



Master of Philosophy in Indigenous Studies
Faculty of Humanities, Social Sciences and Education
University of Tromsø

SVF-3904

**ETHIOPIA: WHEN THE GADAA
DEMOCRACY RULES IN A FEDERAL STATE**

Bridging Indigenous Institutions of Governance to Modern
Democracy

by

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May 2012

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For Alem and Ebbifam

Acknowledgements

In the process of developing this research there are several individuals and institutions whose contributions were incredible and without them I could not have completed this thesis. Accordingly, my heartfelt gratitude goes first and foremost to my supervisor and mentor Dr Christine Smith-Simonsen for her critical comments that shaped this paper to become an acceptable academic work. Second, I would like to take this opportunity to thank my family who raised me in an environment of hopelessness and my wife for her incredible support; through them I could see the light of hope and could have resilience in the face of immense challenges. Because of them I could set myself to the lines of opportunities.

I would also like to thank Universitet i Tromsø (UiT), and Norwegian State Educational Loan Fund (Lånnekassen). I would like to extend my appreciation to Centre for Sámi Studies for its responsiveness and commitment towards indigenous peoples' concerns. Without the center I could not have comfortably conducted this study. Though I had a dream to study aboard, somewhere and someday, I have never dreamed to come to Norway and particularly to University of Tromsø. Since you made one of my dreams come true, I could say nothing but tusen takk UiT og lenge leve Norge!

I would like to thank Oromia Culture and Tourism office (OCT) and Library team of OCT; to Library team of Law and Kenedy Libraries at Addis Ababa University; Dilla University and DU School of Law for being a sprinting stage to further my academic career.

I would also like to thank my field assistant and anthropologist Mr. Olana Tashoma. Olana, I am grateful for his unreserved help during the field work in Boran. I would also like to thank my field assistants during my stay in Guji-zone, namely Ashebir, Lole, and Zerihun Wata. Lastly, but not least, I would also like to thank Asebe Regassa for his constructive advices and comments, my friends Desalegn and Temesgen for their unwavering patience throughout the process of translating the paper into LaTeX format.

Abstract

As student of law and later as a teacher, I was questioning whether Gadaa System has something to contribute to democratic values and sustainable institutions of governance in contemporary Ethiopian legal system. In particular, in sub-Saharan African countries where democracy and rule of law are proclaimed but not translated into practice, it appears vital to look into alternatives that can fill governance deficits. It is against this backdrop and after series of research processes; field work among the Boran and Guji-Oromo, that *Ethiopia: When the Gadaa Democracy Rules in a Federal State; Bridging Indigenous Institutions of Governance to Modern Democracy* came into focus.

The main objective of this research is, therefore, to respond to the search of alternative solution to hurdles democratisation process, Africa as a region as well as Ethiopia as a country faces, through African indigenous knowledge of governance, namely the Gadaa System. Accordingly, institutional and fundamental principles analysed in this thesis clearly indicate that indigenous system of governance such as the Gadaa System embraces archaic democratic values that are useful even today. However, bridging two separate institutions and political systems is not without challenges. This study is committed to discerning tensions and compatibility issues. The incompatibilities arise from both political systems; indigenous as well as modern. However, they bear not only tensions but also solutions. Hence, where the challenges that arise from indigenous political system could be resolved by progressive principles of modern political systems; tensions that arise from modern political system are sought to be addressed by embracing legally viable values of the Gadaa System through the instrumentality of federalism and legal pluralism. In sum, three main reasons support the approach of this study: in Africa no system of governance is perfect divorced from its indigenous institutions of governance; indigenous knowledge of governance as a resource that could enhance democratisation in Ethiopia should not be left at peripheries; and an inclusive policy that accommodates diversity and ensures the advancement of human culture appeals.

Key Terms

Indigenous Peoples, Indigeneity, Indigenous Knowledge, Indigenous Institutions of Governance, Age-grades, Gadaa classes, Gadaa Council, Gadaa General Assembly, Legal System, Customary law, Boran, Guji-Oromo, Oromia, Ethiopia, Gadaa Democracy, Constitution, Ethnic Federalism and Legal pluralism.

Ethiopian Patronymic Usage

Ethiopians commonly use the fathers' given name as patronymics after their own. For example, Abdisa Aga, which means Abdissa, the son of Aga. Accordingly, whenever Ethiopian authors are referred to in this text first name (given) precedes the middle (fathers') name and then followed by last (grand fathers') name. Hence, Ethiopian naming style is used consistently throughout this thesis without adopting the western style of naming.

Acronyms and Abbreviations

ACWGEIP/C: African Commission's Working Group of Experts on Indigenous Populations/Communities

EPRDF: Ethiopian Peoples' Revolutionary Democratic Front

FDRE: Federal Democratic Republic of Ethiopia

GC: Gadaa Council

GGA: Gadaa General Assembly

HPR: House of Peoples' Representatives

HoF: House of Federation

IK: Indigenous Knowledge

IWIGIA: International Work Group for Indigenous Affairs

IPACC: Indigenous peoples of Africa Coordinating Committee

IKG: Indigenous Knowledge of Governance

ONRS: Oromia National Regional State

ONRSC: Oromia National Regional State Council

PDRE: Peoples Democratic Republic of Ethiopia

PMAC: Provincial Military Administrative Council

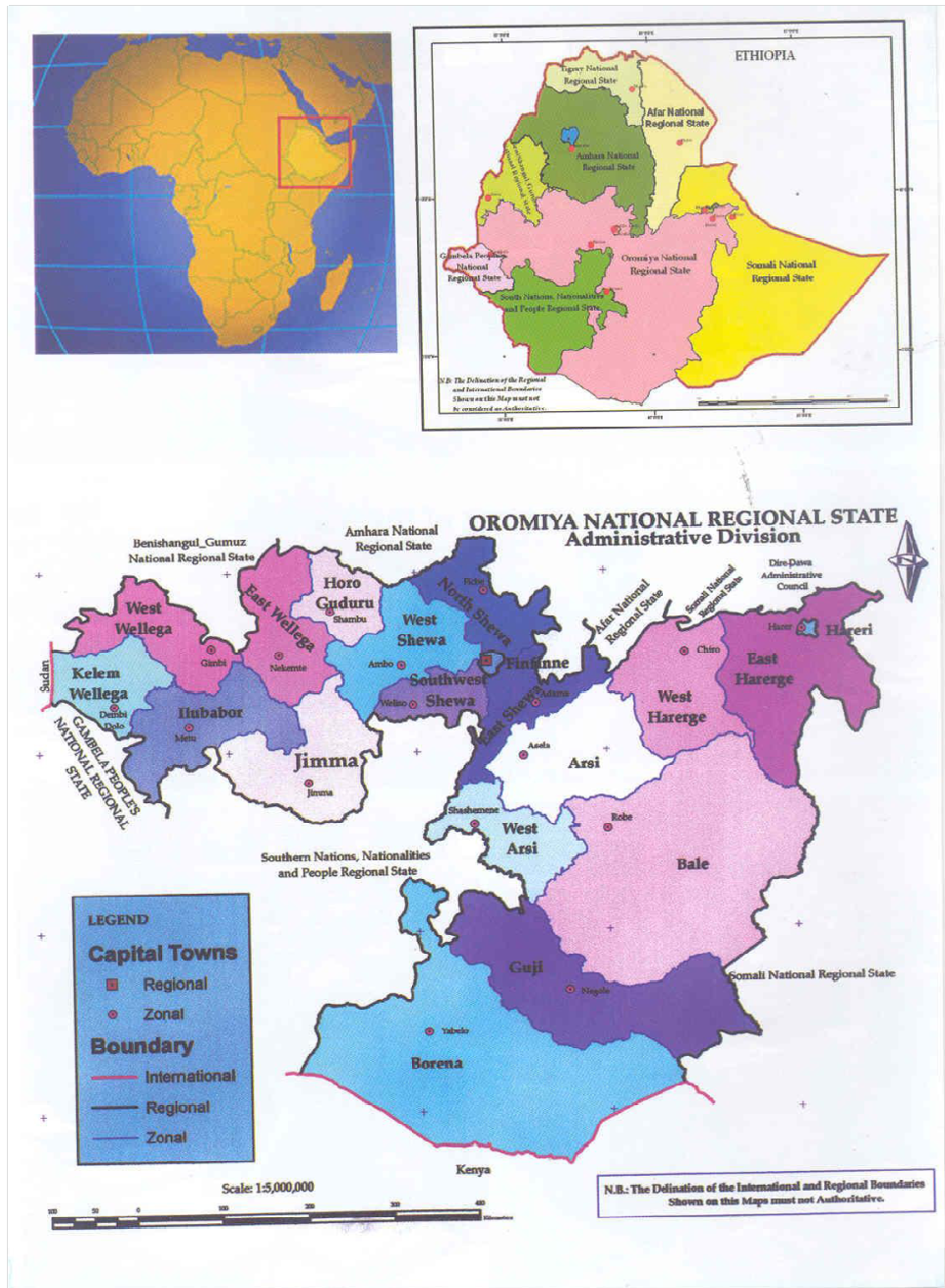
RLP: Rural Land Proclamation

UNWGIP: United Nations Working Group for Indigenous Peoples

UNPFII: United Nations Permanent Forum on Indigenous Issues

WPE: Workers' Party of Ethiopia

Figure 1: Political Maps indicating Africa, Ethiopia and Oromia Regional State



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Chapter 1

Introduction

1.1 Background of the Research Problem

The question of rule of law and democracy across sub-Saharan African countries has led several scholars in recent time to search for the importance of African indigenous institutions of governance as alternative solutions to leadership crises. Broadly speaking, most of the indigenous peoples' traditional institutions of governance across African states are more democratic and more egalitarian system than the modern African states' legal institutions in several respects. Moreover, although indigenous peoples of Africa are the ones who have had established leadership system long before the formation of modern African states, their rights of self-determination was undermined, following European colonial rule, by the modern African states. Despite this fact, in most parts of African countries including Ethiopia indigenous institutions of governance are functioning informally along side of modern governance systems.

Having said so, Ethiopia is an old polity principally formed through military conquest and the incorporation of vast lands with diverse peoples with equally diverse linguistic and cultural identities into the Ethiopian empire (Tsegaye 2010). The process of modern Ethiopian empire formation had contributed to the extinction of several indigenous institutions of governance across the country. It was towards the end of 19th century that Emperor Menelik II (1890-1913) had begun forcefully holding numerous ethnic groups¹

¹There is no African country that embodies one language, one ethnic group and one religion. For instance, in the two populous countries in Africa, namely Nigeria and Ethiopia, there are more than three hundred languages and almost eighty ethnic groups' languages respectively. Moreover, consider the following ethnic groups under each regional states of Ethiopia: Tigray State: Tigrai, Saho and Kunama; Afar State: Afar; Amhara State: Agew-

together (Bahru 1991; Berhanu 2007; Merera 2011). As a result, more than seventy different ethnic groups were brought together regardless of their historical background; language deferences and socio-political structures. Moreover, large numbers of conquered ethnic groups reside in the southern part of Ethiopia and most of them embrace democratic and egalitarian system. For instance, the traditional governance among the Oromo, the Konso, the Sidama and other ethnic groups possess democratic values but all were undermined.² At the same time they were forced to leave their political autonomies, their language and ultimately subjected to the central monarchy (Merera 2011; Bahru 1991). In comparison, the traditional highland Ethiopia (Abyssinia—which is associated with Tigray and Amhara regional states today) consist of smaller numbers of ethnic groups and their traditional values are tied to the Solomonic dynasty in a general consonance with a Judeo-Christian tradition³ (Tsegaye 2010).

Furthermore, the wholesale legal transplantation from Western countries which started in 1930s had enduring effect on the under development of the customary legal system and traditional governance institutions in Ethiopia. For example, the introduction of the 1931 and the 1955 Ethiopian Constitution, the 1960 Civil Code, and the 1957 Criminal Code have had an enduring effect in undermining traditional justice systems and customary laws. One of the policy reasons behind the adoption of Western legal system by the Ethiopian government was to modernise the country’s legal system and it had, therefore, a “civilising and modernising” mission (David1963; Alemayehu 2004). To the contrary, however, the socio-political development of Ethiopia during the last seven decades has shown no sign of “civilization” in political culture. Even worse, the Ethiopian peoples’ hopes and opportunities were replaced by bloody civil wars; military rules and dictatorship became the norm rather than exception. For instance, it was after a long bloody war that Col. Mengistu Haile Mariam (the president of PDRE or commonly known as the *Dergue* regime (1974-1991)) was removed from his power by EPDRF in

Kamirigna, Agew-Awongigna; Oromia State: Oromo; Somali State: Somali; Benishangul/Gumuz State: Gumuz, Koma, Berta, North Mao, Shinasha; Gambela Peoples State: Agnuwak, Nuwer, Mejenjir; Harai State: Harari and the Southern Nations Nationalities and Peoples State consisting of almost fifty ethnic groups (Donovan and Getachew).

²Gadaa, gada and Seera are the three traditional system of governance that the Oromo, the Konso and the Sidama people, respectively, practicing.

³This is also in line with the official titles of the supposedly “Solomonic” Ethiopian Emperors which, roughly, are decorated as follows; “Conquering Lion [marking might, or force] of the Tribe of Judah [marking genealogy and tradition], Elect of God [marking the vital importance of religious anointing to qualify for the throne], ... [the name], King of Kings, Emperor of Ethiopia” (Tsegaye 2010). Hence one can see the political culture of the South and the North at quite odd positions; where the former claims no alien genealogical ties, the latter clearly defines itself as genealogically different not only from the majority of Ethiopian people but also from Africa. In this respect (if the myth is taken seriously) one may conclude that they can not be regarded as indigenous people of neither Ethiopia nor Africa.

1991. This event filled the nation as well as the rebels with euphoric hope for a better and new chapter in Ethiopian political history.⁴ However, the optimism did not last long. Instead, history kept repeating itself.

Following the downfall of *Dergue* regime, the multicultural and multi-ethnic based federal system was constitutionally declared in 1995. It was perhaps reasonable to introduce ethnic federalism into Ethiopian political system to address the collective rights of minorities and indigenous peoples. Moreover, it was also challenging to have a uniform policy on cultural rights, a single legal system, and a centre prevailing over the peripheries in multi-cultural societies like Ethiopia. Ethnic federalism⁵ was, therefore, sought as a way to address the quest of national oppression and ethnic minorities rights. Accordingly, under the ethnic based federal structure nine regional states were constitutionally recognised. Among these states is the Oromia National Regional State (ONRS) hosting the single largest nation, the Oromo, in Ethiopia.

1.1.1 Justification: Personal and Professional Background

The indigenous studies programme and this thesis directly fits into my personal and professional background. First and foremost, indigenous studies as a programme addresses not only limited indigenous peoples' concern but also the concern of indigenous peoples of Africa. Since I belong to the Oromo people, one of indigenous peoples in East Africa, conducting this research on the traditional knowledge of these people match not only my personal background but also the objective of the programme. Second, as one of the main concerns of indigenous studies is the revitalization of indigenous culture and self-determination of indigenous peoples, conducting the research on the Gadaa system is, on one hand, for its revitalization and, on the other hand, it is aimed to contribute to one of the notorious claims of the Oromo people, i.e. self-determination through Gadaa democracy.

Professionally, I am a university assistant lecturer in law. Law, being an interdisciplinary

⁴Factors that contributed to the dawn fall of the Dergue regime was, externally, due to the demise of cold war, which divided the West and the East bloc, where the west tried to sponsor some of African leaders for her own strategic and national interest and the east block also bail-out authoritarian regimes with socialist pretension including Col. Megistu, and with the downfall of the Soviet Union, necessitated change to blew in Africa in general and in Ethiopia in particular in the late 1980s and early 1990s (Bahru and Pausewang 2002).

⁵Where federalism is regarded as an ideology and driving factor, federation is an institution. Hence, ethnic federalism or personal federalism is a type of federalism (ideology) where where states or constituents of a federation are divided in to pieces based on their ethnic homogeneity, language, culture, psychological make-up and common historical background. In the same line, power is divided vertically between the centre (federal government) and the constituents (regional states) to form a federation.

field, relates to governance, constitutional laws, history of laws and so forth; hence conducting this thesis on indigenous knowledge of governance makes it relevant to look into another world of legal knowledge, i.e. indigenous peoples' legal system. Hence the concepts of constitutional laws, customary laws and legal pluralism are helpful tools to deal with the indigenous governance in Ethiopia and in particular to discern how the Gadaa System (as an administration system) can be made useful today. Therefore, it is about looking beyond the modern governance systems (for example; legislative, executive and judiciary)—and to bring indigenous institutions of governance as stake holders into the political decision making processes.

Furthermore, indigenous studies courses such as: History of indigenous peoples: colonization and revival; Indigenous rights, politics and institution building; and Indigenous revitalization: language, literature and arts are potentially relevant to this thesis. Thus, having background of legal studies as well as social anthropology played a vital role in the analysis of traditional knowledge of governance and to discern the relevance of the Gadaa System in incumbent Ethiopian legal system.

1.1.2 Research Questions

The modern political history of Ethiopia has proven torturous as well as complex terrains though, undeniably, some positive changes also have taken place along the course of socio-political processes of the country. However, how constitutionalism and the rule of law should take root in Ethiopia is challenging question. Although almost all sub-Saharan states adopt Western models of democracy, i.e. multi-party politics and parliamentary system as a guarantee to democracy, they not guarantee rule of law and the good governance aimed for. Even worse “one party rule could also flourish beneath the façade of multi-party politics and parliamentary system (Bahru and Pausewang 2002: 7). This indicates that though Western political values are philosophically sophisticated and transplanted to developing countries like Ethiopia, they are not translated into practice. Hence, at the heart of this study is the question of whether there is a way out from such leadership deficit through broad-based democratisation through traditional system of governance that permit a greater degree of popular participation.

Furthermore, it can be stated that the majority of indigenous population in Africa lead traditional ways of life parallel to the modern system of governance in which Ethiopia is no exception. In this respect the entire issue revolves around the compatibility of indigenous institution of governance with transplanted modern political systems. In

particular the Gadaa System, being a traditional system of governance, how far it is compatible and viable in the face the modern political institutions and vice versa. This point triggers the following main research questions: Is there incompatibility between traditional and modern virtues and institutions of governance? If so, is it possible and necessary to accommodate traditional values into modern system of governance? The subsidiary research questions are: under incumbent Ethiopian political system why are traditional institutions and values that converge to democracy and good governance left at the peripheries? Why are most official laws enacted by central authorities unable to penetrate into the peripheries?

1.1.3 Literature Review: A General Overview

This paper has benefited from several studies conducted on the Gadaa System. Among the numerous researchers of the Gadaa System, geographer Enrico Cerulli was the first scholar who developed a model for interpretation of the Gadaa System (Asmarom 1973). Cerulli conducted the research in late of 19th century, at the time when the Gadaa System was in practice among the central Oromo people (Cerulli 1930). Therefore he was a pioneer scholar who had paved the way for the subsequent researchers such as: Asmarom Legesse, Marco Bassi and P. T. W. Baxter and others.

Asmarom is an African anthropologist who has offered most of his time to the study of traditional knowledge of indigenous peoples of Africa. Especially his work on the Gadaa System of Oromo people was the most notable one. His first work on Gadaa was a ground breaking to the study of the culture of Oromo people and their traditional institutions of governance. He published a book in 1973 properly titled “Gada: Three approaches to the study of African Society.” As the title itself indicates he studied an African indigenous peoples’ social structure, based on the Gadaa System as a case study, from three methodological perspectives: “British case analysis, French structuralism and American realism,”⁶ in which he examined how Western intellectual traditions analysed or misinterpreted African traditional realities and in effect furthered “cultural imperialism” (Asmarom 2006: xx.). His second work, published almost after a quarter of a century, is the reinvigoration of his first book, however. It is quite illuminative and waived the complex approaches he deployed in his previous work. In the later study he covers three main themes: the socio-political organisation of Oromo people for war

⁶His work was the product of an intensive ethnographic research carried out in the southern Ethiopia and Northern Kenya.

(historical analysis), the traditional institutions of governance (political analysis) and lastly the fundamental principles of Gadaa democracy (jurisprudential).

Marco Bassi (2005) had also conducted research on the Gadaa System of Borana-Oromo of Northern Kenya, a book titled “Decisions in the Shade: Political and Juridical Processes Among the Oromo-Borana” and also a critical article titled “Power’s ambiguity or the political significance of Gadaa” (Bassi 2005 and 1996: 150-161). In his former work, the author looks at the subject from the point of view of the dynamics that characterize Borana decision-making, brought to light through rigorous ethnographic investigation. In the later, he challenges the political role of clan councils play in a sense that power is entrusted based on seniority rather than deliberate power sharing. He discerns, therefore, an ambiguity between seniority based power (gerontocracy) and deliberately shared powers irrespective of age (democracy). However, he seems to have misunderstood the place seniority has among the people and the politico-legal power the clan councils possess. Seniority based respect is a secondary and a common cultural value of the Oromo people. Among the Boran seniority matters when it comes to rituals, but in passing laws, its execution or adjudication of any case what matters is not seniority but legal authority.⁷ Furthermore, Bassi contends that some terms in the study of the Gadaa System are referred to current western political systems, particularly Western democracies, without critically analyzing the powers, functions, and operational rules of Gadaa institutions (Bassi 1996: 151). His argument is sound enough and it arise from a challenge of interpreting different cultures to make it intelligible to third parties (emic and etic). Additionally, his work demands the sense of further investigation and interpretation of Gadaa leaders’ powers and functions in modern context.⁸ Though Bassi is sceptical of the nature of the Gadaa political system, he positively concludes that the Gadaa system can be a model for African society in natural resource management and conflict resolution mechanisms (Bassi 1996; 2005).

Baxter (1978) in his work titled, “Boran age-sets and Generation-Sets: Gada, a puzzle or a Maze?”, state that Gadaa System is an age-set and generation-set system in which men assumes certain responsibilities on behalf of the nation for fixed and standard time segment of eight years. He, however, reduces the Gadaa institutions (Gadaa classes) to

⁷The entire discussion of Chapter four is devoted to the discussion about organisation of Gadaa institutions and subsequent chapters reveal that Gadaa is a political system where powers and functions are deliberately divided among different Gadaa institutions. Perceiving Gadaa as institution based on seniority alone is, therefore, utterly wrong.

⁸It is one of the objectives of this paper to discern the political significance, power and functions of the Gadaa governance institutions not only to make it sensible but also to indicate its importance in contemporary Ethiopian political system.

“sets” and he diminishes Gadaa council’s responsibilities to ritual ceremony. He contends that Gadaa System lacks politico-legal traits. The reason for such negative thesis might arise from misunderstanding of the two separate entities: generation-sets (Gadaa classes) and Gadaa council, which are quite different organs (see discussion under chapter four and five). Among a dozen of scholars who have conducted researches on Gadaa system, Baxter is the only one who interprets and judges Gadaa System as lacking political function. Asmarom (2006) responding to Baxter (1978) also puts that undermining African indigenous people’s political system such as Gadaa System would have arisen from the perception that democracy is a unique western invention that should not be lambled together with institutions of inferior societies (Asmarom 2006: xxi).

Huntingford, G., has also conducted an ethnographic survey of Eastern African societies including the Oromo of Ethiopia (Huntingford, 1955: 9-98). His work was archaic with innocent research containing dense accounts about the culture and livelihood of Oromo people before being replaced by external traditions. Martial De Salviac was also an expatriate writer and scholar whose contribution on Oromo culture in general and the Gadaa System in particular was incredible. His work mainly addresses the cultural values and world views of the Oromo people and; the historical injustices done to the Oromo people. He describes the nature and importance of the Gadaa System comparing it with the French and English legal systems (De Salviac 2008(1901)).

From among native scholars, the recent works of Alemayehu Haile, Dirribi Demissie and Aseffa Jaleta⁹ are resourceful. Alemayehu (2009) discusses the historical development of Gadaa System of governance among the central (Tulama) Oromo of Ethiopia. In this work, he analyses the politico-legal and religious institutions of central Oromo people. Moreover, Alemayehu et. el. (2006) did come up with distinct study in re-discovering the history of Oromo people before the 16th century. It, therefore, changed the common discourse that some historians limit the history of Oromo to the 16th century alone. Distinctively he analyses the origin and grand causes that contributed to the extinction of the Gadaa System in most parts of Oromo land. Dirriba is also a native researcher who has conducted extensive research on two big themes: traditional religion (*Wakeffanna*) and Gadaa System in a broader context (Dirribi 2011).

⁹Asefa Jaleta is a native scholar and he has contributed articles on the historical and cultural overview of Oromo people in general and Gadaa system in particular (Jaleta, Asafa, 2010: 1-20). This article broadly assesses the world view and wisdom (*Wakeffanna*), the country (Oromia) and the social organisation (Gadaa System) of Oromo people.

1.1.4 Objective and Significance of the Research

This study aims to dismantle two systems of governance: traditional and modern systems. That is, the Boran Gadaa system as traditional knowledge of governance and the Ethiopian modern political institutions. It aims to make contribution to the field of what came to be conceptualized as Indigenous Knowledge (IK). Dozens of scholars (for example Agrawal 1995; Flavier, J.M. et al. 1995; Bentley, K.A. 2005) have conducted researches on the traditional ecological knowledge and natural resource conservation system. However, indigenous peoples' knowledge is not limited to natural resources management only but it goes far beyond what is typically assumed. It covers traditional healing system, traditional dispute settlement mechanisms, traditional system of governance and others. Among the numerous the traditional knowledge, knowledge of governance (in our case the Gadaa System) worth exploration. Besides, there is a need to study this traditional system of governance in line with the goal of appropriating it in modern context. To do such descriptive studies can unveil its importance and analysis come up with the way it can be translated into practice and is unquestionably necessary. Moreover, we need to study indigenous people's culture so that they may live and grow to become the enduring foundation of distinctive civilisation for it has a lot to offer to human kind for the simple fact that "man's wider cultural identities must be allowed to grow, not by predatory expansion of one civilisation but by the complementary integration of many diverse cultures" (Asmarom 1973:236).

Another aim of this study is to challenge the view most nation states agents and some researchers share that indigenous peoples' are uncivilised and had no legal system. It is thereby intended to contribute to indigenous peoples' rights of self-determination. In particular, it is aimed to challenge the modern system of governance Ethiopia embraces today comparing it with the Gadaa institutions and its fundamental principles. Precisely, on one hand this study is about revitalising the Gadaa (indigenous peoples' knowledge of governance) in the face of paternalistic state authorities' exclusion of the knowledge. On the other hand it tries to address the functionality of traditional institutions of governance in modern Ethiopian political system and the dysfunction of the transplanted Western political institutions in rural Ethiopia.

Therefore, this piece of work opens a discourse on traditional governance versus scientific governance and power politics in the eyes of indigenous peoples' parameters based on the case of Gadaa system among the Boran of south Ethiopia. It also aims to present an indigenous knowledge of governance as an alternative tool or model not only for the interests of indigenous peoples themselves but also for the better peaceful co-existence of

human organism in harmony and to add values in the spectrum of democracy as opposed to a monopoly of a single political culture.

In sum, the general objectives of this research are: to describe the nature and features of indigenous political system and underlying customary law of the Boran and its relevance to modern (elite) governance; to discern whether Gadaa system has the capacity to enhance good governance in Ethiopia. Beyond the general objectives this research seeks to: analyse the concordance of Gadaa principles and institutions with the modern Ethiopian constitutions. In addition, it looks into the incompatibilities between the two systems and seeks for their harmonisation. Therefore, this thesis mainly tries to investigate two main research areas:

- a) Discussing the relevance of indigenous institutions of governance in contemporary Ethiopian political system; and
- b) Analysing the Gadaa System of governance's compatibility and attempting to bridge the gap between the two (modern and traditional) political systems.

1.2 Research Methods and Limitations

1.2.1 Research Methodology in Indigenous Studies: Unique?

Broadly speaking, as any academic discipline has its own research approaches and ethics so does indigenous studies. The standards and objectives of researches in indigenous issues demands the researcher acknowledge his or her interests, knowledge and experiences with indigenous peoples. Moreover, research and its methods have to challenge the objectiveness of a research paradigm instead of replacing or competing with and thereby contribute to the body of knowledge of indigenous peoples (Porsanger 2004: 105). Therefore, any scholar, who conducts research on, with or about indigenous peoples should pose and answer the following questions: "whose research is this? Who owns it? Whose interests does it serve? Who will benefit from it? Who has designed its questions and framed its scope? Who will carry it out? Who will write it up? How will the results be disseminated?" (Smith 1999:10). These are questions of ownership, ethics and benefits that have to be considered by indigenous or non-indigenous researchers. Strikingly, addressing these methodological issues "will strengthen indigenous peoples' identity, which will in turn support indigenous peoples' efforts to be independent: not only legally, politically or economically, but first and foremost intellectually" (Porsanger

2010: 117). In this line, this research attempts to espouse the ethics academic research requires. Hence the findings of this study are analysed with due consideration of its importance for benefit of its owners.

An additional ethical question is how nation states and authorities depict indigenous peoples and/or even used Africa as the great primordial continent whose prodigious backwardness demonstrates by contrast the greatness of developed nations.¹⁰ Therefore, a question before us is whether or not native researchers should study indigenous peoples' history and tradition with a view to use the archaic institutions as an alternative tool to what "civilised" has to offer. Hence while attempting to depart from the "ethnocentric, supremacist, and antiquarian" (Asmarom 1973: 236) approach this study tries to contribute to the methodological decolonisation process without defeating the discipline an academic research should bear.

1.2.2 Methodology of the Research

This is qualitative research that relies on extensive use of primary and secondary sources. This study is found on the premise that Indigenous Knowledge of Governance (IKG) could be utilised to enhance the democratisation process in Ethiopia. Hence, the study is based on a field work carried out in Borana zone of southern Ethiopia. During the fieldwork, I could also conduct interviews and Focus Group Discussions (FGD) with elders from the Guji-Oromo of south Ethiopia. The purpose of the fieldwork was to gather information through interviews (structured and semi-structured) and documenting available secondary sources.¹¹ Though the time I could stay in the field was limited, several methods of data collection were used such as: observation, interviews, and focus group discussion. All were used to obtain sufficient information for further analysis. In a field work involving interviews, for instance, issues cannot be overlooked are how a researcher places his pre-set methods in to practice. How s/he can manage the impression

¹⁰Cultural differences are being interpreted as cultural inequalities given power and economic disparity. Even though indigenous peoples' cultural values are played down, they have lived based on their simple technologies, social organisation and customary laws before having a contact with their colonisers. This is an undeniable fact. In contrast, if the ultimate goal of governance or democracy is for social justice, how has the technology aided the modern nation state in proving justice system as compared to indigenous peoples' case? As sophistication of technology increases will the sophistication of crimes and injustice increase? One can compare the number of criminals and the sophistication of crimes in developed countries (e.g. US) against a pastoral community (e.g. the Boran in south Ethiopia).

¹¹Among other techniques of data gathering, observation was a main tool in field and "ethnographers spend a good deal of their time in the field observing, either as non participant or participant observers. Participant observers take part in whatever is going on in the site in order to better understand the insider, or emic experiences (Riemer 2008: 207).

of informants, especially in ethnographic research. Therefore, one way or another it was all about negotiation and gaining reliable data.

However, when it comes to observation of ritual ceremonies and Gadaa assemblies that often traditionally takes place in the Borana zone, I was not lucky enough to observe them since there were no ceremonies and/or assemblies conducted during my time in the field. To complement this limitation reliance on interviews and written sources were very crucial. Moreover, the diversity of research methods used allows “to triangulate, or cross-check, the accuracy of collected data and analytic statements” (Riemer 2008: 207). Therefore, analysis of data gathered from different sources and supported by a range of theories has created credible information to the reader.

In addition research methods variables were considered such as: language (communication), status of informants, literacy, gender, age and personal experience of informants and the experience of field assistants, getting behind the masks or “gate keepers” (Berrman 1972: 137). I had no language barrier since I was native speaker of the Oromo language. However, since I was not from the Borana region, I had to find field assistants. Considering gender as a variable of the research method was almost futile. It was a challenge due to the fact that the social organization of the Gadaa System, was entirely dependent on males especially in the arena of politics and ritual ceremonies. Therefore it was only information (historical and world view accounts) from skilled men with knowledge of Gadaa System and Gadaa practitioners were authoritative as well as authentic. However, I would like to emphasize that this did not affect the outcome of the research in any case. The reason is that the purpose of the fieldwork was more about collecting data on values and institutions of Gadaa than the role of women and/or equality of women among the Borana society, for instance.¹²

In the course of interviews, I started a conversation and kept the conversation focused on the questions put to them. It was also necessary to be good at questioning, probing, and moulding the flow of conversations at an appropriate level (Riemer, 2008: 208). This in turn has created a means to obtain reliable information, but it is difficult to be sure that all information sought was given without reservation by the informants. The informants might keep some “secret” information “back-regions” (Berrman 1972: 138). In addition to interviews a focus group discussion was conducted to sort out any conflicting ideas, uncover differences in understanding the Gadaa system, to cross check their statements and to know that whether some veiled facts exist in the presence of others and could be

¹²Moreover it has been addressed in the analysis part (chapter seven) of this thesis that one of the draw backs of the Gadaa political system was exclusion of women from political sphere.

uncovered in their absence. I came across a fact the informants did withhold. That was, while we were conducting focus group discussion with four elders from the Guji society, a son of ex- Abbaa Gadaa (ex-president of Guji-Oromo) interfered and asked, “isn’t it that only from limited clans that Abbaa Gadaa was elected?” The response was positive but there had been no suffice answer to the question why Gadaa leaders had to be elected only from the limited clans of Guji-Oromo. Consequently I learned that they did not reveal this fact before but they did explain after questioned by an insider. Among the Borana-Oromo, however, Gadaa councillors are elected representatives from all Borana clans across the Boran (this aspect is discussed in detail in Chapter four and five of this paper).

The informants were good enough in making generalizations, describing their customary laws and elaborating the socio-political structure of the Gadaa System. However, they were reserved in giving full accounts of their rules and practices. For instance when I asked if the rules of particular sanctions and procedures needed to be followed in convicting an offender, they normally answered in broad rather than specific terms. However they were perfect at articulating Gadaa political-legal systems. Since I had interest in knowing the political-legal functions of the Gadaa System and all the questions were after the powers and functions of legal actors such as: the Abaa Gadaa (president), *Hayyu* (Gadaa councillors) and Gadaa institutions such as: *adula* (Gadaa Council), *gumigaayo* (Gadaa General Assembly) and religious institution (Qallu). These are of course at the heart of constitutional principles that Gadaa System is found on and operates under.

1.2.3 Fieldwork and Its Limitations

It is necessary to share one’s experiences and challenges encountered in the field though researchers “have all too rarely made explicit the methods by which the information gathered and their descriptive analytical works was derived” (Berrman 2007: 137). In the same token Asmarom also states that anthropologists often reduce the description of their field experiences to a few peripheral comments hedged as apologies to the reader for burdening him or her with personal comments. In so doing, they deprive the reader of important data on which he or she could base his evaluation (Asmarom 1973: 235, 236). It is therefore reasonable to give a summary, if not detail, of the field work experiences.

Fieldwork can be considered as a lab where one can test a hypothesis and approve or reject the hypothesis on its relevancy. In this regard Frances Julia Riemer summarizes

that “the field may be a classroom, a school, a literacy group, or any other place where learning or teaching takes place” (Riemer 2008: 204-205). It is worthy to note that the main aim of a researcher, an especially ethnographer, has to revolve around cultural interpretation irrespective of difference in subject matter of a study. Riemer reiterates precisely that where ethnography is essentially the study of a particular cultural group or phenomenon fieldwork is a fundamental part of that study, which involves documenting people’s beliefs and practices from the people’s own perspectives (ibid). Accordingly, the fieldwork did create an opportunity to take into account people’s beliefs and views; through credible informants (elders and Gadaa practitioners) potential information was gathered.

It is perhaps obvious that things in the field would not go as one plans. Given the range of activities, routine work inherent in collecting data and the acute shortage of time in the fieldwork made the work tough. However, an effort has been made to overcome all technical hurdles and come up with valuable information that fits the objectives of the research questions. Accordingly after arrival at Yabello, the zonal town of Borana in the southern part of Ethiopia, I began to search for an assistant that could lead me to potential informants. The technique used to find proper field assistants was effective since I went through the Borana Zone Culture and Tourism office. Fortunately I found two young anthropologists (government employees) who were working with the local people on culture and tourism. They also had a passion in the area of the study I was looking for and as a result their assistance was not only technical but also professional. Both humbly accepting the offer, they arranged the time and place of interviews and focus group discussions to be held with informants who had knowledge of Gadaa System. Accordingly, I could conduct interviews and a focus group discussion as scheduled, between July and August, 2011.

Reliance on field assistants was necessary for the following reasons: first and foremost they know about the informants including their capacity to narrate facts I was about to collect and assess. Second, they are resources to be used for they are office holders who were responsible for the promotion of the traditions of the people. Therefore they were expertise in the field. Third, to increase the confidence of the informants and to get reliable information it was important to use people who they were comfortable with. Above all it saved time of searching for informants in addition to easing the process of

negotiation¹³ with the informants.¹⁴

1.2.4 Challenges of Balancing *Emic* and *Etic*¹⁵

The study of a culture of a particular community embodies the interpretation and analysis of that culture from an insider perspective and/or from outsider angle. Hence a researcher must take painstaking survey and interpret a culture from the insider's view of social reality commonly called the "emic". However the question is whether it is possible to grasp fully a culture through third party's eyes. Undeniably, the answer is negative "because seeing is always filtered through our own ideas, capturing the insider's perspective is neither straightforward nor easy. We bring our cultural selves with us wherever we go, and even with the best of intentions, an ethnographer can never see life completely through another person's eyes" (Riemer 2008: 204-205). In contrast, an "etic" approach alone is not enough especially when an audience is an outsider and to clarifying a culture under study to persons outside a community. In this respect David Fetterman notes that "an etic perspective is the external, social scientific perspective on reality" (Fetterman 1989 cited in Riemer 2008: 205). Therefore, an etic or consideration of the outsider's position is fundamental to a research not only to include insiders' meanings, but also to translate them into concepts comprehensible to individuals outside the society (Riemer 2008: 205). Consequently, balancing the world view of the Borana-Oromo society's culture, against synthesizing their practices to make it intelligible to outsiders is on the shoulder of mine.

To put it differently, this research is descriptive in essence as some anthropologists also claim that "ethnography always is descriptive", (Margaret LeCompte et. el. 1993: 39 as cited in Riemer 2008: 205). However, this project is not limited to descriptive works

¹³As a result the informants, in the process, turned out to be a good mentor and treated as one of their sons. Linda Tuhiwai Smith even provides in this regard that "some indigenous students have had to travel back and forth during the course of years to gain trust of an individual elder, and have been surprised that without realizing it they gained all the things they were seeking much more insight, and that in the process they gained grand parent or a friend" (Linda Tuhiwai Smith 1999).

¹⁴Broadly speaking networking with the gate keepers and interpreters/field assistants may warrant access to informants. In indigenous research gate keepers of certain community needs to be ascertained and approached accordingly. Most importantly it is critical to know who agents are or guardian of such a community ("behind the masks") needs to be approached and know how to approach elders or indigenous institutions, and could be trusted (Berrman 1972: 137-139..

¹⁵Where *etic* is derived from the word "phonetic", *emic* is from the word "phonemic" basically both "designate two contrasting levels of data or methods of analysis. An *emic* model is one which explains the ideology or behaviour of members of a culture according to indigenous definitions. An *etic* model is one which is based on criteria from outside a particular culture. *Etic* models are held to be universal; *emic* models are culture-specific" (Barnard 2002: 180).

rather it extends to interpretation and analysis of facts. The descriptive part “facilitates on-the-spot and holistic analysis of causes and processes and precludes precise control of so-called extraneous factors” (Riemer 2008: 205). Where as, the analysis part tries to links the local knowledge of governance to legal and political discourses for the purpose of “[...] enlargement of the universe of human discourse” (Geertz 1973: 14).

1.2.5 Organisation of the Paper

This thesis is organised into seven chapters; *Chapter one* provides the background of the study and it introduces the objectives and significance of the research. *Chapter two* deals with the theoretical background of indigenous knowledge of governance; and it covers the pros and cons arguments concerning the relevance of traditional institutions of governance to modern political systems. *Chapter three* mainly discusses the modern politico-legal history of Ethiopia and it introduces the social structure of the Borana-Oromo people of south Ethiopia. *Chapter four* introduces the Gadaa System’s socio-political constitution; age and generation based social stratification and the features of each Gadaa grades and Gadaa institutions. *Chapter five*, and the remaining two chapters are the analysis of the topic. While chapter five mainly deals with institutional analysis, i.e. Gadaa political institutions versus the incumbent Ethiopian government bodies, *chapter six* covers the analysis of fundamental constitutional principles, i.e. the Gadaa constitution versus the Federal and regional constitutions. *Chapter seven* wraps up these two analyses (chapter five and six) under the concepts of federalism and legal pluralism. Hence, this chapter attempts to answer the research questions and attempts to offer the ways the Gadaa System can be utilised in the twenty-first century. Following that, concluding remarks are also provided at the end of this paper.

Conclusion In this chapter I have tried to discern two main areas, namely: contextualizing research themes and discussing research methods deployed to collect and interpret data. The first section introduced the historical background that necessitated the foundation of the Ethiopian empire consisting of multi-ethnic societies. The second section provides the research questions, objectives and significance of the study, research methodology and approaches used to collect data and to interpret it.

As an introduction chapter, laying foundation for the research, I have attempted to pose and answer questions such as: *what* is the problem, *why* this research is necessary, *how* the research is conducted and *who* are the beneficiaries. In particular, the background

of the research problem provided under this chapter attempted to show what the base of the problem is by citing two critical points: conquest and whole sale legal transplantation has resulted in relegation of indigenous institutions of governance. Under the objective and significance questions it has shown why it is necessary to study the issue. Obviously, studying indigenous knowledge of governance is, principally, for the benefit of indigenous peoples—that their culture will continue to develop as a distinct knowledge of governance. Particularly research conducted on and by indigenous researchers, will benefit the owners thereof.

Consequently it is clearly shown that the background of the research supplements questions of Ethiopia’s modern legal systems’ compatibility with traditional legal systems and as such this chapter lays the foundation for further discussion. To further contextualise and unearth the research question(s), the theoretical background that is appropriate to the subject matter of the study, namely Indigenous Knowledge of Governance (IKG), is dealt with in the second chapter of this paper.

Chapter 2

Theoretical Background of the Study

2.1 Introduction

Since the European (in some countries dominant societies)¹ encountered with the indigenous peoples in the 15th century the asymmetrical power relation between the two started to take root. The encounter had far reaching consequences: their traditional land rights were hijacked; cultural values down graded and their traditional institutions undermined. It is against the historic tragedy (where their land was considered owner-less, their culture considered as uncivilised and their beliefs regarded as superstitious) that Indigenous peoples' movement did take place across the world. Hence the movement had just cause and valid reason as opposed to "imagined community" (to quote Anderson, Benedict) and as opposed to what Kuper, A. who regards it as racist movement (Anderson 1991; Kuper 2003).

Having said so, one of the claims of indigeneity relies on cultural distinctiveness and its revitalisation. Hence, indigeneity/distinctiveness (one category- "us") of the world have much more commonness than with non-indigenous peoples (another category- "them"). Moreover, people are named after their cultural and social traits at the world stage. This binary operation plays a vital role in reducing complex and dynamic concepts into gen-

¹Indigeneity need not only be construed in a relation to white settlers dominance; rather it needs to be considered broadly in a sense that the domination of Indigenous peoples by mainstream societies may also justify the claim of indigeneity and the rights attached to it. This issue is discussed under separate section (the concept of indigeneity in Africa).

erally understandable form.² Accordingly, this chapter, discerns one of the traits that mark the identity of indigenous peoples, namely indigenous knowledge of governance as distinct political culture. In a relation to this, some concepts seemingly straightforward but complicated pragmatically are dealt with in three separate sections: the first section deals with the concept of “Indigenous people” and “Indigenous Knowledge” (IK); the second section discerns the relevance of indigenous governance and the last section discusses indigeneity and indigenous knowledge of governance from the angle of contemporary African state’s experiences in general and the case Ethiopia in particular.

2.1.1 Indigenous Peoples and Indigenous Knowledge: General Overview

2.1.1.1 Indigenous Peoples: Definition and Concepts

Since the end of 1960s, i.e., when indigenous peoples’ domestic and international movement had began, the concept of indigenous peoples, its definition and the rights attributable to indigenous peoples has been controversial. Attempts to define and characterise what “indigenous peoples” mean and the criteria to consider people as “indigenous” or “Non-indigenous” was also fiercely debated among the politicians and the academia. The debate was furthered by the late introduction of the definition of the concept of indigeneity into international documents.

One of the most notorious criticisms was embarked by Adam Kuper in his article titled “The Return of the Native” (2003). For Kuper Indigenous peoples’ movement meant no less than a racist movement. He utterly dismisses the cause of indigenous peoples and he considers it as if it is to privilege specific groups at the expense of the others on the ground of ancestry or aboriginality; whereas immigrants are simply guests and should behave accordingly (Kuper 2003: 390). In contrast, pro-indigenous peoples’ rights present the movement from the perspective of asymmetrical colonial power relationships between colonizers and indigenous peoples (Minde 2008; Kenrick & Lewis 2004). These competing views had an effect of polarizing the relation between indigenous peoples and nation states and further complicated the recognition of indigenous peoples.

In addition, the issue of indigeneity is also mixed-up with the concept of minority rights. Demarcating lines between national minorities and indigenous peoples was difficult in the

²Indigeneity and distinctiveness are the two inextricably linked concepts. Broadly speaking it is common to be distinct and to be recognised as such. However, as far as cultural contact is inevitable it is difficult to conclude that cultural distinctiveness of a certain group is always at complete odd with other group(s) culture.

process of defining indigeneity. Indigenous peoples distinctiveness from “national minorities” and “stateless nations” was controversial and challenged by liberal multiculturalists including Kymlicka, emphasizing that “the situation and aspirations of indigenous peoples are in most respects similar³ to that of national minorities” (Kymlicka 1995, 2001). Obviously, both share some common elements (for example, both may be marginalised groups in a certain state) but that does not mean that both are one and the same. For instance, James Tully and Jarle Weigård, argue that the cases of indigenous peoples are in some ways different from the matters of national minorities. Although it is not easy to draw the contours of similarities and differences between these two dichotomies, it is not impossible to differentiate both. For instance, indigenous peoples’ claim differs from minorities rights on historical ground. Indigenous peoples were regarded as subjects than peoples. They were considered by their colonisers as wanderers, their lands as ownerless and uncultivated (which signify land with no people) and later labelled as *terra nullius* and *Doctrine of discovery*, a theory developed, to justify occupation and to defend moral claims appealing from indigenous communities.

Apart from historical difference, indigenous peoples do not require a system that protects a cultural structure detached from its norms and values like national minorities. Instead they need a defence of their their traditional values to be recognised constitutionally as as distinct from western value system and provided with the power to protect values in a separate statement of human rights (Christine Sanford 1996). Furthermore, indigenous peoples have just cause to rely on.

In addition to the conceptual debate, defining the term “Indigenous peoples” was also not without contention. The most cited description of the concept of “indigenous peoples” is the work of Martínéz Cobo Report to the UN Sub-Commission on the Prevention of Discrimination of Minorities (1986) which reads:

379. Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that

³Kymlicka recognises explicitly two categories of minorities: National minorities (e.g. European white settlers) and ethnic group (e.g. immigrants) and he argues that national minorities’ cases are similar to indigenous peoples causes, (in western countries), however, he neither clearly demarcate the difference between national minorities and indigenous peoples nor he explicitly put indigenous peoples in the national minorities category. National minorities and indigenous peoples points of divergence may include: cultural distinctiveness; power and numerical inferiority; and marginalised and “indigenous rights” protection seekers. Obtainable rights by respective groups may be classified as: where national minorities’ claims are pro individualism and positive (welcoming state interference), indigenous peoples are pro collectivism and negative (defending state interference). Moreover, unlike national minorities, indigenous peoples seek self-determination as historic sovereignty redemption and protection of their traditional land.

developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or part of them. They form at present non-dominant sector of society and are determined to preserve, develop and transmit to future generations their ancestral territories and their ethnic identity as the bases of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.

381. On an individual basis, an indigenous person is one who belongs to these indigenous populations through self-identification as indigenous (group consciousness) and is recognised and accepted by these populations as one of its members (accepted by the group).⁴

This definition attempts to comprehend some distinguishing elements to be recognised as indigenous. In addition to Cobo Report, the ILO. Convention 169⁵ is one of the great achievements of indigenous peoples. The definition provided in the Convention has much resemblance to the Cobo report that both embraces four core elements: self-identification and self-recognition, autochthons (originality or early occupation), in-migration or colonisation by a different cultural group which created tension over resources access and issues of autonomy and sovereignty, and self-determination to preserve and pass their tradition to next generation.

However, beyond its importance such definitions has the danger of being abused by nation states. Besides the Convention have the following limitations. First and foremost it characterise indigenous peoples as “peoples or tribal peoples” as opposed to “Indigenous peoples.” Although the phrase “peoples or tribal peoples” was introduced expressly in the Convention, it was qualified in a sense that that it shall not refer to any implication

⁴UN Doc. E/CN.4/Sub.2/1986/7 UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, a study by UN (Commonly known as Cobo Report, by Jose R. Martinez Cobo, the Special Reporter ton UN on indigenous peoples issues. The study was launched in 1972 and was completed in 1986, thus making it the most voluminous study of its kind, based on 37 monographs.)

⁵The concept of indigeneity is also provided under Article 1 of ILO. Convention 169 (herein after the Convention): a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. 2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply. 3. The use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law (ILO Convention 169).

such as right to self-determination and eventually it curtailed the traditional implication of the term “peoples” (Art. 3 of ILO Convention 169).

Therefore, it is after realising the challenge of defining indigeneity that UNDRIPs was adopted without definition clause. UNDRIPs addresses effectively the distinctive existence of indigenous peoples, their cultural and land rights without muddling into defining the concept. However, the main downside of UNDRIPs’ is that it is merely a declaration with no legally binding force (UNDRIPs 2007). Despite this fact, indigenous peoples’ distinctiveness and their claims have brought a considerable change at global stage and recent developments in some countries also indicate that the adoption and implementations of international covenants by nation states is progressing.⁶

2.1.1.2 Indigeneity in Africa

It is neither the purpose nor the scope of this thesis to detail on the question of indigeneity in Africa or in Ethiopia. However, in order to link the concept of indigeneity to indigenous knowledge and to connect indigenous knowledge to indigenous governance in Africa, it is necessary to highlight the approaches indigeneity in Africa may be addressed in general which *mutatis mutandis* applies to Ethiopia.

Broadly speaking, the rise of indigenous peoples’ civil rights movement in Africa is closely tied to the United Nations’ efforts to raise global awareness around the issue and the opening up of public forums for peoples to share their stories (Crawhall 2006). Inevitably, issues debated as to the conception and definition of indigeneity at global level also recurs in case of Africa. The term “Indigenous” may appear strange in African context, yet it emerged as an important rallying point for highly marginalised indigenous communities⁷ (ibid 2006). At the same time contrary arguments such as: who is not indigenous in Africa, categorizing peoples as indigenous and non-indigenous would trigger conflict between ethnic groups, and recognising as marginalised minorities instead of indigeneity (ibid 2006). These are the main arguments against recognition of indigenous peoples in Africa. In the I have attempted to recap additional issues related to indigeneity in Africa as follows:

⁶Especially nation states adopted the ILO Convention 169. (See for example Norway- the leading country on indigenous issues and the roles of Sámi people of Norway have taken substantial change both nationally and internationally towards the adoption of international instruments and its implementation.

⁷It is still unresloved issue whether “Indigenous peoples” is useful as a policy concept. For instance most African ethnic groups that are defining themselves as indigenous are living by hunting, gathering or by nomadic modes. Their mobilisation is a direct response to the threats posed to the natural resources which have sustained them up until now (Crawhall 2006).

First and foremost it is misleading to conceive indigeneity only in a relation to European settlers and domination alone, especially when it comes to Africa and Asia. Indigenous peoples in Africa are victims of conceptual definitions espoused by non-African, and perhaps non-indigenous, experts (Barume 2000). In this regard Kingsbury argue that though the claims of indigenous peoples are similar across the continent, the characterisation of the concept indigenous peoples and their rights thereof would considerably vary based on their historical background and socio-cultural constitutions (Kingsbury 1998: 414 – 457). In other words, indigeneity is not an absolute state of being, rather it is a political claim that takes place in the context of perceived marginalisation and vulnerability (Crawhall 2006). Hence it is a relative concept that should be perceived case-by-case. In that sense it is defective to define indigeneity only based on the Blue Water Theory (i.e. conquest by Europeans who crossed the sea and conquered the “New Worlds”). To the contrary, the Sámi people’s case (e.g. Sámi people of Norway), disproves the Blue Water Thesis since the subjugation of the Sámi people was internal than external by the mainstream societies. Despite the source of subjugation they are recognised as indigenous peoples and successfully established the Sámi Parliament (Saugestad, 2001b).

Second, giving greater attention to definition⁸ at the detriment of realities on the ground obscures the cause of indigenous peoples in Africa. To bridge the conception of indigeneity in the West and in Africa the historic experiences indigenous peoples of Africa have had can be seen vis á vis indigenous peoples in western countries. For instance, the Aborigines of Australia and indigenous peoples of Africa were regarded by the colonisers as “uncivilised”/“savage other” and their lands were considered as ownerless (*terranullius*). The difference between the two is that while the settlers’ dominance in Australia still persists, in case of Africa, however, the colonisers have withdrawn. For instance African politicians would argue, the fact that white colonialists withdrew following decolonization meant all African peoples are indigenous or that the concept “indigenous” itself is not applicable to Africa at all (Saugestad, 2001a). Such conclusion would arise from misunderstanding of the history and the realities of indigenous peoples of Africa. Of course Europe withdrew politically from Africa, granting independence to African administrations and liberation movements. That is, the new African elite consisted of those with the capacity to run the ‘new states’ (Crawhall 2006).

⁸Ofcourse policy-makers, judicial bodies and governmental and non-governmental development agencies do require a distinguishing marks to differentiate the cause of indigenous peoples from minorities issues. Hence, definition might be important in the sense that certain benefits or rights are to follow the definition and it is quite possible without getting lost in the definition issue.

Third, the historic-process of African states formation shall be considered. That is, all African states are created by colonial powers or with the help of European powers and the current African states inherited the *status quo*. In this respect, Makere Stewart-Harawira argues that the new African states established their authority over indigenous peoples within the frontiers created by former colonial powers (Stewart-Harawira 2005: 107). Furthermore, political leaders came from those peoples with closest relationship⁹ to Europeans (for example, emperor Hailesillassie I and emperor Menelike II of Ethiopia who trace their origin and authority back to Solomonic dynasty), namely the agricultural peoples who had been brought into European mode of capitalist (feudal) system (Crawhall 2006). Furthermore, what African states inherited was not only multi-ethnic empires demarcated by Europeans but also the Western legal system and legal institutions, as opposed to African traditional institutions and customary laws. The bottom line is that the subjugation of African indigenous peoples and their political institutions have continued up to present. Stewart-Harawira contends that “in the newly created states, indigenous peoples’ traditional cognitive and social patterns, modes of governance and ontological world views were identified as obstacles to development and at odds with those of an economically based society” (2005: 108).

Fourth, as per ACHPRs and international mechanisms dealing with indigenous peoples’ rights, indigenous peoples in Africa are generally understood as nomadic and semi-nomadic, pastoralists and hunter-gatherers marginalized and discriminated peoples (ACWGEIPC 2005: 87 and 89). It goes also that “their cultures and ways of life differ considerably from the dominant society and their cultures are under threat, in some cases to the extent of extinction. A key characteristic for most of them is that the survival of their particular way of life depends on access and rights to their traditional land and the natural resources thereon” (ibid). However, this way of characterisation is defective in a sense that it is relatively temporary. That is where the means of livelihood of the people changes the question remains whether indigeneity will no more exist or not. Moreover, such characterisation excludes the majority of the people who have already changed their means of livelihood but inherently indigenous people.

The concept and the concern of African indigenous peoples has not been taken seriously by African states. Until recently,¹⁰ the participation of African states and African in-

⁹Most governments in sub-Saharan Africa were run by one ethnic group or a small cluster of agricultural ethnic groups. Due to this fact, it is common to see conflict between elite who need to extract labour and wealth from the economy, and millions of Africans living in subsistence economies that did not guarantee surplus and had their own systems of governance, unrelated to the state in most respects (Crawhall 2006).

¹⁰In 1990s, no African states did recognise indigenous Peoples rights. However, later several central African

indigenous peoples in international indigenous peoples' movement was almost non-existent. For instance, unlike the contentious debate¹¹ in the process of adoption of international treaties such as UNDRIPs among nations (for example: Canada, USA, Australia (Matiyas 2007: 83-85; Minde 2008)) ACHPR welcomes UNDRIPs declaring its importance to enhance rights of indigenous peoples in Africa. In this respect African states are passive recipients of international instruments concerning indigenous peoples. Given the African indigenous people's voicelessness and given the fact that African states are not serious enough to be on the side of indigenous peoples' claims; the adoption UNDRIPs can neither increase the moral responsibility of the state agents towards disadvantageous indigenous peoples nor it has legal force on them. However, regional organisations such as: indigenous peoples of Africa Coordinating Committee's (IPACC) role advocating the interest and arguing in favour of indigenous peoples of Africa can not be underestimated.¹² For instance, IPACC put before UN Permanent Forum on indigenous Issues (UNPFII) that three points needs to be considered when comes to indigeneity in Africa: partnership, participation and pluralism (Crawhall 2006). This position was mainly based on indigenous peoples' claim that that democracy has to be more inclusive, tolerant of diversity and participatory (Crawhall 2006).

countries (Republic of Congo, Brundi) recognize the existence of indigenous peoples in their countries. By the end of 2006 countries such as: South Africa, Gabon, Kenya, Cameroon, Burundi and Namibia are also gradually opening up. However, widespread lack of recognition persists in all other parts of Africa including Ethiopia.

¹¹For instance, where UNDRIPs was much debated specially on indigenous peoples land rights, self-determination and cultural rights. As to cultural rights, however, states are less serious and accept, at least, rhetorically but they seriously argue against indigenous peoples' land rights and right to self-determination, which almost took quarter of a century to adopt it. However, for African states it is not a challenge not because it does not concern them but because of the fact that indigenous peoples in Africa are not organised and did not challenge their respective states for their cause as in the case of developed countries for reasons such as: lack of capacity coupled with prolonged marginalisation kept them away from political and legal discourse.

¹²IPACC in 1997, the African caucus at the UNWGIP, adopted a constitution to create legally constituted continental coordination and advocacy body. By 2003, African commission on Human and Peoples' Rights adopted a policy statement recognising that there are the are indigenous peoples in Africa who are vulnerable to systematic and collective human rights' abuse. Moreover, African Commission also reiterates that there are indigenous peoples in Africa, and that they can be recognised as collectives within the African legal tradition. (African Commission 2005).

2.2 Indigenous Governance; Conceptual and Theoretical Overview

2.2.1 Indigenous Knowledge: Conceptual Frameworks

Since 1980s several scholars and international institutions such as World Bank have characterised indigenous knowledge as significant resources for sustainable development (for example, Watson 2003; Agrawal 1995; Gauri 2009). However, a few scholars have considered the importance of indigenous knowledge of governance in enhancing public participation, good governance and constitute pluralistic society (Bahru 2006; Warren D. M. 1991). As currently conceived, the term indigenous knowledge is interchangeably used with terms like local knowledge and/or traditional knowledge.¹³

When it comes to the definition of Indigenous Knowledge (IK) there is no unanimously attributed definition to the phrase. However, there are attempts made by different scholars to define it. For instance IK may be characterised as: “the information base for a society, which facilitates communication and decision making” (Flavier J.M. et el. 1995). Whereas Warren, D., M., et el. characterises it as “local knowledge that is unique to a given culture or society. [...] It is the basis of local-level decision-making in agriculture, health care, passed down from generation to generation by words of mouth” (Warren et el. 1987: 1). Thus, IK may be conceived as knowledge found on bonds between local communities and its knowledge. It is also described as cost effective and participatory, scattered but connected to rural life and passed down orally from generation to generations (ibid).

In addition, some proponents of IK do contrast it with scientific knowledge. The proponents approach it as a separate knowledge methodologically, epistemologically and technically. From methodological perspective for instance:

An important difference between science and IK lies in the way in which phenomena are observed and ordered. The scientific mode of thought is characterised by a greater ability to break down data presented to the senses and to reassemble it in different ways. The mode of indigenous technical knowledge (ITK), on the other hand, is concrete and relies almost exclusively on intuition and evidence directly available to senses. [...] Science is an open

¹³As opposed to individual knowledge, indigenous knowledge presupposes collective knowledge, common knowledge of the people about means of subsistence, conflict resolution, leadership and others. Hence it could be regarded as a common resource. Among others, knowledge of governance is the prominent one.

system whose adherents are always aware of the possibility of alternative perspectives to those adopted to a particular point of time. ITK, on the other hand, as a closed system, is characterised by lack of awareness that there may be other ways of regarding the world (Howes and Chambers 1980, cited in Agrawal 1995: 417 citing).

This approach is defective since it holds the view that scientific knowledge, “consistently carries with it the possibility of “revolutionary change” in which one paradigm would be destroyed by another” (Agrawal 1995). Moreover, compartmentalisation of knowledge as scientific/western/modern on one hand and traditional/local/indigenous on the other hand does not take us far. The simple reason is the fact that separating and fixing them based on time and space, as independent and unchanging would be denial to the social process and historical sequences of change (ibid: 422). To quote Levi-Strauss, “contact and exchange among different cultures [...] was fact of life from as early as thousands of years ago” (Levi-Strauss 1955, cited in Agrawal, 1995: 253-260).

To dismantle the gap between the two, on one hand, the basic inherent differences between both knowledge systems, at least on short term basis, needs to be accepted (it is defective to minimize their grand differences to the extent that there is no separate knowledge exist between them). On the other hand, capitalising on the basic differences to the extent that both had no contact and will continue to be distinct knowledge does not take far the proponents of the view. Hence, in order to engage traditional knowledge particularly in the area of governance it is vital to go beyond the traditional versus modern governance dichotomy. Instead, contributions both have in the political and legal development should be considered.

On epistemological basis, the concept of IK is described as an analytical tool that can be used by different scholars in different perspectives or disciplines. Warren, D. M., J. and et. el. States in this regard that:

Ten years ago, most of the academics working in the area of indigenous knowledge represented anthropology, development, and geography. Today, [...] important contributions are also being made in the fields of ecology, social science, veterinary medicine, forestry, human health, aquatic science, management, botany, zoology, agronomy, agricultural economics, rural sociology, mathematics, [...] fisheries, range management, information science, wild life management, and water resource management (Warren et al. 1993: 2).

Agrawal Arun concludes in this respect that “indigenous knowledge forms capstone of several convergent trends in social science thinking and development of administration practice” (Agrawal 1995: 415). Therefore, it is appropriate to consider traditional system of governance from politico-legal and institutional perspectives; i.e. as one of the species under the wide family of IK.

2.2.2 Conceptual and Theoretical Underpinning of Indigenous System of Governance

The phrase Indigenous Knowledge of Governance (IKG) is the derivative and extensive family of indigenous knowledge and it will be used interchangeably with traditional leadership also. Hence, IKG for the purpose of this research represents an indigenous political system of governance that passed from generation to generation and functions distinctively parallel to the modern political institutions. Moreover, the concept of governance follows the definition provided by UNDP as “the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences” (UNDP 1997: 17). Therefore, by analogy, IKG can be regarded as a system that possess traditional institutions designed for socio-political and economic purposes. In particular, the subject matter of the study, the Gadaa System, fits in to the concept of IKG in a sense that, it embraces governance values and political institutions that allow the people to enact laws, interpret and implement it for the best interest (social, political or cultural) of the society.

In a relation to the importance of IKG there are two contradicting schools of thoughts. They are: the neo-traditional and neo-liberal schools of thoughts. While the neo-traditionalists advocate for the cultural relativism and the accommodation of cultural values into modern political system; the neo-liberalists advocate for individual rights protection by side-lining the collective claims. The latter base their arguments on universal principles at the expense local realities. Under the following sub-sections these two arguments are dealt with.

2.2.3 The School of Organic Democracy: Neo-Traditionalist Positions

In positioning indigenous system of governance in modern political systems neo traditionalists are committed to pull the peripheral social organisations of indigenous peoples

to the centre (for example Sklar 1999; Bentley 2005; Sithole and Mbele 2008; Kidane 2003). This school of thought holds the theory of “organic democracy” construing that traditional leadership has unique features and capacity to build democracy from bellow (Sithole and Mbele 2008: 10).

Precisely, this school do not consider traditional institutions of governance as threat to democracy or human rights but as compatible, in principle, with modern/scientific mode of governance. Moreover, they consider it as a legitimate organs and valid mode of governance and it facilitates for consensual democracy (ibid). Thus, they see traditional system of governance as a system of governance that fulfils different needs towards the people who understand and abide by the rules beyond the rhetoric multi-party democracy neo-liberalists advocate for.

In support their claim, they give accounts of the traditional conflict resolution mechanisms, chieftaincies and traditional councils’ activities in administration of public affairs especially during emergency and the role of traditional leaders in protecting the welfare of a community. Moreover, this school considers that traditional governance is linked to the life and the spirit of the people; as it is woven to socio-cultural traits, and tools of communication by which they conduct their daily business. As such, they conceive traditional governance “as a means of manifestation of destitution for proper governance” (ibid).

The school of organic democracy may be considered as a conservative or cultural relativism (ibid). To understand the causes of this school it is necessary to consider the premises the proponents of indigenous system of governance relies on:

First and foremost, traditional institutions of governance are indigenous or native to the land and to the people. Hence, it enabled the people to live in harmony long before the birth of modern African states and before introduction of multi-party political system¹⁴ (ibid). Accordingly, traditional leadership had served as a “custodians of ancestral and community land; the custodians of culture, customary laws and traditions including history; the initiators and champions of development activities in their respective areas of jurisdiction; and their role in the maintenance of law and order including presiding over and settling non-criminal civil disputes” (ECA 2007:19).

Secondly, they underscore the fact that indigenous governance has unique attributes of

¹⁴They rely on colonial history and before the contact with European powers; indigenous peoples of Africa had their own system of governance and kingdoms which are currently under threat to the extent of extinction even in almost all parts of Africa. However, some African states had taken drastic changes to wards indigenous governance. For instance, South Africa and Botswana have recognised traditional leadership and their values.

leadership that fulfils specific social needs of a community unlike modern political institutions. Besides, people also value different qualities in the leadership. In this line, the values traditional leadership has both socially and culturally makes it vital to supplement the inadequacies and inefficiency of local government for which nowadays local administration choose to rely on traditional leaders to reach the local people.¹⁵ Therefore, traditional leaders owe “pragmatic social responsibilities towards their citizens with the notion of identity and social responsibilities” (ibid: 12).

Thirdly, they reiterate that traditional governance is based on the custom and practice of the people since the time immemorial and case-by-case governance which in effect necessitated the regulation of human behaviour and rendition of justice based on moral values and customary laws than hypothetical laws enacted by a parliament. Moreover, this school asserts that traditional governance is kin to consensual (deliberative) democracy¹⁶ where people actually determine who will hold power as opposed to the rule/decision by single (elected) politician (Koelble T. 2005: 14-15). In deliberative democracy, therefore, minority rights are not vetoed by majority instead they are accommodated.

Fourthly, they sum their arguments that African communities are “communitarian”¹⁷ than “individual.”¹⁸ The society that have numerous trait of commonness and built on inherent-collective interest shall be promoted on their own values instead of introduce alien values (individualism) to the local communities. Furthermore, the failure of parliamentary democracy in Africa has forced a fresh look at traditional or pre colonial systems of governance. It is argued that for the continent to emerge out of the vicious cycle of military dictatorship and corrupt civilian regimes it has to re-examine its traditional political systems (Bahru 2006).

Fifthly, traditional institutions of governance are holistic as opposed to the modern

¹⁵In places where state authority is weak or distant, people tend to prefer local-level legal institutions over official channels; and use them to address most day-to-day conflicts such as: disputes related to land, inheritance, domestic and family issues.

¹⁶Nelson Mandela also contends: “Democracy meant that all men were to be heard, and a decision was taken together as a people. Majority rule was a foreign notion. A minority was not to be crushed by a majority. Only at the end of the meeting, as the sun was setting, would the regent speak. His purpose was to sum up what had been said and form some consensus among the diverse opinions. Nevertheless, no conclusion was forced on people who disagreed. If no agreement could be reached, another meeting would be held” (Mandela 1994: 610).

¹⁷Communitarianism is a social philosophy that maintains that society should articulate what is good—that such articulations are both needed and legitimate. . . . is often contrasted with classical liberalism. Communitarians examine the ways shared conceptions of the good (values) are formed, transmitted, justified, and enforced (Karen (Christensen and David Levinson 2003: 224-228).

¹⁸Individualism is often seen as a problem in what it presupposes a false social ontology, by rationally atomizing society and dissolving a social bonds. What liberals do claim is that no constitutive attachment, either to state, nation, family or cultural group, must trump the claims of individuals and their basic rights.

political system. That is, it encompasses not only politico-legal affairs of the local people but also ritual and cultural ceremonies, ecology and nature conservation systems, world-views accompanied by myths. This is one of the fundamental features of traditional institutions of governance as opposed to modern political systems. Hence, they contend that one has to consider how far the people's life and institutions are interconnected.

2.2.4 Neo-Liberal Approach: Democratic Pragmatism

The opponents of the school of organic democracy (i.e. neo-liberalists) firmly argue against the proponents of traditional governance claiming that they are inherently defective and they cast doubts as to their compatibility with democratic values and fundamental human rights principles (for example, Mamdani 1996; Ntsebeza 2005; 2001). Moreover, the neo-liberalists (pro-state active involvement) advocates for prioritisation of individual rights in a sense that letting individuals to choose any institutions' of his/her own plays a crucial role in democratisation process. Besides, the proponents of this school ground their arguments on the following themes:

First and foremost, this school argue that the principles of democracy demand state nations that “ensures access to democracy as a commodity to which all humans are entitled.” (Koelble, 2005: 30.) In addition, they hold the view that the infiltration of democratic values through globalisation and economic integration is inevitable and so that the local (modern) institutions will sooner or later replace undemocratic institutions such as the traditional system of governance (ibid). Therefore, they clearly argue that it would be futile for a government to continue to support traditional political system.¹⁹

Secondly, the proponents of neo-liberalists presuppose that “rural citizens under traditional authorities are not true citizens” (Mahmood Mamdani 1996: 30). This argument holds that rural people are subjects of undemocratic authorities that do not have system of accountability to the people. However, this argument emerges from the kinship based traditional leadership where traditional leaders do not “give everyone a chance to be elected and the system do not appear to have systems for recourse against unfair exercise of power” (ibid). Moreover, this argument is also relies on the gender inequality where the traditional political system favours male generation. Therefore, since tradi-

¹⁹Basically such argument goes against the traditional leadership abused by colonizers (for example: chieftaincy in South Africa) and of course it does concern not all modes of African traditional leadership. As we will discuss and analyse the mechanism through which traditional governance under Gadaa system are held accountable in separate chapters (chapter four and five); arguments of neo-liberalists will be shown as their points, in this respect, can not be the reflection of all types of traditional governance.

tional system excludes women from political right indiscriminately, in effect, it denies their citizenship rights and detrimental to women's right to equality.²⁰

Thirdly, in decentralised form of traditional leadership, the assemblies and councils gather for long period of time to dispose socio-political and other issue which are labour and time intensive. Moreover, direct participation of local people in decision-making would not be possible in broader context, especially in current world, where indirect democracy is efficient and cost effective. Thus they argue that deliberative or consensual democracy model's practicality is next to impossible.

In conclusion, it is necessary to dismantle the theories of the two schools. At least in abstract sense, the debate about relevance of traditional governance revolves around the objective and universal democratic based thesis against the cultural relativism synthesis to democracy. In this respect one may argue that, "in the absence of objective method or scale for weighing these two core values against another [...] the choice between the two is entirely in the moral eye of the holder" (Bentley 2005: 48-68). Clearly, neo-liberalist follows colour-blind approach, as a result, it would mean denial to group rights and ultimately it advances the cultural supremacy and/or imperialism at the expense of multiculturalism and legal pluralism. In this respect, the custom (culture) to which traditional governance is aligned with should be hastily assumed as "hindrances to universal democratisation without differentiation" (ibid: 12). That is, like the modern political systems traditional system of governance has its own draw backs and it has to be approached cautiously instead of categorically opposing them under the pretext of their weakness. For instance, the typical argument that comes from neo-liberalists is that the traditional governance is based on patriarchal and lacks gender equality. To this criticism proponents of traditional governance, accepting the critic in principle, alternatively defend that such drawbacks needs to be solved by "progressive and negotiated" means than punitive legislations (ibid). Therefore, the drawbacks traditional governance should not be over emphasised to the extent that it veils the importance of traditional institutions have, at least, to the people concerned.²¹

²⁰The problem of gender inequality is a global problem. It is common, be it modern or traditional, that women's political rights and positions are pre-occupied by men so that the injustice could not be attributed only to indigenous peoples and their political system alone. Capitalisation of this problem when comes to indigenous governance would not be objective stand in any case. Moreover, contemporarily, if one considers the leaders in western world about, for instance, women representation in politics it is next to insignificant.

²¹For example, it is undeniable fact that Gadaa system has incredible values that can enhance equal representation, equitable distribution of resources and division of labour across generations and allow men and women of all ages play a crucial role in social life (Asmarom 1973: 285).

2.2.5 Heterogeneity of African Traditional System of Governance

There are wide ranges of dissimilarities across African states in terms of their traditional systems of governance. They differ in their nature, historical background and in their convergence and divergence from democratic values. For instance, where traditional leadership in South Africa is criticized to have been manipulated by apartheid's measures and argued as it lacks legitimacy; (Koelble, 2005: 30) the North-Eastern African indigenous system of governance (for instance, the Gadaa system) can not be labelled as such. Not surprisingly, the values and institutional structure of Gadaa is democratic and it was not manipulated by conquerors either (De Salviac 1901(2005); Asmarom Legesse 1973, 2006; Mohammed Hassen (1994); Alemayehu Haile 2009). Hence categorizing traditional governance across sub-Saharan countries as one and the same is totally unlikely.

Most of the African post-independence literature classifies African traditional institutions of governance (based on their pre-colonial forms) into places:

(a) Decentralized or Consensus²² Based Political Systems: The African pre-colonial political systems, partly, were highly decentralized with law-making, social control, and allocation of resources carried out by local entities, such as “lineage groupings, village communities, and age-sets.” (ECA 2007) In African decentralised (consensual) traditional leadership three essential qualities are discernible: first and foremost, the absence of concentration of power in an institution or a leader is one of its qualities. Second, the “settlement of conflicts and disputes in such consensual systems involves narrowing of differences through negotiations rather than through adversarial procedures that produce winners and losers” (ibid). The third important aspect was that it avoids the existence of political and social gaps between the governed and those who govern, as all eligible members of the community participate in both the creation and enforcement of rules. (ibid) However, the critic against consensual traditional leadership is that it is slow, since consensus-building is a time-consuming process.

(b) Centralized or Chieftaincy Political Systems: As opposed to decentralised system other parts of Africa established centralized systems of governance with kings and monarchs. Centralised form of traditional governance did concentrate power into

²²Examples of consensual based traditional systems in Africa are: The Ibo village assembly in eastern Nigeria, the Eritrean village assembly called *baito*, the Gadaa system of the Oromo in Ethiopia and Kenya, the council of elders (*kiama*) of the Kikuyu in Kenya.

central authority and lessens chiefs' accountability. This system had necessitated the development of absolute monarchy and hereditary power transfer instead of election. For instance, ethnic groups such as Amhara and Tigre (historically commonly known as the Abyssinia) in Ethiopia traditional rulers (emperors) had absolute power (ibid). However, in most other cases, the power of the traditional leaders was restrained by various arrangements, including the institution of councils²³ (Beinart 1985: 91-98).

Notwithstanding to this approach, classification of African traditional system of governance as centralised and decentralised has the following limitations. First and for most, such classification is too general and misleading. It is too general because, it conceals significant differences among different traditional system of governance, for instance, it lumps together various chieftaincy systems with differing levels of accountability. Second, it is misleading because it pulls decentralised systems that operate on the basis of lineage, village-based systems and age-sets capitalising on the minor similarities (e.g. consensus) among them. For instance, the indigenous Oromo people's traditional institution conjoins three basic elements: the Age-Set, lineage and village system simultaneously. Therefore, though it is decentralised system it is quite different from other decentralised system of traditional governance in its essence (e.g. those that are decentralised but does not embrace age-sets system).

Thence, classifying African indigenous governance as centralised and decentralised can not be conclusive. However, obviously, it can be used as a point of departure in the study of traditional political system.

2.3 Indigenous governance and Contemporary African States

Traditional legal knowledge (customary laws and traditional institutions) in the mid of 20th century and before has been considered by most of African states as archaic, uncivilised and obstacle to development. However, recently some African states and scholars seems to have recognised the drawbacks of discriminating policies towards customary laws and traditional institutions. For instance, Western democratic values and institutions (e.g. multi-party political system or parliamentary democracy) appear to be functionally not pragmatic in sub-Saharan African countries. Hence native scholars

²³Among the Ashanti of Ghana, the Tswana of Botswana, and the Busoga of Uganda the systems of checks and balances was relatively better defined with constitutional provisions and customary laws authorizing a council of elders, religious leaders, and administrative staff of the chiefs to check the power of the leaders and keep them accountable (Coplan and Quinlan 1997: 27-60; Jones 1983: 133-139).

nowadays tend to seek an alternative model to restore distinct African democratic values and institutions (Ayittey 1992). One of the driving factors behind this view is also the fact that the majority peoples of sub-Saharan African states live under traditional system and divorced from the mainstream society.

Furthermore, the unfulfilling political system across African states have also forced politicians and scholars to look into the relevance of traditional institutions and possibly for its revitalisation provided such traditional institutions are worth maintaining. In particular, some African states have come to understand the role of traditional system in democratisation process and had begun to recognise them constitutionally and accommodate them into the modern political systems. In this regard Botswana, South Africa and Namibia are typical examples. In Botswana, public policies are discussed in traditional public gatherings before they are adopted nationally (Sklar 1999: 115-119). In the same way, the Namibian constitution provides for national “Council of Traditional Leaders” consultation by the president in all matters pertaining to control and utilisation of rural land. (ibid) In South Africa, the ANC in the early 1990s mobilised traditional rulers for constitutional reform through the “Congress of Traditional Leaders” and the interim constitution of 1993 provides for the establishment of “Houses of Traditional Leaders” in the provinces and an advisory “Council of Traditional leaders” at the National level. (ibid) Therefore, these are some of the experiences of African states; that is looking back to their traditional institutions to address the challenges of democratisation process.

Hence, despite the ambiguous relation between traditional leaders and state official, indigenous system of governance among the sub-Saharan African countries are being re-inserted into national and regional political discourse (Kyed and Buur 2006). At regional level, a report by African Commission for Africa report indicates that it reached on consensus that the traditional African traditional system of governance is relevant to modern governance (ECA, 2007: 1-53). It seems also that ECA’s position is a middle way that it is possible to accommodate the African indigenous systems of governance that converges to democratic values instead of leaving them at the peripheries. It was held by ECA that:

the more traditional political values converge with democratic principles in their dispensation; the greater would be their potential to contribute to democratic transformation of the continent [...] the more advanced state building becomes, and the further African societies move away from their present pre-industrial mode of production, the more likely it is that their

traditional mechanisms of democratic values would also evolve closer to the mechanisms of modern democracy (ECA 2007: 19).

When it comes to Ethiopia the maintenance of indigenous institutions of governance is next to nothing. Unlike the case of Botswana, for example, Ethiopia did not constitutionally recognise and accommodate indigenous institution of governance such as the Gadaa. Generally, however, since the introduction of ethnic federalism, the tone of speech towards customs and traditions of ethnic groups has changed. Supplementing this position, Article 39 (2) and (3) of FDRE constitution provides, respectively, that:

(2) Every nation, nationality and people shall have the right to speak, write and develop its language and to promote its culture, help it grow and flourish, and preserve its historical heritage.

(3) Every nation, nationality or people in Ethiopia shall have the unrestricted right to administer itself; and this shall include the right to establish government institutions within the territory it inhabits and the right to fair representation in the federal and state governments.

Article 39 of FDRE Constitution is the most controversial provision in political discourse and considerably so in academia. However, undeniably, the peculiarity and the change brought by the constitution to the history of Ethiopian political landscape also lies therein. This provision guarantees collective right of *nations, nationalities and peoples*²⁴ of Ethiopia to express and preserve their cultural heritage. Accordingly, the Oromo people's traditional governance began to be re-inserted in to political discourse. Recently the regional government seeks to contact traditional leaders and at times accustom them to public offices to win the trust of the people at local level. However, this trend perhaps lacks consistency and radical approach by national and local government to traditional institutions of governance. Moreover, some tend to doubt that such re-appearance of traditional leaders as "political trade-off made between government and traditional leadership for the purpose of national and local elections to be held."²⁵

²⁴Article 39 sub-Aricle 5 reads: For the purposes of this constitution, the term "nationality" shall mean a community having the following characteristics: people with a common culture reflecting considerable uniformity and a similarity of custom, a common language or (minority) languages of communication, a belief in a common bond and identity, the majority of whom live in a common territory.

²⁵Chiefs have become vote-brokers in rural areas and exercise significant informal control over the State's intervention in local affairs (von Trotha, 1996; van Kessel and Oomen, 1996). As vote-brokers, they align themselves with the powers that offer the best chances for safeguarding their positions and advancing their interests. As a result, several countries, including those led by regimes that are reluctant to allow the establishment and free

The role of traditional institutions in Ethiopia is partly covered constitutionally as valid when comes only to power of adjudication on personal and family matters. Article 34 sub-Article 5 reads:

The constitution shall not preclude the adjudication of disputes to personal and family laws in accordance with religious or customary laws, with consent of the parties at dispute. Particulars shall be determined by law.

The feature of this provision can be summed-up as: first it extends power to traditional institutions (religious or customary) adjudicate on civil laws provided they are personal or family related as one of alternative dispute resolution mechanisms. Second, it limits the subject matter of adjudication to personal and family matters as opposed to criminal, business or administrative issues. Thirdly, it neither consider traditional institutions of governance nor it was the intention of the framers of the constitution.

Conclusion Under this chapter three main themes are discussed with considerable degree of conscientiousness of fiercely debatable issues. These are: Indigeneity of—peoples, of knowledge and of governance. In the first section I have tried to introduce the contentious concept of indigeneity in broder perspective. Moreover, indigeneity in Africa is generally discussed in order to create nexus between indigeneity of the people to indigeneity of their knowledge. Accordingly, the concept as well as theoretical aspects of indigenous knowledge of governance in terms of its relevance in contemporary world is assessed. Furthermore, traditional governance in Africa is being reconsidered by different scholars and some African states have taken positive steps towards its accommodation.

In nutshell, this chapter seeks to lay the conceptual and theoretical foundations to conceive what traditional governance constitutes and its features in general. It is worthy to note, thus, that the notions dealt with under each three sections does not hold conclusive remarks. Rather each open different lines of discourse and lays points of departure for further analysis towards indigenous governance studies. Accordingly, stepping on this chapter the following chapter (chapter three) introduces the people, politics and legal history of the subject matter of the study.

operation of opposition parties, such as Uganda and Zimbabwe, have taken measures to reinstate and to integrate chiefs into their governance structure. Hence, the way traditional institutions and leaders handled, politically speaking, in Ethiopia might be as brokers between the state and the people especially during election periods. However when it comes to Gadaa leaders manipulation by state officials (for election purposes) there is no credible evidence to underline so.

Chapter 3

Setting the Context of the Study

3.1 Politico-legal Development of Ethiopia: Politics, People and History

3.1.1 Introduction

I could see no better way than to discuss about the people, politics and history to contextualise the subject matter of the study. That is, the Borana-Oromo or simply Boran, the modern politico-legal system of Ethiopia and the historical development of the Gadaa system respectively. These are the main points at the heart of this chapter. As a people the Oromo in general and the Boran in particular had unique experiences and distinct social organisation. In addition, the influence of the Ethiopian political system during the last one and half centuries on their cultural values and traditional system of governance occupies a special place. By and large, it is worthy to introduce the policy choice (on legal system) Ethiopia made in the middle of 20th century and its impact on the development of the Oromo people's traditional institutions of governance. Hence, this chapter has the objective of creating a nexus between the theoretical discussions held in the second chapter and the descriptive-analytical areas covered (under Chapter four and five).

Under this chapter, three main areas are articulated. Accordingly, the first section deals mainly with the modern Ethiopian political development since the end of 19th century and legal systems development since middle of 20th century in a chronological order. Accordingly, this section uncovers the Ethiopian politico-legal system and legal systems

development and to eventually indicate that the policy choices the state made were not in favour of traditional institutions. The second section introduces the social organisation of the Boran people both historically and contemporarily. The third section of this chapter discerns the historical development of the Gada system in broader context and from the Boran's perspectives.

3.1.2 Modern Ethiopian Politico-legal Development and its Impact on the Gada System: A Critical Approach

3.1.2.1 Assessing the Modern Ethiopian Political History

Before the creation of the modern Ethiopian state, the larger portion of present day Ethiopia (the eastern, western and the south) consisting of the Oromo people and other numerous national and ethnic minorities had led an independent existence as masters of their destiny and makers of their own history (Mohammed Hassan 1994: 1). The Northern half of the country and part of Eritrea had been under feudal anarchy since the mid of 18th century (Getahun 1974; Bahru 1991; Teshale 1995; Merera 2011). Around mid of the 19th century the geographical extension of present day Ethiopian state was limited to Northern part of today's Ethiopia, commonly known as Abyssinia. In contrast, the Oromo had developed their own cultural, religious and political institutions that shaped their history. In general they had different world views. The independent existence of the Oromo people in general and the Borana in particular began eroding under the project of empire-building put into motion since the early 1850s¹ (Bahru 1991; Merera 2011).

This conquest² of the south was also presented in Addis Hiwot periodicals as follows:

¹The ambition of the Abyssinian (a common and historic name for Northern Ethiopian ruling ethnic groups inclusive of the Amhara and Tigre) to create Ethiopian empire was initiated by Tewodros (the then governor of Gojjam) around mid of 19th century. However, his unifying mission was stumbled for two reasons. First, the regional warlords who were enjoying autonomous fiefdoms did not prefer the ambition. Secondly, his ambition to produce firearms by forcing the missionaries (detention of missionaries) pitted him against the British which later ended his life (Merera 2011: 3). However, the political process that was set in to motion by the mid of 19th century as anti-thesis to the era of the princes (*Zamana masafint*) was able to produce in a half a century a full-fledged empire-state (ibid).

²Was the Abyssinian conquest of the Oromo people and other national minorities constitutes the act of expansion or colonialism or national oppression? Obviously, labelling the conquest in different terms bear different effects. For instance, some native scholars and Oromo nationalists argue based on the historic severe oppression and unjust treatment of the people under the Abyssinian rule, that it is equivalent to internal colonialism and eventually calling for self-determination (Asafa 1993; Mohammed Hassen 1990). On the other hand others argue that the conquest was national oppression not colonisation, per se. Merea Gudina contends that in Ethiopian context inspite of the use of force in the expansion of the empire and the severity of the oppression the various

After the creation of the multi-national empire-state by the Shewan feudal principality, especially after the conquest and the effective occupation and incorporation of the South, South-west, and South-eastern areas, a classical system of feudal serfdom was established. An extensive process of land confiscation and the enserfment of the indigenous peasants took place. The religious, cultural and linguistic differences between the feudal conquistadors and the process of enserfment gave a still more brutal dimension; the aspect of national and religious oppression accentuated the more fundamental aspect of class oppression (Addis Hiwot 1975: 30f, cited in Merera 2011).

During the first half of the 20th century (1913-1941), three main historical events took place in the history of Ethiopian political development. The first one was the death of Menelik II in 1913 and question of succession to power. The event had threatened the process of centralisation and the project of empire building. However, it did not last long. The second historic event was the coup d'état of Lij Eyasu V's³ government by Ras Tafari Mekonnen, later re-named, Haile Sillassie I. The third event was the invasion and occupation of Ethiopia from 1931-1941 by the fascist regime of Italy. During this period, the Oromo, who were conquered by the Abyssinian rulers for five decades, had also experienced a European administration system for five years.

Some argue that the Italian colonial rule was far better than the Abyssinian administration for the Oromo people, especially in a relation to land policy (Tadesse 2004). Of course, the Italian colonial authority could have abolished *neftegna-gebar* (the serfdom) system. For instance the Guji express the unforgiving deeds of their masters as follows:

Hidhe nu hika Atalan - we were jailed and released by Atala (a landlord)

Hidhe nu dhana habbashan - we were jailed and bitten by *habbashas* (Amharas)

people of the south were subjected to, the relation between the conquerors and the conquered resembles more the relations among the various groups constituting Great Britain where the term national oppression appears more appropriate than reference to the relation between Great Britain and peoples of her overseas empire (Merera 2011: 8). Let the nomenclature as it may be, one thing is undeniable though, that is the ruthless oppression and involuntary rule from external forces against the will of the majority population of Ethiopian people. Moreover, the mission of nation building was bloody in which millions were left at the mercy of the conquistadors; the subjugated peoples' land was forcefully taken away and the commanding generals allotted to themselves thousands of hectors (Merera 2011). Above all the imposition of a new type of political control in the newly conquered regions of Oromia including the Borana land was more enduring and it may be equated to national oppression (Holcomb and Sisai 1990; Getahun 1974).

³On May 15th, 1909, at Jan Meda, the Imperial parade ground, a proclamation of the Emperor Menelik was read to the assembled throngs of nobles, diplomats and subjects. It read, "My child Lij Eyasu will succeed me." Consequently, Lij Eyasu became the designated heir but uncrowned Emperor of Ethiopia (1913-16) (Bahru 1991; Merera 2011).

Halun soon bate barranna - now it is our time, we have the opportunity to retaliate against them (ibid: 19).

However as the period of Italian occupation was short and limited to Ethiopian towns, it is futile to generally conclude that the Italian rule was better or worse as compared to the unfolding Abyssinian rule. Thus, five or so decades of Abyssinian domination may not be comparable to five years of Italian occupation.

Moreover, the experience of the Boran in relation to contact with European power varies from the rest of the Oromo groups. The Boran had not only experienced the Italian rule (From 1935 to 1941⁴) but also the British rule since they also settle in the Northern Part of Kenya, which was the colony of Britain (Alemayehu 2006; Asmarom 1973). During the scramble for Africa by the colonialists, particularly in 1890's, the Borana land was divided between the British East African Protectorate (later Kenya) and the Abyssinian (Godana 2011: 16).

3.1.2.2 The Political and legal Development in Ethiopia From 1930s up to the Present.

The first written Ethiopian constitution was adopted in 1931(it was highly influenced by the Meiji Constitution of Imperial Japan). Ethiopia did also adopt the model of western political institutions following the adoption of the constitution in 1930s. Institutionally speaking, the constitution had the following features:

First and foremost it was regarded as a grant (royal document) by the emperor to safeguard the interest of the emperor and the royal family. Thereby bestowing upon the emperor the power to do everything he wishes as he is the ultimate law maker (Article 46 of the 1931 ICE). The legislative, executive and judicial functions are concentrated into the hand of his Imperial Majesty, Emperor Haile Sillasié.⁵ Second, the constitution introduced the first bicameral parliament (legislative) namely: the Chamber of

⁴The Borana people were independent and self-governing people until the end of 19th century. Their hegemony was not to last long as at the second half of the 19th century, three colonial powers came on the scene of Borana land: the Italians from the East; the British from the South; and the Abyssinians from the North. The sum of colonial order, the use of fire arms, the division of the Borana between Kenya and Ethiopia made it impossible for the Borana to resist and defend their territories (Godana 2011: 25-26 citing Schlee 1989: 47). Consequently, they were conquered and included into the Ethiopian state during the empire building process in 1890s.

⁵He was Head of the State and Government and he was the ultimate umpire through *Zufan chilot* (crown court), where the Emperor is the presiding judge, can reverse the decision of any Court. Moreover, "by virtue of His Imperial Blood, as well as by the anointing which He has received, the person of the Emperor is sacred, His dignity is inviolable and His Powers indisputable . . ." (Article 4 of the 1931 ICE).

the Senates (*Yehig Mewosseigna Mikirbet*) and the Chamber of Deputies (*Yehig Memria Mikirbet*) (Article 30 of the 1931 ICE). Where members of the Senate were appointed by His Majesty the Emperor from among the dignitaries (*Mekuanent*); the members of the Chambers of Deputies were chosen by the dignitaries and local chiefs (*Shumoch*) (Article 31 and 32 of the 1931 of ICE). Third, the constitution institutionalizes the ministerial system (executive) wherein collective and individual ministerial responsibilities resided in the person of the emperor thereby rendering the centralization of power inevitable (Article 48 and 49 of 1931 ICE). Fourth, it also recognised judiciary making the Emperor the ultimate authority to dispense justice (Article 50 ff of the 1931 of ICE).

In the second half of the 20th century (1941-1974), the move to modernise Ethiopia and to strengthen the central authority had a special place. Post-independence Emperor Haile Sillassie I (herein after the Emperor) had transformed the long history of the country's regionalism to centralism (Merera 2011). By and large, nationalism and drive for unity was heightened. The regime and the Emperor took major steps to establish strong central authority and to minimise regional lords' powers. To this effect, among others, the revision of the 1931 constitution in 1955 was to legitimise the central authority and reconstitution of the highest powers and functions of the emperor⁶ (Asefa Fiseha 2008). It eventually led to the demolition of the previously semi-autonomous regions such as Jimma, Wollega and eventually they had begun to be ruled by governors appointed by the Emperor (Merera 2011; Tesemma, 2004).

Besides, the first move for the modernisation of Ethiopian legal system was initiated during the Emperor's regime. Especially the establishment of Addis Ababa University (and later, the opening of the law faculty in 1963) laid a foundation for the legal transplantation from most advanced legal literature from western countries. The driving policy at the time was modernisation. To the contrary customary laws and traditional institutions were considered by state authorities as an inefficient obstacle to progress (Rene David: 1963; Alemayehu Fenta: 2004). With this perception the Emperor hired a Franco-Swiss team of comparative law specialists, which crafted a complete set of codes up to the latest standards of the late fifties. While these codes were arguably of an extremely high standard they were not matched with adequate capacity building or training at the local level. Following the development of substantive law codes,⁷ proce-

⁶The 1931 constitution was revised and replaced by the 1955 ICE. Since both constitutions are inherently the same (except the fact that the country adopted a federal form of government as of the federation of Eritrea to Ethiopia by the resolution of the UN General Assembly on the 2nd of Dec. 1950.) and there is no need to discuss it again" (UNCE 1950).

⁷Countries like: US, UK, France, Italy, Switzerland, India and others' legal literatures were widely referred to

dural laws subsequently imported wholesale from England, India and the US, with little regard to the coherence of the system as a whole (World Bank 2004: 4).

Furthermore, the legal transplantation of alien laws was automatic; they were imported without giving a chance for the majority people of Ethiopia to decide on the long lasting legal systems and legal institutions. During the time of wholesale legal transplantation process, the government was very paternalistic. That is, it was believed that adopting developed nations' laws and institutions could transform the country to modernity and ultimately it would create civilised citizens. However, as most countries' legal history experience indicates legislations need to be pragmatic to validly match the life standard of the people; it has to reflect the socio-economic development of the country; and of course it should consider the customary laws of the people (Brietzke 1982). Thus relegating customary laws and traditional institutions of governance foreign legal institutions were introduced.⁸ As a result, where the historic codification process of most of the laws went astray; imitated legal institutions were also not fulfilling functionally.⁹

In the last quarter of the 20th century (1974-1991, the *Dergueregime*), a new political landscape was recorded in the history of the country. This period was congruent to the time of the Cold War where world nations were divided based on the rhetoric ideologies (the capitalism/west and communism/East). Ethiopia lined along the socialist ideology and could form a socialist state in the horn of Africa. Given the authoritarian nature of the regime and allegiance to the socialist ideology, the West was not comfortable with the regime as compared to the case of the Emperor's regime. Despite this fact, the *Dergue* regime did introduce some positive changes to the country. Among other things, the 1975 land reform that ended feudalism and transferred the ownership of the land to the ordinary Ethiopians including the subjugated Oromo people could not be underestimated.¹⁰

draft several legal codes. Legal codes enacted in fifties and sixties are still in use in Ethiopia. For example: Civil Code, Criminal Procedure, Civil Procedural Laws and Commercial Code.

⁸To a very limited extent and implicitly in most cases, some of the customary laws were incorporated in to some legal codes. However, one of the challenges to include the customary laws into modern codes was due to the complexity and diversity of Ethiopian customary laws and the absence of written customary laws had necessitated to disregard them.

⁹One could relate the Ethiopian legal transplantation history to colonisation or imperialism in a sense that: though Ethiopia was not colonised (no successful legal systems and institutions directly imposed on Ethiopians by colonizers), however, as far as Western legal institutions is chosen to rule over the people then the legal imperialism was furthered indirectly.

¹⁰The land reform with the formation of Peasant Associations (PA) was the most popular achievement among the South people of Ethiopia including the Borana-Oromo (Tesema 2004; Merera 2011; Bahru 1991). This was a remarkable historic achievement which relieved them from feudal exploitation and oppression. Tesemma states in this regard that, the Rural Land Proclamation which freed the farmers from the control of the land lords the majority of them were the Amhara and Tigrean absentee land owners in Oromia (Tesema, 2004: 6). Above all

In 1987, after thirteen years of military rule, the nation officially became the People's Democratic Republic of Ethiopia (PDRE) (abolishing PMAC) under a new constitution providing for a civilian government. The structure and features of government bodies under the 1987 PDRE constitution can be summarized as follows: first and foremost, the constitution advanced the unitary form of government in which all ultimate state power was conferred on the National Assembly (*Shengo*) and it had Standing Council. Unlike the early Ethiopian written constitutions (the 1931 and the 1955), it endorses a unicameral parliament. Hence the National Assembly was the single and robust legislative authority.¹¹ In principle, it was acclaimed that State power is derived from the people, whose sovereignty is exercised through the National Assembly (Clapham 1987). Second, the constitution blends all executive powers in the hand of the president. The president was the Secretary General of the sole political party (the Workers' Party of Ethiopia), the executive president of the Republic, the Chairman of the National Assembly, and the commander-in-chief of the armed forces (Fasil 1997).

Given the authoritarian (where a single political party alone was eligible) nature of the *Dergue* regime, there had been no option for transition to democracy except through the use of force. Consequently, after a long bloody civil war to end the military rule that the EPRDF¹² could defeat the *Dergue* regime.¹³ In addition, among external factors that contributed to the downfall of the regime, the demise of the Cold War that divided the West and the East bloc, where the west tried to sponsor some of African leaders for her own strategic and national interest and the east block also bail-out authoritarian regimes with socialist pretension including Col. Megistu. Thence, the downfall of the Soviet Union, necessitated change to blow in Africa in general and in Ethiopia in particular in the late 1980s and early 1990s (Bahru and Pausewang 2002).

Following the dawn fall of the *Dergue* regime, Transitional Government of Ethiopia (TGE) was established in 1991. Since 1991, a *de facto* and since 1995 a *de jure*, multi-

it reinstated the land to its original owners and inhabitants who were forcefully confiscated by gun men (Tadesse 2004: 21; Tesema 2004; Merera 2011).

¹¹The *Shengo* along with the State Council, the President of the Republic, Commissions of the National *Shengo*, the Council of Ministers, the Supreme Court, the Procurator General, *Shengos* of higher administrative and autonomous regions, and mass organizations, has the right to initiate legislation.

¹²EPRDF (Ethiopian Peoples' Revolutionary Democratic Forces) is a coalition comprising Tigray Peoples Liberation Front (TPLF), the Ethiopian Peoples' Democratic Movement (EPDM), OLF (the Oromo Liberation Front (however, it withdrew from the "coalition" and replaced by Oromo People's Democratic Organization (OPDO), formed in 1989), and Ethiopian Democratic Officers Revolutionary Movement (EDORM).

¹³This event loaded Ethiopian peoples as well as the rebels (who later became political leaders) filled with euphoric hope for better and new chapter in Ethiopian political history. Since then the democratisation process in Ethiopia did not gear towards a democratic path; by and large a single political party could flourish under the façade of multi-party political system.

cultural and multi-ethnic federal system was constitutionally declared.¹⁴ The adoption of ethnic federalism was in recognition of the urgent need for collective rights of the people and the political condition at the time. The adoption of the FDRE constitution has come with distinct nomenclature as well as different structure of state as compared to previous regimes. For instance, the *Dergue* as well as the Emperor's regime was unitary state—where one language and similar culture was sought to endure. Perhaps EPRDF considering the challenge of advancing a single and uniform policy towards multi-cultural and multi-ethnic groups like Ethiopia; diverse legal systems and institutions were adopted. The past regimes approach of centre prevailing over the peripheries in multi-cultural and deeply divided society did not host the entrenched differences among Ethiopian peoples. In addition, during the adoption of the 1995 constitution, there was a view that “secessionist sentiments would be weakened and self confidence generated by the experience of self rule would advance the goal of nation building (Seyoum and Yacob 1999: 97). Perhaps that is why ethnic federalism was sought as a means to address the quest of national oppression and ethnic minorities' political and cultural rights.¹⁵ Thus, the federal form was adopted as an attempt to alleviate ethnic conflict among national minorities in Ethiopia (Serra-Horguelin 1999: 1).

The 1995 FDRE constitution establishes a parliamentary form of government. It also provides for bicameral/two-chamber federal houses, namely the House of Peoples' Representatives (HPR) and the House of Federation (HoF) (Article 53 and 54 of FDRE constitution). Where the HPR shall be elected directly by the People for a term of five years on the basis of universal suffrage; the members of the HoF are composed of representatives of ethnic groups and national minorities and that shall be elected by the State Councils. Moreover where the total number of seats in the HPR shall not exceed 550 (of these, national minorities shall have at least 20 seats); HoF's total number of seats relies on the fact that each national minority shall be represented at least by one and it shall be represented by one additional representative for each one million of its population (Article 53 and 61 of FDRE constitution).

¹⁴In fact, the constitution was adopted in the constituent assembly on the 8th of December 1994. It came into “full force and effect” as of the 21st of August 1995 (Tsegaye Regassa 2010: 87).

¹⁵In nutshell, Hashim Tewfik spells out the justification for the adoption of ethnic federalism as follows: 1) the unsuitability of a centralized unitary government for harmonizing the interests of heterogeneous ethnic communities; 2) the failure of a project of nation-building process that was based upon the imposition of state-nationalism and the concomitant suppression of the demands of ethnic communities for equality, power and power-sharing; 3) the contribution of authoritarian political rule in aggravating problems of ethnic diversity; 4) the imperativeness of the recognition and accommodation of ethnic diversity in the process of governance for the sake of ensuring peace, stability, and inter-ethnic harmony; and 5) the need for the democratic reconstitution of state and state power (Hashim 2010: 5).

3.1.2.3 Ethnic federalism: The Novel Experience of Ethiopia in 21st century.

Ethnic federalism is a type of federalism where a power is divided vertically between the central government (commonly known as federal government) and its constituents to form a federation.¹⁶ It is where states or constituents of a federation are divided into pieces based on their ethnic homogeneity, language, culture, psychological make-up and common historical background (Article 39(5) and Article 46(2) of the FDRE Constitution). Based on these legal parameters, currently Ethiopia embraces nine¹⁷ regional governments. Among member states of the FDRE the Oromia¹⁸ National Regional State (ONational RS) (which embodies the largest ethnic group) is constitutionally recognised as an “autonomous” region (Article 47(1)(4) of FDRE constitution).

It is worthy to note here that, the formation of a regional state did not only follow the pattern of the requirement of identity of a group alone. The typical example is the case of South Nation Nationalities and Peoples Regional State (SNNPRS). This regional state consists of almost fifty¹⁹ administratively identified ethnic groups. Except for SNNPRS, each regional state bears the name of the dominant ethnic group in the state regardless of the presence of minorities (Arnault Serra-Horguelin 199: 1). Despite this fact, SNNPRS is considered as one regional state (*killil*). Had the requirement of ethnicity followed alone, Ethiopia would have had far more than nine regional states.

Nevertheless, the constitution does not limit the formation of local administration to nine regional states. In the long run several ethnic groups may demand to become autonomous regional states. Any claimant ethnic group has to meet Article 47 sub-Article 3 of the constitution’s requirement (procedural and substantive) such as: a demand approval by two thirds by the State Council; when supported by the majority vote in the referendum and eventually becomes a member of the Federal Democratic Republic of Ethiopia. Therefore, the formation of regional states is unfinished business. However,

¹⁶Whereas federalism is an ideology under which different groups come together to form a social compact, federation is an institution. Ethnic federalism is a peculiar feature of federalism that Ethiopia chose to implement since 1991, by *de facto* and since 1994, by *de jure*.

¹⁷The nine states that constitute the Ethiopian federation are: Afar, Amhara, Benishangul-Gumuz, Gambella, Harari, Oromia, Southern Nations, Nationalities, and Peoples’ Regional State (SNNPRS), Somali, and Tigray (Article 47(1). All these regional states have their own state constitutions adopted in 1995 and revised in 2001.

¹⁸ONRS exists at the heart of the country (8° 00’ 00” N, 39° 00’ 00” E) being Addis Ababa its capital city along the federal government. (See: Art. 49 sub-Article 5 of the Constitution)

¹⁹SNNPRS comprises the following ethnic groups: Gurage, Hadiya, Kambata, Alaba, Tembaro, Yem, Sidama, Gedio, Burji, Amaro (Kore), Gidicho, Wolaita, Dawuro, Konta, Aydi, Gewada, Melon, Gofa, Zoyisse, Gobez, Bussa, Konso, Gamo, Gidole, Basketo, Murssi, Ari, Hamer, Arbore, Dassenech, Gongatom, Tsemai, Maley, Dimme, Bodi, Kefficho, Nao, Dizo, Surma, Zelmam, Shekocho (Mocha), Minit, Chara, Bench, Sheko.

the procedures set to be met are not simple. Hence, unless a demand gets a green signal from the centre (federal government) to create a new separate regional government, the probability to have additional constituents is hardly possible.²⁰

Ethiopia's ethnic based federal structure has been criticised and fiercely debated around academic and political circles. One of the most notorious critics was that, ethnic based regionalism would lead to ethnic strife, the break-up of the country (Merera 1994; Serra-Horguelin 1999). Most nationalists felt that ethnic federalism may also ignite ethnic conflicts among different ethnic groups and the system would defeat the principal existence of the country, i.e. unity. However, two solid decades have passed since ethnic federalism was put in place.²¹ Except some ethnic conflicts over natural resources and sectarian conflicts,²² the experimental ethnic federalism is surprisingly enduring (Kymlika 2006).

3.2 Borana-Oromo: Their Social Structure and Settlement Pattern

3.2.1 The Oromo People-hood²³: General Overview

In the course of Oromo people's socio-political history a "renaissance" (haromsa) had happened in the 16th century. During the renaissance, the Oromo clans were organised

²⁰Besides, ideally, the constitution was said to be pro-decentralisation and pro-group rights. However, the provisions constituted in the constitution staffed all powers into the hand of central (federal) government leaving residual powers to regional states (Tadesse 2004: 21). Hence, genuine federalism, i.e. division of power strictly speaking, does not exist. Rather the incumbent system merely manifests the features administrative federalism (Aseffa 2007; Tsegaye 2009)

²¹As compared to previous regimes (Menelik II, Hailesilassie I and the dergue), the incumbent federal system is known for constitutionally recognising cultural and linguistic diversity. Ethnic federalism has, therefore, credit for ethnic minorities' rights who were denied of distinctive existence and forced to assimilation to the Abyssinian culture and language.

²²For example: the Gambella crisis, the Guji and the Gede'o conflict (See: Asefa Fiseha 2007).

²³The Oromo people in general and the Boran in particular are rich in oral tradition of tracing back their common ancestry. For instance, according to oral tradition of Tulama (the central Oromo branch) elders, the following are regarded as the founding fathers of the Oromo: Horro—Oromo—Borana—Guracha—Nagewo—Oda—Rayya. Rayya had two major branches known as Macha and Tulama (Alemayehu and et. al., 2006: 114). However, this oral tradition is not free of critics. For instance, Mohammed Hassen argues citing the writings of Abba Bahirey that the father of the Borana was known as Saphera (Mohammed Hassan 1996). Cerulli also states that the father of the Oromo was Saphera and indicates as it was presented in the chronicles of the Kings too (Cerulli 1957). However, there is no unanimity among scholars as well as conforming oral sources whether the first founder of the Oromo people was Horro or Sphera. On one hand, oral sources have high probability to be less reliable. On the other hand, it seems that imagining a community based on oral or written sources would have resulted in different conclusions in academic discourse. Hence, caution has to be taken not to take who the fore fathers of the Oromo people for granted.

under two Oromo confederacies namely: the Borana and Barentuma confederacies. From this historical event the Oromo were organised into two major confederacies, namely Borana and Barentu (Barenttuma). However, there is misunderstanding between the Oromo elders and native scholars as to the source and meaning of the terms: “Borana” and “Barentu”; whether it refers to the names of individuals or the direction of the Oromo people’s units. Some argue as these terms represent names of individuals. In this regard, they state that Borana was senior (angafa) and Barentu junior (qutisu). However, others do assert that where the term “Borana” is the combination of two native terms: Boro and aana that literally means “distant from sun rise” or simply the ‘West’ (west of Ganale river); “Barentu” is again the combination of two native terms: Bari and Aantuu literally which means “next to sun rise” or simply the East (east of Ganale river) (Bokku Dirribi 2011; Alemayehu et al. 2006: 100). Perhaps, the etymological approach of interpretation is plausible for the following reasons:

First, in the Oromo people’s pattern of settlement the Borana confederacy constitutes, but not limited to: the Mecha—Tulama, the Darimu—Kontoma (the Guji); and the Sabo-Gona (the Borana). Secondly, the Barentu confederacy comprises clans such as: Arsi: Seko-Mando, Karrayyu: Baso-Dulacha; Humbana: Aniya-Qallo and Itu: Marawa-Rayya (Alemayehu et al. 2006: 102). Thirdly, the Borana and Guji elders whom I interviewed do not recognise that they had another nomenclature other than “Guji” to which they are members to. Borana elders’ view was also *mutatis mutandis*. In addition, analytical arguments are also developed based on the style the Oromo people build a house. This view holds that:

Thus, when they construct a house the Oromo fix the door on the eastern direction or the direction of the rise of the sun. Following this direction, the house of the elder son is built to the right of his father’s house while that of younger son is built to the left. In other words, while the house of the elder son “Borootti-aana” is built west of his father’s house [...] that of the younger son “Bariitti-aana” is built east of it [...]. (ibid: 105-106).

Therefore, the nomenclatures Borana and Barentu could have been named after the direction and pattern of Oromo people’s settlement and appropriateness for marriage rather than featuring the names of any forefathers. In conclusion, if the assertion that follows etymological explanation is accepted it would not be complex to identify which group of Oromo belong to Borana and/or Barentu. However, if not, the question remains ambiguous.

3.2.2 Introducing the Borana-Oromo (Boran)

The oral story confirms that the Boran had moved from the central part of Ethiopia to the southern part of the present day Ethiopia and to the northern part of Kenya where they eventually re-organised themselves into smaller sub-groups and eventually established their settlement (Alemayehu and et. el. 2006: 177). What is peculiar among the Oromo people in general and the Borana-Oromo in particular is an entrenched trend of dividing people into moieties and sub-moieties, clans and kinships and organise it for the purpose of administration. Along the division of the society into sub-clans the powers and functions are also shared among the groups accordingly. Hence, among the Boran there is a viable personal based division of power instead of territorial based division of powers and functions.

The Boran social structure is made of different families, lineages, and kin that operated in a structured manner through different governments, and were visibly seen as political systems that, in turn, were also reinforced and given authority through organised systems (Aguilar 2010). The Boran are divided and organised into two macro-levels (moieties) and several micro-levels (sub-moieties). Accordingly, they have two macro moieties divisions known as Sabbo and Gona. Where the Sabbo has three sub moieties the Gona has two sub moieties (Refer Appendix VI to understand the incumbent clan structure of the Bioran).²⁴ The Boran co-exist peacefully as a unit irrespective of whether a person is from Sabbo or Gona. However, restriction is placed on endogamous marriage, i.e. marrying within the limits of a moiety is not allowed. Hence, a person from Sabbo marries only from Gona and vice versa; exogamous marriage is the rule.²⁵

²⁴According to the Boran social structure the clans under Boran, the Sabboo or Gona, are generally known as *mana*, literally a “house”—which may be regarded a moiety. Under each moiety we do have several lineages (*balabala*) that literally means “door”. That is, there are several “doors” under each “houses.” Under each lineages (*balala*) there are also families lineages (*finchan* that literally means relatives by blood). Whereas the Boran as a branch of the larger Oromo people are regarded as a tribe or in native terms (*gosa*). Thus, we have *gosa* (the Boran), *mana* (moiety), *balabala* (lineages) and *finchan* (relatives by blood-direct line).

²⁵The social structure of the Boran people is characterised by kinship, lineage, and marriage. Mario I. Aguilar states about the Boran kinship as: a social category is the mirror of friendship, socially constructed, always changing, however, giving away further characteristics of how human groups interact, and how groups within such larger human configurations ally themselves in order to experience humanness together. One of the most important foundational approaches to the study of African societies was the unfolding of classificatory patterns of social relatedness known as kinship (Aguilar 2010: 17).

3.2.2.1 The Boran and their Contemporary Settlement Area

The Boran are part of the Oromo language speaking people²⁶ and belong to the East-Cushitic family in the Horn of Africa. The Boran live to the South of the main Oromo land in Ethiopia as well as in the Northern part of Kenya, “straddling the borders between the two countries”²⁷ (Godana 2011: 24). In Southern Ethiopia, the Borana number over 500,000 while in Kenya they are over 300,000 people (ibid). The general community unity and pattern of life is ordered along the rules and regulations of the Gadaa system of administration, which has a structured chain of command with Abba Gadaa *fixe* – literally father of the Gadaa at the apex (ibid). What surprises most scholars is how Gadaa System could be maintained among the Borana-Oromo without losing its originality. The main reason for its maintenance is the fact that it was not disturbed by colonial rulers. Hence, they could maintain an archaic administrative system by adopting it to changing circumstances.

Under the current federal structure, the Borana region is located in the Southern parts of Oromia Regional State. The Boran of Ethiopia are bordered by Nations and Nationalities and peoples of South Ethiopia in the North; by two Oromo tribes in the North east, i.e. the Guji-Oromo and the Arsi-Oromo; by Somali people in the South-East, and by the Konso in the West.

The Ethiopia Borana, under the current regional state structure is one of the eighteen²⁸ zones recognised by the Oromia Regional State. It encompasses six districts namely; Yabelo, Gelane, Teltele, Dire, Arero, and Moyale.²⁹ In contrast, the Kenya Borana currently occupies the upper part of the Eastern Province to the North of the country. It encompasses three districts namely; Isiolo, Marsabit and Moyale³⁰ (Godana 2011: 24).

²⁶The Oromo people who inhabit in Ethiopia predominantly are considered among the largest and the most widespread ethnic groups in Africa and are estimated to number between 35 -40 million people (See also: Doyo 2009: 40; Legesse 2006; Bassi 2005).

²⁷The settlement pattern of the Borana-Oromo extends from southern Ethiopia across northern Kenya as far south as Tanna River (the longest river in Kenya) and the costs of Indian Ocean (Asmarom 1973). The Borana-Oromo that settled outside the Ethiopian border are the Borana-Wasso tribe and it consists also the Gabra and Nigro clans. An archaeo-astronomical finding (an inscription on a stone found in Northern Kenya) confirms the fact that the Borana had distinct indigenous political system and distinct calendar (Lynch and Robbins 1978) Moreover, the finding was the first archaeo-astronomical evidence in sub-Saharan Africa where an inscription on a stone found in Northern Kenya been suggested to had been invented around 300 B.C. (Doyle 1986).

²⁸See: West Arsi, Arsi, Finfine special zone, West Wollega, East Wollega, Kellem Wollega, Horo-Gududru Wollega, East Showa, South-East Showa, North Showa, West Hararghe, East Hararghe, Borana, Guji, Ilu-Ababora, Jimma and Bale. (Source: Oromiyaa.com)

²⁹See: http://oromiyaa.com/index.php?option=com_content&view=category&layout=blog&id=108&Itemid=607 visited on February 10, 2012.

³⁰Moyale is like a “rendezvous” for Kenya Oromo and Ethiopia Oromo. It is a district partitioned between Ethiopian state and Kenyan state where you can see governors from both countries lined side by side.

3.3 Historical Development of Gadaa System

3.3.1 Origin of Gadaa: An Overview

It is valid to question when and how the Gadaa system started. However, there is no clear time when and certain place where the Gadaa started functioning. The informants I have interviewed also confirm this fact, but some kept questioning when it started to function and who were the engineers of the system. Among others C. R. Hallpike questions the origin of the Boran Gadaa System. Hallpike implicitly asserts that it is possible that the Boran borrowed the system (may be) from some other people such as: the Burji or the Konso (neighboring ethnic groups to the Boran) probably in the 17th century (Hallpike 1976: 52). However, neither the historical development of the Gadaa System nor the informants I interviewed did support this line argument.

When it comes to the nature and function of the Gadaa System, first and foremost, it is an administration system where powers are distributed among the members of Boran people based on age and experience. Second, it is also used as a chronological dating of historical events. Thus, it renders the system of dating history chronologically. The standard measure of dates or an era is a period of one Gadaa rule, which is generally regarded as eight years and one full Gadaa cycle is forty years (five Gadaas). Accordingly, dating historic events or certain phenomenon is explained in terms of the total number of past Gadaas. For example, according to oral tradition, Gadaa was functional during the leadership of about 225 Abba Gadaa. That means one could simply multiply two hundred and twenty five by eight years and get 1800. Simply, by subtracting 1800 years from the present year of 2012, you will get 212. That is, the Gadaa system was functioning in the 3rd AD at Oda Nabe (Alemayehu et. el. 2006: 51).

3.3.2 The Status of Oda Bultum and Oda Roba in the History of Gadaa System

In the 13th Century, Oda Bultum³¹ was the settlement area and politico-religious centre for the Oromo people in the medieval period (Alemayehu et. el 2006). In Oromo oral tradition Oda Bultum has special place. The reason is due to the fact that it was the

³¹Oda Bultum currently found in Galamso, in Eastern Oromia Region of Ethiopia, inhabited by the Itu Oromo. Oda (oak tree) is a big tree under which people use to conduct meetings, pass laws and settle disputes. Among the Oromo people Oda has special place. For instance, Oromo customary law does not allow anyone to cut the Oda tree.

place where a revival was made to Gadaa System and new laws were enacted. It is also said that a Muslim missionary known as Awusaid took part in the process of the renaissance of the Gadaa System and proclamation of new rules at Oda Bultum. In oral tradition of Itu Oromo, Ausaid has special honor and respect which can be referred from the alternative name given to the Oda Bultum as “Awusaid” (ibid: 81). Nevertheless, perhaps, Awusaid’s main objective might be to expand Islam in the region and his cooperation could be secondary as well as a means to influence the Oromo people to make them embrace the Islam religion.

According to oral tradition about the history of Oda Bultum, six Aba Gadaas successively ruled from 1193 to 1241. It was two years before the entry of Sheik Abadir into Harar in 1234 A.D. that Harhar Hargeya rises to the Position of Abba Gadaa. (Alemayehu and et. el, 2006: 83). The names of the six Abba Gadaas according to the oral tradition were: Jara Mardia (1193-1200); Roba Dungata (1201-1208); Roba Gamo (1209-1216); Roba Gobole (1217-1224); Doyo Darimu (1225-1232); and Harahar Hargeya (1233-1241) (Alemayehu and et. el, 2006: 84).

Though the accounts of oral tradition as to the rise of the six Aba Gadaas were undeniable, the question remains as to the reliability of the periods. For instance, the written sources do not back the oral tradition as Oda Bultum began to serve as a politico-religious centre in the late 12th century. One relevant written source is the chronicle (the “Fath”) referring to Harar puts that “a group of missionaries under the leadership of Umar al-Rida (Shiek Abadir) [...] reached the town in 1216” (ibid: 109). That is, during the administration of Abba Gadaa Roba Gamo than during Abba Gadaa Harhar Hargeya. This contradiction requires further enquiries and researches and it is also beyond the scope of this project to deal with further.

In the 14th century, Oda Roba³² was also the politico-religious centre of the Borana-Oromo when they had been settling in central Ethiopia. Some argue that Oda Roba had been the centre from 1316 to 1378 until the centre shifted to Mada Walabu (ibid: 96). The proponents of this position based their prediction on oral traditions and Gadaa chronology rather than written sources. Similar to the case of Oda Bultum discussed above, here again the issue of the accuracy of the dating remains unresolved, though the event did actually take place. Therefore, it is not clear for how long Oda Roba served as a centre of Gadaa System and the exact time when the transfer was made to Mada

³²Oda Roba is located in the eastern ONRS part of present day Ginir district. In comparison, the Macca and the Tulama branches of the Oromo people made their assembly at Oda Nabe, about 30 km south of Addis Ababa, later become the site for Tulama (Terje Østebø 2009: 106 citing Ibsa Gutama 1997).

Walabu.

3.3.3 The Two Historic Events of Gada System: Dismemberment and Renaissance

According to Gadaa chronology, there are two major historic events. These are: the decentralisation or dismemberment of Gadaa (*Chinna* Gadaa) and the renaissance of Gadaa (*Haromsa* Gadaa). The former designates the condition when the centralised system of Gadaa under Oda Nabe was decentralised to the extent that each Oromo clan were left to be administered by clan assemblies traditionally known as *Chaffe* (general assembly).

It would be appropriate to question the factor(s) for the dismemberment of Gadaa. In this regard, the argument is that the Gadaa System was under threat from external forces from the pre-medieval period. The first potential threat, which the oral tradition maintains up to date, was the case of the expansion of Islam and Christian kingdom in Ethiopia. Though it is not crystal clear as to the effect of this threat, some argue that the long conflict between the Christian kingdom and Muslim sultanates (from 14th century) on the land of the Oromo people had created instability in the region and necessitated for the dismemberment of the Gadaa system that ultimately resulted in dismemberment (*Chinna*) Gadaa. Moreover, the oral tradition maintains that the assassination of the religious leader (*Qallu*) known as Oditu *Qallu* had also accelerated the problem (ibid: 56).

Alemayehu et. al. (2006) in their work “History of the Oromo to the sixteenth century” contends that the dismemberment of Gadaa took place from 756 A.D. to 1116 A.D. They come to this conclusion based on three elements gathered from oral traditions; first, the functionality of Gadaa system at Oda Nabe in 3rd AD. Second, an oral tradition among the Tulama-Oromo states that Gadaa under dismembered or decentralised system have endured for forty-five Gadaa leadership. Third, according to this oral tradition, since the renaissance 111 Gadaa leadership has passed. (1116 A.D., that is,). Thus, the calculation goes simply by deducting 360 (i.e. 45 Gadaa leadership) from 1116 (i.e. 111 X 8 - 2004, taking the year of writing of their work as a bench mark) they got 756A.D. Perhaps this assertion is plausible. However, for more reliability, additional researches inclusive of other Oromo clans’ oral traditions need to be considered widely.

Another fundamental event according to Gadaa chronology was the renaissance (*haromsa*) of Gadaa. The phrase *haromsa Gadaa* denotes the efforts made to reorganise and revive

the Gadaa System. In the mid of 15th century, Mada Walabu become the last centre where Gadaa system could flourish again. It was there where fundamental changes to the organisation and functionality of Gadaa system did take place. The change was driven by two factors: *first*, it was aimed to defend or protect Gadaa system from the influence of Islam, an alien religion to the Oromo (functionality). In order to maintain this objective, new rules were made to strengthen *muda* religious pilgrimage to the seat of the *Qallu* (religious leader) once every eight years. The pilgrimages require each clan leaders under Gadaa leadership to be part of the *muda* ceremony so the Gada System could remain strong despite the growing influence of external factors. *Second*, it was necessary to reorganise strong military power in order to regain territories lost to the Christian Highland Kingdom (Alemayehu et. el. 2006: 96). To achieve this objective, a new law was made. That was, the law that required launching once every eight years *butta* (military campaign after a feast) in all directions of the Oromo land in order to recover lost territories to external forces.³³ When it comes to Gadaa Renaissance among the Boran, the Boran elders whom I interviewed do confirm that the Gadaa today in practice was restored in the mid of 15th century. They state Gadayo Galgalo³⁴ was their first Abba Gadaa during the renaissance of the Gadaa System. According to Borana-Oromo's oral tradition, upon completion of his eight year term office, the power was handed over peacefully to Abba Gadaa Yaya Fulule (Informant: E). Hence, it is plausible to argue that, the Gada System was already in place even before 15th century but Abba Gadaa Gadayo Galgalo was the main actor and reformist who contributed for the reorganisation of Gada structure, enactment of new laws and strengthened Gadaa leadership that endured for centuries adapting itself to changing circumstances.³⁵

Conclusion Under this chapter I have tried to contextualise the subject matter of the study. The main concern of the chapter is to create an understanding about the politico-legal system of Ethiopia and to introduce about the Boran's historical settlement and their social organisation. There are two major historical events that have marked the feature of the modern Ethiopian political system. The first major event is the formation of modern Ethiopian state during the end of the 19th century. The second major event

³³However, it is necessary to acknowledge that renewal of Gadaa system was not only limited to structural reorganisation and military arrangements but it covered also the new rules covering the revitalisation of cultural values. In short, Mada Walabu was a historic place where restoration of Gadaa System was effectuated.

³⁴The Borana elders whom I interviewed (informants H and I) was the first one and the founder, no other Abba Gadaa they could recall before him.

³⁵Despite the prolonged assimilation policies, religious proselitisation and "communist revolution" Gadaa System has survived in a very limited regions of the Oromo land.

is the wholesale legal transplantation that changed the politico-legal landscape of the country. Clearly these two historical events have an enduring impact on the traditional institutions of governance in Ethiopia including the Gadaa System.

As far as the central part of the thesis is about traditional governance among the Boran, it is also mandatory to consider the historical development of Gada System. It is also covered that despite the contacts of the Boran with different cultures including the European culture, they have maintained their system of governance up to present. Therefore, this chapter lays a ground for further study of Gadaa System by introducing the Borana-Oromo, describing the modern Ethiopian political system and assessing the historical development of the Gada System. Accordingly, the following two chapters (chapter four and five) are mainly concerned with the descriptive-analysis of the Gadaa System.

Chapter 4

Introduction to Gadaa Democracy

4.1 Introduction

This chapter is intended to introduce the Gadaa System of governance currently in practice among the Boran people of south Ethiopia. The Gadaa System has been studied by several expatriate scholars such as Baxter 1978; Bassi 1996; Nikolas 2010; Leus 2006 and by native researchers like Asmarom 1973 (2006); Lemmu 1971; Dinsa 1975, and others. This chapter has benefited from the works of these scholars. However, all have approached the study of Gadaa System with different backgrounds and cultural orientations. As a result, diverse interpretation of Gadaa institutions and its values could flourish. Moreover, concepts such as age-sets, generation-sets, and total number of Gadaa grades, and duration of Gadaa grades were puzzled.

The objective of this chapter is first and foremost to clarify these misconceptions –without which the analysis of the Gadaa System would be difficult. Accordingly, the first section of this chapter is mainly concerned with the definition of Gadaa, clarifying some common misconceptions under the Gadaa System. The second section of this chapter deals with the two important concepts that the Gadaa System is found on: Gadaa-grades and Gadaa-classes. These two concepts are at the heart of the Gadaa System and understanding them avoids misconception surrounding the Gadaa System. Third section of this chapter deals with the main macro Gadaa organs of governance such as Gadaa Council (*adula*), Gadaa General Assembly (*gumigayo*) and the religious (*Qallu*) institution.

4.1.1 Definition: Gadaa is Onerous to be Defined

What is Gadaa? The term Gadaa has no single and unanimously accepted definition. It seems Gadaa is more conceivable lexically than analytically. Tsegaye G/Medhin presents the etymology of Gadaa as *ka'aada*, which is the combination of two archaic terms: *ka* and *aada*. He states *Ka* means God (*Uumaa* or creator), and *aada*, in this sense, refers to norms together it would mean “Norms of God.” However, the term *aada* in common parlance refers to culture that encompasses religion, customary laws, and social norms (Tsegaye 1964).¹

From chronological perspective, Gadaa refers to a period of eight years during which a Gadaa class stays in power (Asmarom 1973: 81). In this respect it refers to the sixth Gadaa grade through which every Gadaa classes has to pass once every forty years. If this assertion is taken, it then indicates the sixth Gadaa grade that is also used to refer Gadaa institution.

Structurally speaking, the term Gadaa has been defined in different disciplines in several ways. For instance, Gadaa is considered by social-anthropologists as “an age grade that divides the stage of lives of individuals from childhood to old age into a series of formal stages” (Tadesse 2004: 14). Tadesse referring to the Gadaa System among the Guji-Oromo states that there are thirteen stages and transition ceremonies to mark the passage from one stage to the next (ibid). However, the formal Gadaa stages among the Boran do not exceed eleven Gadaa grades. Moreover, Gadaa divides powers and functions, accords rights and responsibilities² along the age-sets.

From structural and functional perspective Gadaa may be defined as :

The GADA SYSTEM is a system of generation segments or gada classes that succeeded each other every eight years in assuming political, military, judicial, legislative and ritual responsibilities. Each active gada class—beyond the first three grades—has its own internal leadership (*adula*)³ and its own assembly (*ya'a*), but the leaders of the class become the leaders of the nation

¹See also: <http://www.youtube.com/watch?v=8b0VWiEyN7I> (January 08, 2012) (Madha Galama Abba Gada; a poem).

²In Gadaa System every human being born is subject of rights and duties. Nevertheless, all persons do not bear similar responsibilities or rights. Thus, rights as well as duties are configured among different groups (generation-sets) and Gadaa institutions

³Gadaa leaders are collectively referred the “Warra Arbora” or “Warra Bokku” and counterpoised against the *Warra Qallu*, (the ritual leaders). *Warra Bokku* (the people of sceptre) because all the senior councillors carry a specially carved baton on ceremonial occasions. That is also why among, the central Oromo the position of top leader was referred to as “Abba Bokku” (Asmarom 2006: 104).

when their class comes to power in the middle of the life cycle—a stage of life called Gadaa among the Boran or *luba* among the central Oromo. The class in power is headed by Abba Gadaa in Borana, Abba Bokku elsewhere (Asmarom 2006).

In this respect Gadaa is a holistic (social, economic, political and religious)⁴ system in essence and perhaps this fact made it difficult to define unanimously the Gadaa system by simple and clear terms.

The following section provides some preliminary considerations to clarify the terms that are used to conceptualise the Gadaa system.

4.1.2 Conceptualising Gadaa; Preliminary Considerations

In the interpretation (conception) of Gadaa system there are several concepts that are understood differently by different scholars. Among such concepts the following are notorious: age-sets, generation, generation-sets (also known as Gadaa classes or cohorts) and others. Before proceeding to the discussion of Gadaa institutions it is necessary to clarify these conceptual understandings.

A. Age: is one of the basic elements for age-group formation. It is a brick that most indigenous peoples of East Africa use to organise and structure their society (based on age relatedness). In his comparative analysis of East African age-sets system Asmarom notes that there are five invariants that determines the features of age-sets:⁵

Age (A), the numerical size of the group (N), the interval between initiations (I), the interval between the entry of father and the son in the system (I') and the distribution of genealogical generations (G) (Asmarom 1973: 235, 2006).

⁴Gadaa was developed over five centuries with purpose to foster social, political, economic and military matters collectively. Structurally speaking, it is age and genealogical based grouping of male generation and division of labour among the classes (A detail discussion is provided under chapter four and five of this thesis).

⁵The more the elements decrease (e.g. age and intitation only) the more it gets easier and the more recruitment elements increase (e.g. age, initiation, interval and size) the more it gets complicated. Any age-sets to be an institution and be functional shall have two, at least, invariants; that is, age plus interval of initiation or any other elements provided herein above. The Gadaa system clearly embodies these five elements and that is why it is regarded as complex system as compared to other age-sets among other ethnic groups of East Africa.

However, what initiation, interval and genealogical generations constitute is not clear. These elements pop up due to the fact that recruitment to an age-set requires, in systems like Gadaa, generational relationship and in connection with that issues like: the time when a son may be initiated to the system and the interval between the father and son are inevitable. Therefore, here below I have attempted to clarify them as follows:

B. Generation: Defining the term generation is not an easy task especially in a relation to its socio-political relevance for people's responsibilities and rights characterisation. Besides, the term generation has been used in different literature in connection with kinship descent, cohort, life stage and historical periods, which further complicate it. However, for the purpose of this study it refers to intergenerational relationship but quite different from its common understandings. First and foremost, the term generation does not mean age-peers as understood in the West. Rather it is more related to genealogy; for example, two grandsons of two brothers are in the same generation-set. Second, generational relationship and generation-set are mutually interdependent, due to 'likened lives' (Nicolas 2010 citing elder and Johnson 2003: 68) and 'interlocking trajectories' across the generations (Nikolas 2010 citing Elder 1985: 39). Since Gadaa is found not only on age-groups but also on generation-sets, hence, understanding the generational relationship and its role is vital.

C. Initiation and Interval between the father and the son: Age grouping is combined with a generational mode of recruitment, in that a son gets introduced to a specific set correlated to the set of his father, and subsequently changes his status every eight years a member of his generation-set. Put it differently, "the generational aspect comes in with the moment of initiation, whereby a male, along with his brothers (who belong to the same class as he himself), gets introduced to the system in chronological accord with the life-course timing and set belonging to his father" (Nicolas 2010: 324). A son to be initiated (along with his peers and to form a generation-set), he has to be five Gadaa grades away from his father's set. That is, in principle, a son always enters the system exactly forty years (i.e. five Gadaa grades) behind the father. Hence the rightful son (*ilma kormaa*), what Leus, Ton calls "elite children" that are born during "fatherhood" stage, is the one born when his father is at fifth Gadaa grade, the *raba* grade (Leus 2006). Cerulli as well as Asmarom agree that there is an intergenerational correspondence between the hemicycles⁶ that: the first Gadaa grade is linked to the fifth,

⁶A full Gadaa cycle covers 80 years and 40 years is regarded as a hemicycle (half). As such the father has to be in the second hemicycle for the son to be introduced to the first hemicycle.

the second is linked to the sixth, the third is linked to the eighth, the fourth is likened to the ninth, the fifth is likened to the tenth, and the sixth is likened to the liminal/final (*Gadamojji*) stage⁷ (Cerulli 1957; Asmarom 1973: 122). That is, the father and the son cannot be in the same (first or second hemicycle) at the same time.⁸ Obviously, this principle is ideal in a sense that most but not all Boran people do observe the rule. As a result problem in a relation to incorporation of late or early born children often arises.

D. Early born, Right born and Late born: Since the principle of five intervals stated here in above, in most cases, are not observed among the Boran people, children continue to be born (before the father reaches fifth Gadaa grade or after the father passed this stage). As a result we will have early born and late born sons. In this regard, due to the rigidity of the Gadaa principle, the moment a member of the family fail to stick to the rules of timing for legitimate procreation, the whole generational chain is brought “out of step”⁹ (Nicolas 2010: 324). However, the Boran did adopt a practical solution to the gap created due to late born sons, commonly known as sons of elders (*ilmaan jaarsaa*); It refers to sons born to a man that have passed the stage of “fatherhood”, the *raba* grade). Hence, among the Boran, late¹⁰ born sons of a man should be introduced to the same Gadaa grade as his brothers despite difference in their age. Where a rightly born son perfectly fits into the principle, the late born sons cannot, and the option they have is to run behind their elder brothers. Therefore, the Boran did arrange a pragmatic system for the sons of elders by allowing them to be treated as “equals”¹¹ despite differences in

⁷Given the time of the entrance into the Gadaa cycle of a man is defined by the grade position of his father, the cycle of a son is always bound to the position of his own father. Furthermore, the man’s position is correlated to the position of his grandfather. That is where the grand father leaves the Gadaa the Son enters into the Gadaa system. The son and grandfather are always allies and the father is regarded as their adversary.

⁸Some argue that such a filial bond embedded in the group’s socio-political organisation can have affective values but it can also become fetter to personal decisions and even cause individual life crises (Nicolas 2010: 324).

⁹Undeniably, this is one of the drawbacks of the Gadaa system which is discussed in detail under chapter five of this paper. The rigidity of the principle had led some people to think that the Gadaa system is almost dysfunctional or fading away over the course of time. A demographic statistical analysis conducted by Asmarom also indicates that this principle did work in its early periods but now a days increasing number of individuals are not sticking to the rule. Nevertheless, scepticism to this assertion states that: “whether there ever was such an ideal state in history when the system existed in its pure form and the institutional norm was still in order” (Nicolas 2010 citing Zitelmann 1990: 58). Moreover, it was argued that, large number of Borana male generation do not match the principle of age and generation correlation; and thus getting deprived of their participatory rights in social and political life (Nicolas 2010:325).

¹⁰Late born sons are those born to a man who have already passed the fatherhood stage (the *raba*) or in other words, a son born to a family where his brothers are already in second Gadaa grade (junior *gamme*) or third Gadaa grade (senior *gamme*).

¹¹Though it is true that late born sons may not always be at equal distance from his father (s) (as Gadaa principle requires), age difference cannot bar sons of elders to take part in socio-political activities under Gadaa

their ages. Whereas, early born sons cannot be assigned to a legitimate “social father” and thus cannot be correlated to any set in terms of generational affiliation (ibid: 325). According to one of my informants (Informant E) though most Boran men do stick to the principle of not raising children before the permitted stage. In nut shell, the Boran did manage this problem due to two reasons: the adoption of a pragmatic solution for late born sons; and early born sons are small in number as compared to the late born sons which enabled Gadaa to sustain among them. Had it been so, some argue that, Gadaa would have been extinct long ago (ibid).

The Boran age-set (*hariyya*) is an institution organised based on age and generational relationships. That is a son gets introduced to a specific Gadaa grade, which correlates to the Gadaa class of his father, and subsequently changes his grade every eight years as a member of his cohort. However, what does the Gadaa class refer to? The following section mainly deals with this question.

4.2 The constitution of Gadaa Classes and Gadaa Grades

4.2.1 Gadaa Classes

So far different scholars have used different terms to express the generational relationship social stratification among the Boran. For example, phrases such as: Gadaa-sets¹², Cohorts¹³, Cadre, Gadaa class have been used (Nicolas 2010; De Salviac 2008 (1901); Asmarom 2006). (I prefer to use Gadaa class through out this chapter and I will use the term Gadaa party for the purpose of analysis under chapter five of this thesis).

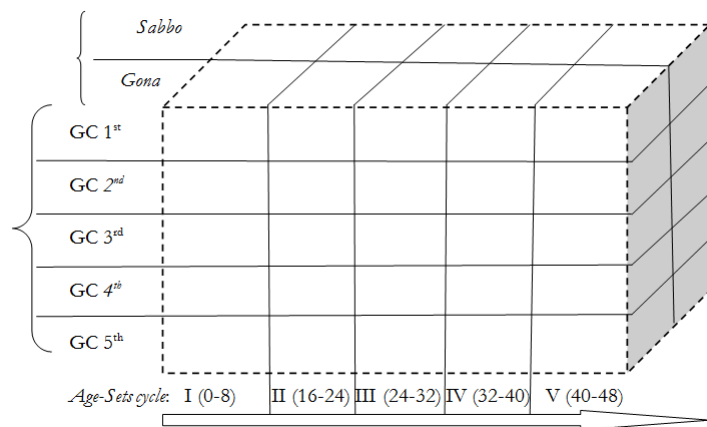
organisation. A Gada grade incorporates within its ranks people of vastly different ages. For instance at Raba Gadaa grade (Gada grade-V as discussed below), elders, adults and young male generation can be member. Therefore it something common among the Boran to see children being treated as equals by adults and it is legitimate to consider the diverse members of a Gadaa grade as a homogeneous group. Non-conformity of a person's life-phase with the members of his Gadaa grade may not lead to disturbances of individual life path—a mature man in junior Gadaa grade do not regard himself as a child and inversely young persons may not also feel displaced being in senior Gadaa grade.

¹²The usage of the term “set” diminishes the extra-ordinary social organisation and corresponding to the level Gadaa has reached it is in appropriate to use such diminutive term. Furthermore, Asmarom states in this respect that an organisation that was the engine driving the great movement of the Oromo nation that changed the face of the Horn of Africa, an organisation that had jurisdiction over an area the size of Germany cannot be described as a mere generation-sets or age-sets (Asmarom 2006). Thus, one has to reconsider the ethics an academic discourse requires to present facts without concealing reality and/or exaggerating them as well.

¹³The term ‘cohort’ has been also controversially discussed as to the time when the cohort could be considered to begin existing and where it would end. Cohort, under the Gadaa system, if understood mainly as an institution then it wouldn't be difficult to identify the time when it starts and the time when it ends. As it is discussed elsewhere the cohort begins existing at the third stage of Gadaa grade.

Accordingly, Gadaa class refers to a segment of genealogical generations constituted by two cross-cutting elements: age-sets and moieties.¹⁴ For example, if a father belongs to the Gona moiety and he is at the fifth Gadaa grade and if he got a son at that stage, his son will be initiated to the same Gadaa class as a *dabballe*) like his father. However, to be initiated to the Gadaa system, in principle, they have to be always five Gadaa grades apart from their father.¹⁵ In this example we have age requirement, genealogical relationship, and moiety. Hence Gadaa class is the cross-cutting three organisations: age-sets, generation-set and moieties,¹⁶ (*luba*) and the age-sets (*hariyya*) (ibid: 107 and 196).

Figure 4.1: The three cross-cutting Gadaa institutions (moieties, age-sets and generation groups) of Borana-Oromo



- Where; GC stands for Gadaa Class

First and foremost, one has to be clear that Gadaa class refers to the group of people who share the same status and who perform their rites of passage together. Whereas Gadaa grades are the phases of development through which the members pass. Thus, where

¹⁴Among the Boran, as you might recall the discussion held under chapter three about the social organisation of the Boran, there are two equally divided moieties: the Sabbo and the Gona. Accordingly, if a man belongs to the Sabbo moiety and his sons also will be members of the Sabbo moiety by default.

¹⁵For example, the oral tradition among the Tulama-Oromo maintains the principle called “the forty years of my father” (*Afurtama abba kooti*) referring to the fact that the power will come their generation-set (Gada class) after five Gada grades (Asmarom 2006).

¹⁶The Gada class (*luba*) may be likened to individuals playing pool game in terms of the rotation of power. That is, Gadaa class A serve for a fixed period and will pass over to Gadaa class B and so on. Moreover, all are independent of one another and plays in their own ways. Good performance of a class on power increases the good-will of the class and reserved a credit for future elections.

the former is horizontal and refers to the collective, the latter is vertical and defines the responsibilities assumed successively throughout their careers.

Second, in Boran Gadaa System there are five Gadaa classes that are basically cyclic (i.e. cyclic but neither in a sense of reincarnation (Fry and Keith 1982: 53) nor is it a closed cycle (Asamarom 2006). Though the nomenclature of each five cyclic Gadaa classes varies across the Oromo land, in essence, all are the same. For instance the archaic nomenclatures to these Gadaa class orders are: *Birmaji*, *Horota*, *Bichile*, *Dulo*, and *Robale* (Dirribi 2011). However, among the Boran it is commonly known as *gogessa* (Gadaa-cycles) and they are named as the first, the second, the third, the fourth and the fifth Gadaa cycles (*gogeessa tokkoffa*, *gogeessa lammaffa*, *gogeessa sadaffa*, *gogeessa afraffa* and *gogeessa shanaffa*). Each one of the Gadaa class has diversity and unity. According to the Oromo worldview all are established by divine will. In particular, the Boran oral tradition holds that the five cyclic Gadaa classes are derived from five natural governments: that of men or of reason (1); that of running water or progress (2); that of sheep or quietude (3); fourth that of lion which represents strength and domination (4); that of vulture which presides over the spoil and quest (5) (De Salviac 2008 (1901): 222).

The Boran believe that each Gadaa class in ascending to political power bring into all affairs the inclination which is appropriate to it, that is, each Gadaa class leads the people according to its natural tendency.¹⁷ For example, according to Boran diction the term *Dulo dule* signifies that the Gadaa class of *Dulo* (waging war and it was one of the five Gadaa classes) had conducted military expedition. (De Salviac 2008 (1901): 222). That is why the *Dulo* Gadaa class was likened to the vulture. Put it differently, where *Dulo* Gadaa class is known for military leadership and defending the territory; *Birmaji* was, perhaps, notorious for rendering justice to the people. Hence the coming to power of each Gadaa class once within forty years (i.e. 5 X 8) ensures not only power transfer but also the maintenance of quality leadership thereof.¹⁸

¹⁷Moreover, although the five Gadaa classes are based on generational relationships, they can be equated to political parties established on the profound ideas (world views) which is quite different from the modern political systems (This part is analysed under chapter five).

¹⁸A wide account on the historic Gada classes are given by Dirribi in his work properly titled "Black Wisdom" published in 2011 as follows: *Gadaa Mudana* (c. 1531-1538), *Gadaa Kilole* (c. 1539-1546), *Gadaa Bifole* (c. 1547-1554), *Gadaa Michille* (c. 1555-1562), *Gadaa Harmufa* (c. 1563-1570), *Gadaa Robale* (c. 1571-1578), *Gadaa Birmaji* (c. 1579-1786), and so on (Dirribi 2011). These were the historic (founding) Gadaa classes. Each Gadaa class had special qualities of leadership and had accomplished extra-ordinary contribution to their society.

4.2.2 Gadaa Grades and Age-sets (*hariyya*)

Broadly speaking, the age-set system of social organisation is common to east African indigenous peoples. In this line one may regard that age-sets are something common among different ethnic groups of the region to the extent that there is no distinction among them. However, such perception, if any, is simply not right. Hence based on the variants they are established on Age-sets may be divided into two: elementary¹⁹ age-sets and complex or advanced²⁰ age-sets. Elementary age-sets are the basic sets not tied to other variables such as initiations, interval between father and son and other elements discussed herein above. Hence elementary age-sets are organised in such a way that male generations who are approximately the same age share similar collective military, economic, political or ritual responsibilities. In this respect Asmarom draws that the Gadaa System was originally an age organisation. It is simpler institution, called age-sets (*hariyya*)²¹ that was then introduced to serve as a subsidiary institution that supplements the social, maturational and military functions” (Asmarom 2006: 105)

Among the Boran, however, similar (age wise) male generations will undergo a variety of rites of passage together as they approach each new phase every eight years.²² Moreover, Gada is transformed along radically different lines, what Asmarom calls a system of temporal differentiation of society having little to do with age (Asmarom 2006). The Borana’s age-sets are organised in two ways: through a system where the member of each class are recruited strictly based on chronological age (1). The other is through a system in which the members are recruited based on genealogical generations (2). These requirements are similar in three aspects: both are formed every eight years; both pass from one stage to another; and in both active members pave position in both systems.

¹⁹For example, the Sidama and the Konso ethnic groups in Ethiopia have age-set system of social organisation which is slightly similar to Gadaa System. However, their social structure did not develop into complex traditional institutions like the Gadaa System of the Oromo people, though; undeniably they do share some elementary bricks of the system such as age, and ritual initiation. As people pass through different socio-economic and political landscapes they evolve their systems of administration in series of unfolding conditions. Therefore, to conclude Gadaa System as a mere age-set system common as elsewhere conceals its distinctive features and functions and eventually to get lost in generalisations.

²⁰Gada, however, is an institution that represents an extreme development of a type of social structure known to anthropologists as age-sets. Extreme forms are often very instructive in the social sciences because they expose in exaggerated way simple facts about human society that we take totally for granted [...] It is one of astonishing and instructive turns the evolution of human society has taken (Asmarom 1973: 50).

²¹The term *hariyya* is not considered as “age-sets” among other Oromo groups but as “age-mates.” In particular, among the Boran the leaders of age-sets are called as *hayyu hariyya* which means “age-set councillors” (See: Asmarom 1973, 2006:106).

²²Asmarom likens age-sets system to the case where men graduated together from all the colleges in a particular country and eventually became permanent corporate charged with most important responsibilities (Asmarom 2006).

Moreover, as discussed elsewhere, age-sets cross-cut Gadaa classes and moieties and eventually put the Gadaa system in to motion. Thus one can regard age-sets as one of the auxiliary institutions.

It is reasonable to question the reason why do most indigenous peoples of East Africa including the Oromo did organise social structure based on continuous age-groupings and periodic rituals? Perhaps, the Age-set system might have imitated the natural course of human physical development to the structure the society.²³ Moreover, Asmarom approaches the reason for demarcation of age-sets by rituals as follows: “the passage of time has no subjective meaning unless it is punctuated with a transitional phenomena, whether it is the climbing of the dock, periodic saturnalias, rites of passage, or graduation ceremonies. [...] In Western thought the life cycle (which is bracketed by birth and death) time (which is well demarcated with mechanical devices and history (which is also mechanically recorded by chroniclers) are reasonably discrete phenomena” (Italics mine) (ibid: 108). However, Gadaa is one as well as three: life, time and history. Therefore, Gadaa is a life time lesson²⁴ and a carrier for the members where the three pillars (*life—time—history*) are unified.

4.3 Gadaa Grades: The Eleven Regular Gadaa cycle among the Boran

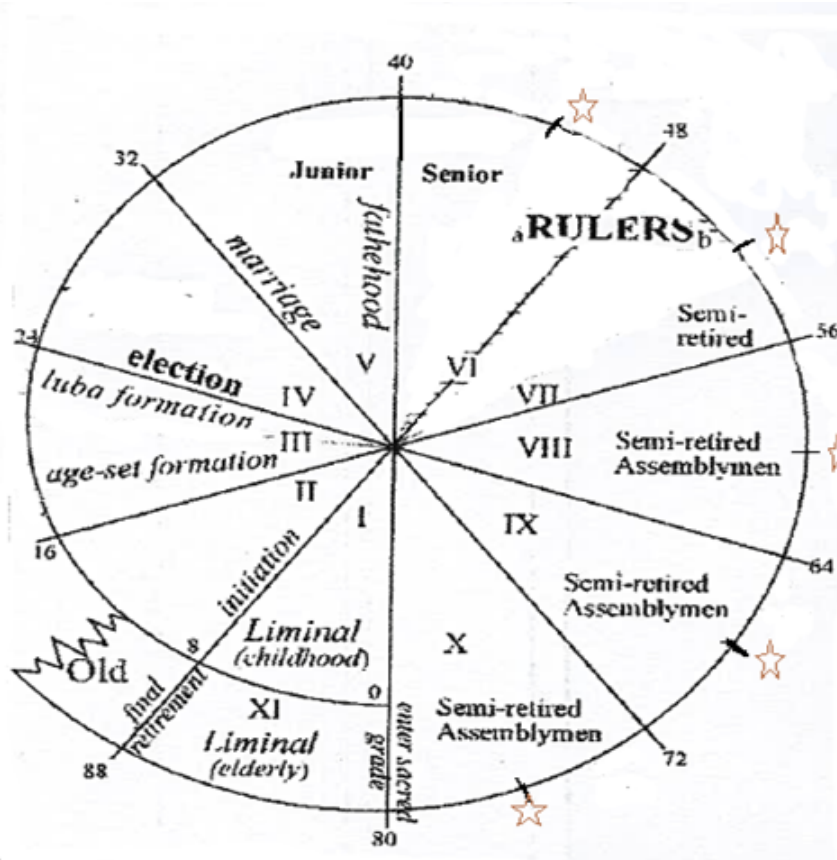
Among the Boran people the Gadaa System embraces eleven basic Gadaa grades: five active, five passive and one liminal (full retirement) stage. Each one of the eleven Gadaa grades equally bears eight year periods (Leus 2006) and they are based on genealogical generations (Asmarom 2006).

Consider the following diagram (a model and summary) of the Gadaa grades depicted as follows:

²³For instance human body naturally shows a difference within the interval of eight years; childhood, young, adulthood and etc. follows more or less the patten of eight years difference. Hence, might the Oromo have learnt the eight year based age-grouping from the nature itself?

²⁴Hence for Borana Gada is life time system which may be likened to an education system where a child goes to, first, elementary school, high school and so on to shoulder difficult tasks and complex issues in future. Thus beyond moulding future generations to grow being good citizen, it equips them to shoulder social responsibilities. In sum, it is an increment of social responsibilities every eight year step by step making generations to add values to their ancestors’ achievements and pass it incoming generations. Furthermore Kertzner states: “What we see, from the pastoralists of Ethiopia to the professors of Europe and the United States, is a tendency to abstract from the process of birth within a family to a wider, societal process of social replenishment” (Kertzner, David I. 1982).

Figure 4.2: A prototype (model) of a full Gadaa cycle among the Borana-Oromo (Source: Asmarom 2006, a modified model)



☆ —Indicates the Gadaa General Assembly meeting periods.

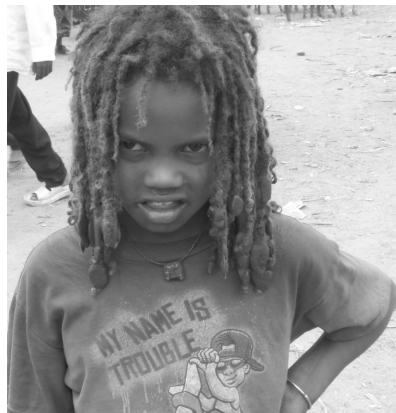
As to the question, how many Gadaa grades are there and how long do they exactly take, it has been differently approached by several interpreters of the Gadaa System. For instance Leus' model recognises eleven Gadaa grades and all bear eight years constituting in sum eighty-eight years (Leus 2006). However others recognise the eleven Gadaa grades but they vary on the question how long a Gadaa grade take in years. For instance, Haberland (1963) and Asmarom (1973) vary from the former model in that the fifth Gadaa grade (raba) takes five years and the seventh, eighth, ninth and tenth Gadaa grades (i.e. *yuuba* I-IV) covers twenty-seven total years. However for Lues all the four *yuuba* Gadaa grades constitute twenty-four years in sum. The discrepancy between the two models of counting amounts to three years and it arise from the timing of the Power (*ballii*) transfer ceremony. For the purpose of this study, however, I do prefer the first

model.

All the Gadaa grades depicted in the diagram above are discussed one by one as follows:

I. *Dabballe* (the first Gadaa grade) from age 0 to 8; *Dabballe* is the initial Gadaa grade roughly ranging from birth to eight years. As discussed elsewhere, a son born to a man at the fifth Gadaa grade (*raba*) will be introduced to the first Gadaa grade and such children are commonly named as *daballe*. *Dabballe* are unique and they have a special place in the Boran society. They are recognisable by their hairstyle known as *guduru* which is typically feminine (the Borana likens them to girls at this stage). *Dabballe*'s hair will never be cut and he will have a fictitious name until the naming ceremony (ceremony of passage to the second Gadaa grade) is undertaken. Besides, *daballe* are free and irresponsible groups. Being *daballe* is simply a privilege to the child as well as the mother.²⁵ Corporal punishment of *daballe* is strictly prohibited. Instead they shall be disciplined verbally and “psychologically.” Even other children who take refuge to a home of *daballe* will also be excused from any form of punishment (Alemayehu et. el. 2006; Diribi 2011; Asmarom 2006).

Figure 4.3: A *Dabballe* in Boran (photo taken at Dubluq area, Borana zone)



II. *Gamme xixiqqaa* (junior gamme) from age 8 to 16; Junior *gamme* is the second Gadaa grade that has to be established through transition rite. Fathers of the *dabballes* move from all the principal regions of the Boran to the area of the shrine.²⁶

²⁵A mother of *daballe* enjoys privileges such as: respect from other women, priority in any public services (e.g. water wells during dry season), and others.

²⁶The Boran people movement to different places for ritual purposes are commonly known as *jila* (pilgrimage).

Then they had to build a traditional hut known as *galma* especially on free and fresh area. In principle, every member of a Gadaa class has to attend²⁷ the rite of transition. One of the most important activities during the ceremony is hair shaving and giving him new appropriate name, mostly one of the names of their ancestors.²⁸ Accordingly the rite of ceremony changes the social status of the child from being considered as girls to boys; it represents the “birth of sons” (Asmarom 1973: 55). On the other hand it also ends some of the privileges they use to enjoy and it brings minor social duties to them. Following the rite of passage, therefore, the junior *gamme* assume responsibilities such as looking after sheep and other simple duties. Lastly, they remain as an informal group of friends and kinsmen rather than as members of a Gadaa class until they reach the third Gadaa grade (Diribi 2011).

III. *Gamme gurgudda* (senior *gamme*) from age 16 to 24; There is no formal rite of passage to this Gadaa grade unlike the case of passage to junior *gamme*. Junior *gamme* and senior *gamme* are the sons of two distinct Gadaa classes and they are named after the Abba Gadaa (Gadaa class) in power. For example, during my field work in Boran the junior *gamme* are called as “the sons of Guyyo” and the senior *gamme* are called as “the sons of Liban.” That is, they are named after the two Abba Gadaas, Abba Gadaa Guyyo Gobba (incumbent) and Abba Gada Liban Jaldessa (ex-Abba Gadaa). One of the peculiar features of senior *gamme* is their tendency to be organised as responsible friends *hariyya* and mobilize themselves for a continuous five years, especially during summer time. The scope of gatherings ranges from socio-economic to cultural/entertainment activities. Hence, it is customary to move from home to home to find their age-mates. However, before travelling to different houses, they had to notify in advance the mothers of age-mates so that they will arrange the trip and feast for them (Asmarom 1973: 59).

Another feature of senior *gamme* is their elevation to the Gada class. That is, unlike the case of junior *gamme* the senior *gamme* will be constituted into two institutions: age-sets and Gada class. Hence, it is at this grade (senior *gamme*) where age-sets *hariyya* as an institution begins to take root officially. Accordingly, where the first five years of the senior *gamme* are characterised by joyful activities (singing, dancing and expe-

²⁷Traditionally absentees send branches of a sacred tree and it will be kept separately. Symbolically it means they are present.

²⁸Anthropologists state that giving names of previous ancestors to children has at least two advantages: first, it creates an opportunity for recounting family core and will be a symbol of lineage tradition the son is expected to uphold. Second, where a son is oldest in a family he is regarded as a bridge between successive generations in lineage. Among the Borana the naming ceremony for eldest son is known as *gubbisa* whereas for the younger one is known as *makbasa* and the latter is less formal than the former (Asmarom 1973: 36).

rience sharing) the remaining consecutive three years is the period of being considered as members of the Gada class rather than as a mere member of age-sets. Nevertheless, they continue to gather as many age-mates as they can during this period too.²⁹

In nutshell senior *gamme* had to undergo three main collective social activities (as part of Gadaa development): age-sets formation (*hariyya*), rendezvous (Wal'argi), and feast (*nyachisa*) ceremonies covering the entire eight year period (Diribi 2011, Alemayehu et. el. 007). The purpose of these activities is to first make the members of the grade be aware of their class and peer group. Second, it also makes senior *gamme* acquire/share experiences with one another for future collective responsibilities.

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IV. *Kusa* (the fourth Gadaa grade) from age 24-32; One of the most important Gadaa grades is the Kuusa Gadaa grade. As the age of senior *gamme* kicks into a more productive and extra-ordinary stage, so does the *Kusa* Gadaa grade welcome the members with different social structure, collective responsibilities and rights. Thus transition to *Kusa* is accompanied with a formal ceremony. Among other Gadaa businesses conducted at this level, the following are the most striking ones:

First, it is at this grade where the Gadaa class and age-sets come into play as formal corporate groups. As discussed elsewhere, the two groups are cross-cutting structural units that operate as complementary institutions as long as both are represented by living members (Asmarom 1973: 61). Second, it is at this grade that future Gadaa councillors have to be elected. The election of the Gadaa councillors takes place at the time when the rite of passage of the senior *gamme* to *Kusa* Gadaa grade takes place. The election process is known as *lallaba* (proclamation). To be nominated as a candidate as well as to be possibly elected the Borana consider the following criteria: personal qualities (skills such as courage, patience, open mindedness, reconciliatory and orator);

²⁹During the first year of the three year period they had to organise an ceremony (*jila*) known as *wal-argi* (rendezvous) and they prepare *nyachisa* (feast) ceremony in the remaining two years (Informants A and B). The feast ceremony has to be accompanied by the participation of all *luba* (Gadaa Class) fathers of the celebrants and they are expected to sacrifice cattle in order to feed and entertain the visiting *luba* mates of their sons (ibid).

competence of the candidate among his peers and his knowledge³⁰ (commitment for) of cultural values; antecedents such as: betrayal, fraudulent, untruthfulness and others prohibits him from competing; historical achievements of his forefathers (the more his fore fathers had accomplished positive deeds to the Boran and to the Gada System; the more the candidate owes high probability to be elected); the candidate has to have a positive image before his own clan and other clans; and recommendation from religious (*Qallu*)³¹ institution³² (Dirribi 2011: 226; Asmarom 1973: 209).

Third, it is also part of the ceremony to plant a flag made from white and red coloured garment called a (*baqqalaa faajjii*) (a white flag)³³ (Informants C, H and I). During the ceremony, “the boy sang their age-set songs (*tunnee*) and the songs of Gadaa passage (*mokkee*). The fathers and mothers then stood facing each other around the flag, and the fathers sang song of praise to their wives” The transition ceremony takes no less than two weeks(Asmarom 1973).

Following this ceremony the election (*lallaba*) process takes place. During the election the activities such as: the assurance of readiness of recommended candidates and notification thereof within reasonable period of time for election campaigns; fathers of the candidates may be part of the election process; and lastly, notification of election results takes place. Accordingly, the objective of the election is obviously to elect members of a Gada Council (executive organ) known as the Gadaa Council (*adula*), which includes the Abba Gada office and others (more discussion on the Gadaa Council is held under separate section). Once they are elected freely and fairly, they will remain *de facto* councillors of their Gadaa class for two consecutive Gadaa grades (i.e. until they reach the sixth Gadaa grade). Therefore, on one hand, the tradition of electing future leaders allows the *de facto* leaders become more skilful and prepared for public responsibilities. On the other

³⁰Among the Borana knowledge of cultural values the (Gadaa System and other cultural values) is recognised as a distinct political asset, and those who do not have it must seek alliance with those who do or they must find some way of securing of specialists in exchange for gifts (Asmarom 1973: 204).

³¹*Qallu* is a title given to religious leaders widely known to the Oromo people referring to male religious leader. According to the current Gada structure of the Borna society, two *Qallu* from each of the two Borna moieties presides over ritual matters: one representing the Sabbo and the other representing the Gona moiety. Unlike the elected Gada councillors (the *adula*) the *Qallu* are hereditary and pass down by patrilineal succession. In all ritual activities the *Qallu* has precedence over the Aba Gadaa himself. However, in all other activities, the power and functions of the Aba Gadaa, and the Gadaa council as a whole remains undiminished.

³²As discussed elsewhere *Qallu* or *Ayyantu* are religious leaders with little role in Gadaa politics. During the election of Gadaa Council *adula* councillors the *Qallu* institution (see: Each of Sabbo and Gona have *Qallu* representatives) undertake a private survey as to the acceptance of the candidates before the Borana people as a whole. If the candidate has little or no acceptance from the people, his chance to win the nomination leave alone the election is unlikely.

³³The phrase *Baqqalaa faajjii* was named after a very white bird what the Borana calls *baqala* and *faajjii* means flag, (i.e. a white flag).

hand, it allows the Boran people to watch the performance and credibility of the elected (*de facto*) leaders.³⁴

V. *Raba* (the fifth Gadaa grade) from age 32 to 40; At *raba* (Gadaa grade V) the basic organisation of this executive organ (i.e. Gadaa Council) remains intact. However, given the length of the awaiting years (to become *de jure* leader) factors such as: natural (health) and human (wars) may contribute to the death of some of the councillors. It is evident from the Boran Gadaa history that there is high percentage of premature (before assuming political power) death. Hence when such event occurs, additional councillor(s) will be elected to fill the gap (serve as substitutes for deceased councillor(s) (ibid: 68). Furthermore, a *de facto* or *de jure* councillor may be removed from the office, because of lack of competence, though not limited to, through a procedure known as uprooting (*buqqisuu*) (The principle of uprooting is discussed in detail under chapter six of this thesis).

Another peculiar activity at the *raba* (especially at its early stage), is the appointment of two auxiliary groups known as *jaldhaba* (executive officers) and *torbi* (conscripts). Where the former are appointed (and works voluntary) by a Gadaa councillor and it is an honorary position; the later may be effectuated involuntarily. Hence, the executive officers may put a pressure on the conscripts to accept the offer.³⁵ Moreover, while the former serve for eight years, the later serves only for a limited period of time.

In nutshell, at the *raba* Gadaa grade the following Gadaa executive bodies have to be constituted:

- The Gadaa Council (*adula*)— comprising six senior councillors;
- The Executive officers (*jaldhaba*) comprising not less than six members; and
- The Conscripts (*torbi*)³⁶ comprising seven (short term agents) (Diribi 2011; Alemayehu et. el. 2007; Asmarom 2006).

³⁴One could think what if in modern political systems a leader could be elected (as *de facto* - future leaders, say five years ahead) and make them well prepared for highest public posts?

³⁵It is worthy to note here that the concept of hierarchy as in the West, for instance, seems does not hold in case of the Boran version of governance by Gadaa council. Hence, it is a system of governance with underlying functional differentiation than hierarchical posts.

³⁶Where the Abba Gadaa moves from place to place across the Boran territory there are guards comprising of seven persons called as *torbi* (the seven) selected and assigned from the people in the village where the Abba Gadaa and Gadaa councillors stay.

VI. Gadaa (the sixth Gadaa grade) from age 40 to 48; At this Gadaa grade, all elected Gadaa councillors at the kuusaa Gadaa grade will assume power at the sixth Gadaa grade. Accordingly, the Gadaa Council who has been in power hands over the power to the incoming Gadaa class. Since this Gadaa grade is the most essential stage in the Gadaa political system, the power is often transferred to the incoming Gadaa class through the rite of passage known as the ceremony of sceptres exchange and it is a replica of transfer of authority and it is commonly known as *ballii walirrafuchu*³⁷ (Asmarom 1973: 81; Dirribi 2011). Asmarom regards the procedure as “takeover ceremony”³⁸ (referring to the incoming Gadaa Council) and he distinguish it from the “handover ceremony” (referring to the outgoing Gadaa Council) (Asmarom 1973: 81). It is noteworthy to make clear here that the proclamation (lallaba) process is quite different from power transfer (balli walharkafuchu) ceremony. Where the former refers to an election process in the twenty-fourth year (during *Kusa* Gadaa grade) of their investiture—as *de facto* Gadaa councillors) of their class; the latter shows that only when they reach the sixth Gadaa grade will they takeover the power—as *de jure* leaders) of the Boran as a whole.³⁹

In principle the transfer of the power regularly takes place during the end-term of the Gadaa Council on power. In particular, it takes place in the month of February (*Gurandhala*). However, in the history of Boran Gadaa leadership, the takeover ceremony was delayed in 1960. Asmarom attests to this fact that, since Jaldessa Liban (the then

³⁷Literally, *baallii* is a sceptre (emblem) which represents political authority and *Walirrafuchu* means the exchange, together it can be read as exchange of sceptres which indicates the transfer of authority to the incoming Gadaa class. Historically, among the central Oromo Abba Bokku during the power transfer ceremony “falls in his knees and raising in his hands the sceptre towards the sky, he exclaims, with a majestic and soft voice: Behold, God! Be on my side. [...] make me rule over the Dori [...] over the *Qallu*, [...] make me form the morals of the youth.[...]” (De Salviac 2008(1901)).

³⁸In nutshell, each Gadaa class holds the power for a period of eight years and then pass it over the next Gadaa class. In effect, an outgoing Gadaa class will wait forty years to come to power again. De Salviac expresses his personal experience (in the beginning of 20th century) of power transfer procedure among the Wollega-Oromo of Ethiopia as follows: “the new Abba Bokku (in taking possession of the seat) immolates a sacrifice and recites prayers to obtain the assistance of On-High in the government of his people. [...] The entire tribe assembled there, out of breath from emotion and from faith” (Italics mine) (De Salviac 2008(1901): 212). During handover ceremony the Qallu blesses him and pray for him. This is at clear odd with the western system where the one elected sworn to protect and defend a constitution of a country. The Oromo world is not to sworn for proper undertaking of public office rather prayer and blessings does. The outgoing Gadaa leaders, already pulled out of substantial leadership affairs, they have to reintegrate into their domicile imagining the forty years ahead of them.

³⁹Moreover, the period of history that begins when they take over and that ends when they cede to another class will always named after the ex-Abba Gadaa (Nikolas 2010; Asmarom 1973: 83). Accordingly, the period will also be named after the Aba Gadaa who had been on power for eight years. For example: Gadaa of Boru Guyyo (1984-1992), Gadaa of Boru Madha (1992-2000), Gadaa of Liban Jaldessa (2000-2008), Gadaa of Guyo Goba (2008 to2016) (See also Appendix A & C).

de facto Abba Gadaa) “kept the outgoing class waiting for three months [...] the Borana consider this a most reprehensible failure of Gadaa leadership.” (ibid: 83). This was a very unusual moment in the Borana history⁴⁰ of power transfer ceremonies.

Furthermore, Abba Gadaa (the president) belonging to the outgoing Gadaa Council has to appoint (before handing over the power to the incoming Gadaa class) six men from among the ex-members of the Gadaa Council that are now in the semi-retired (*yuuba*) Gadaa grade. Accordingly, the appointed individuals will become junior councillors for the incoming senior Gadaa councillors. Here the checks and balance is clearly visible, where councils over councils are institutionalised in order to avoid tyranny and dictatorship.

VII. *Yuuba* (the semi-retired assemblymen) from age 48 to 80; The *yuuba* (semi-retired assemblymen) cover four Gadaa grades: *yuuba* VII, *yuuba* VIII, *yuuba* IX and *yuuba* X. Each of the semi-retired Gadaa grades bear eight years period and in sum covers thirty-two years (i.e. 4X8). When it comes to the powers and functions of the semi-retired assemblymen, their power is limited to advisory services to legislative body. That is, all the four semi-assemblymen serve as legal experts to the Gadaa General Assembly (*gumigayo*) which takes place in the mid of every eight years (i.e. in the fourth year of Abba Gadaa’s term office). Accordingly, all semi-retired members belonging to all *yuuba* grades will attend the Gadaa General Assembly.⁴¹

Moreover they may be required to be assistants to the Gadaa Council in power. This case indicates that although ex-Gadaa Council (now *yuuba*) are in semi-retired category, it does not necessarily mean that they are debarred or relieved from Gadaa service in general. It is, therefore, wrong to conceive the idea of retirement or leaving the office here as in the west where a person is relieved from his or her official duties and s/he cannot come back to leadership positions. For example, in case of US once a president finishes his or her two-term office there is no chance to serve as a member of the congress again or as an administrative member of a newly elected president. However, in the case of the Gadaa political system, as long as they (semi-retired men) are not declared

⁴⁰Asmarom, who had the first account of this fact, attests that: “the delay has caused people to doubt the efficacy of the propitiatory rites. One major source of doubt is the fact- that Jaldessa Liban did not take over the shrine of Nura custom requires. The outgoing class became so impatient that they went to his camp and performed the handover ceremony. It turned out that there is also a taboo against retaining the sceptre of authority longer than the prescribed eight years (Asmarom 1973: 81-82).

⁴¹In addition, the Gadaa Council in power, junior councillors and the whole Borana clan representatives has to convene to the General Gadaa Assembly. Moreover, “the number of times that the class has gone to the Gayo assembly becomes one way of determining the position of the class” (Asmarom 1973: 92).

individually incapable due to factors such as: incapacity (physical or mental) and not fully retired (traditionally known as *yuubomu* that is after completing the four *yuuba* period); they have duty to serve as legal experts and advisers to Gadaa council in power.

VIII. *Gadamoojji* (liminal or full retirement stage); *Gadamoojji* (full retirement) is the terminal and sacred stage of the Gadaa grade, refers to that are entering into or going out of the *gadamojji* Gadaa grade. It is appropriate to discuss who can enter into *gadamojji* and who are leaving. First, individuals who are leaving *gadamojji* grade are the fathers of the members of the sixth Gada grade (Gada class in power). Second, the group of men who are entering into the *gadamojji* grade are the fathers of the fifth Gadaa grade (the *raba*). It is through a formal rite of passage⁴² that previously semi-retired assemblymen enter into the final Gadaa grade. The rite of passage to the *Gadamoojji* is more likened to the ceremony of transfer of power which takes place between two Gadaa Councils (between the incoming and outgoing) in a sense that the incoming *Gadamoojji* takes over for the outgoing *Gadamoojji*. While in case of the former there will be exchange of sceptre (symbol of authority); in case of the later, however, they exchange incense which is symbol of sacredness.⁴³ The nomenclature of the ceremony of passage to *Gadamoojji* itself is known as rite of incense exchange (*qumbi walirafudhachu not balli walirrafuchu*)⁴⁴ (Informant J and K).

4.4 The three Gadaa Organs of Governance: Gadaa Council, Gadaa General Assembly and the *Qallu* Assembly

Gadaa System embraces four basic leadership institutions, namely: Age-sets (*hariyya*) Gadaa Council (*adula*); Gadaa General Assembly (*gumigayo*); and the religious institution (*Qallu*). Since Age-sets is discussed in detail in above section, it will not be

⁴²It is obvious among the Boran that the participation in to numerous social ceremonies is an obligation of its leaders. Thus as leaders they had to involve in ceremonies like: marriage, circumcision, rite of passage to different Gadaa grades (e.g. in the incorporation of their sons' Gadaa class), and the final entry into sacred grade (*gadamojji*). Besides, there is no norm among the Borana that demands everybody to attend all ceremonies and no uniform obligations in this regard. Therefore, in principle it is optional and exceptionally, however, it is an obligation for leaders based on their positions and "morally" demanding (e.g. *Daballe* rite of passage). For example: where the Gadaa Council in power has to directly involve in the rite of transition to *gadamojji* (the ceremony of their fathers); however, the *raba* have no such serious ritual functions (Dirribi 2011; Asmarom 1973, 2006).

⁴³Some analogize *gadamojji* Gadaa grade to monastery since the members of *gadamojji* leads a spiritually elevated existence constrained by numerous and complex of taboos (Asmarom 1973: 99).

⁴⁴Asmarom expresses Gadaa ceremonies as: "[...] the symbolic and ritual bonding of generations stands out as the most fundamental structural dimension of the Gadaa System" (Asmarom 2006).

repeated here. Accordingly, the following sub-sections mainly deals with the three remaining institutions.

4.4.1 The Gadaa Council (*Adula*)

The Gadaa Council (*adula*) is a body of executive Gadaa leadership and it consists of six members. They are:

- A President (Abba Gadaa *fixe*)⁴⁵ (It is also known also as Abba Gadaa *arbora*);
- Two vice-presidents (Abba Gadaa *knontoma*);
- Three senior councillors (*hayyuu adula*).

The president and the two vice presidents form the Gadaa triumvirate or it may be considered as government by committee (Asmarom 1973: 63). The three presidents are the most senior officers of the Gadaa Council. And additional three senior advisors are available to both offices of the presidents (Abba Gadaa *arbora* and *kontoma*) (See also: Appendix C). Furthermore, all members of the Gadaa Council are regarded as equals despite the fact that they exercise different functions and play different roles.

Gadaa Council is an entity. As an entity the concept of legal person and natural person applies to the Gadaa Council. That is where a member of Gadaa Council acts in official capacity it is regarded as if it was conducted by the Gadaa Council. Hence while the members of Gadaa Council are mere agents, Gadaa Council is a separate body of Gadaa government. Accordingly, if a member commits a crime he shall personally be responsible, however, for any activities carried out within the scope of their authority will be regarded as if it is conducted by the Gadaa Council and therefore, the responsibility goes to the Gadaa Council not to the councillor(s). An indication of the prevalence of this concept is clear from the Boran views. For example, the Boran perceive that attacking (physically or verbally) a member of the Gadaa Council (*Adula*) tantamount to offense against the Boran society as a whole; and the Gadaa class will say “we have been attacked”⁴⁶ (Asmarom 1973, 2006). In the same way, any positive accomplishment by the

⁴⁵Historically in terms of nomenclatures of Gadaa leaders, among the central-Oromo, was slightly different from the Boran’s experience: for example, Abba Bokku (“father of sceptre”) used widely instead of Abba Gadaa. Hence, where Abba Gadaa is common among Borana, Abba Boku is common to the central Oromo society. In substance, however, there might not have been substantial difference. Today where the Borana could maintain their system, Gadaa System among Wollega and Other parts of Oromo groups was severely diminished if not entirely abolished.

⁴⁶This fact indicates not only the existence two separate entities (legal and natural) but it also indicates deeply interconnectedness of the Gada Council, Gadaa class—and the Boran.

Gadaa Council is also considered as it is the collective achievements the members of the Gadaa class.

According to the Boran customary law all the members of the Gadaa Council are required to live together from the moment of their election up to coming to power. In addition, after taking power the three Abbaa Gadaas shall be constituted into two bands: *Olla Arbora* (neighbour of *arbora*) and *Olla Kontoma* (neighbour of *kontoma*). Where the former refers to Abba Gada *fixe*, the latter refers to the office of vice-presidents. Accordingly, the Gadaa Council perform as “indivisible community” for one term office. In total, however, all members of Gadaa Council live together, as the ‘mobile capital of the entire Gada class’, for not less than twenty-four years (i.e. from the time of their election upto the end of their term office) (Asmarom 1973: 64).

As discussed elsewhere, the Gadaa Council has assistants commonly known as *Jaldhaba* (executive officers). The executive officers (not less than six) are appointed by joint decision of clan elders and the Gadaa Council. Their appointment procedure is as follows: each clan presents candidates. Then the clan leaders will have discussion with clan elders on the capacity and diligence of the candidate. Finally, based on clan elders vote or decision the Gadaa Council - recruits executive officers. The powers and functions of the executive officers include to: accompany the Gadaa councillors in their movement from place to place (for public services) across Boran; guarantee the smooth running of the Gadaa Council’s daily businesses; serve as agents of the Gadaa councillors especially in dealing with clan leaders and moiety representatives; and they look after the personal properties of the Gadaa councillors. Asmarom sums up the incredible services of the Gadaa executive officers (*jaldhaba*) as follows:

It would be quite impossible for councillors to attend as many meetings and to perform as many rituals as they do without relief from the time-consuming chores of the pastoral nomad (ibid).

In addition to the executive officers, the Gadaa executive body also embraces junior Gadaa councillors (*hayyuu garba*). Junior councillors are different from senior councillors in the following ways: while junior councillors are selected just before the power transfer ceremony, the senior councillors are elected at the *kusa* Gada grade along with the Abba Gadaa. Second, selected junior councillors are representatives of the five Gadaa classes (i.e. including the Abba Gadaa *fixe* junior councillors consists six members). Moreover, unlike the senior councillors they are recruited by the outgoing Gadaa Council, but they serve with the incoming Gadaa class. Fourth, where the total number of senior

councillors is constant (three), the total number of junior councillors shall not be less than six. However, over the courses of certain Gadaa chronology the total number of junior councillors has increased from six to ten (i.e. from 1936-1960) (Asmarom 1973). That is, following the Italian invasion the number became seven i.e. during Aga Adi (1936-1944), it increased to eight during Guyyo Boru (1944-1952), it became nine during Madha Galma (1952-1960), and Ten during Jaldessa Liban (1960-1968) (Asmarom 1973). In search for the reason why the number of junior councillors kept increasing in the mid of 20th century, Asmarom suggest that the change is associated with the invasion of Ethiopia by fascist Italy in 1935.⁴⁷ However, currently the outgoing Gadaa Council will only select six junior councillors.

4.4.2 Gadaa General Assembly (*gumigayo*)⁴⁸

Gadaa General Assembly (*gumigayo*) is the legislative body of Gadaa government. The Boran themselves perceive the function of the *gumigayo* and describes it as *dubbii aadaa* (“custom-talk”) and *dubbii seeraa* (“law-talk”) (Asmarom 1973:97). That is, the Gadaa General Assembly is committed to discuss and deliberate on customary laws and norms of the Boran as a whole. Therefore, it is not for the sake of analogy that one has to consider Gadaa General Assembly as a legislative organ of Gadaa government; rather it is functioning legislative organ of the Gadaa government.

In principle every Boran are allowed to convene to the Gadaa General Assembly. Differences in terms of age or status may not bar a person from attending it. However, convening individuals should have the capacity to deliberate on issues and/or they shall have vested interest in it. Most scholars consider it as the most inclusive political discussion and decision making scene. It is considered so as it gives structural subsistence to the notion that in a democracy powers rests ultimately with the people—a right they

⁴⁷The argument was that Italo-Ethiopian war disrupted many facets of Borana social life and caused the postponement of the handover ceremony (from Abba Gadaa Bule Dabbasa to Abba Gadaa Aga Adi) by three years. He concludes that it is quite likely that this war might have given to the expansion of the number of junior councillors as an attempt to keep the retired classes satisfied by allowing them greater representation in the Gada Assembly (Asmarom 1973: 163). However, the Italian occupation lasted only for five years but the increment continued in post-occupation periods. Thus the increment should have been planned and part of the changes taking places in the Gada System than external forces.

⁴⁸The nomenclatures of Gadaa General Assembly across Oromo land were derived from the names of places where the assembly is regularly held. For instance, among the Boran *gumigayo* is derivative of the names of two places, i.e. *gumigayo* which refers to water well and *gumi* means assembly. However, among the central Oromo it is called as *Chaffe* since the general assembly used to take place under highly respected Oda (sycamore) tree on the edge of prairie grass (*Chaffe*). It is from such meeting places that the term *Chaffe* is given to the assembly. In this respect De Salviac had to say “it is by virtue of such a metonym (use of the name of one thing for that of another) we designate the legislative corps [...]” (De Salviac2008 (1901): 211).

exercise by direct participation or by delegating power to some leaders of their choosing (Asmarom 2006: 100; Asefa 2010; Diribi 2011). However others argue that we cannot say it is representative since women do not participate directly (but through their husbands) in the Gadaa General Assembly and in any other political activities along side of the men.⁴⁹ Obviously, this is one of the draw backs of the Gadaa System. (This matter is discussed in detail under chapter seven—the challenges and prospects of embracing Gadaa System in to modern democracy).

The Gadaa General Assembly meeting takes place once every four years, i.e. in the middle of the term office of the Gadaa leadership. It is mandatory for all living Abba Gadaas, Gadaa Council (inclusive of junior and senior councils),⁵⁰ age-set councillors, clan elders and *Qallus* to convene to the assembly. It is often led by a speaker of the Gadaa General Assembly (Abba *Cora*). Moreover, speeches in the general assembly are delivered with much seriousness. The tone, the gesture, the accent, the pause and other oratorical finesses are sufficient among several clans to strongly nuance the word (De Salviac 2008 (1901): 218). Alternatively, the incumbent and/or ex-Abba Gadaa may also serve as speaker of the Gadaa General Assembly. In average, from eight hundred to one thousand citizens do take part daily in the meeting that lasts for eight successive days (Abdullahi 1994; Diribi 2011; Asmarom 1973: 93)

⁴⁹Nevertheless, among the Boran women do participate in political activities indirectly through their song called *karile*. In their song they use to criticize the poor decisions made by men. By doing so, they can force Gadaa leaders to alter any honourable decisions. Among other Oromo groups women are also represented independently through a tradition of *siqqe* through that they may influence the Chaffe and Gadaa assemblies. Are these sufficing systems to guarantee Oromo-women political rights?

⁵⁰Gadaa Council is made up of two different councils, called “the senior council” (*hayyuu Adwulaa*) and the lateral councils” (*hayyuu Medhicha*). The lateral councils are off the side under the leadership of the two deputy Abba Gadaas. They have their own assemblies called *yaa’a Kontoomaa*, representing the two sub-moieties of Gona. They live apart from the main assembly in their own communities. It is a type of shadow government that serves as as a back up system in case disaster strikes. Junior councils (*hayyuu garba*), who are recruited from the semi-and fully-retired grades, are attached to three assemblies (*ya’a arbora and kontoma*), and live in satellite villages called *Ollaa Batu*. The deputy Abba Gadas (Abba Gadaa *Kontoma*) along with Abba Gadaa *fixe* (apex) make up the Gadaa triumvirate (*Gadaa Sadeen*). All these are members of the six-man Gada Council (*hayyuu adwulaa*). All must be present at all times when the council is in session (Asmarom 2006: 104).

Figure 4.4: The Boran *gumigayo* (Gadaa General Assembly⁵¹)



The opening ceremony of the Gadaa General Assembly consists of formal greetings and blessings. Traditionally, the power to bless and open the assembly is reserved to Abba Gadaa on power. The traditional blessing goes as follows: Praise to be God, who has brought us to *gayo*, may we fulfil His laws in peace; peace to the land, peace to the multitudes, peace to the Multitudes of *gayo*; let there be peace in our deliberation, let there be nothing but rain and peace (Asmarom 1973: 94). Furthermore, Gunnar Kjaerland notes that to see the Abba Gadaa lead the gathering of Boran every morning before daybreak to a place where they sit down with everyone facing the east as the sun rises and together pray to Waaqa (God) for help to do what is right, is very moving at *gumigayo* assembly (Gunnar Kjaerland 1978).

When it comes to the powers and functions of the Gadaa General Assembly, it is discernible that it exercises supreme legislative⁵² authority in Boran land. The Boran strongly believe that the Gadaa General Assembly has the highest political authority as compared to the powers and functions of Gadaa Council and other Gadaa institutions. Furthermore, the Boran impress this idea upon strangers by saying, “what the *gumi* decides cannot be reversed by any other assembly” (Asmarom 1973: 93). Hence, what makes it more interesting is not only the fact that the Gadaa General Assembly exercises ultimate authority but also the fact that its supremacy is deeply rooted principle.

Another peculiar features of the Gadaa General Assembly is its impartiality and trans-

⁵²Broadly speaking, its function include (but not limited) to review laws, to proclaim new laws, to evaluate the men in power and settle major disputes that could not have been resolved at the lower possible levels of its judicial organ(s).

parency. For example, where the discussion and deliberation is to be taken on issues that concerns Abba Gada in power, he has to withdraw from the assembly and will be replaced by Another Abba Gada (ibid: 94). Furthermore, all presidents (i.e. presiding or semi-retired Abba Gadaas) have to be removed from leading deliberations that is concerned with amendment of the Gadaa constitution. The reason for removal of Abba Gadaas when it comes to an amendment of the constitution (i.e. laws dealing with powers and functions of Gadaa councillors, powers and privileges of Abba Gadaas and his assistants,⁵³ and others) is obviously to avoid conflict of interests and to amend it impartially. Except on legislations that may raise conflict of interests, all presidents are not required to abstain from influencing the members of Gadaa General Assembly's decisions and they can even propose new laws for its adoption.⁵⁴

Moreover, the making of new laws⁵⁵ that governs Borana as a whole; adoption of foreign or external policies— particularly concerning relationship with neighbouring ethnic groups (for example, the Somali with whom the Boran are at recurrent wars until now)⁵⁶ — falls under the jurisdiction of the Gadaa General Assembly. Individuals who have knowledge of the neighbouring ethnic groups' positions and their capacity (tendency) to threaten the peace of Boran are required to make a concise report to the *gumi*. Based on the report,⁵⁷ the *gumi* devises policies that make the Boran deal with the challenges. A

⁵³See for instance, the refinement of the prerogatives of Gadaa councilors in 1966 where the *gumigayo* recommends that “the councilors (*hayyu*) and their assistants (*makkala*) travel from place to place, their hosts must know that their authority extends over all Borana. Councilors have the right to make use of wells in any part of land whether the well belongs to the Sabo or the Gona. [...] Abba Gada takes precedence over all others. He is the father of Borana ” (Asmarom 1973: 96).

⁵⁴It is noteworthy to clarify here two things. First, where several sectoral councils such as councils of clans, age-sets take part in the Gadaa General Assembly and propose laws and deliberate on them, the *Qallu* (religious institution) take part in it passively. In this respect, Bassi's understanding of the role of *Qallu* as prominent institution in Gadaa General Assembly is misleading. His interpretation clearly distorts the fact and misrepresents the position of *Qallu*.

⁵⁵See for example the adoption rules of recruitment of Gada councilor's assistants which was translated by Asmarom as follows: “every councilor (*hayyu*) has the authority to recruit a sufficient number of assistants. The man who has been recalled by his clan and his councilor must join the Gada assembly (*ya'a*). If necessary, the councilor has the authority to drive his cattle away and force him to follow. The councilor has such power (*mura*) only within his own clan” (Asmarom 1973: 97).

⁵⁶The Somali who “systematically” or “step by step” push away Boran from their land— and the Boran who strive to defend their territory are constantly at wars. This is however a long and complex historical relation both has had for long period of time. Especially from the mid of twentieth century up-to present day the animosity is patently prevailing. In this regard, an independent study needs to be undertaken to uncover the depth and the effects of the conflict so far.

⁵⁷Deliberation over wars and matters of public policy is also another essential power of the Gadaa General Assembly. When comes to external conflicts, the Boran have special culture of forecasting near future wars based on their current situation. Thus, there are exceptional agents (“diviners”) who calculate forthcoming dangers such as draught, wars and others across the Borana land or in some places only. An expert in this aspect has to be invited to address the Gadaa General Assembly fully. His forecasts are relevant to the *gumi* to adopt credible

typical example is the recommendation made by Grazmach Racha Halaxe (the then land lord) in 1966 that reads: “The Rendille are brothers of Boran; they should henceforth be called “Borana” and be accorded all the privileges a Boran enjoys. All Boran and all brothers of Boran must henceforth refrain from wearing the loincloth. Any man who is found wearing such clothing shall be treated like a Somali” (ibid: 95). On the one hand friendly neighbouring societies (e.g. the Rendille) are likened to Boran and peace prevails. On the other hand, unfriendly neighbouring societies (e.g. the Somali) are categorically regarded as anti-peace⁵⁸ (ibid: 98).

The procedure of the adoption of any laws by the Gadaa General Assembly is as follows: The speakers or proposers elaborate on their proposed laws. Then, discussion on the proposed laws takes place in a traditional and orderly manner; especially based on seniority. Following this, the speaker of the Gadaa General Assembly (*Abba Cora*) reiterates on the proposed laws. And finally, upon completion of the deliberations he asks: “would there be anything but peace if we said ‘these are our laws’?” and the *gumigayo* responds, if unanimously agreed, “peace!”⁵⁹

Unlike the modern legislative bodies, the Gadaa General Assembly may preside over cases of conflicts involving two or more clans.⁶⁰ For example, conflict over the use of water wells and natural resources is the most common cases that arise among clans of Boran. When such case arises, in principle, it has to be settled at the lowest possible stage; through mediation by clan elders and clan councillors. Up on the exhaustion of all local remedies, the case can be put before the Gadaa General Assembly. If the case was not exhausted through available remedies and/or not sufficiently important to be discussed by the Gadaa General Assembly it may be dismissed. A relevant case was the deteriorating relationship between the Digalu and Mattarri sub-moieties which was

policies and to make people get prepared for future probable risks.

⁵⁸The effect of such policy could not be underestimated particularly when it comes to a group of integrated Boran into the Somali culture and a group of Somali people assimilated to the Boran culture.

⁵⁹Historically, the process of enacting laws by the Chaffee (general assembly) across central Oromo was quite different especially before the mid of 19th century. It follows a dramatic process, that is, *Abba Bokku* climbs on a large stone from the height of which he jumps down solemnly, in shouting this cry: *serri bu'e* meaning “the law has fallen!” (De Salviac 2008 (1901): 213). This dramatic play was explained by De Salviac as “an expedient of infantile simplicity but by its nature it is basically to make deep impression of the open imagination of the crowd” (ibid: 213). Hence it creates the sense of imagining people without law, order and closure of government where an offender goes unpunished and all other laws will be null and void. Following the dramatic expression the assembly reclaims the law by shouting clamours: “The law! The law! We want the law!” Eventually, the president climbs up on the rock again and responds to the swelling assembly stating *serri ba'e* meaning the law is raised! Following this event an outburst of joy from all crowds appeases (ibid: 214).

⁶⁰Furthermore, the Boran know that there are things of importance for the society at stake, and then they are very careful to see that the sub-moieties (e.g. Digalu vs Mattarri) are equally represented and the due process takes place.

settled in 1966. In this case, the Gadaa General Assembly and the Gadaa Council were devoted to exhortation of deteriorating relations of the two and urged them to resume their normal relations (Asmarom 1973).

4.4.3 The *Qallu* (“religious”) Institution

Qallu is non-secular institution interconnected with other Gadaa institutions and its role in the Gadaa system cannot be undermined. *Qallu* is at the moral side of public administration. For example, Abbaa *Qallu* (religious leaders) are empowered to oversee as observers the election process (lallaba) of Gadaa leaders, they and their kin are banned from holding secular office, and they may not bear arms or shed blood⁶¹ (Asmarom 2006: 101). Furthermore, it is undeniable fact that the moral and psychological influence of the *Qallu* on the Boran in general and the Gadaa legal actors remains intact. Asmarom expresses the relation between the *Qallu* and the Gadaa institutions as follows:

It is like requiring a “warrior-king to kiss his feet of the high priest,” to remind the nation that ritual authority is in its place, as supernatural symbol of order, in case secular authority fails (ibid: 103).

Therefore, one may conclude that the Gadaa institutions and *Qallu* institution are in a way interdependent and allies.

In terms of its organisation the Boran devises the *Qallu* institution into two religiously representative institutions: one representing the Sabbo and the other representing Gona.⁶² As religious leaders, their power is hereditary, their term of office is for life, and they may not be removed from office like in the case of Abba Gadaa and other Gadaa councillors. However, exceptionally Abba *Qallu* (religious leader) may be removed from the office where the “sun dies.” That is to mean when an eclipse is sighted, a religious leader may be removed as a result. This rule came from the belief that was entrenched into the society that when the “sun died” the *Qallu* shall be removed. This event happened in June 1973 and Chief Jilo Toukena of Marsabit, Borana of Kenya, was removed a week after citing the total solar eclipse (Asmarom 2006: 115).

⁶¹The people carry their spears when they go to the *gumi* and lallaba. They do not carry weapons when they go to the rituals such as the Muda, or the anointment of the *Qallu*, or Dannisa, the fatherhood “ceremony” of the warriors- they carry ritual objects instead. The Boran say *gumi* is a place of “war” not ritual to indicate the fiercely debates and deliberations on the *gumigayo*.

⁶²Traditionally the Oromo people had two *Qallus*, one representing Boran and the other representing Barentumma. Though this confederacy is not functional today, the Boran had maintained the replica of it by placing two *Qallus* for the two moieties.

Lastly, the powers and functions of the Abba Gadaa and Abba *Qallu* (religious leader) is quite different. Where the Abbaa Gadaa actively participate in the political activities and passive in rituals; the Abba *Qallu* are active in ritual activities and passive (just observers) in politics. The only exception where Abba *Qallu* may participate actively in political affairs is where he had to bless the incoming Gadaa class during the transfer of power. Accordingly, Abba Gadaa pays homage to the senior *Qallu* and receives his blessings (ibid: 102). In short, this is the Boran version of separation of religion and politics where the political seniority belongs to Abba Gadaa and religious seniority belongs to the *Qallu*.

Conclusion The Gadaa System, an indigenous peoples' knowledge of governance, is discussed under this chapter at a macro-level (It is not the purpose of this study to deal with Gadaa System at micro level). As you might consider the approach to present Gadaa System of governance is descriptive and a bit analytical too. From this text one may understand how Gadaa functions and how it is structured. Hence from the conceptual understanding of Gadaa up to its complex structures is presented under three sections. That is, introducing Gadaa System (conceptual and definitional matters), Gadaa grades (the eleven Gadaa grades among the Boran), and Gadaa Institutions (the Gadaa General Assembly, the Gadaa Council and the *Qallu*) of governance).

Based on this uniquely African system of governance one could think of its relevance to the contemporary world (or sub-Saharan states) system of governance. Can the Gadaa System (which is currently prevalent among Borana) be useful today? Can it contribute to democracy and good governance in Ethiopia in general and in Oromia regional state in particular? If so, how can we bridge the scientific knowledge (or elite politics) of governance to the traditional system of governance and so forth? Moreover, given the federal structure of the state of Ethiopia embrace today and given Oromia (as a regional state) “enjoy” a status of enacting its own constitution, it is academically (and relatively) not difficult to analyse the relevance of the Gadaa System and possibly recommend for policy makers to adopt it—where it is applicable, progressive and constitutional. Therefore, based on this and proceeding chapters a critical-analytical approach to the use and application of the Gadaa System is dealt with in the following chapters.

Chapter 5

Institutional Analysis: Pulling the Peripheral Institutions to the Mainstream Political System

5.1 Introduction

The main purpose of this chapter is to analyse the findings discussed in the preceding chapters. It is aimed to sort out points where the traditional institutions of governance converge and diverge in terms of their organisation and their powers and functions. Where they are convergent, it would not be challenging to elucidate and bridge them to one another. However, it is challenging to bridge them where they are divergent and eventually a win-win approach would be sought based on the circumstances of the cases. Moreover, along the analysis different theories including the theoretical background discussed in the second chapter of this thesis are touched upon to clarify the themes of analysis. Therefore, it is an analysis of two parallel institutions (i.e. modern government bodies vs traditional institutions) and attempting to dismantle two “separate” knowledge of governance (i.e. the Gadaa constitution vs Ethiopian constitutions).

Accordingly, with the objective of re-imagining Oromia National Regional State (ONRS) constitution through the Gadaa constitution this chapter presents three main themes. Firstly it introduces the constitutional law of ONRS in general terms. Secondly it deals with the possibilities through which Gadaa age groups and generations can be bridged to modern ONRS governance system. Thirdly, based on two fundamental concepts;

division of power and separation of power, the Gadaa institutions of governance and modern government bodies are discussed in detail.

5.1.1 Oromia Regional State and Its Constitutional Law

The formation of Oromia National Regional State (ONRS) is the product of ethnic federalism Ethiopia adopted in early 1990s. It was following the 1992 proclamation of the Transitional Government of Ethiopia that the Oromia regional state was established in July 1992. In this regard, Article 2(b) of the charter that reads that “the rights of nations, nationalities and peoples to administer its own affairs within its own defined territory and effectively participate in the central government on the basis of freedom, and fair and proper representation” (The Transitional Charter 1991). It was based on this provision that all regional states including ORNS were constituted.

Geographically Oromia is located in a central area and borders all of the regional states except Tigray regional state covering area of estimated to reach 359.619 square kilometres, that is about one-third of Ethiopia’s total land area (Berhanu Gutema 2007: 225). Currently ONRS comprises of 34.5% (almost 35 mil.) of the country’s total population, and the Oromo language covers 31.6% of total language coverage following the Amharic language which is 32.7% (CIA, the World factbook).¹

Following regional states formation, ONRS adopted its first constitution in 2001 and revised twice (in 2005 and 2006). ONRS constitution is meant to be the reflection of plurality of state constitutions which is replica of self-rule inherent in the federal system. Furthermore, Article 52(2) (b) of FDRE constitution recognises that national regional states can enact their own constitutions. However, in its entirety ONRS constitution is copy of the FDRE constitution. The ONRS Constitution like the FDRE Constitution reifies the fundamental principles of human rights in its entirety. Moreover it describes the vertical distribution of powers among the four administrative levels of ONRS, viz., the regional government, zonal administration, wereda administration and kebele administration (Berhanu Gutema 2007: 225). At these all levels administrative and judicial institutions are established being a supreme legislative power vested in the ONRS Council, the Chaffe. Comparable to the HPR of Ethiopia the ONRS Council is constitutionally recognised as the highest political authority over matters concerning to the region.

¹Source: <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html>

The ONRS Council has 537 seats and its members are elected by the people directly for a five years term office; and as a result they are accountable collectively to the people of the ONRS (Article 46(1), 48 (1), 48(6), 51(1) of ONRS Constitution). The adoption of the ORNS constitution did not pass through the traditional constitution adopting stages such as: drafting stage by constitutional drafts men, deliberation stage open to public discussion, and the adoption stage upon the decision of the constitutional assembly (Tsegaye Regassa 2009). Rather it was adopted by simple majority vote of ORNS Council. This might have happen for two reasons: that ONRS Constitution was a direct copy of the already adopted federal Constitution both in its form and in its substance; and ONRS Constitution did not introduce unique institutions of governance susceptible to public deliberation (e.g. constitution embracing the Gadaa institutions). However, wasn't it appropriate and possible for ONRS to introduce a unique and valid regional constitution based on Gadaa principles? This question is at the heart of this chapter.

While the FDRE Constitution is the supreme law of the country, ONRS is supreme law of the region (Article 9 (1) of FDRE Constitution and Article 9 (1) of ONRS Constitution). The supremacy of ONRS Constitution over regional laws is believed to be an indication the self-rule. However, since ONRS constitution lack potential legislative and executive its supremacy is simply symbolic. Whether other federal laws are also superior to the ONRS Constitution is unresolved question. However to argue that all federal laws are superior to the regional constitution negates the fundamental principle of federalism and it nullifies the purpose of adopting regional constitution.²

5.1.2 Reimagining Oromia Through the Lens of Gadaa System

the Gadaa System in its social organisation, political systems and legal institutions resembles to democratic governance systems. That is why most scholars argue that the Gadaa System is genuinely African governance system that can be solution for some of political challenges African states faces today (For example, Asmarom (1973; 2006; Dirribi 2011; Alemayehu 2009). Having said so, as part of upholding democratic values,

²The cumulative reading of Article 39 (3), (4) of FDRE Constitution and Article 39 (4), (5) of ONRS Constitution indicates that where regional self-rule is transgressed and could not be rectified the right to secession can be sought as a last resort. However, one has to be cautious not to take the right of self-rule and right to secession as easily pragmatic. The reason is that the regional states have no essential political powers that suffice to say there is genuine "self-rule". In the same token, right to secession is exercisable where right to self-rule is threatened adds another puzzle. That is where there is no genuine self-rule, like States in U.S. or Cantons in Switzerland or Land in Germany, for example, then the bottom line question is how what did not exist could be threatened? Therefore, in its entirety the concept of self-rule is obviously ideal.

can Gadaa age-grades and other Gadaa institutions be used in modern Ethiopian political system? If so, can it possibly be implemented across Oromia National Regional State? The following paragraphs attempts to answer these questions.

First and foremost, to apply Gadaa System ONRS needs to be divided in to two macro level that is Borana confederacy and Barentu confederacy. This type of division follows the replica of the Boran social structure: that is the Boran is divided in to two: Gona and Sabbo moieties. Likewise ONRS can embrace two major confederacies. Furthermore, each confederacy can be subdivided into five zonal administrations based on their geographical settings and socio-economic similarities (See Appendix D & E).

The concept of Gadaa classes discussed under chapter four will be renamed as Gadaa parties for the purpose of analysis. Like the case of Gadaa classes prevailing across the Boran, five Gadaa parties can be formulated. Moreover the five Gadaa has to be entrenched across the Borana and Barentu confederacies in a way that any member of the society can embrace any Gadaa party of his or her choice irrespective of their difference in geographical locations.³

5.1.3 Pilot Rules of the Five Gadaa Parties' Constitution and Gadaa Institutions

- Among the Boran there are five Gadaa classes (*gogessa*) and each form Gadaa council (Adula) upon coming to power. Likewise ONRS may organise five Gadaa parties based on political agendas; unlike the case of Gadaa classes which follows genealogical generations. Hence, the Gadaa political system needs to be transformed from generational based political system to a programme based political system.⁴
- Devising the five Gadaa political parties prevailing across the ONRS has the following advantages: The prevalence of orderly succession of Gadaa parties avoids to a larger extent the pre-election and post election crises the country and the regional state facing. One can see election related crisis such as: human rights violations

³I would like to note here that it is not the objective of this study to deal with the micro-level social organisation. Thus what is provided here in is not more than an example. The constituent zonal administrations provided under each Borana and Barentu confederacy are not categorical in a sense that alternative ways of micro-level social organisation is unlikely. For example, social stratification the Oromo people was based on moiety, sub-moiety and clans, as traditionally known, might be viable. However, this is not the aim of this work and to take such approach may even further the complexity of the Gadaa System and/or even hinders its use.

⁴For the purpose of efficiency and flexibility, therefore, the requirement of genealogy shall be replaced by political programmes each Gadaa party promotes.

and humanitarian crises across the sub-Saharan African countries.⁵ Adoption of stable political institutions has immense capacity of calming the society, at least psychologically, and increases certainty about their future lives. One could think of a society without certainty about their future political outcomes and a society whose political systems are relatively stable.⁶ Obviously the one that has stable political system flourishes. Therefore the adoption of five Gadaa parties creates stable society since the competition will not be among the political parties (i.e. the next possible Gadaa party incoming to power is orderly known) but it will be among the individual candidates competing to come to power.⁷ As there would be no substantial conflicts between political parties then there would be less human rights violations and ultimately a democratic society could flourish.

- It is necessary to note here that the five Gadaa parties shall follow the five world views of the Oromo people. That is the five natural governments: that of men (reason/elitism); running water (progress/liberal); sheep (tranquillity/peace); lion (power/patriotic) and vulture (resourcefulness/developmental) (See also discussion held under chapter four of this thesis).
- The five Gadaa parties (e.g. “P”, “Q”, “R”, “S” and “T”) shall represent five different political programmes. Every person shall be free to be member of any Gadaa party of his choice. As such the five Gadaa parties shall have prevalence across Oromia region. That is, irrespective of difference in geographical location or economic activities of the people that any person may be a member of any Gadaa party he or she chooses.

⁵Broadly speaking, one can relate the political uncertainty across African States to the past five decades crises such as: the post-election conflicts of Ethiopia in 2005 which resulted in human rights violations; Kenya in 2007-8 mass killings and displacement of hundreds and thousands of peoples from their homes; election crisis in Zimbabwe in 2008; Ivory Cost presidential election result dispute of 2010-2011; and “coup d’état” of the government of Mali by military forces in 2012.

⁶For example take the US political system where two political parties compete constantly: it is certain that either the Republican or the Democrats takes the political power. And compare it with Ethiopia where numerous, fragmented political parties (not less than fifty), with deeply divided views, and often “activate” when election period approaches. To alleviate this problem, at least at regional level, introducing Gadaa political system to ONRS has the capacity to establish stable political parties.

⁷However competition among individuals belonging to the same party but different confederacy may get more momentum than individuals competing for the presidency from the same confederacy. For instance in the cases of Boran Gadaa political system a greater number of Abba Gadaas were elected from the Gona moiety (60%) than the Sabbo moiety (40%). (Asmarom 2006: 268). Likewise, leaders from Borana and Barentu need not be an orderly sequenced system. For instance, if an Abba Gadaa—a member of Gadaa Party “P” belong to the Barentu confederacy served from 2032-40 and when the turn comes back again to the same Gadaa party (P) after forty years, (i.e. 2064-2072) either an Abba Gadaa from Borana or Barentu may be elected. This, I think, has an advantage of creating a positive competition between the two confederacies.

- *Illustration:* Gadaa party “P” may represent one of the five natural governments, for example, the government of running water. Accordingly such Gadaa party will advance liberal policies. Likewise othe Gadaa parties may adopt the featutes of other natural governments.⁸
- In addition to organisation of the five Gadaa parties based on the political ideals (as opposed to the requirement of generational relationships), the history of the Gadaa political systems can be referred to as one of essential inputs to devise Gadaa political partis. For example, the *Birmaji*, textitHorota, Bichile, Dulo, and Robale are all the historic Gadaa parties and their historic political achievements can still be used to sculpture modern Gadaa parties.
- Individuals residing in both confederacies (Borana and Barentu) can be a member of Gadaa party of their choice. Moreover every family owes the right to raise their children according to the party they belong to. However, upon attaining majorty they can shift to a Gadaa party of their choice.
- *Illustration:* suppose family A are members of the Gadaa party “P” and they belong to the Borana confederacy and give birth to a son (X) and family B are members of Gadaa party “P” and they belong to Barentu confederacy and they give birth to a girl (Y). Both X and Y will grow as members of Gadaa party P, by default, until they decide the Gadaa party of their own.
- One may question how the Gadaa parties could orderly come to power. Suppose that the first Gadaa party “T” will assume power in 2016. And the term office of Gadaa party is limited to eight year. Hence it will serve from 2016-2024. In the same fashin Gadaa parties “S”, “R” and “Q” will consecutively come to power. Once a full Gadaa parties cycle is over it may go back to the first Gadaa party “T” (i.e. at 2088). Consider the following table:

⁸Gadaa party “Q” may follow the government of “men” or elitism; Gadaa party “R” may follow government of “sheep” or party of peace; Gadaa Party S may follow government of “lion” or patriotism; and finally Gadaa party “T” may follow the government of vulture or “developmentalism.”

Year	2088-2106	2080-88	2072-80	2064-72	2056-64
2016-24	P				T
2024-32		Q		S	
2032-40			R		
			R		
2040-48		Q		S	
2048-56	P				T
Parties	Gadaa party "P"	Gadaa party "Q"	Gadaa party "R"	Gadaa party "S"	Gadaa party "T"

Table 5.1.3. A pilot Gadaa parties' sequential pattern of assuming political power (2016-2106)

- *Illustration:* All Gadaa parties can assume political power twice in almost one century. That is Gadaa party "P": 2048-56 and 2088-2106; "Q": 2040-48 and 2080-88; "R": 2032-40 and 2072-80; "S": 2024-32 and 2064-72; and "T": 2016-24 and 2056-64.⁹
- In addition to adopting orderly five Gadaa parties, the eleven Gadaa grades may be adopted by ONRS. For instance, based on the above rules and example, X and Y are expected to pass through all Gadaa grades. That is, they had to be initiated into *dabballe*, junior *gamme*, senior *gamme*, *Kusa*, *raba* and so on. However, given the diverse socio-economic practices of the Oromo people and given the fact that Gadaa institutions are almost extinct in most parts of the ONRS, Gadaa age grades re-institutionalisation could be relatively challenging. Therefore, the cultural traits¹⁰ attached to all the Gadaa grades need not be uniform across the ONRS. That is, it shall depend on the particular Oromo society's incumbent cultural traits and socio-economic activities (i.e. cultural relativism and pluralism shall be observed). Nevertheless, there shall be uniformity in political systems and in legal rights¹¹ and obligations attributable to a Gadaa grade across Oro-

⁹That is Gadaa party "T" will lead from 2016 to 2024. Then the power will be transferred to Gadaa party "S". Gadaa party "S" will serve for eight years (2024-2032) and pass it to Gadaa party "R". Gadaa Party "R" will serve from 2032 to 2040 and pass over it to Gadaa party "Q". Gadaa party "Q" will serve from 2040 to 2048 and pass over the power to Gadaa party "P". Gadaa party "P" will serve from 2048 to 2056.

¹⁰For example cultural traits such as the hair style of *Dabballe*, nomenclature of *Dabballe* and etc shall not be ignored or may not be spread over the ONRS. Rather such cultural differences shall be accommodated. For example, where the Borana socio-economic activity is based on semi-nomadic system and children share responsibilities that are prevailing in their society. Likewise, for instance the group may also be sedentary agrarian or lead "modern" society. Accordingly, rules that are common to all can be extended across ONRS and other cultural traits and local realities shall be allowed to maintain them.

¹¹For instance, the rights and privileges due to X as *dabballe* or junior *gamme* shall also be due to Y.

nia. Therefore, the guiding principle is uniformity—where there are commonness (objective) and plurality—where there is diversities (subjective).

- Constitutionally recognising the Gadaa age-sets such as *dabballe* Gadaa grade across the ONRS could have far reaching effect in ensuring the rights of children the international covenants and the domestic constitutions provides for. If one looks into the *dabballe* Gadaa grade it is not difficult to discover that rights of children are given special place and protection more than legal statements. The reintroduction of the *dabballe* Gadaa grade across ONRS does not only play as a building blocks of the Gadaa governance system but it also ensures the protection of the rights of children based on home grown cultural values.¹²
- The reintroduction of the senior *gamme* Gadaa grade across ONRS would have the following advantages: it enables the young generations to exercise their freedom of association and thereby enable them contribute to the development of their society; it fills the generation inequality and generation gaps since the members of the *gamme* Gadaa grades are expected to be recruited continuously every eight years; younger generations across the ONRS will have an opportunity to share their experiences which will eventually help build a harmonious and fraternal society. As members of *gamme* Gadaa grade among the Boran carry out activities such as wal’argi (rendezvous) and nyachisa (feast) Likewise, the reintroduced senior *gamme* Gadaa grade may imitate these activities. Hence the reintroduction of these performances may help mould responsive and active citizens.
- When they (X&Y in our example) reach at *kusa* Gadaa grade (together with other large number of members of Gadaa party P), election to the Gadaa council (adula) office will be conducted. As you might recall, the Boran Gadaa council constitutes six members. Likewise six Gadaa leaders may be elected. That is one president, two vice presidents and three senior councillors.
- Although the Gadaa council (the Adula) is constituted at the Kusa level, members of Gadaa Council cannot come to power until they reach the sixth Gadaa grade. Hence, they will continue to serve at any public posts (as de facto Gadaa leaders) to boost their capacity and to gain necessary experience. That is, on one hand

¹²For example, one of my informants clearly told me one of deeply rooted value when comes to the right of *dabballe*. That is, *dabballee afaan aannanii maalif dhanani*, meaning why one beats a child of “milky mouth”, indicating the entrenched perception of the people that to do so is highly immoral. As discussed in chapter 4, being a *dabballe* is also a privilege. Hence the re-constitution of the *dabballe* Gadaa grade across the region owes special contribution to the protection of child rights.

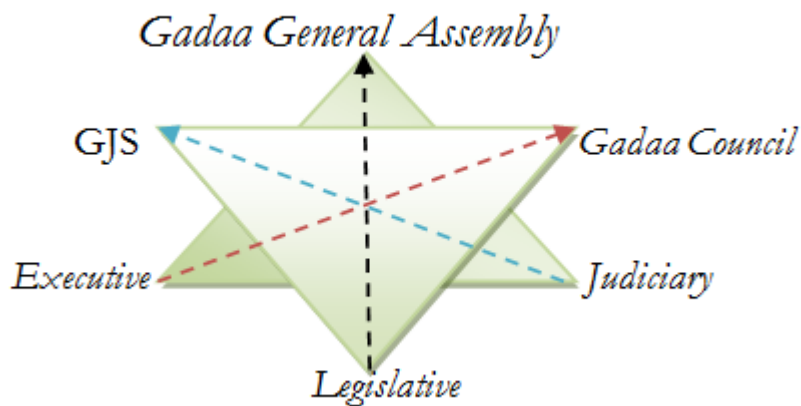
it simplifies for the people to test them before they take power and on the other hand it helps them (elected future leaders) boost public confidence if they could exhibit their diligence in public administration.

5.2 Bridging the Legislative, Executive and Judiciary to Gadaa Administrative Bodies

Gadaa System embraces three governance institutions that are similar to modern government bodies which are commonly discussed under the concept of separation of power. For instance while the incumbent Ethiopian Federal government as well as ONRS consist of the legislative, executive and judiciary, the Boran Gadaa system also incorporates the General Assembly (the *gumi*), Gadaa Council (the Adula) and Gadaa justice system. Therefore, conjoining the three Gadaa institutions into the three modern government bodies (i.e. legislative, executive and judiciary) is the main purpose of this section.

Consider the following diagram:

Figure 5.1: A diagram indicating the relation of the three government bodies and the three Gadaa institutions.



Where; GJS stands for Gadaa Justice System.

5.2.1 Legislative vis-à-vis Gadaa General Assembly (*Gumigayo*)

Custom, customary law and laws are distinctively known under the Gadaa System. That is where custom is *aadaa*, customary law is *seera aadaa* and law is *seera*. They differ based on their sources, binding power and who enforces them. *Aadaa* (custom) is the tradition come to being through the cumulative effect of the society over a long period of time and it encompasses all cultural products. Custom is part of the broader norm, values of the Borana society. *Seera aadaa* (customary law) is the type of law that evolved from custom and that everybody is required to observe. Hence it has binding force unlike the former. *Seera* (laws) is the product of deliberation and rules enacted based on practical cases for its future functionality. In this respect the source of *seera* is the Gadaa General Assembly and it has more binding force than the two former concepts: custom and customary law. Thence the Gadaa General Assembly is the “house” of deliberation and adoption of new rule or amendment of laws in which the concept of *seera* (laws) properly applies.

While the ultimate executive power resides in the hand of the Gadaa Council (Adula), the ultimate legislative authority rests on the supreme Gadaa General Assembly (Asmarom 1973; Haberland 1963). This can be likened to the supremacy of US congress or parliament of UK. Wako F. describes Gadaa General Assembly (*gumigayo*) as follows:

This assembly of multitudes *Gumi Gayo* is vested with the powers of legislature, undertakes law reforms, reiterates old laws and enacts new ones. Convened by high –ranking Gadaa officials, the assembly serves as a dominant authority uniting the Borana into a political and social entity. Noted for its freedom of expression and attendance, the assembly tends to curb the excesses of all members, be they high and mighty or lowly and ordinary. Persistent disputes, which were unsettled for their gravity or complexity, are brought before an open air court for the community to contribute their wisdom towards its solution (Wako1997:647 - 648) (Italics mine).

This statement describes the businesses of the Gadaa General Assembly, its participants and the nature of the assembly. What makes the Gadaa General Assembly unique as compared with modern legislative branch of the state are many. Nevertheless, the following are the most striking ones: first, “seats” are reserved for the semi-retired Gadaa leaders (i.e. ex-presidents and ex-vice-presidents will be member of the Gadaa General Assembly). That is Gadaa leaders’ career could not be put to an end just after eight

years of service. Rather they shall become legal advisors for their experience matters to the legislative body, i.e. Gadaa General Assembly.

Second, in the mid-term of the president's term office Gadaa General Assembly checks over the performance of the Gadaa Council in power. In addition, elected members of Gadaa Council but waiting to take power (*de facto* Gadaa leaders) are members of the Gadaa General Assembly. Hence, every time the president in power is checked by the Gadaa General Assembly, in the mid of his term office, he had to face ex-members Gadaa Council and the waiting Abba Gadaa. In other terms checks and balance would arise from the six presidents (that is, one ex-president, two ex-vice-presidents, one incoming president, and two incoming vice-presidents) against the president and his cabinet (the Gadaa Council) in power. By extension, the ONRS council (*Chaffe*) can imitate the Gadaa System where ex-presidents and vice-presidents can serve as legal advisors after retiring from the office. That is, six seats in ONRS council (i.e. for three ex-presidents and three future presidents) may be constitutionally reserved. This system may make it relatively easy to influence the state council (*Chaffe*) to impeach a leader in power where his conduct was found inappropriate.

Thus, wouldn't it be interesting to see ONRS Council (the *Chaffe*) embrace directly elected ex-presidents as legal councillors?

Third, the Gadaa General Assembly serve also as the house of "unity" and adjudicates cases involving group (clan) interests as a final authority. Thus its supremacy is not limited to legislative or political only but it also owes supreme judicial power. Asmarom notes in this respect that one of the main function of the Gadaa General Assembly is to "re-examine the laws of the land, reiterate the in public, to make new laws if necessary, and to settle disputes that were not resolved by lower levels in their judicial organisation" (Asmarom 2006: 211).

Fourth, another distinct feature of the Gadaa Genaneral Assembly is that it is "open to everyone" who has vested interest in the issues the assembly delivers on or anyone who has the knowledge of Gadaa System, Gadaa legal history and any one who want to contribute his own part. However, establishing such system does not seem feasible today. Hence an indirect democracy that mirrors the interest of the people shall be maintained without defaulting Gadaa principles and Gadaa institutions.¹³

¹³Comparing the Gadaa General Assembly to Ethiopian House of Peoples' Representatives (HPR) or to the Oromia State Council may seem inappropriate also. Both the FDRE and ONRS constitutions provides for the political power supremacy of the HPR and the State Council, respectively, over the executive and possibly over judicial body. The idea of the supremacy of the parliament is obviously to indicate people's sovereignty through

5.2.2 State Executive Body vis-à-vis Gadaa Council

There are several differences between modern state executive body and Gadaa executive body, for instance, in terms of their organisation, recruitment of members and in terms of their powers and functions. The following analysis mainly focuses on their organisation in a way that Gadaa executive organ could be embraced in current Ethiopian federal state.

In Gadaa System the highest executive office is entrusted to Gadaa Council. As you might remember, the Gadaa Council consists of six leaders: one Abba Gadaa, two vice Abba Gadaas and three senior Gadaa councillors.

Likewise ORNS government can equally constitute one president at apex, two vice-presidents and three senior councillors. This would lead to government by council and ultimately it constitutes polysepalous government as opposed to monosepalous government. The nature of Gadaa Council resembles to the “government by committee” which Asmarom likens it to the government of Switzerland—i.e. a federal council consisting of seven members elected by the federal assembly for four year term office and among the seven one is appointed by the assembly to preside over the council (Asmarom 2006: 221).

In the same way, ORNS government can imitate the Gadaa Council (*adula*) organisation and can constitute it as the highest executive council of ONRS government.¹⁴ Furthermore, in Gadaa System, an outgoing Abba Gadaa has the mandate to appoint of six additional junior councillors (*garba*) from among all Gadaa parties to thereby ensure balanced opposition among all Gadaa parties. By extension, if ONRS could adopt Gadaa political system, it would then be appropriate that an outgoing president would appoint junior councillors from among the five Gadaa parties. These junior councillors may also be distributed over the following administrative posts: the presiding president (Abba Gadaa *fixe*) will serve as the president of Gadaa General Assembly (*Chaffe* of ONRS); Speaker of the House (*Abbaa Cora* of ONRS); minister of justice (*Abbaa Dubbii*

their representatives. However, in reality this principle is almost null and void in current Ethiopian government bodies' power relations (i.e. ultimate political and legal powers practically exist in the hand of the executive body). Unlike the genuine supreme authority of the *gumi*, the HPR and/or the ONRS Council's supremacy are not beyond political rhetoric.

¹⁴The members of the Gadaa Council are the elected representatives of the people. The procedure of election follows that of proclamation ceremony known as the *lallaba*, that is, summoning, at the place called Guto in the presence of the *Qallu* (spiritual leader) from Gona moiety. This event means a lot to the Boran for two reasons: first it is the decisive time to identify and elect the appropriate leader for the next eight years and second, this ceremony occurs only once in every eight years. The term office of the members of Gadaa Council is the term office of the Abba Gadaa (i.e. eight years).

of ONRS); Prosecution office (*Abba Alangaa* of ONRS); Defence Councillor (*Abbaa Du-ulaaa* of ONRS); minister of economy (*Abbaa Dinagdee* of ONRS). Among the Boran these six “ministerial offices” together with the three senior councillors (*hayyuu aduulaa*) are commonly known as the nine Borana’s executive-assembly (*Saglan yaa’ii Booranaa*). If ONRS adopt Gadaa constitution, it would then be appropriate to name the “nine Oromo’s executive-assembly” (*salgan yaa’ii Oromoo*). However, for practical reasons, the total number of ministers may not be limited to nine (for example, government’s essential activities such as education, trade and industry, health, agriculture and so on needs more executive officers).

5.2.2.1 Powers and Functions of Gadaa Council and Abbaa Gadaa

One could be curious about the powers and functions of the President (Abba Gadaa).¹⁵ Abba Gadaa enjoys the highest political authority in executive branch of the Gadaa traditional government.¹⁶ However, I would like to stress here that, the relationship among the members of the Gadaa Council is not hierarchical. Rather members of the Gadaa Council exercise powers *jointly and severally*. However, this does not mean that there is no job description attributed to each member of the Gadaa Council. That is, the position (power and functions) of the Abbaa Gadaa may be regarded as the *first among equals* (ibid: 215, 217). The Gadaa version of governance is not hierarchical and the Boran people are concerned with the equitable distribution of powers and functions among the Gadaa leaders.

As a president of the Boran Abba Gadaa summon and preside over the Gadaa Council. The Abba ensures the presence of all members of the Gadaa Council during the council’s session and he may take disciplinary action against the Gadaa Council absentees according to seera goro (“code of conduct”). Moreover, the Abbaa Gadaa shall oversee the deliberations carried out by the Gadaa councillors and he hammers out (tumaa seeraa)

¹⁵Since post-Gadaa renaissance or Gadaa cleavage, that is more than five centuries from now, the Borana-Oromo of Ethiopia and Kenya have maintained the Gadaa System of governance despite political and military pressures from past regimes. Gadaa served the people up-to-date as a viable socio-political tool of governance where by leaders, especially Abbaa Gadaa, is elected to the position of presidency through the will and active participation of the people they represent for single term office.

¹⁶Abba Gadaa has inviolable right in his person; national or family vengeance cannot touch him” (De Salviac, 2008 (1901): 216). When it comes to the security of Abba Gadaa eight guards, four front and four back guards him wherever he goes armed with a staff whose length is graded according to their dignity, of the sort that the first guard holds the longest and the last the shortest (ibid: 217). Whereas “seven old men maintains the order on the exterior of the camp; they examine the entrants and excite by the baton the nonchalant and loiterers” (ibid). This practice is still being observed among the Boran of Southern Ethiopia and Northern Kenya.

the law. It is the mandate of Abba Gadaa to bring disagreements among Gadaa councillors in to end. However, unlike in the modern governance where a single leader can decide or pass an order, the Gadaa Council demand the consensus of all of its members to pass a decision that prevails over the Boran people. Hence the Abba Gadaa in power has to be experienced enough to find “win-win” point and ultimately come to resolution (*mura*).

It is not easy to sort out what are the powers and functions of Gadaa Council and Abba Gadaa of Boran. However, based on data collected from informants and different literatures it is possible to discern where the authority of the Abba Gadaa and his cabinet lies. Therefore, here below the powers and functions of the Gadaa Council are provided:

1. *Commander in chief*: During wars with neighbouring ethnic groups the Abba Gadaa and his cabinet discuss and decides whether to wage war or not. Where a stand is taken to wage a war, it has to be in collaboration with the *raba* (the fifth Gadaa Grade). Moreover, the Abba Gadaa shall summon recruitment of fighters through the *jaldhaba* (“executive officers”). However, the *raba* council has active role in necessitating the recruitment process from every clan of the Boran.
2. *Approval of capital punishment*: punishments such as: banning an offender or a group of people belonging to one the Boran clans from accessing water wells, expulsion (banishing from Borana land) shall be authorised by the Gada Council. Since water is the life of the Borana people prohibiting individuals from a water well is not less than “death penalty” (Asmarom 2006).
3. *Ensure the peace of Borana* (“nagaa Boranaa”) : Ensuring the overall social order, implementation of customary laws and implementation of the laws enacted by the Gadaa General Assembly. The idea of nagaa Borana (“peace of Borana”) is deeply entrenched norm among the Boran that everyone has to respect and abide by it.
4. *Protect and defend the Gada System*: The Gada class in power through its Abba Gadaa looks after the well functioning of the Gadaa system among the Boran. The Abba Gadaa has the duty to refrain from involving in the business of the Qallu institution. The character and determination of Abba Gadaa during his term office and his courage not to forgo his people for his own personal profit are core values.
5. *Final resolution on unsettled cases*: The more unjust, incompetent, or litigious the leaders are the less likely that the case of conflict come before them as Asmarom clearly notes. The more just and competent the Abba Gadaa is, the more the

people trust and support him.¹⁷ The simple reason is that he has key positions are reserved for the Abba Gadaa in power and due to this embedded fact ever Abba Gadaa came to power should have these qualities people expect from him. Therefore, the Abba Gadaa in power serves as the presiding councillor under normal circumstances and holds the power of “cutting” (Asmarom 2006) the debates and formulating the emergent propositions.

6. *Cases involving collective interest:*¹⁸ When conflict breaks out between *olla's* (the smallest unit of settlement consisting of 30 to 100 households (*warraa*)) or *ardaa* (small group of ollaas, usually two or three only, who may cooperate together on their grazing pattern), or *madda* (area surrounding one water source), then the Abbaa Gadaa will rule on the case (Dirribi 2011; Asmarom 2006). Moreover, Gadaa Council, as an organ of Gadaa government, has the power to dispose cases involving more than two clans. In particular, the Gadaa council deals with dispute on misuse of pasture, conflict over use of water wells, and several other domestic crises¹⁹ (Asmarom 1973: 85). Besides, Abba Gadaa has the responsibility to travel across the Boran and figure out problems the Boran face.

7. *Ensure the economic wellbeing of the Boran:* It is the responsibility of Gadaa Council to contribute to the economic wellbeing of the Boran. For instance, the Gadaa Council has to mobilise workers to help maintain principal well complexes which are so essential for the Boran pastoral life²⁰ (ibid: 86). The role of Abba Gadaa in the excavation of water wells is also very critical. Aba Gadaa Liban

¹⁷From his personal experience with previous Abba Gadaa Jaldessa Liban (1960-1968) Laureate Tsegaye notes that Jaldessa Liban was fairly effective and courageous leader; he was a gentle man who consider himself as Abba Gadaa of all Oromo people and he was loved by his people (Tsegaye 1964). Asmarom also states that Guyyo Boru (1944-1952) “was the great peace maker: his home was a veritable magnet; his wisdom, humility, and extensive knowledge were such that he commanded the deepest respect of his people.” (Asmarom 2006: 113).

¹⁸Broadly speaking, elders among the Boran and Gadaa leaders in particular have special place when comes to settling disputes. They are replica of peace, consensus and resolutions. The underlying belief of Boran also assures that Gadaa leaders are the “ancient people, the father of the soil and the father of the family” (De Salviac, 2008 (1901): 230). Hence, Gadaa leaders have the jurisdiction to entertain the cases, appease the difference and terminate litigations. Where they can not settle, the case may be taken to a family or clan councillors.

¹⁹Asmarom notes the typical case “where members of age-set who were about to be initiated in the summer of 1971 broke up into moiety factions and raided each other’s settlements. The entire complex of camps subsequently became embroiled in the conflict” (Asmarom 1973: 85). After almost two days debate, the assembly could establish a precedent which gave authority to to pass final and binding judgement on the matter.

²⁰The well complexes are the central part of the Boran economic and social life. The role of Gadaa leadership has increasingly become very critical when comes to maintenance of water wells; see especially during the absence of rain. It is even common among the Boran that an offender who fail to submit to the Gadaa Council authority and violates the customary laws may be barred from access to any of water wells. This type of punishment, in its gravity, is believed to be not less than a death penalty a court of law imposes on a certain criminal (Asmarom 1973: 87).

Jaldessa (1960-1968), for example, is known for his determined action and immense contribution to the project of water wells excavation during his term office. His contribution to the project had far-reaching historical implications. Accordingly, “all subsequent cyclically linked to Jaldessa Liban will be positively affected by the fact that he ‘made Borana fertile” (ibid: 86). Moreover, the Boran believes that when such positive activities are conducted by Abba Gadaa at a certain point of history, his descendants (i.e. when their Gadaa class come to power) will take action to revitalise or further initiated projects of their ex-Gadaa leaders.²¹

8. *Preside over the gumi (Gadaa General Assembly):* Abba Gadaa shall maintain, during the Gadaa General Assembly sessions, the order and peace of the general assembly. For example, where the session lacks ethics of order, the Abba Gadaa should skilfully mould the flow of the meeting. If the disagreement reached the level of anger and disturbance, he shall ask them face to the East (sun rise) and bless (*ebba*) them in a way of cooling down the anger.

5.2.3 Gadaa Justice System vis-à-vis Modern Justice System

It is not clear whether an indigenous justice institution is comparable with modern court systems. However, some literature indicates that the modern justice institutions are comparable to traditional institutions of justice. For instance Arsano argues that the Boran handle the issue of justice at various levels. Issues may also vary from breach of smallest taboo to serious offences. Cases are usually settled by clan elders at two levels; *Qee’ee Milloo* (lineage level court) and *Qee’ee gosaa* (clan level court). With the exception of a few, most cases are not taken beyond clan level” (Arsano 1997: 45). However, I think, instead of comparing the modern and traditional justice system institutional (entity) wise; it is perhaps more efficient (productive) to compare/analyse the justice principles the modern legal sytem embrace and traditional justice sytem practice.

According to my informants (E and H), prior to the formation of the Gadaa customary law (*seera-aadaa*) conflicts were used to be set right by mutual understandings, blessing and forgiveness. Nevertheless, as population and crimes increased, many cases became difficult to get final resolution by blessing alone. Many people became reluctant to forgive everything and the demand for equal compensation for equal losses became imperative.

²¹It is believed that Aba Gada (Morowwa Abbayyee) was the one who, many generations earlier, excavated the well is said to be acting through his descendants to renew productivity of the Boran; to which Abba Gadaa Liban has become part of the project after a very long period of time (Asmarom 1973: 86).

Serious crimes and offences of all sorts expanded. Offenders became disobedient to elders and refused to appear when summoned to face justice. It was against this backdrop, the informants say, that the Gadaa System as well as Gadaa customary justice system evolved.

Having said so, the policies and justifications upon which modern states organise and/or administer judicial systems are different from indigenous peoples' customary justice system in many respects. First and foremost the world view of indigenous populations, in our case the Boran, about justice is collective than individual concern. Customary justice system embraces communal-reparative and restorative justice systems than individual-punitive and retributive (State Justice) system. For example, the reparative aspect of justice system among the Boran is expressed by the following statement:

Kan Waldhaneen Keenya—the victim is ours;
Waldhaanan Keenya —the offender is also ours!

This statement indicates that the offender part of the society and for his or her wrong deeds one should not be considered as enemy. That is, justice requires balancing the damages done to a victim against offender's act or omission, in a broader rule, which seeks to ensure the well-being of the society as a whole. Thus, the victim and the offender, in criminal case, remain as "equal" members of the society so that justice should be reparative than punitive. The Boran customary justice system embraces the goal to reinstate the victim to his previous position, in civil cases,²² without victimizing the tortfeasors since they are also part of the society.²³ This system confirms that decision should be reached at the satisfaction of both parties (claimant and defendant) and at the best interest of the public. Therefore, there is no loser-winner but win-win—that seeks to balance the conflict of individuals against the peace and security of the people in general. Thus, the Gadaa justice system gives major attention to the cohesion of the society while individual needs are met.

The moral ground of treating an offender and a victim alike in Boran Gadaa justice process is emanated from the belief that: as a community they are interdependent and even if conflict or a crime committed by a member of the community today, they know

²²In civil cases clan councillors or appointed elders settle cases based on the principle of "equal pay for equal loss" (i.e. restitution) which is often in kind (i.e. live stock).

²³Moreover, legal cases are traditionally required to be proceeded "slowly" not to be affected by counsels of passion and surrounded itself with precise and costly methods in order to avert useless law suit. In this respect De Salviac spells out that "we will not be astonished to find rules of procedure entrenched among nations little civilised" (De Salviac 2008 (1901): 230).

that they definitely want each other in near future. Furthermore, dispute resolution typically aims at the restoration of social and cosmic order after a potential breach of customary laws has occurred (Varun Gauri 2009). Therefore, the Boran are not mere spectators of a dispute rather they have a significant stake²⁴ in the resolution of a conflict. As a result the dispute resolver's principal objective is to restore social order.

In criminal and civil matters plea of guilt or fault is so important for the trial of a case. Unlike the modern judicial proceedings where denial of guilt is possible even if it is relatively known who committed or omitted, the traditional justice system cannot proceed to trial without securing the admission of the offence. First, the purpose of Gadaa customary trial system is, in principle, not to ascertain who committed the offence; rather it is why the offence was committed and how it can be rectified. Second, there is deeply rooted norm of forgiveness among the Boran. Forgiveness²⁵ is part of their customary laws—which brings the offender and the victim (if alive) face to face and it encourages the family of the victim forgive to the family of the offender. This has the power of healing the wound and ultimately it restores the peace the people believe in beyond the modern court's reasoning and adjudication. As one of my informants puts his feeling as to state penitentiary: people hate prison and to be imprisoned. Obviously it is not to evade justice but it is not their “tradition” and not part of the Gadaa System (Informant D). Hence, he says, by all means people want to settle their cases behind court rooms and to forgive for one another to build the peace together.

Lastly, according to the Boran Gadaa justice system there is no need to imprison an offender even if he was found guilty; rather s/he shall remain in the community and pay compensation for the damage caused. In cases of serious offenses, however, an offender shall banished from the Borana ‘country’. The effect of expulsion of an offender from the society is far reaching. It is an insult to his family and embarrassment to his clan. It is deeply rooted norm among the Boran that; as good deeds of a member of certain clan beautify the image of his clan, so does his misdeeds to damage the reputation of his family and his clan. Moreover crime is considered as a breakdown in social bonds that connects individuals and communities. It is a public matter which needs to be

²⁴It is not uncommon to see the “shifting” of the responsibility to the clan an offender belong. Hence in Gadaa justice system an offender does not stand alone to defend his case rather his clan accompany him or her since ensuring peace and restoring peace is collective than individual.

²⁵One of the reasons for the introduction of denial of guilt in modern criminal justice system is to counter balance the immense power of the state (prosecution office) and to allow offenders have defence against the charge and serious punishments thereof. In contrast, in Gadaa judicial system there is no state involvement, in proper sense, and there are no penitentiary cells to incarcerate criminals or possibly torture therein. Hence, admitting ones fault and asking for forgiveness is ultimate option of an offender.

dealt with collectively and members of the society shall take part in repairing damaged relationships.

Conclusion: This chapter is all about reconciling two separate systems of governance: the Gadaa governance institutions (periphery) and federal and regional governance institutions (centre). Hence what is conducted is a centre-periphery institutional and social organisational analysis. It has been shown that almost all Gadaa institutions are adaptable to modern political systems and legal institutions. Among other things, this chapter tried to bring Gadaa institutions of governance such as Gadaa Council, Gadaa General Assembly, Gadaa Age-sets and Gadaa justice systems to mainstream political system. Moreover, it has shown that ONRS can adopt Gadaa institutions in to its constitution.

The institutional analysis carried out under this chapter indicated solution the Gadaa Systems bear for some of the problems Ethiopia faces in politics and governance. That is, Gadaa System is sought as alternative solution to the leadership deficit and absence of broad-based political system that allows every citizen to take part in political decision making process. In addition attempts are made to reveal that introduction of Gadaa System is possibly under incumbent federal structure.

In the following chapter fundamental constitutional principles such as rule of law, principle of accountability and others are analysed in a relation to the Gadaa democracy. Hence, it is meant to strengthen institutional analysis held in this chapter and to uncover the strength of the Gadaa principles vis-à-vis the drawbacks of the federal and regional constitutions.

Chapter 6

Analysis of Fundamental Constitutional Principles

The Constitution is not an instrument for the government to restrain the people; it is an instrument for the people to restrain the government- lest it come to dominate our lives and interests.¹

Patrick Henry

6.1 Introduction

During my field work one of the main tasks was to know about the basic fundamental principles and morals upon which the Gadaa leadership is established. That is besides the institutional structure of the Gadaa democracy I was interested in the fundamental principles that the Boran as well as the Gadaa leaders are expected to observe. In order to know their principles, I used to ask questions based on the common fundamental principles most democratic countries' constitutions embrace. Among others fundamental principles such as rule of law, accountability of state officials, transparency of government businesses; principles of equality, sovereignty of the people and supremacy of the constitution are the most notable ones. Based on the findings and the constitutional principles enshrined both in the FDRE Constitution and ONRS Constitution, a precise analysis is provided as follows.

¹<http://thinkexist.com/quotation/the-constitution-is-not-an-instrument-for-the/154031.html>(accessed April 8, 2012)

6.1.1 Rule of Law

Conceptually, rule of law suggests that the law itself is the sovereign in a society. As an idea, the rule of law stands for the proposition that no person or particular branch of government may rise above rules made by fairly and freely elected political representatives. These laws mirror the morals of a society, and in a Western Democracy they are supposed to be pre-established, formalized, neutral, and objective. Everyone is subject to their dictates in the same way. The rule of law, therefore, is supposed to promote equality under the law. Thus, rule of law should be clearly differentiated from rule by law; i.e. the latter does not necessarily mean that the law is legitimate for it might not satisfy most of the desideratum.

However, the perception of rule of law among the Boran is a bit different. According to one of my informants (informant A), rule of law signifies not only liability of individuals rather it also mean that everything and every being has rules. That is the law stands not only for the benefit individuals or to discipline officials but it also extends to animals. The Boran say in this respect that *seerri muummee, seera saree!* Literally it may mean “as laws for minister, it is also for dog”. The implicit meaning of this statement is noted by Asmarom as follows: in principle people are not required to raise dogs, some do, some don not; but those who do have an obligation to feed them irrespective of the fact that there are leftover foods or not. That is why the Boran states that there are laws for everything, even for the dog² (Asmarom 2006:201). In nutshell, the idea here is that the concept of rule of law is perceived not only as the law is superior to any person but it also extends to natural world (animals). Hence it considers natural being not as object of law but as subject of law.

The principle of rule of law is at the heart of the Gadaa democracy. According to one of my informants (informant A) the rule of law is entrenched value among the Boran society to the extent that the Abba Gadaa himself is subject of the same laws as ordinary Boran. For example, the Abba Gadaa and his cabinet are answerable to the Gadaa General Assembly in the mid of his term office. That is, politically speaking, the supervision of the conduct of Abba Gadaa by Gadaa General Assembly is the principle than exception. And legally speaking, where the Gadaa leaders commit serious offences they will be punished and can eventually be uprooted from the office. This is a clear indication of genuine rule of law as opposed to rule of men.³ Obviously the FDRE Constitution stipulates that

²Dogs are the lowliest domestic animal among the Oromo people in general and the Boran people in particular. This quite clashes with cultural orientation about dogs in the Western countries, though.

³When it comes to the imperial power of Ethiopian ex-leaders native historians have elucidated it beautifully

the prime minister and the Council of ministers are answerable to the House of Peoples Representatives (HPR). Likewise the ONRS constitution states that the president is answerable to the *Chaffe* (the State Council). (See: Article 72(2) of FDRE Constitution and Article 57(2) of ONRS Constitution). However, to the question how and when the leaders of the country and the regional state can be impeached by the parliament and regional state council respectively is not clear. Even the term impeachment is not provided in the DRE Constitution: it is ambiguously stated as “[. . .] responsible to the House of Peoples’ Representatives” (Article 72(2)). In this respect some critics consider the Ethiopian House of Peoples’ Representatives as a “rubber stamp.”

6.1.2 Principle of Single Term Office

When it comes to the term office of the Abba Gadaa the Gadaa constitution is straight forward. It is not ambiguous as the incumbent FDRE or ONRS Constitutions. As discussed elsewhere the term office of the Abbaa Gadaa is limited to a single term office for eight years. It is one of the most fundamental and well observed principle across the Oromo land historically and currently at work among the Boran people.⁴ Hence an elected Abbaa Gadaa and his cabinet shall only serve one term office. There is no history in the Gadaa democracy where this principle has been transgressed among the Boran. However, according to my informants (A, B, C, and D informants from Guji-Oromo Society), this principle is not observed among the Guji-Oromo people. An Abba Gadaa may stay on power for even thirty years (ibid). This fact was also supported by one of my informants from Boran society (informant J).

Every Gadaa leaders remain in office for a formal eight years after which they have to hand over to the incoming Gadaa officials through a formal handing over ritual ceremony. Instead of re-electing the same person to the same office, like for instance the case of

as follows: “the kings of Abyssinia are above all laws, they are supreme in all causes, ecclesiastical and civil, the land and persons are equally their property . . . if (one) bears a high rank it is by the kings gift.” The super-human virtue attributed to him by the royal ideology manifested itself in the belief that his mere presence guaranteed order by virtue inherent in the person of the king.

⁴The Boran people’s experience indicates that the place and the date of transfer of power are fixed so that even a single day to stay in power after the end of the term office may not be tolerated. Among the central Oromo the Abba *Bokku* (father of sceptre, the president) and his two deputies during their term office met at the *Chaffe* and abandon their functions with the sacrifice of *jaarra*. *Jaarra* is the feast that Abba Bokku at the end of his term office sacrifices; he slaughters an ox, sprinkles himself with its blood and sprinkles his vices. The assembly of *jaarra* is the most solemn of the nation, so much due to the ostentation shown because it serves as the benchmark to calculate the age of the Oromo. [. . .] For example, “to calculate his age, an Oromo would say: I have seen so much *jaarra*, and at the first jarra I have eaten so much harvest of sorghum. Each harvest here corresponds to a year” (De Salviac 2008 (1901): 217).

USA where a president can be re-elected and serve two terms (eight years), the Gadaa version of government provides a single term office of eight years with the mandatory requirement of checking the Abba Gadaa in power in the middle of his term office. The principles of accountability and impeachment of the Gadaa leaders, as discussed below, also supplements the absence of re-election of the leaders. One can see the election campaigns different political parties make every five or four years election period comes. For example during the fourth year of the first term office of US President is occupied with re-election campaigns, fund raising and other similar activities. Under Gadaa government the General Assembly serve this purpose (assessing the performance of leaders' first-half term office): it may endorse its continuation or uproot the leaders.

Unlike the presidents and premiers across sub-Saharan African countries, where they stay on power for unlimited period of time, the single term office principle under the Gadaa leadership reveals an incredible value of democracy. It is evident to see the price Africa pay often for the longevity of the term office of its leaders. For example, the term office of Ethiopian prime minister and the term office of the ONRS president are ambiguously provided in the FDRE Constitution and ONRS Constitution. Article 72(3) of FDRE Constitution reads:

“Unless otherwise provided by this constitution the term office of the Prime Minister is for the duration of the mandate of the House of Peoples’ Representatives.”

This provision with slight distinction is also provided under Article 56(2) of ONRS constitution as the term office of the president is for the duration of the mandate of the Oromia State Council. These provisions are ambiguous, indirect and implicit. That is, since the term office of the HPR and the State Council is five years one could say that the term office of the heads of governments is also five years (See: Article 54(1) of the FDRE Constitution). Besides Article 56 of FDRE constitution allows the formation of executive power by a political party that has got greatest number of seats. By implication, as long as one party could repetitiously win elections and inevitably endures the mandate of HPR irrespective of the change of its members, the term office of the premier will also sustains for indefinite period of time. Which means, if the ruling political party could win for a half of a century to come then the office of the premier remain *sitrus paribus*. Hence the demarcation of term office would be at the personal decision of a leader than constitutional limitation. However, unlike the premier of the FDRE the ONRS have

experienced five⁵ presidents over the last two decades.

6.1.3 Minority rights in Majority Rule—consensual democracy

Unlike any modern democracy where minority rights are not given voice, the Gadaa System embraces the minorities' views through its General Assembly meetings. For example, a single opponent is sufficient to stop the most serious measures. Hence, in Gadaa democracy what matters is not only overwhelming majority decisions but also minorities views have to be convinced to be part of the majority vote. As soon as the Abba Gadaa hears the view of an opponent he says the word of custom: *qabadhe* (I stop the discussion). The chair person solemnly postpones the session to another day until consensus is reached (De Salviac 2008 (1901): 220). In this regard, Gadaa System potentially relies on deliberative system and there must be “full” consent to pass any binding laws. Therefore, any laws passed by Gadaa General Assembly would not have serious deficit in its application since it is unanimously agreed law than imposed one.

The concept of majority rule and quorum does not exist in Gadaa democracy. One of the draw backs of the Gadaa General Assembly is that it is time consuming as compared to modern parliamentary system where majority vote fastens the decision to be passed. The principle leading the Gadaa General Assembly is not majority vote but consensus.⁶ Building consensus requires members of the *gumi* convincing every deviating member and consequently it consumes time. Despite its limitations consensual or deliberative democracy is far better than majoritarian democracy, especially in relation to protection of minority rights (Steven 2003; Noel 2006). In contemporary political system establishing deliberative parliament is challenging given the diversity of minorities interests especially in multi-ethnic country like Ethiopia. However, at a regional state level consisting homogeneous society, ORNS for example, viable (i.e. time efficient and representative) deliberative democracy can be sought.

⁵Hassan Ali (1992?-1995), Kuma Demeksa (1995-2001), Junedin Sado (2001-2005), Abba Dula Gameda (2005-2010) and Alemayehu Atomsa (2010-present) (Source: World Statesmen.Org).

⁶Individuals taking part in the Gadaa General Assembly are required by the custom to be calm and actively engaged in the deliberation. They are meant to be in the meeting for deliberation and discussion than for debate. Hence the Boran believes that the assembly is not the place of showing ones talent of speech or a place to judge a speaker's mind but it is the place for seeking solutions (win-win) to the problems the society are trapped in. Hence, the freedom of expression is well respected and people are required to commit themselves to the deliberation without offending the environment of deliberation.

6.1.4 The Principle of Peace of Boran (*Nagaa Boranaa*)

One of the most entrenched norms of the Borana people is the “Peace of Borana.” Literally it refers to the peace and justice of Borana which every member of the society irrespective of their social, political, economic and other status has to respect always and it is a leading or fundamental principle to settle any case. Any judgement to be passed, the elder-arbitrators always considers whether the decision may ensure the peace and could boast the peace of Borana or otherwise. Moreover, this principle serves not only to settle cases but it has to be observed in all juridical acts as guidance. Hence to enact customary laws (legislative), to interpret it (judiciary) and to apply it (executive) may not be in contradiction of the principle of *nagaa Borana*.

Moreover, no matter the tense condition exists between Boran and neighbouring ethnic groups, Boran should always be in harmony among themselves because of two core legal spheres: *aadaa* (custom or common moral standards) and *seera* (laws) and . These laws can foster consciousness of cultural identity which eventually strengthen maintenance of cultural uniformity. Where the former refers to custom and customary laws the latter is the common laws of Borana land. For instance, any person who breach the common law of the land is regarded as *nyapha* (‘alien’). Anyone who disturbs the peace of Borana are believed to have lacked *Borantitti* meaning “Borananess” (Informant E). In nutshell, any form of acts contrary to the Boran social order and cohesion of the wider society shall be tested against the litmus test *nagaa Borana*—which evolved from collective responsibility of citizens (unlike institutionalised court systems) to build stronger and enduring peace and justice for the society.

6.1.5 The Principle of Accountability: Impeachment of Gadaa Leaders vis-à-vis Government Officials

All Boran are equal before the Gadaa laws irrespective of their social status in the community. Gadaa laws are above all. Even the Abba Gadaa himself is subject to the same punishment as all other Boran if he violates the laws; same laws, same punishments. This is the evidence that shows us that the law is above everybody including the Abba Gadaa (Bassi 2005: 200). Gadaa leaders who engage in malpractices such as miscarriage of justice and fall short of their mandates may be “removed” from the office through the rule known as *Mura harkaa fuuchu* or *Buqqisu* (‘uprooting’). Once a leader is uprooted he will automatically lose official capacity and he can no longer decide over any public cases. According to Boran the term *buqqisi* (uproot) covers not only the impeachment

and removal of a Gadaa leader from holding any public office but it also extends to his offspring. Exceptionally, an uprooted Gadaa leader may exceptionally be forgiven and reinstated to his previous position. However, that is not always the case. For instance, where the level of the wrong committed by a Gadaa leader is such serious as to against humanities and national security, then there would not be a space for forgiveness.

According to the oral tradition of the Boran, the case of Abba Gadaa Wale Wachu (1722-1730) tells that he had committed two serious, at the time, crimes: first, he ordered an un-winnable war in which the incoming Abbaa Gadaa was killed for nothing. As a consequence the national security and peace was put to jeopardy. Second, he ordered to disallow a pregnant woman from using water for domestic consumption and for her domestic animals. Considering the gravity of the case the *gumigayo* did not only uprooted him and his council but also punished him to exile from the Borana land. The Boran saying in this regard reads: ‘‘*Wale Wachu warri chuf sitti orme!*’’ which means Wale Wachu, all the people estranged you (Asmarom 2006: 204).

De Salviac states that every mid-term of Abba Gadaa’s office (i.e. in fourth year) the Gadaa Council convene to the whole society where each of them begins to confess publicly and in detail the faults which inexperience and lust for wealth have rendered him culpable, and promises to forget them, by virtue of equity and moderation, during the second half of the administration period (De Salviac, 2008 (1901): 214 and 215). This is clearly where the Abba Gadaa and his cabinet are held accountable in a transparent and where people can check up on his performances for the last four year and his determination to perform better in the remaining four year term office. Thus, instead of electing Abba Gadaa every four years they have devised a system where he can be checked and finish the single term office. Six points can be noted from this principle: transparency, rule by people, serious offense by Gadaa officials is no excuse and faults due to lack of experience may be forgiven, single term with mid-term supervision.

Hence the activities of Abba Gadaa and his cabinets are reviewed by the Boran general assembly (the *gumigayo*) in the middle of every term office. The assembly also checks whether the Gadaa council has the ‘‘capacity’’ to complete the remaining (half) term office. Considering this reality, leaders desist from any form of immorality as conventionally deemed by the culture; corruption in public office, unorthodox marriages, unfair inheritance of a widow or relatives of the deceased, defiance to elders and sex related misconducts (Arsano1997: 650; Godana, 2011: 31-32).

Consider the following proceedings through which *Mura harkaa fuudhani* or *Buqisu* was declared on errant public officials as recorded by Asmarom (2006):

Eella hinmurin—make no decisions about water wells;

Haara hinmurin—make no decisions about dams;

Biyya wandubattan—call no public meetings and assemblies;

Daaba ilma -niti hinmurin—make no decision about welfare of women and children;

Daaba buusa gonofa hinmurin—Make no decision about the welfare and protection of clansmen (Asmarom 2006: 203; Godana 2011: 32).

From this one can understand that, first, the procedure of removing a Gadaa leader from the power is transparent and unambiguous action of the *gumigayo*. Second, the purpose of removing an official though such unwavering process is “to ensure that morally upright elders and officials are the ones who adjudicate cases as they set a good example and represent the ideals of virtue that uphold the aspirations of all Boran to be at peace in a just and secure environment” (Godana, 2011: 32). Third, the idea of “uprooting” is not based on “firing” or dismissing a leader from the office. It is rather devised in such a way that such an officer loses power to decide on natural resources, human relations and political-legal matters. Therefore, the importance of the community, family, clan and water as a resources and by extension pasture and land are to be denied of jurisdiction ultimately making such authorities powerless and cut off from public affairs (ibid 2011).

6.1.6 Period of Testing and Different Electoral World View

The most common understanding of election in west political system as well as in academia is that any citizen can compete to be a leader and can win an election base on his charismatic, skill of speech and personal experiences. This is completely different from the principle of election under Gadaa System. What matters according to Gadaa is not only a personal look or skills but more attention is given to the pragmatic nature of a leader. In short, the people have to know him not in theory but in practice. That is why the principle testing period is incorporated in to Gadaa constitution. Hence, as we have discussed elsewhere, the time of election of Gadaa leader at Kusa Gadaa grade. It is only at the sixth Gadaa grades that he can take power through power transfer ceremony. That is, their service at the fourth and fifth Gadaa grades is a testimony to be honourably inaugurated to the office or banned from coming to power. One could imagine if the modern nation states adopt this value in a sense that a leader elected five or ten years ago could only come to power based on his achievements. The Boran describes giving a political power to a leader without pre-testing him as:

“electing a man after hearing him give self-praising speeches is no wiser than marrying a woman after watching her sing and dance in the company of a crowd of admiring warriors” (Asmarom 2006).

The Boran, reiterates this principle also with the argument that – what if a leader after being invested into the office turn out to be fool, dictator, irresponsible? (ibid) Perhaps that is why they seek practical proof beyond impressive speeches.⁷

6.1.7 Principle of Division and Separation of Power

Division of power and separation of power are two distinct concepts under the study of constitutional law. The former represents the power distribution between a central organ and its constituents, as for example as between the US federal government and the State governments. Hence it is a vertical relation which may also extends to division of power. Separation of power refers to a horizontal sharing of power among the government bodies both at central (federal) and local (regional state) level. It refers to the traditional government bodies: legislative, executive and judiciary. For instance under current Ethiopian structure (devolutionary federalism) these three government bodies exist at the federal level as well as at regional state level.

Now, whether the concept of division of power in its strict sense exists in Gadaa governance system? The answer to this question is positive however qualified. That is the concept of the division of power (vertical) between the “centre” and “peripheries” follows a different approach as compared to modern system. Unlike the division of powers between the federal and the states the Gadaa System of division of power follows generation and age-group based power division. It is the type of division of power in which “every citizen” involve actively in political and legal affairs of their country. One of the advantages of division of power across the generation has great value in creating egalitarian society. That is, all inclusive political system in which all citizens (can shoulder responsibilities and bear rights) are stratified and powers distributed to them. This is the main quality of the Gadaa democracy. In West the system of governance the issue of inter-generational inequality are incumbent puzzle to the extent that redressing the inequality is almost impossible (Asmarom 2006).

⁷Once Gadaa leaders are elected at the fourth Gadaa grade they had to serve the people and could build trustworthiness, accountability, diligence and above all exhibit their capacity to defend the Gadaa constitution. Hence, the six months or more election campaign which might work in modern political system is not adequate under the Gadaa leadership to entrust a highest executive authority to a politician.

6.1.8 Form of Government—Presidential-Parliamentarian System

Gadaa System of governance can be considered as polysepalous that is governance by more than one head as opposed to monosepalous (i.e. single head) led system of governance. In polysepalous democracy one cannot find “a monolithic ‘state’ which crushes all power that is hierarchically subordinate to it.” (ibid: 196). Put it differently, it is distinct power division (vertical: between the center and constituencies, in our case, between moieties) and separation of power (horizontal: among the bodies of the government) is highly respected. All the constituencies (the moieties) and clans’ representatives and all bodies of Gadaa assemblies (senior council and junior councils), the office of Abba Gada *fixe* (a president at apex), and the Gadaa General Assembly follows functions inter-dependently. However, Abba Gadaa has no authority to crush all the authorities of the clan councillors and Gadaa councillors to undertake whatever he feels right. To control all powers to the extent that all other Gadaa organs and institutions could not perform independently for the good of their clans and moiety is not the nature of Gadaa democracy at all.

Unlike the direct election of Gadaa leaders by the people, the national premier is indirect, that is conducted through the House of Peoples’ representatives. In the same token the ONRS president is nominated and elected by the State Council (Article 73(1) of FDRE Constitution and Article 56(1) of the ONRS Revised Constitution). This is perhaps typical nature of parliamentary form of government. In presidential form of government a directly elected president will be the head of state as well as head of government. Both the presidential system and the parliamentary system have their own pitfalls and limitations.⁸ Among other things, parliamentary form of government is advantageous to a country ethnically divided and it is efficient in terms of legislative action since the executive body entirely based on the parliament. However, its main disadvantageous is that the election of the premier is indirect so that its direct responsibility to the people is loose as compared to presidential system.⁹ In contrast, in presidential system¹⁰

⁸It is neither the objective of this research to detail all advantages and disadvantages of different forms of government and nor what have discussed herein are meant to be representative. However, for the sake of analysis relevant points only are discussed.

⁹One of the advantages of the presidential form of government is the fact that the executive is stable by virtue of a fixed term policy. Since the existence of the executive does not depend on the congress’s power, it is *more stable* than the parliamentary form of government where a premier can be dismissed at any time. As the president is directly chosen by the people, it is argued by the proponents of this system that there is a high tendency for the system to be *more democratic* than a leadership chosen by a legislative body, even if the legislative body was itself elected, to rule.

¹⁰In presidential system the president enjoys ultimate power. S/he owes a complete political responsibility for all executive actions. The president appoints secretaries who are heads of his executive departments. Members

the president is mostly elected by direct or direct-like popular support and directly responsible to the people. However, unlike parliamentary system it is less efficient in speedy legislation and less accountable to the congress (Arend Lijphart 1992).

The nature of Gadaa System resembles to both presidential and parliamentary form of government. That is it may be likened to presidential system especially in a relation to the direct election of its leaders (Abbaa Gadaa and the two vices) by the people for fixed term office. However, when it comes to the responsibility of Gadaa leaders to the General Assembly and their membership of the Gadaa Assembly it exhibits the feature of distinct parliamentary system. In this sense the Gadaa government can be regarded as presidential-parliamentary system.¹¹ Now, the point whether ONRS could adopt the Gadaa governance system which has presidential-parliamentary features? Or put it differently, whether regional states may develop a form of government unique to the federal government? Academically speaking as far as the regional state forms of government do not contravene with the federal constitution there is nothing wrong to form distinct form of government. It is not up to the FDRE Constitution to decide whether the ONRS president has to be elected by the Oromo people directly or by ONRS Council though the latter's constitution provides for election of the president by the State Council. Moreover, it is justifiable for ONRS to trace the system of governance to the Gadaa government and the reconstitution of this system as part of revitalisation of political heritage and eventually supplementing the essence of federalism, i.e. preservation of diversity in the federation. In particular it would constitute proper state constitutionalism where diverse regional constitutions gears towards betterment of the federal constitution and it may ensure the autonomy of ONRS as opposed to incumbent pseudo federalism.

Conclusion; Nowadays, it has become a trend that every country's constitution (whether democratic or not) is deemed to embrace fundamental principles such as sovereignty of its people, supremacy of the constitution, rule of law, principles of accountability and so forth as a guarantee to democracy. Ofcourse, they are fundamental principles at the heart of democracy and good governance and they are designed to ensure the wellbeing of the people (individually and collectively).

of the cabinet and they serve at the pleasure of the president and must carry out the policies of the executive and legislative branches. However, the presidential systems frequently require legislative approval of presidential nominations to the cabinet as well as various governmental posts such as judges.

¹¹In a presidential-parliamentary system, the mode of the presidential election is identical. The president gains office via a direct or direct-like popular election. The term of incumbency is fixed. The president can dissolve the parliament, or has some legislative powers or both (Aurel Croissant/Wolfgang Merkel See: <http://library.fes.de/pdf files/bueros/philippinen/50072.pdf> accessed April 4, 2012).

The principles discussed herein are only selected ones that are relevant to the subject matter of the study, i.e. the values of Gadaa governance. Hence, for the purpose of relevancy the discussions of these principles are limited to eight principles: rule of law; single term office; accountability and impeachment; *nagaa Boranaa*; period of testing; forms of government; consensual democracy and separation and division of power. Accordingly, this chapter is meant to look in to areas where both constitutional principles (i.e. modern and traditional) could enrich one another.

Lastly, this chapter opens a way for the final chapter (chapter seven) to look into alternative solutions where the tension between the two constitutional principles (Gadaa and State constitutions) can be settled or both could be allowed to play side by side enriching one another.

Chapter 7

Realizing Democracy in Ethiopia through Gadaa

7.1 Introduction

This chapter seeks to answer the research questions posed in the first chapter of this thesis. Thus, discussion under this chapter lies on the following (re-phrased) research questions: How Gadaa institutions—General Assembly, Gadaa council, Gadaa Justice System could be accommodated in to the mainstream political spheres—legislative, executive and judiciary? (Question of Accomodation-1) Is it possible to re-construct ONRS constitution conforming to the Gadaa political institutions? In the process of bridging the two systems, where the challenges and the possibilities lie? (Question of Comptability-2).

Investigating the question of accommodation helps to bridge both systems of governance and it necessitates the development of legal pluralism where different constitutions can play a vital role in human governance at the expense of a monopoly of an imported political legal system.

Having said so, how state officials perceive indigenou political institutions has an enduring effect on the political culture of Ethiopia. That is, state policies are the driving factor in creating tension between informal and formal legal institutions. Perhaps, the basic source of tensions between these institutions is, was not due to the fact that traditional institutions lack democratic values or else modern institutions cannot embrace indigenou governance values rather it is due to lack of a policy that can dismantle the

gap between the two, i.e. blending the modern and traditional knowledge of governance. Hence it is the stake of this chapter to discern the possibilities and challenges embracing the Gadaa democracy through federalism entails.

7.2 Federalism: Gadaa Constitution in the context of Legal Pluralism

Legal pluralism is all about world views than plurality of legal systems. For instance, like any other indigenous groups the Boran “[...] don’t see two legal codes at all. The ‘customary’ legal framework is not seen as law at all, but as a way of life, how people live — State Law on the other hand is something imposed and foreign. [...] It is remote, in a foreign language and has little to do with most people’s lives [...] Legal pluralism isn’t about different laws — it’s about a different world view” (J. Adoko and S. Levine 2009:102). This different “world views” in most cases is the cause of the “tension”¹ and it is the one that makes indigenous communities feel some government legislations are more of an interference than a form of solutions to their problems (Godana 2011).

John Griffiths puts “legal pluralism as that state of affairs, for any social field, in which behaviour pursuant to more than one legal order occurs” (Griffiths 1986: 2). The opposite of legal pluralism is legal centralism. The conception of legal centralism throws lights on legal pluralism and hence it necessary to put is as follows: legal centralism is an exclusive, systematic and unified hierarchical ordering of normative propositions and unified hierarchical ordering of normative propositions, which can be looked at either from the top downwards as depending from a sovereign command (ibid: 3). On the other hand Griffiths considers legal pluralism as as a universal phenomenon since it is present in every semi-autonomous social field, and since every society contains many such fields, legal pluralism is a universal feature of social organization (ibid: 2). The concept of legal pluralism has been considered in two blocks: informal and formal legal pluralism. Where the former is also referred to as *de facto* legal pluralism or the social science perception of legal pluralism particularly in the studies like legal anthropology (e.g. Gadaa System); the later is considered as *de jure* legal pluralism or juristic legal pluralism where several positive laws functions in single state (Gordon R. Woodman 1996, Lawrence M. Friedman 1975: 196).

¹Perhaps that is why the Ethiopian federal and regional laws extension and penetration into the peripheries is highly less since the people at the peripheries practice their own legal and political institutions. Furthermore, the state has failed to understand “the identity, uniqueness and socio-political dynamics of the indigenous peoples, hence formulations of policies that contradicts their unique ways of life” (Godana 2011: 40).

When it comes to governance issues, indigenous institutions of governance are divergent from modern political and legal organisations. For instance, the Oromo indigenous peoples, as discussed under chapter four, devised system of governance where generation based and age-sets institutions allowed the people practice the most magnificent political system. Hence, obviously, it is divergent from modern of institutions of governance. However, Gadaa political organisation, as discussed under chapter five, is appropriately comparable and bridgeable indigenous institution. As you might recall, we have discussed the views of proponents of the traditional institutions of governance based on cultural relativism theory. Here their view has credit in a sense that since Gadaa System exhibit democratic values its importance is unquestionable. Therefore, the bottom line is to embrace Gadaa System through legal federalism instead of putting it to extinction by single and alien political culture.

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7.2.1 Regional State Constitutionalism: Can Gadaa Rule within Ethiopian Federal State?

As you might recall we have discussed under the second chapter of this paper that a number of studies have affirmed the legitimacy and relevance of African traditional institutions (school of organic democracy) in the socio-cultural, economic and political lives of Africans (ECA 2007). In particular, as Ethiopia seeks to strengthen federal state established on plural societies it is plausible to recognize and accommodate indigenous institutions of governance in to mainstream political systems. However, as a matter of fact, Oromia regional state commitment to ground its indigenous governance values and institutions into modern systems while adapting to changing realities was not gratifying. However, this research questions and attempts to bridge traditional institutions of governance (Gadaa System) into twenty-first century democracy. To do so, among other things, regional state constitution reform that embraces the Gadaa System has to be in place.

Thence the research questions sought to be dealt with so far is to underscore Gadaa System’s capability, as indigenous institutions of governance, to fill the leadership deficits

modern state has shown. However, Gadaa System has also its own limitations such as gender insensitivity and rigidity of generational relationship based political institutions. In this respect, “harmonizing the two sets of institutions, in turn, requires reform of both in ways that would make them democratic and amenable to integration into a coherent and effective system of governance” (ECA 2007: 2). Accordingly, constitutionalisation of Gadaa System has to be in ways that Gadaa enriches modern Ethiopian constitutions and in return the modern governance system rectifies Gadaa System’s drawbacks.

7.3 Challenges of Accommodating Gadaa Institutions

7.3.1 Gadaa Favours Male Generations: Whether Democratic Rights of Oromo-women in Jeopardy?

The Gadaa System of governance has been criticised for gender insensitivity and it is a common critique against it. This critique is commonly backed by western political culture and liberal democracy. However, women’s social reality among indigenous peoples needs to be approached cautiously. The reason is that democratic rights of indigenous women are intertwined with the beliefs and different world views which differ from the west. Hence the danger of interpreting certain norm through the lens of one’s own norm (for example through western values) has its own contribution to such criticism.

The Gadaa leaders in Boran are well aware of this common criticism but they do not view women’s political rights as the modern nation states’ agents’ perceive it. One of my informants (Informant D and E from Borana) states that women are source of everything! Even the Abba Gadaa, the great leaders of the Boran, were given birth by women. He concludes that women owe special place in the Boran society. To the question I raised to these informants that whether a woman may be elected to the office of Abba Gadaa, he replies that, they do not have “Hadha Gadaa” meaning “mother of Gada” in Gadaa dictionary. However, he substantiates his view that the wife of elected Abba Gadaa is equally treated like the Abba Gadaa himself. This indicates that on one hand how far the patriarchal system is deeply rooted in the tone of the language itself. On the other hand it reflects the Boran society’s distinctive world view of democratic rights of women. My informants while answering to the question why women are excluded from Gadaa System, he states that the reasons are imbedded in cultural, socio-economic and biological factors. In particular, the Boran are semi-nomadic people surrounded by different ethnic groups where strong leadership needs to be in place, in the face of clashes

and wars against intruding neighbouring groups. In this regard, male generations' role is always at fore front. Furthermore, Gadaa system age-grading by itself is barrier to women participation: women need to give birth to children and to look after them which will not be respected if they had to pass through all Gadaa grades like the men do.

Traditionally, although women are excluded from Gadaa System their political and democratic rights are represented and respected through separate institution known as *Siqqe*.² Based on this, some argue that though the women are excluded from Gadaa System, their rights are respected through *Siqqe* institution. This line of argument could open alternative way to look into women democratic institutions. However it is difficult to say that an indigenous women institution such as³ *Siiqee* can rectify exclusion of Oromo women from political decision-making process especially in contemporary world. Thence the question is whether the exclusion of women from Gadaa System is jeopardizing women's interests?

So far a few academic researches related to women rights have been conducted among the Oromo people. The work of Marit Tolo Østebø ethnographic research on Arsi-Oromo women is the most notable one. Østebø underscores the worldview of the Arsi-Oromo people towards women rights interwoven with respect and sacredness traditionally known as *Waayyuu* or *Safuu*.⁴ *Waayyuu* has moral authority over the people and it has special role in protecting women against sexual abuse and sexual harassment (Østebø 2009). Her findings urge the advocates of rights of women and scholars to look into variety of cultural values and traditional institutions in the development of human rights (ibid: 1049). Østebø presents the role of *Siqqe/Ulee*, literally it means "stick",⁵ given to a woman married through *Siqqe* marriage; it represents respect, special rights of women and women married by *Siqqe* forms a separate category (institution) so that their rights are respected both individually as well as collectively. Kuwee Kumsa states that "married

² *Siqqe* (stick) not merely is a term for material symbol, it also refers to an institution, to women's organisations excluding men, which has both religious and political functions" (Østebø 2009: 1053).

³ For instance, whether women's participation in Gadaa political system, among the Boran, through their song *Karile* has political significance?

⁴ *Waayyuu* or *Safuu* is something sacred, should not be touched, or should be respected. *Safuu* is one of the deeply rooted moral laws of the Oromo people. For example to abuse a woman, to downplay elders and etc are breach of *Safuu*. Hence it is a norm that everybody should respect and its breach may result in social exclusion and tortfeasors are regarded as alien (Østebø 2009: 1050, Workineh Kelbessa 2005). "*Safuu* is a moral category based on Oromo notion of distance respect for all things. The concept of *Safu* is not merely an abstract category: it constitutes the ethical bases upon which all human action should be founded; it is that which directs one on the right path; it shows the way in which live can be best lived" (Gemetchu Megersa 1998: 42).

⁵ *Siqqe* not merely is a term for material symbol; it also refers to an institution, to an institution, to women's organisations excluding men, which has both religious and political functions (Østebø 2009).

women have the right to organise and form the *Siqqe* sisterhood and solidarity. Because women as a group are considered “non-relatives” (*halagaa*) and excluded from the Gadaa grades, they stick together and count on one another through the *Siqqe*” (Kumsa 1991). However, whether the *Siqqe* (the traditional Oromo women’s politico-legal institution) alone suffices to guarantee democratic rights of Oromo-women? When it comes to women’s democratic rights *Safuu* or *Siqqe* may not rectify the exclusion of women from Gadaa political system either. The *Safuu* as a moral authority and *Siqqe* as an institution play a vital role among the Oromo people in protecting individual rights (non-democratic) of women.⁶ Therefore, although Oromo women’s individual and collective rights are traditionally protected, undeniably they are excluded from the formal political decision making process. Thus exclusion of women from Gadaa political system is clearly a weakness that cannot be undermined. In this respect Asmarom concludes that: “the single most important deficit in Oromo democracy is the exclusion of women from formal political participation and leadership” (Asmarom 2006: 256)

7.3.2 Whether Gadaa System Work Only In Small Community?

Another critic against Gadaa democracy is related to its scope of applicability. This argument holds that Gadaa System best works in small community than at country or even regional level. The proponents of this view erroneously conclude that Gadaa is meant for local people. Among others Hassan Mohammed argues that “. . . the system seems to have worked ideally for small groups whose members knew each other and met face to face when the situation demanded. With a large group spread over a wide territory the system did not work effectively. Instead of having one supreme assembly, several competing assemblies sprang up in different areas. That is why, although the Oromo nation was under a single Gadaa System, they did not have a common government; instead they had what became the confederacy governments” (Hassan Mohammed 1990: 12). Basically Hassan is not denying the fact that the Oromo people were ruled under one Gadaa System rather he argues that the system had confederacy than centralised form of government. This argument however is defective due to the following reasons:

First and foremost, the existence of several autonomous assemblies across the Oromo land, historically, signifies its nature than its limitation. Hence the absence of strong central institution that pulls all autonomous Gadaa Assemblies across Oromo land under

⁶Traditionally human rights theorists classify rights in to three generations: individual rights (e.g. right to life, right to privacy, dignity and others), Socio-economic rights (rights of association, right to development, ownership rights and others) and democratic rights (right to vote or to be elected, freedom of speech, and others).

one umbrella was not due to the fact that Gadaa only works in small community rather it was for historical political reasons discussed (under Chapter Three of this study). Put it differently, “institutions must undergo a process of simplification and stream lining—and, on the bureaucratic side, considerable development—before they can become useful in that larger and modern context” (Asmarom 2006: 258). Given an opportunity was not given and attempts were not made to apply it nation wide, it is erroneous to conclude that Gadaa works only in small scale.

Second, Gadaa as a system represents knowledge of governance that can be used in small or large community; a profound knowledge or idea has no boundary whether it is evolved in US by political scientists or by semi-nomadic people of East Africa. The analysis of the proceeding chapters (Chapter Five and Six) clearly indicates that the values and principles the Gadaa System contains are not only meant for small scale community but they are rather meant to the world democracy. One may even think of the Magna Carta in England or the Athenian direct democracy limited to a single city state were all small scale societies and thus justifying small scale par excellence (Asmarom 2006: 258). As that did not prevent modern nation states to borrow principles of “democracy” from Greek, so does what prevents us to “borrow” the principles of Gadaa democracy today?

7.3.3 Softening some of Rigid and Complex Rules of Gadaa System

As you might remember, Gadaa System among the Boran is complicated by rules of generational relationship based political organisation. For instance, the rule that require raising children after attaining the fifth Gadaa grade (*raba*) is clearly rigid and it needs to be softened especially to adopt Gadaa in modern political system. That is, the requirement that the generations must follow each other in forty-year cycles, and that all brothers must belong to the same Gadaa party regardless of their age, causes many cumulative demographic and structural problems (Asmarom 2006: 257). It is quite possible to reform the rule in a manner that age groups, which are then regrouped into chronological, not genealogical generations, could serve as more effective basis for modern political system. Given this change, however, there is no reason why the institution could not serve as viable political model (ibid).

7.4 Looking Beyond the Challenges: Embracing Possibilities and Overcoming Tensions through Federalism

Contemporarily, institutional transformation and application of Gadaa governance system at regional state level seems workable idea in light of ethnic federalism prevalent in Ethiopia. In principle federalism is about self-rule and accommodation of diversity in unity; that is diversity in systems of governance and plurality in laws and the adoption of distinct constitutions in a federation. When it comes to cultural rights the feature of federalism Ethiopia exhibit today is multicultural⁷ federalism or what Lawrence Friedman calls “cultural pluralism” where local states are given mandate to promote their own language and heritage (Friedman 1975). However, federalism in contemporary Ethiopian constitutional system is highly qualified to the extent that political power centralisation is “constitutionally”⁸ established. In this regard, it would be challenging to institutionalise genuinely plural legal systems. Keller puts this fact as follows: “[...] with the exception of linguistic and cultural autonomy, so far the constituent members of the ethnic federation cannot exercise administrative and political autonomy [...] an asymmetrical form of federalism that was overly centralized and operated almost like a unitary centralized state” (Keller 2004: 38). Obviously the 1995 FDRE constitution declares the federal system. However, the federal constitution entrust all essential powers into the federal government whereas regional state governments are merely administrative agents of the federal government. A clear indication of this reality is the absence of plurality of constitutional laws (state constitutionalism) in strict sense.

Having said so, there are possibilities for regional states, for example ONRS, to enact its own constitutions different from the federal constitution both in its form and substance without breaching the federal constitution. Furthermore, the plurality of state constitutions, for instance, is very essential for the enrichment of the fundamental principles of the federal constitution itself. It also helps the constituents of the federation to exercise their power on matters that are specific to their region. And as a result it could have eventually facilitated an environment of self-reliance and effective self-governing regional states. According to John Rawls, pluralism of laws is advantageous “for policies

⁷It is undeniable fact that ethnic federalism has brought some positive changes as to the revitalisation of ethnic minorities’ cultural values. However, when it comes to the participation of the public in political decision making process, rule of law and good governance, Ethiopia is still far behind.

⁸Obviously the 1995 FDRE constitution declares the federal system. However, the federal constitution entrust all essential powers into the federal government whereas regional state governments are merely administrative agents of the federal government. A clear indication of this reality is the absence of plurality of constitutional laws (state constitutionalism) in strict sense.

and courses of action likely to be effective and politically possible as well as morally permissible for that purpose” (Rawls 1993: 68). Therefore through legal pluralism, a subsidiary to federalism,⁹ accommodating Gadaa principles is justifiable for efficiency and legitimacy purpose.

7.4.1 The Principle of Greater Protection: Gadaa Democracy As “Greater Protector” of Democratic Constitution

A great lesson can be learnt from the U.S. experience of federalism specially when it comes to constitutional pluralism. The state constitutionalism in U.S. is found on the principle of greater protection; that is is, in the adoption and interpretation of the states constitutions, the guiding principle is the greater protection of the US federal constitution. For instance, where the principles a state followed is fundamentally sound and more progressive than the federal constitution is, then it is justifiable to adopt it even if a state’s constitutional principles are different from the federal constitution. While dealing with dual constitutionalism Judith S. Kaye states that state courts in the U.S. have always tended to read their constitutions in order to provide greater protection than found under analogous provisions of the federal Constitution. (Kaye 1987). In this regard, the principle of greater protection quite works in case of US since the common law legal system allows the state courts to adopt interpretate constitutions. However, when it comes to the case of Ethiopia the power to interpretate the federal constitution belongs to the House of Federationin (Article 62(1) of FDRE constitution). In the same way the power to interprate the Oromian regional state constitution belongs to Constitutional Interpretation Commission (Article 67(1) of ONRS Constitution). Hence, the means through which state constitutionalism may stand for the “greater protection”¹⁰ of the federal constitutional principles is not through regional state courts, instead it is through Constitutional Interpretation Commission.

The fundamental principles Gadaa System embrace can be regarded as it stands for

⁹Federalism and legal pluralism are extricably linked concepts. They are mutually re-enforcing systems. That is where there is division of powers between the federal government and its constituents the existence of plural legal systems is inevitable. Obviously, constituents of the federation could have different laws which inherently follows from the powers and functions allotted to them in the federal constitution. For example, the division of legislative power between the federal government and the constituents inevitably allows states to enact their own laws.

¹⁰For the purpose of clarity, the principle of greater protection is mostly used for human rights and related issues. For instance if the death penalty is not allowed in Oromia regional state, it shall be conceived under the principle of greater protection of the federal constitution which states that right to life is absolute in principle (Article 15 of FDRE Constitution). The same thing may apply for other principles enshrined in the constitution.

the greater protection of the fundamentals of a democratic constitution. For example, one could think of the principle of eight years single term office of the leaders (see also Appendix B); the principle of pre-testing an individual before being elected to the office, the principle of impeachment of leaders and others (see chapter six for more). Hence as any indigenous values in contravention with universal principles of human and political rights cannot be relied on, indigenous principles that can enhance good governance and democracy can not be relegated. Therefore, as indigenous institutions of governance inform modern governance system the later also does: both driving towards the greater protection of democratic human values.

The issue of supremacy of the federal constitution is perhaps over stated in Ethiopian legal system and in politics as well. As any democratic countries' constitutional experience indicates the supremacy of the constitution is essential since it contains fundamental human rights and principles that are determinant to the country and its citizens. Hence its supremacy is for good. However, politicising its supremacy is another thing. On one hand, exalting the federal constitution to the extent that it cannot be moulded (enriched) by regional state constitutional experience is inconceivable assertion. On the other hand, the issue of supremacy of the federal constitution shall always be understood in light of the greater protection of the principles of the federal constitution. In that sense, it is possible to have Gadaa principles based constitution which is consistent with the federal principles and at the same time that stands for its "greater protection."

Conclusion; In this chapter I have attempted to answer research questions left unanswered by the preceding chapters (chapter five and six). In the process of recognition and accommodation of indigenous institutions of governance challenges/tensions are inevitable. This chapter, therefore, attempted to resolve the challenges that exist on both sides: while the challenges that arise from Gadaa Systems, for example; exclusion of women and rigidity of generational relationship principles are attempted to be rectified and argued to be flexible, tensions that arise from modern state policies towards indigenous institutions are argued to be accommodative of such institutions through legal federalism. Therefore, the purpose of bringing legal pluralism and federalism to discussion under this chapter is basically to overcome the tension between two systems and to look for possibilities (spaces) in which indigenous institutions can be accommodated and/or bridged to modern governance.

Concluding Remarks

Historically the modern political systems of Ethiopia and the state policies were towards integration and assimilation at the expense of diversity and accommodation. It was after a prolonged period of assimilation of cultural values that perhaps under the incumbent political system that cultural diversity has got a different attention. However, the historic centralization of political power had continued—even after the introduction of federalism the central government had remained the robust institution, where all essential legal and political powers are entrusted to. Moreover, the federal as well as regional state policies are not in tandem with indigenous peoples' rights and indigenous governance systems such as the Gadaa System.

Throughout this thesis, in one way or another, I have attempted to discuss the tension between two systems of governance: indigenous/traditional/informal versus scientific/modern/formal institutions of governance. Seeking recognition and accommodation of traditional institutions of governance (the Gadaa System) is not without cause. As shown under the analysis part of this thesis, Gadaa System embraces fundamental democratic values such as rule of law, principle of single term office, principle of impeachment of leaders, pre-testing future leaders and others. These are the kind of pragmatic principles that could be solutions to the problems of developed as well as developing countries political systems have had to face. However, the Gadaa System has limitations such as: exclusion of women from direct political decision-making process and rigidity of generational relationship requirements. Given the reformation of these two drawbacks, I have argued that, there is no reason why Gadaa System could not be a viable constitutional model.

To the question how to make use of Gadaa today, I have attempted to respond that, the state structure and political system Ethiopia practice today has a leeway that welcomes diversity and legal pluralism. In particular, as ethnic federalism recognizes distinctiveness of peoples' culture, language and historical background, for strong reason, indige-

nous peoples' institutions such as Gadaa System has to be allowed to function formally along side of modern constitutions or embraced by modern constitutions pragmatically for there are spaces to incorporate it under the context of legal (constitutional) pluralism.

In conclusion, under incumbent federal system of Ethiopia a pragmatic policy that accommodates Gadaa System of governance and a serious action that constitutes government bodies built on Gadaa principles are essential for full-fledged and inclusive democracy. However, so far, the absence of appreciation and/or misunderstanding of indigenous political dynamics have necessitated a fallacious impression that indigenous peoples' values are stumble to democracy and/or development. However, this study tried to indicate that it is time to leave behind hastily generalizing indigenous institutions as irrelevant (contrary) to democracy and rule of law. Instead, a meaningful system that can accommodate Gadaa System into modern democracy shall be adopted. Hence, to materialise Gadaa rule in Ethiopian federation, what is required is the federal and Oromia regionall states agents' commitment to that end and looking beyond maintenance of the status quo for the best interests of of the people and for generations to come.

Glossary

- Abba Alangaa: father of prosecution (prosecutor)
- Abba Dinagdee: father of economy
- Abba Dubbi: father of speech (defence counselor)
- Abba Duulaa: father of defence (of war)
- Abba Gadaa: father of Gadaa
- Abba Gadaa fixe: father of Gadaa at apex (the president)
- Abba Muudaa/Abba Qallu: father of anointment
- Abba Seeraa: father of law (Legal counsellor)
- Abba Seeraa: father of law (judge)
- Adula: Gadaa Council
- Balbala: lineage
- Bokkuu/ Baallii: sceptre (symbol of power)
- Chaffe: general assembly
- Cinna: Dismemberment
- Fincaan: family (direct line)
- Garbaa: junior councilors
- Gogeessa: Gadaa classes
- Gosa: clan

- Gumigayo: Gadaa General Assembly
- Haaromsa: renaissance
- Hayyuu adula: senior Gadaa councillors
- Hayyuu: councilors
- Heera : constitutional (supreme) law
- Jaldhaba: executive officer
- Jila: ritual ceremony
- Madda: fountain
- Mana: moiety
- Meedhicha: Ownership
- Muuda : anointment
- Oda: sycamore tree
- Qallu: religious institution
- Salgan yaa'ii Borana: the nine Boran's executive-assembly
- Seera: laws
- Torbi: conscripts
- Walabuu: liberty

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Appendices

Appendix A

Gadaa Chronology

1	Bidu Doqqe (1628-1636)? (<i>Gona</i>)? I	Babbo Horro (1636-1644)? (<i>Sabbo</i>)? II	Yayya Ole (1644-1651)? (<i>Gonna</i>) III	Hindhale Doyyo (1651-1659)? (<i>Sabbo</i>) IV	Abbu Lakhu (1659-1667) (<i>Gona</i>) V
2	Abbayi Babbo (16667-1674) (<i>Sabbo</i>)? VI	Alle Kura (1674-1682) (<i>Gona</i>) VII	Wayyu Uru (1682-1690) (<i>Sabbo</i>) VIII	Morowwa Abbay- ye (1690-1698) (<i>Gona</i>) IX	Gobba Alla (1698-1705) (<i>Sabbo</i>) XI
3	Dawwe Gobbo (1706-1714) (<i>Sabbo</i>)? XII	Jarso Iddo (1714-1722) (<i>Gona</i>) XIII	Wale Wachu (1722-1730) (<i>Gona</i>) XIV	Sora Dhaddacha (1730-1737) (<i>Gona</i>) XV	Dhaddacha Way- yu (1737-1745) (<i>Sabbo</i>) XV
4	Halakhe Doyyo (1745-1753) (<i>Gona</i>) XVI	Guyyo Gedo (1753-1761) (<i>Gona</i>) XVII	Madha Boru Dadoye (1761-1768) (<i>Gona</i>) XVIII	Dhaddacha Oda M. (1768-1776) (<i>Gona</i>) XIX	Bule Dhaddacha (1776-1783) (<i>Sabbo</i>) XX
5	Liban Wata (1783-1790) (<i>Sabbo</i>) XXI	Wayyu Ralle (1791-1798) (<i>Gona</i>) XXII	Boru Madha (1798-1806) (<i>Gona</i>) XXIII	Ingule Halakhe (1806-1814) (<i>Gona</i>) XXIV	Saqqo Dhaddacha (1814-1821) (<i>Gona</i>) XXV

6	Jilo Niencho (1821-1829) (<i>Sabbo</i>) XXVI	Sokhore Anna (1829-1837) (<i>Sabbo</i>) XXVII	Madha Boru (1837-1845) (<i>Gona</i>) XXVIII	Liban Jilo (1845-1852) (<i>Gona</i>) XXIX	Jaldessa Guyyo (1852-1860) (<i>Gona</i>) XXX
7	Doyyo Jilo (1860-1868) (<i>Sabbo</i>) XXXI	Haro Adi (1868-1876) (<i>Sabbo</i>) XXXII	Dida Bittata (1876-1883) (<i>Gona</i>) XXXIII	Guyyo Boru I. (1885-1891) (<i>Gona</i>) XXXIV	Liban Jaldessa (1891-1899) (<i>Gona</i>) XXXV
8	Adi Doyyo (1899-1906) (<i>Sabbo</i>) XXXVI	Boru Galma (1906-1913) (<i>Gona</i>) XXXVII	Liban Kuse (1913-1921) (<i>Sabbo</i>) XXXVIII	Arero Gedo (1921-1929) (<i>Gona</i>) XXXIX	Bule Dabbasa (1929-1936) (<i>Sabbo</i>) XXXX
9	Aga Adi (1936-1944) (<i>Sabbo</i>) XXXXI	Guyo Boru (1944-1952) (<i>Gona</i>) XXXXII	Madha Galma (1952-1960) (<i>Gona</i>) XXXXIII	Jaldessa Liban (1960-1968) (<i>Gona</i>) XXXXIV	Goba Bule (1968-1976) (<i>Sabbo</i>) XXXXV
10	Jilo Aga (1976-1984) (<i>Sabbo</i>) XXXXVI	Boru Guyyo (1984-1992) (<i>Gona</i>) XXXXVII	Boru Madha (1992-2000) (<i>Gona</i>) XXXXVIII	Liban Jaldessa (2000-2008) (<i>Gona</i>) XXXXIX	Guyyo Goba (2008-2016) (<i>Sabbo</i>) XXXXX

(Source: Asmarom 1973: 190-191 2006: 266-269)

Appendix B

Comparative Chronology of US, Ethiopia and Borana Leaders

US Presidents	Term Offices	Political Parties	Ethiopian Leaders	Abba Gadaas	Term Offices	Gadaa Parties
Herbert Hoover	1929-33	Republican	H/Sellasia I	Bule Dabbasa	1929-36	Sabbo
Franklin D. Roosevelt	1933-45	Democratic	H/Sellasia I	Aga Adi	1936-44	Sabbo
Harry S. Truman	1945-53	Democratic	H/Sillasie I	Guyyoo Boruu	1944-52	Gona
Dwight D. Eisenhower	1953-61	Republican	H/Sillasie I	Madha Galma	1952-60	Gona
John F. Kennedy	1961-63 ($\frac{1}{2}$ term)	Democratic	H/Sillasie I	Jaldessa Liiban	1960-68	Gona
Lyndon B. Johnson	1963-69	Democratic	H/sillasie I	Gobba Bulee	1968-76	Sabbo
Richard Nixon	1969-74	Democratic	H/Sillasie I	"	"	"
Gerald Ford	1974-77	Republican	Col. Mengistu	Jiloo Aagaa	1976-84	Sabbo
Jimmy Carter	1977-81	Democratic	Col. Mengistu	"	"	"
Ronal Reagan	1981-89	Republican	Col. Mengistu	Boruu Guyyoo	1984-92	Gona
George H. W. Bush	1989-93	Republican	Meles Zenawi	"	"	"
Bill Clinton	1993-2001	democratic	Meles Zenawi	Boruu Madha	1992-200	Gona
George W. Bush	2001-2009	Republican	Meles Zenawi	Liiban Jaldeessaa	2000-'8	Gona
Barack Obama	2009-present	Democratic	Meles Zenawi	Guyyoo Gobba	2008-present	Sabbo

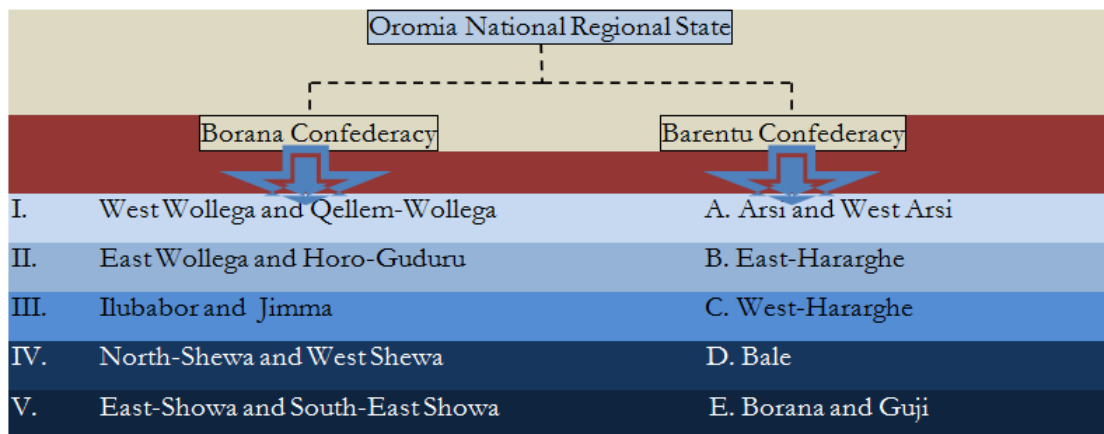
Appendix C

The Incumbent and Future Gadaa Councils (2008-2024)

“Term Office”	The President (Abba Gadaa <i>Fite or arbora</i>)	Vice- President (Abbaa Gadaa <i>Kontoma</i>)	Vice- president (Abbaa Gadaa <i>Kontoma</i>)	Councillor (<i>Hayyu Adula</i>)	Councillor (<i>Hayyu Adula</i>)	Councillor (<i>Hayyu Adula</i>)
2008-2016	Guyyo Gobba (Sabbo, Digalu Eemmajjii)	Jaldeessa Diidoo (Gona, <i>Qarbabduu</i>)	Anna Guyyoo (Sabbo, Karrayyu)	Galgaloo Jaarsoo (Gona, <i>Hawwaxxuu</i>)	Qorii Liiban (Sabbo, <i>Maxxaarrii</i>)	Nuura Jiloo (Gona, <i>Koonnituu</i>)
2016-2924	Guyyoo Morquu (Sabbo, <i>Digalu</i>)	Jiloo Boruu (Gona, <i>Dambitu</i>)	Ibaayyuu Liiban (Sabbo, <i>Karrayyu</i>)	Adii Jaldeessaa (Gona, <i>Hawwaxxuu</i>)	Areeroo Nuuraa (Sabbo, <i>Maxxaarrii</i>)	Dida Diimaa (Gona, <i>Koonnituu</i>)

Appendix E

A Pilot Politico-social Stratification of ONRS



(Source: <http://oromiyaa.com/>, Accessed March14, 2012)

Appendix F

Clan Structure of Borana-Oromo (Boran)

MOIETY	SABBO					GONA	
SUB-MOIETY	DIGALU	KARRAYYU			MATTARI	FULLELLE	ARORESSA
Clan	Aru	Barre	Badi	Abbole	Dorrani	Bachitu	Arusi
	Daddo	Bokku	Gaddu	Currota	Gadulla	Dachitu	Awatu
	Ilu	Danka	Holle	Hajeje	Garjeda	Galantu	Dambitu
	Molu	Dano-Wale	Itu	Kodelle		Konitu	Karchabdu
		Didimtu		Kojeja	Karaza		Maliyu
	Nurtu	Gaguru	Jartu	Kollitu	Kuku	Machitu	Nonitu
	Tuftu	Gambura	Kula-	Konso-ta	Mankata	Oditu	
	Udumtu	Godi	Korme	Norro	Metta	Sirayu	Warra Jidda
	Walaji	Hiyyeyye	Maye	Rasa			
		Junno	Mulata	Siba			
		Libano	Obole	Sunka-na			
			Umuru	Uchota			
		Mante	Walabu	Wamaji			
		Salalu	Wate				
		Sibu	Wayyu				

(Source: Alemayehu Haile and et. el. 2006, Asmarom Legesse 1973, Godana 2011)

Appendix G

List of Informants and Activities

Informants in letter	Satus or background of informants	Types of interviews	Date of interviews
A, B and C	Jaldhaba (executive officers) from Guji zone, south Ethiopia	Focus Group Discussion	July 28, 2011
D and E	Hayyu (councillors) from Guji zone, south Ethiopia	Focus Group Discussion	July 28, 2011
F and G	Civil servants from Guji zone, South Ethiopia	Formal Interviews	August 02, 2011
H and I	Civil servants from Borana zone, South Ethiopia	Informal interview	August 04, 2011
J and K	Jaldhaba (executive officers) from Borana zone, south Ethiopia	Formal interview	August 08, 2011
L and M	Anthropologists and state employees, from Borana zone, south Ethiopia	Formal interview	August 12, 2011