

Ethnic Federalism and Dispersed Minority in Ethiopia in Post 1991: Constitution and Institutional Status quo to **Protect Dispersed Minorities**

Abstract: Following the adoption of ethnic based political arrangement, Ethiopia ratified new constitution in 1995. Inter-ethnic clashes, internal displacement, and ethnic tensions have become protracted security challenges of Ethiopia. Particularly, dispersed minorities are principal victims of these challenges. Furthermore, dispersed minorities are invisible in the political process and power sharing specially in regional states. Accordingly, this article delved in to the impacts of national and sub-national constitutions and institutional set up on dispersed minority rights and security. Based on this objective, qualitative method was employed and both primary and secondary data sources were used from multiple sectors and multi-levels including victims (internally displaced persons (IDPs¹) in Burayu). Accordingly, the results of the study supposed that national constitution, sub-national constitutions that designed pursue the national constitution are not safeguarding the minority but galvanizing sources of ethnic conflicts and intolerance provided that other factors like ethno-linguistic regional autonomy and its poor implementations, including regional special forces are still contributing for protracted ethnic conflicts and social instability that usually result in minority insecurity and conflict induced internal displacements. Unless Ethiopia amend both federal and regional states constitutions and dissolve Special Forces of regional states, maintaining peace and security, assuring human rights, sustaining horizontal integration among regional states, raising accountability of regional governors and assuring equality and justice of citizens will become a long-drawn-out challenges for national government.

Key words: *Constitution; Ethnic conflict; Dispersed Minority, security*

¹ Here IDPs are among non-territorial/dispersed minority those were in Somali regional state and victims of conflict induced displacement/ internally displaced persons in 2018 from Somalia regional state and now relocated in Burayu city Administration of Oromiya Regional state.

Introduction

In fact, defining minority² is very complex activity in the international human right regimes. There is lack of clarity about what constitutes a minority group (1). The 1948 Universal Declaration of Human Rights (UDHR) has no exclusive provision to minority rights nor does it define what minorities are. Nonetheless, protecting the rights of minorities in political, social, economic and cultural affairs is a necessary condition in which most human rights activists, international and national human rights institutions agreed for both domestic and international peace (2).

In fact, UN Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities revealed that states have exclusive responsibility to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.....States shall adopt appropriate legislative and other measures to achieve those ends.³

In Ethiopia, there are dispersed or territorial minority who are in need of protection and special consideration in the Country (3). The concept of minority and their legal protection is not so clear. Nonetheless, protecting political, social, economic and cultural rights of minority is a necessary condition to secure them.

² Minorities for the purpose of this study are Ethiopian those are living out of the regions that their ethnic groups are dominantly living. For instance, Oromo living out of Oromia regional state, Amhara living out of Amahara regional state, Gurage living out of SNNPR, ...

³ Article 1 sub Art.1&2 of UN Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities that adopted by General Assembly Resolution 47/135 on 18 December 1992 is reaffirming that one of the basic aims of the UN as proclaimed in the Charter is to promote and encourage respect for human rights and for fundamental freedoms for all without discrimination.

Supposing to address the questions of minorities, Ethiopia adopted ethnic based federal state structure in 1991. Nevertheless, this political paradigm 'ethno-linguistic regional state structure' created local tyranny in which the ethno-territorial federating of Ethiopia left a number of non-territorial minorities of the country out of the regional constitutional recognition. The Ethiopian approach of managing ethnic diversity through the territorial approach has not brought an all-round solution.

Numbers of non-territorial minorities are found in all regional states of Ethiopia. Accordingly, this paper attempts to assess the constitutional and institutional framework to protect the rights and security of non-territorial minorities in the federation.

1. Overview on constitutional protection of minorities in Ethiopia

Ethiopia has a century's history of written constitution. The first written constitution was the 1931 imperial constitution under the monarchical political paradigm that wasn't provided significant base for the safeguards of human rights discourses as whole as it was primarily designed to reaffirm and glorify the absolute power of Emperor Haile Selassie I 'The Elect of God!'⁴ The constitution didn't reveal the accountability of the state and the state was generally not understood to be obligated to its subjects. Thus, the state - society relations were 'the King-slave.' For instance, James Bruce (1790) in his work entitled by 'Travels to discover the Source of the Nile' revealed how the society and state under the rule of men interact and showed the level of imperial supremacy of Ethiopia like; *The kings of Abyssinia are above all laws, they are supreme in all cases, ecclesiastical and civil, the land and persons are equally their property (4).*

In general, the text of the 1931 Constitution did include nothing concerning human rights values. It was not framed to introduce constitutional

⁴ See the 1931 written constitution of Ethiopia.

principles, guarantees human rights and accommodates pluralism. It was unthinkable to talk about the recognition of Ethiopian multi-cultural assets:- languages, traditions and customary norms, traditional institutions and the cultural values of different ethnic groups. Even, the traditional dispute resolution systems which were important tools at that time and practicing still by different ethnic group's elders lack recognition and not incorporated⁵.

After adopting the first written constitution in 1931, Ethiopia totally changed its constitution(s) two times due to the regimes change excluding the 1955 revision. However, each constitution that developed in each meanwhile of political change has been experienced inadequacy of human rights safeguards in general and minority rights in particular. On the other hand, the 1955 revised constitution had great concerns for Ethiopia's external image than the rights of the subjects. Under this continuity of past was dominant that the monarchy continued to be absolute and the state (the bureaucracy) tended to be aristocratic (5). In spite of the fact that there was a stride made to embrace the ideals of rudimentary democracy and human rights, there was much to be desired in practice in this regard (5).

Though it had not introduced constitutional principles like the sovereignty of the people, rule of law and principles related to religion and state relationships⁶ unlike the 1931 constitution, it had insight the modern concept of religious freedom that the religious right of citizens was recognized constitutionally for the first time though it was not practical.

Although significant changes and progress were continuously made in each regime following the regime changes to improve the condition of

⁵ Ibid

⁶ See, Article 26, Proclamation Promulgating the Revised Constitution of the Empire of Ethiopia, no. 49, Nagarit Gazetta, Yr. 15, no. 2 (1955). And for further information see 1955 revised constitution of Ethiopia.

human rights, Ethiopian constitutions have not been still protective of minority that neither the Imperial nor the Derg regimes had provided mechanisms for the protection of minorities.

The trend to emphasize socio-economic and cultural rights was continued in the 1987 Constitution of the Peoples' Democratic Republic of Ethiopia (PDRE). Nevertheless, the constitution was overtaken by the nascent liberationist struggles that started in the wake of the 1974 revolution and mounted a pressure on the government until it fell in 1991. While there was a protectionist state that put a high premium on the importance and primacy of economic, social, and cultural rights, there hardly was the concept of human rights as entitlement, especially among the populace. As a result, there was hardly a vibrant human rights culture that specially fostered the assertion of civil and political rights.

Likewise, human rights condition under the Derg regime had not got emphasis. It was the miserable decades in which security forces scored the elimination of thousands of suspected members of urban opposition groups in Ethiopian history. In rural areas, government attempted to repress rebellious ethnic groups and regions translated into indiscriminate military campaigns that targeted unarmed civilians in total disregard of basic norms of international humanitarian law. Economic mismanagement and tight state's control over the economy further exacerbated the vulnerability of the rural population (6). The Derg interest was its own political survival and economic change, however, more central in the ill-fated moved than humanitarian concerns (6).

Following many devastating civil wars to overthrow dictatorship regimes, the socialist political paradigm came to end and Ethiopia turned to capitalism having ethnic based political arrangement. In 1995 Ethiopia adopted the forth written constitution at the end of the cold war. After the promulgation of the Federal Democratic Republic of Ethiopian (FDRE hereafter) Constitution in 1995, Ethiopia has

implemented a federal state structure with ethno-linguistic political arrangements organized by the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF)⁷. Moreover, the 1991 political transition was a turning point in the regional constitutional history. Following the regime change, all regional states **developed** regional constitutions. Federal approach was institutionalized regardless of the past highly centralized political culture.

In spite of the regimes changes, human rights conditions especially minority rights in Ethiopia have not been **shown** betterment. Ethiopia is still richer with a history of human rights violation. The adoption of 1995 federal and regional constitutions did not fully address the minority groups' (Non-territorial minority in particular) security, equality, equity and socio-economic and political question. On the other hands, the currently undergoing extension of FDRE has been highly anticipated by Ethiopian to comprehensive reform **and** advance human rights around its announcement in January 2018 but no longer better improvement gotten except the transition of the name EPRDF to prosperity party.

Of course, the instigation of the formation of the Ethiopian federation **seemed** designed for the recognition of the ethnic diversity of Ethiopian and EPRDF decided that their nation building strategy under the slogan 'unity in diversity' offered the best guarantee for the stability of the state and remedy of ethnic conflicts(7). However, the reality is antithetical to the advocacy of EPRDF (7).

Grounding on the frame of ethnic based political arrangements, the 1995 constitution assumed Ethiopia as federation of multi-ethnic nations of the nine re-arranged sub-national states and the

⁷ EPRDF was TPLF dominated front that composed of four front the Tigray People's Liberation Front (TPLF), the Amhara National Democratic Movement (ANDM), the Oromo People's Democratic Organization (OPDO) and the South Ethiopian People's Democratic Front (SEPDF). The coalition ruled the country from 1991 to 2019.

constitution in Art.39 declared self-determination up to and including secession unconditional fundamental rights of every nation, nationality and peoples of Ethiopia. Moreover, the constitution recognized the mandate of self-rule, the right to promulgate their own constitutions and establish institutions and mechanisms for the state functions in their respective regional state (8). But ethnic based territorial demarcation in Ethiopia is hardly applied to non-territorial minority in particular. This perspective fails to adequately address the problem of minorities within regional administrations and cities that are often inhabited by ethnically intermixed in geographical setting. In fact, protection of all minorities should be the concern of constitution as far as Ethiopia is the member of UN.

In regard to this, United Nations declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities and other relevant international standards identified four broad areas of concern regarding minorities(9). The first is protecting the existence of a minority via protection of the physical integrity of its people and the prevention of genocide. The second concern is about protection and promotion of cultural and social identity, and the right of national, ethnic, religious or linguistic groups to affirm and protect their collective identity **and reject** forced assimilation. The third issue is ensuring effective non-discrimination and equality, including ending structural or systemic discrimination. Final focus is ensuring effective participation of members of minorities in public life, especially with regard to decisions that affect them (9).

2. Research Method

Based on the objectives of the study which attempted to investigate the impact of constitutional and institutional frameworks in minority (in) security and peacebuilding in contemporary Ethiopia, the researcher used qualitative method. Qualitative method is an approach typically associated with the social constructivist paradigm which emphasizes

socially constructed nature of reality. As Gay (2000) noted, qualitative research is relevant to probe deeply into the research setting, to acquire in-depth understanding about the way things are, why they are that way, and how the participants in that context perceive them. Thus, human behavior, experience, beliefs, attitudes and emotions can be recognized by gaining deeper meaning through qualitative method (10). Moreover, it paves the possibility to produce descriptions or explanations about what people have said and give details why they may have said it. It can aim at making links between micro-processes, such as doctor–patient communication (11).

Both primary and secondary data were employed from multiple sources and levels via purposive multi-stage sampling technique under the domain of non-probability qualitative sampling. Purposive sampling is used to select research participants for focus group discussions and interview to get first-hand information. Primary data was collected from selected research participants from political parties, professionals, elders, religious, cultural leaders as well as victims from IDPs those displaced from Somali regional state and relocated in Burayu city Administration.

In this study, ethical consideration to protect research participants' anonymity and confidentiality is not compromised. The standard coding structure was derived from the interview and FGDs that the participants in interviews and focus group discussions were referred by their code names in the main body of the study.

For instance, Focus group discussion two *FGDII-01* denotes a participant in a focus group discussion who is listed as number 01 in the profile of participants' list and who participated in group two. Furthermore, the acronyms *KI-FGO* for interviews from Federal governmental organization; *PPN* denotes political parties at national level from nationalist and federalist. *FGDI*, *FGDII*, *FGDIII*, *KI-FGO*, *KI-FNGO*, *KI-IDPS* mainly stand for interviewee in

Ministry of Peace, Commission of reconciliation, House of Federation, Ethiopian Human Rights Council, Federal police commission, *relocated IDPs in Burayu and number 01, 02,03,04 ...etc are used to differentiate individual participant in each group and organization.* Accordingly, obtained data were analyzed by using qualitative data analyzing techniques. The analytical strategies of qualitative analysis, content analysis and discourse analysis were used.

3. Constitutional Protection and Institutional Response Non-territorial Minority Insecurity

Ensuring the equal treatment of minorities with other nationalities, providing special guarantee to specified linguistic or other minority groups within the states regarding their rights to existence, education, language, self-rule, representation and power share are also should be its focus⁸.

Of course, from Art.13 to Art.44 (one-third) of the provisions in the 1995 constitution dedicates the human rights and fundamental freedoms. The 1995 federal constitution was designed to guarantee exclusive rights to the dominant ethnic group of a given region. In the constitution, the names of the regional states are dubbed by dominant Ethnic group of respective region. The regional states constitutions were also enact as per the federal constitution regard to the recognition of the rights of all minorities of each regional state (8).

⁸ See International Convention on the Prevention & Punishment of the Crime of Genocide, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, African Charter on Human and Peoples' Rights, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Despite its practicality, components of human rights get emphasis under the 1995 federal constitution. For instance, Art.25 stipulates “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law”. Furthermore, one-third of the federal constitution, from Art.13 to Art.44, dictate about the basic legal frameworks for the rights to equality and non-discrimination under the provision of core universal human rights as pointed above (8). Nonetheless, it is doubtful that the federal constitution is designed to equally protect and assure equal share of benefits and burdens to all in clear manner. **It didn't clearly recognize the political and socio-economic rights of dispersed minority.**

On the other hand, every region has the right and power to develop its own constitution and internal state structures respective to the federal constitutional framework. Corresponding to the Federal constitution, all regional constitutions are announced the hegemony of dominant ethnic group(s) of given region by subjugating almost all minorities of each region starting from preamble. However, none of the Ethiopian regional states is ethnically homogeneous in fact.

However, most ethnic groups of Ethiopia are confined in one regional state so called SNNP though Sidama people and some ethnic groups in South-western Ethiopia Peoples are recently recognized as regions. So, the mechanisms of the federal constitution would suggest as comprehensive approach only if each of the eleven federations was ethnically homogenous.

Practically, Ethiopian people are characterized by considerable diversity in religion, language, culture, socio-economic activities and traditional governance structures (12). The commencement of the formation of the Ethiopian federation seems designed for the recognition of the ethnic diversity of Ethiopian and the new power holder *the coalition of ethnic liberation fronts*' so called EPRDF decided that their nation building strategy under the slogan *unity in diversity* offered the best guarantee for the

stability of the state and remedy of ethnic conflicts. However, the reality is antithetical to the advocacy of EPRDF (12).

The rights of nations, nationalities and peoples of the country in the constitution are emphasized in 'group rights' of main dominant ethnic/language group(s) in a given geographical area. In this regard Art 39(5) **stipulated**

A Nation, Nationality or People for the purpose of this constitution is a group of people who have or share a large measure a common of culture or similar customs, mutual intelligibility of language, belief in a common or related identity, a common psychological make-up, and who inhabit in an identifiable, predominantly continuous territory(8).

Under this Article, non-territorial minorities particularly, minority groups those *are not* inhabit in identifiable predominantly continuous territory and settled in different geographical areas together with other dominant ethnic group(s) are sidelined. On the other hand, minority groups those are not recognized as nation/nationality/people⁹ are totally neglected. In the same way, minority groups whose languages assimilated and/or vanished are also constitutionally unrecognized citizens.

Though each federation of the country is multi-ethnic and multi-cultural in nature, the nomenclature of regional states of Ethiopia under the 1995 constitution is named after the predominant ethnic groups in most cases. Thus, the constitution postulated the member of the federation in to nine ethnically recognized regions. In this, Amhara, Oromo, Afar, Tigre, Harare, Somali, Benin, Gumuz and recently

⁹ The terminology of Nation, Nationality, and People are controversial under the view of Ethiopian scholars. Moreover, under the 1995 constitution of Ethiopia, the term nation, nationalities and people written starting from preamble however, nothing is stated indicating which ethnic group is nation or nationality and which group is not. On the other hand, there were no clear criteria's to level ethnic groups in either of.

Sidama are recognized and their respective regions are designated under their name(s). Accordingly, Art 47(1) revealed the member states of the EFDR are the following:-

1. The state of Tigray
2. The State of Afar
3. The State of Amahara
4. The State of Oromia
5. The State Somalia
6. The State of Benishangul/Gumuz
7. The State of Southern Nations, Nationalities and People
8. The State of Gambela People
9. The State of Harari People
10. The regional State of Sidama and South-western Peoples¹⁰ (are not written under 1995 Constitution Article 41(1)).



Fig, 7.1 Current political map of Ethiopia taken from <https://www.nationsonline.org/oneworld/map/ethiopia-political-map.htm>

Beholding this regional arrangements', it is not surprising to ask the questions like

Where is the region of the other ethnic groups?

¹⁰ The States of Sidama and South-western Peoples regional states are also the two newly recognized regional states that detached from the State of Southern Nations, Nationalities and People or region. The naming and political arrangement of Sidama regional state is similar with other regions.

Where are the names of different Ethnic groups living out the region of their dominant groups?

Nonetheless, under ethnic based political arrangement the State of Tigray, for example belongs to the Tigres', the State of Amhara to the Amharas', the State of Oromia to Oromos', the State of Somalia to the Somalis' and so on there by giving legitimacy to the claims of a particular ethnic group to a particular territory, and providing it with the necessary framework in which its language, culture and political institutions may flourish (13).

Paradoxically, more than 40 ethnic groups in southern Ethiopia are still in a single region called the Southern Nations, Nationalities, and Peoples regional state after referendum of Sidama and South West regions. Some of these ethnic groups such as Wolaita, Hadiya, Gurage, Silte...have more population than some of the original member states of the Federation like, Harari, Afar, Gambela and Benishangul Gumuz. Thus, it is not clear what objectives criteria's are needed to recognize the rights of self-rule and regional arrangements to make the original delimitation. Concerning this, Anderson noted that the original decisions concerning the boundaries of the constituent units in Ethiopia were essentially made by the ruling coalition, EPRDF, in a process that had minimal openness and very limited public consultation (14).

Of course, it seems all the political power is vested on the hands of the Ethiopian. For instance Art 8(1) of the federal constitution states. "All sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia." Since the 1995 federal constitution recognized Ethiopia as a composite of Nation, Nationalities and Peoples, individuals in Ethiopia are assumed to belong to certain nation, nationalities and peoples. So it seems minorities are recognized as the founders of the polity. However, sub article 2 of the Article 84 explicitly revealed that the sovereignty of nation nationalities and people shall be expressed through their representatives elected in

accordance with the constitution and through their direct, democratic participation. On the other hand, all regional constitutions are not structured to recognize the rights of non-territorial/dispersed minorities to be represented.

Article 61 of 1995 constitution seems categorically designed to recognize all minorities' rights. However, the Article stands for representation formula of ethnic minority it is not about political representation, power sharing and self-rule of non-territorial minority. It stipulates nothing about the rights, the responsibility of regional states' to respect human and democratic rights of non-territorial minority and the power relation.¹¹ Moreover, some scholars supposed that accommodation of the ethno-linguistic groups' demand for cultural preservation and distinctiveness as most notable achievements of the constitution in the area of human rights. It seems that the federal system has adequately responded to ethnic inequality and marginalization by granting the rights to ethno-cultural and linguistic self-determination.

Of course, ethnic groups have largely welcomed the right to speak and write their own languages and use them in local administration, as well as appoint local government officials from their own ethnic groups (15). Accordingly, Tronvoll supposed that the federal constitution absolutely guarantees the protection of collective and individual rights and thus the constitution may seemingly be characterized as one of the most minority friendly constitutions in Africa, or even globally (16). However, the reality concerning non-territorial minority is completely different from what these scholars' assumed. They have no legally recognized rights to use own language as equal as titular citizen of given region. They are voiceless and neglected from socio-economic and political participation and decision making process in their locality and above.

¹¹ See Article 61 of the 1995 constitution of federal democratic republic of Ethiopia.

All research participants have the same position regard to this reality. For instance, during focus group discussions, all discussants from IDPs intensely revealed that the Somali regional constitution **does not** stand for non-Somali identities in the region.

In this regard, one of the politician from PPN put that almost all regional constitutions are directly or indirectly proclaim the hegemonic powers and rights of the dominant ethnic groups which nicknamed by each regional state(*KI-PPN-03*). Most of the interviewees' from the politician have the same position though politicians from federalist category claim merely the *execution tricky* of the each regional and federal constitutions regard to minority rights and security. In this regard, most of the research population put in advance that the constitution of regional states as whole are preferential to the dominant group(s) of respective region.

Furthermore, Ethiopian Human Rights Council (EHRC) report indicated that the constitutions failed to provide for the protection of the rights of ethnic, non-territorial and occupational minorities under the ethnic-based regional states arrangements (17). An interviewee from EHRC argue that making ethnicity the sole organizing criteria without providing constitutional guarantees to minority groups, unintentionally led to discrimination, disenfranchisement and marginalization of minority ethnic groups in 'majority' regions, facilitated the revival of discriminatory and oppressive traditions under the guise of exercising cultural rights, and opened the way to frequent ethnic conflicts over contested boundaries, resources and political power (*KI-FNGO-01*; 17).

Till now the ethnic based political system and the constitution which designed as the tool of this political paradigm are full of debatable and paradoxical issues. For instance, Marew **contends** the contradiction between the reality in ground and the constitutional set up and ethnic politics arrangement (18). He said that in reality there are only ten regional states and two city states for nearly eighty-five Nations,

Nationalities and Peoples in the county. Since the members of the federation are not homogeneous, **there are a number of dispersed minority and Nations**, Nationalities and Peoples in each regional state who are either unrecognized or lumped with other dominant groups (18).

Besides, the absence of adequate political representation in government office resulted their interest is ignored and **it also paves** the way for the majority ethnic group to realize their interest at the expense of the minority ethnic group. Furthermore, there is no legal instrument which is assembled in single document pertaining to minority rights under the Ethiopia legal system; rather the rights of minority are found in a scattered manner (19).

In fact, the 1995 national constitution has never explicitly acknowledged the presence of any minority ethnic group, rather defines any ethnic group as a nation, nationality, or people having the same defining criteria and status. Regardless of confusing paradox between rhetoric and reality, the whole discourse of ethnic federalism represented as a God-sent opportunity for previously disadvantaged ethnic groups which are de facto minorities but practically this political system has been the weapon of the stronger ethnic groups to exploit the power and resources with least or no participation from weaker ethnic groups (20). In conclusion, the discourse that emerged since March 2018 after the coming to power of the current prime minister **has** put the minority rights at the paradox between unity and diversity (20). But this ideology is not practically framed, supposed territorial minority. It is not implementing now and vague to discuss in detail by framing it with constitution because political paradigm is still ethnic based and no constitutional change/amendment at all.

4. Regional Constitutions and Insecurity of Non-territorial Minorities

In addition to the practicality and institutional mechanisms of the federal constitution, it is worthy to appraise the constitutional mechanisms and the institutional setup of regional states to realize whether regional constitutions are molded to protect (secure) minorities of their respective region, accommodate diversity and regulate inter-ethnic conflicts. Bearing in mind that assuring public orders, peace and security are a joint commitment of both the national and sub-national governments as indicated in Article 51 and Article 52 of federal constitution.

Obviously, the 1995 federal constitution offers the rights and autonomy to the regional states to choose its own working language, establish a state administration that best advances self-government, enact and execute the state constitution and other laws, protect and defend the federal constitution, establish and administer a state police force, maintain public order and peace within the State, formulate and execute economic, social and development policies, and strategies and plans of the State(8).

Subsequent to the promulgation of the national constitution in 1995, all the regions have adopted their own constitutions based on the national constitutional provision under Article 52(2) (b). The Oromia, Tigray, Southern Region, Somali, Harari and Amhara Constitutions were adopted in 1995; the Benishangul-Gumuz and Gambella Constitutions were adopted in 1996; and Afar Region adopted its constitution in 1998 (21). This indicates that all regional states of the federation have the power to arrange their own internal state structure based on the legal framework of national constitution. Accordingly, each of the regions has effectively adopted a constitution and the majorities have designed local government as the primary mechanism to protect sub-national ethnic minorities (12).

However, the constitutional recognitions and protections of human and democratic rights of non-territorial minorities living in all regional states are not adequate. One of the basic (structural) challenges of regional states

constitutions is its exclusiveness that almost all regional states constitutions are unable to accommodate local diversities clearly. Disregarding ethno-linguistic and ethno-regional diversity is a fact that will not be destroyed easily. The federal constitution did not recognize all ethnic groups (nation, nationalities and peoples living in each regional state) of the country to be organized in regional level. All states have significant ethno-linguistic minorities ranging from 5 to 15 per cent of their total population (15). Of course, there are inherent problems with regional constitutional set up starting from the preamble. They are not designed to resolve the problem of minority and accommodate diversity but almost all regional constitutions decree the sovereign/hegemonic rights of dominant and/or titular groups of each regional state and totally ignored the minority groups of respective region. In some regional states like Harari and Gambela, the regional constitutions are designed to recognize the sole rights of small ruling minorities (Harari people in Harari regional state and in Gambela regional state like Anyuak and Majang).

Like other regions, peoples from diverse ethnic backgrounds are living in the Somali region though inhabitants from Somali ethnic background are the most dominant inhabitant of the area. The regional constitution of Somali region does not mention any other ethnic groups other than the titular group (Somali). Presence of other ethnic groups is ignored by the regional constitution of Somali regional state similar to most regional states of the country. The Somali regional state' constitution gives all political power to dominant group 'Somali ethnic identity' and *they are the only constitutionally privileged group of the region.*

Thus, Article 9 of the Somali regional state constitution reserved all the political power for Somali peoples. It states:

የሶማሌ ህዝብ የክልሉ የበላይ ስልጣን በላቤት ነው። የህዝቡ የስልጣን የበላይነት የሚለፍው በሚሮጃው ተሰካዮቻቸውና በቀጥታ በሚደርጉት ደምክራሲያዊ ተሳትፎ አሜክሌንት ነው።(22)

This Article revealed **that** the sovereignty of the Somali people shall be expressed through their representatives elected in accordance with the Constitution and through their direct democratic participation but nothing is written under the Somalia regional state constitution about the rights of non-territorial/dispersed minorities whether they have the rights to be elected or not. Of course, all inhabitants of the region have the rights **to** elect. Though the region is relatively homogeneous, the 2007 Ethiopia Census indicated that the inhabitants of the region **were** Somalis (99.2%), Oromo (0.46%), foreign-born Somalis (0.20%), Gurage (0.08%) and Amhara (0.06%). The revised regional constitution of Somali has also nothing about the minority groups of the region starting from the preamble.

When we see the revised constitution of Benishangul Gumuz regional state, Article 2 of the revised constitution is **the** best example for segregation of others (assumed as non-titular) living in the region. Benishangul Gumuz Regional state constitution clearly stipulated absolute autonomy to the Berta, Gumuz, Shinashi, Mao, and Komo. The Amharic version of Article 2 of Benishangul-Gumuz regional state constitution openly proclaimed that:

“በክልሉ የሚኖሩ ሌሎች ሕዝቦች የሚቃወቁ በሆነግም የክልሉ በላቤት ብሄር ብሄረሰቦች በርታ፣ ጉማዩ፣ ሸናሻ፣ ሜና ኮምናቸው(23)

However, many ethnic groups are living in Benishangul-Gumuz regional state. The major ethnic groups living in the region are Amhara (25.41%), Berta (21.69%), Gumuz (20.88%), Oromo (13.55%), Shinasha (7.73%) and Agaw-Awi (4.22%) and main languages spoken in the region are the Berta (25.15%), Amharic (22.46%), Gumuz (20.59%), Oromo (17.69%), Shinasha (4.58%) and Awngi (4.01%) (24).

Regardless of this fact, the regional state constitution of Benishangul Gumuz in Article 2 decrees the owner of the region only the Berta, Gumuz, Shinashi, Mao, and Komo. However, in Article 45(3) the Benishangul Gumuz regional state constitution stipulated that the

representation of others (not listed in Article 2) shall **need** special approach though it is non-practical(24).

Furthermore, the Gambela regional state constitution also rejected the presence of others in the region start its preamble by stating “we the people of Anyuak, Nuer, Majang, Upo and Komo nations decided to have own constitution based on our regional context understanding that having own constitution aligning with national constitution is base for our fast economic growth, sustainable peace and democratization...”(25). Nevertheless, the Gambela Region is inhabited by various ethnic groups. Namely: Nuer 46.66%, Anyuak 21.16%, Amhara 8.42%, keficho 5.04%, Oromo 4.83%, Majang 4%, Shakicho 2.27%, Kambatta 1.44%, Tigray 1.32%, Upo 0.32% and Komo 0.07%, and other ethnic groups predominantly from southern Ethiopia 4.86% (23).

Like the other regional states constitutions of Ethiopia, the Oromia regional state constitution ignored the presence of minority groups in the region. Though the 2007 Census revealed the presence of other ethnic groups portraying Oromo (88%), Amhara (7%) and other ethnic groups (5%), the constitution has nothing about minority groups of the region starting from the preamble. The regional constitution in Article 8(1) recognized the regional power supremacy is merely on the hands of Oromo people. The Article states: - “Sovereign power in the regional state of Oromia resides in the people of Oromo nation (24).”

On the other hand, numerous regional states constitutions indicated at least the presence of others (minorities) people in their respective region thought the practicality is weak. For instance, the constitution of Amhara regional state in some extent **takes** in account the equality of language and (regional) minority. Article 8(1) states:- “The supreme power of the national regional state resides in and belongs to the *people of the Amahara region*” (25). And it recognized the equality of other languages in Article 5(1) states:- “All languages spoken

throughout the regional state shall enjoy equal recognition on the part of the state(25).” Provided that the ethnic groups living in Amahara regional state according to the 2007 Census are Amhara (91.47%), Agaw/Awi (3.46%), Oromo (2.62%), Agaw/Kamyr (1.39%), Tigrayan (0.65) and Argobba (0.41%). Nonetheless, minorities are practically voiceless and still struggling for democratic rights in the region. For instance Qimant identity question is still **unsolved issue** in the region.

Moreover, the 2007 Census revealed **that more than one ethnic group** are living in Tigray region. However the revised constitution of the region ignored other non-Tigrayan ethnic minorities living in the region. Surprisingly, the constitution in Article.14 raised the issue of Kunama and it states: - “Every nation and nationality of the Kunama has an unconditional right to self-determination, including the right to secession.(26)” But the CSA (2007) Census’s statistics portrayed that the inhabitant of the Tigray region are Tigrayan (96.55%), Amhara (1.63%), Irob (0.71%), Afar(0.29%), Agaw(0.19%), Oromo (0.17%) and Kunama (0.07%). Corresponding to the other regional states, Tigray regional constitution also excludes all minorities of the region from socio-economic and political rights including the rights to self-rule, political representation.

Likewise, the regional state constitution of SNNP didn’t recognize the presence and rights of non-territorial minorities (27). In short, non-territorial minorities in each region are powerless and voiceless.

Of course, **problem** of practical implementation and its **clarity is** under question bearing in mind that the recognition of territorial minorities is **a** national problem that needs amendment of national constitution and sub-national constitutions.

On the other hand, the federal constitution in Article 91(1) stipulated that the regional governments are responsible to respect the identity and the equality of nations, nationalities,

and peoples and it has *the duty of strengthening the ties of equality, unity and fraternity among them*. However, this is not practical and written only for the requirement of formality (8).

In fact, rights of minorities are not restricted to self-rule and power sharing at local levels but it extends to religious rights, cultural rights and the rights to participate in the administration of the state either **at the** sub-national or national level. Political participation of minorities takes via different ways. Depending on the particular situations of each minority, it should be represented at different levels of the government to reflect its interest and concerns. Participation relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers and all aspects of public administration, in the formulation and implementation of policy at national sub-national and local levels.

From the above short assessment of national and sub-national constitutions, it is significant to suppose that the legal and institutional frameworks gap to properly protect minority; particularly territorial minority in Ethiopia is still wide. Lack of protection becomes severe as non-territorial minorities are scattered throughout the federation(s). Entirely, none of the regional state **constitutions** is preferred **better** than the other regard to the recognition and protection of non-territorial minority.

Thus, to reduce ethnic identity based conflicts in Ethiopia, the constitutional recognition and protection of non-territorial minority rights is vital. To this end there could be a constitutional revision and a reordering of the current ethno-linguistically demarcated local and sub-national boundaries to geographical proximity, ecology and local identity as the building blocks of borders. This is supposed as reducing factors of the dynamics of disagreement and attacks that provoked concerning minority groups identity recognitions, boundary, administration and others.

5. Non-territorial/Dispersed Minority Vs. Regional States Security Forces: Special Forces

The responsibility of protecting citizen's security is concurrent to both national and regional governments. Accordingly, Article 51(6) of the federal constitution stipulated that the federal government shall establish and administer national defense and public security forces as well as a federal police force. Furthermore, Article 52, in sub Art. 2(g) acknowledges the power to sub-national governments to establish and administer a state police force, and **maintain** public orders and peace within the State. Furthermore, the political, economic and socio-cultural objectives under 1995 Federal constitution are written on the favor of all citizens.

Accordingly, the purposes of establishing police (police commission) clearly postulated under Proclamation No. 720/2011 that:-

The Commission shall have the objective to maintain and ensure peace and security of the public and the state by respecting and ensuring the observance of the constitution, the constitutional order and other laws of the country and by preventing and investigating crime through the participation of the public.

Mandating this objective and constitutional rights discussed above, all regional states established their respective regional police forces to maintain peace and public orders in their regional states.

Furthermore, the proclamation stipulated the responsibility to issue national standards on police recruitment and employment, education and training, ranks, wearing of uniform, equipment and other related matters as well as to establish police training centers; facilitate domestic and foreign continuing education and training for police officers clearly to police commission in sub article 7 and 8 of Article 6 under the federal police commission establishments proclamation No.720/2011. On

the other hands, the establishment of a new security structure at regional states called as “Regional Special Force or Yekili liyu hayil” which is not structurally organized based on the federal police commission establishment proclamation in police structures.

Concerning this, the former minister of Peace, Muferiat Kamil revealed that regional special forces are unconstitutional in nature starting from its establishment that need extensive discussion among political leaders for the sake of national integration and minority security¹².

Nevertheless, Liyu hayil (special force) of each region has become a grave danger to security of non-territorial minorities in each region and challenges of the peace and security of Ethiopia in general. Thus, the current security condition of Ethiopia has become a difficult path with internal displacements of mass and protracted conflicts that exacerbated by the existence of regional states’ Liyu hayil and ethnically deployed local police forces. The conflict between Ethiopian national Defence force (ENDF) and TPLF which is fully supported by Tigray Liyu Hayil is the best instance for.

In view of this, one of the research participants from PPN claimed the aim of the establishment of regional special force. The research participants reminded that the regional Special Forces are posing the threat for peace and security in Ethiopia. Managing such ethnically manipulated sub-national security force ‘special force’ is great challenge for national government (KI-PPN-05; KI-PPN-01). Moreover, Incidences in Somali and Amhara regions and past protracted conflict in the Tigray region are exemplary to show the magnitude of the problem (Ibid).

In most regional states, security and peace are becoming very elusive for non-territorial minority. Most research participants supposed regional

Special Forces as a fueling agent of ethnic violences and one of the sources of non-territorial minority insecurity. In the same sound, research participants from victims (IDPs) noticed the notoriety of the Somali regional special force (liyu hayil) is evident that they are complicating peaceful coexistence and integrity among ethnic groups even in post conflict. In this regard, one of the research participants from human rights commission observed the special forces of regional states as challenge(s) of peace and security of the country and territorial minorities living in various regions. The interviewee told that it was difficult to express the security challenges of minorities by Tigray regional states special force, Oromia regional state special force, Somali regional state special force and so on over the past four years (KI-FGO-04).

Furthermore, Interviewee from PPN noticed that the government police and security actors’ particularly Special Forces at the local level are parts of root causes of inter-ethnic violences and minority insecurity. In most cases, inter-ethnic conflicts and minority attacks are galvanized either by ethnic politicians/activists or by local security forces (KI-PPN-07). The interviewee has listed many inter-ethnic conflicts in which minority groups of various region(s) attacked by regional special force(s) and local polices like, the 2018 Somali-Oromo conflicts in which members of special force were main attackers of ethnically Oromo civilians living in the Somali regional state; the issues of Matekle in which ethnically Amahara and other highlanders including Oromo have been under the attach of some extremist with implicit support of police and liyu haiyil; the protracted civilian attacks of Tigray special force in Makadira, Wolqaita Tsagade, Agamsa in Afar is also unforgettable evil history of Special Force(Ibid).

Since Sept, 2018 there have been multiple cases of inter-ethnic violences with significant involvement of armed local governmental and non-governmental forces in many regional states of the country particularly in Oromia regional state (East and West Guji, Arsi, Bale, West Hararge, East Shewa, and West Shewa

¹² Speech of the former Minister for Peace taken from Ethiopian television news released in December 7, 2020

zone), Harari regional state, the former Southern Nations, Nationalities and Peoples Regional state (Sidama, Wolaita, Garage), Amhara regional state (North and Western Gondar, Northern Shewa zone & Oromia special zone of Amhara), Somalia regional state, Benishangul-Gumuz regional state and Dire Dawa City administration (15). What is happening still in Oromia in Wellega and what was in shashemene, Jimma, some urban areas of Arsi (following the murder of Artist Hachalu), the Gamo minority civilian attack in Burayu in 2018 and the minority group(s) attacks and displacement in Gurafarda in former Southern Nation Nationalities and Peoples regional **state** attacks are also connected either with inability of security forces to control violence or engagements of local security forces.

Accordingly, research participants from victims (IDPs) revealed that individuals of security forces (liyu hayil, regional Police and Militia) of the region were security threat of minorities in the region during different violences. Interviewees from federal government organizations **did not deny** this but revealed how ethnically affiliated local security forces are becoming challenges of national integration. They added that during violences in different regions, most regional governments were not enabling to deploy security forces in time to protect minorities. Witnesses from many cases indicated that when police forces asked to stop violences' **or protect** minority from attack, they responded by saying they were not authorized to intervene. However, when victims tried to defend themselves, region Special Forces attacked them (KI-FGO-01; KI-PPN-01; KI-FGO-04; KI-FGO-02; KI-FGO-04).

As participants of FGDs expressed the same scenario was in Somali regional state during the 2018 conflict. According to all participants from IDPs (displaced from Somalia) members of special force including the local militia were systematically targeted in civilian by shielding organized young mob from community to displace and attack non-Somali identity from the region. Thus, the special police forces and

militias hunt door to door and attacked men, women, children and the elders. After displacing the inhabitants and looting useful materials from the targeted homes, they **got** home fired by organized groups.

All IDPs **did** not assume that the attack was merely simple disagreement between the two ethnic groups but it was organized by government of the region. Abdi illey and his team's arranged attack. The security system of the region is highly subjective and its members are known for taking sides for their ethnic affiliates. That was why the attackers had sophisticated weapons. Thus, both national and sub-national governments need to prioritize mitigating the harm caused by Special Forces and the altering of security policy in order to maintain law and order in Ethiopia (*FGDI, FGDII& FGDIII*).

Furthermore, the reports of human rights commission showed significant reports of unlawful or arbitrary killings by security forces; citizens killing other citizens based on their ethnicity; unexplained disappearances; arbitrary arrest and detention by security forces; harsh and life-threatening prison conditions; unlawful interference with privacy; censorship, and child labor were reported following conflicts in different regions. Human rights commission evidences¹³ showed that human rights abuses **are** still occurring, especially in rural areas that sub-national security forces and/or Liyu Police still commits abuses against civilians from minority groups.

Likewise, findings of various contemporary investigations on conflicts in Ethiopia directed

¹³The Ethiopian Human Rights Commission (EHRC) report released on February 2/ 2022 assured the killing of the Karrayu's Gadaa Michilee leaders and other civilian on December 1, 2021. The commission said that the killing of 14 members of the Gadaa leaders constitutes extrajudicial killing by security forces that the commission asked the government should brought members of the security forces who committed the killings and the victims and families of the victims should be compensated(source: report of EHRC, Feb 2,2022).

that regional special force 'liyu Hayil' in most regions are still security challenges of minority groups. In view of this, Gizachew assured that Special Forces have engaged in a pattern of instigating violence that poses could in fact upset the democratic process. Further he revealed that the highlander' minority groups in the Gambela Regional state claimed that the composition of the special force is not inclusive and no highlanders are participating in (31). The Special Forces' are usually blamed by the highlanders for their deliberate torture or killing though none of them was believed accountable for the crime they committed and violation of normative issues and constitutional mandate and responsibilities in every violence in the region since their establishment(31).

Besides, various reports of the Federal Police confirmed that there were problems of coordination among each regional police, special force, and militia with federal police and each other. The time and quality of training and recruitments are other challenges that the durations are very short and they came as security forces with cruel awareness to human rights, civil-military relation, and military conduct even some individuals are recruited after fired from former ENDF members for their unethical and unacceptable behaviors. The challenge of commitment and lack neutrality are also other dimensions that regional security forces experiencing due to their background.

Generally, there are a lot of evidential critics that have been rising by minority of almost all regional states, settlers of borders, opponent political parties in each regional state regard to regional Special Forces of almost all regional states of Ethiopia.

For instance, in July 2021 violence raised between border area of Afar and Somali regional states, the government of Somali regional state accused Afar Special Forces for collaborating with Afar Revolutionary Democratic Unity Front (Uguguma) to perpetrate attack on the Somali civilian people and run TPLF's agenda. Despite the fact that, evidences indicates disagreement

and civilian attacks around the border areas of both Afar and Somali regional states is not new dynamics that both attacks civilian of one another region. On the other hand, Ethnic clashes escalated on April 7, 2021 between Afar and Somali ethnic group living around border regions was caused about 100 civilian death, many of them were herders. But the government of the Afar regional state accused Somali regional state force for their attack¹⁴.

On the other hand, Special Forces of the regions are organized to assure the hegemony of their respective regions bearing in mind that the political set up and regional states arrangements merely favored the dominant groups of each region. Consequently, they are internally divided along ethnic background and activate ethnic conflicts.

In view of this, research participant from PPN, ORE, FNO....argue that the security forces particularly sub-national security forces are not enforcing the law and keeping peace and stability in accordance with mandated that the constitution postulated for them. Disregarding constitution, minority attacks, killings and other violence against peaceful demonstration are remained the problems in all sub-national levels. Sub-national governments rarely disclose the results of investigations of abuses by local security forces, such as killings, arbitrary detention and beatings of civilians but most of the time they lack willingness to expose and to take measures (KII-ORE-01; KI-FNO-02; KI-FGO-02; KI-PPN-04).

Correspondingly, one of the key informants from IDPs (KII-IDP-03) told that on August 4, 2018 attack the Somali regional security forces/special force/ left a dozen citizens dead in Jijiga and nearby towns. On August 12, a

¹⁴Reuter's news agency Telephone interview (communication) with Afar regional state the deputy police commissioner on April 11, 2021 indicated that about 100 civilians, many of them herders, were killed since clashes broke out on Friday and continued through to Tuesday. The deputy commissioner blamed the violence on an attack by Somali regional forces.

heavily armed group of Somali region's special police force (Liyu hayil) attacked residents in Mayu-muluke district in East Hararghe Zone of Oromia, killed more than 40 civilian and injuring many¹⁵. The report of HRCO investigations also assured this. According to HRCO report, nine adult civilian residents of West Hararghe Zone vanished following attacks by Somali region's special police force. The special force kidnapped individuals from their homes and surrounding roads and there were abused detainees and torture to hurt minority (32).

Thus, regional security forces particularly Special Forces in most regional states are blamed for their unconstitutional acts on civilian minorities of respective regional states. Various investigation of human rights commission reconnoitered reports following ethnic conflicts, and demonstrations, eyewitness of victims including our personal observations in most cases civilian and/or minority groups suffer from deprivation of human rights. Consequently, torture and other cruel, inhuman, or degrading treatment or punishment; prison and detention center conditions; **disappearance**; arbitrary deprivation of life and other unlawful or politically motivated killings; Prison and detention center conditions; arbitrary arrest or detention are usual in all regional states.

6. Conclusions and Recommendations

As discussed above, the 1995 Federal Constitution and the adopted ethnic federalism of Ethiopia (FDRE) do not provide inclusive framework concerning non-territorial minority protection in local levels. Though, the institutional design of Federalism on the other hand is assumed as the best option to respond to the challenges of minorities by developing a counter-majority institutional system, it has a legacy of creating local tyranny which further complicated the challenges of non-territorial

15 Oromia Region's government spokesperson told to local media that member of the Somali regional state's special police took orders from individuals opposing the federal government.

minorities at the local governmental ties of the federation(33).

Moreover, the constitution traces shallowly with the spirit of protecting group rights under the umbrella of the so-called 'nations, nationalities and peoples thru technically ignoring the presence of dispersed minorities in each region. Thus, ethnic based political arrangement and the national and sub-national constitutions which are designed as the tools of this political paradigm are taken as main causes of non-territorial minority insecurity, discrimination, violation of human rights of minority rights, national disintegration and horizontal disagreements among sub-national/regional states/.

On the other hand, contradictions between the practical reality in the ground and the constitutional set up, questions for self-rule and identity are also intensifying potentials of violences and minority insecurity.

Thus, in order to address 'security challenges of non-territorial minorities, there could be constitutional revision and a reordering of the current ethno-linguistic centered regional states arrangement of the country to geographical proximity, ecology and local identity of all inhabitants of respective areas as the building blocks of borders. This is supposed as reducing factors of the dynamics of insecurity and disagreements that provoked concerning non-territorial minority groups identity recognitions, boundary, administration and other challenges that Ethiopia is facing now.

The other challenges of the current violent and insecurity of innocent dispersed minority groups are mainly aggravated by separatist mob, local governments security forces and/or Special Forces, informal ethno-separatist local armies, politician and activists. What was in Somalia regional state in 2018 and Benishangul Gumuz regional state till now are the best instances for. One of the major challenges to improve security condition is ethnically organized regional

security in which partial and untrusted security forces over weight impartial security forces in regions and even in national level. In most regional states it is virtually a norm for a member of security force particularly police and special force to side with or accomplice the 'group' he/she is from. This norm is originated from the existing political culture and the administrative ways. Still no practical actions and **changes are** observed in the alteration of the regional states security systems. This raised accountability gap and misconduct as well as become source of conflicts and minority insecurity. Undoubtedly, the regional security organizations are unable to keep law and order and provide security to all groups of citizens living in respective the regions equally.

As a final point, unless the Special Forces of regional states are dissolved or and the regional security standards and the principles of recruitments are changed, maintaining peace and security, assuring human rights of minority, sustaining horizontal integration among regional states, raising accountability of governors and assuring equality and justice of citizen will become severe and long-drawn-out challenges for national government. *The possible actors for future disintegration of Ethiopia will not be external force but regional Special Forces of Ethiopia.*

Authors' contribution

This work was carried out in collaboration among all authors. All authors read and approved the final manuscript

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¹⁶ In this work, we cited Ethiopian and Eritrean authors with their first name, as it is a custom in the two countries that names are not based on family or surnames, and authors are often cited and referenced by their given name followed by their father's

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