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Challenge of Ethiopian Federalism on the Right to Freedom of Movement and Residence on Ethnic minorities

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Abstract

Ample research has been conducted about the federalism and the type of federalism yet the connection between ethnic federalism and the right to movement is not studied hence the main objective of the study is to assess the challenge of Ethiopian federalism on the right to freedom of movement and residence. Both primary and secondary data were employed in the study. The primary data collected through face to face discussion, by focusing on respondents that selected strategically and purposefully so as to conduct in-depth interview and FGD as well as proclamations and regulations. The study reveal that the challenges that minority individuals faces in exercising the right to freedom of movement and residence. Basically this research finds major problems that considered as hinder for minorities to live in sustainable way. Problems that minorities faces are regarded as benefits crisis, security problem and psychological trouble. The researchers would like to suggest that ethnic federal system should be averted to the geographical federal system and political parties should be discouraged from organizing themselves based on ethnic lines.

Keywords: Ethnic, Minorities, Federalism, Movement, Residence , Right, Freedom, Ethiopia

Introduction

The FDRE Constitution of 1995 had explicitly declared Ethiopia to be a federal polity with nine states that constitute the federation. The constitution combines federalism, self determination and human rights as solutions to erstwhile unequal relationships among ethno-national groups in the country. However, the federal experiment has not assessed in light of the congruency with human rights in general and the right to freedom of movement and residence in particular. The constitution has given wide place to human rights and particularly Article 32 provides that any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to.

This study gives emphasis on the concept of federalism and freedom of movement and residence at the theoretical level. It also considered whether ethnic federal system of Ethiopia has negative impact on the right to freedom of movement and residence. The safeguard institutions stand for the protection of the right to freedom of movement and residence is also the concern of this study.

Statement of the Problem

Apparently, the vast majority of people moves and resides within their home states. People ability to exercise civil and political rights as well as economic, social, and cultural rights within States generally depends in large measure on their ability to move about and to choose a place of residence within states. Freedom of movement and residence is therefore crucial to the protection and enjoyment of other rights. As a consequence, the protection of freedom of movement cannot be left exclusively to recognition to domestic legal systems because many countries form legal, political and sociological basis for denying people the right of free movement and choice of residence. The extent to which free movement of citizens within the national territory is protected by domestic and international law has received the attention of this thesis at primarily level.

The constitution recognizes a right to every Ethiopian or any other person lawfully within Ethiopia to have the freedom to freely move and establish his residence within Ethiopia. This study particularly investigates whether a person or a group of persons from one region or from one distinct ethnic group can move and establish their abode in the territory of the other distinct ethnic group. This is because; the constitution establishes regional states along linguistic lines or ethnic identities and provides large scale human rights and such established regional states and the local governments have their own relative administrative and political autonomy.

The above issue has risen to assess how such autonomy exercised in conformity with the right to freedom of movement and residence? Exploring the right to free movement of the people within the region (intra regional) and among the regions (inter-regional) in conjunction with the federal arrangement is the main task to do in this paper. Thus, does ethnic federalism by itself affect protection of the right to freedom of movement and residence in general? Are there any mechanisms devised by the constitution to protect the right to freedom of movement and residence from the possible threat from the political atmosphere? Does this mechanisms have performed their functions properly are the most important additional issues to be addressed in the research.

Objective of the Study

The main objective of the study is to assess the challenge of Ethiopian federalism on the right to freedom of movement and residence.

To this end the study has forwarded the following points as specific objectives.

- ◇ To assess the challenges of the current federal setup on the individual's right to freedom of movement and residence.
- ◇ To assess the extent and scope of the right to freedom of movement and residence in inter-regional and intra-regional aspect.
- ◇ To analyze what available mechanisms are there to protect the freedom of movement and residence within the ethnic federal arrangement of Ethiopia.

Review of Related Literatures

Historical Background of federalism

To begin with historical background of federalism it was first used by bible- centered the logicians of Britain and New England in the seventeenth century. The system of federalism hence used to indicate covenants between God and human beings (Soren Dosenrode, 2010). In addition to this religious perspective on federalism, it came to be applied to alliance or leagues (both for short period of time and more enduring nature) between tribes, city states and other political entities. These alliances formed for different purposes. But usually alliances were military ones formed in the face of a common rival, however could also be based on shared religious views or trading interests (Ibid).

According to Albertini, federalism is a form of political thinking and behavior with both a "social basis" and an "historical reference". The social basis corresponds to the character of a federal society, i.e. the sense of community and cosmopolitanism. The historical reference is provided by the stage of evolution of economic and political interdependence (Daniel Rubinflod,1999). Earlier federations (e.g. the American) consolidated social groups very similar to national ones. The struggle for European federation marks a new stage in the historical process, that in which federalism must overcome national sovereignty itself. The process of European unification is therefore seen as the beginning of a world-wide transition from the national stage of historical development to the federalist one.

The first truly federal system of government was established by the United States in 1787, which has greatly influenced subsequent federations. The confederation of states was so weak that, as is well known in American history, the Founding Fathers by 1787 had to assemble in Philadelphia to form "a more perfect union." This they did by drafting the federal Constitution, which, by delegations of powers from the states and the people, established an originally very limited national government over the states with powers to enact laws

reaching both states and individuals. In effect, sovereignty, or the supreme power in the state, was divided between the states and the federal government (D.F. Woodward, 1990).

The people were made citizens of both a member state and the union. Sovereignty was understood as popular sovereignty, that is, in Thomas Jefferson's terms, as "the Right of the People ... to institute new Government, laying its foundation on such principles and organizing its Powers in such form, as to them shall seem most likely to affect their Safety and Happiness."

By the mid 1990s twenty countries established with federal system of government. The example of the USA federalism inspired the transformation of many states to apply the practice of federalism. For instance, Switzerland from its previous nonfederal structure changed in to a federal system in the year 1848. It also provides the basic model for the Canadian constitution of 1867 and that of Australia which came in to effect in 1901. Different subsequent federations have been greatly influenced by the federal experiment of the United States of America. In national life, history shows many instances of the choice of federation as a form of government to create unity while preserving diversity. The essential feature of federal system of government is the combination of a central or general government with regional or constituent ones ruling directly over shared territory and citizens.

Understanding the concept of federalism

The concept of federalism clearly has something to do with the allocation of power between national and local governmental entities, but how this allocation is interpreted depends upon profession and discipline. Economists, for example, view federalism as an invitation to specify the most efficient possible arrangement of national and local power, whereas political scientists view federalism as a matter of generating descriptive and perhaps predictive models of these arrangements (Elazar D, 1991). For American constitutional lawyers and judges, however, federalism means something altogether different; it entails the articulation of constitutional values that specify how power ought to be allocated between federal and local governments. These values are incorporated into judicial decision making. To begin with the etymology of the term 'federalism' derived from the Latin term called foedus meaning that agreement, alliance, compact or covenant. It implies that form of government where power is divided and shared between a strong central government and strong member states. The system emphasize on the existence of a general level of government of the federation, as well as a set of regional governments of the member units in which neither level is subordinate to the other, nor has the power to abolish the other. Both orders of government rule over the same territory and people having of their own legislative, executive and judiciary organs of government (Daniel. L1999).

As a result, in essence a federal arrangement is one of partnership between a territorially based regional units and a central government whose relationship is regulated by a constitution or covenant. Based on this covenant power is divided and shared between the regional unites and the center. It is basically a compromise between integration and diversification, decentralization and centralization. In federal states there exists a federal constitution. A federal constitution serves as a cornerstone setting up a federal system as well as regulating the power of the central government and constituent units (Jon Abink, 2009).

This indicates that the central authority cannot change the power of the constituent units without amending the constitution, whose amendment involves a special kind of procedure usually requiring the permission of all member states or at least majority of them. This very nature of a federal constitution is surrendering some degree of their autonomy freely and voluntarily to the center (Sarah Vaughn, 2003).

Federalism can be formed by two ways. It can be by association (coming together or by aggregation) or dissociation (holding together or disaggregation). In the former, independent entities come together for a common economic and political achievement (Ibid). While in the latter form a united country decides to split so as to loosen a complex situation, frequently related to diversity of nationalities.

As far as the basis of creating a federal arrangement is concerned there are two different types of approaches, depending on factors such as; the heterogeneity or homogeneity of ethno-linguistic structure, socioeconomic and political systems of the subjects of a federation. Some scholars argue that ethnicity should be the basis of a federation, while others consider the territorial principle as the basis, irrespective of ethno

cultural factor. Thus it implies that the constituent units of federal government can be arranged either territorially or ethnicity criteria.

The federal arrangements that exist in the world today fall under either of the two categories. Countries such as Nigeria, India and former USSR are known to have a federal arrangement based on ethnic principle. While others like USA, Germany and Brazil are known to have a territorial basis of arrangement.

The form of federal system of government can have advantages. Different states use it as a system of government for different reasons. Federalism can strengthen democracy by creating an atmosphere of popular participation at, at least, two levels. Further, federalism helps preserve the particularities of smaller republics in a big polity by first protecting them from potential degeneration into non-existence and by, secondly, breaking the tyranny of larger republics.

Federalism in Ethiopia

After the fall of the Dergue regime Ethiopia started the experiment of federalism. The recognition of Ethiopian ethnic diversity became the central principle of the new regime's policy. And this is immediately reflected in the Transitional Period Charter of 1991 and in subsequent proclamations. Once the Charter paved the way for decentralization, Ethiopia became a federal state in 1995. The Federal Constitution makes this quite explicit by establishing a multicultural federation with a democratic state structure, to accommodate the diversity of ethnic groups of the country.

The Constitution of the Federal Democratic Republic of Ethiopia has been in place since August 1995, formally introducing a federal form of government. It gives the ownership of the same to "Nations, Nationalities and Peoples of Ethiopia". The constitution established a federal state by dividing and sharing power between the federal and state (regional) governments.⁹⁴ The structure is that of a composite of nine ethnic national states. The nine regional states are Afar, Amhara, Benishangul Gumuz, Gambela, Harari, Oromia, Somalia, Southern Nations, Nationalities and Peoples, State and Tigray.

The Constitution stipulated two layers of legislative, executive and judicial organs. Accordingly a parliamentary government is set up at the federal level with bi-cameral legislature. Also an executive organ led by a Prime Minister whose office is accountable to the House of Peoples Representatives (HPR) is set up.⁹⁷ Similarly an independent judiciary with the supreme federal judicial authority vested in the Federal Supreme Court is established. Likewise, states have the State Council (with legislative power), State Administration (highest organ of state executive) and a judicial power vested in courts.

An institution with the power to investigate constitutional disputes i.e. Council of Constitutional Inquiry (CCI) is envisaged under the Constitution. Furthermore, the offices of Auditor General, National Election Board (NEB) and National Census Commission (NCC) are established by the Constitution. The National Human Rights Commission and the Office of the Ombudsman are other institutions whose legislative establishment is envisaged by the Constitution.

In view of protecting the constitutional order and ensuring the sustainability of the federalism some norms are stipulated as very significant (fundamental) and placed beyond the reach of governments at both levels.

Thus, the federal constitution significantly identified fundamental principles. The Constitution embodied five fundamental principles. Sovereignty of the People is the first principle. Thus according to the constitution Sovereignty vests in "Nations, Nationalities and Peoples of Ethiopia." Supremacy of the federal constitution is the other fundamental principle. In line with the trend of federal systems the FDRE Constitution under Art.9 declares its supremacy and makes other laws, customary practices and decisions of an organ of a state or public official null and void if they contravene the Constitution. This supremacy clause is in fact a reflection of the principle of sovereignty of the people, the expression of which is the Constitution.

On the other, the concept of human rights is also considered as a fundamental principle of the federal constitution. This fundamental principle is stipulated in Art.10 of the FDRE Constitution which articulates

“Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable”. One can thus readily observe that the long lists in the catalog of rights set out in chapter three of the Constitution are reaffirmation of this principle.

Also the principle of human rights seems to be in the background of the political, social, cultural, economic and environmental policy objectives of the Ethiopian government. The aspiration to promote sub-national self-rule, rights of equality, especially of ethnic groups and to ensure the enjoyment of economic, social and cultural rights seems to be a programmatic statement of the commitment to human rights as a principle (Regasa Tsegaye, 2001).

The FDRE Constitution (art 11) explicitly declares the separation of religion from the state. In spite of the recognition given to religious law system in a restricted manner the Constitution envisages an entirely secular state in which the state does not interfere in matters belonging to religion and vice versa. Thus the principle of secularity is the other fundamental principle. The last fundamental principle of the federal constitution is that transparency and accountability. It is inscribed in Art.12 of the Constitution as the fifth principle. “The conduct of affairs of government shall be transparent,” holds, Art12 (1). Moreover it stresses the fact that “any public official or an elected representative is accountable for any failure in official duties.” It also reserves the possibility of recalling an elected representative in case of loss of confidence by the people.

To sum up, since 1995, under the FDRE Constitution, the Ethiopian state is declared to be a federal one. In line with the federal tradition the respective powers of member states and the federal government are distributed by the federal constitution.

Understanding the Term of Minority

There is no comprehensive and generally accepted definition for the term minority. Different scholars defined the concept of minority in different ways. For the sake of this study the definition of Francesco and Jules described as follows.

According to (Francesco ,1979), definition minority refers to a group numerically inferior to the rest of the population of a state, in a non-dominant position whose members 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, traditions ,religion or language.

On the other hand a scholar called,(Jules ,1985) defined minority as a group of citizens of a state, constituting a numerical minority and in anon dominant position on that state ,endowed with ethnic, religious or linguistic characteristics which differ from those of thee majority of the population , having a sense of solidarity with one another, motivated if only implicitly by a collective will to survive and whose aim is to achieve with the majority in fact and law, Those minorities need human rights protection. The League of Nations has made the first attempts to protect racial, religious and linguistic minorities after the Second World War, when the focus was placed on protection of individual rights and the principle of non-discrimination. The history has shown us that the so-called minorities without a mother-state had been especially vulnerable before, during and after the two World Wars (Halida Nasic, 2007).

To sum up, Despite the difficulty in arriving at a universally acceptable definition, various characteristics of minorities have been identified, which, taken together, cover most minority situations. The most commonly used description of a minority in a given State can be summed up as a non-dominant group of individuals who share certain national, ethnic, religious or linguistic characteristics that are different from those of the majority population (Ibid).

International conventions For the Protection of Minority Rights

Since individuals who belongs to minority needs attention on protection of their rights various instruments established by siding to them. Hence, currently different international conventions on protection of minority rights there. ICCPR is the first truly important and binding document dealing with it. The Covenant was adopted in 1966. Article 27 of the ICCPR states that “ In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their

own language". Member states that have ratified the Covenant are obliged to ensure that all individuals under their jurisdiction enjoy their rights.

In addition, in December 1992, the most important non-treaty text devoted to minority rights was created, that is the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. It is only universal instrument addressing the special rights of minorities. The Declaration grants to persons belonging to minorities ; protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (art. 1), the right to enjoy their own culture, to profess and practice their own religion, and to use their own language in private and in public (art. 2.1); the right to participate in cultural, religious, social, economic and public life (art. 2.2); the right to participate in decisions which affect them on the national and regional levels (art. 2.3); , the right to establish and maintain their own associations (art. 2.4); , the right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across state borders (art. 2.5); and , the freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (art. 3).

The declaration specifies some of the measures that take by states in order to exercise their rights. States are to protect and promote the rights of persons belonging to minorities by taking measures to create favorable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4.2). To allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (art. 4.3); , to encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (art. 4.4); to allow their participation in economic progress and development (art. 4.5); to consider legitimate interests of minorities in developing national policies and programmes, as well as in planning and implementing programmes of cooperation and assistance (art. 5); to cooperate with other States on questions relating to minorities, including the exchange of information and experiences, in order to promote mutual understanding and confidence (art. 6); to promote respect for the rights set forth in the Declaration (art. 7); to fulfill the obligations and commitments States have assumed under international treaties and agreements to which they are parties.

Types of Minorities

According to ICCPR article 27 three types of minorities are listed: ethnic, linguistic and religious minorities identified.

Linguistic minorities

Language is not just a means of communication as some would like to reduce it to; its purpose goes beyond effective communication. The marginalization of minority languages and cultures in multinational societies stems predominantly from such myopic conception of languages, in purely instrumental terms. The fact, however, is that language is an embodiment of a way of life for the speakers of the language. Reciprocated

Linguistic minority does not have an agreed definition as of the meaning of minorities. However, it has ever been one of the groups which required special treatments from the state or international community. Language plays an important role in the life of an individual or a group. It has two aspects, namely, an instrumental value and intrinsic value. In either case, groups speaking the language are eligible to protection against discrimination and special treatment with a view to ensuring equality with the majority language to a certain extent.

In other words, language of a group may be the only distinction and because of this, the group may be in the position of non-dominance. Indeed, historically, most of the vulnerable groups belonged to linguistic ones (Yousef T, 2008). That's why persons belonging to linguistic minority are given protection under Article 27 of the ICCPR and the 1992 Minority Declaration. Under general individual human rights, no doubt language cannot be a ground for discrimination, meaning individuals can avail of the protection of the principle of non-

discrimination. Protection of the linguistic group is just protecting the dignity of the individuals belonging to such group.

Ethnic Minorities

Ethnic minority is a group having its own culture, language or history and such group has to be a self – conscious group, whose members want to uphold its particularities (Weber Max, cited in Ann Morning, 2005). Both subjective and objective features are required for a group of people to qualify ethnic minority. A certain ethnic groups are entitled to claim minority protection when they have cultural, historical and linguistic characteristics that distinguish them from the rest of the population.

Religious Minorities

It is not an easy task to define religion and religious minorities in particular. A certain group qualifies religious minority when its religion differs either from the state religion or the majority or the rest of the groups. The religious rights has also limitation as of other rights restriction, for instance during the practice it does not jeopardize the religion of other religion followers. Apart from the guarantee against discrimination based on religion under general individual Human rights, article 27 of the ICCPR and the Minority Declaration do recognize religious Minorities. They should not be forced to downgrade their religion or should not be forced to change their religion. Hence, as of other minority groups, religious minorities rights should be protected and realize their rights freely.

Review of Empirical Studies

The literature that exists concerning the federalism in general and the right to movement in federal system structure in particular is too diversified to be exhaustively reviewed here. Therefore, only those studies that are directly or indirectly related to the objectives of this study were reviewed.

Yonas, (2013) conducted a research on the title “Implication of Ethiopian Federalism on the Right to Freedom of Movement and Residence: Critical Analysis of the Law and the Practice” to check whether the federal system has implemented properly in congruent with the right to freedom of movement and residence of individuals in Ethiopia or not and he found that ethnic federal setup of Ethiopia has practically negative implication on the right to freedom of movement and residence;0, v ethnic based political parties are also responsible for the violation due to their contribution to the increasing ethnic consciousness of the society. Governmental safeguard institutions are not properly safeguarding this right from the pitfall of Ethiopian ethnic federal system; Misuse of ethnicity for political game by the ruling EPRDF party has aggravated the impact of ethnic federal system on the violation of such freedom.

With the aim to analyse the major challenges of adopting ethnic federal system in Africa with special focus on the context of Ethiopia’s ethnic federal system a research was made by (Abebe, 2012) entitled “The dilemma of adopting ethnic federal system in Africa in light of the perspectives from Ethiopian experience” and found that the adoption of ethnic federal system in Ethiopia has created the opportunity for minority groups to exercise their cultural and linguistic rights, the ethnic federal experiment has faced enormous challenges. The challenges include problems of legitimacy, unprecedented emphasis on ethnicity and lack of genuine democratization process. The article argues for concrete measures to be undertaken on political accommodation of various political groupings, realization of genuine democracy and establishing efficient political institutions as well as the need to accommodate minority rights in a manner that fosters social cohesion and national unity in the country.

Produced a paper entitled Federalism in Africa: The Case of Ethnic-based Federalism in Ethiopia and paper stress and said that Since its introduction in 1991 and officially sanctioned in the country’s 1994 Constitution, ethnic federalism and Article 39 of the Constitution that awarded the self-rule states (regions) the right to secede has become the major source of intense debate. For some, ethnic federalism and the right to secede discourage ethnic tensions in the country and encourage the various ethnic groups to live together

peacefully. However, for others, this “experiment” can go out of hand and may lead the country into never-ending ethnic wars and eventually to disintegration (Teshome, 2008).

The research of Mesfin Gebremichael with the title “Federalism and Conflict Management in Ethiopia. Case Study of Benishangul-Gumuz Regional State” reveals that in 1994 Ethiopia introduced a federal system of government as a national level approach to intra-state conflict management. Homogenisation of cultures and languages by the earlier regimes led to the emergence of ethno-national movements and civil wars that culminated in the collapse of the unitary state in 1991. For this reason, the federal system that recognises ethnic groups’ rights is the first step in transforming the structural causes of civil wars in Ethiopia. Against this background the research examines whether the federal arrangement has created an enabling environment in managing conflicts in the country. To understand this problematic, the study conceptualises and analyses federalism and conflict management using a qualitative research design based on in-depth interviewing and content-based thematic analysis taking the case study of the Benishangul-Gumuz regional state. The findings of the study demonstrate that different factors hinder the federal process. First, the constitutional focus on ethnic groups’ rights has led, in practice, to lessened attention to citizenship and minority rights protection in the regional states. Second, the federal process encourages ethnic-based elite groups to compete in controlling regional and local state powers and resources. This has greatly contributed to the emergence of ethnic-based violent conflicts, hostile intergovernmental relationships and lack of law and order along the common borders of the regional states. Third, the centralised policy and decision making process of the ruling party has hindered genuine democratic participation of citizens and self-determination of the ethnic groups. This undermines the capacity of the regional states and makes the federal structure vulnerable to the dynamics of political change. The conflicts in Benishangul-Gumuz emanate from these causes, but lack of territorial land use rights of the indigenous people and lack of proportional political representation of the non-indigenous people are the principal manifestations (Gebremichael, 2011).

The work of Alem Habtu on the other hand stated that in 1991, Ethiopia's new leaders established a multiethnic federation that provides for the right to secession. The secession clause was incorporated for reasons of ideology and necessity. The federation consists of largely ethnic-based territorial units and encourages political parties to organize along ethnic lines. The Ethiopian case is a radical departure from most other federal systems. This analysis focuses on (1) Ethiopia's secession clause, (2) the House of Federation, and (3) state-federal relations. The future of federalism in Ethiopia is unclear. The provisions of a liberal democratic constitution conflict with the reality of authoritarian centralist practice and therefore jeopardize the future of federalism. Although the secession clause has symbolic value, it is unlikely that any Ethiopian government would allow secession to take place. (Habtu, 2016).

Accommodation of differences is used by federal systems to hold their units together. Lack of accommodation of diversity could lead to conflicts and pose danger for a union, particularly, in multicultural federal systems like Ethiopia. This article explores the protection of diverse groups and preservation of a union in federal systems. It involves a comparative overview of three jurisdictions: Ethiopia, India and the US. Although comprehensive discussion on the relevant principles of federalism across these federal systems cannot be done in a single article, an investigation into the three jurisdictions gives insight as these jurisdictions demonstrate substantially different federal features while they share some of the hallmarks of federalism. The US represents a territorial federal system. Indian federation is multicultural with unique centripetal tendencies and this would make it a quasi-federal system. The Ethiopian federal system, on the other hand, appears to empower ethnic groups by making them its building blocks. This article examines the accommodation of diversity and protection of minorities in such differently designed federal systems and aims at drawing relevant lessons as the research on the title *Federalism as an Instrument for Unity and the Protection of Minorities: A Comparative Overview: Ethiopia, India and the US Legesse* indicated (Mengie, 2016).

Girmay Abraha on his paper called “Constitutional Perils of Ethiopia’s Ethnic Federalism: Insights from Self-Determination Principle in Case of ‘Kunama’ Ethnic Minority” reveals that the current FDRE Constitution of Ethiopia has recognized dozens of ethnic groups to apprehend right to self-determination by launching nine regional states through their respective ethnic outlines the findings demonstrated that the constitutional right to self-determination in case of Kunama minority is seemingly slim due to: first, the absent of accessible structural and constitutional arrangements of the minorities to hold sound political representation and participation in most

of the regional, zonal and Wereda structures and institutions. Second, there is lack of constitutional policy/mechanism to promote the socio-cultural traditions of the minorities; and third, asymmetric regional power distribution and empowerment for the minorities.

Hence, with an optimistic intent to resolve ethnic injustices, reshuffle unenforceable constitutional principles, foresee unintended discriminations, renew cultural denials and rearrange inattentive political recognition of the minority, this article forwards, there should be a timely constitutional reconciliation and structural renegotiation maneuver at all the federal, regional, zonal and Wereda levels through the virtuous spirit of constitutionalism (Abraha, 2015).

By using qualitative research method that employed both primary and secondary sources. Temesegen Thomas made a research entitled with “Ethnic federal system and conflict in the post-1995 Ethiopia: The case of southern regional state” to investigate the practice of ethnic federal system along with ethnic rights to self-determination and associated conflicts in the context of Southern Regional state of Ethiopia. The federal system is based on the constitutional conviction that ethnic groups in Ethiopia have the right to self-determination up to secession. By using ethnicity as an instrument to establish the constituent units, ethnic entitlement and political representations, the federal system has uniquely formalized politics of ethnicity in Ethiopia. Practically, the federal system in Ethiopia faces anomalous asymmetries both within the four ethno-parties that formed the Ruling party and constituent units. Despite rhetorically committing to multi-party politics and democracy, the political regime in power is markedly intolerant of political pluralism. The ‘making and remaking’ of the regions and local ethnic political parties in Southern Ethiopia has led to conglomeration of 56 ethnic groups into a single region. Instead of ethnic right to self-determination in accordance with the constitutional principles, the ruling party has gradually put efforts into administrative integration of diverse ethnic groups. This is one of the underlying causes for ethnic autonomy conflicts in the region. It is time for the ruling party to accept the consequences of the constitutional choices, to protect the constitutionally declared principle of federalism, to respect ethnic right to self-governance in Ethiopia beyond ideological and political motives (Halabo, 2017).

Study design

This research has explored the challenge of Ethiopian federal set up on the right to freedom of movement and residence on minorities as well as explores the institutional protection of such right. Based on relevant domestic laws, the constitution and international instruments, it critically analyzed the practice in relation to exercise of freedom of movement and residence.

Therefore, the research is qualitative in nature. In the main, the study has tried to make an appropriate review of relevant literature related to Ethiopian federalism and the concept, scope and limit of the right to movement and residence.

Data Collection Method

Both primary and secondary data were employed in the study. The primary data collected through face to face discussion, by focusing on respondents that selected strategically and purposefully so as to conduct in-depth interview and FGD as well as proclamations and regulations. The secondary consisted of the books, journals, magazine, newspapers and internet and other relevant media.

Data Collection Instruments

As indicated above the researchers employed qualitative methods of data collection. Thus, the instruments that were important to collect the relevant data by the researchers are the following: in-depth interview, focus group discussion and document analysis.

Sampling size and sampling Technique

The study employed purposive sampling methods and 20 individuals purposively selected. These minority individuals have different ethnic backgrounds and occupations. Basically most of them are government employee and some of them are self employee (merchants). According to (Glaser& Strauss 1991) purposeful sampling is usually suitable in qualitative research method because it allows the researchers to select participants

based on their unique experiences in the studying issue so as to enhance the richness of information that is mandatory for detail and accuracy of the research being investigated.

This sampling method is chosen because it is considered more appropriate to the issue which is studied and all the variables are more conveniently available.

Method of Data Collection

The researchers used primary and secondary data sources. Primary data collected by using structured interview and semi structured interview and focus group discussion in order to collect data from selected individuals. Compared to other data collection tools, they are more convenient to gather the required information from the respondents. Interviews conducted by taking twenty minority individuals. These sample respondents were selected using convenience sampling. Such interviews with these sample respondents undertaken by believing that they would help the researcher in finding out the necessary information about the study. Secondary data gathered from different sources such as published and unpublished books and journals, internet sources.

Data Quality Assurance

In order to maintain the quality of data, the researchers were accomplishing the following tasks:

- ✓ Gave orientation to the respondents before interview and discussion. Doing this would make the respondents give due attention to the significance of providing quality data and the importance of being responsible giving important answer.
- ✓ Analyzed the data which collected from the respondents professionally and objectively based on the data, not by personal preference. The researchers fully understand the negative effect of false information and inaccurate data analysis.

In addition to this, all of the information processed by the researchers, starting from giving orientation, interview, analyzing and interpreting the data in order to increase the reliability and the quality of the data.

Results And Discussions

A brief outline of informants' profile

Giving accurate definition for the term minority is not an easy task. As Francesco noted the term minority imply a group of individuals numerically inferior to the rest of the population of a state, in a non-dominant position whose members 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, traditions, religion or language.

This study also used the above definition as operational definition for minorities in the study area. In this study basically the concept minority used in a sense that; a group of individuals who are in number smallest from the other ethnic group live there and encompass different ethnic backgrounds. They have their own language, culture and ethnicity. Those individuals are not indigenous minorities but came from different regions of the country and settled in hosanna town for different purposes. The ethnic backgrounds of the informants that participated in interview and focus group discussion have include Amhara ,gurage siltei and Oromo. Six individual from Amhara, seven from Gurage, four from silteie, and three from Oromo ethnic participated.

Succinctly speaking for the purpose of the study, 15 individuals selected purposively from among members of minorities live in hosanna. Those individuals involved in assorted jobs. Some of them worked at government offices and others have private jobs. Based on the informants response most of them stay in hosanna for more than twelve years. The minimum year of informants' who stay in hosanna town is eight year.

To conclude, this study selected minority inhabitants from among members of hosanna residents who occupied private and government jobs. Those inhabitants have various ethnic backgrounds and are not indigenous to the study area.

Challenges that Minorities Faces

There are different international documents that plunk for the protection of minority rights. Most of the international agreements also agreed on minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language". Again those minorities have the right to effectively participate effectively in economic and public life. Member states of different international human rights convention also have ratified the Covenant are obliged to ensure that all individuals under their jurisdiction enjoy their rights.

The federal constitution of Ethiopia also recognizes different international human rights instruments that stand for the protection of human rights. Particularly, the constitution enshrined the right called freedom of movement and residence in article 32. However, informants of the study bestowed their grievances with the exercise of their constitutional guaranteed rights. What challenges do these minorities faces to exercise their rights? So, this part of the study tries to discuss the challenges that those individuals countenances.

The problems that these individuals encounter discussed below. Mainly the problems are related with issues like benefits and security. One of the informants noted the following:

"... Personally I considered myself as of second citizen. Since, it is because that in time of instability that happened currently in different regions of the country as a result of varied reasons I produce fear and want to go back to my birth place. I worried to my security; and don't believe on the government security forces. I don't believe them and hesitating their effective delivery of responsibilities because I think their decision will be biased. And it shows that becoming of or being of second citizen. This problem is happened because the nature of the federal constitution. Those regional states in Ethiopia delimited based on the ethnicity criteria and this is the main source for such upset"

The above explanation of the informant shows that the fear of minorities who lives in different regional states of Ethiopia. Currently due to different conflicts that happened in the country primarily worries for minorities, even if its country wide issues/problems.

The other difficulty issued by minorities in time of discussions recounted with Psychological problem. Psychological fear that produced as a result of discrimination is additional problem. One of the informant also address that, due to such psychological fear his families stay in his birth place area and for temporarily he is working in Hosanna government office . Accordingly, life seems to be instable. Instability of life due to such psychological fear is also one challenge that issued by informants.

Informants discussed about varied problems that happened on them. Different individuals who work on various governmental office want to transfer and work around the area wherein birth places / their regional states. The intention of those individuals who seeks to transfer is distinct as informed from informants. Some want to transfer because of the distance that they far away from families and as a result they want to move and go back to their families' vicinity.

Others want to go their region because that they feel as they are discriminated, since they are from host regional states. Most of the informants agreed on that, they issued the question of transfer not because merely distance of their placement from their family, but because the discrimination that they face.

The study here tried to see the status of mobility of employers in government offices. Most of the employees who transfer to Hosanna town from other part of the region are members of the major ethnic group (Hadiyyaa ethnic). Most of the employees who move out of the Hosanna town are minority dwellers. Here, the study observes the current ethnic federalism of Ethiopia creates that ethnically constructed regional state that ignores minorities. This ignorance creates discrimination and marginalization of minorities which leads to disintegration than unity. The other problem that issued by minorities who worked in the government offices quoted as follow;

‘..... an internal vacancy with clear criteria is posted in different time, but we don’t want to participate on it. It is because that lack of motivation to take part since it is posted as a figure’.

Based on the above explanation, they don’t believe on the criteria’s and losses their confidences to work competitively together with their colleagues.

With this regard, the study wants to clarify the issue and see some previous vacancies posted in some government offices. Most of vacancies that posted in governmental offices found with clear criteria’s. However, according to most informants view they don’t want to take part on vacancies posted in their offices.

Here the study tried to conclude that, minority individuals face challenges that basically related with benefits, security issues and psychological problems.

The Extent of Exercising Freedom of Movement and Residence

Freedom of movement and residence is a human rights concept encompassing the right to travel from place to place within the territory of a country and reside or dwell in any part of the state. This notion considered as human rights. The right to freedom of movement and residence is guaranteed in different international conventions as well as the FDRE constitution. Article 32(1) of the FDRE constitution recognized that, the right to liberty of movement and freedom to reside in chosen area for every citizen of the state.

International instrument that called the universal declaration of human rights recognized the right to freedom of movement and residence in its article 13. Article 12 of international covenant on civil and political rights also recognized and enshrined freedom of movement and residence. Therefore, this right is legally recognized and protected.

According to some of the study informants’ view, they understand that this right is legally recognized rights. Since the concept is recognized internationally and federal constitution of Ethiopia. Some informants don’t understand the right to freedom of movement and residence is legally guaranteed right. Differently some argued that, this concept should not be only recognized legally, rather this right should exercised by everyone as natural right.

Thus, this right is legally protected by constitution. In this part, the study tries to address the extent of exercising freedom of movement and residence. In addition it address if there is any case that issued legally. But most of the informants informed that, they don’t want to bring their cases to courts because of two reasons. The first is that, they don’t have confidence on judges of the court. They fear that, those professionals at courts may prejudice and not get justice. The second reason is that because of psychological fear. Accordingly, from the beginning when they face difficulties because of fear don’t covet to bring their case to court or any other legal bodies.

To this effect, the study tries to look in to if there is any case that related with problem of minorities at court. However, there is no registered case that link with minorities at court. Some individuals in the areas of the courts inform that there is no any case that associated with minorities’ problems.

To sum up, this study analyzed that there exist different minorities’ who move from different parts of the country and reside in hosanna town for the sake of various reasons. However, currently those individuals faces different challenges to exercises their internationally and nationally recognized rights. Within such dare, they struggle to continue their life.

Conclusion

The general objective of this study is to explore the challenges of the federal system in exercising the right to freedom of movement and residence by taking minorities as a subject. For this purpose, the study used qualitative research method i.e. unstructured interview and focus group discussions to collate the necessary data from selected individuals. Minority individuals were selected by using purposive sampling techniques.

The study reveal that the challenges that minority individuals faces in exercising the right to freedom of movement and residence. Basically this research finds major problems that considered as hinder for minorities to live in sustainable way. Problems that minorities faces are regarded as benefits crisis, security problem and psychological trouble.

Unfair treatments or discrimination is one challenge. Accordingly, informants who work in governmental offices unfairly treated. As result, they don't want to compete in different internal high occupational status or vacancies.

The other problem that observes on those minorities is that lack of interest to effectively accomplish and deliver their responsibilities. Some of the participant says that, due to prejudices that happen in work place they don't want to efficiently carry out responsibilities.

Security problem is also the other challenge that this minorities faces. Accordingly, those individuals don't have confidence on various security forces and hesitating. The basic reason for this issue is that they fear that those police officers may bias.

As informants view, psychological fear is also one challenge that they encountering. Due to instability that currently happened in different parts of the region they produce fear and consider themselves as citizen of other state. Most of the participant of the study wants to go back to their place of birth through transfer. This is because that they believes that in time of disturbances, they consider themselves as the first victim. This condition that observed in different part of the country forces them to leave their job and back to their ethnic origin area.

Recommendations

Based on the findings of the study, the following recommendations are forwarded by the researchers;

- Government must work in eliminating Ethnic consciousness from the society by promoting national unity by using different techniques like mass media, educational institutions and other methods. It is the cause for most ethnic based discriminations in different sectors.
- The activities of human rights institutions should be strong and should establish in different part of the regions. It is because these institutions are helpful to appeal human rights violations occur in various parts of the country.
- The researchers would like to suggest that ethnic federal system should be averted to the geographical federal system and political parties should be discouraged from organizing themselves based on ethnic lines. Besides this, the constitution should devise a mechanism, such as making ethnic manipulation for election as unconstitutional, to preserve the federal system from misuse of ethnicity which apparently directs the society to ethnic consciousness and ethnic division and that leads finally for violation of the right to freedom of movement and residence.
- Finally as this study focused only challenges of the current federalism on minorities in exercising the right to freedom of movement and residence, we would like to recommend other researchers to conduct comprehensive and extensive research on this issue at wider scale in order to assess the challenge of the Ethiopian federalism on minority rights.

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