

Review

The protection of minority rights under regional constitutions in the Federal Democratic Republic of Ethiopia: The case of Tigray

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The issues of minority rights have received great attention in the political discourses of today. In traditional literatures and policy issues, special emphasis has been given to the protection of minority rights. After World War II, many international instruments were adopted, with declarations domesticated. Ethiopia is a case in point. After the downfall of the Dergue, Ethiopia ratified international human rights instruments like International Covenant on Civil and Political Right (hereafter ICCPR), International Covenant on Economic, Social, and Cultural Rights (hereafter ICESCR) and African Charter on Human and Peoples' Right (ACHPR), because it was determined to follow ethnic based federal system under the existing Federal Democratic Republic of Ethiopia (FDRE) Constitution that acknowledges unity within diversity. Some studies reveal that the existing legal and institutional mechanisms of accommodation have practical gaps to effectuate it up to the grass root level. Based on this, the study explores the status of minority rights in Tigray Regional State Constitution and its practical relationship with the Irob people in Eastern Tigray and Kunama people in Western Tigray. In doing this, it takes a sample of three Tabias from two Weredas/ District in Kunama and the whole Wereda from Irob using a purposive sampling technique. Consequently, the result of this study indicates that constitutionally, Tigray National Regional State (TNRS) recognizes the existence of Irob and Kunama people at least by the establishment of their local administration units. Nevertheless, this is not without limitations. Hence, the right to self-administration given to the Irob people is simply like that of the other Werdas of Tigray. They are not treated specially as Wereda in exercising their right. Given that the constitutional recognition of minorities is not an end by itself, it needs to be supported with appropriate legal documents for sustaining it, as it deems required. However, there is no special consideration for the representation of Irob and Kunama people in the regional council and other regional governmental institutions. Finally, the study suggests that Tigray National Regional State should open legal and institutional rooms for the protection of minority rights that enables them to enjoy their rights and play roles in the existing federal system.

Key words: Ethiopia, Tigray, Federal Constitution, Regional Constitution, minority rights.

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INTRODUCTION

Article one of the Constitution of the Federal Democratic Republic of Ethiopia (FDRE) depicts the establishment of the Federal Democratic Republic¹ (FDRE Constitution, 1995). The Constitution creates a federal state structure with nine regional states² and recognizes nations, nationalities and peoples of Ethiopia³. Accordingly, all the nations, nationalities and peoples of Ethiopia are given the right of self-determination to establish their own state including the right of unconditional secession, right to develop their own language, promote their culture and preserve their history⁴. The existence of minorities has shown the importance of federalism in contributing to shared governance in a large political unit for certain common purpose and self-governance for the various smaller constituent units of government to be directly responsible for their own electorates (Watt, 2008). Hence, it could be said that all attempts made for the best protection of minorities, particularly in federations, are among the foundations of the federation's effort to accommodate diversity. In short, protection of minority rights is at the hub of accommodation of diversity in a multi-ethnic society.

As a multi-ethnic nation, Ethiopia designed a federal political system to accommodate the diverse groups thereby maintaining the unity of the country. In the context of Ethiopian federation, all nations, nationalities and peoples are minorities⁵. In pursuant of the Federal Constitution, every regional state within the federation has its own respective constitution in which the right of minority groups is considered and given constitutional guarantee. This is meant to safe-guard the endogenous and exogenous minorities scattered at regional states. It is within this framework of analyses that the study is based on. The study deals with the protection of minority rights under the Constitution of Tigray National Regional State. The study is organized in three sections: The first part deals with the elaboration of terms and theoretical frameworks. The second part focuses on the essence of local governments in Tigray. The third is about protection of minority rights at the Federal and Tigray Regional Constitution in relation to actual practice. This is followed by conclusion.

THEORETICAL FRAMEWORKS OF MINORITIES

The term minority is defined by different scholars in different ways, meaning no universally accepted definition. According to Grammatikas Vassilios as cited in

Aberra Dagafa, having a universally accepted, recognized and binding definition of the term can reduce the controversy surrounding its definition and makes one to focus on the rights of the minorities (Aberra, 2008).

Welhengama Gnanapala also states that there is lack of conventional definition of the term minority across the world, and there are no international instruments that can help us to think about their rights and to adopt meaningful measures for ensuring their right⁶. Nevertheless, the issue of minorities was sensitive as one of the main causes of the World War II⁷. According to G. Pentassuglia as cited in Christophe Van der Beken⁸, the predominant focus in international law on the protection of universal human rights was changed after the end of Cold War politics.

Based on this fact, the United Nations (UN) organization has come up with a declaration that explicitly recognizes the right of minority. Accordingly, the 1992 UN declaration in article one states "*States, shall 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.*" And article two stipulates, "*states shall adopt appropriate legislative and other measures to achieve those ends*"⁹. It is plausible to deduce that the declaration is imperative in terms of enumerating certain rights of minorities. However, there is lack of clarity as to what the term minority means.

Article 27 of the International Covenant on Civil and Political Right (ICCPR) guarantees those states which have ethnic or linguistic minorities to enjoy their culture and practice and use their own language¹⁰. This covenant also does not define the term minority. It stipulates that persons belonging to religious, ethnic, or linguistic minorities shall not be denied the right to enjoy their own culture, to profess their own religion, or to use their own language with other members of their community¹¹. Other scholars have also defined it in different ways; among others, the first worth accepting definition was given by Capotorti as cited in Aberra Dagafa:

A minority is a numerically group of people inferior to the rest of the population of a state; they occupy a non-dominant position; their members-being nationals of the state-possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving

¹ Proclamation No.1/1995, A Proclamation to pronounce the coming in to effect of the constitution of the Federal Democratic Republic of Ethiopia, Addis Ababa, Negarit Gazeta, 21st August, 1995.

² Ibid, Article, 47 (1)

³ Ibid, Preamble of the Constitution.

⁴ Ibid, Article 39

⁵ Supra note at 1, article 39.

⁶ Ibid, 33

⁷ Ibid, 21

⁸ C. Van der Beken, Constitutional Mechanisms for the Accommodation of Ethnic Diversity, in Unity in Diversity- Federalism as Mechanism to Accommodate Ethnic Diversity: the case of Ethiopia (unpublished), 32

⁹ Declaration on the Rights of persons belonging to national or ethnic, religious and linguistic minorities, 1992

¹⁰ International Covenant on Civil and Political Rights, 1996.

¹¹ Ibid

their culture, traditions, religion or language (Abera, 2008).

The supra definitions have given a broader scope for the term minority since it does not specifically limit itself to the requirement of nationality or citizenship. According to his assertion, there are certain criteria to be met by a group of individuals to be a minority. First, they should be a group of persons whose distinctions are based on *ethnic, linguistic or religious* backgrounds in the state in which they constitute a minority. Secondly, the group should be in a position of *non-dominance*, and their number should be *less than* the rest of the population of a state. Thirdly, they should be *nationals of a state*, as opposed to non-nationals, say immigrants and refugees. Another definition given by Deschenes is:

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

From the definitions earlier given the study can deduce that minority right is a right given to any group of numerically small group of people residing in a given sovereign state in which the members share common features of ethnic, religious, linguistic and psychological makeup that distinguishes them from the rest of the population. It is in light of this conceptual clarification that the term minority is used throughout the paper.

Trends of minority rights protection at international level

The devastated World War I and World War II led to the requirement of some mechanisms to prevent such devastating wars and concomitant human right violations. Following the establishment of the UN¹³ organization, many instruments have come into play, like the Promulgation of International Human Right Instrument, Universal Declaration of Human Right (UDHR)¹⁴, ICCPR¹⁵, International Covenant on Economic, Social and Cultural Rights¹⁶, Declaration on the Right of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities¹⁷ (1992); and at regional level African

¹² Jules Deschenes (1985). Proposal concerning a definition of the term minority, E/CN4/sub2/1985/31

¹³ The Charter of the United Nations, 1945.

¹⁴ Universal Declaration of Human Rights, 1948.

¹⁵ Supra note at, 10.

¹⁶ International Covenant on Economic, Social and cultural Rights, 1966.

¹⁷ Supra note at, 9.

Charter on Human and Peoples' Right (ACHPR)¹⁸ has laid down the foundations for the protection of minority rights. The aims of these instruments are to promote, encourage and respect human rights without distinction of any kind, such as race and language. Besides, these are all intended to promote the ethnic, religious and cultural rights of minorities.

These instruments are playing a significant role in the protection of minority rights in multiethnic societies. Moreover, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, (It is not a binding document, but it gives some weight) is also imperative in laying its own condition regarding the existence of minorities and the need of protecting and promoting that identity. Here, it seems good to briefly look into ICCPR among other human right instruments as it is the first internationally accepted and binding document (Abadir, 2008). According to the ICCPR of 1966, the right to a distinct identity is the subject of international protection, as seen in the text document, article 27:

*Guaranteed to 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*¹⁹.

This article clearly indicates that the right to an identity remains a key element in any system to protect minorities. Where a group preserved its distinctive characteristics, non-recognition of the rights of such group would tend to generate conflict between the majority and the minority group. ICCPR, an international law develops the act of realizing and accepting the divided societies in the world. Granting minorities the right to defend their special identity and unique characteristics that distinguish them from other members of the human family is an important task for human right protection and promotion in a general manner. This has many implications for third world countries to have incorporated it in their daily parlance. That is why many states in Africa have ratified it.

Despite its ratification, Ethiopia has failed to give adequate constitutional guarantee until 1991. With the change of regime in the country, a new political mood has ushered in the vitality of the covenant. The incumbent government of Ethiopia has conformed with international human right instruments like ICCPR, ICESCR and ACHPR and adopted them all under the existing constitution. Hence, the right of Nations, Nationalities and Peoples of Ethiopia is being recognized under the FDRE Constitution²⁰. This led to practical achievements.

¹⁸ African Charter on Human and Peoples' Right, 1981.

¹⁹ Supra note at, 10.

²⁰ Supra note at, 1, Article 39 (1-4).

ESSENCE AND PRACTICE OF LOCAL GOVERNMENT IN TNRS

Local government entails that residents of a defined area should be participating in their own limited but locally important matters²¹ (Olowu and James, 2004). It is instrumental in deterring problem of the residents via setting their priority needs, determining resources utilization and issues within its jurisdiction²². It insures the political process, government accountability and political participation of the people for the advancement of democracy and development²³.

Local government and federal systems are interface. They play a strong role in enhancing a bottom-up approach of participation, serve as a bridge between civil society and the state and strengthen direct democracy and develop responsiveness (Risse et al., 2008). They promote public goods, expanding policy-making and implementation, and help to empower disadvantaged and exploited sections of a given society²⁴. In this regard, political commitment is instrumental²⁵.

Based on this, the FDRE constitution has paved the way and lays the foundation for the establishment of regional governments with respective constitutions. Moreover, adequate power shall be granted to the lowest units of government enabling the people to participate directly in the administration of such units²⁶. The rationale for this provision is clearly indicated supporting local governments and its institutions with the guarantee of constitutional status.

Tigray is among the nine member states of the FDRE²⁷. In Tigray, the local government structure is found under the regional Constitution²⁸ and Proclamations²⁹. Tigray is one of the nine regional states³⁰, which constitute the FDRE. Tigray is located at the North tip of the country. It shares borders with Eritrea in the North, the Regional State of Afar in the East, the Regional State of Amhara in the South West, and Sudan in the West³¹. The Regional State of Tigray consists of seven administrative zones, thirty four rural *Weredas* and twelve administrative cities (FDRE Population Census Commission, 2010).

²¹ Dele Olowu and James S. Wunsch (2004). *Local Governance in Africa: The Challenges of Democratic Decentralization*, Colorado, Lynne Rienner Publisher, 4.

²² *Ibid.*, 7.

²³ *Ibid.*

²⁴ *Ibid.*, 5.

²⁵ *Ibid.*

²⁶ *Supra* note at 1, Article 50 (4)(5).

²⁷ *Ibid.*, Article 47(1).

²⁸ Proclamation No. 45/2001, 'A Proclamation to Provide for the Approval of the 2001 Revised Constitution on the Tigray Regional State,' Mekelle, Tigray Negarit Gazeta, 15th November, 2001, Article 45(1).

²⁹ Proclamation No. 48/2002, 'A Proclamation to Pronounce the Establishment and Organizing of the Zones of Tigray National Regional State,' Mekelle, Tigray Negarit Gazeta, 22th March, 2002, Article 3.

³⁰ *Supra* note at 1, Article 47(1).

³¹ Ethiopia Ministry of Agriculture and Rural Development Disaster Management and Food Security Sector, (2009). *Tigray Regional over view and Livelihood Zone Summaries*, <http://www.feg-consulting.com/...tigray...2009>. (Last accessed on December 25, 2014), 2.

The region is made up of about 4.3 million people with a geographic area of 54,569.25 km² predominantly inhabited by Tigrigna speaking people known as Tigrians; which constitute 4,167,813 (96.54%) of the population. The remaining are minority groups that belong to Kunama and Irob³². In article 52(2, b) of the FDRE Constitution, the revised Constitution of the Tigray National Regional State (TNRS) has proclaimed the supreme organs of the government: the Regional State Council, Executive and Judiciary³³. Unlike the 1995 Constitution of TNRS, the 2001 Constitution has a clear separation of power among the three organs of the regional government and lower level administrative structure (*Wereda / District* and *Tabia*)³⁴. This recognizes and legitimizes '*Wereda*' and '*Tabia*' as the lowest administrative unit and local government administration with legally defined authority and function³⁵.

The Zonal administration of TNRS seems to be excluded from the system or authority of the local government under the revised regional Constitution. Nevertheless, articles 45(1) and 49 (3, b and s) state that:

*"Where it consider necessary for administrative quality and convenience, the state council may establish below and above the Wereda level administrative body"*³⁶.

Hence, local governments as they are vital for regional government and federal government as well the TNRS recognized twelve 'municipalities'³⁷ besides 'Zones' '*Wereda*' and '*Tabia*' as the basic unit for government policy implementation and center of development.

The powers and functions of Zonal administration are listed in an ordinary law by recognizing them as a hierarchy below the region and consist of certain *Weredas* below their jurisdiction³⁸. The committee of the Zonal administrative structure comprises the chief and deputy administrator, and other members; it is accountable to the regional chief administrator and the regional Council. Unlike others (like Southern Nation, Nationalities and Peoples' Regional State of Ethiopia³⁹), the TNRS Zonal administration unit does not have its own council⁴⁰. The executive of zones is indirectly accountable to the people who they work for directly, as they are elected and accountable to the representatives of the whole people in the region; that is, the regional state Council.

³² *Ibid.*, 57-58.

³³ *Supra* note at, 28, Article 46 (1-3).

³⁴ *Ibid.*, Article 46 (1-3), 72-74.

³⁵ *Ibid.*, Article 71-84.

³⁶ *Supra* note at, 28, Article 45 (1) and 49(3, s).

³⁷ Proclamation No. 107/2005, 'A Proclamation to Provide for the Organization, Power and Responsibility of Tiray Regional State Towns, Mekelle, Tigray Negarit Gazeta, 8th June, 2005.

³⁸ *Supra* note at, 28, Article 2.

³⁹ Proclamation No. 35/2001, 'A Proclamation to Provide for the Approval of the 2001 Revised Constitution on the Southern Nations, Nationalities and Peoples Regional State, Awasa, 12th November, 2001, Article 80(2).

⁴⁰ *Supra* note at, 28, Article 5.

The Zone administrative body is established in line with the strong discipline of the winner party (Tigray Peoples Liberation Front (TPLF)) practically interfering in the *Wereda*'s issue (Girmay, 2012). The executive council of the *Wereda* should be elected with their acceptance, even though formally it seemed the chief administrator of the *Wereda* nominated his cabinet and was approved by the Council of the *Wereda*⁴¹. It is all the same in the dismissal of any member of the *Wereda* executive⁴². Indeed, the control mechanism of the Zonal administrator is very poor ; in effect it results in intruding on the powers and responsibilities of the *Wereda*⁴³.

The *Wereda* Council members are elected by means of general and direct elections under the first past-the-post electoral system from inhabitants of the *Tabias* within the territory of the *Wereda* and they are accountable to the electorate⁴⁴. However, as seen earlier, the incumbent party selects candidates (especially for prospective *Wereda* executives) which most often are not inhabitants of the *Wereda*⁴⁵. The *Wereda* is an autonomous self-administrative unit with its own Council, Executive and Judicial body⁴⁶. It has power, among others, to implement the regional development policies and strategies, to prepare and execute the *Wereda* socio-economic development projects, to administer tax and approve its annual budget, and mobilize the community for development endeavors⁴⁷.

The lowest administrative level of the TNRS is *Tabia*. It has its own *Tabia* Council (highest organ of the *Tabia*) elected by the inhabitants, an executive and has its social courts⁴⁸. The members of the *Tabia* council are accountable to the electorate⁴⁹. The executive council of the *Tabia* is accountable to the electorate and executive Council of the *Wereda*⁵⁰. *Tabia* found at the grass roots level which is closer to the community plays a crucial role in implementing the regional plans and *Wereda* development activities.

PROTECTION OF MINORITY RIGHTS UNDER THE FDRE AND TNRS CONSTITUTION

Ethiopia is a composition of different nations, nationalities and peoples, and this entails the need for appropriate policy measures, political enthusiasm and institutional set

ups that accommodate the need of the diverse identity within the wider political community. However, the reverse happened in its entirety and was proclaimed as the prison house of nations and nationalities (Aberra, 2008). This has been its recent past history up to 1991. With the demise of the Dergue ruling body in the country for almost two decades, a new political atmosphere has come to the Ethiopian political scene.

The people's struggle has ushered the promulgation of a democratic Constitution that acknowledges diversity and strives for unity in the country. The preamble of the 1994/95 FDRE Constitution reads, "*we, the Nation, Nationality and Peoples of Ethiopia*⁵¹" and recognizes the ethnic diversity of the population. In other words, unity depends on the recognition of and the respect for diversity. This attention to unity in diversity was legally expressed in the granting of a right to self-determination to all the nations, nationalities and peoples (Assefa, 2010). According to article eight of the Constitution, the sovereign power resides in the nation, nationalities and peoples of Ethiopia⁵². This is the highest manifestation of political will and commitment to political pluralism and the respect for minority rights and self-administration. In line with this, Van der Beken has the following to say:

*The right to self-determination as conceived by the Ethiopia Constitution is very large and Includes-language right, cultural rights and rights of self-administration, and the right of nations, nationalities and people to secede from the Ethiopian federation. Thus all ethnic groups have the right to speak and develop their own language, to express and promote their own culture and history; they have the right to self-administration within a particular territory and the right to their own representation at the regional and federal level of government. As such, the right to self-determination includes both the objectives of unity and that of diversity*⁵³.

The FDRE Constitution is the expression of the sovereignty of the nation, nationality and peoples of Ethiopia⁵⁴; hence, they are to enjoy all rights articulated in this Constitution equally. The rights provided in article 1, 18, 25 and 39(1) and (2) of the Constitution are never suspended or limited even in the declaration of emergency⁵⁵. The FDRE Constitution as a supreme law of the land⁵⁶ is respected at regional and other levels of local governments. This Constitution grants importance to the regional state, such as the power to choose its own working language⁵⁷ and to enact and execute its own constitution⁵⁸. The regional states have right to form their

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Supra note at, 28, Article 73 (1-2).

⁴⁵ Interview conducted by the Author with Ato Girmay Zeru Asefa, former *Wereda* cabinet member in Western part of Tigray National Regional State, Kafta Humera. February 23, 2015. Mekelle. The Author has also an experience of four years as a mayor in Abi-Adi town (1996-1999) central Zone of Tigray.

⁴⁶ Supra note at, 28, Article 74 (1), 79 (1-2) and 65.

⁴⁷ Ibid, Article 72, 74, 80, 82 and 83.

⁴⁸ Ibid, Article 85 (2).

⁴⁹ Ibid, Article 86 (3).

⁵⁰ Ibid, Article 86 (4).

⁵¹ Supra note at, 1, Preamble.

⁵² Supra note at, 1, Article 8(1).

⁵³ Supra note at, 7, 107.

⁵⁴ Supra note at, 1, Article 8(2).

⁵⁵ Ibid, Article 93 (4) (c).

⁵⁶ Ibid, Article 9(1).

⁵⁷ Ibid, Article 5(3).

⁵⁸ Ibid, Article 52(2) (b).

own administration and institutional structure vis-à-vis the obligation to respect the supremacy of the Federal Constitution.

The TNRS is one among the nine member states of the FDRE⁵⁹ to recognize the supremacy of the FDRE constitution⁶⁰. The preamble of the revised TNRS constitution begins with "*We, the peoples of the Tigray National Regional State*"⁶¹. Moreover, "*The supreme power of the national Regional state resides in and belongs to the people of the TNRS, and this is expressed through their elected representative and direct democratic participation*"⁶². The Constitution recognizes ethnic minority groups in the region. It is clearly recognized that Tigray nation, Irob and Kunama nationalities have rights to self-determination including secession to use and develop their language, culture, preserve their history, and to participate in the federal government with fair representation⁶³.

The Constitution outlines the principles of language policy and clearly states that, "*All languages in the Region shall enjoy equal state recognition. And, Tigrigna shall be the working language of the Tigray Government*"⁶⁴. However, this constitution depicts the first-past-the-post electoral system⁶⁵, and this provision in an ethnically organized state carries danger for the representation of ethnic minorities at regional council and executive body. Despite such constitutional recognition given to minority groups, there are lack of adequate institutional setups that are required to change rhetoric into action. Therefore, giving serious consideration to minority right in multiethnic region is unquestionable. In this regard, issues related to the representation of Irob and Kunama are cases in point.

Representation of Irob and Kunama in the regional state apparatus

The Irob people, who speak Saho, occupy a small, semi-arid, mountainous region with a wide altitude range. With a population of 30,549 (Souba Hais, 2014), they reside dispersedly in the high lands and mountainous area of Agame, North East Tigray⁶⁶. In terms of their religion, Orthodox Tewahdo Christianity, Catholic and Muslim are their main beliefs systems⁶⁷. Dawhan is the latest founded town and center for the Irob *Wereda* administration⁶⁸.

The Kunamas are Nilotic people scattered in Eritrea

and North Ethiopia, Tigray⁶⁹. Although the Tigrean Kunama practiced traditional belief, since 1950 most of them have converted to Orthodox Tewahdo Christianity⁷⁰. They are one of the smallest groups in Western Tigray *Wereda* Kafta Humera; 'Adabai' and 'Adigoshu' *Tabias*⁷¹ and in North West Tigray *Wereda* Tahtay Adyabo Tabia 'Lemlem'; they are a total population of 2981 according to FDRE Population Census Commission (2010). They are distinctive people with their own culture and language; they speak Kunamigna⁷². The Irob and Kunama peoples are considered to be among the original inhabitants (endogenous) of the Tigray Regional State⁷³.

In the Tigray National Regional State, members of the State Council are elected on the basis of first-past-the-post electoral system⁷⁴. Unlike the FDRE Constitution that allocates twenty⁷⁵ seats for minority representation at the lower house (House of Peoples Representative), the TNRS Constitution does not explicitly guarantee representation in the regional Council. Hence, in practice, out of 152 members of the regional Council, Irob (Brhane, 2009) and Kunama⁷⁶ each constitute four members like other *Werdas* in the region. Here comes the practical chasm in between the rhetorics of the Constitution and its practice on ground. Summing up, the regional Constitution has recognized Irob and Kunamas Nationalities⁷⁷, and concomitantly⁷⁸, it needs to provide modalities of representation for these minorities at the regional legislative organ too.

The same is true as far as representation of Irob and Kunama in the State Executive and Court is concerned. The Tigray National Regional State has no Constitutional guarantee for the representation of minority at the regional state institutions of executive and judiciary.

Indeed, most of the Kunama people live in the remote and isolated area and historically marginalized people were unlikely to get education⁷⁹. Hence, it can be the reason for they not being represented in the executive and judicial body at regional level. However, regarding Irob as they have many competent intellectuals, denying them of their representation at the regional level institutions is nothing more than lack of Constitutional guarantee for minority representation.

⁶⁹ X (2007). Cultural Orientation Resource Centre. <http://www.cal.org/co/pdf/files/background-kunama.pdf>. (Last accessed on January 27, 2015), 1-2.

⁷⁰ Interview conducted by the author with Ato Berhane Haileselassie, member of the House of Federation. September 21, 2014. Addis Ababa.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Supra note at, 28, Article 39.

⁷⁴ Supra note at, 28, Article 48(2).

⁷⁵ Supra note at, 1, Article 54(3).

⁷⁶ Interview conducted by the author with Ato Mohamed Salih, he is working in TRNS coordinator of TNRS Council Legal and Administration Affairs Stand Committee. December 29, 2014, Mekelle.

⁷⁷ Supra note at, 28 Article 39.

⁷⁸ My argument here is for more protection of minorities, it needs not only guaranteed representation at the regional level, but also some veto power in decision making.

⁷⁹ Supra note at, 70.

⁵⁹ Ibid, Article 47(1).

⁶⁰ Supra note at, 28, Article 9.

⁶¹ Supra note at, 28, Preamble.

⁶² Ibid, Article 8(1-2).

⁶³ Ibid, Article 39(1-5).

⁶⁴ Ibid, Article 5(1-2).

⁶⁵ Ibid, Article 48(2).

⁶⁶ Ibid.

⁶⁷ Interview conducted by the author with Ato Rufael Shifare, former *Wereda* administration in Irob as head of the *Wereda*, March 27, 2015, Mekelle.

⁶⁸ Ibid.

With regard to Constitutional interpretation, state Constitutions are to be interpreted via commissions created for this function. These commissions are composed of representatives of *Weredas* of the states in more homogeneous states like Tigray (Tsegaye, 2008). It constitutes a constitutional interpretation commission (CIC)⁸⁰ as well as council of constitutional inquiry (CCI)⁸¹.

The regional CIC is composed of representatives from each *Wereda* and the regional representative of the House of Federation (HoF)⁸². The composition of CIC tries to look only at the *Wereda* Council rather than the nation, nationality and peoples; consequently the Irob and Kunama are totally outnumbered by the Tigrigna speaking people. Conversely, from this composition unless a veto power in the CIC is given to these minorities, problems may arise in their issues during decision making as this is made by majority vote. The *Kunama people have no Wereda administration unit, making it hard for them to have representative in such commissions apart from the representative of HoF*⁸³. Surprisingly in the TNRS, council of constitutional interpretation commission is not formulated until September 2014⁸⁴.

To conclude, the regional legislative, executive, and judiciary branches are highly dominated by the nation of Tigray. Representation of Irob and Kunama at the regional institutions is not guaranteed by the regional Constitution. This entails that, there is no intention to carry out equitable representation and to encourage participation in decision making within the regional governmental institutions.

Additionally, the unconditional right of 'Nation, Nationality⁸⁵ and People' to self-determination including secession, and to form their own states at any time following specific procedures⁸⁶ are well articulated in the FDRE Constitution. However, TNRS Constitution has no procedural provision to indicate the right of self-determination for Irob and Kunama. Rather article thirty nine⁸⁷ depicts it for the whole Tigray. In this regard, even though the TNRS Constitution fails to incorporate what the FDRE Constitution includes, there is a possibility for the Irob and Kunama to claim their right based on the Federal Constitution; as the FDRE constitution is the supreme law of the land⁸⁸.

Representation of Irob and Kunama at *Wereda* level

The revised Constitution of the TNRS established the

Wereda Council, and it is the highest authority in its jurisdiction⁸⁹. Irob as one of the Tigray administrative districts has its own Council elected from Irob nationality of the seven '*Tabias*'⁹⁰. The Kunama nationality also has its autonomy to self-administration at *Tabia* level, ten representatives in Tahetai Adiabo and five in Kafta Humera representatives in the *wereda* Council⁹¹. Irob *Wereda* and Kunama *Tabia* are organized like the other *Weredas* and *Tabias* of TNRS. This Constitution could not provide special treatment to enhance the local government for the Irob and Kunama people. They are treated as ordinary *Wereda* and *Tabia*, respectively.

In Irob the composition of the *Wereda* executive is dominated by Irob nationality, which constitutes 67% and the Tigray (33%) (Brhane, 2009). On the contrary, in the civil service the Tigray people are about 65% (Ibid). Furthermore, in the judiciary the composition is shared equally (50% each) (Ibid). Looking at the Kunamas nationality, there is only one in the executive of Tahtai Adiabo *Wereda*; one in the *Wereda* agricultural sector and three teachers in the civil service of the *Wereda*⁹². It has its own executive body at *Tabia* level⁹³. Hence, in order to strengthen the participation of the local government (self-administration) of the Irob and Kunama people, there is need to recognize their special status or Nationality administration.

Rights of minorities to use their language

The FDRE Constitution outlines the principles of language policy under article five that states:

*"All Ethiopia languages shall enjoy equal state recognition"; "Amharic shall be the working language of the Federal government," "members of the federation may by law determine their respective working language"*⁹⁴.

In this respect, the Ethiopian federalism has attributed considerable significance to linguistic diversity, and many Ethiopians have positive attitude in using local language as a means to avoid previous language domination (that is Amharization (Yonatan, 2009)). This is a clear evidence for the adoption of article two (1) and 27 of ICCPR⁹⁵. It is a great leap in the right direction in the history of Ethiopia the protection of minority with regard to language policy. Given that protection of the right to one's own language is at the hub of minority right protection, a great deal of effort is being made at country level.

It is common knowledge that, using own mother tongue

⁸⁰ Supra note at 28, Article 68(1).

⁸¹ Ibid, Article 69(1).

⁸² Ibid, Article 68 (1).

⁸³ Supra note at, 76.

⁸⁴ Ibid.

⁸⁵ Supra note at, 1, Article 39(1).

⁸⁶ Ibid, Article 47 (2-3).

⁸⁷ Supra note at, 28, Article 39(1-5).

⁸⁸ Supra note at, 1, Article 9 (1).

⁸⁹ Supra note at, 28, Article 73 (1-3), 74(1).

⁹⁰ Supra note at, 67.

⁹¹ Supra note at, 70.

⁹² Interview conducted by the author with Ato Berhane Kegno, members of the Cabinet in Tahtai Adiabo *Wereda* of Tigray National Regional State, March 23, 2015, Mekelle.

⁹³ Ibid.

⁹⁴ supra note at 1, Article 5(1-3).

⁹⁵ Supra note at, 10.

as a medium of instruction in the primary school helps students to build their confidence and success in learning and teaching process, and it is crucial to take note of language as a means of promoting ones' self-identity and representation⁹⁶ (Gideon, 2006). It is in pursuit of this that National and Regional Constitutions have given ample attention to it.

The revised Constitution of TNRS recognizes the equality of languages⁹⁷, to write and develop one's own language too⁹⁸. Nevertheless, in actual practice, Tigrigna is the working language of Irob *Wereda* and Kunama *Tabias*⁹⁹. And very recently (2008), it is decided that 'Saho' should be the name of the language and 'Geez' is the script of Irob, applicable as a medium of instruction in the primary school as a subject. The same is true in Kunama (2011)¹⁰⁰. According to Ato Mohamed, the delay is attributed to lack of trained man power, material and lack of adequate attention from the regional institution as well. There is need for a better recognition of the working language and further effort should be made to improve the primary education of the Irob and Kunama.

As far as rights of minorities other than Irob and Kunama are concerned, the regional Constitution recognizes them in principle, though not explicitly mentioned. Without doubt, there is no single region in Ethiopia ethnically. Interestingly, the preamble of the revised TNRS Constitution does not deny the existence of diversified ethnic groups in the region¹⁰¹. Looking at the total population of the region, 115645 (2.68%) is constituted by non-endogenous minorities with different culture, language and identity¹⁰². Notwithstanding this, the right to self-administration is being stipulated under article 39 of TNRS Constitution with respect to the endogenous people of the Irob and Kunama¹⁰³. This gives the Irob and Kunama people right to exercise the development of their own culture, language and rights of political participation as a minority groups within the wider regional frameworks.

In the revised Constitution of TNRS, the mechanism designed to protect the non-endogenous minority right is not efficient. Particular¹⁰⁴ laws such as the right of political representation, cultural and language rights are in place. A mere recognition of other nations, nationalities and peoples of Ethiopia to get special representation¹⁰⁵ could not protect the rights of the minorities. Therefore, in

order to protect societal stability and strengthen unity within diversity, the right of the non-endogenous groups living in Tigray should be guaranteed. However, the TNRS Constitution has recognized at least theoretically the rights of non-endogenous minorities. This makes the TNRS Constitution unique from other Constitutions of the member states of the federation.

CONCLUSION

The Federal Constitution mandates that states shall give adequate power to the lower level of governments assuming their role in bringing the central government closer to the people. Based on this, the TNRS Constitution recognizes the Regional, *Wereda* and *Tabia* tiers of government. There are also Zonal and City administrative units established by proclamation. The *Wereda* with their Council and executive are accountable to the people who they work directly with and have a judicial body. They are closer to the people next to *Tabia* and provide public goods and services to their jurisdiction. The TNRS establish local-administration among others with the objective of safeguarding self-administration to determine their own affairs.

However, this constitutional guarantee and the actual practice are not without limitation. Firstly, ensuring self-administration for the Irob people is simply the same as the other *Werdas* of the region, as they are not treated as special *Wereda*. Secondly, mere constitutional recognition of minorities is not an end by itself, unless it is supported by appropriate legal and institutional measures. Thirdly, there is no special consideration for the representation of Irob and Kunama people in the Regional Council and other regional governmental institutions. Furthermore, the adoption of Tigrigna as a working language is perceived for the Irob and Kunama societies as threat and less consideration of their language.

On the other hand, there are patterns of non-applicability to promote the culture and preserve the history of the endogenous minority. This is because of resource constraints, and consequently the learning and teaching process in the primary school is undertaken in Tigrigna rather than their mother language, notwithstanding the recent move for Irobigna and Kunamigna as a subject.

Self-administration has for a long time been a significant issue in Tigray (Ethiopia). Interestingly, the TNRS Constitution recognizes the Tigray nation, the Irob and Kunama nationalities, and practice the self-administration of Irob and Kunama. Yet, the issue of representation is a missing link with debilitating effect on the right of minority.

RECOMMENDATIONS

To appreciate ethnic diversity and promote unity within

⁹⁶ Gideon Cohen (2006). The Development of Regional and Local Languages in Ethiopia's Federal System, in David Turton. (ed.), *Ethnic Federalism: The Ethiopia Experience in Comparative Perspective*, James Currey, Oxford, Ohio University press, Athens, Addis Ababa University Press, Addis Ababa, 2006, 165-169.

⁹⁷ *Supra* note at 28, Article 5(1).

⁹⁸ *Ibid*, Article 39 (1).

⁹⁹ *Supra* note at, 76.

¹⁰⁰ *Ibid*.

¹⁰¹ *Supra* note at, 28, preamble.

¹⁰² *Supra* note at, 37.

¹⁰³ *Supra* note at, 28, Article 39.

¹⁰⁴ *Supra* note at, 1, Article 45 (2).

¹⁰⁵ *Ibid*.

the existing diversity, effective participation and minority right protection is required. In this regard, the study suggests the following as a way forward.

1. The Irob people need special status or nationality administration units rather than being treated like any other *Weredas* in Tigray. With regard to representation, the Irob and Kunama need special attention in all tiers of governmental institutions. This is to be done with a Constitutional amendment.
2. In the federal and regional constitutions, working with Tigrigna language in Irob and Kunama has no rational ground. Protection of their language and its application as a working language and in the education sector is so imperative. Hence, it needs the support and collaboration of the TNRS and non-governmental organization.
3. Minorities, other than Irob and Kunama, have right to develop their language and culture and to keep their identity and this should be included and guaranteed in the Constitution explicitly.

CONFLICT OF INTERESTS

The author has not declared any conflict of interests.

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