tutsi holds a majority position over the Hutu.

This article avoids delving into the legalistic and definitional debates on which collectivity qualifies to be ‘minority’ and ‘indigenous’. It rather adopts the concept of human dignity as an analytical lens; a broader focus on ‘dignity takings’ in cases of disposessions (mainly of land) and the need to ‘restore dignity’ of minority groups (Guzmán-Rodríguez 2018; Atuahene 2016). As Somsen (2017:356 cited in LaTosky 2021:439) states, dignity gives a condition of “empowering people to assume full control over their own lives and, as a corollary, preventing others from intruding into those lives, unless free, prior, informed consent has been granted”. In this sense, dignity is a broader concept than minority rights. Thus, when violations happen, it is not only about the human rights of minority groups; it also infringes into self-respect and autonomy of individuals and collectivities.

When it comes to operationalizing the concept of human dignity, Bas de Gaay Fortman’s (2011) work is very useful. Fortman incorporates development and human security concerns, in addition to human rights, of minority groups as interacting “indivisible whole” of human dignity (2011:302). Bas de Gaay Fortman’s concept of human dignity could be best summarized in the following quote and figure:

... the human dignity mission in a wider perspective than just human rights. Essential linkages are laid out that are highly relevant from the perspective of collectivities: to achieve human security, a socio-economic perspective (and hence a functioning economy) is required, as well as good governance and the rule of law (and hence a functioning state); for the realization of human rights, it is also important that people enjoy a socio-economic perspective in their lives, while living in peace and security in a politically stable environment. The latter is crucial for human development, as well as for good governance based on the rule of law. This golden triangle of human dignity – considered as an indivisible whole – represents the core challenges in respect of protecting so-called minorities (Fortman 2011:302).

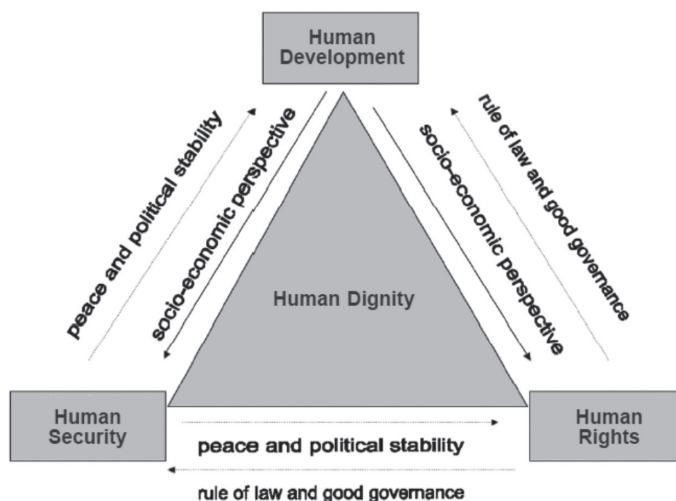


Fig 1: Human dignity as a product of linkages between human rights, human security and human development (Fortman 2011:301)

This conceptualization allows us to go beyond the legalistic debate on rights of minority groups, to consider socio-economic and human security aspects. Given the nature of interventions (mainly dam building, sugar estates and sedenterization) in the study area, and their multi-faceted impacts, this broader focus will be more beneficial to have a fuller understanding of the conditions of minority groups in the face of aggressive developmental interventions.

It is now widely recognized that dams come with significant negative socio-economic implications and conflict, especially to powerless marginalized groups (Del Bene, Scheidel and Temper 2018; World Commission on Dams 2000). One obvious impact of such economic and infrastructural interventions is expropriation of farming land, putting the rural poor under further socio-economic stress (Nguyen, Pham and de Bruyn 2017; World Bank 2015). Moreover, many cases of 'land grabbing' or 'resource grabbing' for development projects result in resistance and conflict at the sites of land investments (Blake and Barney 2018; Del Bene, Scheidel and Temper 2018). As such, the human dignity concept can merge the three dimensions of impacts minority groups' experience; violation of human rights, political economy/ socio-economic impact and conflict/human security.

Implementing the Ethiopian Developmental State

In the post-1991 political order, Ethiopia's diverse groups were hopeful in getting the public space to practice and promote their culture, language and identity (Epple and Thubauville 2012). The 1995 Constitution centers on what it calls 'Nations, Nationalities and Peoples' as sovereigns (Article 8), without differentiating between groups based on population size or political power. Moreover, it gives equal rights when it comes to self-determination (Article 39), and an explicit recognition of land rights of pastoralist groups (Article 40(5)). Furthermore, Article 89(4) states that the "government shall provide special assistance to Nations, Nationalities, and Peoples least advantaged in economic and social development".

The rigor the EPRDF showed towards ensuring ethno-linguistic rights was replaced by prioritization of economic growth with the ascent of developmentalism in the policies of the early 2000s. By the turn of the first decade of this century, the EPRDF (2010:117) came to assert that "if anyone takes refuge in the nation's past history intending to be a special citizen, or intending to look across the border like an alien, it is not because he has good ground, but because he is a rent seeking parasite or because he has fallen for rent seekers". This categorical statement and 'regress' from past notions of giving primacy to the rights of ethno-linguistic groups came at a time when the Ethiopian Developmental State (EDS) project was at its zenith (Clapham 2013), exemplified by the ambitious planning in the first Growth and Transformation Plan (MoFED 2010).

One of the EDS projects is construction of hydro-electric dams. Geography dictates that most of these dams be in the southern 'highland frontier', and the socio-economic impacts being felt in the 'lowland frontier'. Moreover, the government betted on the global land rush as a development opportunity to generate foreign currency, create jobs as well as produce industrial inputs, such as cotton and sugarcane (Fana 2016; Lavers 2012). These EDS projects targeted the lowlands, before the lowland frontier showed any significant progress in terms of political and economic integration (Markakis 2011). Thus, there was a starker contradiction between the federal state (prioritization of 'group rights') and EDS projects in the lowlands (prioritization of economic growth). This is the case mainly considering that the affordances of the federal project were yet to meaningfully deliver in the lowland frontier, especially in the lower Omo Valley, when the EDS project was pushed through.

Indeed, the contradiction between the federal and EDS projects have been recognized early on. Assefa (2014) stated that the two projects are in tension, at least, and that the EDS project was putting additional strains to fulfill the promises of the federal project. The necessity of centralizing power and having a strong executive for the success of the EDS project runs counter to the devolution of power inherent to any federal system (Aalen and Asnake 2012). Clapham (2018:1154-1155) also argued that the EPRDF prioritized the delivery of economic rights, sought 'performance legitimacy' and deferred the promotion of rights. In effect, EPRDF's position was that economic rights need to be fulfilled before a range of other individual and collective rights are properly promoted. This is aligned to the general tendency to view developmental states as "semi-democratic at best" (Meles 2011a:168), following the authoritarian nature of previous developmental states.

One major expression of the contradiction between the ethno-federal and EDS projects could be discerned regarding land administration powers. The deployment of the EDS in rural Ethiopia (particularly in the lowlands) showed that there is an implicit stipulation that regional territories are not arenas for self-determination solely, or primarily, but are to be exploited 'rationally' for the benefit of the national economy as defined by the central government. This justification by itself, before getting to the practice, tells of the relative prioritization of development. The Constitution gives concurrent powers to federal and regional levels over land utilization and conservation by separating legislative and administrative powers. This mode of concurrency is reflected in Articles 51(5) and 52(2). The former authorizes the federal government to enact laws on utilization or conservation of land and natural resources, while the latter empowers the states to administer land based on federal laws. Despite this, the federal government centralized land administration powers when it came to large-scale agricultural lands under the guise of upward power delegation from the regions, although there is no constitutional base for this (Fana 2016; Ojot 2013). This was openly recognized and reversed in late 2016, following a study commissioned by the Prime Minister's Office.

Moreover, the EDS project necessitated the aggressive mobilization of resources, including natural resources. This had major implications for agro-pastoralist communities located in the peripheral lowlands. The violent nature of the interventions and the impacts are documented in a number of studies. As such, it is in these lowlands that the contradictions between EPRDF's two 'grand projects' (Clapham

2013) are stark. With this in mind, the following section provides the research context, highlighting the South Omo zone's ecological and ethnic diversity, and the weak integration of minority groups with the center.

South Omo: Home of Minority Ethnic Groups

South Omo is a frontier zone in many respects. It borders South Sudan and Kenya, and has the Omo River as its most defining geographic feature. It is home to sixteen indigenous ethnic groups, making more than a quarter of the ethnic diversity of SNNPRS. The zone's population is largely made up of two highland agrarian communities, the Aari and Maale (about 400,000 of the zonal rough population of 600,000) (CSA 2008). The other fourteen agro-pastoral groups make up the remaining 200,000, according to the last census report (ibid). As such, many of the agro-pastoral ethnic groups in the lower Omo Valley number a few thousands. The population in the study *woreda*, Salamago, includes of the Mursi (7,500), Bodi (6,994), Bacha (2,632) and Dime (less than a thousand) (ibid). The population size of the *woreda* is very small, compared to the population of ethnic groups in the region.

Ecologically, the lower Omo Valley is an arid and semi-arid zone, which is suited for pastoralism. With the exception of the Aari, Maale and Dime, the great majority of the population in the zone live off pastoralism. The floods of Omo, Mago and Weyto Rivers bring the much-needed moisture and alluvial soil from the highlands, which the lowland communities make use of by practicing flood-retreat agriculture. Salamago is located on the northern bounds of the zone bordering the southern highlands, cascading towards the rivers and valley. While the Dime fully rely on rain-fed farming, the Bodi and Mursi generate a sizeable amount of their annual diet from rain-fed farming but also recession farming alongside the Omo River. Livestock rearing, however, is the most important socio-economic and cultural marker (Buffavand 2017; Turton 1985).

In many regards, the zone is among the most marginalized areas in Ethiopia. Assignment of government officials to these lowlands was a sign of demotion or of desperation in imperial times (Markakis 2011:153). The poor road and infrastructural integration of these lowlands created a sense of 'social death' for those departing from their extended families to work there. On top of this, the climate was found to be unbearable to state officials originating from the

highlands. Making matters worse, the sparse population density and the proliferation of fire arms made the task of taxing and controlling the agro-pastoral population an uphill battle for state representatives (Markakis 2011:153-156). The state-society relations in these lowlands were heavily influenced by this inimical relationship, and, among others, exacerbated by the fact that the pastoral economy has not been accessible for the state to extract from (Behnke and Kerven 2013).

This was further complicated by the state representatives' project of civilizing the agro-pastoral population. State officials looked down on local cultures, mainly because of the relative nudity and cultural rituals practiced by these communities. Up to present, this view has persisted, and some cultural practices held dearly by local communities are viewed as 'harmful' and activities are undertaken to eliminate them.⁹ Ironically, the tourism sector continues to benefit from this same 'backward culture'.

Further, the communities have been criticized of resisting urbanization and development interventions. Meles (2011b) viewed the resistance to development interventions in South Omo, i.e. sugar industrialization, as "want[ing] the pastoralists and their lifestyle to remain as a tourist attraction forever". He also called this group, mainly anthropologists, "the best friends of backwardness and poverty". This in effect shows that this view of "backward" still persists, and the civilizing mission is still intact (Asebe, Yetebarek and Korf 2018). The sedenterization scheme, which aims to settle agro-pastoralists, provide services and train them in ox-plowing techniques to practice irrigated farming, is the latest rendition of 'civilizing' the lower Omo pastoralists.

Therefore, what we see is the promotion of folkloristic aspects of culture, not the core values and practices (Epple and Thubauville 2012). Despite the transformative aspects of the ethno-federal arrangement, particularly in reference to self-governance of minority groups, the national center much remains unchanged. Minority groups of the South Omo zone are still viewed as subjects to be 'civilized,' especially as part of the EDS project. Therefore, the deployment of the EDS in the zone changed the dominant mode of relation between the state and agro-pastoralist groups, with serious implications to the rights of minorities, as will be shown in following sections.

9 While some practices are deemed harmful following Ethiopia's obligations under international law, mainly related to children and women, others are cultural prejudices including of leather dresses and decorations.

The EDS in South Omo: Konso settlers, Gibe III and Sugar Factories

The expansion of the Ethiopian state southwards to Lake Turkana took place in the immediate years following the battle of Adwa in 1896. After some resistance, the Bodi submitted to the imperial army after many of them were killed (Buffavand 2017:54-62). They were enslaved initially, but later the Bodi started enslaving weaker communities to their south, the Kwegu, in exchange for weapons. They also exchanged ivory for guns (Buffavand 2017). The Bodi used the guns to attack and raid the Dime, and later the Mursi too. By early 1970s, they became the most powerful group in the area and the Mursi had to call for government protection. The imperial army arrived to protect the Mursi and create a semblance of peace. It is at this time a limited government/military presence was established adjacent to Hana River, a small stream flowing into the Omo River (now developed into the capital town of the *woreda*). The assigned governors, however, remained in the Dime highlands, avoiding the lowland's heat (Buffavand 2017).

Salamago had the least contact with successive Ethiopian governments throughout the 20th century. After the establishment of a police post in 1972, the next significant state contact was during the mid-1980s as part of the famine relief operations. In effect, the governing attempt was made from a distance with intermittent direct contact when it was absolutely necessary (Fana 2020; Buffavand 2017). This is significantly different from the experiences of other parts of the Zone, where there were attempts to establish large-scale farms in the late 1980s. The geographic location of Salamago, to the west of Jinka and bordering the Omo River, and lack of road infrastructure kept the community from having strong relation with the state unlike other parts of the zone, which was used to secure the borderlands (Fana 2020).

This geographic constraint was resolved in the early 2000s. In 2001, the federal government passed a new rural development policy, which included resettlement as one food security strategy (FDRE 2001). The SNNPRS government decided to bring more than 800 households from Konso area to settle in the northern bounds of the Bodi-territory (Ayke 2005). Extensive discussions and consultations were conducted by the regional and zonal government before bringing the Konso people. To the *woreda* government, the main attraction was the upgrading of the road linking the *woreda* with Jinka. In practice, the coming of the Konso people opened up the area, as the new comers quickly took advantage of the fertile soils and climate to grow sesame, a cash

crop.¹⁰ In due course, as the Konso expanded their farmlands, partly to accommodate new settlers and as the demand for their removal by the Bodi intensified,¹¹ the situation became intense and conflict between the two groups became common (Fana 2020). The Konso converted the income from agriculture into further business ventures and bought arms to defend themselves to from the increasing attacks from the Bodi.

Further, the federal government announced the sugar industrialization plans for South Omo, while the Bodi were in the middle of intense confrontations with the Konso. The announcement came at Prime Minister Meles Zenawi's speech at the 11th National Pastoralists Day celebrated in Jinka on 25th of January 2011 (Turton 2021; Meles 2011b). The sugarcane plantations in the zone, known as the Kuraz Sugar Development Project (KSDP), was planned to cover 175,000 hectares of land, with the 50,000 hectares being in Salamago. The activities first started with land clearing and the construction of necessary irrigation facilities in the north of the *woreda*, on Bodi territories adjoining the Omo River (Tewolde and Fana 2014); the sugar estates limited the Bodi southern territory.

The road upgraded to bring the Konso settlers in 2001 was not in good condition to serve the ESC's activities. As such, it was revamped, and a better road was constructed. The greater presence and speed of the trucks, a new phenomenon to the *woreda*, caused road accidents resulting in losses of livestock and human lives. This led to a tense security situation in the early 2010s, with the Bodi often retaliating using ambush tactics against residents of the town (mainly civil servants and traders who came from central parts of the country), employees of the ESC or companies it contracted, and transportation vehicles to and from Jinka (Fana 2020; Buffavand 2017; Tewolde and Fana 2014). This was concomitant with the new socio-economic, cultural and political pressures the Bodi were experiencing from the Konso, who among others, were taking their rain-fed farming lands through continuous migration, and the bigger 'enemy', the Ethiopian government with all its coercive (economic, military and technological) power that came to

10 Interviews with Bodi men and women, and Salamago *Woreda* officials and experts, August 2016, July 2017, and August 2018. See also Buffavand (2017:144)

11 The Bodi insist that the government promised them that the Konso will leave after they become food secure, within five years of their settlement (see details in Fana 2020:12).

the south. In the early 2010s, as detailed in section 6.2 and 6.3 below, the Bodi experienced an existential threat to their survival as a group.

A further threat came when the Gibe III hydro-electric dam started construction (2006) and filling (2015). The dam is located some 200 km to the north of the *woreda*. This served as sufficient reason for the government to resist the idea of including the dam's impact on pastoral communities in the lower Omo Valley. Following external pressures, the government eventually considered downstream impacts of the dam, and recommended artificial flooding, although done without consultations with the pastoralist community (Turton 2021).

Although located hundreds of kilometers further upstream, filling of the dam meant an end of the annual floods, which provide crucial life-sustaining resources to the Bodi and other communities in the lower Omo Valley. In effect, a third of the annual diet of the Bodi was slashed off, due to the absence of the floods.¹²

It is at the peak of these concerted pressures that the government commenced what it called 'voluntary villagization' program in 2012. Although the federal government, through the Ministry of Federal Affairs (currently renamed Ministry of Peace) spearheaded such programs in the developing regions (i.e., Afar, Benishangul-Gumuz, Gambella, and Somali regions), the project in South Omo was run by the regional government with finance from the ESC. This program is meant to sedentize the Bodi (and later on the Mursi), to reduce their dependence on livestock and traditional forms of farming, to ease challenges of service provision, and acquaint them with ways of modern irrigated farming (Tewolde and Fana 2014). The government intensively campaigned and mobilized resources to convert the agro-pastoralist Bodi into smallholders, often coercively as will be shown in the following pages. Villagization was viewed as a mitigation strategy to offset potential negative impacts from land alienations for sugarcane plantations (Mulugeta 2014). However, it became another interference to the lives of the Bodi and threat to their collective existence (Stevenson and Buffavand 2018; Buffavand 2017).

12 Interviews with Bodi men and women, Hana town, August 2016.

Sacrificing Human Dignity for Economic Development

As the previous section highlighted, the first century of existence under the Ethiopian state had little consequential impact on Bodi cultural, socio-economic and political life. This changed abruptly since the early 2000s following concerted ‘development’ interventions, which existentially threatened the Bodi way of life. The material base of their collective life has been transformed, disfigured in Bodi views, and appears to be beyond repairs now.¹³ For traditional communities like the Bodi with intimate relations with nature (Buffavand 2016), it will be difficult to argue that these modernist changes of the material environment will not destabilize their identity construction. Lucie Buffavand (2017:64) called this stage the ‘completion of state-building’. This meant the state, with all the biased views against agro-pastoralists as irrational, backward and in need of civilizing and capacities, arrived in Salamago and is permanently staying. The interest is to capture and exploit resources (water and land), and in the process promote economic development at the cost of dignity of minorities inhabiting the zone. This section focuses on three notable processes through which the Bodi’s dignity was sacrificed for the sake of rapid economic growth. The first relates to the ‘good governance and rule of law’ dimension, the second to the ‘peace and political stability’ and the third to ‘socio-economic’ perspective.

***Consultation or Convincing?*¹⁴**

Two articles of the English version of the Constitution explicitly state the need for consultation with regards to the ‘right to development’ (Article 43(2)) and ‘environmental objectives’ (Article 92(3)).¹⁵ This ‘need for consultation’ is well aligned to the spirit of self-determination (Article 39). However, the wording of these provisions in the legally binding Amharic version of the Constitution is somewhat different.

13 See the sub-section on ‘Impoverishment of the Local Community’ below.

14 This sub-section is largely borrowed and adapted from an unpublished co-authored work (Tewolde and Fana 2015).

15 The English version of Article 43(2) reads as “Nationals have the right to participate in national development, and in particular, to be consulted with respect to policies and projects affecting their community” and Article 92(3) reads as “People have the right to full consultation and to the expression of views in the planning and implementation of environmental policies and projects that affect them directly”.

The direct translation of the Amharic version of these provisions reads as:¹⁶

Citizens have the right to participate in national development, particularly have the right to be requested to express their opinions on (development) policies and projects affecting their community directly (Article 43(2));

The affected people should express their views during the planning and implementation of policies and programmes concerning the environment (Article 92(3)).

A more appropriate and stringent translation of ‘consultation’ in Amharic, however, is *memekaker*. Moreover, as Vermeulen and Cotula (2010) stated, environmental impact assessment (EIA) procedures in Ethiopia require public participation. Notwithstanding this requirement and the mandatory status of conducting EIA before embarking on project tasks, some mega-projects proceeded before the preparation of such a report; a case in point being the Gibe III dam.¹⁷ Besides, even when conducted, such assessments do not necessarily capture community wide concerns, but often rather handpicked clan and local government representatives (Vermeulen and Cotula 2010:908).

In Salamago, there was a lot of ‘interaction’ between the ESC, the local government, and the local community, before and after land clearing, road and irrigation system construction works started. Twenty-four public discussion forums were organized in two years’ time, before February 2013.¹⁸ Most of these forums were held at local venues, and a few included trips to other agro-pastoralist communities, which the Bodi and Mursi could relate to and take lessons from.¹⁹ As local officials

16 The Amharic reads as “ዜጎች በብሔራዊ ልማት የመሳተፍ በተለይም አባል የሆኑበትን ማኅበረሰብ የሚመለከቱ ፖሊሲዎችና ፕሮጀክቶች ላይ ሀሳባቸውን እንዲሰጡ የመጠየቅ መብት አላቸው፡፡” (Article 43(2)); “የሕዝብን የአካባቢ ደህንነት የሚመለከት ፖሊሲና ፕሮግራም በሚነደፍበትና ሥራ ላይ በሚውልበት ጊዜ የሚመለከተው ህዝብ ሁሉ ሀሳቡን እንዲገልጽ መደረግ አለበት፡፡” Article 92(3)).

17 At the start, there was no EIA. The first EIA prepared, after concerted pressure by environmentalist and anthropologists, only included potential impacts at the project site. It took another round of EIA to include impacts in the lower Omo Valley. This shows the intentionality of not doing these safeguarding procedures by the government (Turton 2021).

18 Interviews with Bureau of Agriculture official, South Omo Zone, Jinka, January 2013.

19 The shortest trip was to Dassanech *Woreda* and the farthest to the Karrayu area in the upper Awash Valley.

explained, due to their “lack of awareness” and their “backward local culture”, the Bodi and Mursi could not accept the project easily.²⁰

The government and the ESC took this form of interaction as consultation with local communities, while international organizations such as Human Rights Watch (2012) did not. Rather than endorsing either side, the approach in this article is analytical and intends to reflect on what really happened in the lowlands. In doing so, the following significant points were identified:

Government approach as expressed in vocabulary used: In interviews with ESC and government officials (at the regional, zonal and *woreda* levels),²¹ there was a surprisingly uniform vocabulary use; what officials worked towards is ‘convincing’ (*masamen*), and not ‘consulting’ (*mamaker*) the local community. The difference between the two words is significant. The Amharic dictionary developed by Ethiopian Languages Research Center (ELRC) of Addis Ababa University (ELRC 2001) defines *mekeker*²² as “discussion, exchange of ideas between individuals to decide on what should be done and should not be done” (ELRC 2001:59). *Asamene*²³ is, however, defined as “getting an idea to be accepted through *masredat* (explanations) or *megletse* (description)” (ELRC 2001:306).²⁴ Thus, in the case of *masamen* the community’s task is to get convinced, not to influence or be involved in the way the project is designed to a significant degree.

Not all interactions between two or more actors could qualify as consultation. There are various forms of interactions between the community and the government. The most basic is informing the community, in what is a one-way information flow from the top echelons of power to the locals (Schlee 2021). In some cases, the community

20 Interviews with Bureau of Agriculture expert, administrator of Salamago *Woreda*, and official of Bureau of Agriculture, South Omo Zone, Jinka, January 2013.

21 Interviews with Economic Affairs Standing Committee member of the SNNP Regional Council, October 2012; Interview with Zonal, *woreda* and ESC experts and officials, January and February 2013.

22 The Amharic reads as: መደረግ ያለበትና የሌለበትን ለመወሰን ከአንድ በላይ በሆኑ ሰዎች መካከል የሚካሄድ ውይይት፣ የሃሳብ ልውውጥ፡፡

23 The Amharic reads as: (በማስረዳት ወይም በመግለጽ) አንድ ሃሳብ ተቀባይነት እንዲኖረው አድረገ፡፡

24 Thus, *masamen* should be translated into convincing, not consultation. The Webster (1981) dictionary defines convince as “to bring to or cause to have belief, acceptance or conviction”, and consult as “to deliberate on”.

could have the 'luxury' of being allowed to contribute to refining or adjusting the development plans coming from the top. In other cases, local people could be exposed to a constant barrage of information intended to turn them into a believer of the intended project. This form of information flow could best be termed 'convincing', not 'consulting', local people. The crucial difference lies in what is expected from the community. In consulting a community, the official pre-assumes that views of the community are worth listening to and that the information has the potential of affecting the project design significantly. When a government goes to convince a community, however, it will not be to take the views of the local but persuade the community.

Top-down approach: the Bodi resisted the project at first. This resistance, according to project officials and *woreda* and Zone administrators, has been attributed to "pastoral backward" life of the Bodi. As a result, the direction taken to appease local communities and lower the extent of resistance was an intensive discussion campaign with the objective of making them accept the decision cascaded from above.²⁵ The approach was to 'convince' the Bodi and the Mursi that the KSDP and associated villagization would first and foremost benefit them. The lopsided nature of the interaction in these forums is that the outcome is bound to favour the government and ESC. Furthermore, during the discussions more emphasis was given to socio-economic benefits locals would reap from the KSDP, with little room left for its ramifications on identity and cultural issues.²⁶

Timing: The interaction between the local community and government (or ESC) was deferred to the implementation stage, which again shows that the government's intention was not genuine consultation.

Handpicking participants in meetings/negotiations: The South Omo Zone Council, which has the highest political power on issues related to self-determination,²⁷ did not take part in the actual project appraisal and planning.²⁸ Neither did the Zone Council properly deliberate on the activities and implications of the development scheme during

25 Interview with key official involved in these interventions, Hana Town, August 2018

26 Ibid

27 Article 81(2) of the Revised Constitution, 2001, of the SNNPR states that the Zone Council "shall exercise the highest political power", "without prejudice to the powers and functions of the House of Peoples' Representatives, House of Federation, and the State Council".

28 Interview with speaker of South Omo Zone Council, February 2013.

implementation. The local elites (mainly young men officials with some schooling, serving in *woreda* and zone governments) were thus only instrumentalized to convince their ethnic fellows.

Failure to implement lessons learned in the past: The EPRDF government is well aware that a genuine consultation (*mekeker*) is a two-way communication process, and that *mekeker* should not be rushed (Bereket 2011:127–129). Following the 2005 elections that resulted with the opposition getting more votes, the EPRDF decided “to stop the cascading of... developmental ambitions from the top and imposing plans on the farmer, and start working only through consultation (*memekaker*) with the farmer; for this reason, it was decided to give ample time for consultation (*memekaker*)” (Bereket 2011:129). Although not certain, if this was followed in the highlands, the experience in Salamago tells that no lesson was drawn from the assessment in South Omo.

The above discussion shows that the government did not meet good governance requirements of consulting the Bodi during the design and implementation of the development projects. The interactions were on sugar estates and sedenterization, ignoring impacts associated with the Gibe III dam. The lack of consultation fed into the ensuing tension and resistance, as will be shown below.

Security Campaigns and Escalation of Conflict

At the turn of the second decade of this century, there was a concerted government effort to deploy all forces (including military) to ensure that the KSDP plans are met in Salamago as well as in other parts of the country. The Bodi experienced this while simultaneously facing a southward push from Konso settlers from the mid-altitude areas the government settled them on. Moreover, car accident related killings and retaliatory attacks have become common. Thus, the Bodi felt they were threatened existentially, and thus found it necessary to do all they could to defend their territory and collective identity. Among others, this resistance was a consequence of the lack of consultative process, the scale of the interventions and their pace.²⁹

29 Various interviews with Bodi men and women, January and February 2013, July 2016 and August 2018.

The government resorted to the use of ‘security campaigns’ to break this resistance.³⁰ These campaigns involved the deployment of regional special police force, and at times federal forces, to imprison men suspected of ambushes. In these conflicts, many Bodi men were killed by security forces as well. Over the years, these actions and the permanent stationing of security forces created a strong sense of fear among the Bodi community. In effect, the ‘development projects’, employees of the sugar estate and town residents, in addition to the machinery and sites of development, were protected from the Bodi. A curfew is enforced in Hana town at 10:00PM, forcing all hotels and restaurants/bars to put their generators down and close. The tense atmosphere in Hana town on market day, Saturday afternoons,³¹ is also case in point (Fana 2020).

The first security campaign preceded major sugar development works in 2011. Security campaigns were repeated afterwards almost on a yearly basis. Such campaigns involved the deployment of larger teams of police force, including the regional special police, to the *woreda*, with an aim of capturing suspected criminals, often translated into men who resisted the development interventions. Eventually, by mid-2018, more than 300 Bodi men were imprisoned in Jinka, often with little due process. This is a significant number for a small population such as the Bodi. At the time of imprisonment, the Bodi numbered less than 10,000 individuals, of whom roughly 5,000 would be male. Of these, children and those above the fighting age were at least 60 percent. Thus, the 300 imprisoned men make up to 15 percent of the about 2,000 economically active Bodi men, which had severe socio-economic impacts as shown below. As Carpenter (2006) explains, the sex-selective targeting of men in conflict situations is explained by many factors, the more appropriate for our case being the assumption of men being more violent than women. The latest round of campaign in September 2019 was intended to disarm the Bodi, but left about 40 killed, 50 to 60 people disappeared (mainly men, but including children too) and properties destroyed.³²

30 Interview with former expert and official of the Zone’s Security and Administration Bureau, Jinka, August 2018. The campaigns took place almost annually, with the first preceding the ESC activities.

31 Saturday is a market day in Hana town where many Bodi sell animals. The view is that many will drink alcoholic beverages with the money and cause problems.

32 [https://www.canr.msu.edu/oturn/Memo_\(4.0\)_on_violence_in_South____Omo_areas_SNNPRS_Ethiopia_\(26_October_2019\).pdf](https://www.canr.msu.edu/oturn/Memo_(4.0)_on_violence_in_South____Omo_areas_SNNPRS_Ethiopia_(26_October_2019).pdf)

The imprisonments and killings constituted a major human rights violation. All of the imprisoned were found guilty despite the fact that they did not have a fair legal process. Most of the men did not have a good grasp of Amharic language and no translators were provided by the courts. There was also no proper legal support provided to the Bodi men; the courts simply sentenced the men by rubberstamping what the zonal government wanted.³³

Impoverishment of the Local Community

After nearly a decade of interventions, and despite the government's claims of improving the lives of the local community, among others through sedenterization, job creation and creation of an effective demand for meat nearby (i.e. the livestock the Bodi rear), there is very little delivered positive change. The likelihood of meeting the most basic need, food, deteriorated over the course of this decade. As mentioned above, the annual diet of the Bodi used to come in comparable shares from three sources, i.e., flood retreat agriculture in areas adjoining the Omo River, rain-fed agriculture in the mid-altitude areas, and livestock products. The filling and operation of the Gibe III dam as of 2015 meant that communities in the lower Omo Valley, including the Bodi, will no longer be benefiting from the moisture and alluvial soil brought by the floods. Moreover, with the expansion of agricultural activities of the Konso and associated conflicts, rain-fed farming became more and more difficult. Coming to close proximity with the Konso invited conflict, and the government allegedly always sided with the Konso (Buffavand 2017:271). The imprisonments mentioned above resulted in a reduction of men's labour in the local economy too. Although women do most of the agronomic practices, it is men who do the laborious land clearing tasks on which productivity hugely depends. In effect, this second leg of their economy has been devastated by the combined impact of fear of conflict with the Konso and imprisonment of men.³⁴

This means that the Bodi have to excessively and increasingly rely on livestock to make ends meet, even in the face of livestock disease and lack of treatment having its own toll (Fana 2020). Thus, the Bodi are converting livestock into grain. Moreover, there is the additional

33 Interview with former expert of the *woreda* administration, Hana town, August 2018; interview with former expert of the Zone Security and Administration Bureau, Jinka, August 2018.

34 FGD with Bodi men and FGD with Bodi women, Hana town, August 2018.

expense of visiting imprisoned men in Jinka, which is also met by selling livestock. The number of animals owned is on the decline in the Bodi community.³⁵ As such, the Bodi experienced 'development' as deterioration of their herd holding, socio-economic standing and self-perception. Development in effect became the reverse of what it claims to be: it impoverished them (Fana 2020).

Conclusion

The deployment of the Ethiopian Developmental State project in South Omo lowlands, in the form of sugar industrialization (enabled by the regulation of Omo River's flow by the Gibe III hydro-electric dam) and villagization schemes, negatively impacted the life of agro-pastoral minority groups. The experience of the Bodi shows that an exclusive focus on the human rights, i.e. legal and governance centered analysis, will only tell part of the story. Thus, a human dignity perspective, which takes two additional dimensions, human development (socio-economic) and human security (peace and stability), was adopted for this study.

The lack of consultation, rather the aggressive push to convince the Bodi, was among the major hindrances to ensure the rights of the Bodi with respect to their traditional territory. This did not follow good governance practices, in addition to not meeting the constitutional and legal rights of the Bodi. The limitations in this dimension contributed to further entrenching the dominant view that the Bodi are traditional communities averse to modernization and development. Taking the Bodi as enemies of the state's developmental vision, the government commenced activities in the hitherto isolated area through a security and pacification campaign. This campaign was meant to subdue Bodi's resistance to land alienations and grievances against car accidents (usually fatal), and led to imprisonment of hundreds of men. This did not bring peace and stability, rather fueled further tension and conflict between the Bodi on one side and the government, sugar development activities, town residents and the Konso settlers on the other. Moreover, many interacting factors, i.e. the alienation of land by sugar estates and the Konso settlers, inability to practice flood-retreat agriculture following the filling of the Gibe III dam in 2015, withdrawal of men's labour due to imprisonments, and fear of entering into conflict with the Konso if they practice rain-fed farming, negatively affected the

35 FGD with Bodi men and FGD with Bodi women, Hana town, August 2018; see also Fana (2020).

livelihood and food security of the Bodi. This forced the Bodi to extremely rely on livestock, mainly by selling animals to buy grains, resulting in socio-economic impoverishment over some years.

The interacting three dimensions of human dignity show a deteriorating state of affairs espoused by development interventions. Development and developmentalism was implemented at the expense of Bodi's human dignity. This is not inevitable. Proper planning, consultation and assistance to help the community practice irrigated farming could have helped reverse this situation. The design of development projects, which center on resource extraction in the peripheries should have the interests of minority groups at the center, not as something to be worried about during implementation.

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The Issue of Indigenouness in Ethiopia: A Jurisprudential Dearth

Tefera Degu Addis*

Abstract

Despite the significant legal developments and support under international and regional instruments, the issue of indigenous people in Ethiopia has been ignored within the current national policy frameworks. While Ethiopia's current federal political order seems to recognize group rights, there is little or no direct reference as far as indigenous people are concerned. The country is not a party to the ILO Convention 169 and was absent during the adoption of the UN Declaration on the Rights of Indigenous People. Dealing with indigenous people remains contentious in the political discourse and there is little academic exposition on the subject matter. Nor do judicial doctrines elucidate the issue taking into account Ethiopia's reality and its commitments. The Ethiopian government on different occasions claims that granting distinct status as indigenous people would be inconsistent with the principle of 'equal protection' of nations, nationalities and peoples on which the Constitution is founded. In a similar vein, it also argues that all ethnic groups are indigenous since the defining elements are similar with the definition adopted for nations, nationalities and peoples under the FDRE (Federal Democratic Republic of Ethiopia) Constitution. This chapter establishes that these claims are largely due to a misreading of the Constitution. It further argues clear legal recognition is not always necessary for communities/groups to be considered as indigenous and exercise the legal rights out of such a status. For this purpose, the article assessed relevant laws and some practical self-identification claims.

Keywords: *indigenous people, legal recognition, peoples' right, Ethiopia*

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Introduction

Recognition and support of the rights of indigenous people has become an essential component of international human rights law and policy in the last three decades. Significant legal developments have been observed in the adoption of the UN Declaration on the Rights of Indigenous people³⁶ and the ILO Convention concerning Indigenous and Tribal Peoples.³⁷ At the African level, however, little or no legal instruments have been dedicated to indigenous people. The region's first ever comprehensive human rights instrument, the African Charter on Human and Peoples' Rights, does not specifically recognize and employ the term 'indigenous people'. Only one African country has ratified the ILO convention so far,³⁸ and many either abstained or voted against during the adoption of UN Declaration on the Rights of Indigenous people.³⁹ African states, generally, tend to ignore the indigeneity of peoples and the accompanying rights in their national legal order mainly for the sake of development projects.⁴⁰

Similarly, the Ethiopian legal system hardly recognizes indigenous people. The issue, generally, has been ignored in the past and present national policy frameworks of the country. The question, however, remains whether statutory recognition is necessary for groups to be considered as indigenous and exercise the legal rights arising out of such status. The international experience indicates a move from a positivist approach to constructivism or a realist trend.⁴¹ Experts in the field are of the opinion that it is not always mandatory to have a clear legal recognition as long as the communities in question fulfil the

36 UN General Assembly, *United Nations Declaration on the Rights of Indigenous people*, resolution/adopted by the General Assembly, 2 October 2007, A/RES/61/295.

37 International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention*, C169, 27 June 1989 and C107, 26 June 1957. According to the ILO, C169 has replaced C107 of 1957, which had an inherent assimilationist orientation that was typical of its time. C107 is now closed for ratification and countries are encouraged to ratify the newer convention. The ILO is, however, under continues supervision of C107 for countries who have ratified it but not yet C169 of 1989.

38 The Central African Republic (CAR) has ratified the convention on 30th of November 2010.

39 Viljoen (2012:228-238)

40 Salomon and Arjun (2003:18)

41 Anaya (2005)

defining notions in understanding the indigeneity of peoples.⁴² And, the approach that should be adopted, or have been adopted, in the Ethiopian context is still dubious.

Despite the absence of specific legal documents in Ethiopia, the African Commission Working Group on the Rights of Indigenous people has identified some pastoralist communities in Ethiopia as 'indigenous people'.⁴³ The identification process of these indigenous groups, however, has been challenged as ill-informed and unsystematic.⁴⁴ In addition, statutory laws in Ethiopia such as the wildlife development, conservation and utilization proclamation explicitly make reference to indigenous people.⁴⁵ In financing different 'development induced' projects, the World Bank has also triggered the application of its operational policy on indigenous people (OP.4.10) in the pastoral lowlands of Ethiopia.⁴⁶ After conducting a field-based research, the World Bank identified thirty-four groups as 'indigenous people' within the meaning of paragraph four of the operational policy.⁴⁷ The Ethiopian government, on the other hand, was concerned on the application of OP.4.10; singling out ethnic groups for distinct treatment, the government argued, would be inconsistent with the principles of the Ethiopian Constitution, in particular with the definition of 'nation, nationality or people' under Article 39(5).⁴⁸ The government further contends that the concept of 'nation, nationality or people' is described in similar terms to those of the World Bank's policy on indigenous people and thus based on the country's Constitution "all people in

42 See Kingsbury (1998)

43 African Commission Working Group on Indigenous Populations/Communities Report Summary, 'Indigenous people in Africa: The forgotten peoples?', Banjul, Gambia 2006. According to the working group, the Somalis, Afars, Borena, Kereyu (Oromo) and Nuer have been identified as indigenous people in Ethiopia. It is important to take note that all the identified lists here are predominantly pastoralists who live the lowlands of Ethiopia.

44 See Bojosi and George (2006)

45 Development, Conservation and Utilization of Wildlife Proclamation, Proc. No. 541/2007, *federal Negarit Gazette*, Art. 2(10). This law in defining 'wildlife reserve' makes clear reference to "indigenous local communities".

46 The World Bank Inspection Panel, 'Ethiopia: Promoting Basic Services Phase III project Investigation Report,' November 2014, Para 189-208.

47 Ibid

48 The World Bank, 'Management Response to Request for Inspection Panel Review of the Ethiopia Protection of Basic Services Program Phase II Additional Financing (P121727) and Promoting Basic Services Phase III Project (P128891)', November 2012, Para 46.

Ethiopia are indigenous according to the policy” and have equal protection.⁴⁹

Dealing with the question of indigenouness has not been an easy task in Ethiopia. The issue remains contentious in the political discourse and in the academia; only few studies have attempted to embrace the issue from Ethiopia’s socio-economic and political context.⁵⁰ Other existing scholarships in the area are limited mainly in dealing with the nexus between development projects and indigenous people in the country without addressing the legal source.⁵¹ This contribution is thus meant to identify the scholarly gaps and discuss possible implications by critically examining the question of indigenous people in Ethiopia in light of international and regional human right jurisprudence. The article does not intend to make classification or characterization of different communities in Ethiopia as indigenous or otherwise. It is rather a legal analysis of indigeneity within the possible legal and policy implications in the country. To this end, relevant laws and practical self-identification claims were assessed.

The article is structured as follows. This introduction section is followed by a brief discussion on the general understanding of the indigenouness phenomenon. It also analyzes the defining notions of indigenous people in different human right systems. The third section assesses indigenous people and the approach that has been adopted by Ethiopia. The fourth section is devoted to examining the common justification forwarded by the Ethiopian government towards indigenous status while the fifth part examines the application of international human right instruments in dealing with indigenous issue in Ethiopia followed by a section on concluding remarks.

Understanding the Indigenouness Phenomenon: A Descriptive Overview

Justifications: What is in the Name?

Evidences depicts that ‘indigenous’ people make up nearly 5 percent of the world’s total population.⁵² These category of peoples generally

49 Ibid

50 Tilahun (2019); Seyoum (2017); Meron and Dereje (2015)

51 See Tsegaye (2017); Cambou (2015); Bahar (2010); Adem (2009)

52 Judith et. al. (2007:288); see also Amnesty International, ‘Indigenous people,’ available at <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>

comprises of more than 5,000 different indigenous groups from ninety countries in the world.⁵³ The characterization of these people as 'indigenous' is not without justification and consequences.⁵⁴ International human rights law grants special rights to 'indigenous' people, although largely in relation to self-determination over land and other natural resources; they have the right, among others, to maintain access and ties to, and control over, their traditional and ancestral land.⁵⁵ States are duty bound to consult and cooperate in good faith with indigenous people in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources.⁵⁶ This obligation of states has now arguably become customary international law.⁵⁷

Human rights law confers special protection on indigenous people, mainly for two reasons. The first reason is that indigenous people are often historically marginalized and vulnerable and that they need a different treatment from the rest of the population.⁵⁸ Although indigenous people across the globe have different customs and traditions, they face relatively similar reality such as eviction from ancestral land and cultural extinction. The second reason is from the viewpoint of the majority non-indigenous society and the environment. Although indigenous people comprise only 5 percent of the world's population, they safeguard 80 percent of the planet's biodiversity by preserving indigenous knowledge.⁵⁹ Evidence shows that more than 20 percent of the carbon stored above the ground in the world's forests is found in the land managed by indigenous people in the Amazon

53 Ibid

54 Barten (2015)

55 UN Declaration *supra* note 1, Articles 3, 4, 25-28 and ILO convention *supra* note 2, Article 13-16. Although the two important human right instruments, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, do not explicitly confer similar rights to indigenous people, there have been interpretations by the UN human rights Committee and by the Committee on Economic, Social and Cultural Rights in different cases (see section 4 below). Also, Similar interpretation of the African Charter on Human and Peoples Right has been made by the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights (see section 2.2.2 below).

56 UN Declaration, *supra* note 1, Article 32(2)

57 James (2015)

58 Gilbert (2011); Anaya (2004); Behara (1998); Arsanjani (1996)

59 Amnesty International, *supra* note 17.

Basin, Mesoamerica, Indonesia and Democratic Republic of Congo.⁶⁰ Their local knowledge of the natural world, particularly sustainable land use system, could help fight climate change and build resilience against natural disasters.⁶¹ The Convention on Biological Diversity (CBD) also recognizes the dependency of indigenous communities on nature and their unique role in conserving biodiversity.⁶² In addition, the 1992 Rio Declaration on Environment and Development recognizes the vital role of indigenous people in environmental management and development because of their knowledge and traditional practices.⁶³

Defining 'Indigenous'

One of the big sticking point in dealing with indigenous people is definition. Recognition and identification of indigenous groups is highly contested⁶⁴ and politicized.⁶⁵ Different approaches and trends have been employed by human rights systems, scholars as well as organs having adjudicatory power. This sub-section, therefore, explores the defining notions adopted under international and regional human rights systems.

The UN Human Rights System

Despite the considerable support and recognition, the UN human rights system and its machineries have not provided a conclusive definition to indigenous people.⁶⁶ Attempts to define indigenous people remain non-binding, although they are still persuasive playing an important role for the jurisprudential developments in the area. One of these attempts was by the former special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Jose

60 Ibid

61 See UNESCO (2018)

62 The Convention on Biological Diversity (CBD), Rio de Janeiro, 1992, Article 8(j).

63 Rio Declaration on Environment and Development, Rio de Janeiro, 1992, Para. 22

64 Meron and Dereje (2015: 117)

65 See Felix (2011)

66 Permanent Forum on Indigenous people, "Background paper on the concept of indigenous people," May 2004; See also, UN office of the High Commissioner for Human Rights (OHCHR), Fact sheet No.9, Rev. 2, Indigenous people and the United Nations Human Rights System, August 2013.

Martinez Cobo, which reads as follows:

*Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies consider themselves distinct from other sectors of the societies now prevailing in those territories or part of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.*⁶⁷

In the above definition, Martinez points out four factors that would differentiate indigenous people from other segments of the society. These are (1) shared history with ancestral territories, (2) ownership, or at least occupation, of ancestral land, (3) common cultural manifestations such as language, religion, social institutions and customary laws, and (4) being a non-dominant group of a society and commitment to preserve their identity throughout generations.

Martinez's understanding of the concept has influenced the subsequent developments regarding the rights of indigenous people. The ILO Convention, for example, states the rights in the convention are applicable to:

*peoples...who are regarded as indigenous on account of their descent from their populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.*⁶⁸

This is not a definition per se, rather determines the scope of application of the convention. The convention further provides that 'self-identification as indigenous' is a fundamental criterion to determine

67 UNCHR (Sub-Commission), 'Report of the Special Rapporteur on the Problem of Discrimination against Indigenous Populations' (1986) UN Doc E/CN.4/Sub.2/1986/7/Add. 1-4.

68 ILO Convention, supra note 2, Article 1(b).

the groups to which the provisions of the convention apply.⁶⁹ A further survey on international legal instruments, both hard and soft, shows recognition of the rights of indigenous people, however, without definition.⁷⁰

Considering the absence of a governing definition within the UN human rights machineries, the Permanent Forum for Indigenous People stressed on defining indigenusness at international level taking into account strong link to territories and surrounding natural resources, distinguished socio-economic and political system, and distinct belief and culture.⁷¹

The Regional Experiences

The African Charter on Human and Peoples' Rights (the African Charter), the African Commission and the African Court on Human and Peoples' Rights have been key institutional and legal frameworks in Africa when it comes to interpretation of human rights in general and the rights of indigenous people in particular. Though the African Charter has no specific reference to indigenous people, Dersso argued the charter's "embodiment of group or peoples' right could be taken as addressing" the rights of indigenous people.⁷² Further, it was also claimed that the African Charter jurisprudence on "peoples" right has undoubtedly paved the way for the protection of indigenous people.⁷³ The International Work Group for Indigenous Affairs further noted that all Africans are indigenous to the continent and that no particular group would claim indigenous status, providing justification for the

69 Ibid, Article 1(c).

70 See, among other, UN Declaration, supra note 1; UNDP, Draft guideline for support of indigenous people, 1995; Vienna Declaration and Program of Action, adopted by world conference on Human Rights, 1993, Part II; UN General Assembly, "Transforming our world: the 2030 Agenda for Sustainable Development", 21 October 2015, A/RES/70/1. Specifically goal 2.3 and 4.5 of the 2030 Sustainable Development Agenda talks about equal access to land and elimination of gender disparities in education in indigenous communities.

71 UN Permanent Forum for Indigenous people, supra note 33.

72 Solomon (2006)

73 Bojosi and George (2006:383)

non-inclusion of the term 'indigenous people' in the African Charter.⁷⁴ The African Commission, in its advisory opinion regarding the adoption of the UN Declaration on the Rights of Indigenous people, recognized the existence of indigenous people in Africa.⁷⁵ It also noted the following guiding characteristics to identify African indigenous communities.

- a. Self-identification;
- b. A special attachment to and use of their traditional land whereby their ancestral land and territory have a fundamental importance for their collective physical and cultural survival as peoples; and
- c. A state of subjugation, marginalization, dispossession, exclusion, or discrimination because of difference in culture, ways of life or mode of production with the national hegemonic and dominant model.⁷⁶

In this, the African commission added to the criteria subordination, subjugation, marginalization, exclusion or discrimination by the dominant group because of socio-economic or cultural differences. The commission noted that indigenous groups have been marginalized by mainstream development policies due to past and ongoing processes, and thus need recognition and protection of their basic human rights and fundamental freedoms.⁷⁷

Arguably, the commission also stressed that "in Africa, the term indigenous populations does not mean "first inhabitants" in reference to aboriginality as opposed to non-African communities or those having come from elsewhere".⁷⁸ This puts any native communities in Africa as legitimately indigene to the continent.⁷⁹ This position of the commission, however, inherently departs from the understanding of

74 IWGIA Indigenous world (2001-2002:453)

75 See African Commission on Human and Peoples' Right Advisory opinion on the rights of Indigenous people (2007)

76 Ibid, P. 4.

77 Ibid

78 Ibid

79 Ibid

indigenous people at international level, particularly from Martinez's approach of historical continuity with pre-invasion and pre-colonial societies. These interpretations and jurisprudential developments in the continent have been substantiated and applied later in the *Endorois*⁸⁰ and *Ogiek*⁸¹ cases by the Commission and the African Court, respectively.

The question of indigenous status is less contested in the inter-American human rights system. Though the Inter-American Convention on Human Rights does not employ the word 'indigenous people' in its provisions, the Inter-American Court on Human Rights highlighted the criterion of 'self-identification' as a positive advancement in the 2001 Bolivian population census.⁸² The court noted that collective self-identification of indigenous communities is a "socio-historical fact that forms part of their autonomy".⁸³ It has also confirmed this position in another case stating that the right to identify once own name, composition and ethnic affiliation, without having the state or other external entities contestation.⁸⁴ This demonstrates that state or any other entity recognition is not a must for a group to identify itself as indigenous and to claim the rights out of such a status.

In conclusion, there is no clear and universal definition given for indigenous people. The defining elements vary between human right systems. Nowadays, the absence of a governing definition has even been taken as an opportunity. Given the

80 See Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, 276/2003, African Commission on Human and Peoples Right, 4 February 2010,

81 The African Commission on Human and Peoples' Right V. Kenya, 006/2012, African Court on Human and Peoples' Right, 26 May 2017.

82 IACHR, Access to Justice and Social Inclusion: The Road towards Strengthening Democracy in Bolivia. Doc. OEA/Ser.L/V/II, Doc. 34, June 28, 2007, Para. 216.

83 Ibid, Para. 217.

84 IACHR, Case of the Xákmok Kásek Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of August 24, 2010. Series C No. 214, Para. 37; See also, Mayagna (Sumo) Awas Tingni Community v. Nicaragua case, Judgment of August 31, 2001, Inter-Am. Ct. H.R., (Ser. C) No. 79 (2001).

diversity of the indigenous people across the world, a strict and closed definition will risk being over or under inclusive.⁸⁵

The Ethiopian Experience: A Resistance Approach

Although Ethiopia's current federal political order recognizes group rights, there is little or no reference to indigenous people. The 1991 ethnic federal arrangement taken the Marxist-Leninist legacy of 'nations, nationalities and peoples' to accommodate the issue of indigenous people.⁸⁶ The 'nations, nationalities and peoples' narrative, as a central discourse in crafting the Ethiopian polity after 1991, has tried to incorporate ethno-cultural justice in the federation, including the right to self-determination. The right to self-determination has been considered as a backbone of indigenous people under human rights law. For indigenous people, the right, among others, can be manifested in the context of utilization of land and natural resources, customary laws and indigenous political institutions.

Self-determination is the foundation for the 1995 FDRE Constitution, as clearly shown in the preamble, which provides that:

*we, the Nations, Nationalities and Peoples of Ethiopia:
Strongly committed, in full and free exercise of our right
to self-determination, to building a political community
founded on the rule of law and capable of ensuring a lasting
peace, guaranteeing a democratic order, and advancing our*

85 Inter-American Commission on Human Rights, "Indigenous and tribal peoples' rights over their ancestral lands and natural resources: Norms and jurisprudence of the Inter-American human rights system" (OEA/Ser.L/V/II., Doc. 56/09). The African Commission (*Supra* note 42) has also noted that "...definition is not necessary or useful as there is no universally agreed definition of the term and no single definition can capture the characteristics of indigenous populations. Rather, it is much more relevant and constructive to try to bring out the main characteristics allowing the identification of the indigenous populations and communities in Africa." Even non-governmental organizations working on the rights of indigenous people have a common position and rejected the proposal of formal definition forwarded by states. This had been manifested during the many years of debate at the working group on indigenous populations. For example, on 27 July 1996 Indigenous people Preparatory meeting at the World Council of Churches, representatives of indigenous people categorically rejected attempts made by governments to define indigenous people. They, however, endorsed Martinez's approach of understanding indigenouness.

86 It is not clear on whether this issue was considered at the time of writing the constitution. It appears that the argument comes as a defensive position towards recent claims from right groups. See also, Ethiopia: Promoting Basic Services Phase III project Investigation Report, *supra* note 11, Para. 190.

*economic and social development.*⁸⁷

Furthermore, the Constitution introduced a fundamental arrangement towards the right to internal and external self-determination of Ethiopian sub-national groups or 'nations, nationalities and peoples'.⁸⁸ Internal self-determination of nations, nationalities and peoples is manifested through expressing, developing, promoting and preserving one's own culture and history.⁸⁹ Full measure of self-governance, which includes the right to establish institutions of government in the territory that nations, nationalities and peoples inhabit could also be within the scope of internal self-determination.⁹⁰ The Constitution, however, does not clearly refer to self-determination over the utilization of land and other natural resources in local communities.⁹¹ Under Article 40(3) of the FDRE Constitution, land and other natural resources are owned by the people and the Ethiopian government. Yet, control of groups over land and other natural resources is the core of human rights law. For indigenous people, the exercise of the right, among other, could be manifested through the principle of free, prior and informed consent. In fact, both Article 43(2) and 92(3) of the Constitution provides the right to participate in national development programs; the right to be consulted with respect to policies and projects affecting their community and environment in particular. Neither the Constitution, nor other subordinate statutory laws of Ethiopia clearly use the language of 'free, prior and informed consent'. However, 'consultation in good faith' is different from the principle of free, prior and informed consent. While the first is essentially procedural, the latter is predominantly a substantive right.

Interestingly, the Constitution has also recognized the need to provide special assistance in economic and social development to 'least advantaged' nations, nationalities and peoples.⁹² These could be taken as one way of addressing the historical marginalization and exclusions

87 The Federal Democratic Republic of Ethiopian Constitution, Proclamation No 1/1995, preamble para.1 and 2.

88 Ibid, Article 39(1)

89 Ibid, Article 39(2)

90 Ibid, Article 39(3)

91 Fasil (2013)

92 Ibid, Article 89(4)

of indigenous people. The Constitution, however, does not make a clear characterization as to which group of communities would fall under the scope of Article 89(4). The reference to least advantaged people under the Constitution is associated with developing some regional states (currently Gambella, Benshangul-Gumuz, Afar and Somali), Ethiopian pastoralists and national minorities. The 'developing regional states' narrative, however, has no constitutional base. All regional states of the federation have equal rights and power.⁹³ In addition, applying the Constitutional phrase 'least advantaged' to regional states seems unclear with the different ethnic groups that comprise of these regions.

Ethiopian pastoralists and agro-pastoralists are also within the conventional understanding of the 'least advantaged' people. However, the Constitution does not offer differential treatment between pastoralists and agriculturalists; both have the right to obtain land and protection against dispossession pursuant to Article 40(4) and 40(5) of the Constitution. In practice, however, the government has recognized pastoralists as one of the most marginalized communities in need of special assistance.⁹⁴ Most pastoralists in Ethiopia live in the lowland peripheries of the country and are characterized by 'nomadic' way of life.⁹⁵ To them, the question of land, territories and natural resources is inextricably intertwined to their life and to exercise other fundamental collective rights. They have less political representation, as manifested in the formation of the EPRDF, the former ruling party coalition. Ruling parties from pastoralist and agro-pastoralist regions were not part of the EPRDF coalition, relegated with a status of 'partner parties'. The argument from EPRDF was that these largely pastoralist regions lacked the agrarian class structure that "revolutionary democracy" demands.

Ethiopia writers in the academia such as Mohammud Abdulahi have also argued that "pastoral groups in Ethiopia are indigenous people".⁹⁶ He explicitly pointed out that:

being groups whose cultures are mainly based on communality and who have suffered marginalization by the State throughout the history of the country, pastoralists in

93 Ibid, Article 47(4)

94 Meron and Dereje (2015:130)

95 Fratkin (2014)

96 Abdulahi (2007)

*Ethiopia fulfil the definition of the term indigenous people provided in various international conventions such as ILO Convention 169.*⁹⁷

What is incorrectly positioned in this argument, however, is the issue of definition under international instruments including the ILO Convention 169. As we have previously seen, most instruments only provide scope of application and some defining characteristics for indigenous people without adopting a definition. In this regard, the African Commission Working Group on the rights of indigenous people in Africa has identified some pastoral people, specifically the Afars, Somalis, Keryus, and Borenas, as indigenous people in Ethiopia.⁹⁸ The process of identification, however, was challenged as ill-informed and unsystematic as it “does not claim to have done an empirical data sourcing and analysis”.⁹⁹

Different nongovernmental organizations often assume that pastoralist and sometimes agro-pastoralist communities in Ethiopia have indigenous status.¹⁰⁰ Some group of communities in Ethiopia have also identified themselves as indigenous on different occasions. For example, the Anuak of the Gambella region, largely agro-pastoralist, explicitly identified themselves as indigenous when they submitted a claim to the World Bank Inspection Panel regarding the impact of the Bank’s funded projects in their ancestral land in 2012.¹⁰¹ They argued that the Anuak fulfil the definition of indigenous people and possesses characteristics described under paragraph four of the Bank’s

97 Ibid

98 African Commission Working Group on Indigenous Population, *supra* note 8.

99 See Bojosi and George (2006:9)

100 The Human Rights Watch in many of its report regarding Ethiopia’s villagization program in the Gambella region and other lowland peripheries of the country employed the term “indigenous people”. It is well-known work entitled “Waiting here for death: displacement and villagization in Ethiopia’s Gambella Region” that is worth mentioning among others. The Oakland institute has also published several reports regarding villagization, development cooperation/aid and pastoralists in Ethiopian lowlands with particular emphasis to South Omo, Afar, Gambella and Benshangul-Gumuz. The same hold to other nongovernmental organization such as Amnesty international and Cultural Survival. Particularly Cultural Survival is an organization who have been advocating about the people of Gambella region of Ethiopia since 1980’s.

101 The World Bank Inspection Panel, ‘Request for Inspection,’ Para 51.

operational policy on indigenous people.¹⁰² The Anuak claimed the World Bank failed to conduct a thorough analysis in the presence and attachment of the indigenous people to the Bank's project area.¹⁰³

The World Bank inspection panel then accepted the claim and analyzed it in light with its policy (the OP 4.10). For the World Bank, indigenous people refer to "a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees":

- (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- (c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- (d) an indigenous language, often different from the official language of the country or region.¹⁰⁴

Based on this, the inspection panel agreed that the Anuak people meet the criteria and can be considered indigenous under the Bank's policy.¹⁰⁵ The panel ruled that there was non-compliance with OP 4.10 noting that livelihoods, well-being and access to basic services, which are closely tied to the Anuak's access to land and natural resources, was not taken into account in the design and implementation of Promoting Basic Services Project (PBS III).¹⁰⁶ The World Bank further commissioned a field-based study to screen out the relevance and appropriateness of applying OP 4.10 in the Ethiopian context;¹⁰⁷ a study focusing on sixty-four nations, nationalities and peoples in

102 Ibid

103 Ibid

104 The World Bank, "Operational Policy (OP4.10) on Indigenous people," adopted on July 2005 and revised April 2013, Para. 4

105 Ethiopia: Promoting Basic Services Phase III project Investigation Report, *supra* note 11, Para. 208

106 Ibid

107 Ibid, Para. 194

five regional states (Afar, Oromia, Somali, SNNPR and Gambella). The study revealed that, out of the selected communities, thirty-four groups meet all screening criteria of OP 4.10. The details of the study, including the list of groups, however, was not disclosed to the public.

The World Bank has now updated its operational policy on indigenous people as part of its new environmental and social framework and has employed the term “Sub-Saharan African Historically Underserved Traditional Local Communities”.¹⁰⁸ In defining these people, the Bank employed a broader definition than paragraph four of OP 4.10,¹⁰⁹ which will help accommodate the interest of sub national groups whose indigenousness is under contestation such as the Anuak of the Gambella.

Despite these developments and consciousness regarding indigenous people, the Ethiopian government is usually reluctant in accommodating the interest of such groups in its national frameworks. Neither the Constitution nor subordinate laws refer to indigenous people. The only reference is in the development, utilization and conservation of wildlife proclamation.¹¹⁰ In this law, however, it was not clear whether the reference to indigenous people was intentional or incidental. There is even a discrepancy between the Amharic and English version of Article 2(10). The Amharic version says “*sefrew yeneberu sewoch*”, which is not equivalent to “indigenous local communities”, the interpretation used in the English version.

The Ethiopian legal system generally follows a resistance approach towards indigenous language. In a document prepared by the Communications Affairs Office in 2015, the government rejected the so-called ‘indigenous people’ claim.¹¹¹ The document was prepared as a response to different right groups such as the Human Rights Watch, Okland Institute, Amnesty International and Cultural Survival for their alleged claim that the government is violating the right of indigenous people through its villagization program in the lowlands of Ethiopia. The African Commission on Human and Peoples’ Right, in its concluding observation to Ethiopia’s 2015 periodic report, has also expressed its concern towards Ethiopia’s resistance to accept the

108 The World Bank (2017)

109 Ibid, Para. 7 and 8.

110 Proclamation No. 541/2007, supra note 10.

111 FDRE Government Communications Affairs Office (2015)

criteria of indigenous people set by the commission.¹¹² The commission further noted that Ethiopia's denial of indigenous status to certain ethnic groups would negatively impact their human rights.¹¹³ The Ethiopian government, however, provides different claims and narratives to its resistance.

The Equal Protection Narrative

One of the reasons behind resisting the recognition of indigenous people in Ethiopia is the government's claim of 'equal protection' of nations, nationalities and peoples of the federation. The government explicitly argues categorizing some ethnic groups for distinct treatment as indigenous people would be inconsistent with the principles of the FDRE Constitution.¹¹⁴ This narrative is unfounded, and even for some 'a misreading of the Constitution'.¹¹⁵

Article 89(4) of the Constitution has recognized the need to provide special assistance to least advantaged nations, nationalities and peoples in economic and social development. This presupposes the existence of socio-economic and political inequality among groups. It also recognized the presence of 'national minorities' and have tried to accommodate their representation at the two federal houses.¹¹⁶ The government is formulating policies and programs for what they call 'developing' or 'historically disadvantaged' regions. This, in one way or another, recognizes inequality between different groups from socio-economic and political perspective. Granting indigenous status does not mean conferring special protection of a group over others, rather it is a legitimate way to redress marginalization and vulnerability.

The equality narrative on the side of the government can be seen from two perspectives. First, recognition of indigenous status will be an

112 African Commission on Human and Peoples' Rights, "Concluding Observations and Recommendations on the 5th and 6th Periodic Report of the Federal Democratic Republic of Ethiopia," 56th Ordinary Session, May 2015, Banjul, The Gambia, Para. 41

113 Ibid

114 The World Bank Inspection Panel, 'Management Response to Request for Inspection Panel Review of the Ethiopia Protection of Basic Services Program Phase II Additional Financing (P121727) and Promoting Basic Services Phase III Project (P128891)', November 2012, Para. 65

115 Tilahun (2019:15)

116 FDRE Constitution (1995) Article 54(3) and Article 61

exception to the joint ownership land policy of the country as it would confer them to have better autonomy (as sons of the soil) over their lands and natural resources than other actors. This ultimately may have an implication in relation to state mediated development project

programs in and around indigenous people locality. Thus, the equality claim is presumably designed to pre-empt such implications. Secondly, there seems to be a fear that giving distinct treatment of few groups would escalate ethnic tensions in the country. Dealing with “local nativism” in countries like Ethiopia would create competition over claim to have arrived first and thereby triggers conflict over resources. In this regard, Jan Erk argued that the local nativism narrative would create ‘insider’ and ‘outsider’ among the country’s citizens and could exacerbate existing political divisions.¹¹⁷ A case in point is an inter-group conflict between the Anuak and Nuer of the Gambella region following the latter’s representation in government organization by virtue of being ‘vulnerable’ and ‘marginalized’ pastoralist group.¹¹⁸ The Anuak, however, deny the recognition of Nuer as pastoralist and thereby the support to hold government positions.

The Nations, Nationalities and Peoples’ Narrative

The Ethiopian government claims that all ethnic groups are indigenous since the defining elements of indigenous people in the different human rights systems is similar with the definition adopted for nations, nationalities and peoples under the FDRE Constitution.¹¹⁹ This would then imply that all Ethiopians are indigenous, an argument that most African governments use when indigenous issues are contested. The African Commission has once said that “any native communities in African can legitimately consider indigene to the continent” in its advisory opinion regarding the adoption of the UNDRIP.¹²⁰

The question here, however, is whether the definition of nations, nationalities and peoples under Article 39(5) coupled with the general spirit of the Constitution would accommodate the contestation over indigenous status. Article 39(5) provides that:

a nation, nationality and people is a group of people who have or share large measure of a common culture or

117 Erk (2017)

118 Meron and Dereje (2015:130)

119 The World Bank Inspection Panel, supra note 79, Para. 65

120 The African Commission, supra note, 40

similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.

It is true that most defining elements of nations, nationalities and peoples such as, common culture, language, belief in common related identities, psychological make up and inhabiting specific predominantly contiguous territory are similar to the criteria of indigenous people developed in different legal systems.¹²¹ However, other criteria such as special attachment to land, and being a non-dominant or 'marginalized' segment of the population within the state are still missing.¹²² Moreover, it is too general to conclude that every Ethiopian is indigenous given the countries past and present day socio-economic and political arrangement.

Resort to Human Rights Instruments for Ethiopia

Ethiopia is a state party to several human right instruments, which recognize indigenous people or incorporate provisions relevant to them. These instruments include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on Biological Diversity, the International Convention on the Elimination of All Forms of Racial Discrimination, and the African Charter on Human and Peoples' Rights. The FDRE Constitution provides that all international agreements ratified by Ethiopia are an integral part of the law of the land.¹²³ It also provides that fundamental freedoms and rights enshrined in the Constitution shall be interpreted in a manner conforming to the principles of the universal declaration, international covenants and instruments on human rights, adopted by Ethiopia.¹²⁴ The question that needs worth discussion is the extent under which these instruments addressed indigenous people and the accompanying rights.

121 Tilahun (2019:15)

122 Ibid

123 FDRE Constitution (1995) Article 9(4)

124 Ibid, Article 13(2)

The ICCPR, as a champion of individual rights, does not expressly deal with indigenous people's rights issues. This, however, does not mean it is an irrelevant legal tool to address indigenous people's issues.

It has been construed by the UN Human Rights Committee (HRC) in a way that it also confers protection to indigenous people particularly in the context of access and ties to traditional land.¹²⁵ The most important provision of the ICCPR is Article 27, which regulates the protection of ethnic, linguistic and religious minorities in a state. Although Article 27 was initially intended in the context of minorities, it has proved to generate jurisprudence on indigenous people's issues as well.¹²⁶ Similarly, the UN Committee on Economic, Social and Cultural Rights found violation of the right to self-determination of indigenous people under Article 1 of the ICESCR, particularly in relation to utilization of land.¹²⁷

The convention on biological diversity obliges state parties to respect the knowledge of indigenous people in the conservation of biological diversity, to encourage traditional cultural practices in the use of biological resources.¹²⁸ The convention also requires the 'approval' and involvement of indigenous people in utilizing their unique knowledge regarding conservation and sustainable use of biological diversity.¹²⁹ The approval requirement under the convention can be interpreted as free, prior and informed consent.¹³⁰ Ethiopia has also enacted a law to provide access to genetic resources and community knowledge and community rights based on the African model law and the biodiversity convention.¹³¹

125 See Concluding Observations: Sweden, UN Doc. CCPR/ CO/74/SWE (2002), Para. 15; Colombia, UN Doc. E/C.12/COL/CO/5, (2010), Para. 9

126 Evatt (1998:114)

127 CESCR, Concluding Observations: Brazil, UN Doc. E/C.12/BRA/CO/2 (2009), Para. 9; CESCR, Concluding Observations: Cambodia, UN Doc. E/C.12/KHM/CO/1 (2009), Para. 15-16

128 Convention on Biological Diversity, entered into force 29 December 1993, Article 8(j) and Article 10

129 Ibid, Article 8(j)

130 MacKay (2004:21)

131 Proclamation to Provide for Access to Genetic Resources and Community Knowledge and Community Right No. 482 /2006.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Ethiopia is a party, is also another important instrument towards indigenous people. The monitoring body of the convention, the CERD, in its general recommendation XXIII on the rights of indigenous people recognize sustainable economic and social development compatible with cultural characteristics of indigenous people.¹³² It also recommends state parties to ensure equal rights in respect to effective participation in public life and mandatory informed consent in making decisions directly relating to their rights and interests.¹³³ The committee has also emphasised on the need to recognize and protect the rights of indigenous people to own, develop, control and use their communally owned lands and traditionally owned resources.¹³⁴

In addition, as we discussed in the previous section, progressive interpretation of the African Charter has been made by the African Commission, African Court, and by the Working Group on Indigenous people in Africa for indigenous people and their rights.¹³⁵

Ethiopia as a state party is, therefore, duty bound to abide by the above human right treaties and the jurisprudential developments within the instruments, which are an integral part of the law of the land. Nevertheless, Ethiopia is not yet a party to the ILO Convention 169 on Indigenous and Tribal Peoples. The country was also reluctant during the adoption of the UN Declaration on the Rights of Indigenous people and was absent during the voting on 13th of September 2007. It would, however, be very unrealistic to argue that both the ILO convention and the declaration would not have a bearing on Ethiopia. Some of the principles in the convention such as, 'consultation in good faith' arguably are deemed part of the customary international law or general principles.¹³⁶ In addition, the declaration is not just simply a declaration, but an authoritative document with a significant status under international law. In this regard, the UN special rapporteur on indigenous people once noted that the declaration is "an authoritative

132 General Recommendation XXIII Concerning Indigenous people, adopted at the Committee's 1235th meeting (1997), UN Doc. CERD/C/51/Misc.13/Rev.4., Para. 4

133 Ibid

134 Ibid

135 See section 2.2.2 of this article for further discussions.

136 Phillips (2015)

common understanding, at the global level, of the minimum content of the rights of indigenous people, upon a foundation of various sources of international human rights law".¹³⁷

Concluding Remarks

Given the current ethnic federal arrangement and Ethiopia's nation building and re-building history, dealing with the question of indigenous status is problematic and sometimes far less than useful. The challenge is more visible particularly in the political and social sphere. This, however, does not mean the issue is unworthy of discussion from a legal point of view. There are laws, which refer to indigenous people within the Ethiopian legal system. There is also a growing interest from international organization such as the World Bank and the African Commission on Human and Peoples' Rights towards the recognition of indigenous people in Ethiopia. Ethiopia has entered into commitments by ratifying different international instruments, which recognize indigenous people or contains provisions relevant to them.

Despite all these facts, the Ethiopian government is resistant towards claim of indigenous people; the reason behind is the absence of constitutional recognition. Nevertheless, the international experience tells us that having legal recognition is not always a must for a group to be considered as indigenous. Rather we need to consider the common defining notions such as ties to ancestral land, distinctive socio-economic and cultural background, self-identification and group consciousness, marginalization or subordination, and non-dominance within a state. The challenge in the Ethiopian context is the dearth of academic and judicial exposition on the issue. It is hoped that this contribution would inspire further scholarly work on the issue of indigenouness in Ethiopia.

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Ethnicity, Women and Governance at Local Level: The Case of the Kebena Community in Ethiopian Federalism

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Abstract

The policy promoting multicultural accommodation in Ethiopian federalism made ethnicity the main criteria to get territorial autonomy either at regional or local level though several ethnic minorities, including the Kebena, have not yet achieved this right. To exercise the right to self-determination, elites of the Kebena ethno-cultural community wrote the customary law of the community, which has been preserved for long through oral traditions. The written customary law prioritizes collective ethno-cultural rights both in the public and personal spheres. This contravenes individual citizens' rights, which is vividly seen with regard to women's marital rights. The lived experiences of women in the community show that customary and religious institutions are the main actors in the regulation of marital rights. Since the introduction of ethnic federalism, the role of these institutions is recognized by the state. Both the customary and the state institutions at local level, without undermining the significance of constitutional recognition of women's rights, ignore its implementation considering it primarily as part of collective rights. The article concludes, without the provision of basic standard of living and commitment of the state at local level to protect women's individual human rights, it would be difficult for a woman within identity coffering community to exercise exit and claim marital rights.

Keywords: *ethnicity, Ethiopian federalism, local governance, transformation of customary law, women, marital rights*

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Introduction

The Kebenas are ethno-cultural community located in Guraghe zone of Southern Nations Nationalities and Peoples Region (SNNPR) of Ethiopia. A local government unit is created for the Kebena community at *woreda* (district) level in 2000 following the mobilization of the community demanding ethnic based self-government unit. However, elites of the community are further claiming the right to self-determination, which enables them to have ethno-territorial autonomy at *Liyu woreda* (special district) level based on the constitutional right granted to ethno-territorial communities (Beza 2016; Aalen 2011). In the Ethiopian federalism, ethno-territorial communities are constitutionally guaranteed the rights to self-determination, to establish ethnic based self-government unit either at regional or local level without any substantive pre-conditions.¹³⁸

Two strategies were followed by the political élites of the Kebena community to exercise this constitutionally guaranteed right; these are (1) claiming indigeneity and historic ownership over large territory, and (2) consolidating the identity and culture of the Kebena through transformation or writing down of the customary law. Here, transformation of customary law refers to the writing of orally found customary law with stated or implied objective of making it compatible with rights enshrined in the FDRE Constitution.¹³⁹ Taking this into account, in this article, the term transformation is used interchangeably with written customary law.

The stated objective of transformation of customary law of the Kebena community was to exercise the right to self-determination as it has been set in the FDRE (Federal Democratic Republic of Ethiopia) Constitution (Boobane Galtitaa 2007). In addition, transformation of the customary law has an implied objective of making it compatible with rights of women; the written customary law contains clear

138 See the FDRE Constitution Article 39, 46, 47; and the SNNPR Constitution Article 39 and 45.

139 The writing down of orally found customary laws can also be called restatement, with the objective of increasing the pool of knowledge about the customary law. However, the objective of changing orally found customary law of the Kebena community into written form is not simply to increase the pool of knowledge but also to make it compatible with rights enshrined in the FDRE Constitution. This makes the process “transformation” rather than “restatement”. See Kane et.al. (2005); Abdullahi (2002); Ibhawoh (2000)

provisions that prohibit discrimination and harmful practices against women and guarantee equality in all spheres of life (Boobane Galtitaa 2007: Article 17). The main objective of this article is thus to examine the interface between ethno-cultural rights and women's rights in the written customary law of the Kebena. The article also examines state's approach to governance of marital rights and its effectiveness at the local level.

The methodological frameworks of the study interlace multicultural and feminist perspectives underpinned by human rights norms; what Reitmen (2005) calls multicultural feminist standpoint. This methodological framework focuses on those at the center of conflict between culture and rights (Song 2007; Deveau 2004). Data for the study were collected using in-depth and key informant interviews, focus group discussions, document analysis, and observation. Interviews were held with *kebele* women association head, randomly selected women members of the Kebena community, leaders of the Kebena customary institutions, the head of the Kebena *woreda* Culture and Tourism Office, the head of Communication and Public Relation, members of *woreda* council, President of the Kebena *woreda* Court, Welkite town Sharia Court Judge as well as expert of Women and Children Affairs of Kebena *woreda* administration. Focus group discussions were held with members of women association of Zebimolla *kebele*, Women and Children affairs expert of Kebena *woreda* administration as well as elder women of the community. Documents have been collected from different offices of the *woreda* administration. Non-participant observation of the community was also conducted. Data were collected from rural *kebeles* of Kebena *woreda* and Welkite town, the administrative seat of Kebena *woreda* as well as Guraghe zone. The data was then analyzed using interpretive and reflexive methods.

The article contains seven sections starting from an introduction in the first section and theoretical frameworks of the research in the second. The third section sets the interface between ethnicity and creation of local government unit in the SNNPR, focusing on the case of the Kebena ethno-cultural minority. In section four, marital rights in the written customary law of the Kebena and its link with maintaining and consolidating ethnic identity and boundary is assessed. Section five examines the role and voices of women in the regulation of marital rights. The approach in governance of marital rights and its limitations are analyzed in the sixth section while the last section draws a conclusion.

Governance of Marital Rights in Multicultural Society: Theoretical Framework

One of the arenas in a multicultural state where ethno-cultural minorities exercise governance is marriage and family. This is mainly due to the role of the family and family law to maintain and perpetuate the distinctive cultural identities of a community (Shachar 2001). There are two main functions of the family integral to the maintenance and perpetuation of collective identity and distribution of power; these are “demarcation function” and “distribution function” (Shachar 2001:52-54). In the demarcation function, customary rules and laws are used to maintain membership boundaries of the ethno-cultural community vis-à-vis the larger society. For this purpose, women are taken as a cultural symbol, one who must pass through strict rule of the community in their marital life. In the distributive function, rules of ethno-cultural communities allocate rights, duties, and power between men and women. In most instances, the distribution function of rules of the community serves to entrench persistent inequalities, which “often perpetuate women’s dependence on other family members for survival” (Shachar 2001:54). Moreover, most rules of ethno-cultural communities are set to deter women from demanding their rights even as per the rule of the community; those who claim their rights would be treated unjustly and face condemnation or exclusion.

To solve these injustices against women within ethno-cultural communities, multicultural states design policies that take into account autonomy of the community as well as the responsibility of the state to enforce women’s rights. The policies often integrate judicial and political means of protection of rights and transformation of unjust practices of ethno-cultural communities (Deveaux 2004; Spinner-Halev 2004). Using these, states attempt to be non-interventionist in the affairs of autonomous ethno-cultural communities by guaranteeing exit right. Right of exit has three roles in the governance of community and individual relations: basic role, protective role and transformative role (Reitmen 2005).

In its basic role, the right of exit is “an opportunity for member of cultural community to be or become a member of society in an unmediated manner, without going through the group and without become subject to its regulatory power” (Reitmen 2005:190). The basic role exists when there is a direct regulatory link between the individual and the state. In this situation, whether the group practice is unjust

or not, it is believed that any individual can leave the group without obstacle. The justification for this belief is, in liberal democracy, cultural groups have no coercive authority over their members; if they have coercive authority, the community can then construct and change the rules of the group (Spinner-Halev 2004).

The right of exit becomes problematic in a situation where there are oppressive and dominating practices against women. In this situation, right of exit is expected to give protection to women and gradually transform unjust practices of communities (Shachar 2001). Reitmen (2005:192) argues that both the protective and transformative role of right of exit have limited success due to the cost incurred, as well as ethno-cultural communities' strategy of resistance to change, which may result in strengthening value differences rather than narrowing it down.

The obstacles to exercise the right of exit that hinders it from playing its protective role can be categorized into material and socio-psychological (Reitmen 2005:192). One of the material obstacles is women's relegation to the private sphere, which has no or little economic return and as a result makes women economically subordinate to men. Reitmen (2005:196) argues that material obstacles to exit are remediable to some degree through state policy. However, the socio-psychological obstacles are not readily addressable by the state and makes women support patriarchal traditions in their group (Weinstock 2004). The socio-psychological obstacles are "born of belief and psychological make-up, of fear of ostracism by family, friends, associations and community" (Reitmen 2005:193). One may simply fear change and the unknown; fear the loss of moral support and sense of belongingness and rootedness. In this situation, the protective role of exit is restricted and has little use for women facing unjust practices. The transformative role of rights of exit can also be challenged by community leaders, who can influence the course of events so as to take away the need for exit of members.

The transformative role of rights of exit advocates the creation of cooperative and competitive division of jurisdiction between the state and autonomous communities that transform unjust practices due to "fear of losing their members to state jurisdiction" (Schachar 2001:124). However, Reitmen (2005:197) argues that this designing of rights of exit can be seen as a threat by community leaders to the perpetuation and consolidation of their identity. Mitnick (2003) also

criticizes transformative design of exit for its overly facile treatment of individual consent. The presence of options for individuals is a necessary but insufficient pre-condition for jurisdictional competition; for jurisdictional competition to be effective, individuals must not only have rights of exit but also the capacity to exercise such options (Mitnick 2003:1659). However, in multicultural context, agency of individuals can be limited due to socialization of members into ethno-cultural communities that create constitutive attachment difficult to abandon (Mitnick 2003). Mitnick concludes that guaranteeing rights of exit in diverse society could neither make women leave the unjust rules of their community nor lead to transformation.

Ethnicity and Creation of Local Government

In the post 1991 Ethiopia, there were two phases of decentralization, which took into account varying degree of ethnic criteria as a factor in the creation of local governments,¹⁴⁰ particularly in multi-ethnic regional states such as the SNNPR (Ayenew 2017). In both phases of decentralization, two types of local governments were created in the SNNPR: ethnic level local government units (zones and *Liyu woreda*) and regular local government unit (*woreda*).¹⁴¹ Ethnic local governments are mainly established based on the principle of self-determination with the purpose of accommodating diversity¹⁴² while regular local government units (*woredas*) are created throughout the country with the purpose of enhancing administrative efficiency and public participation. In the first phase of decentralization, in SNNPR, budgets were allocated to ethnic based local governments (*Liyu woredas*) while zones have the responsibility to allocate and administer budget of the regular local governments (*woredas*). This resulted in an increased demand for ethnic based local governments, ethnic fragmentation and secessionist tendencies (Ayenew 2017:106).

140 The first phase of decentralization was from 1992 to early 2000 while the second phase was since 2000s.

141 The difference between zones and *Liyu woreda* is the geographical size: zones are geographically wider and composed of several *woredas* while *Liyu woredas* have relatively smaller geographical size. A regular local government (*woreda*) is created in all zones of regional states to bring administrative convenience and effective administration.

142 These do not mean that all zones are composed of only one ethnic community. There are also multi-ethnic zones and *Liyu woredas* containing more than one ethno-territorial community.

In the second phase of decentralization, since 2000s, the federal government introduced District Level Decentralization Program (DLDP) that attempted to detach ethnic criteria in the creation of local government by avoiding budgetary incentive to ethnic unit and introducing block grant from the regional government to regular local government (*woredas*) (Ayenew 2017:107). This guaranteed *woredas* to have political, administrative and financial autonomy similar to *Liyu woredas* (Zemelak 2014). However, *Liyu woredas* remain to have a special status and have a direct relation with the regional government while *woredas* are accountable to the zones they belong to. For these reasons, the Kebena elites demanded the status of *Liyu woreda* and ethno-territorial autonomy.

This resulted in ethnic mobilization and demand for self-determination, which led to the creation of the Kebena *woreda* in 2000, within the Guraghe zone of SNNPR.¹⁴³ In 2016, however, the Kebena demanded the status of *Liyu woreda* taking into account the constitutionality of this demand and the need to resolve lack of good governance in the zonal administration.¹⁴⁴ To achieve this, the Kebena elite are using two main strategies: (i) claim of indigeneity and historic ownership over large territory, and (ii) maintaining and reconstructing the custom of the community by writing down the customary law.

The claim for self-government, at *Liyu woreda* level, came with the narration of historic ownership and status of indigeneity over Welkite town, the Zonal capital, and part of the Guraghe land as per ethno-territorial demarcation in the Ethiopian federalism.¹⁴⁵ According to this narration by the Kebena elite, the town of Welkite was primarily settled by the Kebena and Oromos rather than the Guraghes. The evidence given is the current residence pattern of the Kebena community

143 The Kebena has been recognized as distinct ethnic community from the Bete-Guraghe category in the early 1990s. However, they were not candidates for ethnic autonomy during the first phase of decentralization due to socio-political, demographic and geographical reasons. The socio-political factors are mainly related to the level of ethnic mobilization and capacity of the community to self-governance along with the policies of the ruling party. Geographically, the community live relatively dispersed within and surrounding Welkite town, the capital of Guraghe zone (Interview with different members of Kebena and Guraghe ethnic community, Welkite, February 2016); See also Markakis (1998)

144 Interview with Ato Ahmed Sultan and Ato Kazile Haji, Kebena *woreda* Council members and Officials, Welkite, February 16 2016.

145 The ethno-territorial logic of Ethiopian federalism assumes a given territory is inhabited by single ethnic community.

surrounding the town¹⁴⁶ and the translation of the name Welkite in Afan Oromo, meaning equal.¹⁴⁷ However, such historical narrations do not indicate the original settlers of the area; rather an argument is made that the Kebena are the legitimate successors of the Oromo in the area.

It is, however, argued historical ownership to land and indigeneity is controversial and complex (Merlan 2009; Pelican 2009). The origin of the term indigenous is political and contextual (Pelican 2009:53). In Ethiopian federal political system, the significance of the term 'indigenous' emanates from the Federal Constitution primordial definition of ethnicity (nations, nationalities and peoples). The bases for exercising right to self-rule or governance under the constitution is mainly based on ethnicity. In doing so, it assumes that every ethnic community inhabits easily distinguishable territory.¹⁴⁸ However, this disregards the Ethiopian society's long history of intermarriage, migration, (re) conquest and expansion.

The second strategy advanced by the community as a means to get ethno-territorial autonomy or *Liyu woreda* is writing down the customary law. The Kebena Development Association (KDA),¹⁴⁹ community based civil society organization, has led the process of writing down the customary law, Boobane Galtitaa. The draft of customary law has been deliberated by members of the KDA, political elites and clan leaders of the community. The general assembly of clan leaders, a semi-legislative body locally referred as the *Oguet*, ratified the written customary law of the community, which has been printed in 2007 (Boobane Galtitaa 2007). All members of the assembly who deliberated and ratified the customary law were men since women are not allowed to participate in public affairs.¹⁵⁰ In addition, there were

146 Five rural *kebeles* of Kebena *woreda* are bordered with the town of Welkite while only one Guraghe dominated *kebele* of Abeshighe *woreda* borders the town (Interview with different residents of Welkite town, Welkite, February 2016). *Kebele* is the lowest administrative unit in Ethiopia.

147 Interview with Emmam Jemmal Mohammed, Welkite, February 12 2016; Interview with Ato Musema Bediru, welkite, February 13 2016

148 See the FDRE Constitution (1995) Article 39(3)

149 Following the establishment of Kebena People Democratic Front (KPDF), the KDA was established in 1994 to promote the history, culture and language of the Kebena people. The association is mainly led by urban elite members of the community who mainly live in Addis Ababa. See www.peopleofkebena.org/index.php/kda

150 Interview with Emmam Jemmal Mohammed, Welkite, February 12 2016; Interview with Ato Musema Bediru, welkite, February 13 2016; Focus Group Discussion, Zebimolla *kebele*, February 19 2016

no demands from female members of the community to participate in this process, mainly due to internalized patriarchy. The exclusion of women from the public forum resulted in the failure to transform all forms of unjust practices against women. It further maintained some discriminatory practices, such as customary marriage and prohibited exit right in marital affairs as will be discussed below.

Marital Rights in the Written Customary Law

In the written customary law of the Kebena, there are provisions that incorporate marital and family rights and prohibit discriminatory and harmful practices against women. Article 17(2) of the Kebena customary law declares equality of men and women in all spheres of life and states “anything that undermines this is considered as harmful practice”. This is in line with rights of women in the FDRE Constitution. Harmful and discriminatory customary practices against women and children have been outlawed in the written customary law; these includes non-consensual marriage, refraining women from eating nutritious foods such as meat and butter, sleeping in uncomfortable situations, abandon washing one’s clothes, and not taking care of oneself properly after the death of a spouse (Boobane Galtitaa 2007: Article 17(1)). Further, Article 70(4) of the customary law prohibits any kind of violence against women and children. In relation to marriage, Article 19(1) of the customary law makes consent mandatory for the conclusion of marriage; it states that “the full consent of the male and the female is required before marriage contract/*nicah*”. Article 90(3) further notes, “for the sake of marriage, interrupting a girl without her consent from education is forbidden”. However, contrary to these provisions, there are customary marriage practices included in the written customary law, which contradicts with some of the basic principles of marriage under the Ethiopian law.

The types of customary marriage recognized in the written customary law are *Wuchequ*, *Xaaxequ Ayu*,¹⁵¹ *Rega’u*,¹⁵² *Murut Geyeni Asu*,¹⁵³

151 *Xaaxequ Ayu* is marriage in which the woman’s parents are culturally compelled to give their daughter to any man who comes to their house to request her hand in marriage.

152 *Rega’uu* (inheritance marriage) is when a widow marries the brother or close relative of her deceased husband. The main objective of this kind of marriage was/is to maintain the land of the spouse within the family and clan of the late husband.

153 *Murut Geyeni Asu* is concluded by the initiation of the female’s parents to give their daughter to a man with admirable traits such as hard work, good behavior, with or without the consent of the spouses.

Dortuta,¹⁵⁴ and *Wagetutaa* (Boobane Galtita 2007: Article 23). Except for *Wuchequ* and *Wagetuta*, which requires consent from the spouses,¹⁵⁵ other types of marriage violate the rule of consent and disregard the right of women to own property.¹⁵⁶ These types of marriage contradict Article 17(2) and Article 19(1) of the customary law that states equality of men and women in all aspects of life and makes consent a precondition for marriage. Above all, they are in clear contradiction with women's rights enshrined in the SNNPR and FDRE Constitutions.¹⁵⁷

As stated in the written customary law, customary marriage and wedding ceremonies are mandatory for all members of the community (Boobane Galtita 2007: Article 26). Article 83(1) of the customary law document states that "though in Ethiopia there are three forms of marriage (cultural, religious, and civil), it is not advisable for the Kebena community to carry out marriage other than the cultural one". In Article 83(2), it is also stated, "concluding marriage, wedding and divorce other than through the Kebena nationality culture would be punishable from five hundred up to two thousand Ethiopian *Birr* (eighteen up to seventy-four USD)". This mainly hinders women from claiming their marital rights such as divorce due to the material and socio-psychological costs of exit (Reitmen 2005). Through such provisions, the customary law denies individuals exit from intra-communal institutions, which is against federal and regional family laws. This shows that the customary law of the Kebena is written to maintain, perpetuate, and consolidate ethnic identity and boundary, which was made available by the opportunity to establish ethnic based local government, but at the cost of women's rights. In this regard, Shachar (2001:94) argues that in many ethno-cultural communities, family law is the main arena where injustices against women co-exist,

154 *Dortuta* (substitute marriage) is a type of marriage in which the sister or close female relative of the deceased fiancée is required to marry the deceased woman's fiancé.

155 *Wuchequ* is type of marriage concluded mainly with the consent of the spouses while *Wagetuta* is type of marriage between a widow and a man of her choice.

156 Informant told the author that there are eight ways of entering into marriage according to the custom of the community. However, some customs such as abduction are considered or accepted by traditional leaders as harmful practices, and hence are excluded from the document.

157 Article 34(1) of the SNNPR Constitution states that "men and women, without any distinction to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce". Article 34(2) also states "[m]arriage shall be entered into only with the free and full consent of the intending spouses".

having the “risk of promoting rigidification and fundamentalization of sub-unit’s identity in ethnic based federation”. That is why ethno-territorial autonomy for minority ethno-cultural communities is widely criticized for perpetuating injustice against female members.

With regard to consequences and dissolution of marriage, the Kebena customary law contains articles, which are similar to the Family Code of the SNNPR.¹⁵⁸ However, provisions on dissolution of marriage, both in the SNNPR Family Code and Kebena customary law, were written with the assumption of only monogamous marriage. Polygamous marriage is clearly prohibited in Article 21 of the SNNPR Family Code. It is also a crime under the FDRE Criminal Code Article 650(1), though it is practiced in the shadow of law as discussed below.

Women’s Voices in the Customary Marriage

The findings show that women of the Kebena community have no opportunities of being heard in customary institutions in general and in the regulation of marriage in particular. As per the custom, in polygamous marriage, women do not have voice before, during, and dissolution of marriage.¹⁵⁹

As per the Kebena culture, marriage is not only the affair of the intended spouse but also of parents and the extended family. While consent is mandatory from the father of the intended spouse, the consent of the mother is not requested due to entrenched patriarchal tradition. Often the father and elders engage in advising a woman to enter into polygamous marriage, rationalizing it based on their custom and religion and the ‘good behaviour and wealth’ of the supposed husband.¹⁶⁰ The girl/woman often has no courage to say ‘no’ to the advice of her father or elders at the time of marriage as well as in her marital life owing to limited choice and resources she has in her life/community.¹⁶¹ In this regard, a thirty-eight years old informant said the following:

158 See the SNNPR Family Code Article 28 and 29; and *Boobane Galtita* Article 28, 30 and 33

159 Focus Group Discussion, *Zebimolla kebele*, February 19 2016.

160 Focus Group Discussion, *Zebimolla kebele*, February 19 2016

161 Absence of minimum standards of living such as basic education for women in the community is one factor for the absence of choice while patriarchal social norms and customary institutions makes women submissive to patriarchal appeals.

When I was given to a husband, I was a grade five student. I knew that the man proposed for me was already married. But my father informed me that he has good social standing and is wealthy; our religion allows such a man to marry more than one wife. I tried to say “no” but my father promised that if I face any problem, he will stand by me and blessed me to be a good religious woman, without waiting to hear my consent. I married the man then after interrupting my education.¹⁶²

Other informants told the author that custom and religion of the community allow a man to marry more than one wife as long as he is wealthy and morally capable of treating his co-wives equally in every aspect of their marital life. But all women informants concur that the religious requirements are too difficult to fulfil in their community, and have not come across any man who met these requirements.¹⁶³ The women also agree to the physical, psychological, economic and social ‘harmfulness’ of polygamy. However, there are situations in which older women become complacent in polygamous marriage, and condemn others who challenge these kinds of marriage. The consideration of having more than one wife as good social standing of parents of a man as well as the dependence of older women on their son(s) makes some women complacent to polygamous marriage even if they know it is against the rights and interests of women. In this regard, a forty-three year old woman informant said the following:

I am the first wife of my husband. When I gave birth to my third child, my husband was preparing to take his second wife. When I knew this, I got angry and became sick. My husband’s mother was the one who prepared his wedding. I begged her to abandon the plan, but she refused to back down. Later on, I became seriously ill. She associated my illness with my refusal to respect the culture. She told me the cause of my illness was the disrespect I showed to our culture and religion by refusing to calm down and accepts the situation. Gradually, I started to calm myself.¹⁶⁴

Another area of concern for women’s rights in relation to marriage is divorce. A Kebena woman, whether she is first or second wife, often does not ask for divorce; only the husband has the right to divorce

162 Interview with W/ro Rahimute Mohammed, Jejibona Gaso kebele, February 20 2016

163 Focus Group Discussion, Zebimolla kebele, February 19 2016

164 Interview with W/ro Lubaba Bisir, Zebimolla kebele, February 19 2016

his wife as per the culture.¹⁶⁵ Moreover, the custom and religion of the Kebena dictates, during divorce, women are not entitled to share matrimonial property except from taking the *Beher* (wedding gift given in kind or money to the wife by the husband), if it has not been used up already.¹⁶⁶ For women to take up such cases to the customary or formal courts is also problematic.

Customary courts or village elders resolve all marital disputes among the Kebena. The customary court of the Kebena community is exclusively composed of men. In such court, as per the custom, women are not allowed to present their cases by themselves on any issue; rather their cases are presented by male relatives with or without the women's physical presence.¹⁶⁷ Informants confirmed that these rules are still respected, and the women go to customary court when the dispute reaches its climax or goes beyond her control.¹⁶⁸ Often, however, marital disputes are resolved by reconciliation. Nonetheless, in some cases of polygamous marriage, the customary court judges may decide to divide the property between the husband and the wife without granting divorce. In this situation, the woman gets some share of her matrimonial property as maintenance, and lives with the husband without dissolving the marriage; the woman is not allowed to remarry, neither does she engage in sexual relationship with her husband.¹⁶⁹ This indicates, as per the custom of the Kebena, women have not been given any opportunity to exit the rules of the community.

Access to formal and Sharia courts is also limited among Kebena women. This is partly due to limited knowledge about its functioning, fear of cost of exit from intra-communal institution (both material and socio-psychological) and the trend of returning cases to customary courts first.¹⁷⁰

165 Interview with Ato Musema Bediru, Welkite, February 13 2016; Focus Group Discussion, Zebimolla *kebele*, February 19 2016

166 Interview with Ato Musema Bediru, Welkite, February 13 2016; Focus Group Discussion, Zebimolla *kebele*, February 19 2016

167 Focus Group Discussion, Zebimolla *kebele*, February 19 2016

168 Focus Group Discussion, Zebimolla *kebele*, February 19 2016

169 See Jetu (2014)

170 One of the procedures set in the Family Code of SNNPR to resolve marital disputes, particularly when divorce is requested or division of matrimonial property is needed, is to send the case to customary courts first. See the SNNPR Family Code, Article 86-87 and Article 91-93

However, since the establishment of women's associations at *kebele* level, in collaboration with Kebena *woreda* Women, Children and Youth Affairs Office (WCYAO), women have been trying to make their voices heard against oppression and injustice in marital affairs. The main objective of the associations is ensuring empowerment of women, and become instruments to implement state policies. However, they have been limited due to the entrenched cultural rights and norms. In this regard, the chair of Zebimolla *kebele* women association said the following:

*If one member of our association faces violation of marital rights, we report to the woreda WCYAO and they advise us and gives a resolution unless the source of the problem is the woman herself. If the wife signs a paper that allows the husband to take a second wife, the women's associations at kebele and woreda level as well as the woreda WCYAO experts will do nothing since our religion allows that.*¹⁷¹

Due to limited empowerment of women in the community, all forms of injustices against women are given a blind-eye. Some harmful practices such as polygamous marriage are even accepted and rationalized by women themselves. This is related with the women's economic dependence on men and women's prioritization of peaceful co-existence within the family.

Approach to Governance of Marital Rights and Its Limitations

Governance of marital rights in Ethiopia requires the interaction of informal and formal institutions since ethnic communities are given the rights to regulate marital, personal and family rights using their customary institution (FDRE Constitution 1995: Article 34). The right to self-determination gives ethnic communities the autonomy to transform their customary laws and create their own ethnic homeland. Taking this into account, the Kebena have engaged in the process of transformation of the customary law. In this process, the focus is on the relation of the community with the state rather than weighing and balancing the values and rights of individuals, the community, and the state (Shachar 2001). In Ethiopian federalism, there is no direct relation between the individual and the state; rather the individual must pass through institutions of ethnic communities in order to get service from

171 Interview with W/ro Sito Asefa, chairwoman of Zebimolla *kebele* Women's Association, Zebimolla *kebele*, February 18 2016

the state. Individuals are considered as primarily citizens of ethnic community than citizens of the FDRE state.¹⁷² The absence of direct relation between the state and the individual citizen, unlike liberal democratic multinational states, prevents exit; i.e. giving protection for individual free will in the regulation of personal and family matters. It also strengthened the role of customary institutions in the regulation of marital rights and the need to have ethnic homeland among the Kebena.

Following, even when women's rights are violated, the state and local government institutions such as WCYAO cooperate with customary local institutions on issues, which are considered as part of custom and religion of the community. This is against the responsibilities given to local government institutions, which indicates the limited commitment and capacity of state institutions at local level to protect women's rights. Polygamous marriage is still common in the Kebena community regardless of its criminality. Until the collection of data (September 2016), there was no case related with polygamous marriage in the Kebena *woreda* court.¹⁷³ As observed by the author, among the community and leaders of local government institutions, family and marital life is viewed as an institution that needs to be protected from state intervention even if violation of rights has been vividly visible.

In these regards, it is worth mentioning the conditions male members of the Kebena community use to conclude polygamous marriage and bypass state law. The first condition is making the father of the woman support the marriage and restrict the woman from making decision or claim her rights. The second condition is getting the signature of the existing wife that gives permission to the husband to marry another wife.¹⁷⁴ As per informants, a man who wants to enter into polygamous marriage uses different tactic to get the signature since there is no woman who can sign for her husband to marry another woman unless "she is infertile or mad".¹⁷⁵ Once the husband secure a signed

172 See Berihun (2019)

173 Interview with Ato Tariku from Kebena *woreda* Court, Welkite, February 16 2016

174 Focus Group Discussion, Zebimolla *kebele*, February 19 2016, Interview with W/ro Fetiya Sulixan Kebena *woreda* WCYAO expert, February 18 2016

175 Infertility is one of the rationales that justify polygamous marriage as per the culture of the community, which is often considered as the problem of women only. (Focus Group Discussion, Zebimolla *kebele*, February 19 2016)

paper obtained deceitfully, the *woreda* WCYAO experts do nothing but inform the woman that she has been deceived and advise her to accept the situation.

Here, it is important to mention that the majority of Kebena women have limited knowledge of the law or court processes. These hinders women from claiming their rights directly from the *woreda* court. In addition, in the adjudication of marital disputes, the SNNPR family law prioritizes the use of customary institutions rather than formal courts by demanding disputants to exhaust customary dispute resolution mechanisms (SNNP Family Code Article 86-87 and Article 91-93). These has created an understanding among Kebena women that even if they claim their rights, the formal court returns their case to customary courts, disregarding their choice. These may lead to question why ethnic rights have not been recognized in Ethiopian federalism to protect individual/woman/citizens' rights as it has been set in human rights instruments or collective rights. This requires further studies to have the institutional mechanism that does not compromise protection of individuals/women's rights.

Conclusion

The guarantee of the right to self-determination to create ethnic homeland for minority ethnic communities in Ethiopian federalism led to the revival of customary institutions, which used constitutional and unconstitutional mechanisms to maintain and develop identity of the community. Such steps led to the transformation of customary law among the Kebena. Though the written customary law of the Kebena stated and implied its objective to make customary laws compatible with rights enshrined in the FDRE Constitution, including women's rights, the lived experience shows that the written codes contained contradictory provisions violating women's marital rights. Women of the community are not as such in a position to claim their rights and exercise agency due to absence of minimum standard of living, limited capacity and will of local government institutions to enforce women's marital rights. Legal procedure that makes customary marital dispute resolution mechanisms pre-condition for resolution of marital dispute is another key problem identified and presented in this paper. In sum, the failure of the state to safeguard individual women's rights against autonomy of ethno-cultural community is related to the very design of Ethiopian federalism that makes membership/citizenship to ethnic communities a mandatory pre-condition to get protection. Hence, to resolve the structural challenges for the protection of women's marital

rights, the design that attaches protection of individual rights to membership to ethnic community needs to be reversed in a way that makes protection of individual woman's rights a priority.

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The Impact of Large-Scale Development Projects on the Kumpal Agaw Minority

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Abstract

Ethiopia was hailed as one of the fast-growing countries from 2004 to 2015. Under the Growth and Transformation Plan I (GTP I), which ran from 2009/2010 to 2014/2015, the country launched a transformative development plan. Subsequently, many state-owned mega-projects were designed with the aim to improve the country's economy and improve peoples' lives. However, the livelihood of local communities that hosted these projects has been disrupted. The Kumpal of northwest Ethiopia are one of the minority groups that hosted large-scale development projects intervention, three sugar development projects under GTP I. The Kumpal have experienced disruption in their livelihood, without benefiting much from the employment opportunities created by the projects due to the lack of educated manpower qualifying for the positions. They also benefited less from compensations, both in cash and in land, for being displaced from their places of residence. The implementation of the projects was also incompatible to the host community's socio-cultural institutions and values. Despite favourable constitutional provisions for the right to development of disadvantaged ethnic communities and the state's obligation to support them, development planners have overlooked the effects of large-scale development sugar projects on the host Kumpal community. The article recommends similar future projects should consider socio-economic consequences on local communities. The sugar development projects, yet under construction after having been delayed due to corruption, should also work on re-strengthening the Kumpal livelihood and support the community to continue as a viable group.

Keywords: *development interventions, large-scale development projects, ethnic minorities, Kumpal*

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Introduction

The Ethiopian government, led by EPRDF (Ethiopian People's Revolutionary Democratic Front), launched the first round of Growth and Transformation Plan (GTP I)¹⁷⁶ for five years, from 2010/11 to 2014/15. GTP I aimed to enhance industrial growth, commercial agriculture, and infrastructure, with projected average Gross Domestic Product (GDP) growth between 11 and 15 percent. Subsequently, high annual growth rates were reported on the economy, according to MoFED (2015), an average economic growth of 10.9 percent between the years 2003/04 and 2013/14. UNDP-Ethiopia report of 2014 also confirmed the country's economy growth by 10.8 percent from 2003/2004 to 2012/2013 (UNDP Ethiopia 2015).¹⁷⁷

The economic growth improved the image of the country,¹⁷⁸ increased optimism and opportunity, and may have reduced poverty.¹⁷⁹ However, for some, it resulted in marginalization, poverty, inequality and, in some cases, rise of violence. Large scale development projects, launched following GTP I, made and are making significant inroads into, 'peripheral' minority ethnic groups, having mostly an adverse impact on the people who had incompatible social, cultural and livelihood systems to the interventions.

The purpose of this article is thus to investigate the impact of large-scale development project interventions on peripheral minority groups

176 Though the official document does not refer it as GTP I (rather just GTP), the author uses "GTP I" to differentiate it from the second round of GTP (GTP II), which has been launched for 2015/2016 to 2019/2020. Both GTP documents can be accessed at <http://www.mofed.gov.et>.

177 After the end of the GTP I period, the government developed another growth roadmap known as the second growth and transformation plan (GTP II) (2015/2016-2019/2020).

178 Because of this remarkable economic growth, the country is hailed, among others, as "an awakening giant" (www.economicst.com/news/middle-east-and-africa/21595949-if-africas-economies--are-take-africans-will-have-start-making-lot, accessed 12 August 2015); as a "bright spot in sub-Saharan Africa" (globalriskinsights.com/2015/Ethiopia-rising-bright-spot-in-sub-sahara-africa, accessed 03 March 2016); or as the "African lion" (www.theguardian.com/world/2013/dec/or/ethiopia-faster-rate-millioners-michael-buek, accessed on 04 March 2013).

179 Ethiopia poverty rate for 2015 was 90.20 percent, a 2.9 percent decline from 2010. Ethiopia poverty rate for 2010 was 93.10 percent, a 2.5 percent decline from 2004. See <https://www.macrotrends.net/countries/ETH/ethiopia/poverty-rate#:~:text=Ethiopia%20poverty%20rate%20for%202015,a%201.2%25%20increase%20from%201995>, accessed 08 September 2020.

in Ethiopia. Setting aside the benefits, as stated by the government, the article investigates the disruptive intervention of development projects on host communities. Focusing on the Kumpal people (also known as Kunfal, Kulsi, or Yeqolla Agaw), this article analyzes the impact of the construction of three large-scale sugar development projects, still in progress due to a delay by corruption, in Jawi *woreda* of Awi zone in Amhara region.¹⁸⁰ The article closely looks into the case of the Kumpal that shows disruption of the community's livelihood and loss of benefits from compensations for displacement, i.e. compensation-in-cash and land for land compensation. The article is the result of a series of fieldwork from 2010 to 2018 in Jawi *woreda*. By using a qualitative approach to data collection, formal and informal interviews were conducted with the Kumpal minorities as well as with Amhara residents in the area. Interviews were also made with local officials of Jawi *woreda*. As Persson (2015) states, the expropriation process lacks documentation and transparency so that important records were missing from the local authorities. This made the process hard to follow including lack of data on the exact figure of people expropriated. For this reason, I relied on oral sources for some discussions, which otherwise should have been supported by documentary evidences.

An Overview of Empirical Studies and Models

Large-scale development project interventions into peripheral communities of Ethiopia began during the Imperial Regime of Haile Sellassie I (1930–1974). In the 1950s, large irrigation schemes were launched in the Afar region (Said 1997; Ayele 1994; Gamaledin 1987; Kloos 1982; Bondestam 1974). In 1962, Koka Dam was constructed together with, by then, the first large commercial farm in the country (Rettberg 2010; Gamaledin 1987). In the 1970s, there were large-scale development interventions in places inhabited by the Karrayu as shown in the study by Ayalew (2001). Research on large-scale development interventions and local communities was, however,

180 A contract to execute TBSDP was initially awarded to Metals and Engineering Corporation (MetEC) in 2011. Following the coming to power of Prime Minister Abiy Ahmed in 2018, the Ethiopian Sugar Corporation cancelled the contract with MetEC citing problems of quality and delays in completing the project. In September 2019, the contract was newly awarded to a Chinese construction firm known as China CAMC Engineering Co. Ltd (CAMCE). The project is expected to be completed by the end of 2020 (see “Tana Beles Sugar Project Progressing Well: Board Members”, Addis Ababa, January 25, 2020 (FBC). <https://www.fanabc.com/english/tana-beles-sugar-project-progressing-well-board-members/>

absent during the Derg regime (1974–1991); there seem to be no significant large-scale development endeavours during this time. The most important way of intervention into the community during the Derg was through resettlement programs. During this regime, however, there was a massive resettlement program from the food-scarce and environmentally degraded highland areas to peripheral lowlands where, according to the government, there was ‘abundant’ land (Gebre 2004; Wolde-Sellassie 2004; Desalegn 1988).

With the coming to power of EPRDF in 1991, there have been a growing number of development projects by the state and private investors. The GTP I, as indicated in the first section of this article, accelerated the presence of the state in the life of minority groups through large-scale development projects such as sugar plantations, agricultural farms, and hydroelectric dams. There are thus many researches that followed on this trend (Yonas and Mahmud 2015; Abbink et.al. 2014; Desalegn 2014a; Desalegn 2014b; Gabbert 2014; Dereje 2013; Abbink 2011; Pankhurst and Piguet 2009). These studies show a mixed picture of how development projects promote change, negative or positive, in the host communities.

There are two broad models used to interpret the impact of large-scale development project interventions on local communities. The scudder model deals about displacement due to development interventions (Scudder and Colson 1982). It views success or failure of adjustment to displacement in the long-term, for two generations at least. The model was criticized for lacking contextual background to local communities and its long-term proposal to determine impact. The social and cultural domain of the community in concern is pertinent to analyze the impact of an intervention, which this model failed to put into consideration (Sharp and Spiegel 1985). This can be done through a social impact assessment, which according to IAIA (2003), “includes the process of analyzing, monitoring, and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, projects) and any social change processes invoked by those interventions”.

Cernia’s impoverishment risk and reconstruction (IRR) model for resettling displaced populations is “the single most quoted source in the literature on development-forced displacement” (Abbink et.al. 2014:12). There are eight major impoverishment risks proposed by IRR. These are landlessness, joblessness, homelessness, marginalization,

food insecurity, loss of access to common property and services, increased morbidity and mortality, and social disarticulation. More risks can be observed depending on the unique features of a project. However, the needs of community participation, negotiated forms of compensation, and mechanisms of overcoming social risks through community institutions are not sufficiently elaborated in this model (Dwivedi 2002). The model does not also mention the duration to regain normalcy by displaced communities (Kassahun 2009).

Shying away from these models, this article shows outcomes of development intervention whereby the host Kumpal community has suffered from adverse effects due to lack of a proper undertaking of a social impact assessment or lack of interest or commitment to implement if there was any. Based on the experiences of the Kumpal, the article suggests how a genuine social impact assessment and commitment to implementation of recommendations from an assessment is an imperative step to lessen adverse effects of development interventions by the state or private investments in the Ethiopian development interventions practice.

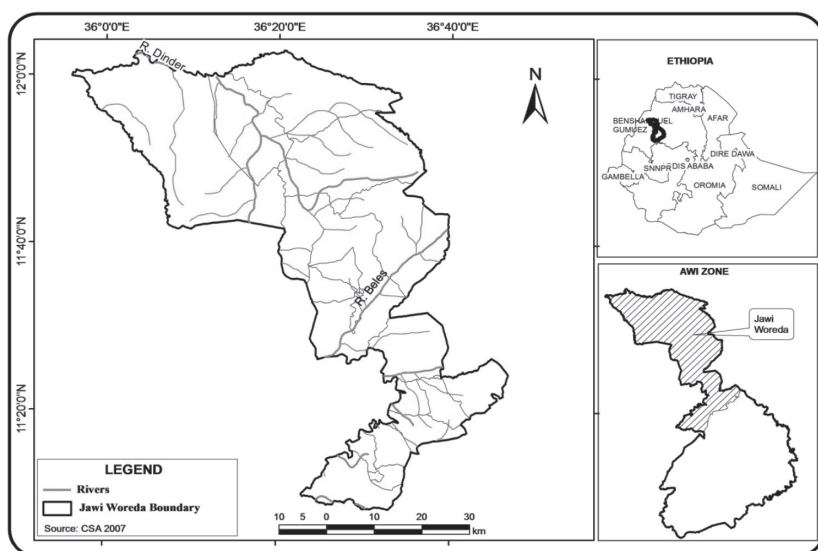
The Kumpal and their Encounter with Large-Scale Development Projects

The Agaw, an ethnic group that traditionally inhabited northern and central Ethiopia is known today by the names of the different sub-groups. The well-known sub-groups are Awi, Wag-Himra, Kemant, and Felasha (also called Bete-Israel). The Kumpal, one of the Agaw branches, is less known in academics compared to the other Agaw variants. One of the prior studies on the Kumpal was done by Cowley (1971) on the “Kunfal” language. There are more works since then, more recently Anthropological studies done by Desalegn (2014a; 2014b; 2016a; 2016b).

The Kumpal are officially considered as the Awi, and thus live in the Awi zone together with the titular group. The Kumpal identify themselves as the Agaw, but at the same time recognizing their different cultural peculiarities from the Awi such as language. Though many speak the Awngi dialect at present (a language commonly spoken by most Agaw titular groups), few elders speak the Kumpal language, distinct to that ethnic group.

Since 1995, when EPRDF created ethnic based administrative units, the Kumpal constituted a *kebele*, the smallest administrative unit of Ethiopia, under Dangila *woreda* of Awi zone in Amhara region. Later in 2006, the *kebele*, which the Kumpal inhabited, was promoted to the next level of administrative unit and was named Jawi *woreda*, within the Awi zone. Members of the Kumpal community are also found scattered across surrounding administrative areas of West Gojjam zone and North Gondar zones both of which are found in the Amhara region. A significant number of the Kumpal are also found in Dangur *woreda*, Metekel Zone of Benishangul Gumuz region (Desalegn 2014a). There is no official data that informs on the population of the Kumpal; they are not represented in all the population censuses. Based on local informants, Desalegn (2014a) estimated the number of Kumpal people to be about 10,000; 12.6 percent of the 79,090 population of the Jawi *woreda* (CSA 2007). The rest of the population of Jawi *woreda* is predominantly Amhara.

Jawi *woreda* falls between 1,025 and 1,225 meters above sea level (Jawi *woreda* Communications Office 2012), with an average temperature of 26°C (Tesfaye 2007). It covers an area of 5,150 km² (515,000 hectares) (Jawi *woreda* Communications Office 2012), half of the Awi zone. The area is fed by a significant number of rivers and streams (see the map below); the two major perennial basins being Abat Beles and Gilgel Beles (Girma 2010) with rivers such as Ayma, Senel Wuha, and Zengel. The area is located at the foothills of highlands in the north and northeast from where the rivers flow. The highlands are in general moist and rugged and the surrounding lowlands where the Kumpal live and into which the rivers flow, are mostly arid and flat. Because of its drainage, Jawi *woreda* has become an appealing place for development projects.



Map 1: location of the Kumpal and rivers in Jawi woreda (Desalegn 2020)¹⁸¹

The Kumpal are referred as indigenous to *Jawi Woreda*, while the Amhara are referred to as settlers, due to the self-initiated migration and state-sponsored resettlement of the Amhara in the area (Yohannes 2011; Tesfaye 2007). However, regardless of claims of or attribution to indigeneity, the Kumpal are increasingly inundated by highland migrants through state-sponsored resettlement programs and informal migration in search of land and labour work in newly opened development projects in the area (Desalegn 2014a).

Before 1991, because of lack of road infrastructure and insecurity problems, the Kumpal area had been less accessible. The area was a base for guerrilla fighters of the Ethiopian Peoples' Revolutionary Party (EPRP) against the Derg regime. The area is best known by Ayalnesh, a female guerrilla EPRP commander. After the security problem improved, following the coming to power of EPRDF, the area became attractive for agricultural development with a suitable topography, drainage, and vast land. Major large scale development projects then began with the GTP I. As part of GTP I, the government intended to build, at the country level, ten sugar factories and upgrade the capacity of existing ones, in order to increase sugar production from

¹⁸¹ The Central Statistics Agency (CSA) of Ethiopia provided GIS data, collected in 2007, for this map while Bamlaku Amente, an expert in GIS at Addis Ababa University, assisted the author with mapping the data. The author is grateful to both CSA and Bamlaku Amente.

17,712,000 tons in 2009/2010 to 42,516,000 in 2014/2015 (Ethiopian Sugar Corporation 2014:4; MoFED 2010:17).

Jawi *woreda*, where the Kumpal reside, was chosen as one of the sites for these large-scale projects; three out of the ten sugar factories were to be constructed in this area under the project name Tana Beles Integrated Sugar Development Project (TBISDP). The water for irrigation of the sugar plantation is taken from the Beles River. Originally, TBISDP envisaged having a production capacity of 242,000 tons of sugar per year from each factory. The sugarcane plantation for these factories expropriated 75, 0000 hectares of land, mainly from Jawi *woreda* of the Amhara region, some extended to adjacent areas in Benishangul Gumuz region where the Kumpal reside (Sugar Corporation 2015:19). As a result, more than 2500 households, both Kumpal and Amhara, had been displaced from their land for this project (Persson 2015).

In addition to the government-owned TBISDP, a private owned sugar company, Hibir Sugar Share Company, also planned to invest in 25,000 hectares of land in Jawi *woreda* in 2010. The company had been allotted 6,183 hectares of land (Elias 2012) from which local inhabitants had already been displaced. The progress of the company is stalled at the moment.

Disruption of Livelihoods

Kumpal informants discuss, until recently, the high attachment of their livelihood to the surrounding environment. They relied on collection of honey, hunting, gathering, shifting cultivation, and animal husbandry all of which is highly connected to the natural environment in their surroundings. As to the wild beekeeping, while visiting the Kumpal area at the mid-twentieth century, Simoons (1960:44) witnessed that the Kumpal forest hosted several wild and semi-domesticated bees. Numerous cylindrical beehives were tied high in the branches of trees away from villages and the beehives were indications to the presence of a Kumpal village. Informants also confirmed that they could harvest wild honey at least three times a year. Simoons (1960:44) noted that honey was sold for merchants to generate cash, and the Kumpal used to pay tax in honey.

The Kumpal also relied on hunting wild animals for meat. Hunting was also a social practice among the Kumpal men. Those who killed game animals, especially lion, can assert their manliness and gain social honour as full men. The Kumpal also gathered various wild food sources. Informants mention several such sources collated from

the forest, including different species of root plants, bamboo shoots, and climbing or ground-creeping plants. In their system of shifting cultivation, using slash and burn mechanism, the people produce various crops such as maize, red millet, cotton, and peanut. Red millet is, in particular, the chief produce (Jawi *woreda* Communications Office 2012). The people consume red millet in different forms such as bread and *Anki*¹⁸².

Cattle rearing was also a significant source of the Kumpal livelihood. The forest and vast land served as grazing ground for their animals. The Kumpal visit their herd, left in the forest, once in six-months or when they would find more calves added to their herd. When needed for meat, the animals were hunted down since they were partly wild. Before the development interventions that started in 2010, Jawi had already been strained by planned and unplanned resettlement since 2004 and the predicament on the environment and the livelihood of the people had been felt (Desalegn 2014a; Melisachew 2009). The introduction of the sugar development projects made the area a destination for youth labour migrants from the highland areas of Amhara region. This led to deforestation and a decline in the livelihood of the Kumpal as a result. An increase in the population led to clearing of the forest, to build houses and farm what the new comers consider as 'empty land'.

In addition to migration and informal land acquisition, development intervention also meant that the host community should lose land for sugar plantation. The Kumpal lived in sparse settlements nucleated around a common descent known as *Abala*. Informants mentioned seventeen *Abalas* for the entire Kumpal; every person in Kumpal claim membership to one of these *Abalas*. Each lineage traces territorial control over a particular area of land. These claimed lineage lands were however lost during development interventions; several villagers bequeathed their land for the projects. The Kumpal were no longer able to exercise control over a vast territory of land in their lineage settlement. Many people who had large plots of land were given only three hectares in replacement. What is more, they were gathered into crowded settlement villages compared to their previous scattered settlements.

Compensation to Displacement and Socio-Cultural Factors

In addition to the impact of the project on the livelihood of the Kumpal, the difference in values and beliefs from compensation practices also

182 *Anki* is the word the Kumpal use to refer to *Injera*, a flatbread made of *teff* flour, commonly used in most national dishes.

affected the host community. Below, the author will discuss five factors that affected the Kumpal uptake of entitlements to and opportunities from the development projects.

Belief in Cursing

According to oral traditions, the Kumpal were oppressed, among other several ways of oppression they narrate, through unfair taxes, sometimes paid in person (women). Once paid in tax, the Kumpal women were used for household labour and as a sex slave. As the oral tradition goes, once upon a time, certain rulers demanded the Kumpal ancestors to pay tax in young girls. However, the ancestors found this order harsh to comply with. In fear of punishment for their non-compliance, the ancestors fled from the area after taking their revenge on the tax collectors. After intoxicating them with alcoholic beverages, in a gathering organized by the ancestors, the Kumpal villagers beheaded the tax collectors and run away together. This started the act of solidarity among the Kumpal to leave no one behind during such times of exile and keep the community's secret. In their journey, however, the Kumpal got divided on how to cross a river they embarked on their way. While some spoke to the river to split into two and was able to cross as a result, others run away into the forest. The group that fled to the forest has since then be cursed for being a traitor to the solidarity. According to the belief, the Kumpal are now the generation of the cursed group. The curse that has passed on down through generations, they believe, has been the reason for their impoverished living condition, high level of illiteracy and subordination to outsiders who migrate to the area. While 'others' are making use of development projects in the area, the Kumpal have become more impoverished. This story of oppression and being cursed is interpreted into the everyday life; every failure in life is attributed to this curse.

Belief in the curse also had an implication on development project interventions. The Kumpal did not benefit from employment opportunities created by the projects; neither were they educated to make use of these opportunities. In 2018, there were only few members of the Kumpal who had completed high school, and very few, some informants counted about ten people, completed their degree. Even those who are considered successful in their education are attributed to have been born from Kumpal and Amhara parents (Desalegn 2016a). Due to the curse, the Kumpal also think that they are not fit for any

government positions. For this reason, they were not involved in the decision making of displacements or compensation due to the sugar development projects. This hid the problems that need consideration regarding the vulnerable Kumpal group. Besides, many informants implied, because of 'fear' of authorities, they did not make known their needs and problems in the process of displacement and compensation as will be discussed in the following section.

Lack of Assertiveness

Many informants perceived corruption in the course of deciding entitlements for compensation by officers. Kumpal informants perceive several Amhara households have bribed officers to get access to fertile land as well as to benefit from the compensation-in-cash. According to an informant:

There were rumors about some people getting attractive compensation. I know people who have bought trucks following compensations for displacement. People talk about them and say "they bribed officers so that they could make big money." After all, it is easy. If you treat someone in charge to a bottle of areqé (local liquor), he would become sympathetic to you (Anonymous, Fendeka town, May 2017).

In addition to bribes, the ability to negotiate during the compensation process created advantage or disadvantage. According to Kumpal informants, non-Kumpal communities were better in actively negotiating with officers during the process of compensation. The following quotation of interview with an Amhara informant shows what negotiation meant:

The officers in charge of estimating the compensations came to our homestead and saw our mangoes, for example. They assigned certain value for each mango tree. For example, they would say, "1000 Birr is enough" for a grown-up mango tree. At this time, if you are not afraid, you would talk to them. You would say, "No, this mango deserves 7,000." Then you beg them. The officers may increase the value to 2,000 or 5,000 Birr. When they gave us replacement land as well, they would give some of us places which are unfertile, rocky, and hilly. Then you should say "no boss, I have this

and this number of children. I cannot make living with this land. Please give me a better plot". The officers would refuse or they would give a better plot. If you were agreeable with some of the key persons there, you would take advantage. It depends on how you make your voice heard or how you negotiate (Mengist Gobeze, Alu Kurand kebele, April 2017).

On the contrary, the Kumpal were not good at negotiating during the process of compensation. As a result, many of them were given land unfavourable for farming. Some were even left without a replacement land. Interview with local *woreda* administration in 2014 showed that 300 Kumpal households were not compensated for their land. The local administrators claimed those households were to be compensated soon, and were left out by mistake. The Kumpal believed that since their community has no educated members, there was no one to support their cause. While generally they believe they shy away from engagement in the process, they also complain that they are not heard whenever they try to appeal their case to *woreda* officials. An informant stated:

But, our people do not have educated members. No one listens to us. Besides, the administrators do not listen to us. You see people working in the offices? We do not have our sons represented. Well, [so and so] went to the woreda office to appeal our cause; but they said they were not heard (Tagele Ambaw, Fendeka town, May 2015).

Residency after Marriage

According to the Kumpal culture, newly married couples stay with groom's family before they create their own house. While the duration may vary, the Kumpal man, after getting married, stays in his father's home until he gives birth to his first child. When the couples are ready to live on their own, the man makes home in his father's vicinity. This residence pattern had an effect on compensation-for-land. Many married couples who would soon make their own homes were not considered for compensation-for-land, since it was only given to already built houses and not for couples who are living with their parents.

This was a clear disadvantage compared to the non-Kumpal households. According to Kumpal informants, before displacement

for the sugar development projects, to get more compensation, the Amhara constructed several new houses. Compensation was then made based on the number of houses, which were considered as households. According to informants from both the Kumpal and Amhara neighbourhoods, many profited from the compensation. A Kumpal informant stated:

The Amhara migrated from elsewhere and created several new homes to receive compensation per household. During the registration for eligible households for compensation, they gave the name of their relatives, which even had not been living in Jawi. The officers first took all potential names for compensation. Later, they went around the neighbourhoods to check if the listed household names were eligible for compensation. The Amhara who had already created new homes temporarily put household items in the houses to show the officers when they came to check. When we come to our case [the Kumpal's], even those who were genuinely eligible did not get land because, according to our culture, couples create their new homes much after they stayed with the groom's family (Nigatu Wasse, Fendeka town, May 2018).

Cultural Conception of Property

According to the federal government's Proclamation No. 455/2005, there are two forms of compensation made for expropriation of land for public purpose, depending on the type of property. These are compensation-in-cash and land-for-land compensation. The Kumpal believe that they lost the opportunity of compensation in cash because the plants they grow in their homesteads were not compensable.

The Amhara households mainly grow mango trees, which are important for food as well as for sell, especially in May and June. However, the Kumpal instead give more emphasis to culturally significant trees, such as the *Bamba* (*Ficus sychomorus*) and *Wombla* [for which the author could not find equivalent scientific name] trees that have a special place in their belief system.

The Kumpal believe these trees host spirits known as the *Tsahasivi*.¹⁸³ It is forbidden to cut or burn these trees, not to disturb the dwellings of the spirits (Desalegn 2016b). Upon displacement for development projects, however, the Kumpal did not receive compensation-in-cash for these trees unlike the mango trees, which are eligible for compensation under the state law. According to informants, the Amhara neighbourhoods received up to 10,000 *Birr* for a mango tree and could collect up to hundreds of thousands for many. However, since the Kumpal did not have mango trees, they lost the chance for such opportunity.

Escape Value

A saying goes in Kumpal “*aki yintihua div yintihwa*”, which can be translated as “when people come, dispute comes”. When the Kumpal feel they are under pressure from one or another factor of encroachment, such as state-sponsored or self-initiated resettlement and development interventions, they opt for passive retreat into less inhabited areas (Desalegn 2014a); they do not have the culture of resistance. Their tradition is guided by practices of migration.

Due to large scale acquisition of land by the project, a number of Kumpal were displaced, leaving them with small plot of land. This restricted their livelihood, which is mainly based on crop cultivation. While many people from the different parts of Amhara region are attracted by jobs in the project, the Kumpal voluntarily stay away from the project areas into places where they can find more land (Desalegn 2014b).

...Here, you see this house, and over there another house. They are deserted after being sold to Amhara neighbours. Our people do not like to live life this way: people gathered in villages without forest around and new faces added to the village through migration from elsewhere... This house... you see... the Amhara bought it in a cheap price from our man [Kumpal man]. Our people, if you give them small money, they just give a plot of land or house, use the money to drink alcohol in the town and run away to more desert areas. There is a place called Awujemis in

183 *Tsahasivi* is an ancestral spirit the Kumpal believes in. It dwells in some tree species such as the *Bamba* and *Wombla*. If not properly worshipped, the spirits bring loss, i.e. health problems, loss of human life or property.

Benishangul Gumuz [next to Jawi woreda]. Awujamis is a very hot place where many people do not reside. But, our people prefer to live alone even in that harsh place. In my family, for example, I am the only one still living here. Maybe I will also go one day. One of my brothers went to Awujemis. Another went to Quara to live with our relatives there (Tagele Ambaw, Fendeka town, May 2015).

The Kumpal associate their escape value to historical events as well. They believe that they have been victims of oppression throughout history since the power transfer from Zagwe Dynasty to Solomonic. When Yikuno Amlak took power in 1270, the Kumpal believe their fate of being persecuted began. As a result, they were forced to flee into the area today known as Gondar. From there, they also were further moved to Jawi and parts of Benishangul Gumuz region. An informant described:

There is an oral tradition that says our ancestors first lived in Sekota. As they were continuously pushed from one direction, they moved away from Sekota to Tiklil Dingay then to Gondar then to Quara and then now we live in Jawi and there are some people who say our people even live in the far south, gone after having escaped a certain persecution. While our people move away because they are forced, it seems it has also become our culture. As we are inundated by more and more people, we move away to areas sparsely settled (Tagele Ambaw, Fendeka town, May 2015).

Legal Framework

The 1995 Constitution of the Federal Democratic Republic of Ethiopia, under Article 43, provides the right to the development of all Ethiopians. Sub article 1 in particular states “the Peoples of Ethiopia as a whole, and each Nation, Nationality, and People in Ethiopia, in particular, have the right to improved living standards and sustainable development”. All other sub-articles in this article also clearly stipulate the right to the development of people as a group. Moreover, Article 89(4) of the Constitution clearly indicates the state is under a duty to empower disadvantaged communities. In the expansion of development projects, the Council of Ministers Regulations No. 135/2007 stipulates compensation to be paid during displacements and restoration of livelihoods.

The state argues development projects are to the benefit of local communities and the country at large. Sugar development projects in Jawi, according to the government, benefited the community who were disadvantaged in previous regimes. They argued compensation was made duly as per the law, even if there were some irregularities. Government officials further argued the Kumpal has been given special privilege for being the host community. Local government officials claimed they gave priority to the Kumpal to work in the projects as labourers. Moreover, training was given to the local Kumpal youth to equip them with technical skills, which would enable them secure employment in the projects. In 2013, for example, five Kumpal youth were trained and employed as dozer operators in the TBISDP. The Kumpal were also given preference to fill posts as security guards at the project sites. With lack of qualified manpower from Jawi, however, officials recruited labour from other *woredas* in Awi zone. From each *woreda* of Awi zone, job seekers were recruited and organized into small and micro enterprises in different fields required for the project.

State intervention into the Kumpal is, nonetheless, interpreted differently by the people. According to the people, the projects are considered as disruption of the pre-existing livelihood and socio-cultural system, leaving the community without viable alternatives. Persson (2015), who also studied the process of land expropriation law and practice in Ethiopia by focusing on the TBISDP in the Amhara region, also concluded that there is a significant discrepancy between the requirements in the legislations and the practice. According to the study, and the findings shown above in this article, the affected people are to a large extent dissatisfied with the expropriation process and the amount of compensation received for lost property.

Conclusion

Development projects are not placed only on physical spaces; they are also placed in communities that have complex socio-cultural setting. The findings of this article presented the impact of sugar development projects on the Kumpal and the socio-cultural factors that affected the reception of the projects. The Kumpal are disadvantaged minorities due to their perception of past sufferings, current inequalities, and their world view of cursing. They are minorities that do not have the power to resist developmental schemes impacting their lives. The Kumpal example maybe an indicative of similar trends observed in different

parts of Ethiopia where there are sugar development projects. Similar issues are raised in South Omo area where five sugar development projects exist.

Host communities should have the right to benefit from development projects and determine the continuity of their culture and identity as well as social and economic development. Minorities should not be deprived of earning benefits and suffer from various development interventions. Development planners should make, thus, a pre-emptive analysis to understand and mitigate the impact of projects on host communities. The social impact assessment principles should not be simply used for lip service. It needs to be properly conducted and implemented. Even if favourable provisions exist in the constitution towards equitable development of all nations, nationalities, and peoples, existing law should be further scrutinized to set up a proper and enabling legal framework to properly treat the local minority in the context of large-scale development projects. In the case of the Kumpal, the project implementers should discharge their social responsibility by investing in education, awareness raising against their sense of victimhood, and restore and strengthen their livelihood.

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Social Exclusion of Marginalized Minorities in Kaffa, Ethiopia

Taddesse Berisso*

Abstract

This article examines the situation of marginalized minority groups in Kaffa Zone, Southern Nations, Nationalities and People's Regional State. It critically reflects on the aspect of social exclusion of two social minority groups, the Mano (tanners and potters) and Manjo (descendants of former hunter-gatherers and wood workers). The article examines how long-lived practice of social exclusion affects the groups in a wide range of ways preventing them from participating in social, economic and political life, and enjoying their basic rights. The Manjo and Mano are discriminated in every aspect of human interaction and are excluded from mainstream social life of the society. They are economically disadvantaged, politically disempowered, socially excluded, culturally subordinated, and spatially segregated. This in turn, contributed to their abject poverty and destitute life as aptly captured in this article. It is argued in this article that, the problem of exclusion of minority groups in Kaffa Zone has structural, socio-economic elements that tend to be trivialized often escaping the attention of policy makers. Consecutive visits made to five *woredas* of the Kaffa zone over the last fifteen years allowed the writer to get rich insight and on the issues under discussion.

Keywords: *marginalized minorities, social exclusion, social inclusion, Kaffecho, Mano, Manjo*

Introduction

There is a great cross-cultural variation in the degree to which relations of inequality exist between individuals and groups in a society. Drawing on Tilly (2001) and Quijano and Ennis (2000), this chapter understands inequality as relational, historically embedded, a phenomenon comprising several dimensions ranging from social, economic and political to other aspects of inequality. Relations of inequality refer

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to the extent to which culturally valued materials and social rewards are allocated disproportionately to different individuals, families and groups. These rewards can be wealth, power or prestige (Peoples and Bailey 1991:270; Tumin 1978).

People need the opportunity to fully participate in the life of their community if they are to flourish and realize their potential. Certain groups in society, however, are systematically excluded from opportunities that are open to others, discriminated on the basis of their race, religion, gender, caste, age, disability, or other social identity (Tilly 2001). Social exclusion deprives people of choices and opportunities to escape from poverty and denies them of their basic rights. It is often a cause of poverty, conflict and insecurity (Estivill 2003).

Kaffa, in Southern Nation, Nationalities and Peoples Regional State (SNNPRS), is one area where social exclusion of minorities (marginalization, social discrimination, and inequality) is evident; a good example of society that makes it difficult for minority groups to acquire or accumulate wealth, power and prestige (Gezahegn 2001; Pankhurst 2001; Halteren 1996).

This article goes beyond previous works that focused on cultural discrimination of exclusion and brings a broader understanding of marginalization and violations of rights in Kaffa zone, as a phenomenon involving socio-political and economic marginalization. The article primarily focuses on two discriminated social minority groups, the Mano (tanners and potters) and Manjo (descendants of former hunter gatherers and wood workers) mainly living in five *woredas* (districts) of the Kaffa zone. These *woredas* (i.e. Gimbo, Tello, Decha, Bitta and Gesha) are places with large concentrations of Mana and Manja communities, the majorities in the Kaffa community.

Different methods of data collection were employed in this longitudinal study. Semi-structured interviews (forty-three in number) were conducted with community members, government officials, employees of Non-Governmental Organizations (NGOs) and religious leaders. Ten focus group discussions (FGDs) were conducted in all the selected *woredas* with members of the marginalized groups representing different age groups and people from different walks of life. A thorough review of available literature was made on marginalized groups of the Kaffa zone in particular and Southwest Ethiopia in general. In addition to these, available archival materials and documents were collected from different governmental offices

such as the *woreda* administration and NGOs in Bonga town. A few written materials about the socio-economic life of the Mano of Gesha *woreda* and the Manjo of Bechi *kebele* of Yeki *woreda* of Shaka zone were also obtained from the marginalized groups themselves.

Social Stratification among the Kaffa

During the nineteenth century, the Kaffa kingdom, ruled by the Minjo clan, was the most powerful polity in the area, and held supremacy over the neighbouring people. The political life of the kingdom was hierarchically organized whereby the royal Minjo clan held leadership positions (Lange 1982:12; Kochito 1979:23; Orent 1969:100). The higher clans were known as *Ogge-ashi-yaro*, while the lower clans and the stigmatized minority were known as *Gishi-ashi-yaro* and *Sharare-yaro* respectively. The higher clans dominated the political affairs of the kingdom, while the majority of the lower clans were involved in farming. Meanwhile, the minorities were predominantly artisans and hunters. The king, head of the government, was the nominal owner of the land located in his region. However, most governmental affairs were controlled by *Mikrecho*, a local council comprised of noblemen. The kingdom was divided into eighteen regions, governed by administrators known as *Worafe-rasho*. The eighteen regions in turn were sub divided into units called *Gudo*, which were further sub-divided into *Tatekisho*, and finally into *Tugo* (Gezahegn 2001:81; Kochito 1979:26).

At present, the Kaffa people are divided into three social strata; the Kaffecho (the majority farmers constituting the traditional ruling elites and free commoners), artisans (smith, potters and tanners) and the Manjo (traditional hunter-gatherers).¹⁸⁴ Each of these groups are further subdivided into patrilineal clans with their own deities marking their specific status in the social stratification ladder. Membership to these social strata is ascribed by birth and is thus considered as being hereditary.

The Kaffecho represent a farming majority and local elites composed of indeterminate number of clans, which are ranked as higher or lower depending on the origin myth claiming autochthony and based

184 The settlers (*Naftegna*) stratum, which was the highest social stratum between 1897 and 1974, has been dropped out of the local stratification system because it does not have much influence on local structure currently.

on their historical deeds (Kochito 1979). In its broad reference, the Kaffecho form the most prestigious and dominant stratum. According to informants, the term Kaffecho has a dual meaning in two different social contexts. In relation to artisans and the Manjo, as in the past, the Kaffecho are privileged 'Kaffa citizens'. The second reference to the term is made in relation to property ownership and political positions. In the past, the Kaffecho were property owners and holders of political titles whereas the artisans and the Manjo were not entitled to these rights of citizenship. However, the category referred as Kaffecho is a complex set of clans composed of heterogeneous social groups who differ in rank, wealth and power. This group is treated in contrast to the Manjo and artisans (Lange 1982; Orent 1969).

Before the incorporation of Kaffa into the Ethiopian empire in 1897, artisans and the Manjo were considered to be of low social standing and belonged to occupational groups. These groups included the gold and silversmiths, blacksmiths (Q'emo), weavers (Shamano), potters (Kajeche), tanners (Mano) and hunter-gatherers (Manjo). The goldsmiths, silversmiths, ironsmiths and weavers were ranked higher than the Mano and the Manjo as their professions are considered to be better and are believed to have food taboos unlike the Mano and Manjo who are considered to be scavengers (Gezahegn 2001:82). Regardless, based on their occupation, all within the groups faced discrimination and social exclusion. In recent years, smiths and weavers are integrated with the Kaffecho farmers and do not face severe exclusion (Gezahegn 2001:82; Pankhurst 2001). The Mano and Manjo, however, are still marginalized with no or little change in their social position. They are excluded from the rest of the population; they are despised and marginalized by the farmers and are often considered impure. The marginalized minority groups in Kaffa are estimated to account for 5 to 10 percent of the estimated one million total population of the Zone (Haltaren 1996:5).

The Mano, who are primarily tanners, often engage in leather work producing a valued painted sleeping mat and saddlers, pillows, sacks, bags, strap for fastening load, belt, knife sheaths, and other leather products. Tanning, however, has now become an off-farm activity for the Mano of Kaffa; they are engaged in agriculture on a full-time basis. They grow cereal crops and plant *Enset*. Nonetheless, they own and cultivate small plots of land, compared to other farmers. The Mano women, besides assisting their husbands with the daily routines, are primarily engaged in pottery making.

Regardless of their occupational diversity, the identity of the Mano, for most part, is related to impurity and possession of the evil eye (*Korro*). The claim of impurity comes from their dietary habit of eating meat scratched from the skins, and their 'bad smell' caused by the skins they tan. They are also accused of eating carrion and carcasses of dead animals. According to informants, pottery made by Manjo women could not be used by farmers for ritual purposes due to the underlying belief that these are products of the impure.

Further, the Mano are characterized as untrustworthy, lazy, indebted (not paying debts), and less punctual (Pankhurst 2001). Being at the lowest level of the stratum, the Mano live in a separate settlement, at the outskirts in an unsafe environment without access to basic social services like water and electricity. They do not participate in communal activities such as farmer work groups, but share labour amongst themselves (Gezahegn 2001).

The Manjo, descendants of the former hunter-gatherers, are also among the marginalized groups of the Kaffa society. Alike the Mano, the identity of the Manjo is disdained mainly for their eating habits and thus impurity. Traditionally, the Manjo hunted colobus monkey, porcupine, baboons, wild pig and antelopes. For the Kaffecho, who make the social rules, hunting of such wild animals is a major taboo (Pankhurst 2001).

The Manjo, nowadays, practice agriculture along with woodwork and charcoal making. They also collect and sell honey. Following the recent restrictions on the use of wood by local government, however, the Manjo are not making as much wood products as they used to. The Manjo women and children collect firewood for sell, which constitutes the main source of income for households. Women also earn income for the family by making and selling pots.

Before the 1974 revolution, the Manjo were landless and moved from one area to another along the edges of the Kaffa forest. In addition to hunting, they depended mainly on exchanging firewood for *Enset* and cereal crops. They received food items as remuneration for the labour services they rendered to farmers during weeding, cleaning courtyards and drying beans and peas (Pankhurst 2001). Though the Manjo were allowed to own land after 1974, they have not been involved in intensive cultivation due to lack of oxen or technology and destruction of crops by wild animals. They thus grow a very small number of *Enset* plants around their homesteads and cultivate cereal

on small scale. They do not own much livestock, and so enter into cattle keeping arrangement with farmers, through a local traditional mechanism called *Adero*, whereby the Manjo keep sheep, cow, or ox, and share the offspring with the owners (Gezahegn 2001).

Aspects of Exclusion/Marginalization

The Keffecho, Mano and the Manja have had active interactions over a long period. While some of these social relations are quite personal, most interactions take place under structural (institutionalized) frameworks. These relations, as briefly explained in the previous section, manifest layered exclusion and marginalization of the Mano and Manjo. These two groups have low social status whereby they are often considered to be 'sub-human' by the largest majority around them. This section examines the multi-layered aspects of marginalization by discussing the ways in which the Mano and Manjo are economically disadvantaged, politically disempowered, socially excluded, culturally subordinated and spatially segregated.

The Economic Dimension

Land and livestock are major economic assets in rural Ethiopia. For most of the poor, land continues to remain the primary means for generating livelihood. The Mano and Manjo had no or limited access to land and livestock throughout history. They tended to live on the land of patrons or lords and could be evicted at any moment, forcing them to seek new patrons (Pankhurst 2001:3). Their exclusion from land ownership was justified on the grounds that they could endanger the fertility of soil and crops (Pankhurst 2001:3). With the redistribution of land subsequent to the 1975 land reform, the marginalized groups gained usufructuary access to some land. Those living on patrons' or lords' land were considered tenants and were therefore entitled to use the land they were cultivating. As accounts of informants clearly show that, land holdings of the marginalized remained smaller than average and were also of poorer quality, as better quality land has already been occupied by the dominant Kaffecho.

In addition to restricted access to land, the marginalized minorities generally have few livestock; the belief the marginalized groups could endanger the fertility of livestock was sometimes even stronger than fears for them cultivating the land (Pankhurst 2001:4). Despite

these taboos, minorities have begun to rear livestock, although their holdings remain generally insignificant.

The minorities are also fundamentally disadvantaged economically in terms of exchange. In the past, they used to produce objects for their patrons and were also expected to give gifts and provided corvee labour without pay. At present, the Mano and Manjo have problems in accessing the local market to sell their products. The following statement by a Manjo informant from Tello *woreda* is a typical example of the type of problems the Manjo and Mano are facing in selling their products:

We produce some cereals and other food stuffs and take them to the markets for sale. But the farmers do not want to buy them from us. They say any cereals touched by the Manjo and Mano is polluted and should not be consumed. It is even worse with animal products like milk and butter and any kind of food and drink we prepare at home. The Mano sometimes pay other non-Mano individuals to sale their products for them in the markets. But they (the Kaffecho) buy and use our honey and livestock without restrictions, although they pay us lower prices.

Another Manjo informant expresses the problem pertaining to economic interaction as follows:

They do not allow us to touch their cereals and other products if we want to buy in the markets. If we do so, they will force us to buy them with high prices. We just have to see from distance and buy items we need without touching it.

These types of restriction on economic exchanges have negatively affected the marginalized minorities in Kaffa by depriving them of generating income and enjoying the fruits of their labour.

The Social Dimension

Social marginalization of minorities is characterized by segregation and non-reciprocal relations expressed in restrictions on social interactions, commensality, joint labour, membership of associations, burial practices and most profoundly in intermarriage (Pankhurst 2001:5).

The Mano and Manjo are strictly restricted in their interactions with the farmers. They are often not welcomed to farmers' social events. According to informants, the Mano and Manjo may be allowed to attend Kaffecho's weddings and funerals but barred from entering houses. In such events, the Manjo are expected to provide services as musicians, heralds and gravediggers. They are also expected to provide firewood and prepare mourning grounds for no or little pay. While members of the Mano and Manjo may be allowed to attend farmers' social events, the farmers often avoid invitations extended by the minority groups.

The denial of commensality is one of the most pervasive forms of exclusion of the Mano and Manjo (Pankhurst 2001). At social events, they are served separately, often being expected to eat leftovers, food from broken pottery or food placed on their own bare hands than plates. Any plates or cups used by them would have to be disposed. Whereas the Mano and Manjo may eat food prepared by farmers, the reverse is inconceivable. The Manjo could not enter bars, tea houses, and *Tella* and *Tej* houses¹⁸⁵ frequented by farmers. If they do, they are served outside of the main house and with different glasses (or calabash). During the fieldwork, in Bonga town, the author observed distinct *Tej* houses, serving the Manjo exclusively. In most *woredas* the author visited, the Mano and Manjo are not allowed to use flourmills (public or private) or allowed only after farmers finish their parts. Furthermore, they are not allowed to use water from the same springs. The Mano and Manjo still greet Kaffecho farmers obediently when they meet on the streets. In schools, the Mana and Manjo students are usually expected to sit on the backbenches to restrict their interactions with farmers' children.

The social seclusion also involves separate burial places. During the Derg regime, an attempt was made to participate them in burial associations and be buried in the same burial sites as everybody else. Although this was tolerated for several years, after the downfall of the Derg, the community returned to using separate burial grounds. The most pervasive form of marginalization, however, is the rule against intermarriage. Individuals from Mano and Manjo are not allowed to marry members of the farmers, and any hint of sexual affair with the group is denounced. This taboo is still extremely pervasive.

185 *Tella* and *Tej* houses are houses where local alcoholic drinks are sold.

The Political Dimension

Marginalized minorities of Kaffa were generally excluded from the dominant traditional political organization of the Kaffecho kingdom. They had very limited political or judicial rights. Minorities in the area have for long been excluded from village level political institutions, such as Peasant Associations or Service Cooperatives, and never obtained leadership positions in few occasions they were permitted to participate. Due to their social standing, they could not aspire for positions of leadership. In the early days of the 1974 revolution, minorities enjoyed a brief period of favor and were elected to leadership positions, with the backing of the Marxist government (Pankhurst 2001:5). Soon after the revolutionary rhetoric subsided, they lost office and the short-lived political recognition.

At present, farmers are unwilling to entertain the idea of being represented by minorities; and so, the new local level institutions have tended to reproduce traditional inequalities (Data 2000). According to informants, almost all judges and the police officers in the zone are from the Kaffecho group, who in most cases are described as being 'biased' against the marginalized minorities. Informants during the course of the study that led to this publication emphasized their views that marginalized minorities in general have little recourse to justice in such cases of discrimination.

The Cultural Dimension

According to Pankhurst (2001:6), cultural marginalization is expressed in negative stereotyping, claims of pollution, and mythological justifications for the low status of minorities. Much of the cultural marginalization of minorities is legitimized by the negative stereotype about minorities, a view widely shared by the rest of society. The Mano, for example, are often portrayed as possessing 'evil eye', as being 'unclean' and 'stinky'. Manjos are considered to be wasteful and extravagant consumers, lacking the skills to use money wisely, being thoughtless about their future. They also have a reputation for being drunk, and displaying unacceptable social behaviors such as being loud, singing and dancing at markets and social events. Their physical attributes are also described as being unattractive due to their darker skin color and broader noses. In general, the Mano are stereotyped as the 'evil eyes' in the community while the Manjo are the 'wild' and 'uncivilized'.

The 'polluting' nature of minorities is often associated to the 'impure' meat they are said to consume. This 'impure' meat can be either hunted wild animals or farm animals that have died before being slaughtered (Pankhurst 2001:6). Besides this, the Mano are said to eat the scrapings from the hides that they work on. Today, most Mano and Manjo claim they no longer consume such meat, but are still suspected by farmers of continuing such tradition in secret. This may well be simply an accusation to legitimize separation.

Cultural exclusion is also expressed through mythology, which portrays the current predicaments of each group. A prominent Kaffa myth, for instance, states:

At the beginning of time, the earth was pregnant and gave birth to different tribes, which emerged with their specializations. First came Addo (Manjo) with a tuto (hunting net) on his shoulder. Then came Minjo (Gomaro or Kafa) with a milk jug in his hand; from him would come the cattle herders and the kings. Finally came Matto, with a drum, and he began there and then to offer a calf in sacrifice to Yeri (God), at the foot of a dio – tree, from who would come priests (Cerulli 1930:235).

A common mythical theme is the idea that the marginalized are destined to be what they are by creation or had been put in their current status by their wrong doings. The following Manjo mythology the author collected from the field supports this:

The Manjo were indigenous people who used to have their own king before the arrival of the Kaffecho in Kaffa. Their king ruled over both the Manjo and Kaffecho. But the king was bad and used to do lots of wrong doings. One day while leading a meeting, he (the king) saw a colobus monkey coming out of the forest and started running after it, ignoring the important meeting. Disappointed by his act, people disposed him and power was later transferred to the Minjo (Kaffecho).

The Spatial Dimension

The spatial dimension of marginalization can be seen in settlement patterns and in segregation during social events (Pankhurst 2001:2).

The Mano and Manjo usually live on the outskirts of villages, close to forests and on steep slopes, which are susceptible to wild animals that destroy crops. The number of Mano and Manjo households that live integrated with farmers is very small. Farmers sometimes like to have the Manjo and Mano groups as a 'buffer zone' between the forest and the cultivated areas. Thus, marginalization is reflected and mapped on to the landscape, where these minorities are considered to mediate symbolically between nature and culture (Pankhurst 2001:3).

Spatial marginalization is also expressed in segregation at markets, in access to urban land and rental houses, and in social events and interactions. In markets, the Mano and Manjo do not often enter the center. The Manjo can be seen carrying bundles of firewood and sacks of charcoal and move from one bar to another, but are rarely seen in the markets selling these items.

In towns, both the Manjo and Mano face extreme difficulties in finding urban land to build their houses or rentals. The youth is thus forced to drop out of school, mainly located in urban centers, for lack of rental houses accessible to the Manjo and Mano. According to informants, there are only five Manjo families who have built their own houses in Deka city of Gesha *woreda*, supposedly one of the liberal *woredas* towards minorities in the zone. This, however, is not the case in other *woredas*. At Amero Atta *kebele*, a house bought by a Manjo was burned down by a Kaffecho who was disappointed about a Manjo being allowed to own a house in the town. The Mano do not own a single house in Deka as they are denied access to urban land. During the fieldwork, about seventy Mano students, who have completed grade six from Wochito Yeri, Amero Atta and Yesheto Yeri elementary schools, have dropped out of schools due to the problem of finding rental houses close to urban centers. There was also a Manjo teacher who was forced to walk two hours to his school every day because he was denied of rental house in the town where he teaches.

In social interactions, when the Manjo and Mano meet farmers on the road, they are expected to walk on the lower side and bow down to the Kaffecho. The Kaffecho believe meeting a Mano is bad luck; however, on the contrary, an encounter with a Manjo on the street is a sign of good luck. During social events of the Kaffecho, such as wedding, mourning and feasts, the Manjo and Mano generally sit outside, on low ground, symbolically expressing their subordinate position (Pankhurst 2001:3). In case a farmer attends a Manjo or Mano wedding or mourning, he

neither enters into the house, shake their hands nor eat anything provided by them. Such behavior is still displayed in Kaffa zone.

Inter-minority Relations

In the socio-political hierarchy of Kaffa, despising and distancing those below one's stratum also holds amongst marginalized minorities. For instance, the Qemo (gold and silversmiths, blacksmiths) feel superior to the Mano and Manjo. Few in number, though the Qemo are low-status occupational group, they live among farmers and currently do not face marginalization. However, their relation with the Manjo and Mano is characterized by hierarchy and marginalization. The Qemo, like the farmers, believe the Mano and Manjo are 'impure' and polluting. They are thus not admitted to the Qemo house, nor can they shake hands with the Qemo. The exclusion also includes of intermarriage, communal work, membership of burial and religious associations, and dining together.

Similar hierarchical relation is observed between the Manjo and the Mano as well. The Manjo look down on the Mano and do not identify themselves with them. Intermarriage and communal work are not common between the two marginalized groups. The Mano are expected to hide from meeting a Manjo on the road, as the Manjo may attack them (Gezahegn 2001:94). Some Mano, however, do not believe that the Manjo are in a better position than them. Most recently, the Manjo and Mano of Gesha *woreda* are discussing to establish a common cooperative relation. Though potentially such inter-minority relations and co-operations could have been stronger and used to challenge the ideology of domination, this has not happened so far.

Institutions Maintaining Social Exclusion

Interaction between and across the social stratum takes place in the context of institutional frameworks. Hence, it is important to identify institutions most responsible for these structured social exclusion between the study groups. In this regard, religious organizations, *kebele* administration and voluntary associations are some major institutions that maintain and perpetuate social exclusion in Kaffa.

The Alamo

This is an indigenous religious institution; a possession cult of *E'ko*, *Kolle dejo* and *Baare K'ocho* in which many Kaffecho and minority groups believe. The *E'ko*, *Kolle Dejo* and *Baare K'ocho* are spirits, which approaches a man, usually after the death of his father. These spirits can be individual clan spirits or spirits of natural phenomena. There are thousands of these spirits (Orent 1967:1). According to Halteren (1996:21), before the revolution of 1974, every Kaffa hamlet used to have one or more men who were in possession of such spirits, usually an elder. Once a man was chosen by these spirits, he would be considered an *Alamo*, one who can communicate with ancestral spirits (Orent 1967:9). First, however, he had to go and ask permission from the *Ibedah Godah*, the chief *alamo* who was in possession of the king of all spirits, *Dochay*. Once accepted, various different food-taboos such as prohibition of eating mutton, chicken and cabbage would apply to the *Alamo* (Halteren 1996:21).

People would consult the *E'ko* and other spirits through the *Alamenao* (plural for *Alamo*). It is believed that the *E'ko* and other spirits could heal the sick, make the sterile fertile, bring wealth, and adjust marital problems through the *Alamo*. When requests are made, sacrifices of all sorts are being made to the *Alamo*, to propitiate the spirits (Halteren 1996:21). The *Alamo* would then listen and reply on the questions the next day (Orent 1967:10). This worshipping of the spirits existed alongside Christianity and Islam. Most people would consult the *Alamo*, whether Christian, Muslim or otherwise (Orent 1967:10). The *Alamo* was/is thus a powerful man in Kaffa.

Alamenao have hundreds of servants who work for them. According to an informant (first wife of an *Alamo* in Decha *woreda*):

My husband has more than five hundred servants (workers). We sacrifice animals and distribute meat to the needy during holidays, give clothes to the poor, provide them with long-term credits and we possess large amount of land on which our servants grow crops and rear livestock for us. We help them and they serve us in return.

The *Alamenao* are thus rich individuals with large number of servants, followers and with substantial wealth. They are the ones who tell their followers what to do or what not to do. Accordingly, they teach (most correctly agitate) their followers not to eat, drink, intermarry,

shake hands or work with the Mano and Manjo. Those who are found associating themselves with these groups would be excommunicated. For *Alamenao*, the Mano and Manjo are impure, ritually polluting, and therefore should be avoided. Most individuals interviewed (both Kafecho and minorities) believe that traditional religious leaders (*Alamenao*) and their followers are responsible for discriminating and excluding the Mano and Manjo.

Christianity

Orthodox Christianity has long history in Kaffa. It was said it reached Kaffa from the north around 16th century (Orent 1969). However, minorities in Kaffa have not yet been integrated into the Ethiopian Orthodox Church. At the center of the problem are the alleged eating habits of the Mano and Manjo. Food habits of the Manjo and Mano (eating wild animals and meat of farm animals that are not ritually slaughtered) are said to be in violation of biblical food taboos. Because of this, in the past, there was absolutely no possibility for a Mano or Manjo to enter into the Church.

Under the Derg regime, however, the Mano and Manjo were allowed to enter the Ethiopian Orthodox Church. This has allowed some interaction between them and the Kaffecho. Many Mano and Manjo still claim to have church 'certificate' but do not go to church after the fall of Derg regime. The reason being, as they themselves asserted, is the rejection of the Orthodox Church, preventing them from entering (Halteren 1996). Derg's effort to integrate the Mano and Manjo into Orthodox Christianity and other religions did not bear fruit because it was imposed from the above. Though there are Mano and Manjo followers of Orthodox Church, active recruitment and relative acceptance by other religious institutions such as the Protestant and Catholic churches made the Manjo and Mano abandon Orthodox Christianity.

Catholicism, Protestantism and Islam are gaining advantage among the Manjo and Mano in recent times. The abandonment of food taboos among Protestant and Catholic Churches that do not adhere to the Old Testament attracted minorities into these religious institutions. However, the Kaffecho members of these churches have difficulties in accepting the Mano and Manjo. According to Halteren (1996:21), in Mutti, for example, an agreement was reached for the Kaffecho to accept the Manjo into the Catholic Church, with the precondition they

will not be allowed to bring any food or coffee during the traditional *senbeti*¹⁸⁶. A few Mano followers of Islam interviewed in Gesha *woreda* also confirmed that Kaffecho members of the Mosque do not share food with them.

Thus, though not as pronounced as it is with the *Ameno* and Orthodox Church, other religious institutions also do not approve minority groups' food habits in practice, even if they are less concerned with the traditional ideal of pollution. Despite their conversion into these religions, minorities are still discriminated and looked down. There were few cases in Kaffa where separate Protestant and Catholic Churches have been established for the Mano or Manjo exclusively. This practice, however, further perpetuated exclusion than integration into the mainstream Kaffecho society.

Kebele Administration

Kebele administration (peasant association) was first introduced in Ethiopia during the Derg regime. *Kebele* represents the lowest structure of the government administration and is perceived as the most powerful institution affecting decision making at local levels. A closer look at the *kebele* administration power relations in Kaffa reveals that almost all 'important' positions such as the *kebele* chairperson, deputy chairperson, secretary, treasurer, judges are taken by the Kaffecho. A Manjo informant from Gesha *woreda* explained the situation vividly:

As far as I know, no Manjo or Mano has ever become the chairman of any kebele in our woreda and I have never heard of any Manjo or Mano who has become a kebele chairperson in our zone. There are only few Manjo tataki (militia/guards) who are recruited to serve Kaffecho authorities. The Kaffecho do not in any case allow a Manjo or Mano to become their kebele chairperson.

Power relations in *woreda* administration, and most probably in the zone too, are not different from the reality in *kebele* administration. It is to be noted that in Kaffa even the government structure plays a role in excluding and discriminating minority groups. Most important, political positions are often held by non-minority groups, predominantly by the Kaffecho.

186 Sunday celebrations

Voluntary Associations

There are a number of important indigenous voluntary associations (institutions) in Ethiopia, which play vital roles in people's lives. Although their names and forms may vary from culture to culture, these associations include *Iddir*¹⁸⁷, *Equb*¹⁸⁸, *Mahiber*¹⁸⁹, *Senbete* and *Debo*¹⁹⁰ (Kebebew 1978; Alemayehu 1969). Besides these associations/institutions, people in various parts of the country also engage in different types of mutual economic relations such as, sharecropping and share-rearing. All these associations/institutions are currently present in Kaffa. While associations are important for social interactions, membership in them could be restricted to certain social groups.

The Mano and Manjo in most cases have their own separate *Iddir*. In a few cases where the Mano are nominally considered members of Kaffecho burial associations, they are not expected to contribute food and drinks, and do not take turns to spend nights with the bereaved Kaffecho family, as is the tradition among *Iddir* members. During the Derg regime, both Mano and Manjo were allowed to join burial associations with the Kaffecho, and started to bury their dead in the same graveyards. However, this practice was reversed with the fall of the Derg. The Mano and Manjo have also their own communal work groups (*Debbo*). These groups can work for the Kaffecho whenever asked, although the Kaffecho do not participate in the *Debbo* of the Manjo and Mano. Both minority groups also cooperate with the Kaffecho in share-cropping and share-rearing arrangements.

The fact that the Kaffecho and minorities have their own separate associations means that they lack an important forum for social interaction, which in turn reinforces the long existing boundaries between them. A point worth noting, particularly in relation to local institutions, is that most of these institutions have elements, which

187 *Iddir* is a voluntary association based on neighbourhood for the purpose of mutual aid in matters of burial and community concerns.

188 *Equb* is a voluntary association established for the purpose of saving money.

189 *Mahiber* and *Senbete* are religious and/or social self-help associations in which members help each other both on cultural occasions, such as wedding, which require allocation of relatively large resources, and during incidents like death or temporary incapacitation by accident or disaster

190 *Debo* is one of the most known indigenous forms of voluntary associations through which rural communities cooperate with each other to meet certain social and economic ends.

reproduce and perpetuate social exclusion. For instance, in cases where these social associations are shared across the stratum, minorities do not hold leadership positions; only the Kaffecho are elected to lead these associations.

Interventions to Change Social Exclusion of the Marginalized Minorities

Attempts in transforming the situation of marginalized minorities in Kaffa can be conveniently reviewed from historical perspective. A quick overview of the history of minorities during different governments helps understand their present day socio-cultural and economic situations. Thus, this section provides a brief account of changes in the lives of marginalized minorities from the time of the Kaffecho kingdom to the present.

The Minjo Dynasty (16th century – 1897)

Historical and ethnographic accounts reveal that during the Minjo dynasty, the Kaffa society was divided into four hierarchically organized strata of clans (Bekele 2004:213; Gezahegn 2001:81; Lange 1982:242; Kochito 1979:23; Orent 1969:100).

- *Ogge- ashi – yaro*: land and slave owners; clans of the great people
- *Gishi – ashi – yaro*: serfs; clans of the little people
- *Sharrare – yaro*: occupational castes; clans of the bad people, and
- *Sonno*: slaves

During the Minjo dynasty, minority groups in Kaffa were considered as slaves of the king by the virtue of being born to a family of lower social standing. They were treated as slaves of the local dynasty and accordingly they were not allowed to own land, but were treated slightly different than slaves in Kaffa (Halteren 1996:12). According to Halteren (1996), the Manjo, for instance, were allowed to move around freely in the country, and possessed weapons for hunting. Most important, the Manjo-slaves were not to be sold (Mary 1966:54), exported by their feudal lords or allowed to work on the fields or in the houses of their masters. Because of their low status, the Manjo were the most suitable to carry out dangerous duties. They had the social duty of guarding the

watchtowers and gates of the Kaffa kingdom, but on the (dangerous) outside. They also were the guards of the (supernaturally dangerous) royal gravesites, the hangmen and castrators of Kaffa, pathfinders and fence builders (Halteren 1996:12). Halteren further described the status of the Manjo under Kaffa kingdom as follows:

The low status of the Manjo had its effect not only on their position as slaves or on their duties. They were considered impure and dirty and regarded and treated as sub humans and untouchable. The Manjo were not allowed inside the house of non-Manjo and not permitted on to the main paths. A non-Manjo would never touch a Manjo, or anything continually used by one. When speaking with them, a distance of at least three steps must be maintained. Upon meeting higher-status travelers, the Manjo were to step aside, bow, and say 'Sohochi' (let me die for you). Passing royalty members were greeted by prostrating themselves and eating the grassy earth (Bieber 1923:138). They were not permitted to wear cotton trousers (Bieber 1920:142) and any grain sown or reaped by them was not eaten by non-Manjo (Halteren 1996:12).

Emperor Menelik II (1897 – 1913)

The Minjo dynasty as an independent and autonomous entity ceased to exist with the coming of Emperor Menelik II. Emperor Menelik force conquered Kaffa in 1897 and was incorporated into the Ethiopian Empire with the assistance of Jimma Oromo King, Abba Jiffar. The conquest and incorporation caused profound changes in the lives of the Kaffecho with change in the traditional land holding system and other socio-political structures.

Before the conquest, the Kaffecho were independent people who used to administer their socio-political and economic affairs without any foreign interventions. The king and nobility collectively owned land. Following the conquest, however, the vast territory of Kaffecho land was expropriated. Consequently, large area of land came under the ownership of the government, church, administrators, soldiers, and other settlers from the north with the establishment of the *Naftegna-Gabbar* (serfdom) system. Under this system, the *Naftegna* (literally, gunman or conqueror) was supported by a number of *Gabbars* (serfs). It

was required that the *Gabbar* provided grain and animals for slaughter, along with labour in the field and households of the *Naftegna*. The *Naftegna* established virtually a colonial relationship over the Kaffecho, taking their lands and imposing an alien rule on them (Abdul Mejid 1976).

In addition, taxes were collected from each area, majority of which was sent to Menelik's central treasury while the local officials kept parts. At the lower level, Kaffecho *Balabats*, *Koros* and *Chika Shums*¹⁹¹ were incorporated into the system of the *Neftegna* domination to collect taxes, maintain peace, and administer the law within territories designated by the administration. These local elites were allowed to use government land in exchange for services they rendered to the conquering power.

However, nothing changed for the marginalized minorities of Kaffa under the rule of Menelik. Slavery continued to exist while the Kaffecho maintained their socio-economic and political dominance over minority groups (Halteren 1996:13). The minorities remained the (nominal) slaves of their feudal lords, and were discriminated and treated the same way as before the conquest (Halteren 1996).

Emperor Haile Selassie (1930 – 1974)

Imperial land alienation and economic exploitation continued under the administration of Emperor Haile Selassie. More northern settlers were brought into the conquered regions of the South, including Kaffa. Outsiders controlled much of the political life of the Kaffa community. However, slavery was effectively abolished under the Haile Selassie rule and some of the former slaves were integrated into the mainstream Kaffecho society, although initially at a lower socio-economic and political ladder.

However, the opportunities created by the abolishment of slavery did not bring any significant change into the life of the marginalized minority groups. The few political officers from other parts of Ethiopia who were ruling Kaffa and who were not traditionally biased against minority groups lacked sufficient strength and will to curb any discrimination directed against any low status group, such as the Mano and Manjo.

191 *Balabats*, *Koros* and *Chika Shums* were local level political positions/status given to local administrators during the imperial regimes from higher to lower status respectively.

In between the rule of Emperor Haile Selassie, during the Italian occupation of Ethiopia (1936-1941), a number of changes were initiated in the South, including Kaffa area. The Italians abolished the *Naftegna-Gabbar* system and land tax. The Kaffecho (with other people of the south) were given greater freedom to conduct their traditional socio-economic and political practices. The Italians, according to informants, also attempted to change the status of marginalized minorities. For instance, few individuals from the minorities were appointed by the Italians as local chiefs. From the informants' point of view, the marginalized minorities fared relatively better under the Italians. But due to the short occupation period, the changes initiated did not last long.

The Derg (1974 - 1991)

When the Derg, a military junta, came to power in 1974, it adopted a radical land reform program in 1975. The land reform, with the formation of peasant associations, was the most popular reform among the peoples of Southern Ethiopia. It liberated them from an age-old feudal exploitation and oppression by abolishing private ownership of land and landlord-tenant relations. The land reform entitled every individual farmer, including marginalized minorities, to equal rights over land use. As a result, the Mano and Manjo have become farmers. This reform has greatly improved the status of minorities, although some lacked experience and means of cultivation such as farm implements and oxen.

The Derg's villagization and resettlement programs, which started in mid 1980s, further changed the previous relationships between the Kaffecho and minorities. Derg officials forced the Kaffecho and marginalized minority groups to live in the same villages next to each other, breaking traditional socio-cultural barriers. Besides, Derg officials weakened the position of the *Alamenao* within the society; Derg was a communist regime that discouraged religious practices.

It was the socialist idea of equality that further enhanced the position of minorities by a vast set of rules and regulations, meant to socially integrate all peoples of Ethiopia, including its minority groups. The effects of these rules and regulations in Kaffa were described by Halteren (1996) as follows:

Like the Kaffecho, the Manjo (and Mano) too were encouraged and forced to enter the schools the only Manjo ever to

finish Bonga Senior Secondary School did so during the Derg period and other social institutions. Discriminatory practices were punished and therefore superficially disappeared. The Manjo (and Mano) made use of that situation to enter bars, government buildings and churches that previously had been off-limits to them. The churches were the first to be used by many Manjo as a jumping-board to social integration (whether sincere Christian or not). Many Manjo were baptized and obtained their 'certificate' of the Ethiopian-Orthodox Church or entered the Catholic Church or Protestant Church during the Derg. They were (forced to be) equally participating in Peasant Associations and Women Associations, although in reality this did not always turn out to succeed (Halteren 1996:15).

However, all the above-mentioned measures brought superficial change in the attitude of the Kaffecho towards minority groups. After the downfall of the Derg in 1991 and the disappearance of the socialist policies, previously suppressed Kaffecho prejudices and discriminatory practices re-emerged and taboos got reinstituted.

The EPRDF Government (1991 to present)

The Ethiopian People's Revolutionary Democratic Front (EPRDF) overthrew the Derg regime in May 1991 and produced a constitution (1994) in which 'nations, nationalities, and peoples' in Ethiopia are granted the rights to self-determination including independence. The constitution emphasized the rights of 'nations, nationalities and people' to preserve their identities and administer their own affairs. The decentralization process has created a Federal system of government with both the Federal and Regional constitutions having provisions against any discrimination based on race, nationality, color, sex, language, religion, political views, social background, wealth, birth, and others (Federal Constitution 1995: Article 25; SNNPR Constitution: Article 26).

Both the Federal and Regional constitutions give more attention to ethnic minorities, than social minorities like the Mano and Manjo. The implementation of these constitutional rights is very much limited in places such as Kaffa where political offices are by and large in the hands of the privileged groups. Discussions with officials of the zone and study *woredas* indicated that there is no government

policy specifically concerned with social minorities such as the Mano and Manjo. Nonetheless, there are occasional discussions and interventions to improve the condition of social minorities with attempts of empowering the younger generation from the minority groups. For example, in 2005, the Kafa Development Association (KDA) has sponsored a Manjo student at Addis Ababa University and two Mano students at Mekele and Alamaya Universities. According to the regional educational bureau, few children from minority groups were recruited and sent to attend a boarding school in Arba Minch as a special intervention. Although these interventions are insignificant compared to the problem at hand, there are a few Kaffecho officials who are concerned about the situation of minorities and want to see changes.

There are also interventions by Non-Governmental Organizations (NGOs) to change the situation of marginalized minorities in Kaffa. From 2000 to 2005, FARM-Africa started a joint forest management project with a plan to conserve the Bonga forest by addressing the needs of the Manjo, who have historically been depending on forest resources. According to Gezahegn (2001:97) and findings from this study, the Manjo have benefited from employment in plantations and nurseries, and credit scheme that enabled them to purchase livestock, thus challenging the old stereotypes that the Manjo cannot save. The project has assisted the Manjo in gaining recognition of rights to land from which they had been evicted during the Derg under the pretext that it was within the State forest (Gezahegn 2001:98). The Project has also given the Manjo the experience in dealing with external agents who are beyond the zone and the region offered them the exposure to an outside audience to voice their concerns (Pankhurst and Kubsa 2000).

Action Aid Ethiopia is another NGO working in Kaffa zone. The main objective of this organization was to create awareness among government institutions and the public about human rights issues. It organized workshops on human right issues, minority rights, good governance and rule of law. However, because of its short implementation period, it is difficult to measure the impacts this organization brought on the lives of marginalized minorities of Kaffa.

To sum up, since the turn of the 20th century, Kaffa society has seen profound social changes, such as incorporation into the State system, change in land tenure, urbanization and growing monetization of the

local economy, introduction of new religions, and exposure to modern education. These have affected the Kaffa society one way or another. Amidst such changes, however, the Mano and Manjo are still greatly subjected to various forms of exclusion despite their crucial economic and social contributions. From our discussion so far, it is also clear that not much have been done by the government and NGOs to change the situation of social minority groups in Kaffa zone.

Nonetheless, claims of right by social minorities, at times aggressively, should be particularly alarming to the government. Social discrimination must be given due attention not only because the practice is against the constitution but also if left aside indefinitely it may cause disharmony and instability (Data 2000:25-26). In some *woredas* of Kaffa zone, such as Bitta, conflicts and armed confrontation between the Kaffecho and Manjo have already started in the process of the Manjo claiming their rights. According to an informant, armed confrontation between the Kaffecho and Manjo in 2002 has left more than seventy-five people dead from both sides (majority being from Manjo) and caused destruction of innumerable property.

Towards Social Inclusion of Marginalized Minorities

The Manjo and Mano are excluded from mainstream Kaffa society. They are economically disadvantaged, politically disempowered, socially excluded, culturally subordinated and spatially segregated in their relations with the dominant Kaffecho. Their exclusion and discrimination are structural in a sense that the problem gets its root in the system that is built on values and principles, which govern the interaction of the society in a manner that is discriminatory (Barash and Webel 2002; Galtung 1969). The problem is also cultural; it refers to an aspect of culture that appreciate, acknowledge and legalize discrimination or exclusion as a proper character and action (Galtung 1990). It is the niche of prevailing attitudes and beliefs that have been inculcated into the minds since childhood and kept in daily life akin to the power (Galtung 1990).

There have been some attempts to change the situation of marginalized groups. In spite of these efforts, the situation has not shown any significant improvement. This is due to the fact that most interventions were spontaneous rather than systematically planned. Regression has been witnessed in the socio-economic and political position of marginalized groups under EPRDF. Revival of traditional beliefs as

part of general cultural revitalization was not to the advantage of the Mano and Manjo. Under the rule of respect for ethnic groups and their cultures, traditional beliefs regained its previous influences in Kaffa, including those that perpetuate discrimination of minority groups.

Having showed discrimination exists, and also having argued that change is possible and necessary, it is important to indicate ways and strategies that would help to achieve a just social order and better economic situation for the marginalized minorities of Kaffa. Given minorities are the poorest among the Kaffa society, intervention in economic sphere is a necessary (but not the only) condition. In this regard, minorities should be provided with credit, livestock aid, and modern agricultural inputs such as fertilizers, improved seeds, implements and training in agriculture. They also need free access to market, employment opportunities, urban land and housing, and to the provision of other social and infrastructural services. Besides, as an important tool for socio-economic mobility, effort should be made by the government to provide access to education. Schools should be opened close to Manjo and Mano villages and attendance of minorities must be insured. Non-formal education should also be provided to adult members of minority groups.

The political marginalization and discrimination of minorities in Kaffa is manifested vividly at the *kebele* level. Representation at *kebele* would be very important step in empowering the minorities. Federal and Regional governments should work closely with *woreda* councils to bring such change. Representation of the marginalized minorities shall be ensured at all levels of government structures as well. Above all, the legal, regulatory and policy frameworks of the country should be properly implemented to protect and realize the human rights of all in a non-discriminatory way. This involves supporting and strengthening programs focusing on governance, rule of law, accountability and right based approach.

The social and cultural domains seem to be the area where change is lagging the most. Many elements of the traditional social stratification and prejudice persist to this day. The long-term solution for the negative socio-cultural attitude against minority groups is, in fact, raising the level of consciousness of both the minorities and the Kaffecho on equality of citizens to bring attitudinal and behavioral change. Particular emphasis should be given to educating and changing the attitudes of *Alamo* and the Orthodox Church towards minority groups. The government also need to work with local associations, such as the

Iddir, to reach to the community and address the root causes of the problem.

In implementing the above suggestions, the approach should be integrative; designed in such a way that they reduce and gradually eliminate social discrimination. The integrative projects to be implemented should systematically target minorities in their own rights, addressing all or most aspect/dimension of discrimination. Intervention also needs to be inclusive of all stakeholders, including the government, NGOs, civil society organizations, volunteers, workers' and employers' organizations, and community members at large. If we are to tackle social exclusion effectively, we need to duly recognize the problem and find ways to ensure social inclusion.

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The Qemant Ethnicity: Identity Contestations, Negotiations, and Conflicts

Dawit Yosef* and Fekadu Adugna*

Abstract

In long historical processes, ethno-cultural features of minority groups may vanish, and their identities may blur in favour of the majority ethnic group. However, in other historical contexts, usually triggered by political changes, ethnic markers and boundaries might be re-activated, and the identity could be reclaimed. Drawing on qualitative data collected through interviews, systematic observations and focus group discussions, this article examines politics of identity and the reconstruction of Qemant ethnicity in Ethiopia. It emphasizes on the processes of the Qemant's quest for ethnic recognition and self-administration in the Amhara National Regional State of Ethiopia. The findings indicate that 'lost' ethnicity could be reclaimed regardless of the waning of objective ethno-cultural features such as language, religion, and social organizations. Symbolic and subjective accounts can be reckoned and thereby ethnic boundary may be reframed in new forms. However, the reclaim of identity by minority groups could invite counter-reaction from the majority group that perceives the rights of minorities as a threat to the existing social order.

Keywords: *ethnicity, ethno-cultural features, ethnic identifications, ethnic conflicts, minorities*

Introduction

This article examines the process of ethnic identity (re)construction among the Qemant, a minority group largely inhabiting Central and West Gondar Zones of the Amhara Regional State. Using constructivist approach to ethnic identity as a conceptual framework, we assess the

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role of the state and the changing political processes in (re)constructing and consolidating ethnic identity of the Qemant within the contending ethnic majority, the Amhara. We make two arguments in the paper; (1) objective cultural features are important markers of ethnic identity though not necessary for people to (re)claim and become assertive of their identity, and (2) the politics of ethnic and state construction has an impact on ethnic self-understandings, identity (re)construction and consolidation.

In this article, we use constructivism in its broader meaning to explain how individuals and groups are treated as agents in shaping and reshaping their identities and boundaries out of history, assumed common descent, culture and memory of past identifications (Schlee 2007:430; Cornell 1996:266; Nagel 1994:153). Individual actors representing ethnic groups are “actively involved in the construction and reconstruction of identities, negotiating boundaries, asserting meanings, interpreting their own pasts, resisting the imposition of the present, and claiming the future” (Cornell and Hartmann 1998:101). In situations where there are overlapping features of identification, elites, who claim to represent the groups, selectively emphasize and de-emphasize their belonging.

Presumed common ancestry, history, language, religion and custom can be considered as objective features of identity construction; they either inform or constrain the processes of identification of an individual or a group. However, since Barth’s publication in 1969, the focus of identity studies has shifted from the totality of the objective features of a group to a selection of the actors’ most significant features in a given situation. Groups, such as the Qemant, struggle to achieve recognition as a distinct ethnic group without the presence of the above-mentioned objective features. Often, such an apparent struggle for identity is motivated by the rapid socio-political change (Schlee 2004).

This shows the state plays a crucial role in identity construction (Verdery 1994:39). In Ethiopia, a country prominent for identity based political upheavals and recurrent ‘re-mapping’ of the domestic borders (James et al. 2002), the state-making process tends to make identity imperative. In the post 1991-Ethiopia, identity has become a critical factor to assume political positions and resources. This prompted many minority groups in the country to pursue and fight for their identities to be recognized. To manage those overwhelming demands, the House

of Federation established an office known as the Constitutional and Regional Affairs to handle issues related to identity claims.

In 2001, the Siltie, which was regarded as one of the groups of the Gurage ethnic group, was the first to be treated by Proclamation Number 251/2001 that was meant to consolidate the performance of the House of Federation of the FDRE allowing them to vote on their ethnicity after a decade of confrontations with Southern Nations, Nationalities and Peoples Regional State (SNNPRS) and the Federal Government of Ethiopia (Kairedin 2018; Smith 2007). The vote has resulted in the establishment of the Siltie zone¹⁹² where they exercise independent administrative authority.

Siltie's success has encouraged other minority groups to ask for recognition. This is evident in the increasing number of ethnic groups with representatives at the House of Federation. Between the endorsement of the Constitution, 1995 to 2000, the number of ethnic groups officially recognized by the government was fifty-eight (Aalen 2002). From 2001 to 2008, this figure reached seventy-four (Fekadu 2009). The cases of several others, most of them from SNNPRS, are still pending.¹⁹³

In the quest for recognition and self-administration, resources also play an important role. Regional states allocate budget they receive from the federal state to zones as per the general provision on budget expenditure. Thus, groups with administrative power at district level get to control the resources (Fekadu 2014; Baylis 2004).

However, not all claimed identities and quests for self-administration have been successful. Welene community under the Gurage zone of SNNPRS (Beza and Negussie 2020) and the Sheekash from Afdeer zone of Somali national regional state (Hagmann 2007) can be taken as an example of ethnic groups that have been contesting for recognition for over a decade. Similarly, the historically nomadic Gabra in Southern Ethiopia, territorially divided between Oromia and Somali national regional states, have also failed to have a special district administrative unit. The Gabra's demography and the extent of territorial occupation have not allowed them to achieve an autonomous administrative unit (Fekadu 2009, 2014).

192 Zone is an administrative unit lower than the regional state

193 *Addis Admass*, www.Addisadmas.com (accessed on 23.05.2009).

Similar to the Siltie, Qemant's quest for identities, contestations and negotiations with the Amhara national regional state has also been fueled by the post-1991 period that institutionalized and related identity claims and state resources. However, unlike the Siltie, the Qemant have lost most of their ethno-cultural features policy makers use as major criteria to recognize as distinct ethnic group (FDRE Constitution 1995).

Setting the Research Context

Most researches on ethnicity in Ethiopia have focused on the south, southwestern, and eastern parts of the country while the northern region has largely been assumed as ethno-culturally homogenous, marked by its traditional Orthodox Christian Culture (Schmidt 2011:107). However, there are different ethnic minorities in different parts of northern Ethiopia of which the Agaw enclaves are one (Gamst 1968:4). These include the Northern Agaw (the Bilen in present Eritrea), Eastern Agaw (the Himra in Wollo), Western Agaw (the Qemant in Gondar), and Southern Agaw (the Awi in Gojjam) (Zealealem 2003:30). The Kunfāl (Desalegn 2016), Damot, and Fālašša¹⁹⁴ are also part of the Agaw minorities (Gamst 1968:3). As stated in the introduction, the article deals with the Qemant among these ethnic minorities in Northern Ethiopia.

The Qemant inhabits a broader territory in Central and West Gondar zones of the Amhara national regional state. Some surviving cultural markers of the Qemant shows their historical commonality with the other Agaw groups. Kemantney language as a surviving ethno-cultural marker is similar to other Agaw groups. Some surviving ancestral religion of the Qemant is also considered the historical religion of the Agaw before conversion to Christianity.¹⁹⁵ More importantly, recently,

194 Some other scholars (e.g. Stern 1862) identified them as Ethiopian Jewish or Bētā Israēlis (the House of Israel).

195 The ancestral religion of the Qemant was identified differently by different scholars. For example, Simoons (1960:23) defined it "ancient pagan religion." Similarly, Gamst (1969:4) characterized it as a form of composition of syncretized pagan and Hebraic elements, with a few Christian features that make it "pagan-Hebraic." Still, Tourny (2009:1226) mentioned that the ancestral religion of the Qemant comprised of animistic, many Hebraic, and some Christian elements that cannot be summarized by one definition. However, our informants from the surviving practitioners of the religion identified it alternatively as "*hegä Abraham*" (the law of Abraham), "*hegä libona*" (the law of conscience), and "*hegä Orit*" (law of Orit), which was noted to be performed in line with the Biblical tradition of the Old Testament.

the Qemant and the other Agaw groups have been trying to reconstruct the historical unity based on the claims to common ancestry, through establishing common political parties. The first such initiative was the launch in 2013 of Agaw Democratic Party (AgDP). With members from Awi, Himra, and Qemant, AgDP's intention was mobilizing members from the historical Agaw enclaves and thereby re-establishing their unity.¹⁹⁶ The Agaw National Congress (ANC) was formed in January 2019, jointly by AgDP and Qemant Democratic Party, with the aim of creating a common platform that would enable them to work together for the interest of the Agaw peoples in general.

The article is mainly based on data gathered as part of the PhD dissertation project of one of the authors, defended in December 2018.¹⁹⁷ The empirical data was drawn from fieldwork in Gondar, Chilga, and Lay Armachio *woredas*. It was generated through semi-structured in-depth interviews with government officials, members of the 'Committee to Quest for the Qemant's Identity', community members, elders, youth and women. Focus group discussions were undertaken with heterogeneous social categories from local residents of the research sites. As the fieldwork was carried out during the climax of the political movement for the Qemant identity, systematic observation of the situation was also very helpful. Besides, relevant documents and reports from the administrative offices of the *woredas* were also consulted.

196 SBS Interview with Mr. Musie Abraham, Agaw Democratic Party (ADP's) Foreign Relations Representative. <http://www.tigraionline.com/articles/adp-musie-abraham.html>. Accessed on 18.10.2020

197 The article is part of Dawit Yosef's PhD dissertation, and the second author served as a supervisor of the dissertation project. Data collection for the dissertation was financially supported by Wenner-Gren Foundation for Anthropology. The authors are grateful to Wenner-Gren Foundation for Anthropology for its generous support.

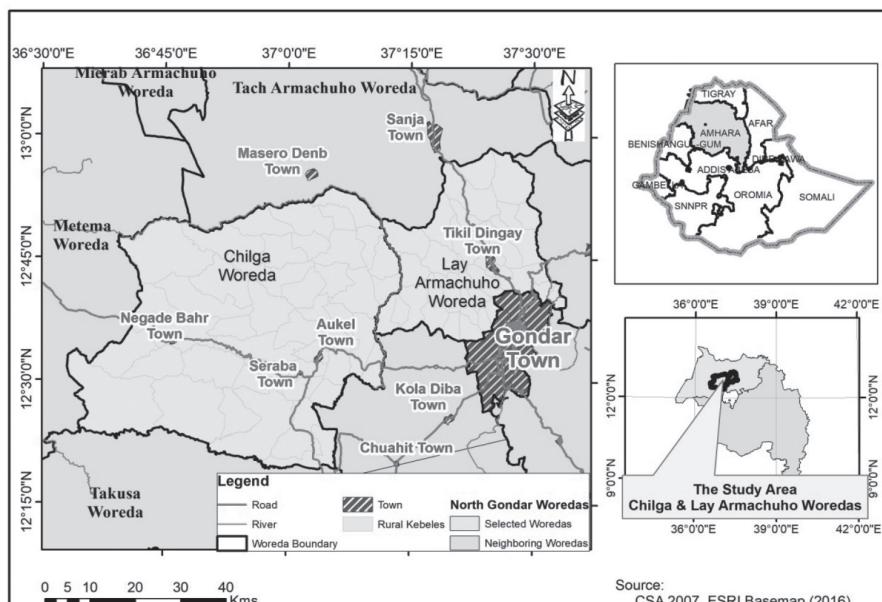


Fig.1. Map of the research sites (Chilga, Gondar city and Lay Armachio)

A Brief Mythical and Historical Background to the Qemant Identity

Historical Background of the Qemant

According to Gamst (1969:7), the name Qemant was first used by James Bruce, Scottish traveler, in 1790. This historical account shows that the Qemant were baptized into Christianity in the early 1600s by Emperor Fasiladas (1632-1667) of Gondar. Gamst (1969:vii), on the other hand, traced the Christianization of the Qemant back to the thirteenth century when the surrounding dominant Amhara began to exert influence on the Qemant. Nevertheless, the Qemant existed as “relatively culturally independent and socially and politically semi-autonomous from the surrounding dominant Amhara” (Gamst 1968:3-9) for a long period of time. In this long historical process, the Qemant appeared to have maintained their own religious beliefs and practices and control over their land by agreeing to submit peacefully and pay tribute to the dominant Amhara (Quirin 1998:204).

The earlier tolerance of Christianity to the Qemant ancestral religious institutions was reversed by Emperor Yohannes IV (1872-1889) who carried out a forced Christianization (Quirin 1998:217; Gamst

1969:116). This was the period the majority of the Qemant had been forced to practice Christianity leading to the opening up of the socio-cultural system of the Qemant to external influences (Gamst 1969:119). The intervention in local affairs and cultural homogenization was heightened during the reign of Haile-Sellassie (1931-1974) when the remaining practitioners of Qemant politico-religious residues were threatened with the loss of use rights to their land (Gamst 1969:121). According to Qemant elders' accounts, in the 1950s, as the Christianization and cultural homogenization processes intensified, the rupturing of the Qemant objective cultural markers and ethnic symbols was deepened.

Background to the Qemant Quest for Identity

The post-1991 Ethiopian federal political structure privileges diversities and prioritizes groups based on ethnic identities. The 1995 Constitution, at least theoretically, guarantees the unrestricted right of nations and nationalities to self-determination up to secession (FDRE Constitution 1995). This has allowed minority ethnic groups in the different regional states to be entitled to their own sub-regional administrative structures (Asnake 2009). Similarly, the Amhara national regional state Constitution has entitled the Awi, Himra, and the Oromo nationalities within the region to their own special zone administration, where they use their own languages in school, administration, and the court. The minority Argoba are also entitled to their own special *woreda*, a lower level administrative structure. The 1992/7 proclamation¹⁹⁸ that established the transitional administration of the Amhara national regional state had listed down the names of ethnic groups that were recognized for self-administration. However, unlike the Awi, Himra, the Oromo and the Argoba, this proclamation did not recognize the Qemant as a distinct ethnic category. The Amhara national regional state Constitution limits the "peoples of the Amhara Region" to groups that are labelled as 'endogenous' to the region based on the transitional period proclamation (Amhara Regional State 2001; see also Van der Beken 2007).¹⁹⁹

198 Proclamation No. 7, 1992 a proclamation to provide for the establishment of national/regional self-governments. *Negarit gazeta*, year 51, no. 2, 14th January 1992

199 The constitution, however, does not prove a clear distinction between endogenous and exogenous groups.

As to why the Qemant were not recognized by the proclamation, contradicting reasons were proposed by participants of this study. According to some officials of the regional government, majority of the Qemant deemphasized their ethnic distinction from the Amhara during the transitional period, and did not give due response to their elite's call for ethnic recognition. The majority Qemant rather lay emphasis on the deep-rooted socio-cultural and marital ties they have had with the Amhara. Contrary to this view, the Qemant informants argued they were denied the opportunity to be recognized as a distinct ethnic group without any apparent justifications from the regional government that was dominated by the Amhara.

Other informants argued that, owing to the pejorative labelling and identifications, many of the people lacked the confidence to publicly identify themselves as Qemant. In relation to their ancestral religious traditions, the Qemant were stereotypically labelled by their Amhara neighbors as *yä'änčät läj* (son of wood), *yä'änčät zär* (descendants of wood), *yä'änčät färé* (born of wood), among others.²⁰⁰ Thus, until the recent intensified politics of identity, identification with the Qemant was an unfavourable experience. As a result, when the country was reconstituted into an ethno-linguistic based federation after 1991, identity issue was raised only by few educated Qemant ethnic members who did not obtain the necessary support from the ethnic mass.

While each of the above arguments has some truth, the ethnic based federal structure had also its own limitation. Regardless of the constitutional definition of ethnic groups,²⁰¹ the administrative structures were fundamentally organized based on objective ethnic markers, mainly language as a main criterion for the delineation of ethnic boundaries and ethnic identity (Vaughan 2003; Abbink 1998; Cohen 1995). This must have discouraged the Qemant for whom was

200 The practice of the Qemant religious ritual under groves of trees which was strange for other peoples of northern and central Ethiopia that led to the characterization of the Qemant as "originated in wood" (Gamst 1969:86). The Qemant were known with "wood", "worshippers of wood" or "born of wood" because of their association as carriers of wood, worshippers in sacred groves of trees, and wearers of wooden earrings (Quirin 1998:217).

201 Article 39 (5) of the federal Constitution identifies 'nation, nationalities, and peoples' (roughly ethnic groups) of Ethiopia as: "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 makeup, and who inhabit an identifiable, predominantly contiguous territory".

hard to meet this linguistic criterion and other objective ethno-cultural features.

The Qemant elite started posing demands for ethnic recognition in the early 1990s.²⁰² It was initiated by few educated and politically conscious members of the ethnic group who were said to have been upset by the 'denial of recognition' by the regional state in 1992. However, at the beginning, the elites could not attract support from the mass. As stated earlier, majority of the Qemant either lacked self-confidence to publicly identify themselves as Qemant or it was unimaginable for them to delineate a distinct boundary from the Amhara with whom they shared a strong socio-cultural attachment. Many members of the ethnic group have accused the minority elite of being power mongers, while the remaining did not have a clear understanding for why the group asked for recognition (Zealealem 2003).

Unlike the 1992 regional proclamation that failed to recognize the Qemant, the 1994 Population and Housing Census of Ethiopia presented the Qemant as a distinct ethnic group in the Amhara National Regional State. The census showed the total number of the Qemant population to be 172, 291, out of which kemantney (the ethnic language) was the mother tongue for 1,625 people while 3,450 spoke it as their second language (CSA 1994). However, the 2007 National Population and Housing Census failed to include the Qemant in the list of ethnic groups. In the documents prepared for the census, the Qemant were given the alternative to be enumerated either as "Amhara" or "Others". Nonetheless, neither the Qemant elite nor the Amhara officials were able to provide a reason for this.

The failure of the 2007 census to include the Qemant as an ethnic group was effectively exploited by ethnic activists in their effort to mobilize the mass. Indeed, it was used as a turning point and a strategic resource to organize the mass under the leadership of the educated and politically active ethnic elites.

The Qemant elite condemned the census incident to be an "act of ethnocide" in comparison to the visibility of the ethnic group during the previous imperial and Derg regimes. During the Imperial times, the Qemant, recognized as an ethnic group, used to pay tax through *Ba'labat* (a local representative). The presence of the Qemant was also acknowledged during the Derg. An indication to this is the recognition

202 Sources from the office of the committee for the quest of the Qemant identity

given to the ethnic group in the 1984 Population and Housing Census and a study by the then Institute of Ethiopian Nationalities. According to the 1984 census, the total population of the Qemant was 169,168.

Out of this, 166,973 people were identified as speakers of kemantney as their first language, which was quite significant compared to 1,625 people registered in the 1994 census (CSA 1984).

By referring to the above documents, the Qemant activists characterized the absence of the Qemant from the 2007 National Census as “a historical mess,” an “act of ethnocide,” and a “forceful Amharization”. Almost all participants in this study considered it as violation of the very right to the existence of their ethnic identity. Following the 2007 census, the Qemant held a demonstration in Gondar city protesting the absence of their ethnic group in the national census. The mobilization of ethnic group members continued thereafter to demand not only recognition but also self-administration.

However, this was differently interpreted by the Amhara elite, who considered this as a political conspiracy by the Tigray People Liberation Front (TPLF) led federal government of Ethiopia. The Amhara elite argue, by intentionally cancelling the Qemant Census Code and creating grievance among them, the TPLF dominated federal government intended to provoke a reactive ethnic mobilization from the Qemant and thereby creating hostilities between the cohabiting Qemant and Amhara. They accused the TPLF of deliberately causing instabilities in the region and contributing to the fragmentation of power of the Amhara people. Amhara officials accuse the federal government of secretly initiating and supporting the question of the Qemant for self-administration; the exclusion of the Qemant in the 2007 census, according to the Amhara officials, is a step taken by the federal government to mobilize the Qemant around that cause. However, there is no evidence to support this.

The Identity Negotiations

With the subsequent intensification of mobilization, the Qemant elite consolidated their movement on 24th of May 2009 by electing the Qemant Organizing Committee, constituting 120 educated and politically conscious community members. The organizing committee consulted proclamation Number 251/2001 of the FDRE, which gives

the House of Federation the power to decide on issues related to the rights of nations, nationalities, and peoples to self-determination.²⁰³

According to this proclamation, application of request for identity and self-administration by an ethnic group has to be supported by the detail accounts of at least five percent of the population of the claimant group. The detail accounts in this regard includes their names, addresses and signatures. Calculating the necessary ratio from the 1994 National Census, the organizing committee collected 18,584 signatures and submitted to the Amhara national regional state and to the House of Federation on July 22nd 2009.

However, the House of Federation directed the request to be first considered by the Amhara national regional state. Indeed, Article 20(1) of proclamation No 251/2001 states that such issues shall be submitted to the House only under conditions that the question has not been given due solution by the various organs in the administrative hierarchy of the state concerned. Accordingly, the Amhara regional government conducted dialogues and negotiations with the organizing committee. As part of the dialogues and negotiations, the regional state commissioned studies to produce evidences to help reach decisions.

A study was carried out in January 2011 by a committee organized by the regional government constituting individuals selected from different government offices. Members' selection or the research tools used, however, was not clear. The study targeted language, culture and territoriality as criteria of ethnic identification, and its findings revealed that only those who were above the age of sixty could speak Kemantney, scattered across different localities. They were reported to have not used the language in their day to day lives. Without providing any specific definition of 'culture', the study mentioned that the Qemant did not have a culture that was different from the surrounding Amhara people. However, the presence of a category of people who identified themselves as Qemant was noted; they were reported to have lived either together with the Amhara or in their own *kebeles*. Though this study did not make any recommendation, its findings implicitly suggested the Qemant did not qualify for recognition as an ethnic group.

203 This proclamation was passed to consolidate the performance of the House of Federation of the FDRE (Federal Negarit Gazeta of the FDRE; Seventh year No. 41, six-July-2001).

Accusing it for lack of credibility and transparency, the organizing committee of the Qemant refused to recognize the results of the study. Indeed, when the result of the study was presented and discussed, the regional government officials expressed their interest in keeping the territorial integrity of the region by avoiding further fragmentation in the name of self-administration.²⁰⁴

Due to the continuous demand from the Qemant, another study was launched in March 2012 in which researchers were represented from both sides. But, in the midst of the study, disagreement over the research procedures and techniques of selecting study participants interrupted the study. On 30th of May 2012, however, discussions and negotiations recommenced with the presence of delegates from the federal government. After further discussions and negotiations, it was decided to conduct another study by an independent body. However, due to continued pressure from the local community as well as the federal government, the regional government accepted the quest for Qemant's identity based on the evidences the organizing committee provided without further study.

The organizing committee presented evidences for Qemant's identity at a session held on 19th of October 2013, which was attended by regional and federal state officials. The organizing committee presented the presence of the Qemant in 126 *kebeles* that were located across eight *woredas* of the then North Gondar Zone administration. This included Gondar Zuria, Chilga, Lay Armachio, Chilga, Wogera, Dembyia, Quwara, and Metema *woredas*. The organizing committee, in addition, gave details of territorial settlement of the Qemant and the Amhara in the *Kebeles*. The organizing committee conducted a census in fifty-three selected *kebeles* to prove the existence and use of Kemantney; the organizing committee claimed that 6,645 people spoke the language in the selected *kebeles*.

In the report by the organizing committee, it was indicated that there are *kebeles* in the area fully inhabited by either the Qemant or the Amhara; some *kebeles* were dominantly inhabited by the Qemant but with small parishes (*goṭs*) inhabited by the Amhara and others were identified as populated by the Amhara but constituted small parishes of the Qemant. From this, excluding *kebeles* exclusively inhabited by the Amhara and those wherein the Qemant are minorities, the committee

204 Dawit Yosef, the first author of the article, had attended the meeting wherein the result of the study was presented and discussed on January 4, 2012 in Bahir Dar.

identified and claimed a total of 126 *kebeles*, adjacent and contiguous territorial unit that historically and at present belonged to the Qemant. The Qemant organizing committee used language and the contiguity of settlement as criteria to identify the *kebeles*. However, the Qemant elite extended the criteria to include religious practices in asserting their identity.

Nonetheless, the regional government contested what was presented by the organizing committee and wanted to verify the existence of Kemantney speakers in the identified *kebeles*. In addition, the presumed cultural distinction of the Qemant from the Amhara as it was presented by the organizing committee was also questioned. The regional government argued that, in order to make 'a final decision' on the demand of the Qemant, it needs further clarifications.

The Allegedly Concluding Study

Due to disagreements over most of the criteria, a 'final and conclusive study' was suggested to be conducted under the auspices of North Gondar administrative zone of the Amhara national regional state. This time, the focus was on the territorial distribution of Kemantney speakers; the extent and geography where the language was commonly used in the day-to-day life of the people. It also targeted to examine whether or not a "common culture, custom, way of life, and psychological makeup" existed among the Qemant. These features, which constitute the constitutional criteria for 'nation, nationalities, and peoples', were considered as attributes that would prove the Qemant as a distinct ethnic group. Though not clearly articulated, it was also suggested to assess the existing economic, social, and political situation in the area.

The findings of the study again indicated that the knowledge of the Kemantney was limited to very few elders who lived in non-contiguous and widely scattered places. It also revealed that the language was not used as a means of communication or interaction in the daily lives of the local people. The study further explained that only a handful of people in Chilga *woreda* practiced the religious traditions of their ethnic ancestors while majority of the Qemant were identified as Orthodox Christians. However, the study acknowledged the presence of a group of people who, on the basis of their feeling of ethnic ancestry and descent, subjectively identified themselves as Qemant. But, this group of people were said to have lacked the knowledge of Kemantney.

Based on the findings from the study, the Amhara national regional state council passed a decision on 11th of August 2013.²⁰⁵ The council asserted that the Qemant historically existed as a distinct ethnic group with their own unique ethno-cultural features. However, according to this deliberation, the Qemant have assimilated into the Amhara culture, making it difficult to distinguish specific ethno-cultural features that make the Qemant different.

Article 39(5) of the constitution states groups who claim distinct identity are required to have their own common language, culture, believe, psychological makeup and territorial contiguity. The article further states that nation, nationality and people or ethnic group is “a group of people [...] who predominantly inhabit an identifiable contiguous territory” (FDRE Constitution 1995: Article 39(5)). Based on this, the council stated:

የቅማነትን ህዝብ የለም ብሎ የተከራከረ ባይኖርም የራስ አስተዳደር አካባቢን የማቋቋም ጥያቄው ግን ህግ መንግስታዊ መስፈርቶችን ባለማሟላቱ ተቀባይነት አንዷሌለው ውሳኔ ተላልፏል።

Though no one ever denied the existence of the Qemant people, their demand for self-administration was not accepted as it did not fulfill the constitutional provision.

Switching Criteria: the Qemant’s Response

The Qemant reacted to the council’s decision by framing their counter narratives. The Qemant criticized how the regional government interpreted and handled the constitutional provision, correlating territorial settlement to ethnic identity. On the other hand, the argument maintained by the Qemant was that ‘contiguous territory’ ought to be identified on the basis of the pattern of settlement of the people who identify themselves as Qemant rather than those who actually speak Kemantney.

Further, they emphasized that belief in common ancestry and experiences of prejudices and negative stereotypes were boundaries that mark the Qemant as a distinct ethnic category from the Amhara. They refuted the emphasis on objective ethno-cultural features such as language and culture to be criteria for their ethnic identification. An informant asked: “How big or small may be the proportion of the

205 Article 46(2) of the Proclamation No. 59/2001 stated “the highest executive organ of the regional state is the council of the regional government.”

speakers of the Qemant language, should this be taken as a ground for denying our identity?" This actually supports Fredrick Barth's (1969) argument that:

[...] although ethnic categories take cultural differences into account, we can assume no simple one-to-one relationship between ethnic units and cultural similarities and differences. The features that are taken into account are not the sum of 'objective' differences, but only those which the actors themselves regard as significant (Barth 1969:14).

Thus, for the Qemant, not speaking Kemantney should not stop them from identifying themselves as a distinct ethnic group. The Qemant informants argued that the belief in their distinct identity supported by their perception of common descent and cultural residues are sufficient evidences for their claims. On the other side, the Amhara informants highlighted the socio-cultural similarities and deep-rooted marriage ties between the Qemant and the Amhara as evidences of their 'oneness' and denounced the claims of ethnic differences between the two. This was commonly expressed as "*tägabetäna*" (we are affinal), "*täwaledäna*" (we are kin), "*aberän bäletäna* *ṭäṭetäna*" (we have shared dishes). So, among the Amhara community the quest for identity and self-administration of the Qemant was largely understood negatively as divisive. The Qemant informants counter such argument saying, "*tägabetän täzamedän benenorem eñña Qemant honän enäsu Amhara honäw näw*" (though we have been intermarrying and have become affinal, we were Qemant and they were Amhara). Indeed, to the argument of the leaders of the Qemant quest for identity and self-administration, being predominantly Amharic speakers and sharing of cultural features should be considered as a positive factor that would further strengthen the relationship between the Qemant and the Amhara instead of being used as a pretext to denounce their quest for identity.

Disputing the decision of the regional government, the Qemant organizing committee appealed to the House of Federation based on proclamation No. 251/2001, which stipulates that a concerned body can appeal to the House of Federation if the region does not pass on a decision within two years or if they are not satisfied with the decision.

In the meantime, the organizing committee, which managed to build mass support through time, especially following the 2007 Census, called its supporters for demonstrations in several *woredas* such as Chilga, Lay Armachio, and Gondar protesting the decision by the

regional council.²⁰⁶ Schools were closed in Chilga and Lay Armachio *woredas* to express their grievances in a non-violent way and demand their constitutional right for self-administration. However, there were also some incidents of violent demonstrations in *woredas* such as Ayikel, where properties belonging to the Amhara were destroyed. Since then, the overall situations have become tense and interaction between the Qemant and the Amhara have deteriorated.

The tense relationship further resulted in contestation over property and land between the Amhara and the Qemant. One case in point is the fight over St. Mary Church locally called *šum>mara Mariyam* located in Tekil Dengay. Founded in 1139, the church was one of the earliest and historic churches of the area, which is predominantly Qemant. In mid-January of 2015, an armed group of people from the Tach Armachio *woreda* (where the Amhara are dominant) tried to take the Ark of St. Mary from the church. The meaning behind the name *šum>mara* was interpreted in Amharic (*šum* means chief) and was considered as an entitlement of the Amhara over the Ark. Further, self-identification of the Qemant was negatively interpreted as a deviation from Orthodox Christianity and a return back to ancestral religious tradition. This resulted in a confrontation between the armed group and the local Qemant people in Tekil Dingay town that was temporarily averted through the intervention of the local elders.

In other localities, open conflicts were observed between individuals and groups who identified themselves as Qemant and Amhara. This resulted in killings and displacements of people from both sides. Report by the Ethiopian Human Right Commission (2016) also discussed confrontation between the Qemant and the security forces of the Amhara regional government. The local militia and the regional security personnel were divided along ethnic lines as well. Similarly, according to informants from both the Qemant and the Amhara, partiality and loyalty to one's ethnic group were observed at every level of government office.

Partial Acceptance of the Qemant's Quest for identity

The increasing tension and violence and the pressure from the federal government forced the Amhara region to reconsider its decision. On 13th of March 2015, the Amhara National Regional State Council

206 For example, in February 2014, street demonstration was held in Central Gondar.

announced its decision to recognize Qemant's quest for identity and self-administration. Reversing its previous positions and subsequent discourses, the regional government then declared the demands of the Qemant as just and thus the failure to address them was undemocratic. The regional government had changed its criteria of ethnic identification from few objective ethno-cultural features such as language and culture to consider the Qemant's subjective identifications. Accordingly, in March 2015 the Regional Council declared:

መሰረታዊዉ ጥያቄ የተፈታ በመሆኑ የራስ አስተዳደር የማከናወኑ ስራ ተግባራዊ ይደረጋል።

Since the fundamental demands [of the Qemant] have been addressed, now the [quested for] self-administration would be implemented.

Accordingly, under proclamation No. 229/2015, Qemant special *woreda* was established and endorsed by the regional council. Out of the total of 126 *kebeles* that were claimed by the Qemant, the council approved for the first time the Qemant's Self-administration over forty-two *kebeles* cutting across Lay Armachio and Chilga *woredas* of West Gondar zone.²⁰⁷ These *kebeles* were identified by the Amhara regional government as a contiguous territory inhabited by people who identified themselves as well as by the surrounding Amhara population as Qemant. However, the Qemant rejected the revised decision as it significantly reduced the number of *kebeles*, and accused the council of using a new tactic to divide up and weaken the ethnic base of the Qemant.

Referendum as a Solution

With persistent upheavals in the region, the regional government declared a change in its approach ones again. This time, in 2017, based on recommendation given by the House of Federation, casting referendum in the contested *kebeles* was opted as a final solution. As it was the case among the Siltie in 2001, the House of Federation encouraged referendum to allow the concerned claimants decide on the identity question via direct participation (Beza and Negussie 2020).

Although both the Qemant and the Amhara National Regional State seemed to have agreed at the beginning, another round of ambiguity

207 Seventeen *kebeles* were from Chilga *woreda* and the remaining twenty-five were from Lay Armachio.

started very soon. The position of the regional government was to set up the Qemant special administration as per proclamation No. 229/2015, over the already recognized forty-two *kebeles*, and then to conduct referendum on the remaining contested *kebeles*. On the other hand, the Qemant organizing committee demanded referendum before the establishment of the administrative unit. The Committee's fear was that once they accepted the offer and established their administration over the forty-two *kebeles*, they may not have a mandate to demand referendum in the remaining *kebeles* outside of the new administrative unit.

In the meantime, tensions escalated, and violent conflicts took place in different *woredas* of central and west Gondar zone urging the federal government to put pressure on the regional government. Under apparent pressure from the federal government, a coalition committee was formed with representatives selected from the regional government and the Qemant organizing committee. The committee was said to have discussed with residents of Central and West Gondar zones, and agreed on the scope of Qemant self-administration through referendum.

The long-awaited referendum was held in September 2017 under the supervision of the National Electoral Board of Ethiopia. Following the referendum, a total of 69 *kebeles* were recognized to be organized as Qemant nationality administration (*yeQemant yäbehéräsäb asetädadär*). After long contestations, negotiations and conflicts, the Qemant won recognition for their identity. What has left to be a continued source of disagreement was three *kebeles* in Metema *woreda*, which were disregarded for the reason that they are not contiguous territories. This continued to have become reasons for violent conflicts between the Amhara and Qemant with rising casualties and displacements.

Conclusion

In this article, we examined the process of negotiations and contestations over ethnic identity of the Qemant living in Amhara national regional state. In the post-1991 period, Ethiopia has been reconstituted into an ethno-linguistically organized federal state. Though many minorities have been recognized and entitled to a certain level of self-administration, some others, especially those whose cultural features have banished, faced challenges in their claims of identity and self-administration.

The long history of interactions between the Amhara and the Qemant and legal clauses used in determining claims of self-administration made the contestations and negotiations very complex. The nature of population settlement on the ground may not necessarily correspond with the ethnic boundaries that policy makers want to see. Hence, an attempt to allocate the Qemant to a rigidly defined territorial unit was not possible. On the other hand, for the Qemant, who have assimilated and lost its cultural features to the Amhara, using Article 39(5) of the constitution that emphasizes on the totality of the objective markers of identity for a group has further complicated the problem.

The findings of the study clearly showed how state policies, which set criteria of ethnic identification, ethnic entitlements and mis/recognition, impact ethnic self-understandings of groups. During changes in circumstances, individuals and groups encounter a new situation that triggers them to rethink their ethnic identity. That, in turn, could necessitate reclaiming their “lost” ethnicity regardless of the absence of objective ethno-cultural features. This Qemant ethnography revealed how actors reconstruct and consolidate ethnic identity through protracted contestations, negotiations, and conflicts.

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A Historical Analysis of Minority Rights in Ethiopia: The Case of Negede Weyto Community

Binayew Tamrat *

Abstract

The Negede Weyto community lives by the shores of Lake Tana in the Amhara regional state of Ethiopia. It is one of the autonomous minority groups in Ethiopia known for its valuable handcraft skills since the foundation of Gondar as the political and administrative capital of the Christian Highland Kingdom (1636). Regardless, the community has lost its autonomous status and became subject to different forms of marginalization and social exclusion in the last decade of the 19th century. This article examines the various factors, actors, and circumstances that accounted for the social exclusion and marginalization of the Negede Weyto group. Based on a critical analysis of relevant primary and secondary sources of data, this article argues that the social and economic life of the Negede Weyto community is influenced by the social exclusion that continued even in the context of a minority-friendly constitution of post-1991 Ethiopia.

Keywords: *occupational caste, marginalization, minority group, exclusion, Negede Weyto*

Introduction

The objective of establishing an ethnically egalitarian nation-state in 1991 is said to redress the past injustices committed against ethnic societies, to celebrate ethnic diversity in the country, and to protect ethnic minorities (Aseffa 2017). In light of this, both the Constitution of the Federal Democratic Republic of Ethiopia and the regional states' constitutions stipulated the equal rights of minorities and incorporated the notion into other legal and policy frameworks. However, there have been disparities in implementing the constitutionally granted minority rights across the country. For instance, the Oromia regional constitution does not bestow the right to self-determination to minority groups in

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its territories comprising the Amhara, Gedo, and Gurage communities (Van der Beken 2010). Meanwhile, the Amhara National Regional State (ANRS) is among the regional states where minorities are recognized and politically represented. Minority ethnic groups in the region such as the Awi, Wag Himira, the Oromo, and the Argoba are granted self-determination in their special zones and districts. Regardless of such rights, there are minority groups in the region that seek protection and empowerment (Van der Beken 2007). The Negede Weyto is one of these minority groups residing on the shores of Lake Tana.²⁰⁸ The largest group of the Negede Weyto community lives in *kebele* 16, *kebele* 11, and *kebele* 13 of Bahir Dar town, the administrative and commercial center of the regional state. Some of the community members inhabit rural districts located adjacent to the north and northwest shores of Lake Tana²⁰⁹.

The seashore and its wetland are the livelihood sources of the community. Traditional fishing, carving grinding mills from lava stone, transportation service²¹⁰, and selling firewood are sources of income to the wider Negede Weyto group (Dessalegn 2013). Few members of the community work in governmental and non-governmental institutions as guards and salaried daily labourers. Weyto women often earn income by making and selling baskets *Mosab* and *Agelgil*²¹¹ from *Dengel*, papyrus reeds, often used for utilitarian purposes among locals and as souvenirs for tourists (Dessalegn 2013; Ajala 2008). *Dengel* is also used to build huts and *Tankwas* (papyrus reed boats) that Negede Weyto use for sea transportation and fishing; the community earned fame as makers and propeller of papyrus reed boats. However, regardless of their socio- economic contribution, Negede Weyto are reported to have been facing social exclusion and marginalization.

208 According to the 1994 national census of Ethiopia, the population size of the Negede Weyto community was 1,677 (Dessalegn 2013:118; Darmon, 2010). The latest national census did not include data about the community. The Negede Weyto community speaks Amharic. The majority of them are followers of Islam, while few community members practice traditional religion.

209 Bahir Dar is divided into 9 sub-cities and 17 *kebeles*. Zege, Meshenti, and Tisabay are currently part of Bahirdar Special Zone.

210 They use small handmade boats called tankwas, made from papyrus reeds to provide service.

211 *Agelgil* is a basket made of grass and coated with leather. *Agelgil* is culturally used to pack food for people working in the agricultural field or for travelers (Dessalegn 2013:118).

This article, thus, examines the present condition and social standing of the Negede Weyto by exploring their position within the historical perspective. Empirical data presented in this article is collected through key informant interviews and non-participant observation. In-depth interviews were conducted with purposively selected informants coming from different walks of life; religious leaders, local elders, and community members in Bahir Dar city and Zege *kebele*, which is currently part of Bahir Dar city administration. Relevant secondary sources were consulted to support the primary sources.

Conceptual Framework: Reflecting on Social Exclusion and Marginalization

The concepts of exclusion and marginalization are interrelated notions. The academic debate on the conceptualization of social exclusion accentuates the need to pay attention to different but interrelated levels of exclusion. Exclusion is often associated with denying access to resources and opportunities available for society to enjoy a quality life. It also refers to segregation from accessing goods and services, and deprivation from meaningful participation in social, economic, and political life (Farnicka 2016). Silver describes social exclusion as “a multidimensional process of progressive social rupture, detaching groups and individuals from social relations and institutions and preventing them from full participation in the normal, normatively prescribed activities of the society in which they live” (2007:15).

Social exclusion faced by an individual or a group is correlated in four dimensions: relative or absolute material deprivation, insufficient access to social rights, lack of normative integration and limited social participation in the society within which they are living (Jehoel-Gijsbers and Vrooman 2007). Factors contributing to social exclusion are multifaceted. Individual risk factors such as age, gender, race, and identity are among issues often mentioned as grounds for social exclusion. Furthermore, demographic, economic, social, legal, and policy matters are stated as structural factors that create inequalities among groups (Vrooman and Hoff 2013).

Marginalization, on the other hand, is a process of relegating, banishing out, or excluding some group from the benefits or opportunities of the mainstream society (Khan, Seema, Combaz and McAslan 2015). Access to benefits can be limited or absent for the marginalized group as a result of persisting historical and cultural reasons or depending

on the choice of the dominant group, which controls resources and political power (Khan et.al. 2015). Marginalization eventually leaves minority groups in a disadvantageous situation by downgrading them to an undesired social and economic condition. The social structures that represent the values of the dominant group often marginalize a minority group under the pretext of protecting the culture of the majority from 'deviance' (Galtung 1990:292). Scholars describe marginalization as structural violence that can destruct and prohibit members of a minority group from realizing valuable life goals (Dwivedi et.al. 2007; Galtung 1990). Marginalization and structural violence also prevent individual members of minority groups from meeting the basic human needs and rights essential for their wellbeing and survival. Therefore, individuals ought to be free from marginalization and social exclusion to meet their basic needs (Galtung 1990).

Accounts on Early History of the Negede Weyto

Historical accounts relate the origin of the Negede Weyto to the Agaw (Awi) ethnic group (Teclehaymanot 1983). Zerihun (2010) shares the view that the origin of the Negede Weyto is from the indigenous Agaw people referring to the ethno historical and ethnographic evidence. Nevertheless, oral accounts from community elders show that the Negede Weyto migrated from Northern Africa, specifically from Egypt, following the course of the Nile River. Elders further use the settlement pattern of the community along the river and Lake Tana, which is the source of the Blue Nile River, as evidence to support their claim. On the other hand, there is a myth within the majority Amhara that portrays Negede Weyto as an autochthonous people who emerged from the lake and surrounding woodland even though the group claim to be the first inhabitants of the shores of Lake Tana (Zerihun 2010). According to Zerihun, the Agaw, Falasha and the Negede Weyto are described in historical accounts as the earliest inhabitants of the Lake Tana region. However, there is no adequate evidence as to when the Negede Weyto community began to live in the region. Historical sources on the territorial incorporation and Christian evangelization of the Lake Tana area, which took place during the reign of King Amde Tsion (1314-1344) and King Yisaq (1413-1430), do not provide evidence (Daniel 2011; Kinfe-Rigeb 1975). Early travelers accounts, however, discussed about 'people of the sea', which could be taken as an indication to the presence of the Negede Weyto surrounding Lake Tana and its wetlands (Daniel et.al. 2011). The Lake

and its shores have been providing the community with abundant resources for fishing, papyrus cultivation, and hunting aquatic and terrestrial animals. Members of the Negede Weyto community used to hunt crocodile and hippopotamus for food and use the hide to make shields, whips and strap (Teclehaymanot 1983; Bruce 1790:402-403). Hunting was also a prestigious activity that marks a rite of passage for young men of the community to start their own family (Gedef 2014).

Until the introduction of motorboats in the 1930s, *Tankwa* was the only means of transportation across Lake Tana (Teclehaymanot 1983). The reed boats were highly demanded by long-distance traders to transport coffee and other commodities from Zege to Delgie islands on Lake Tana (Teclehaymanot 1983). Literature shows that Negede Weyto's occupation of reed boat making relieved them from enslavement and displacement (Seletene 2012; Abdusamad 1997; Chessman 1936). The skills in making and providing utensils also impressed the *Balabat*²¹² and his wife in Bahir Dar to grant the Negede Woyto the right to freely reside in the area (Seletene 2012:83).

The majority of Negede Weyto community follow Islam while others practice traditional preserve religion "*the Abinas*", the spirit of Abay, which they regard as the source of life. The spirit of *Abinas* is believed to reside in the abode of Lake Tana and Abay River. When the center of the Christian kingdom shifted to the Lake Tana region in the early 17th century, King Susyeneous (1603-1632) attempted to convert the Negede Weyto to Christianity (Alemu 2005:157). Nonetheless, conversion did not happen until late 19th century (Ibid). The Negede Weyto were rather converted to Islam at the beginning of the 19th century following the Borumeda religious conference in 1878 when Emperor Yohanis IV (1872-1889) ordered citizens to embrace Christianity. It is believed that Sufi sheiks from Wollo who fled the imposition of Christianity by the King converted the community to Islam willingly (Zerihun 2010; Abdusamad 2000). However, the converted were not strictly following the tenets of Islam as stated in the Quran (Taye 1922). James Bruce, the Scottish traveler who visited Lake Tana in the 18th century, recorded that the Negede Weyto were described by the locals as 'untouchable pagans' (Bruce 1790:402-403).

Up until the early 20th century, the Negede Weyto led a life of an egalitarian community, being self-sufficient and economically and politically autonomous by the shore of Lake Tana including the

212 The Amharic term *Balabat* refers to nobleman.

present-day Kunzila, Bahir Dar Zuria, Gonder Zuria, Fogera, Dembia, Alafa Takusa, and Achefer *woreda*.

From Autonomy to Marginalization (1901-1941)

For the Negede Weyto, the period following the battle of Adwa (1896) marked the end of their autonomous status with the subsequent intensification of exploitation and marginalization. The appointment of Ras Hailu as the governor of Gojjam (1901-1932) led to economic exploitation through imposition of high tax and corvée labour (Freeman 2003; Gamst 1979; Bairu 1973). The local administration appointed by the rulers of Gojjam encouraged enslavement and free labour service within the society. Minority groups in and around Lake Tana region of North-West Ethiopia were arranged based on their status and occupation as “Muslims, Qimant, Falasha, Wayto and the Gumuz slaves” (Abdusamad 2000:165).

Among other kinds of taxes, the Negede Weyto were forced to pay ‘*ye’amora giber*’, a tax for hunting birds. Local officials with titles of *Assadagne* and *Negadras* were appointed to facilitate systematic tax collection from the Negede Weyto. The *Assadagne* was the officer in charge of regulating hunting while the *Negadras* is initially a title given to tax collector from traders who were also in charge of community affairs, including litigations, and representatives of the provincial governor. The authority of the *Negadras* was transferred every-four-year to the new appointee of the governor (Geremew 2018:9; Techlehaimanot 1983).

It was during the Italian occupation from 1936 to 1941, the *Residenza*, a new institutional administration intended to support minority groups was established and introduced modern town administration and private land ownership structure. However, the new administration system was not to the advantage of the Negede Weyto, as the urbanization process in the area affected the lives of the group (Seletene 2012; Abebe 2010).

Introduction of motorboats by the Italians made the commercial significance of the *Tankwa* less important, although the community continued to use *Tankwas* as means of transportation and traditional fishing. The introduction of modern rifles and better weapons intensified hippopotamus hunting, which used to be performed as adventurous hunting among the wider population unlike the

subsistence hunting that the Negede Weyto were accustomed. The establishment and expansion of Bahir Dar town during the Italian occupation created job opportunities for members of the Negede Weyto to engage in labour demanding activities in the construction sector such as masonry (McCann and Blanc 2016; Taye 1963). All these affected their traditional life style forcing them to adapt to the new situation. Male members of the community were also selling fuel wood and charcoal side by side to producing stone mills (*Wofcho*) as a means of survival while the Negede Weyto women were engaged in basketry as their main occupation (Seltene 2012; Ajala 2008).

Post-Italian occupation, the Negede Weyto community adopted agriculture utilizing the farmland they obtained through sharecropping agreement with the local *Balabat*. In some cases, they could get plots of farmland from the *Balabat* in exchange for the labour services they provide. The biggest challenge to the Negede Weyto group was to own oxen for ploughing, which made farming unrewarding task (Abebe 2010; Simons 1960).

The increased interaction of the Negede Weyto with the surrounding communities during the post-Italian occupation resulted in economic interdependence and cooperation, the adoption of Amharic language and the incorporation of traditional practices such as circumcision and drinking *Tella*, a local alcoholic drink. Regardless of such integration into the mainstream Amhara tradition, Negede Weyto were marginalized and socially excluded by other communities (Zerihun 2010). According to one of the key informants of this study, the exclusion, at times, involve physical distancing and avoidance.²¹³ Another informant added, “the *Balabat* did not treat them [the Negede Weyto] as human beings”.²¹⁴

There are different factors contributing to the marginalization and exclusion of the Negede Weyto. One of the commonly mentioned factors during the fieldwork was their livelihood and dietary habit. The Negede Weyto are often considered as being ‘impure’ for eating hippopotamus meat and for not following the food culture of the wider society. As indicated by informants, the group got its name ‘Weyto’ as a result of their dietary habit; the word Weyto is derived from the Amharic term *Wehyto* or *Wacho*, which means “one who eats

213 Interview with Amare Tadese, Bahir Dar, February 17 2020.

214 Interview with Abdella Hassen, Bahir Dar, April 05 2020. See also (Terjen and Gedef 2013:128)

everything". According to Rava, the naming of the community further indicates that the group is stereotypically labelled as 'polluting sub-humans' for their eating habit.

A common myth about the Weyto tells of a 'fall from grace'. It states that their ancestor was one of four brothers who was cursed and excluded by his siblings because he killed and ate a hippopotamus, thus consuming impure meat that was prohibited by God (Rava 1913:80 cited in Corlett 1974:136-7).

Furthermore, lack of strict devotion to Islamic practices contributed to the social exclusion of the Negede Weyto (Gedef 2014). However, primary data collected for this study supports the assertion of Gedef that members of the community believe the reason to their marginalization is material poverty (2014:218).²¹⁵

Land Reform and Equality Under the Derg (1974-1991)

Following the fall of the Imperial dynasty in 1974, the Provisional Military Administrative Council (PMAC), also known as the Derg, came to power and carried out several reforms. Among these was the introduction of radical land reform that abolished the land tenure system granting peasants and tenants the right to land-use (Proclamation No. 31/1975). The lowest political-administrative unit, the *kebele*, was established with legal empowerment to enforce these reforms (Daniel 2012).

The Derg reform empowered the Negede Weyto and further changed the pejorative name 'Weyto' to "Negede Weyto"; a term perceived to be less prerogative.²¹⁶ However, the effort did not bear much fruit in realizing equal recognition and participation of the community. Neither their way of life nor their relation with the wider society showed a significant change. Frederick Gamst claimed there was a pronounced social distancing between the Amhara and the Negede Weyto. The traditional economic activities of the community (i.e. reed boat construction, fishing, basket making, curving millstone, and employment in less paying jobs) continued being the source of livelihood (Gedef 2014). Some members of the community organized

215 Interview with Amare Tadese, Bahir Dar, February 17 2020

216 The term *Negede* itself used to refer to tribe (Leslaw 1976).

themselves to form fishing cooperatives using motorboats equipped with modern nylon gillnets and extended their fishing area from the shore to the deeper parts of the lake. However, the majority of fishers, who were unable to join cooperatives, confined themselves in the shallow parts of the lake where they could only catch a very small number and low-quality fish. Often, their catch was enough merely for domestic consumption and meeting their daily needs. To date, the Negede Weyto use ineffective traditional fishing method to exploit the rich fishery resources. According to informants, this is accounted to lack of cooperation among community members and the absence of support from government agents to provide business start-up loans and grants.²¹⁷ Informants highlighted that even when the relationships between the Amhara and Negede Weyto communities looks to have been improving, some aspects of social exclusion and discrimination made collaboration in cooperative businesses impossible.

Intensified Marginalization in times of the EPRDF (1991 up to present)

In July 1991, after the demise of the military socialist government, the country adopted a new Constitution that declared the establishment of a federal system with nine regional states as founding members (Van der Beken 2007). The Constitution stipulates that the sovereignty of the state is vested in nations, nationalities, and peoples [ethnic groups] of Ethiopia.²¹⁸ The Constitution further provides each ethnic group the right to self-administration and fair representation both at federal and regional levels (Article 39(3)). By implication, the Constitution gives special attention to the equality and protection of the rights of ethnic groups and minorities.

Yet the social and economic challenges of the Negede Weyto continue even after the introduction of the federal system. The construction of Chara Chara Dam around Lake Tana in 1995 reduced the hydrological cycle of the river and the water level of the lake was affected significantly. This development project was undertaken by the federal government to regulate the outflow of water from Lake Tana and use the water for irrigation farming and hydroelectric power generation at Tana Beles dam. The socio-economic impact assessment of the project sidelined the interest of the Negede Weyto and their historical

217 Interview with Abdella Hassen, Bahir Dar, April 05 2020

218 Article 8(1) of the Constitution.

attachment with the lake. The regulation of water flow has also affected the shore side leading to the drying out of vegetation including the papyrus, which is one of the key raw materials the Negede Weyto use to sustain their lives (Dessalegn 2013; Ayalew et.al. 2008).

With the exception of the forest in Zege peninsula in the southwest side of the lake and some pockets of forests around churches, the shores of the lake were affected by the project (Dessalegn 2013; Ayalew et.al. 2008). The amount of untreated waste and silt flooding to the lake made the shallow inner surface to swell up into a small hill.²¹⁹ This polluted the shallow part of the lake where fish usually spawns and breeds but also the hill-like inner structures block fish movement during breeding seasons, impacting the productivity of the Negede Weyto traditional fishers who are accustomed to fishing on the shallow part of the lake along the shores. Further, local government officials gave out the wetland to the youth as farm plots (McCartney et.al. 2008:18). The Negede Weyto expressed their concern and fear that recession farms around Lake Tana would endanger their lives.

Another challenge the Negede Weyto are currently facing include displacement. As stated by informants, whenever the town grows and expands, the Negede Weyto are often displaced and pushed further to the remote and shanty areas. Community members living in the outskirts of Bahir Dar also struggle to have permanent residential land. Settlement pattern of the community is temporary because of continuous displacement by the ongoing “none participatory” development activities.

Study informants further accentuated that the community is excluded from political representation and leadership positions at all levels of the government structure. Even when the community assimilated to certain Amhara culture, previous forms of social exclusion against the Negede Weyto still remain intact.²²⁰

Informants confirmed that the community abandoned some practices and habits, such as their dietary habit, to gain acceptance among neighboring communities. Religion is another source of discrimination for the Negede Weyto. Although the majority of the community are

219 Interview with Abdella Hassen, Bahir Dar, April 05 2020

220 Interview with Amare Tadese, Bahir Dar, February 17 2020; interview with Abdella Hassen, Bahir Dar, April 05 2020.

Muslims, other Muslims from neighboring Amhara communities do not consider them as such. More so, the Amhara Muslims do not recognize the Negede Weyto village-Mosque in Bahir Dar as a proper place for prayers (Zerihun 2010). Accordingly, the Negede Weyto are not allowed to worship in the Grand Mosque, and to dine together with other Muslims. Zerihun explained the level of religious exclusion by other Muslims extends to prohibiting intermarriage with the Negede Weyto (2010). Informants of the study emphasize that the religious exclusion by other Muslims is related to the practice of saint veneration that the Negede Weyto practice against the conventional practice of Islam. The Negede Weyto venerate Sheikh Nurhussien of Bale whom the group consider as their patron saint, known locally as Sheikh Abinaz.

Exclusion of the Negede Weyto is also evident in service provision (Dessalegn et.al. 2013; Ajala 2011). Though unemployment is a common problem in the region, the Negede Weyto are further disadvantaged because of lack of education and access to basic social services. Regardless of the previous discrimination the community has been facing, the government has not provided any affirmative action to empower the Negede Weyto and work towards improving their status.

Indeed, it is irrefutable that since the Derge period, economic and social interaction between the surrounding Amhara communities and the Negede Weyto has improved slightly; there is now better economic interdependence and economic relation. In rural areas, the Negede Weyto and Amhara farmers cooperate and work in the form of *Debo* or *Wonfel*.²²¹ In Bahir Dar town, the Negede Weyto sell firewood, papyrus stalk for fences, and baskets to the surrounding community. Few extended the relationship to the level of intermarriage.²²²

At the federal level, the EPRDF government took several measures to protect the rights of minorities by introducing ethnic and linguistic based federalism and enforcing minority friendly Constitution. Nonetheless, the Negede Weyto has not benefited from measures undertaken to empower and protect minority group

221 *Debo or Wonfel* is cooperative work in which a group of farmers work one's farming job in one day and the farmer who receives free labour would pay back to each of those who assist him in other days.

222 Interview with Abdella Hassen, Bahir Dar, April 05 2020; Interview with Kalkidan A, *kebele* 16, February 18 2020.

rights. This is mainly attributed to the categorization of the Negede Weyto as occupational group and not as a minority ethnic group.

Minority group status and recognition is expressed in terms of both ethnicity and occupation. In the literature, the Negede Weyto is described as an occupational caste and an ethnic minority. Occupational minorities are groups who are despised, excluded, and marginalized by the wider society due to their occupation, inherited through generations. In this regard, some scholars argue that occupational caste exists when society is organized in a caste system, ascribed at birth. Freeman (2003:256) discusses the conceptual confusion and lack of clarity on categorization as follows:

It is not possible to correlate craftwork with stigmatization in general because most farmers carry out some form of craftwork alongside their farming. House building, thatching and rope-making are just some of the crafts done by farmers. Furthermore, it is not possible simply to distinguish despised crafts from those that are not despised, because this varies enormously throughout the area. In Gurage, for example, woodwork is carried out by a despised minority group, whereas in most other area's woodwork can be done by anyone. Weaving is carried out by a despised group in Kafa, but is a respected occupation for any man in Gamo. It is also impossible to correlate a type of craft with a particular named marginalized group. ... Neither is it possible to correlate the type or degree of stigmatization of different artisan groups with the type of craft they practice. Smiths have a relatively high status in some societies, such as Gurage and Shekacho, and yet are the most feared and marginalized in other societies, such as Malo and Oyda. ... Attempts to correlate the type or degree of stigmatization of artisan groups with the form of the majority society have also failed.

However, occupation as identity in Northwest Ethiopia is not only passed down through generations but also socially constructed (Quirin 1998; Teshale 1995). From this point of view, the Negede Weyto life as occupational minority is socially constructed.

Conclusion

A historical analysis of the Negede Weyto indicates the autonomous status of the community as an egalitarian occupational group. The study found out that the community had no or limited involvement in politics during the 19th century feudal society exposing them to marginalization and social exclusion.

Even though, the severity and magnitude of social exclusion and marginalization varies across political regimes, this study emphasizes the Negede Weyto has been subjected to exclusion and ostracization for centuries. The factors accounting to the exclusion range from structural factors such as access to basic social services to societal level factors related to social stereotyping. It should be noted that the community has been marginalized mostly for its cultural and religious values. Such aspects of exclusion involve being deprived of the basic rights to exercise one's religion. The Negede Weyto has for long been deprived of access to economic and political opportunities and political recognition both at regional and federal levels. Regardless of the promotion of rights of ethnic groups and minorities under the legal framework of the country, this article alludes that attention should be given to the quest of Negede Weyto for freedom from discrimination, equal participation and access to public services and resources.

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Constitutional and Institutional Protection of Minorities in Ethiopia

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Abstract

This article investigates minority rights protection under the Ethiopian federal state structure envisaged in its legal instruments and institutional setups. Ethiopia is a land of diverse society in terms of religion, ethnicity, culture, language, and socio-economic activities. The Federal Democratic Republic of Ethiopia (FDRE) Constitution gives the right to each nation, nationality and people, among other, to preserve its identity, administer its own affairs, and get fair representation. However, the Ethiopian federal system, structured based on ethno-linguistic criteria, apportion the country into ten (including Sidama) regional states, subsuming the rest within them. The interests of minorities, who are lumped with relatively dominant ethnic groups, are not addressed and have not been given self-determination, nor are they recognized as a distinct ethnic group of the country. Recognition of minority groups is not only determined by the Constitution and other legal frameworks but also based on political expediency, which can be unconstitutional. The possible solutions include adopting proportional representation system, enforcement of basic human rights of citizens and consideration of mechanisms of non-territorial autonomy.

Key words: *minority rights, federalism, constitutional protection*

Background

Efforts by non-dominant groups to preserve their cultural, religious or ethnic differences has a long history with roots in the process of state formation in the 18th and 19th centuries (Kymlicka 2001). People belonging to national, ethnic, religious and linguistic minorities are often victims of multiple discriminations denied of their right

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for self-determination. Thus, protection minorities' rights require particular attention such as recognition of their existence, rights to non-discrimination and equality, promotion of multiculturalism and cultural participation in all aspects of public life (Steytler 2008).

There is lack of clarity about what constitutes a minority group. The 1948 Universal Declaration of Human Rights (UDHR) has no exclusive provision to minority rights nor does it define what minorities are. The declaration takes on the general human rights provision to indirectly address minority rights. The UDHR preamble states that "the equal and inalienable rights of all members of the human family". Within this broad preamble, the UDHR has ignored certain minority rights, including cultural membership, language, and identity of ethno-cultural groups and the discrimination they face (Taylor 1992). The United Nations (UN) Charter, adopted in 1945, likewise recognizes "the principle of equal rights and self-determination of peoples", without making any distinction among populations.

However, lack of a universal and authoritative definition does not lead to denial of minority rights. Indeed, the movement to internationalize minority rights has gained widespread acceptance; there are even tendencies to develop a "universal declaration of minority rights", to supplement the 1948 universal declaration of human rights (Kymlicka 2001).

A more explicit recognition of minority rights is contained in the International Covenant on Civil and Political Rights (ICCPR) adopted in 1966. Article 27 clearly stipulates minority group right as follows:

Those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

It was in 1992 the UN developed the first comprehensive international instrument on minorities, UN Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic or Religious Minorities. The Council of Europe's Framework Convention for the Protection of National Minorities was later developed in 1995, to which thirty-nine states are signatories. Article 5 of the framework obliged Parties to promote the necessary conditions for persons belonging to national minorities to maintain and develop their culture, and preserve the

essential elements of their identity, namely religion, language, tradition and cultural heritage. In both documents, there has not been an official authoritative definition of minority. It leaves member states to define minority by themselves.

There have been, however, attempts to define minorities. To fill the conceptual void, the former Special Rapporteur of the United Nations, Francesco Capotorti developed a definition in 1977, which has become the starting point of many discussions. According to his definition, minority group is:

A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members - being nationals of the state - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, religion or language (Capotorti 1977).

According to his definition, there are five criteria to categorize a group as minority. A minority group has to be (1) distinct in their ethnic, linguistic or religious background; (2) in a position of non-dominance; (3) less members than other groups of the population; (4) nationals of a state, as opposed to non-nationals, such as immigrants and refugees; and (5) solidarity among group members to preserve their distinction.

The definition provided by Capotorti, however, is not without limitation. Dominance in a state might not always be related with higher number of members in a group. It also neglects protection of non-citizens, which the Human Rights Committee includes under its General Comment No. 23.

Regardless of the different attempts to define minority rights, besides UN conventions, constitutional provisions in many countries directly or indirectly protect and meet the needs of minorities (Alfredsson 1993). These constitutions, in addition to ensuring the equal treatment, provide the right of minority groups to existence, education, language, self-determination, representation, and others. The Federal Democratic Republic of Ethiopia (FDRE) Constitution, which came into practice in 1995, established a federal state structure with ethno-linguistic political-legal arrangements (Alemante 2003). Ethiopia, home of different nations, nationalities and peoples, entertained diversity as a threat to the country's unity for a long time (Tronvol 2000); there was inattention to the existence and protection of minority groups.

The 1995 FDRE Constitution, however, has laid an important foundation to protect what is labelled as 'minority nationalities' (Assefa 2012). However, the Constitution, under Article 47, unequivocally states Ethiopia as a federation of only nine ethno-linguistically demarcated regional states, out of more than eighty nations and nationalities.²²³ The Constitution guarantees nations, nationalities and peoples within the regional states the right to establish, at any time, their own regional administration with stringent legal conditions (Article 47(2-3), Article 39(4)).

In a federation, territorial form of political organization functions as a means of safeguarding distinct groups or minorities that are geographically concentrated in such a way. However, in the Ethiopian federation, in practice, populations are rarely distributed into neat watertight regions; the existences of intra-unit minorities within the regional units have been unavoidable. Territorial demarcation of ethnic groups in Ethiopia hardly applies to minority groups, which had been amalgamated with relatively dominant groups. This fails to address adequately the problem of minorities within the different regional administrations that are often inhabited by ethnically intermixed individuals (Assefa 2007).

Although the FDRE Constitution grants every ethnic group the unconditional right to self-determination under Article 39, it exclusively recognizes only six linguistic ethnic groups with their respective regional states (Tigray, Afar, Amhara, Oromo, Somali and Harari). Under Article 46, the rest of ethnic groups are lumped in Benshangul Gumuz, the Southern Nations Nationalities and Peoples and Gambela regional states.

Such assumption of regional states as homogeneous ethnic groups in the FDRE Constitution does not conform to the Ethiopian context in which there are more than eighty-five ethnic groups with various degrees of interaction and cultural assimilation. The demarcation of Ethiopia into only nine regional states based on ethno-linguistic criteria creates the subordination of minorities against the will of majority ethnic groups. This paves the way for regional governments to formulate their own form of treating minorities living in their respective area, which in some instances resulted in denial of their basic rights.

223 The Ethiopian federation was initially established with nine regional governments (*Kililis*) and two city administrations until recently when the Sidama people decided to form their own regional government. A referendum was held on 20th of November 2019 with a landslide majority in favour of turning Sidama zone into the tenth regional state of the Ethiopian federation.

In this contribution, the author examines the legal norms and institutional setups of the Ethiopian federation to address and safeguard minority rights. Data was collected, among other sources, from legal documents, federal and regional states constitutions, journals, and interviews.

Based on the experiences of minority groups worldwide and international instruments on minority rights, this research analyzed the FDRE Constitutional provisions that safeguard the right to existence, equality, self-determination, and develop and promote the cultural and linguistic rights of minorities.

The Scope of Minority Rights under the FDRE Constitution

The Right to Existence and Recognition

To uphold minority rights and protect such groups, the first step states need to take is recognition. The existence of minorities is a matter of fact, rather than a matter of law (Patrick 1991). The UN General Assembly on Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in 1992, obliged states to protect the existence of national or ethnic, cultural, religious and linguistic minorities within their respective territories and promote such identities. According to the UN Human Rights Committee General Comment 23(1994), such existence “does not depend upon a decision by that state party but must be established by objective criteria”. Even in the absence of legal recognition of minorities by the state, their very existence may assist states to acknowledge and respond to the problem faced by minorities.

Claims of minority groups become meaningless unless their physical, moral and cultural existence is given constitutional protection. The right to existence, both as an individual and as a group, is a building brick for every right to be claimed. That is why a number of authors consider the right to existence as the supreme human right (Aberra 2006). As provided in Article 4 of the ICCPR, “the bearer of the right cannot voluntarily relinquish his/her right to existence let alone unilateral violation of it by the State”.

The 1995 FDRE Constitution, under Article 62(3), authorizes the House of Federation (HoF), upper house, to give *de jure* recognition to minority people. The recognition or rejection of minorities existence

depends entirely on the subjective criteria set under Article 39(5) of the Constitution. In order to be recognized as an ethnic group, common culture or share custom, mutual intelligibility of language, belief in common or related identities, common psychological make-up, and inhabiting an identifiable and predominantly contiguous territory is required. From these criteria, 'belief in common or related identities' and 'a common psychological make-up' are subjective, difficult to determine.

The process of recognizing identity is also problematic. At federal level, the Constitution empowers the HoF to decide on the recognition or rejection of minorities' existence. However, as a political organ, the HoF cannot decide neutrally in the absence of representatives from claimants (unrecognized minority groups).

Proclamation No. 251/2001 empowers regional states councils to entertain any claims related to identity recognition, with the ultimate decision-making power residing in the HoF. Before taking their case to the HoF, regional states need to go through the claim exhaustively. Decisions by the HoF, however, can be biased by member ethnic groups relatively dominant and the absence of claimants' representation in the house. Political incentives of regional states also influence decisions made on recognition of groups. Further, the HoF lacks a standard procedure of addressing identity claims, which have so far been decided case by case.

So far, the HoF has recognized seventy-six ethnic groups out of more than eighty-five. There are more than ten ethnic groups in the country that are not officially recognized as a distinct ethnic group, including but not limited to Kucha, Danta, Manja, Kontoma, Zey and Welene.²²⁴

The Right to Equality and Non-discrimination

Minorities have a right to equality and non-discrimination. The right not to be discriminated is paramount in protecting the rights of persons belonging to minorities around the world. The principles of equality and non-discrimination are established firmly in international law. For example, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the core international

224 Interview with Mihirete Tesfaye, an expert from the House of Federation, Addis Ababa, August 2020.

treaty on the right to non-discrimination and equality, has guaranteed equality of minorities. ICERD defines racial discrimination as:

any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (ICERD 1965: Article 1).

Accordingly, the convention protects both ethnic groups and individuals from racial discrimination and states ethnic groups shall be treated with equal footing irrespective of any grounds as equal members of a society (Diaconu 2012).

Rights and fundamental freedoms without discrimination of any kind was also repeated by the 2001 Durban Declaration and Programme of Action of the World Conference against Racism. The document from the conference urges states to take measures to eliminate the barriers and broaden access to opportunities for greater and more meaningful participation of people belonging to national, ethnic, religious, and linguistic groups (Durban Declaration on Racism 2001).

According to the FDRE Constitution, each 'nation, nationality and peoples' is deemed equal in culture, language, and dignity. It is stated, under Article 46, the Ethiopian federal state is formed on the basis of settlement patterns, language, and ethnic identity. Unprecedented in the constitutional history of Ethiopia, one third of the Constitution is devoted to fundamental human rights and freedoms including the right to self-determination recognized under Article 39. Under Article 39(2) and (3), nations and nationalities have the right to develop and promote their culture, history and language, and establish self-government. Although there are more than twenty ethnic groups, which do not fulfil the size of electoral constituencies (100,000 population), as per Article 54(3) of the Constitution, only twenty seats are reserved in the House of Peoples' Representatives (HPR), the lower House, for minority nationalities and peoples.

The FDRE Constitution has not yet addressed effectively the demands and equality of all ethnic groups. In effect, there are two categories of ethnic groups: those expressly recognized as 'nation, nationality or people' by the FDRE Constitution and those ethnic groups that have not been yet recognized as such (Article 47(1)).

The following discussion shows the FDRE Constitution, under Article 47, paves the way for unequal treatment and discrimination of minorities at regional level. Although the diversified nature of the Ethiopian polity is also reflected in every regional state, the first sentence of all regional constitutions' preambles invariably begins with an indication of the empowered specific ethnic group(s) (Van der Beken 2016).

The preambles of the constitutions of Benishangul Gumuz, Gambella, and Harar regions explicitly mention the diverse ethnic groups empowered by, or indigenous²²⁵ to, the region. The Benishangul Gumuz Constitution (2002) starts its preamble with the phrase, "We, the nationalities and peoples of the region", and further in the preamble the ethnic groups of the region are identified as the Berta, Gumuz, Shinasha, Mao, and Komo. By the same token, the preamble of Gambella regional Constitution (2002) starts with "We, the Nationalities and Peoples of Gambella peoples' National Regional State", and these are the Anywaa, Nuer, Majang, Upo, and Komo. Other local minorities as well as 'highlanders' (Amhara, Gurage, Oromo, Tigray) were left out of the local administration, for not being 'indigenous' (Van der Beken and Yonatan 2015). The preamble of the Harar Constitution (2002) talks about the nations, nationalities, and peoples of the region and explicitly singles out the Harari and Oromo ethnic groups. In similar vein, the Ethio-Somalia, Afar and Oromia regional state Constitutions reflect on only one ethnic group that has been empowered by the establishment of the respective regions.

The 2007 Ethiopian Census shows more than 3.2 million non-Oromos, Amharas (close to two million), Gedeo (250,000) and Guraghe (250,000), Hadiya (53,000), Dawuro (45,000), Kambatea (42,000), and others reside in Oromia region. Regardless, the Constitution of Oromia regional state, both in its preamble and Article 8, declares that 'the Oromo nation' is the owner of the Constitution and the region Oromia, expressly excluding non-Oromos residing in the regional state.²²⁶ Furthermore, examination of the Constitution of Oromia shows that there is complete identification of the region with the Oromo ethnic group. This identification is clear in the preamble, which makes reference not to the population of the region, but rather to the 'Oromo

225 The term "indigenous" is explicitly used by the Benishangul-Gumuz Constitution (Article 2) to indicate the regionally empowered groups.

226 Oromia Regional State Constitution (2001) preamble and Article 8

people'. Notwithstanding the fact that Article 2(1) of the Constitution recognizes Oromia as populated by "people of the Oromo nation and other peoples", Article 8 stipulates that "Sovereign power in the region resides in the people of the Oromo nation".

Consequently, regional states and other government subunits, named after particular ethnic groups, are bound to reinforce the feeling of groups officially identified with them (Van der Beken 2016). Due to such an unequal treatment of ethnic groups, minorities living in those regional states have faced discrimination, displacements and killing. The displacement of millions of Oromos from Somali regional state and Amharas from Oromia and Benishangul-Gumuz regional states were exacerbated by the absence of legal protection to these minorities.

The Amhara, Tigray and Southern Nation, Nationality and Peoples' regional states, on paper, in their respective constitutions, have given due recognition to all ethnic groups in the regional states and confer ownership to all people living therein. The Amhara regional state Constitution (Article 48(2)), for example, pays attention to the position of ethnic minority groups by guaranteeing representation of "minority nationalities and peoples". It enables four regional indigenous minorities, the Agew Awi, Agew Himra, Oromo and the Qemant to exercise their right to self-determination within the region.

The preamble of Tigray regional state Constitution also begins with "We, the [peoples] of the Tigray National Regional State". Moreover, the Constitution under Article 8(1) grants the supreme power in the regional state to people of the region. So far, in addition to the Tigrian people, other minorities such as the Irob and Kunamas have been recognized and granted local administration.

Generally, it can be argued, the FDRE Constitution gave more benefits to ethnic groups whose name is used in the forming of the regional states. However, ethnic groups were not consulted, neither was election held when constituting the regional states and protecting the rights of minorities (Tronvoll 2000).

It has to be noted that formal equality does not bring substantive equality; there are those who need to have special rights to minorities, at least temporarily. Within the FDRE constitutional system, the ruling government denies the existence of any 'minorities' in the state, ethnic and religious groups, which are politically oppressed or marginalized (Tronvoll 2000:19). The FDRE Constitution has taken the same

position of the UN in its formative stage by which “minorities and their members were postulated to be fully and satisfactorily protected by individual, universal human rights in combination with the non-discrimination principle” (Henrard 2000:210). Regardless, given the discrimination against minorities throughout the history of the country, the Constitution fails to protect minority rights adequately and guarantee their equality.

The Right to Self-Determination

The right to self-determination is an integral part of human rights law but controversial too. Self-determination has long been a conceptual morass in international law, partly because its application and meaning have not been formulated and partly because the specific international law practice of self-determination does not measure up well to some of the established textual formulations (Kingsbury 2001).

Under the 1945 UN Charter, self-determination is mentioned in Article 1(2) and Article 55, with the wording of “based on respect for the principle of equal rights and self-determination of peoples”. It is possible to state that, while the scope and definition of the right are unclear under the Charter, its development into a rule of law in international public law is almost indisputable. Adopted in 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social and Civil Rights (ICESCR) constitute perhaps the most crucial phase in the evolution of the right to self-determination.

Article one of the ICCPR and ICESCR have stipulated the right to self-determination, “to freely determine their political status and freely pursue their economic, social, and cultural development”. Castellino (2000:261) states that, in both documents, “the right of self-determination is not restricted to a political or civil right but propounded as the gateway to economic, social and cultural rights”. Another significant feature of these international covenants is that “[it] does not restrict the right of self-determination to colonized or oppressed peoples but includes all peoples”. However, the term ‘all peoples’ is open to interpretation, whether or not it embraces minorities as a group. The 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic or Religious Minorities does not also clearly address the issue of self-determination of minorities. Under Article 2(4), it

states “persons belonging to minorities have the right to establish and maintain their own associations”.

The African Charter on Human and peoples’ Rights also recognizes the right to self-determination of all peoples. Article 20 of the Charter states “all peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self- determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen”. Moreover, the document recognizes the right to self-determination to all people, whether colonized or oppressed. Although self-determination, as a principle and a right, was enshrined under international instruments, the beneficiaries of self-determination have never been conclusively determined, stated as ‘peoples’ with no agreed definition (Freeman 1999). The laws in some countries, however, put a ‘restricted interpretation’ of self-determination. Countries such as India, apply “the right of self-determination” only to people under foreign domination and not to sovereign independent states (Freeman 1999).

Coming to Ethiopia, Article 39 and 52 of the FDRE Constitution confers the right to self-determination to nations, nationalities and peoples. This can be understood as the right to autonomy (self-governance), the right to speak one’s own language, preserve culture, history, identity and to have separate institutions. The right to secession is also part and parcel of the right to self-determination as stipulated under Article 39 of the Constitution. As per Article 52(a) of the Constitution, the only limitation to the right of self-governance is that all regional or local organs should discharge their duties and exercise their rights within the framework of democratic principles, rule of law and in accordance with the mandatory rules and spirits of the FDRE Constitution. Putting this right to practice, the Ethiopian state is so far organized into ten regional states and two city administrations. However, there are more ethnic groups that have been and are asking for their right to self-governance.

Despite the vertical division of power between the federal government and the sub-national units, there are groups of scholars that argue the expenditure needs of units are by far smaller than their revenue sources. Looking at the practical experience of self-government status of the regional states, only insignificant powers are reserved to regional governments. This is because most of the lucrative sources of

revenue are reserved to the federal government (Aberra 2006). Even the government did unconstitutional amendment to strengthen its power at the federal level and weaken the regional governments' self-determination capacity. This was evidenced in 1997 when the federal government unilaterally²²⁷ amended Article 98 of the FDRE Constitution that govern the concurrency of taxation power between the federal and regional governments.²²⁸ The spirit of the decision was to change the concurrent power of taxation into revenue sharing scheme (Taddese 2012). Later, it was amended into revenue sharing, which gives more power to the federal government to levy, collect and administer specific taxes while regional governments share the collected money based on the criteria set by HoF (Zelalem 2015). As a result, it is less convincing to conclude that those nations, which managed to establish their own regions after their name, fully exercised their right to self-government. Recently, the federal government vowed to cut financial support to the Tigray regional government, to weaken their self-determination, following the region's unilateral decision and holding of regional elections, which was postponed by the federal government.²²⁹

Though land and other natural resources are common property of nations, nationalities and people, it is under the ownership of the federal government with individual citizens entitled to usufructuary rights (Article 40(3-4)). According to Article 52 (2(d)) of the FDRE Constitution, regional governments administer land and other natural resources under the dictation of the federal government. Hence, if the federal government strictly exercises its power over land, the dependence of regional governments on the federal government will be more visible.

227 Most of the judges, attorneys and law instructors which the author has consulted randomly have no information about the fact that the FDRE Constitution had been amended in 1997. Prominent Ethiopian fiscal federalism scholars- Solomon Neguisse and Taddese Lencho – consider, in their works, amendment made on Article 98 of the FDRE Constitution was informal changes and did not in regard to the constitutional amendment procedure set under Articles 104 and 105 of the Constitution. See Taddese Lencho (2012, 2010). Astonishingly, the 'official' copies of the Constitution still reflect the original versions of the two provisions. The copies distributed by the HPR or HoF, and other state entities, such as the National Human Rights Commission, do not reflect the changes.

228 The FDRE House of Peoples' Representatives, Proclamations, Official Discussions and Resolutions Made by the 1st HPR, Vol.2, (1996/97, Unpublished, HPR Library, Addis Ababa, Ethiopia).

229 This research is not trying to determine the legality of holding elections at the regional level.

Although the FDRE Constitution has a procedure for such groups to acquire self-administration and ensure equality, its practicality is far from attainable and sometimes resulted in chaos as had been experienced during the Kemant's and Sidama's referendums.

Furthermore, one party rule in the country, guided by political interest, has led to unconstitutional practices that deprived minorities and other groups of their rights, including the right to self-determination. According to Assefa (2012), the ruling party contradicted the constitutionally proclaimed principles of self-rule and state autonomy. Following the coming to power of Prime Minister Abiy Ahmed in 2018, different claims of self-rule have come into the picture, which resulted in the formation of the Sidama regional state in the year 2020. Other ethnic groups such as Wolayita and Guraghe have recently submitted their case to the HoF, a claim for regional state. In cases, such as Wolayita, political discussions have undergone within the zone, contrary to the constitutional provisions that have caused deadly conflicts and imprisonments. The becoming of Sidama regional state was also challenged for a long time until a referendum was held in November 2019 that changed the Sidama zone to a regional state.²³⁰

According to Article 39(3) of the FDRE Constitution, the right to self-governance of nations, nationalities and peoples includes the right to establish institutions of government in the territory they inhabited and equitable representation in the federal and regional governments. To ensure the right to self-governance, the government created ten regional states.²³¹ However, members of these regional states are not homogeneous; there are a number of nations, nationalities and peoples in each regional state. In some others such as the Southern Nations Nationalities and People Regional State (SNNPRS), there exist more than fifty-six nations, nationalities and peoples. In theory, in their respective constitution, regional states must provide for the right of minorities to establish their own self-governments and equitable representation in the regional state councils. The Amhara regional state Constitution, for example, under Article 9, explicitly recognizes the existing pluralism within the region and states "the supreme power of

230 Following the Southern Nations, Nationalities and Peoples' State Council's decision in October 2018 to approve a request for a referendum on Sidama statehood, copycat moves are gathering pace across the multi-ethnic region. On November 26, Gurage zone Council voted to proceed with the process. Two weeks prior, Wolayta zone affirmed a statehood request, which will now be sent to the SNNPRS council for approval. Kaffa zone also approved a demand on November 15.

231 The ten regional governments of Ethiopia are Tigray, Afar, Amhara, Oromia, Southern Nations, Nationalities and Peoples, Gambella, Somali, Harari, Benishangul Gumuz, and Sidama.

the national regional state resides in and belongs to the peoples of the Amhara region”.

On the other hand, Article 8 of Oromia regional state Constitution and its preamble points that ‘the Oromo nation’ is the owner of the region and the sovereignty of its people is exercised through elected representatives and direct democratic participation. It is worth noting that this provision has ignored the existence of non-Oromo ethnic groups of the country, which constitute 12.2 percent of the region’s population.²³² In a similar vein, Article 9 of the Somali regional state Constitution empowers the sovereign powers only to the Somali people. Moreover, Article 5 of the Harari regional state Constitution provides the Harari people ownership of sovereign power in the region. This stipulation of the Constitution recognizes only the Harari ethnic community, which represents a mere 8.65 percent of the regional population, as the sole holder of sovereign power. Although Article 6 of the Constitution provides that Afan Oromo shall serve as an official language of the region along with the Harari language, there is no other provision in the Constitution that recognizes the right of the Oromo community, which constitutes, according to the 2007 Ethiopian Census, 56.41 percent of the region’s population.

This shows there is no uniform mode of accommodating the right to self-governance of national minorities among the regional states. This opens the room for regions to devise their own form of treating national minorities of their region, which in some instances resulted in denial of the right to self-government and equitable representation in the regional government of nations, nationalities and peoples. Such situations threaten the practical commitment of the FDRE Constitution to the effective protection of nations, nationalities and peoples. Thus, the federal government should guarantee and oversee the effective protection of rights in all regions as provided under the FDRE Constitution. Otherwise, the rights of nations, nationalities and peoples provided under the FDRE Constitution will have no significance to the right holders.

Concerning the inclusion of secession provision under the FDRE Constitution, some argue that it is more inclined to the rights of

232 Parallel Reports Submitted to the Committee on Racial Discrimination, by the Ethiopian Human Rights Council, Ethiopia, August, 2009 Available at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/EHRC_Ethiopia_CERD75.doc. (Accessed on 2 September, 2012), para.34 and the 2007 Ethiopian National Census

nations and nationalities in disregard to national integrity and unity while others claim the unconditional right to secede is procedurally impracticable (Alemante 2003). The inclusion of the secession clause referred to in Article 39 of the 1995 FDRE Constitution was justified as a means to bring the national liberation fronts, such as the Oromo and the Ogaden National Liberation Fronts, to the negotiation table with the agenda of secession (Blasvic 2007). Yet, the experience of Eritrea, who has seceded from Ethiopia in 1993 and had been in warring relationships, hints that secession is not the right means to address a crisis of governance. The Constitution, hence, replicates and legalizes the same old rights of the nations and nationalities in disregard to national integrity and unity. Hence, experts including Habtu (2005) and Erk (2014) suggest more accommodative political solutions, such as federalism, power sharing and decentralization, as a way out.

The Right to Develop and Promote Cultural and Linguistic Rights

Language and cultural policy are one of the most crucial affairs that need special care in multi-ethnic State since unity should be preserved without compromising diversity. The survival and flourishing of a minority's culture depend in large part on the validity of its language. Language is not a mere medium of reality, but is constitutive of that reality (Adeno 1991). A language policy is a high-level governmental document that sets decisions and guidelines for and determines what language and for which purposes shall be used in a given country. In other words, language policy is a legal document about political decisions on the statues, developments, and functions of languages in a state (Getachew and Derib 2006).

For good language policy, policy makers should consider the following considerations while making the policy (Amlaku 2011): human rights implications for minorities, economic utility of each language, national integration and government efficiency, group identity as a well as personal identity and aesthetic expression. Hence, in multi-linguistic states, caution has to be taken as far as language and cultural issues are concerned. Most of the time, however, such policies are made by politicians and politically committed experts, and so fail to consider one or more of the above.

In Ethiopia, Article 5(1) of the FDRE Constitution states that all Ethiopian languages enjoy equal recognition with Amharic as the working language of the federal government. The Constitution,

however, does not indicate the official language for vertical communication between the federal government and the states nor for the horizontal communication between the regional governments although as a matter of practice Amharic is maintained (Assefa 2012). The FDRE Constitution did not regard the economic utility and national integration issues the language policy might bear (Hirut 2007). Otherwise, the country would have adopted an official language that binds the existing multilingual people. In light of this, the Council of Ministers, in early 2019, has made an executive order to include four additional languages (Afan Oromo, Somaligna, Tigrigna and Afargna) as federal working languages in parallel with Amharic.

As per the FDRE Constitution Article 5(3), the ethno-linguistic groups' demand for cultural preservation and distinctiveness is recognized by vesting the mandate to determine the working language of their respective regions. This opens the way for regions to adopt languages that have relatively larger numbers of speakers, leaving the minority languages aside. To this effect, Oromia region, one of the regional states of the Ethiopian federation, has adopted Afan Oromo as the only language of the region, denying the remaining minority languages comprising over 12 percent of the total population of the region. Some other regional states, like the SNNPRS and Amhara, provide constitutional guarantee to the use of minority languages in their own administrations, zones or special *woreda* as the case may be. This is, thus, substantial variation in the application of language policy in the various regions in Ethiopia.

In Ethiopia, the right of every nation, nationality and people to express, develop and promote its culture has got a constitutional recognition (Article 39(2)). Minority groups can, therefore, exercise their right to promote and develop their culture using this constitutional provision guaranteed to all. Taking into account their numerical inferiority and political non-dominance, minority groups need special attention to preserve and develop their own culture (Assefa 2007). However, the Federal Constitution does not provide special support to minority groups that would enable them to enjoy and develop their culture.

Institutional Responses: Right to Representation of Minorities at Federal Houses

Minority groups are always in need of special protection and consideration from survival to preservation of their identity, culture,

tradition and ways of life. Institutional setups where minorities are represented and reflect their will is the basic necessary instrument for better protection of minorities in certain political societies (Gizachew 2019). The protection of minority rights can partly be materialized when they get fair representation at various levels of the federal and regional governmental institutions. Federal institutions such as the lower and upper Houses, executives and judiciary organs are among others to reflect fairly the interest of minority groups (Gizachew 2019).

The FDRE Constitution, under Article 39, guarantees a number of rights to nations, nationalities and peoples including, among others, the right to have equitable representation in the federal and regional governments. In the subsequent subsections, the representation of minorities in the HPR and the HoF and in other federal institutions will be discussed.

Minority Representation in the House of Peoples Representatives (HPR), the Lower House

Federalism allows distinct communities, defined by their territorial boundaries or with their collective features, to exercise autonomy over certain matters of particular importance while being represented in the larger federal union. Having representation is one of the mechanisms through which shared powers can be exercised over matters of common concern (Watts 2008). The HPR, the law-making organ, is composed of representatives of the Ethiopian people as a whole.

The FDRE Constitution (Article 50 and 51) empowered the HPR, to have final say on political issues. It is the supreme political organ that enacts laws in compliance with the Constitution and plays a supervisory role over the executive organs. Representing the people of Ethiopia, members of HPR are elected on the basis of the first-past-the-post electoral system from candidates in each electoral district. This means that each candidate who gets the larger votes in each electoral district will win a seat. In Ethiopia, where the federal system is structured on the basis of ethnic lines, the election of members of the HPR by such a first-past-the-post electoral system runs the risk that the one seat in each electoral district will be won by candidate who represents the interests of the largest ethnic group in the district. This discriminates against minorities from having a representative at the HPR. From the 550 seats of the HPR, relatively populous nations (the Oromo and Amhara) occupy 304 seats. Therefore, if the Oromo's and Amhara's

form a quorum, their combined vote will suffice to pass legislations to the prejudice of other nations and nationalities (Assefa 2012). Thus, the way members of the HPR are elected deviates from the very notion of the Ethiopian federation that aspires to accommodate diversities.

Under Article 54(3) of the Constitution, out of the maximum number of 550 seats in the HPR, a minimum of twenty seats are reserved for 'minority nationalities and peoples'. However, what constitutes minority groups and the possible (objective) criteria for identifying them is not a clear concept in the FDRE Constitution. So far, according to an expert from the HoF, the twenty seats reserved for minorities have not been implemented.²³³

Minority Representation in the House of Federation (HoF), Upper House

Partly, it is the fear of the majority tyranny in the first chamber that many federal constitutions avoided by setting a non-majoritarian second chamber where the rights of minorities will be exercised and counterbalance the majority rule (Lijphart 1999). The Ethiopian second chamber, commonly known as House of Federations, is composed of representatives of each nation, nationalities and people of Ethiopia. Each ethnic group, according to the FDRE Constitution Article 61(2), shall be represented by at least one member. Moreover, those ethnic groups whose population exceeds one million are entitled to have one additional representative for every increase by a million. By this calculation, the two relatively larger ethnic groups, the Oromo and Amhara, have dominated almost half of the seats of the second chamber and have repeated the majoritarian tyranny in the lower house. However, Article 61(1-2) states the HoF has neither law-making power nor state representing mission. Thus, the HoF cannot protect the interest of minorities as it lacks law making roles in the parliament and members have no power to veto national legislation in the areas of culture, language and education that affect minority rights.

Despite the fact that Ethiopia is home for more than eighty-five nations, nationalities and peoples, seventy-six have seat(s) in the HoF for fifth term (2016-2020) (Assefa 2017). There has been an increase from previous terms; sixty-nine for the third term (2005-2010) and

233 Interview with Mihirete Tesfaye, an expert from the House of Federation, Addis Ababa, August 2020.

seventy-five for the fourth term (2011-2015). However, this is not in line with Article 61(2) of the FDRE Constitution, which provides for representation of each nation, nationalities and people of Ethiopia in the upper House. As a result, there are still minorities (re)questing primarily their identity to be recognized, to have self-determination and to get representation in the appropriate level of government structures including the HoF.

Concluding Remarks

By taking the objective, subjective and the combination of both criteria of defining minorities, Ethiopia is a land of ethnic groups that claims to be neither in a majority or minority position at federal level. However, the making of regional states along the lines of ethnicity incongruent with the territorial demarcation of the constituent units of the federation creates majority and minority groups. The geographic boundaries of regional states are not inhabited by homogeneous ethnic groups. Consequently, every regional state has minorities, which have survived the influence of the majority for years. There are no legal frameworks to protect the right of minority groups to existence, equality, self-determination, promote linguistic rights and political representation among others. The intermingling nature of the Ethiopian polity at regional levels has not been considered by the FDRE Constitution, which did not set any kind of mechanism to protect minorities living under local governments. Concerning the institutional representation of minorities, it is those relatively larger ethnic groups that have dominated almost half of the seats of the two Houses at the expense of minority groups. The possible solution is designing broader political and policy considerations beyond the normative constitutional stipulations. The federal government should take responsibility to accommodate the interest of minority groups in the different regional states. Finally, the enforcement of basic human rights of citizens enshrined in the Constitution can also protect minorities in Ethiopia.

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