

Constitution, constitutionalism and foundation of democracy in Ethiopia

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Abstract

This paper tries to explain constitution, constitutionalism and foundation of democracy in Ethiopia. To this end, the main purpose of this paper is to explain the new democratic constitutional process in Ethiopia. The paper has three parts. Part one is largely dealt about the constitution and constitutional development in Ethiopia. It deals with the ancient and medieval traditional unwritten constitution of Ethiopia, namely Kibre Negest, Feteha Negest and Serate Mengist; and the modern written constitution of Ethiopia since 1931 to the present FDRE constitution. The second part of this paper deals with constitutionalism; mainly a comparison of past (monarchical constitution i.e. 1931 constitution, 1955 revised constitution, and the 1987 PDRE constitution) and present i.e. the 1995 FDRE constitution. The third part deals with democracy in Ethiopia.

1.1 Ancient and medieval traditional unwritten constitutional documents of Ethiopia

Prior to 1931 there was no modern written constitution in the history of Ethiopia. In this regard, absence of written constitution does not imply or signify the absence of constitution. Indeed, there exists a sophisticated constitutionally significant traditional document which serves as a supreme law of the land till the promulgation of the first modern written constitution of Ethiopia in 1931 during the reign of Emperor

Haillessilassie.¹ These traditional unwritten constitutional documents were *Kibre Negest*, *Feteha Negest* and *Serate Mengist*.

1.1.1 Kibre Negest (The Glory of the Kings)

The *Kibre Negest* also known as the glory of kings vividly dealt with the legend of a Solomonic Dynasty and thus served certain political-religious needs of the time in the constitutional process. It regulated the power of the emperor². It tried to relate Queen Sheba of Axum with king Solomon of Israel. The legend history of such relation created Menelik I and as a result the Solomonic dynasty appeared³.

¹ Fasil Nahum, 1997. Constitution for a Nation of Nations; the Ethiopian Prospect. The Red Sea press.

Monarchal rule in Ethiopia ended in 1974 when the Marxist dictatorship, led by Mengistu Haile Mariam, came into power. His rule ended in May, 1991, when Mengistu fled to Zimbabwe in exile.

² Assefa Fisha, 2009

³ The legend of Queen Sheba (also known as Makeda and Azeb) of Ethiopian and King Solomon of Jerusalem is that queen Sheba was a known queen of Ethiopia in the old Testament and she learns from Tamrin, a merchant based in her kingdom, about the wisdom of King Solomon, and travels to Jerusalem to visit him. She is enthralled by his display of learning and knowledge, and declares "From this

Kibre Negest has 117 chapters; originally written in Coptic i.e. Egyptian language, then translated into Arabic by a team of Ethiopian clerics and finally into Ge'ez at the command of the governor of *Enderta Ya'ibika Igzi'* by Nebura'ed Yeshaq of Aksum⁴.

In general, *Kibre Negest* served certain politico-religious needs of the time in the constitutional process of the country and

moment I will not worship the sun, but will worship the Creator of the sun, the God of Israel" (Chapter 28 of *Kibre Negest*). The night before she begins her journey home, Solomon tricks her into sleeping with him, and gives her a ring so that their child may identify himself to Solomon. Following her departure, Solomon has a dream in which the sun leaves Israel (chapter 30 of *Kibre Negest*). On the journey home, she gives birth to Ebinehakim later Menelik I (chapter 32 of *Kibre Negest*).

At the age of 22, Menelik travels to Jerusalem by way of Gaza, seeking Solomon's blessing, and identifies himself to his father with the ring. Overjoyed by this reunion, Solomon tries to convince Menelik to stay and succeed him as king, but Menelik insists on returning to his mother in Ethiopia. King Solomon then settles for sending home with him a company formed from the first-born sons of the elders of his kingdom. This company of young men, upset over leaving Jerusalem, then smuggle the Ark from the Temple and out of Solomon's kingdom (chapters 45-48) without Menelik's knowledge. He had asked of Solomon only for a single tassel from the covering over the Ark, and Solomon had given him the entire cloth.

⁴ See *Kibre Negest* Geez and Amharic. www.queen-of-sheba-university.org

also it was one of the documents which can be mentioned as a source for the background of the constitutional development of Ethiopia.

1.1.2. THE FETHA NAGAST (THE LAW OF THE KINGS)

Fetha Negast is a collection of laws; originally written in Arabic by the Coptic Egyptian writer Abu-l Fada'il Ibn al-Assal⁵. The document was compiled in Arabic language and named *Nomo Canon* and later changed in to *Fetha Nagast* (the Law of the Kings) when it reached the Ethiopian soil in the middle of 15th century during the reign of Emperor Zera yaqob⁶. The *Fetha Nagast* consisted of two parts; the first part of the document dealt with mostly ecclesiastic affairs and outlining the structure of the church hierarchy. The second part deals with issues pertaining to the laity, like family law, debt, civil

⁵ Ibn AL-Assal divided his work in to two part; part one is about religious matters

⁶ Fetha Negast was brought to Ethiopia in the middle of 15th century during the reign of Emperor Zera yaqob, who was responsible for the transplantation of this venerable document. Zera yaqob was not satisfied with *Fewuse Menfessawi*, this forced him to look for another code. The story says that an Egyptian named Petros Abba Sayd informed the Emperor of the existence of a book used by the Orthodox Church of Alexandria which had been compiled by the 318 sages (wise fathers of the Council of Nicaca). Ethiopian religious and academic scholars argue that the emperor received a copy of this work, translated from Arabic in to Geeze and enforced it as a transitional law. This is known in Ethiopia as Fetha Negest.

administration⁷. *Feteha Negest* came into force or used as a constitution during the reign of Sarsa Dengel. Starting from the reign of Sersa Dengle up to the promulgation of the first written constitution of Ethiopia in 1931, *Fetha Negest* remained officially the supreme law of the land⁸.

1.1.3 SER'ATA MENGEST

Ser'ata Mengest was an important guideline for the political life of the royal court as well as for the ruling elements connected with it. It was in fact a protocol of ceremonies, which had to be consulted whenever occasions required it. The most real decrees of the Sar'ate Mengest were: (a) King's Coronation, (b) According to a custom initiated by King Amda Seyon, the daughters of *Zion bar* – the way of the new King with a rope when he goes to Axum to be crowned, and (c) Queen's coronation (on Sunday's).

2.1. Modern written constitution of Ethiopia since 1931

2.1.1 The 1931 constitution of Ethiopia

The 1931 imperial regime constitution of Ethiopia was considered as the first modern written constitution in the history of Ethiopia. This, thus, heralded the beginning of modern constitution in the history of the country. This constitution was drafted by Bejrond Tekle Hawariat the then minister

⁷ *Abba Paulos Tzadua And Peter L. Strauss (Edit). The Fetha Nagast; the Law of the Kings.* Carolina Academic Press: Durham.

⁸ See *Feteha negest; nibabuna trgumiewu.* Fasil Nahum. 1997. *Constitution for a Nation of Nations; the Ethiopian Prospect.* The Red Sea press.
Getachew Assefa. 2012. *Ethiopian Constitutional Law; with comparative Notes and Materials.*

of Finance. The Constitution was modeled on the Meiji constitution of Japan⁹ (which in turn was based on the 1871 German constitution).

2.1.2 REASONS FOR THE FORMULATION OF THE 1931 CONSTITUTION

According to Fasil Nahum, the introduction of the written constitution was the result of the growing interactions between Ethiopia and Western Europe¹⁰. As European civilization started to put influence over the Ethiopian social and political system

⁹ The Meiji Constitution was conceived as a benevolent gift of the Emperor of Japan to his people. The emperor embodied the state itself and was the source and repository of all state power. The most novel aspect of the Meiji constitution was its bi-cameral nature. The House of peers, the Upper House, consisted of members from the imperial nobility, marques, lower nobility, the imperial academy and high taxpayers. The House of Representative was popularly elected from constituencies. The Emperor had veto power over any executive acts and enactments.

see Article 35 of Japan's Constitution of 1889

Getachew Assefa. 2012. *Ethiopian Constitutional Law; With comparative Notes and Materials*

¹⁰ Fasil Nahum. 1997. *Constitution for a Nation of Nations; the Ethiopian Prospect.* The Red Sea press.

through more links, the need to import modern social and political concepts that were necessary to establish a viable modern state became clear. It is argued that the two official visits to Europe by Ras Mekonnen¹¹ and Teferi help to raise the influence of foreign ideas and ways of life. As soon as Teferi became Emperor Haileselassie I, he began to respond in a systemic fashion to the desire to be seen as a leader of a modern state and to be able to enter the family of civilized nations, on an equal footing. As the foreign legation in Addis Ababa was supporting him during his struggle for power when he was regent, now they started to exert pressure on him to open up Ethiopia to the outside world. In this regard, one of the reasons was Haile Selassie's exposure to the modern constitutions that he saw in Europe in his state visits. This motivated him to have a progressive and modern constitution. The second reason was to win international image about his country. He wanted to convince the European states that Ethiopia was a civilized country. The other factors that motivated the king was to build up his own reputation as a modern and reformist king of the country, different from the preceding kings. Generally, the constitution has two motives; Consolidation and centralization of power and modernization.

I. Consolidation and centralization of power: - The primarily intention of Haileselassie was to strengthen and solidify his own power by undermining the various Rases whose potential threats were still powerful. To this end, Article three declares, '...the imperial dignity shall remain perpetually attached to the line of his majesty Haile Selassie I, descendant of King Sahle Selassie whose line descends

¹¹ Ras Mekonene was the father of Ras Teferi later Emperor Haileselassie I of Ethiopia.

without interruption from the dynasty of the Menlik I, son of King Solomon of Jerusalem and queen Sheba.'¹² Again article five states that 'the person of the emperor is sacred, His dignity inviolable and His power indisputable.'¹³ His power was unrestricted and his functions were multi-faceted. The bulk of the other provisions provided about the power and prerogatives of the emperor. All of these provisions imply his intention to consolidate and centralize his power and to limit the power of the nobility by establishing parliament.

II. Modernization.

The second main motive of the constitution was modernization; the emperor was also aimed at modernization. In promulgating the Constitution, the emperor said: "... the Constitution will contribute to the happiness and prosperity of our beloved people." His declared intention was to put the people to the road to "happiness and civilization attained by independent and cultured nations".

2.1.3. Innovation of the 1931 constitution

According to Fasil Nahum, the following were considered as an innovation of the 1931 constitution. The first major innovation of the constitution was the formation of bicameral parliament known as Deliberative Chambers¹⁴. Prior to 1931 there was no parliament in the history of Ethiopia. The second innovation of this constitution was the concept of fixed annual budget for government (ibid: 21). Traditionally, authorization on expenditure was carried out through the *Mazeja*.¹⁵

¹² Article 3 of the 1931 constitution

¹³ Article 5 of the 1931 constitution

¹⁴ Fasil Nahum. 1997. Constitution for a Nation of Nations; the Ethiopian Prospect. The Red Sea press.

¹⁵ *Mazeja* is a written order by the minister of Pen on the emperor's instructions or in

2.1.4. STRUCTURE AND OPERATION OF GOVERNMENT

1. THE LEGISLATURE

The 1931 constitution formulates two chambers of a parliament known as deliberative chambers (Art 30). These were the Senate and the Chamber of Deputies. The senate was the supreme Chamber. As stated in Article 31 of the 1931 constitution, the members of the Senate were appointed by His Majesty the Emperor from among the dignitaries (Mekuanent) who have for a long time served his empire as princes or ministers, judges or army leaders¹⁶. Regarding to the lower house (Chamber of Deputies) Article 32 stated that “As a temporary measure until the people are capable of electing them themselves, the members of the Chamber of Deputies shall be chosen by the dignitaries (Mekuanent) and the local chiefs (Shumoch)”¹⁷.

Despite the creation of deliberative chambers (parliament), the parliament was a tooth-less legislative branch. It was an instrument for the two program i.e. modernization and centralization launched by the emperor. The primary function of the parliament was advisory; it had the function of merely discussion. They cannot even initiate legislation. They were not intended to participate in decision making. It was not also expert body capable to scrutinize proposed legislation, since members had little experience with written law. As per the Constitution, he can summon members of the parliament to a

other word government funds transferred from the minister of Finance to the respective departments in throeh Mazeja.

¹⁶ Article 31 of the 1931 constitution of Ethiopia.

¹⁷ Article 32 of the 1931 constitution of Ethiopia

meeting, shorten or extend parliamentary session¹⁸, declare the duration of the parliament, and if necessary keep the members in Addis, thus successfully remove the Rases from their power base. It was a rubber-stamping parliament, under absolute monarchy. The emperor was given absolute veto power as his inherent right and power to dismiss the chambers.

Generally, the parliament played no more than a decorative role on the Ethiopian scene. Laws were made by the emperor on advice of the ministers and foreign advisors, and parliament rubber stamped them. Its meetings were closed to the public and news of its doings seldom appeared in the press. However, note that the parliament is still the major innovation of the constitution. Although it was a nobleman’s council, it was the first ‘timid’ step towards participatory government. Some writers consider it as a nascent parliament, sign of Ethiopia’s constitutional development, and foundation for the subsequent development of viable institution.

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2. EXECUTIVE BRANCH

The 1931 Constitution introduced the idea of collective ministerial responsibility. As there was no prime minister, the ministry of pen (‘keeper of the seal’) acted as the first among equals. The major responsibility of the ministers was to submit in writing to the emperor their opinion on the affairs of their

¹⁸ Article 37 and 38 of the 1931 constitution of Ethiopia

respective departments¹⁹

3. THE JUDICIARY BRANCH

The Constitution created two systems of courts: regular courts (for civil and criminal cases) and administrative tribunals (for administrative issues)²⁰. Despite the creation of judicial organ of government, it was not independent organ.

2.1.5 RIGHTS OF THE PEOPLE

Despite the violation of human right and absence of constitutionalism, the constitution recognized a number of rights such as Freedom of movement²¹, right against extra-legal detention and sentence²², right as privacy²³, property right²⁴ and right of petition²⁵ are provided by the Constitution. But Article 29 took all of these rights by giving the right to the emperor to infringe all of them in case of war or emergency.

To conclude, certainly the 1931 Constitution marked a policy decision at the top level for Ethiopia to become a modern state. But, more than giving Ethiopia a modernizing image its primary purpose and achievement was being a legal frame work for absolutism.

2.2. The 1955 Revised Constitution

2.2.1 Major Reasons for Revision of the 1931 constitution in 1955

¹⁹ Article 48 and 49 of the 1931 constitution of Ethiopia

²⁰ Article 50 and 51 of the 1931 constitution of Ethiopia

²¹ Article 22 of the 1931 constitution of Ethiopia

²² Article 23 of the 1931 constitution of Ethiopia

²³ Article 25 of the 1931 constitution of Ethiopia

²⁴ Article 27 of the 1931 constitution of Ethiopia

²⁵ Article 28 of the 1931 constitution of Ethiopia

1) In Ethiopia itself the social conditions had changed in significant way throughout the 1940s

The five year Italy occupation and the liberation of Ethiopia with the military support of British and WWII tremendously affected the Ethiopian politics and itur forced the Emperor to revise his oldest constitution. Ethiopia also had closer ties with the West and this brought about western ideas and concepts. Generally, during the 1950s Ethiopia has gone through a series of experiences which make the Constitution largely inadequate to deal the situation.

2) The 1952 Ethio- Eritrean federation²⁶: the constitution clashed embarrassingly with the democratic principle of the Eritrean constitution and the Federal Act.

2.2.2. Structure and operation of government

1. Legislative branch

Chapter five of the constitution deals with the legislative branch of government. The parliament was composed of a Chamber of Deputies and a Senate. The senate is the upper house and the chamber of deputies is the lower. Members of both chambers have to take oath to emperor infant of the

²⁶ The territory now called Eritrea was born as a separate entity after one year of the sign of wuchale treaty between Italy and Ethiopia particularly in 1890. Starting from this period until 1941 Eritrea was administered as a colony by Italy. From 1941 to 1952 Eritrea was administered by British. The Ethio- Eritrea federation passes through different stage. Finally, the United Nation General Assembly passed the Resolution up on the recommendation of the united nation commission for Eritrea. The first seven Article of the resolution of the united nation general assembly is known as Federal Act.

emperor before taking office²⁷. **Senate:** It consists of the senators appointed by the emperor for six years²⁸. A candidate to be appointed as senator has to fulfill the following criteria²⁹: Ethiopia subject by birth, has reached the age of 35 years, must be prince, or other dignitary, or former high government official or other esteemed person, and is not disqualified under any provision of the electoral law.

The emperor has power to elect president and the two vice president of the senate each year from among the Senators. **Chamber of Deputies:** members of the chamber of deputies were elected by universal adult suffrage for the first time in Ethiopian constitutional and political history with women given the right to vote and run for political office³⁰. Art 96 stated that to be eligible as a Deputy, a person must be:-Ethiopian National by Birth, has attained the age of 25 years, is a bona fide resident (undertaken in good faith) and owner of property in his electoral district to the extent required by the electoral law and is not disqualified under any provision of the electoral law. Deputies were elected for terms of four years³¹ and eligible for re-election³². The president and two vice-president of the chambers of deputies were elected each year from and by the members of the Chambers.

²⁷ Article 81 of the 1955 constitution of Ethiopia.

²⁸ Article 101 of the 1955 constitution of Ethiopia.

²⁹ Article 103 of sub- article A-C of the 1955 constitution of Ethiopia.

³⁰ Article 107 of the 1955 constitution of Ethiopia

³¹ Article 97 of the 1955 constitution of Ethiopia

³² Article 96 of the 1955 constitution of Ethiopia

2. EXECUTIVE BRANCH:-

The constitution Established Council of Ministers. Article 66 declares that the Emperor has the right to select, appoint and dismiss the Prime Minister and all other Ministers and Vice-Ministers. All ministers are required to take oath of fidelity to the Emperor and to the constitution. In this constitution, the emperor had supreme power in this field of executive (Article.27, 28, 29, and 30). He can appoint and dismiss not only ministers but all other officials.

The powers and prerogatives of the Emperor³³

Article 26 of the constitution declares that the sovereignty of the Empire is vested in the Emperor and the supreme authority overall affairs of the empire is exercised by him as the head of state. The Emperor determines the organization, powers, and duties of all Ministries, executive departments and the administration of the government and appoints, promotes transfers, suspend, and dismisses the officials of the same. As stated in Article 27 of the constitution the right of declaring war is reserved for the Emperor. He reserves the right to decide what armed force shall maintain both in time of peace and war as Commander in chief of the Armed Force. He has also the right to declare a state of siege, martial law, or national emergency (Article 29). The Emperor exercises the supreme direction of the foreign policy relation of the Empire. He has the right to settle dispute with foreign powers. He has also the right to ratify treaties and other international agreements on the behalf of Ethiopia³⁴. He has power to confers and withdraws the

³³ from article 26 to Article 36 of the 1955 constitution of Ethiopia

³⁴ Article 30 of the 1955 constitution of Ethiopia

title of Prince and other honors, and institute new orders.³⁵ The Emperor has the right to coin, print and issue money³⁶. The Emperor has the right to convene and even decide the opening and closing sessions of the deliberative chambers. He has the right to dissolve the chamber and within four month he will arrange a new chamber³⁷.

3. THE JUDICIARY BRANCH FROM

The Judiciary was appointed by the emperor subject to special law on judicial nomination, appointment, retirement and promotion. The Constitution stated, "Judicial power shall be vested in the courts in accordance with the law and in the name of the emperor..."³⁸ Article 111 also declared, "The judge shall be appointed by the emperor. They shall be of the highest character and reputation and shall be experienced and skilled in the law in which they may be called up on to apply..." The courts were distinct from the executive branch of government, although the administration of the courts was exercised by the ministry of justice. The judicial power of the empire was exercise by a Supreme Imperial Court, High Court and Provincial (*Awraja*) Courts. There were also local courts such as *Atbia Dagna* (village courts) with a very limited jurisdiction.³⁹

One innovation in this field is the principle of judicial review. The Constitution

provided rudimentary principle of constitutionalism and constitutional supremacy. By requiring all laws, decisions, and acts under the constitution and requiring their conformity with it, it narrowed the free sphere of action and decision of officials in Ethiopia, a country with a culture of executive bias. As part of the check and balances, the courts have some control over the other two branches. They can declare null and void proclamation and acts of the executive when these were not consistent with the constitution.

According to Article 22, the Constitution is supreme and all branches and levels of government organs and officials are bound to obey it. In this case the revised constitution departed considerably from the past Ethiopia tradition. However, the emperor is still considered as the source of justice. He was allowed to exercise his clemency and also adjudicate cases in the highest tribunal of the country, the *Zufan Chilot*.⁴⁰ The influence of the executive on the courts is also reflected in the fact that the ministry of justice is given by the proclamation to select judges and bring the list for final approval to the emperor. The emperor also uses the ministry of justice to make sure that justice is administered in the courts. The ministry of justice can remove any judge he considers to be unfit for the job.

2.2.3 THE RIGHTS OF THE PEOPLE

It is interestingly the Constitution also contained an elaborate regime of civil and political rights for the subjects. In an apparent departure from the 1931 Constitution, it gave at least a textual

³⁵ Article 31 sub A-D of the 1955 constitution of Ethiopia

³⁶ Article 32 of the 1955 constitution of Ethiopia

³⁷ Article 33 of the 1955 constitution of Ethiopia

³⁸ Article.108 of the 1955 constitution of Ethiopia

³⁹ Article 109 of the 1955 constitution of Ethiopia

⁴⁰ *Zufan Chilot* is the final court of appeal and the Emperor has the power to lead the *chilot*.

recognition to rights and liberties of citizens even though there were a clear indifference as to the actual enforcement of these rights and liberties. Thus, the Constitution inserted 29 articles to provide the protection of essential liberties and rights of the people, although they did not state major political right of the people, like participation in government activities.

Generally the 1955 Constitutional not only created the impression that Ethiopia was modern by rectifying the anomaly created between 1931 Constitution and that of Eritrean constitution, but also its consolidated absolutism.

2.3. THE 1987 CONSTITUTION

The **1987 Constitution of Ethiopia** was the third constitution of Ethiopia, and came to effect on 22 February 1987 after a referendum on 1 February of that year. Its adoption inaugurated the People's Democratic Republic of Ethiopia (PDRE). This constitution contains 119 articles, 4 Parts and 17 Chapters preceded by the establishment of the Institute for Study of Ethiopian Nationalities in 1983.

The new constitution, which established a People's Democratic Republic of Ethiopia (PDRE), contained several provisions which reflected a concern for the complaints of the ethnically and regionally organized rebellion Movements, without however abolishing the unitary state structure. Furthermore, article 59 of the constitution provided for the establishment of autonomous and administrative regions.

2.3.1 Structure and operation of government

1. Legislative Branch

The constitution established unicameral parliament that is the National Shengo⁴¹. The National Shengo is the supreme organ

⁴¹ National Shengo was the parliament of the PDRE.

of state power in the PDRE.⁴² The National Shengo of the PDRE⁴³ has power to decide on any national issue, enact and supervise the observance of constitution and proclamations, determine the domestic and foreign policy, determine the defense and security force, determine the state of peace and war, adopt the long term and short term social and economic plans, adopt the annual Budget and determine the Monetary and Fiscal policy of the PDRE.

2.3.2. The executive Branch (Council of Ministers, President, Prime minister)

The council of ministers is the highest executive and administrative organs of the PDRE (article 89). It is composed of the Prime Minister, Deputy prime minister and other members. In this constitution, the president of the PDRE is the head of state, the Secretary General of the Communist party, is the executive president of the republic, the president of the council of state, the chairman of the National Shengo, and the commander in chief of the armed forces.

2.3.3. The judiciary organ

The highest judicial court organ of the PDRE is the Supreme Court. The Supreme Court is elected by the National Shengo.

2.4. The 1995 FDRE Constitution

The 1995 constitution is different from all other constitutions that were formulated in the history of the country. It changed Ethiopia from unitary to a federal state. Also it gives importance to Ethno-linguistic composition of the state. It is not the constitution of the Ethiopian people rather it is the constitution of the nation of nations. This constitution has 106 articles in eleven chapters

⁴² Article 65 of the 1987 PDRE constitution.

⁴³ PDRE implies peoples democratic republic of Ethiopia.

2.4.1 Salient features of the constitution of 1995

- ✚ Ethnicity as a Major Component.
- ✚ Parliamentary Democracy
- ✚ The Right to Secession
- ✚ Ownership of Land
- ✚ Language Policy
- ✚ The Importance of Religion
- ✚ Fundamental Rights and Freedoms
- ✚ Constitutional interpretation
- ✚ Constitutional Amendment
- ✚ State of Emergency

3.1 Constitutionalism and democracy in Ethiopia

Constitutionalism has a variety of meanings. Constitutionalism is related with the prevalence of rule of law where government and public officials shall be held accountable and responsible to their people. It implies having constitutionally limited government. It hinges essentially on a two-fold relationship: Relationship between government and citizens, and the relationship between one authority and another within the governmental structure. In this regard, the two constitutions of the imperial government of Haile Selassie and the 1987 constitution of the military regime served only to maximize the political powers of the central governments. The Ethiopian political system during the periods of Emperor Haile Selassie and the military government seriously lacked the process of constitutionalism. In both two regime constitution, there was no limited government. In addition to the absence of limited government, there was grave violation of human right in both Emperor Haile Selassie and military regime constitution. Despite the existence of written constitution prior to 1991, the constitutions invariably failed to ensure the prevalence of the rule of law.

Democracy is undoubtedly the most discussed and contested notion of political theory. Unless we need a majority tyrant, we may describe democracy as majoritarian rule. If we demand a more stable and all-inclusive polity, democracy should mean more than the simple terms of a majoritarian rule. Scholars often, therefore, have stated limitation on simple terms of democracy. Aleksander Ljebanov, for instance, provided a broader meaning of democracy: political representation of the interest of citizens, majority rule, participation of citizens in politics, freedom of opinion, protection of human and political rights, legal certainty, and division of power and responsibility of those who are in power (Ljebanov, 2002).

Democracy is a new concept for Ethiopian people both as a political concept and in its government form. Democracy requires active participation of citizens in the overall economic, political as well as cultural affairs of the state. Therefore, citizen's participation is the pre-requisite for the existence and development of democracy. However, in Ethiopia, citizen's involvement is minimal. Apart from passive participation of citizens, the undemocratic nature of the previous regimes hinders the democratization process of the country.

4.1 Summary

From the discussion above, it can be concluded that even though there were traditional unwritten constitutions of Ethiopia prior to 1931, the concept of constitution, constitutionalism and democracy are a new concept in the age old political history of Ethiopia. The three traditional constitutional documents included the idea of the monarchy, and an imperial court system involving monarchy, church and nobility in an intricate power relationship. Unquestionably, prior to 1931 Ethiopia had complex traditional

constitutional documents such as *Serate Mengist* which provides certain administrative and protocol directives useful to the constitutional process of the country, *Fetha Ngest* (The Law of the Kings) which contains religious and secular matters; and *Kibre Negest* (The Glory of the Kings). Until 1931, these traditional documents particularly *Feteha Neges* serves as a supreme law of the land.

The 1931 and 1955 revised constitutions of Ethiopia were monarchical and unitary constitutions. Both lack constitutionalism and their aim were not to establish a democratic government rather to serve as a legal guardian of the old monarchy. The 1987 PDRE constitution also not strive to establish a democratic government even though it used the term democracy in the official name of the state established by the constitution; rather its aim was to lay down the base of socialism. This constitution change the monarchy in to republic but Ethiopia remains unitary state. Like the two Imperial regime constitution, this constitution also lacks constitutionalism. More than the previous regime, there was grave violation of human right.

As opposed to the two regimes constitution, the current working constitution of Ethiopia i.e. 1995 FDRE constitution, establishes democratic government as stated in the nomenclature and Article 45 of the constitution. The constitution also adopt parliamentary and federalism as a system of government and state structure respectively.

In general, the previous three constitutions of Ethiopia fail in ensuring constitutionalism and establishing a democratic government and the present 1995 constitution strive to lay down the base of democracy and constitutionalism.

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The 1931 Constitution of Ethiopia

The 1955 Revised Constitution of Ethiopia

The 1952 Federal Act

The 1952 Eritrean Constitution

The 1987 Constitution of the People Democratic Republic of Ethiopia

The 1995 Constitution of the Federal Democratic Republic of Ethiopia