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**ASSESSING THE LAW-MAKING PROCESS, LAW MAKERS AND THE VALUE OF LAWS IN
GADAA DEMOCRACY**
*Solomon Emru Gutema**

Abstract

Africa in general has been known for centuries by its repressive governance system in the history of world politics, whereas the origin of democracy, human rights, constitutionalism and rule of law is considered as the western political culture, and therefore, many political scientists believe that these concepts are totally un-African. The assumption is that the law makers and law-making process in Africa in particular and the system of governance in general is undemocratic. Factually, the prevailing practices also prove this position in many ways. However, the Gadaa oriented system of governance disproves this position. Thus, this Article argues that the Gadaa system contains the principles of constitutionalism and democracy in its classical platforms. Accordingly, the main objective of this Article is to examine the form of constitutionalism and legitimacy of law-making and law makers in the Gadaa system. It assesses the legitimacy of law making-process, the law makers and the value of laws in the Oromo Gadaa system in comparison with the modern principles of constitutionalism. To achieve its objectives, this Article has used mainly a doctrinal method. Additionally, this Article follows descriptive and analytical research method; thus, it has analyzed how one can utilize the principles of the Gadaa system as a modern constitutional principle. For this reason, its methodology is a qualitative one. Thus, in conclusion this Article argues that the principles of Gadaa governance will be utilized as stepping stone for redeeming the modern Ethiopian constitutionalism and democracy.

Key Words: Constitutionalism, Ethiopia, Democracy, Gadaa, Oromo

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I. INTRODUCTION

In the history of governance, neither the classical democracies like the ancient Greece democracy nor the modern democratic republics like the US democracy have traced their sources from the land of the black including the African continent. The western scholars have believed that the only sources of democracy and republican form of governances were originated in the western civilizations.¹ Similarly, majority of the African scholars who degrade the African democratic traditions just as their Euro-American counterparts also devalue the Oromo democratic system (the Gadaa system) and consider indigenous Africans such as the Oromo as primitive and unorganized similarly.²

Despite the Euro-American scholars' views concerning the sources of democracy and constitutional governance in the western world; there was a sort of classical democracy resolutely imbedded in Africa even in the sixteenth century when the conceptions of democracy were not realized in the present-day western democracies.³ Gadaa as a system of classical democracy has been utilized by the Oromo since the sixteenth century whilst the Europeans themselves were suffering from monarchical governances even during the seventeenth and eighteenth century.⁴ Nevertheless, the assumptions that some African traditional administrations like Gadaa system have incorporated some democratic characteristics in their contents, which maybe even more progressive than their western complements have been considered as quite unorthodox in the global politics till this date.

Gadaa is a very complex traditional system through which the Oromo people has been governing its political, economic, social, cultural, belief/myth, and all the rest of their other affairs. It has been confirmed beyond any reasonable doubt that Gadaa system was created and nurtured by the ancient Oromo people in the Horn of Africa.⁵ It consists of well comprehensively crafted and guided systems of traditional administration, which were invented through the unbelievable wisdom of the ancient Oromo people in the so-called Dark Continent.⁶ It is too difficult to reckon

¹ In the literature, it has been believed that 'Democracy' was originated in Ancient Greece Civilization, see the nomenclature of democracy itself; it was derived from two Greek words; namely, 'Demo and Kratos' i.e., people and rule respectively. Again, it is believed that the 'Principle of Rule of Law' was also started in the Ancient Greek; especially, in the philosophy of Aristotle; and later nurtured by the French constitutionalism as 'Le principe de legalite' which means literary, the principle of rule of law in French. Additionally, every brand of democracy, constitutionalism and rule of law have been linked to the ancient Greek civilization, the 'Magna Cart' (the English Great Charter of Freedom) in 1215; the English Bill of Rights in 1689; the 1789 Constitution of USA; the French Revolution of 1789; and others are repeatedly cited as the sources of modern democracy, constitutionalism and rule of law in various literature.

² ASMAROM LEGESSE, OROMO DEMOCRACY: AN INDIGENOUS AFRICAN POLITICAL SYSTEM, (Trenton, NJ: Red Sea Press, paperback. ISBN 1-56902-139-2, 2006):30 and see also, Asafa Jalata, *Gadaa, Oromo Democracy: An Example of Classical African Civilization*, THE JOURNAL OF PAN AFRICAN STUDIES, Vol.5, No.1, March 2012, University of Tennessee, Knoxville; From the Selected Works of Asafa Jalata):147

³ *Id.*

⁴ *Id.*

⁵ See the works of Asmerom Legese (1973, and 2006); Asafa Jalata (2012), Dirribi Demisse (2011), and others on Gadaa studies; all these authors found out in their research works that Gadaa system contains several principles of constitutionalism and democracy in their classical forms.

⁶ *Id.*

exactly when and where the Oromo were invented Gadaa system; but the Oromo have been using Gadaa system as their indigenous model of administrations and as their canonical law for handling the overall live of the Oromo since the time antiquity. For the Oromo people, Gadaa system can be considered as a basic law through which all the Oromo exercise their political, social, economic, religion and cultural rights. “It can be considered as a benevolent gift of God given for the naturalist Oromo people, who were suffering from the Christian kingdom pressures from the North and the Muslims conflicts from the Eastern and Western fronts in the sixteenth century.”⁷

It has been proved by researches conducted previously via many scholars that Gadaa accommodates the principles of modern democracy in its traditional form.⁸ Nevertheless, till this date, many political scientists and lawyers believe that democracy and constitutionalism were originated and nurtured in the western democracies. As a result, the assumption of many scholars remain that Africa has no contribution for the present-day democratic, legitimate and limited government (constitutional government) system. Accordingly, in the past, it was claimed that Africa was considered as ‘Dark Continent’ with scanty contributions in the wisdom of governance and democratic administration. It was considered as the continent, where tribal, scattered, traditional and undemocratic cultures of administrations were rampant; and everything they have been practicing in modern world as system of governance was completely transplanted from the western countries and political cultures.⁹

Despite these facts and assumptions, there was a very detailed and comprehensive system of governance in the land of Africa, even far before the western brand of democracy. The Gadaa system of the Oromo is among the well-known classical democratic and constitutional based system of governance since the time immemorial. Although when, where and how the Gadaa governance was started had remained unclear, the Oromo had started using Gadaa based democratic governance during the 16th century, when human beings were hunted and sold like animals throughout Africa.¹⁰ The Oromo people had been practicing the culture of making basic laws in a legitimate manner, limiting the power of the leaders, ensuring sovereignty of the people, guaranteeing the accountability and transparency of the governors in their culture of Gadaa based administration since the olden times.

For instance, in the collections of basic laws (The tenets of the *Makoo Bilibi* of Gadaa Laws) during the Gadaa of Makoo Bilibi in *Maccaa* Oromo, which was declared in 1580s has contained several democratic and human rights principles as basic constitutional principles.¹¹ The tenets of *Makoo Bilibi* have recognized and incorporated numerous principles of basic human and democratic rights principles in their classical styles, which includes but not limited to; the right of women,

⁷ Tasgaraa Hirphoo, *Abba Gamachis, Onesimos Nasib, Nama Biyya Oromo, Christian Missionary, 1850-1931, HERMANSBURG, 1999*).

⁸ Asmerom Legese et al, *supra note 5*.

⁹ See the massive legal transplantations in the post-independence era (in the post 1960s). For instance, Ethiopia transplanted six important codes, like the Civil Code of 1960, the 1957, the 1960 Commercial Code of Ethiopia. Even all the African Constitutions were derived from the Western or the Easter Constitutions.

¹⁰ Asmerom Legese et al, *supra note 5*.

¹¹ See the Collection of Makoo Bilibi of the Maccaa Oromo which was enacted/declared in 1580 (Article 1-64).

children and family protections¹²; guarantee the right to seek asylum, manage the affairs of diplomacy (relationship with the non-Oromos).¹³ Furthermore, the tenets of *Makoo Bili* had governed the matters of safety and health related laws, public/criminal laws, Civil laws and administrative laws to ensure and uphold the *Nagaa* (the Peace) of all human beings, animals, and the whole environment.¹⁴ These principles are compatible with the principles of modern human rights, like the right to environment, the right to property, the right to life and other rights. Hence, the Gadaa system has guaranteed the right to survive peacefully on the mother earth not only for human beings, but also, for other living things like animals. ‘*Nagaa*’ or peace is therefore, the essential key to all cosmic and human order, possessing the highest and most central values for humanity to pursue among the Oromo; and thus, the concept of peace is goes beyond the human domain according to Gadaa system.¹⁵

Moreover, De Salviac in one of his research conducted and published in 1901 on the Oromo concluded that the Oromo had the culture of limiting the power and the time of leaders in their Gadaa system.¹⁶ He also figures out that “each Cadre holds the power for a period of five years and then passes it over to the next Cadre.”¹⁷ Concerning the law, many ancient governance systems had believed that the laws were given from God or a benevolent gift from the kings; but in the Gadaa system of governance, the laws were never given from God nor considered as a gift from the individuals like a king, queens or any religious leaders; rather, laws made by a group of people through direct participations.¹⁸ Since the earlier times in history, the Oromo had devised basic laws for themselves; established their own system of law interpretation, and formulated the procedure of law enforcements in a democratic manner.¹⁹

Therefore, human and democratic rights, the right of children, the rights of women, refuge rights, asylum, election, equality, and other important modern principles of democracy and constitutionalism are culture for the Oromo which Oromo had been practicing all these principles, before the Second World War though it was undisclosed to the world communities at the time. Thus, this study strives to reverse the strong assumption that concludes the birth place of democracy was in the western cultures only. To disprove this assumption, this Article produces several genuine, reliable and research-based evidences. It produces several historical and legal evidences to point out that the Classical Gadaa based Democracy can be utilized as a stepping stone to mould the modern democratic governance system and will ensure genuine

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Tenna Dewo, *The Concept of Peace in the Oromo Gadaa System: Its Mechanisms and Moral Dimensions*, JOURNAL OF OROMO STUDIES (2008), Volume 15 (1): 139-179.

¹⁶ Father Martial De Selviac, *An Ancient People in the State of Menelik: The Oromo, Great African Nation*, PARIS, 1901), 209-2014.

¹⁷ *Id.*, at 211.

¹⁸ *Id.*, at 214.

¹⁹ Dirribi Demissie Bokku, *Oromo Wisdom in Black Civilization*, FINFINE PRINTING & PUBLISHING S.C., APRIL 2011, ETHIOPIA, 195-196.

constitutionalism in Ethiopia in particular and in Africa in general. Specifically, the paper tries to precisely point out that taking lessons from the law-making process, the place of the law makers, and the value of the laws itself in the Gadaa system will have a paramount importance in building democratic and constitutional culture in present federalist Ethiopia.

The general objective of this study is to assess how best the Principles of the Classical Gadaa Democracy can be utilized as stepping stone to mould the modern African and Ethiopian constitutionalism. Specifically, the paper examines the principles of constitutionalism (i.e. The Principles of Basic Law-Making Process; Contents of Basic Laws, and Practices both in Classical Gadaa Governance System, and in the modern principles of constitutionalism. Moreover, the paper investigates the place of law makers and the value of laws in Gadaa system and compares the principles of constitutionalism in Gadaa oriented governance system with the modern constitutional governance system to check the compatibility and reliability of the Gadaa Principles of governance with the principles of modern constitutionalism.

To meet its objectives, this study has employed the legal research methods integrating both '*black-letter methods*' and '*law in context methods*,' which focuses on doctrinal legal research methods of analyzing the laws on the one hand, and non-legal affairs such as; cultural issues, historical matters, political matters and others important norms on the other respectively.

The paper is organized into four major parts including the introductory part discussed above. The second part deals with the overview of the conceptual frameworks of basic laws and law-making processes. The third part is geared towards exploring the roles of traditions and cultures in moulding the present-day legal civilizations. Finally, the fourth part provides the conclusion of the finding of the paper and suggests recommendations.

II. CONCEPTUAL FRAMEWORKS ON THE BASIC LAW-MAKING PROCESS

Making a basic law (a constitution) is the most important event in the political life of a certain nation. In the making process, the makers of a constitution/basic laws are confronting with various, complicated and competing interests from different groups, even in this modern democratic world. For the overwhelmed political party, it is an instant of hindrance, anxiety, criticism, struggle, extremism etc. Therefore, enacting a certain constitution is a very tough task for the drafters. It should be all-inclusive from the very beginning. Similarly, the contents of a certain newly enacted constitution are also equally important in determining the legitimacy of a certain constitution even after it is already enacted. Moreover, the implementation of a certain constitution has a great value to ensure its acceptance or legitimacy after it has been already made.

For these reasons, the drafting process of a certain constitution can be characterized as either democratic or undemocratic (legitimate or illegitimate). Following this category, constitutional law scholars divided the constitutional making process into two basic methods as the traditional and the new methods. According to the traditional approach, the making of a certain constitution is considered as an act of completion. It is supposed as a covenant/pact, negotiated by appropriate

representatives of various groups, determined, signed and observed.²⁰ The matters concerning all the affairs incorporated in the contents of the constitution are deemed to be recognized and settled with presumed finality and conclusiveness.²¹ The new constitutionalism approach on the other hand is an approach centering on the participatory constitutional making or conversational constitutionalism.²² It is alleged as an ongoing conversation between the elites of a given nation and the citizens.²³ It is carried on by all the participants and is open to new entrants and questions.²⁴ Its aim is to provide a workable formula that will be sustainable rather than assuredly stable.²⁵ This method (new constitutionalism) is more practical, as it considers the vital nature and purpose of the constitution.²⁶

Moreover, in modern constitutional governance system, governments may have Written or Unwritten Constitution. In the Written Constitutional system, all the Constitutional principles are written and documented in a single constitutional text.²⁷ Whereas, in the Unwritten Constitutional system, the constitutional principles are embedded in customs and conventions and as such, one cannot find these principles in a single text.²⁸ Like the Unwritten Constitutional system, the Gadaa Principles have been developed and evolved from the cumulative experiences gained from daily practices, customs, and lessons of many generations of the Oromo society in a very long period of time. Moreover, we cannot find the principles of Gadaa system in written and documented single text. Due to this, it is possible to categorize Gadaa system as Unwritten Constitution compared with modern Constitutionalism.

Accordingly, in any government system of the world, the current system of governance had its roots in their traditional system of administrations. In political history, certain countries have been moulding their customary laws to the stage of current developed constitutional governance. For instance, England has transformed its customary or common laws at the level of the most legitimate Unwritten Constitution in the world in modern time. Thus, the strength of England in the history of constitutionalism and democracy has contributed from its common/unwritten

²⁰ Vivian Hart, *Democratic Constitution-Making*, U.S. Institute of Peace, Special Report No. 107, July 2003, available at <http://www.usip.org/pubs/> (accessed on 5 June 2021).

²¹ *Id.*

²² Tesfatsion Medhanie, *Constitution-Making Legitimacy and Regional Integration: An approach to Eritrea's Predicament and Relations with Ethiopia (2008):4-6*, Aalborg University, Denmark, DIIPER RESEARCH SERIES, WORKING PAPER NO.9, electronically published at <http://www.diiiper.ihis.dk> (accessed on 10 May 2021).

²³ *Id.*

²⁴ *Id.*

²⁵ Tesfatsion Medhanie, *Supra note 22:2*

²⁶ *Id.*

²⁷ For instance, see CONSTITUTION Proclamation No. 1/1995, FED. NEGARIT GAZETTA, 1st Year No. 1, 1995 (hereafter FDRE CONSTITUTION) Addis Ababa. Additionally, the USA, India, Canada, Australia and others have Written Constitutions.

²⁸ M.V.Pylee, *Selected Constitutin of the World, Third Economy Edition*, UNIVERSAL LAW PUBLISHING CO. Pvt.Ltd. New Delhi- India, 2012, 11.

constitutional system.²⁹ Like the England legal system, the Oromo people have been employing their customs, traditions, norms and beliefs to manage all aspects of their life.

Consequently, basic laws/constitutional making process can be checked for its legitimacy both in case of written basic laws and unwritten basic laws. Basic laws may be legitimate/democratic or illegitimate in their nature. However, those governance systems and basic laws derived from traditions are generally considered as backward and not democratic for the fact that they were originated and nurtured in Africa in particular or from the civilized of the black in general. That is why massive legal transplantations have taken place at different time and in different places from the western democracies.

For instance, the concepts of rule of law, the principles of accountability and transparency of government officials, the supremacy of the constitution, sovereignty of the people, universality of human rights and other related principles of constitutional administration systems are entirely transplanted or imported from the western democracies after they have nurtured there for centuries.³⁰

Irrespective of these massive legal transplantations, it remains a puzzle for social scientists those who have been grappling with the query of why many African states have failed to achieve any resemblance of democracy, peace, constitutionalism, stability and development in all sectors.³¹ Hence, though African countries have imported different principles of democracy like constitutional administration, rule of law, various human rights principles, principles of constitutionalism to this date, the African people and states are suffering from lack of democratic governance. Consequently, border conflicts, state instability, civil war, poverty, rampant corruptions remained to be the brand of African governments now-days.

Numerous scholars illustrate how the Oromo democracy had functioned as a socio-economic and political institutions by preventing oppressions and exploitations, and by promoting relative peace, security, sustainable development, and political sovereignty, and how the Gadaa system organized the Oromo society around economic, cultural and religious institutions.³² The Gadaa based administration has been serving as a crucial and unifying structure amongst the Oromo people since the time immemorial, and it affords socio-economic affairs, political, ritual/religious

²⁹ Father Martial De Selviac, *An Ancient People in the State of Menelik, The Oromo, Great African Nation*, PARIS, 1901, 229.

³⁰ To guarantee democratic and constitutional governance, which flourished in western countries like France, Great Britain, USA; African states have employed a number of techniques among which legal transplantation is one. As an illustration, Ethiopia transplanted the concepts of 1931 Constitution from the Japan constitutional system. Additionally, the 1955 Revised Constitution of Ethiopia was directly copy pasted from the Westminster style of England. Furthermore, the 1987 Ethiopian Constitution was sociality oriented one, and its contents derived substantially from the former USSR (Soviet Union) Constitution. Moreover, the 1995 current Federal Democratic Republic of Ethiopian Constitution and the constitutional and democratic principles embodied in its contents are also taken from foreign federal oriented constitutions like USA Constitution and the Basic Law of Germany.

³¹ Asmarom Legesse, *Oromo Democracy, An Indigenous African Political System*, TRENTON, NJ: RED SEA PRESS, 2006, 128.

³² Asafa Jalata, *Supra note 5, 2*.

and legal features and frameworks for order and stability.³³ Asmarom Legesse precisely put that “Gadaa is an elaborate, well-constructed system for distributing power among all the generational segment of the society.” All generations, even kids or children enjoy different kinds of power at different stages of their life.”³⁴ Furthermore, according to Donald N. Levin in his book *Greater Ethiopia*, the Gadaa system of the Oromo is explained as follows: “Gadaa’s various classes and their respective functions and interrelation are enormously complicated, and indeed, the Gadaa system represents one of the most complex systems of social organization ever devised by human imagination.”³⁵ Bonnie Holcomb writes that the Gadaa system “organized all the Oromo people in an all-inclusive democratic republic even earlier than the few European travelers arrived from England on the shores of North America and only later built a democracy.”³⁶ This system has the principles of checks and balances (through periodic election of every eight years), and division of power (among the executive, legislative, and the judicial wings), balanced opposition amongst the five Gadaa oriented political parties, and power distribution between the higher governmental and lower administrative organs to avert power from falling into the hands of dictators.³⁷ Discussing the philosophy of Oromo democracy, Legesse argues, “What is astonishing about this cultural tradition is how far the Oromo people have gone in establishing a democratic governance structure to ensure that political power does not fall in the hand of war chiefs and dictators.”³⁸ The Oromo have realized this goal by forming a system of checks and balances that is at least, as complex as the systems we find in the present-day western democracies.³⁹

Consequently, this Article is interested in assessing the basic laws/traditional Gadaa based governance system for its legitimacy and the extent up to which we Ethiopians and Africans as can utilize its contents as our own stepping stone to warrant and ensure African based constitutionalism than chasing after the western brand of constitutionalism and democracy, which has not yet genuinely guaranteed democracy for African. Accordingly, this Article has examined the making process of laws in Gadaa system, during its drafting, discussion and adopting phases. Continuously, this Article evaluates the contents of Gadaa based laws and the prevailing commitments to practice and implement these Gadaa laws. Further, the Article has pointed out the place of rule of law in Gadaa governance system. Additionally, the paper examines the legitimacy or acceptability of the law makers in Gadaa system briefly. In doing this, the modern democratic principles of constitutionalism have utilized as a parameter for comparisons.

³³ The Gadaa system; Full Democratical politics of Oromo; 71st Borana Balli Hand overing Day February 2009/20017: The Gadaa of Kura Jarso.

³⁴ Asmarom Legesse, *Supra note 31*.

³⁵ Donald N. Levin, *Greater Ethiopia: The Evolution of a Multi-ethnic Society*, Chicago, UNIVERSITY OF CHICAGO PRESS, 1974, 132.

³⁶ Bonnie K. Holcomb, “Akka Gadaatti: The Unfolding of Oromo Nationalism-Keynote Remarks,” *Proceedings of the 1991 Conference on Oromia*, University of Toronto, Canada, 3-4 August, 1-10.

³⁷ Asmarom Legesse, *Supra note 31*.

³⁸ Asmarom Legesse (1987), “Oromo Democracy,” Paper Presented to the Conference on the Oromo Revolution, Washington, D. C., August 16, 1987, 2.

³⁹ *Id.*

III. THE ROLE OF TRADITIONS AND CULTURES IN MOULDING THE PRESENT-DAY LEGAL CIVILIZATION

Traditions, customary rules, and ritual practices play important roles in moulding the present-day civilization in general and democracy in particular in this world. The western has been developing their current concepts of democracy, constitutionalism, rule of law and others modern principles in all aspects from their traditions. For instance, England has derived its legal system from its traditions since ancient times. The Far East countries like; China, Japan, and India have ensured their today's advancement in all sectors through making their traditions and values they acknowledged from their forefathers (*Shinto, Hindu, and Mahiberata*) be reserved, even at the time they were getting Christianity, Islam and other philosophies, particularly, democracy, constitutionalism, rule of law and other free principles.

However, Africa as a whole including Ethiopia has not been able to be successful in utilizing their traditions and cultures to mould their political, economic, legal and religious system. As adding insult to injury, Africans were unable to rectify their past historical distorted history in all aspects, even in the current civilized world. They remained as a follower in majority of their aspects or they imitate either the Westerners or the Easterners. The scenario of Capitalism versus Communism (Western and Eastern Ideology), Franco-phone versus Anglo-phone (Colonialism and Language Policy), Civil Law versus Common Law (Legal Tradition Models), Christianity and Islam (Christian and Islam World) and others categories clearly pointed out that the extent of distortions blown to African traditions, cultures and religions, and thereby, disclosed the extent up to which such tactical and sinful acts have done to destroy the identity, ideology, system of governance, traditions and religions of Africans since time immemorial. As a result of these past and present-day distortions in all sectors, Africans have left barehanded after dropping and attempting to transplant everything from far places. Accordingly, Africans are neither advanced their traditional governance system to the zeal of modern constitutionalism/constitution nor they are properly benefited from the directly imported legal and political principles from the western democracies satisfactorily.

Based on this undesirable history, under this section, this Article tries to clarify the way in which one can redeem an African oriented constitutionalism and democracy through using the making of basic laws and the value of law makers in Gadaa governance system as a foundation to revitalize the African based democracy. Subsequently, hereunder, the law-making process and legitimacy, the place of law-makers, the contents and practices of basic laws in classical Gadaa system will be critically analyzed and checked for its compatibility with the principles of modern constitutionalism, human rights principles and democratic governance system. To this end, the way how the classical Gadaa system can be utilized as an original source for building unshakable African branded constitutionalism and democracy in Ethiopia in particular and across the Africa continent in general will be figured out.

A. The legitimacy of Law-makers and Law-making in Gadaa System

In this section, the terms law, legitimacy, law-making and law-makers will be clarified in the first place and then these terms will be critically analyzed in line with the classical Gadaa democracy.

1. *Legitimacy of Basic Laws in Modern Constitutionalism versus Gadaa System: Checking for Convergence*

In the evolution of law and law-making process, the term law is perceived in various forms. In ancient societies, law was perceived as the command of God or given from the supernatural force and approximately connected to the spiritual affairs like religions. There was a time in history where the law was even considered as the benevolent gift of the kings in different countries. On the other hand, there was an occasion when law was nurtured from the customs of certain societies through gradual processes. However, in modern jurisprudence, there are different theories concerning the concepts of law and the law-makers.⁴⁰ These theories propagate the origins of laws differently regardless of the fact that law is either inherently natural and applicable universally or it is made by a group of authoritative groups like the legislature/parliament or courts. Thus, the makers of laws vary from time to time or place to place; nevertheless, it is possible to summarize the law-makers as a nature (in natural law theories), parliaments (in the positive legal theory), Courts (in legal realism theory), and the dominant group of peoples in the case of critical legal study theorists.⁴¹

Hence, the democratic law-making process was unimaginable even in the western world like the USA and the Western Europe prior to 1945 (before the Second World War). The legitimacy of making process of a constitutional has gained salience in recent years. It has become to be a controversial issue in the study of constitutionalism and political studies in the post-1991 following the collapse of communism and military administrations in Eastern Europe, Africa and Latin American Countries.⁴² At this juncture, the term legitimacy of constitution/basic law should be assessed in modern jurisprudence aligned with the legitimacy of law in the Gadaa system as follows.

Legitimacy is all about the fundamental justification that asks whether or not a certain constitution is made in according to the internationally accepted principles (like the principles of inclusivity, the principles of empowered civil society, political parties, the principle of openness,

⁴⁰ See the theory of Natural Law (which claims law is given by nature and universally identifiable and applicable; it is all about morality and immorality or wrong and right; universally acceptable principles, values and practices are considered as law). The positivist legal theorists believed that 'law' is made by a group of sovereign and recognized authority or government organ, like a parliament. According to the legal realist theories argues that law is what is practiced by the judges in court; and the critical legal studies theorists believe that the dominant beings in a class of people dictate what the law should and should not be.

⁴¹ Theories of Laws: Natural Law, Legal Positivism, The Morality of Law Dworkin's "Third Theory of Law" Legal Realism and Critical Legal Studies: <http://www.jus.unitn.it/> (Accessed on 5 September 2021).

⁴² The making and legitimacy of Ethiopian constitution: towards bridging the gap between constitutional design and constitutional practices, (African Focus-Volume 23, No.1, 2010):85-118.

the principle of transparency) during its making process.⁴³ Again, it asks whether or not it's making process takes into consideration the interest of the people it represents at large and/or whether or not the people give their consent to have such constitution. Further, the legitimacy of certain constitution can also be evaluated by its contents and practical application after adoption.⁴⁴

The term 'law' may be defined in different ways. Consequently, different scholars may define the term law according to their understanding. The definition of law in physics may be related to the natural principles in which motion is governed while chemists may consider law as a rule of reactions among various elements. Similarly, for medicine law may be the ethical procedures which any physicians must follow during treating their patients and the same will be true for different fields of studies. For instance, the Black's Law Dictionary defined the term 'law' as a body of rules of action or conduct prescribed by controlling authority, and having binding legal force which must be obeyed and followed by citizens subject to sanctions or legal consequence.

However, the term 'law' is unique for the Oromo people in their Gadaa governance system. According to Oromo, *law is more valuable than one's own child*.⁴⁵ The Oromo people sacrifice their own children for the observance of rule of law.⁴⁶ As a result, law is vital instrument to ensure social justice and where there is no rule of law, it is unlikely for citizens to exercise freedom and equally benefit from resources to maintain sustainable peace as per the Gadaa system.⁴⁷ At the frontispiece of the Oromo legislation, one can read these two fundamental adages, which must serve as a lighthouse for all the codes and as the guide for all legislators.⁴⁸

- 1st Abbaan Heera Umaa Waaqa" i.e., "The author of laws of all creatures that is God"
- 2nd Serri Waaqa Seera Biyya Immo'a i.e., "The commandment of God rules over the National Legislation"⁴⁹

These two maxims, as precisely explained hereinabove by Martial De Selviac show the extra ordinary wisdom of categorizing laws in Oromo Gadaa system as natural laws which are immutable and unchangeable laws or man-made laws which can be changed from time to time since the 16th centuries.

In Gadaa system, it is believed that all human made laws emanate from the natural laws or cosmic laws and natural law is considered to be the standard against which all other man made/positive laws were to be judged.⁵⁰ Man-made laws appeared in three general manner according to the Gadaa world view; namely, *Seera* (Basic Law), *Aadaa* (Custom) and *C'eera-*

⁴³ Tesfatsion Medhanie, *Supra note 22*.

⁴⁴ *Id.*

⁴⁵ Dirribi Demissie Bokku, *Oromo Wisdom in Black Civilization*, FINFINE PRINTING & PUBLISHING S.C., April 2011, Ethiopia, 278.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Father Martial De Selviac, *An Ancient People in the State of Menelil, The Oromo, Great African Nation*, PARIS, 1901, 229.

⁴⁹ *Ibid.*

⁵⁰ Ezekiel Gebissa, *Indigenizing Universal Principles: Oromo Perspectives on Human Rights*, THE JOURNAL OF OROMO STUDIES, Volume 25, Number 1 & 2, 2018, 1-24.

fokko/ Safuu (The Rules of Distance and Respect or Morality).⁵¹ Among the three human made laws in Gadaa system, the basic law or *Seera*, has equal importance with the modern constitutional Law/principles and this *Seera* is enacted by the legislature known as the *Gumii Gayyoo* (Assembly) of the Oromo people in their Gadaa based governance system.⁵² *Aadaa* (the customs) are various cultural practices that converts into laws in a long period of time. That is why the Oromo says, ‘*Aadaan turteetuu Seera taati*’, meaning, Cultural practices or customs over time becomes law. Therefore, the Oromo develops their custom to the status of law in the passage of time. Hence, the laws were not given surprisingly nor arbitrarily imposed on people in the Oromo Gadaa law-making process; rather, it developed or evolved through time from the traditions and customs of the people based on the consents, volitions and acceptance of the public at large to be binding.

In another way, *Céera-fokko/Safuu* or the moral law (the rules of distant and respect), are norms that guide human behavior-based on the system of avoidance and reverence.⁵³ The Oromo considered rules of morality as (*Safuu*) or moral rules that lead one on the right path and show how to live a descent and healthy life in harmony with their fellow human beings, the animal world, and the natural environment.

Generally, the Oromo developed the pillars of their Gadaa oriented Constitution from the mixtures of these human made laws and natural laws in the following five basic principles.⁵⁴

1. **Seera Wayyuu/Safuu** (Moral laws)
2. **Seera Basaqqessa** (Public Laws)
3. **Seera Goroo, Seera Gooree** (The Law of Restriction of Power within a given territory)
4. **Seera Asaasaa** (The laws that are applied by Whisper)- which are the laws of settling serious matters such as homicide within a family, and
5. **Seera Dhowwaa or Seera Jabbii biifaa** (Law of Secret i.e., state secret)

Therefore, Oromo has been using these main principles and other specific codes to govern the relationships it has with non-Oromos and amongst themselves. In order to maintain order and regulate various aspects of their life, the Oromo diversified and made mutually independent laws that included the issues of morality, religion, security, peace and stability, social order, development, protection of natural resources and public welfare to help the needy people.⁵⁵

Consequently, it is possible to consider these basic laws in Gadaa system as an unwritten form of the nation’s Constitution in its modern sense. These basic laws and principles are developed

⁵¹ Asmarom Legesse, *Gada: three approaches to the study of African society*, NEW YORK: FREE PRESS, 1973, 97. See also Gemetchu Megerssa, *The Oromo World-View*, THE JOURNAL OF OROMO STUDIES, Volume 12, Number 1 & 2, 2005, 68-79 and Ezekiel Gebissa, *Supra note 46*.

⁵² *Id.*

⁵³ Ezekiel Gebissa, *Supra note 46*.

⁵⁴ Dirribi Demissie Bokku, *Supra note 45*, at 197

⁵⁵ *Id.*

and evolved from the cumulative experiences gained from experiments, practices, customs, and lessons of many generations of the Oromo society in a very long period of time.

2. *Who are the Law-makers in Gadaa System?*

In the history of states formation, constitutions have been enacted in different manners and for various purposes. Some Constitutions are imposed by the rulers for suppressing the subjects/citizens without their interest and participation. In such governance scheme, the model of state creation and political and legal organization is hierarchical or superior and subordinate relationship is a rule.⁵⁶ States formed through conquest, dictatorship, and Monarchical governments are categorized under this model. Alternatively, the other polities were evolved gradually out of more restricted arrangements of human or a group of people organization and which over time concretize political power centers which administer their peripheries.⁵⁷ States originated and organized on the organic model apparently grow naturally and as they grow, the more influential or otherwise brilliant leaders form a group of a political and socio-economic elite at the state's center that rules over the enormous majority in the polity, who are demoted to the peripheries. The constitutions of the organically created states are enacted through evolution from the traditional body of accepted rules and customary practices.⁵⁸ The ideal of such a state formation model is similar with the Westminster-style or parliamentarianism with the sovereign parliament.⁵⁹ In organic model of state formation, laws are made from customs, traditions, and practices of the nations in a certain country through evolutions.

Moreover, some polities are created by a design of covenant or compute in which political power is shared through a matrix of centers moulded by the government of the whole on the foundation of federal principles.⁶⁰ The covenantal type of a state formation is different from the above ways of a polity formation in multiple ways as in the covenantal form of states creation, at least, two polities (states), i.e. the federal] and the regional states in a federation must negotiate between/among themselves on the entire political, socio-economic and other affairs of their citizens interest in detail.⁶¹ The covenantal style of a state formation is an essential characteristic of federation or federal mode of establishing a state in a certain nation. Consequently, in covenantal model of state formation, federations are created from continuous bargaining on various issues between two or more states, one as a national or a central state and others as the subnational states.⁶² Accordingly, from these serious of bargaining on national and regional issues which

⁵⁶ Elazar Daniel J. *Covenant and Constitutionalism: The Great Frontier and the Matrix of Federal Democracy Introduction*, THE COVENANT TRADITION IN POLITICS, Volume 3, 1998.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Anderson George, *Federalism: An Introduction*, (Published in Canada by Oxford University Press, 2008): 1-6

⁶² Assefa Fisseha, *Federalism and Accommodation of Diversity in Ethiopia: A comparative Study*, WOLF LEGAL PUBLISHER, NIJMEGEN, AND THE NETHERLANDS, 2006, 112-115.

include both political and the non-political aspects, a supreme and written constitution will be mandatorily enacted.⁶³

The main questions here is that who makes these constitutions? Regarding this question, in hierarchical polities, the monarchies, dictators, aristocracy, or religious leaders may enact constitutions for the nations and in this case, we refer the way of law-making process as illegitimate or undemocratic. However, in case of organic or evolutionary polities, the law-making process is evolved from the traditions, customs, norms and day to day practices of such nations and it would be legitimate.⁶⁴ For instance, England accommodated its laws and legal system since ‘Magna Carta’ of 1215. Its legal system, especially, the constitutional and human rights principles have been developing for the last eight hundred years without interruption since the codification of ‘Magna Carta’ in 1215. This style may be too complex and complicated to understand by the foreigners to study and transplant it for use; however, it is very compatible with the culture and traditions of such nations since their practices, attitudes, customs, and traditions are converted to their basic laws in long period of time. Thus, its acceptability or legitimacy is very high among the nations.

As provided in the above discussion, a supreme and written constitution is taken as a covenant and it is the source of every legislation. Further, it is also used as a plausible mechanism to govern the relationships between the government and its citizens in all affairs. Accordingly, every covenant involves consenting, promising and agreeing⁶⁵ and the same scenario works for the constitution of Federal Democratic Republic of Ethiopia. Here, the representatives of the diversified groups will have to participate in constitutional making process for legitimacy.

Compared with the above three model of state formation along with its respective constitution making process, the classical Gadaa system is similar with the third model, which covenantal forms of constitution and covenantal way of state formation. The critical investigation of the Gadaa system reveals that Gadaa fulfils the three main elements of covenantal oriented constitution, which includes agreeing, consenting and promising. As a result, all the Oromo people give consents to enact their basic laws, to enforce and to respect, value and practicing in their daily life with utmost care and in good faith.

They (each clan) have agreed to administer themselves autonomously and also agreed to have some common center. For instance, the home place of the Abbaa *Mudaa* was used as the place where all the important Oromo affairs have been discussed, advised and developed. It also serves as the original and rich sources for the historic beginnings, world view, knowledge, religious beliefs, legal, political and philosophy of the Oromo have learned and fetched from in Gadaa system of the Oromo.⁶⁶ Consequently, traditionally, pilgrims have been made to the home land of *Abbaa Muudaa*, which is located in present-day Balee Zone of Oromia regional state from all

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Elazar Daniel J. *Supra* note 56.

⁶⁶ Mohammed Hassen, *The Oromo World-View*, THE JOURNAL OF OROMO STUDIES, Volume 12, Number 1 & 2, 2005, 142-157.

corners, wherever the Oromo lives.⁶⁷ Therefore, the center of *Abbaa Muudaa* is believed to be the place of wisdom, righteousness, peace, harmony and Gadaa democracy.⁶⁸ Similarly, *Abbaa Muudaa* teaches and commands the pilgrims (the *Jilas*) or the people who visited him from all clans of the Oromo to be righteous in their day to day actions, in actions and decisions, and not to accept and recognize any leader who strives to exercise absolute power in Gadaa administration under any condition.⁶⁹ Hence, in this case, the making process of the Gadaa basic law/constitution can be taken as all-inclusive, broad-based, and participatory. Due to this, the Gadaa system understood to be most preserved traditional system regardless of serious pressures from different monarchies and dictators that have been trying to eradicate it over years in Ethiopian history of system of governance.

Therefore, the Oromo people are known by making the basic laws by themselves and executing it in every democratic way when compared with the principle of modern constitutional making process. For instance, the principles of inclusiveness and participatory way of constitutional making process in Gadaa system proves the legitimacy of constitutional making process in Gadaa system as it works in modern constitutionalism.

In Gadaa law-making process, Gadaa Laws of Boorana people were made by Gadaa under the leadership of *Gadawoo Galgalo*, the Gadaa Laws of Tuulama were made by the Gadaa under the leadership of *Cangaree koorbo* and the Gadaa laws of Maccaa was made under the leadership of *Makoo Bili*.⁷⁰ In all types of making process, legislation will become a law only if is declared and accepted by people at large.⁷¹ According to the Gadaa based law-making procedures, anybody can oppose the draft law by saying “*dammaan qabe; kormaan qabe; fardaan qabe; tuni, tuni sirrii miti*”; which is equivalent to say this law is not correct.⁷² In opposing the proposed or the declared law, no one would be silenced, but they are expected to talk based on the seniority of age.⁷³ After it is made in this democratic/legitimate ways, the law of Gadaa of the Oromo cannot be breached or collapse by any means, which they strengthen by saying “*Tumeen Seera! Hin jigu, hin dhangala’u; seera Gadaa Oromooti.*”⁷⁴ Additionally, the Oromo has a genuine custom of transferring authority (*Baallii*) timely as the Oromo people believe that holding the political power for more than the delimited time period of eight years without transferring to the next party is considered as illegal and immoral.⁷⁵ It is believed that if one refuses to transfer authority (*Baallii*), he may face a punishment from God.

Therefore, at the stage of initiation, discussion, adoption and promulgation, the making of constitution/basic laws in Gadaa Oromo and the makers are democratic. The overall process is

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*, at 149.

⁷⁰ Dirribi Demissie Bokku, *Supra note* 45, at 278.

⁷¹ *Id.*, at 279.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

participatory and all-inclusive when compared with the modern method of making the constitution as elaborated hereinabove.

B. Contents and Practices of the Basic Laws in Gadaa System

To determine the legitimacy of certain constitution, the mere fact of having democratic and genuine making process is not enough; however, the contents of such basic laws shall be checked in-line with the modern principles of human rights, separation of powers, rule of laws, accountability and transparency of leaders/government officials. Last but not least, we must worry about the commitment of government officials to implement to incorporated principles or contents of the basic laws.

In its contents, Gadaa system is well crafted and nurtured traditional system of governance which protects the human rights, ensures democratic governance, rule of law and constitutionalism. Far before the conception of all these concepts of human rights and democratic administrations and earlier than their incorporation in the well-known Human Rights Declarations and Covenants such as; the UDHR, ICCPR, ICESCR, CRC, and other related international human rights instruments, the notion of human and democratic rights had been recognized and practiced by the Oromo in their Gadaa system of administration. Hence, the concepts like; human rights, limited power, rule of law and other issues were practiced by the Oromo in their classical platforms, even during the 16th century where human beings, especially the black Africans were hunted, enslaved, and sold like animals.⁷⁶ This law protects rights of females, children, refugees, and ensures equal protection and equal subjection of laws, accountability and transparency of the highest authorities and also included the concept of adoption and guddifachaa.⁷⁷

In the Gadaa Oromo, not only human rights, but the rights of animals, even like dogs' rights are legally respected. That is why the Borana people say, "Seerri muummee, seera saree" and the Tulama also say "Huuru dheeroo akka seeri, huuru gabaabo akka seeri" referring dog and cat. Hence, taming or having a dog is a right for anyone, but if you have a dog protecting and feeding is mandatory.⁷⁸

In its contents, the Gadaa incorporates and recognizes the sovereignty of the people. Dirribi has written the following which precisely point out the sovereignty of the people:

In Oromo democratic culture, the supreme power is not in the hands of well-respected individuals (elders) having the knowledge of law making. Again, the supreme power is not vested in the hand of the electoral officials who got the power hereditarily. Neither, the ultimate political power is vested in the hand of war leader (Abbaa Duulaa) who leads army forces or in the hand of the lower military officials who provide military services personally (Kuusa and Qundala). All these have nothing to do with the ultimate power. The Abba Gadaas, who are administering the country have no such authority. However, the

⁷⁶ Makoo Bili Laws of 1580, Arts. 13, 41, 55) deemed enacted in 16th Century.

⁷⁷ *Id.*

⁷⁸ Dirribi Demissie Bokku, *Supra note* 45.

supreme authority belongs to the people's Gumii (Assembly) who the representatives of the people."⁷⁹

Consequently, the sovereign power is vested in the hands of the people and the people are also considered as sovereign in the Gadaa system of the Oromo like in the modern constitution. On the other hand, in its contents, Gadaa recognizes the supremacy of constitution /laws. Concerning this, Asmarom has witnessed in the following manner:

*"The Abba Gadaa himself is subjected to the similar penalty as all other people if he disrupts laws, as Gadaa advocates equal laws, and equal punishments. That is the evidence that shows us that law is above everybody, including the Abba Gadaa."*⁸⁰

Moreover, accountability and transparency of leaders is also recognized in the contents of Gadaa system. In the Gadaa of the Oromo, all are responsible to the laws. Even though *Abba Gadaa* cannot be punished by a death or capital punishment, he can still be removed from his position if he abuses his power according to Borana Oromo. Accordingly, if *Abba Gadaa* commits a crime or abuses his power during in office, he may be removed from his power through a system of *Buqqisuu* or impeachment so that he can be punished just like other individuals thereafter. Therefore, the only privilege of *Abba Gadaa* is that he is immune against capital punishment.⁸¹ Under Gadaa system, the General Assembly serves the purpose of assessing the performance of leaders in the first-half of the political term office to either approve the presidents' continuance or remove a leader before the completion of his office term.⁸² Contrasting the premiers and presidents in the Sub-Saharan African states where they seize and stay on political power for limitless period, the single term office principle under the Gadaa leadership reveals an incredible value of democracy in it.

As a result, in the law of accountability of Gadaa system, any authority that goes beyond his legitimate power shall be accused. Thus, the retrograde myth that says, "*Semay aytares, Nigus aykeses*", which literally means, "to plough a sky and to accuse a king is impossible"⁸³ has no value in the Gadaa based administration. Moreover, the concepts of *privilege and veto* power of the Western democracies are also not recognized in Oromo Gadaa system.

Additionally, separation of power is very important in the modern constitutionalism.⁸⁴ However, unlike the division of powers between the federal and the states, the Gadaa based division of power follows generation and age-group based power division. Gadaa based power division enables each and every citizen to actively participate in all affairs of their country. The Gadaa leaders are authorized to rule the nations, protect the country from external aggression/enemies and maintain internal peace and security.⁸⁵ For instance, the *Kuusaa*

⁷⁹ *Id.*

⁸⁰ Asmarom Legesse, *Supra note 51.*

⁸¹ Dirribi Demissie Bokku, *Supra Note 45.*

⁸² Zelalem Tesfaye, *Old Wine in new bottles: Bridging the peripheral, Gada rule to the Mainstream Constitutional order of the 21st c. Ethiopia*, OROMIA LAW JOURNAL, Volume 4, No.1, 2015.

⁸³ The writer translated from the Amharic term.

⁸⁴ FDRE CONSTITUTION, Art. 50 (1 and 2)

⁸⁵ Dirribi Demissie Bokku, *Supra note 19.*

(*Qundaalaa*) has the rights and responsibilities of attacking the enemy up on request.⁸⁶ The *Gumii* (Assembly) has the powers of changing laws, advising and guiding the Gadaa leaders or evacuating and arranging another election.⁸⁷ The *Ayyaantuus* (*Abba Mudaa*) also has the powers to decide election day, to bless the authorities like; the *ya'aas*, *jiila*, *Gumii*, and *Abba Gadaas*.⁸⁸ As the entire Gadaa leaders work cooperatively; there is no inferiority or superiority complex among them.⁸⁹

In practices, all the Oromo people seriously protect, enforce and fulfill these important principles in their daily life genuinely. For the Oromo, a law is valuable than once own children.⁹⁰ The women, children, elders, refugees, asylum seekers, even cattle's dignities, the way of peaceful co-existence with the non-Oromo, the protection of rivers/ponds, protection of forests and wildlife is seriously respected and protected.⁹¹ The Oromo had been enacting various laws to manage various aspects of their life. For instance, as part of administrative law, land shall belong to all clan; grass and streams - shall belong to cattle; passengers shall pass peacefully; country shall belong to the nation and etc.⁹² As property laws, any cattle have dignity; things found in the country belong to the country; captives belong to all warriors and etc. As criminal laws: exposing the secret of the clan (*kofoo gosaa*) is a crime.⁹³ The man who exposes the secret is punished by death penalty.⁹⁴ Beating and forsaking one's own father and mother is crime, which is punishable by serious punishment; robbing is a crime; relatives shall not marry each other; and other specific laws have been enacted in democratic ways as explained above. Therefore, it is possible to argue the basic law-making process, the contents of basic law and the practices or the commitment of implementing these basic principles of laws in Gadaa system converges with the modern principles of constitutionalism and democracy adequately.

IV. CONCLUSION AND RECOMMENDATION

Africans have transplanted political ideologies and legal systems from the western legal traditions and political philosophies for long years to guarantee constitutionalism and thereby ensure democracy in all aspects. However, stability, constitutionalism, democracy, and rule of law were not ensured in the land of Africa. Therefore, this Article argues and concludes that Africans must redeem their constitutionalism and democracy through utilizing their indigenous institutions, systems and paradigms rather than always looking for solution somewhere else outside Africa to warrant constitutionalism and democracy. To ensure this purpose, the wisdom of law-making and the law makers in the African classical democracy like the Gadaa system should be utilized simultaneously with the western brand of constitutionalism and democracy. Especially, Ethiopia should rethink on the use of classical democracy like the Gadaa based constitutional constructions

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Dirribi Demissie Bokku, *Supra* note 19.

⁹¹ See Makkoo Bili Laws of 1580.

⁹² *Id.*

⁹³ Jabessa Ejeta Balmbaras, *Ye Oromo Biher Bahilna Acir Tarik*, Finfinfine, 69.

⁹⁴ *Id.*

and law-making system to redeem her constitutionalism and democracy at this time for the fact that the massive constitutional and legal transplantations in the past have not ensured constitutionalism and democracy in the present-day Ethiopian federation. For this reason, it would be good for Ethiopia to try the Gadaa based constitutional constructions and law-making model in parallel with the western constitutionalism and democracy. With this regard, the Gadaa based basic law-making process is all-inclusive and participatory. Moreover, the process is subject to criticism when necessary and even it is possible to reject any drafted laws during its making process due to which laws regarded to be legitimate, valid, acceptable and democratic.

On the other hand, the contents of Gadaa based laws are also comprehensive for the following reasons. Firstly, it protects all human beings; protects the vulnerable groups; and the non-human. Secondly, the Gadaa laws give due care for natures as a whole, like protecting animals, preserving natural resources like forests, wild animals, rivers, ponds, and others. Thirdly, in its contents, the Gadaa laws, incorporates the principles of equality, accountability including both the leaders like *Abba Gadaas* and the ruled or the people, limitation of power, sovereignty of the people, supremacy of constitution, human rights, separation of powers and rule of laws are incorporated. Finally, in practices, the Oromo people is too committed to enforce, protect, and fulfil each and every principle of laws after it has been enacted. Even, the Oromo are ready to sacrifice their own children rather than violating the Gadaa principles.

To sum up, to check the legitimacy of law-making process and law makers and thereby assess the prevalence of constitutionalism, the law-making process must be participatory, broad based and all-inclusive. Further, the contents of the enacted constitution must consist of basic human and democratic principles and the government must be committed to fulfil, protect and enforce the laws. Accordingly, the Gadaa constitution/laws/principles are almost genuinely fulfilled all these criteria of modern constitutionalism. Consequently, it is possible to utilize the wisdom of law-making process and law makers of the comprehensive Gadaa system of governance to promote legitimacy of basic laws and law-makers.

As recommendations, the Article recommends that the classical wisdoms and procedures of law-making process, the value of laws (the commitment to enforce rule of law), as well as, the legitimacy of the law makers should be taken as a lesson by the present-day Ethiopian government in particular and the African governments in general. Ethiopia has tried the Japanese's system of constitutional development in 1931, again, she tried the West-Ministerial Style of ensuring constitutional system in 1955, but could not make legitimate constitutions. Moreover, she has tried Socialism-based constitution in 1974/1987 and still suffering from multiple aspects of the western style of constitutional development called federalism since 1991/1995. Nevertheless, Ethiopia has neither grown economically nor introduced the system of constitutionalism and democracy to date. Therefore, this Article recommends that it is better to utilize the Gadaa based constitutional construction and law-making approach along with the modern system of constitutionalism in the current Ethiopian constitutional and legal reforms.

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