

FEDERALISM IN ETHIOPIA AND FOREIGN RELATIONS: REGIONAL STATES DIPLOMACY*

If federal government is given exclusive power on foreign relations, regional states powers will be the shared powers between the regional states and the federal government or simply the exclusive powers of the federal Government. John Kincaid, 1990

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INTRODUCTION

Traditionally, it was conceived that federalism shapes only the internal functioning of a political system and foreign relation is conceived as exclusive power of federal government. However, such long last assumption dormant exclusive power of foreign relations by the federal government in federal polity confronts challenges from the sub-national units¹. Sub-national units

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*The term constituent diplomacy/regions diplomacy /para diplomacy was coined by John Kincaid for the first time to refer to the sub-national involvement in foreign relations within their capacity as oppose to representation in the foreign policy of the federation. For him, constituent governments are states, provinces, cantons, Lander, municipalities, and port authorities that “may represent local or regional, and sometimes national public sentiment more accurately than the elected leaders of opposition parties and the unelected leaders of interest groups to whom democratic pluralism accords a policy role. The scope of this paper is also limited to constituent diplomacy. There are many contentious issues related to this concept but not covered in this paper.

¹ The term component units, federated entities, sub-national units, states in the case of US, provinces in the case of Canada, Cantons in Swiss Confederation, Lander in the case of German, and Austria, Regions in Ethiopia and Belgium are employed to describe the same thing. That is, non central governments confer with power derived from the federal constitution. Those terms are used in this paper alternatively *mutatis mutandis*.

usually yearn for decentralization of foreign relation competency. Nowadays, notwithstanding that foreign relation competency is constitutionally assigned to the federal government in most of federations, they are highly involved in foreign relations. Sub-national unit's involvement in the foreign relations activities assumes two forms: sub-national involvement in federation foreign relations through their representative (usually through the second chamber) and the constituent diplomacy.² In the former case, sub-nationals seek representation and consultation on formulation and implementation of federation (country's) foreign relations, while in the case of constituent diplomacy, sub-national units seek to influence the formulation of national policies as primary actors using their own resources and machineries.³

The main purpose of the sub-national units involvement in foreign relations in both cases is more or less the same, and that is, involving in the major decisions, including treaty making in effecting the economic, social, cultural and etc.⁴ Of course, in some federations, sub-national unit's involvement in foreign relations is granted under the constitution of the federal state to which they belong. In contrast, in some federations, sub-national units are constitutionally outlawed from foreign relations activities.

In some federations rather than claiming use of equivalent legal instruments to involve in constituent diplomacy, sub-national units have often preferred to be effectively associated with the way their state conducts its international

² John Kincaid, *Foreign Relations of Sub-national Units Constituent Diplomacy in Federal Systems*, Subtheme Papers (Published by Forum of Federation), P 162.

³ Ibid.

⁴ Ibid, P11.

relations.⁵ Whereas, in most federations, sub-national units are keen on constituent diplomacy and involved in their foreign relations.

In Ethiopian federal set up, foreign relation is federal government's exclusive power.⁶ There is no constitutional and institutional set up that enables regional state to participate in federation foreign relation nor does the federal constitution allow the regional states to involve in their foreign relation. The federal government is given exclusive power even domestically exclusive power of regional states as far as foreign relation is concerned.

At present, regardless of the formal constitutional and institutional arrangement, Ethiopian Regional States are involving in federation foreign relations and their own foreign relations. Regional states lead overseas missions in the areas of investment, trade, culture, training and technical assistance, and bench marking. They also meet with heads of government, sign treaty with other sub-national actors, represent the federal government in some cases, and voice their views in foreign policy.

The article tried to draw and attempted to respond to the following central questions with regard to foreign relation in federal countries. The first and foremost question traced in this article is the place of foreign relation in federations and in Ethiopian federal set up. In other expressions, should foreign relation competency exclusively given to the federal government, or should it be divided between the tiers of government and domestic exclusive power of sub-national units be their exclusive power externally too? What are the socio-

⁵ Yves Lejeune, Participation of Sub-national Units in the Foreign Policy of the Federation,(Forum of Federation), P 169.

⁶ The Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazeta,1st year No.1, Addis Ababa, 21st, August 1995(herein after, FDRE Constitution), Art.51(8).

political and economic effects on regional state if foreign relation is monopolized by the federal government? How and why sub-national units (regional states in our case) need to involve in their own foreign relations (constituent diplomacy). To what extent, constituent diplomacy should be allowed by the federal constitution, how should it be institutionalized?

The main objective of this article is, exploring how Ethiopian regional states voice their views in the international arena under the current federal set up and look at to the practice of constitutional and institutional mechanisms provided, if any. But before undertaking this, the writer tried to look the matter in the wide context. Accordingly, so as to enable the readers to have general understanding on the matter and to speculate the problems of assignment of foreign relation competency in federal countries in general and in Ethiopia in particular, an attempt was made to put theoretical framework and the practice of some federations. The practice of other federations is overviewed not to make comparison but to set a lesson to be learned from those federations.

The study reveals that foreign relations in our federation is strongly centralized and argues for decentralization. The arguments of the writer are drawn up on the theories of federalism, effects of globalizations, and the paramount significances of constituent diplomacy for regional states to exercise their political autonomy and to strengthen their economy.

Structurally, the article is divided in to five parts. Part I of this article attempted to pin down the theoretical framework for the remainder of the work by explaining the concepts and responding to the above stated central questions. This part is devoted in speculating the origins and developments of regional diplomacy.

Part II of this article is dedicated to looking at the practice of some federations in relation to the subject underline. Of course, the compression is not as such extensive one, but only to show the disparity and to set a lesson for Ethiopian federation.

In part III of this article, the contemporary status of Ethiopian regional states constituent diplomacy is presented. An attempt is made to present the federal constitution *as it is* and federal constitution *as ought to be*. This is because constitution is one of the most crucial elements of any democratic state that defines the principal features of its political system design such as: the structure of the state and the system of distribution of powers. However, since it might be superficial to rely only on the language of the constitution to understand the political discourse of a given country, the immense of this part is devoted to the practice. An effort is also made to present empirical data and finding of regional diplomacy in this part.

Appreciating the practice and paramount importance of constituent's diplomacy for the nation as a whole and for regional states in particular, the writer has tried to show the problem of the practice which lack legal framework in federation in part IV of this article. Federal constitution, regional states constitution, other laws and the practice are reviewed in this part.

Finally, part V summarizes the whole work by justifying constituent diplomacy on different dimensions and recommending decentralization of foreign relation competency in federation as a whole and legalization of the current Ethiopian regional states practice which lack legal framework.

For the purpose of this article, foreign relation is defined as the scope of involvement in abroad relations and the collection of goals, strategies, and

instruments that are selected by governmental policymakers either by federal or regional government organ. It construed extra national security and waging war. Hence, any contacts, coalitions, and interactions for economy, culture or/ and social interaction across state boundaries that are not controlled by the central foreign policy organs of governments, but by the state organs or municipality are construed as foreign relations of regional states. Despite there might be differences among them, the terms *foreign relation, foreign policy, foreign affairs and diplomacy* are interchangeably employed in this paper.

1. WHY CONSTITUENT DIPLOMACY?

What are the causes of the blooming of the constituent diplomacy? And what are the channels employed by sub-national units to undertake constituent diplomacy?

With regard to the first question, scholars classified the factors that cause constituent diplomacy into two: *viz., external and internal/domestic* factors.⁷ External factors are those factors that have a worldwide nature and fuel the acceleration of constituent diplomacy in particular areas as part of some universal tendency, proper to the contemporary stage of global development. Globalization, regionalization, democratization, foreign policy domestication, and internalization of domestic politics are the principal external factors that cause constituent diplomacy.⁸

Whereas, internal factors are causes that are determined by the specific political, historical, cultural, economic or other problems localized in particular area that push regions to go abroad. Federalization and decentralization,

⁷ Alexander Kuznetsov, *Sub national Governments in International Affairs: A Study on Theory and Practice of Para diplomacy* (Unpublished, 2011) P 199-207.

⁸ *Ibid.*

problems associated with the nation-building process, central government insufficient effectiveness in foreign relations, asymmetry of constituent units, and the role of regional leader (political party) are internal factors that bloom constituent diplomacy.⁹ Time and space does not permit to evaluate how each of the above stated factors bloom constituent diplomacy. But to speculate theoretical framework, an attempt is made to show how of globalization and federalizations exacerbates constituent diplomacy.

1.1.THE NOTION OF FEDERALISM

Does federalism advocate decentralization of foreign relation competency? Federalists did not reach on the consensus on this point. The dilemma is whether to compromise sub-national autonomy by centralizing foreign relations or to compromise policy segmentation by decentralizing foreign relation competency. Constitutional vertical division of powers between the tiers of government and sub-national units' right to participate in the administration, and decision-making of the federation is a yardstick feature of federalism¹⁰. In federal state, sub-national units have autonomy that directly emanated from its federal constitution. One of the central decision federations have to make when undertaking division of power is determining which specific power should be accorded to which layer of government¹¹. There is no specific guiding rule in this regard. The general assumption, on which allocation of responsibilities has usually been based, is the vague concept that matters of national importance

⁹ Ibid

¹⁰ Daniel Elazar, *Exploring Federalism* (Tuscaloosa: University of Alabama 1987), P12.

¹¹ Flora A.N Guadappel, *Powers and Control Mechanisms in European Federal systems* (Goud Quint, Sanders Institute, 1997) as cited in Assefa Fiseha, *Federalism and the Accommodation of diversity in Ethiopia* (2nd ed. Wolf Legal Publisher 2007), P 297.

should be reserved to the federal government while matters of regional importance should be devolved to the regional states¹².

For a long period of time, international relations were synonymous with relations between *sovereign states*¹³ with clearly defined national borders, where the nation state was the principal actor in foreign affairs.¹⁴ Due to this, foreign relation was regarded as the exclusive power of the federal government. Furthermore, International laws which developed on the basis of unitary states fail to accommodate development of federalism.

It was conceived that federalism shape only the internal functioning of a political system.¹⁵ Distribution of powers between federal state and its constituent units is regarded as domestic matters which international law is not concerned with. The idea is that, central government is the spokes person of the component units externally even for the matters which are under the competence of component units. Absurdly, the notion of federalism in the past was reduced to the succinct formula- “external unity; internal diversity.”¹⁶

However, this traditional conception of the nation state’s foreign policy was being called into question as the result of far-reaching changes in the international system, and in international relations, the nature of what constitutes statehood, and the growing influence of non-governmental actors on

¹² *Ibid*, P297.

¹³ It is a state whose citizens are in the habit of obedience to it and which is not itself subject to any other (or paramount) state in any aspect. These powers, seen from two perspectives, i.e., external and internal – constitute sovereignty. Federalism may seem to present a conflicting picture. On the one hand, the federal state is a state side-by-side with each and every member state, while, on the other hand, competence is shared between member states and the federal state – but this is strictly on domestic matters in most of federations. A few federal state constitutions had by their constitution allowed member states to sign international treaties and participate in the works of international organizations.

¹⁴ Lejeune, *Supra* note 5, at P169.

¹⁵ Ivo D. Duchacek, *Federated States and International Relations: The International Dimension of Sub-national Self-Government*, *Publius*, Vol. 14, No. 4 (1984), P 5.

¹⁶ *Ibid*.

international relations mostly to resist from the chill wind of globalizations and to exercise their political autonomy. There are plenty of literatures pro and against division of foreign relations competency between tiers of government. Yet there is no agreement among the scholars on this appealing issue.

To be clear, the dilemma in relation to foreign relation in federal countries is whether it should exclusively be given to the federal government, or should it be divided between the tiers of government and what mechanism should be employed in dividing foreign relation competency. So far, no political system has developed new effective processes or institutions to handle the sub-national government involvement in the international scene. The opponents of decentralization of foreign relations usually hold that, if power of co-decision is granted regarding foreign relation, it would paralyze a state's foreign affairs.¹⁷ The idea is that, if foreign relation is decentralized, every player would have a veto power resulting in harm to the state's image in the international arena. They went on to say that, the federal states are not different from the unitary states as far as foreign relation is concerned and federation should speak in one voice.¹⁸ Louis Henkin, in supporting the constitutionally centralized foreign policy of US federation argued as follows:

Federalism... was largely irrelevant to the conduct of foreign affairs even before it began to be a wasting force in U.S. life generally... Revolution in the national mood in the 1990s has tended to seek to take from the federal government and give to the states, but this trend is not likely to have impact on foreign affairs. At the end of the twentieth

¹⁷John Norton Moore, *Federalism and Foreign Relation*, Duke Law Journal, Vol. 1965, No 2, P248.

¹⁸Louis Henkin, *Foreign Affairs and the United States Constitution*, (2nd ed. 1996), P145.

*century as at the end of the eighteenth, as regards U.S. foreign relations, the states do not exist*¹⁹.

The proponents of decentralization of foreign relation competency, on the other hand, sought sub-national involvement in foreign relation as the extension of domestic competency and it became the area of controversy not only for the lawyers but also for the politicians. K.C. Wheare, who argues for decentralization of foreign policy, in asserting the qualities of foreign policy in federations; namely, its rigidity and lack of adventurousness hypothesized that “federalism and a spirited of foreign policy go *ill together*.”²⁰ According to this leading authority:

*There are at least two important problems confronting the framers of a federal constitution in respect of the conduct of the foreign relations of the federation. There is the problem of whether the power to control foreign relations should be given in its entirety to the general government or divided between general and regional governments, more particularly so far as the carrying of treaties into effect is concerned. And there is the problem of how the power of the general government in foreign affairs, whatever its extent may be, is to be so controlled that in its exercise the divergent interests of the component regions in the federation shall be duly safeguarded.*²¹

Wheare, drew the attention to the problem that inquires how the power of the general government in foreign affairs is to be so controlled and how the divergent interests of the component regions in the federation shall be duly safe- guarded.²² The argument goes that in robust and democratic federalism

¹⁹ Ibid.

²⁰ K.C. Wheare, *Federal Government* (4thed, London, Oxford University Press), 1963, P 183.

²¹ Ibid.

²² Ibid.

there must be constitutional and institutional arrangement with regard to division of foreign relations between the tiers of governments. Hence, the query is how to compromise the tension between policy incoherence and sub-national units participation in foreign relations in the federal set up. It is the opinion of this writer that, monopoly power on foreign relations by central government defeats the very purpose of adoption of federal form of government. The argument that federation should speak in one voice in the international scene and federations should act as unitary country as far as foreign relation is concerned is perhaps anti-democratic influence on the federal polity, and it has serious shortcomings.

In the federal polity, the sovereignty is divided between the orders of government on the basis of advocating unity without affecting the diversity of constituent units. Accordingly, matters which could fit with pursue of unity shall be given to the central government whereas those powers that are capable of reinforcing the sub-national autonomy go to the sub-national government²³. Thus, how could it be possible to give the latter powers (that possibly endorse diversity and sub-national self autonomy) to the central government if such matters become under the international themes? Is that possible for the federal government to represent the sub-national government on the exclusive power of the latter?

Certainly, if foreign relation is monopolized by the central government, the sub-national autonomy will be at risk in that, the central government under the guise of foreign relations takes over the power of sub-national governments, i.e., by making treaties with other countries on the matters which are domestically the exclusive powers of sub national units. In such scenario, the regional states' powers will be the shared powers between the regional states

²³Elazar ,Supra note 10, at P 12.

and the federal government or simply the exclusive powers of the federal government. Theoretically, since constitution is the *covenant* between the people and the central government how could such *covenant cease to function* if the country enters into another *covenant* with the third state?

On the other hand, each region may have different financial or social priorities in matters within its constitutional jurisdiction. Yet these priorities might be thwarted if the federal government committed itself internationally to a contrary course of action without at least consulting the regions. One undeniable fact is that foreign relation may result in policy segmentation. Segmentation of policy in federation is a necessary evil and must be accepted. Federalism is multi- level in character and rarely able to speak strictly with one voice in every situation.²⁴ J. Kincaid, in support of this position holds that:

*In federal democratic polity, non-violent conflict and competition are not only facts of political life but also accepted principle of politics. In federal democracies, conflict and competition between governments are intrinsic element of politics along with cooperation.*²⁵

Hence, the domestic division of powers between the two tiers of governments should equally apply in the foreign relations too, though cooperation is necessary²⁶. This is because, federated entities are able to keep their political significance according to their constitutionally granted rights only if they participate effectively in foreign relations. Kincaid, in explaining the importance of decentralization of foreign relation for component units emphasizes that:

²⁴JohnKincaid,Constituent Diplomacy in Federal Polities and the Nation State: Conflict and Co-operation in: H.J. Michelmann and P. Soldatos,(eds) (published by Oxford University Press, 199), p54

²⁵Ibid

²⁶Id, P 58.

Sub-national unit's participation in the foreign relation is another tool or weapon for asserting the political community's autonomy within its federation by projecting its identity internationally, gaining international political leverage over its federal government, and acquiring a particular national status – a matter of considerable political importance to some constituent communities²⁷.

It should be noted that decentralization of foreign relation may not necessarily lead to policy incoherence in which their laws always neither conflict each other, nor is sub-national involvement in the international relation dangerous for the nation interest. Although tension between federal and state do merge periodically, sub-national activities in the international relation usually benefit the nation state officials to create better position to promote trade and investment opportunities at home.²⁸ Thus, policy incoherence is necessary evil in federations.

More interestingly, federations can overcome the problem of policy segmentation through cooperation. In a federal system though sovereignty is split between the tiers of governments, both tiers exercise their power on the same land and the same people. There is a common interest between the orders of governments that appeals the cooperation of governments. It is subordination which defeats the value of federalism but not coordination. The latter is a sense of partnership in which governments come together for common interests. Intergovernmental relation has its paramount role in this regard.

²⁷Kincaid, Supra note 2, p 162

²⁸Daniel Halberstam, *The Foreign Affairs on Federal system: A National perspective on the benefits of state participation*, Villanova Law Review, Vol. 46 , NO. 3, p 1016

1.2.EFFECTS OF GLOBALIZATION

Another key factor that has given rise to constituent diplomacy is the yearning of constituent units to resist chill winds of globalization. Globalization refers to a certain tendency towards an approximation of societal and community ways of life, identity and culture beyond national borders.²⁹ In this respect, the change in everyday life all over the world is probably the most revolutionary and most sustained effects of globalization.³⁰ Globalization originated in the economic sphere, but has since expanded rapidly into other areas. It altered theories and themes of international relations and its actors.

Globalization changes the very perception of political processes.³¹ The increase in the number of actors shaping international relations is a characteristic the changes brought by globalization. Within the scope of the nation state, for instance, constituent member states are demanding more opportunities to participate in foreign relations. Sub-national unit's involvement in foreign relations in accelerated rate is basically the step taken in response to chilling effects of globalization. Since 1960s and 1970s the themes of international law expanded to the new areas which are traditionally of the domestic agenda.³²

In contrast to previous eras, international relations, trade, investment, cultural exchange, migratory and commuting labour, and transferring drug traffic and other issues which are areas of competency of the component units have forced

²⁹ Bernhard Ehrenzeller et al. *Federalism and Foreign Relations*, (Published by Forum of Federation), P,96.

³⁰ Ibid.

³¹ Ibid, P102.

³² Brian Hocking, *Regional Governments and International Affairs: Foreign Policy Problem or Deviant Behavior?* International law Journal, Vol. 41, No. 3,(1986), P 479.

their way on to foreign policy agenda, usually in parallel with the great issues of national security, military balance and diplomatic status.

Changes in the international and domestic economic patterns have provided a major stimulus to the desire of regions to concern themselves with foreign relations pressures in the sense that, component units became more conscious of, and sensitive towards the growing impact of international economic forces bearing down on them, and desire to protect themselves from the chill winds of economic change grew.³³

Sub-nationals became aware of that they are champion of expressing and promoting their respective cultures and in attracting the investors through promotion of their favorable environments so as to strengthen their economy and maximize their residents' way of life. As policy areas falling under regional state jurisdiction have acquired international significance, regional governments have found themselves involved in international affairs.³⁴ Nowadays, it is not unusual to see sub-nationals constituencies participating in the international scene. More interestingly, it seems that the international community and international law recognize such developments.³⁵ Ivod Duchacek, in describing the fact of sub-national existence in international arena and its feasibility mark that, "Sub-national presence on the international scene has become a fact of life in an interdependent world. It is neither a blessing nor

³³ Ibid.

³⁴ Ibid.

³⁵EllioJ.Feldman and Lily Gardner Feldman, Canada the Role of Province in Foreign Policy in Michelmann and Soldatos, eds. supra note 7,P176. In Canada provinces are not allowed, but in practice four provinces of Canada, Quebec, Ottawa Alberta, and Ontario became international actors not less than Canada involvement. They usually design and implement international trade policy, promote export, recruit foreign investment, conduct negotiation for economic and cultural exchanges with governments of foreign countries and independently monitor domestic activities. They have their own office and representative in most of US state and Cities.

a curse.”³⁶ True that international law did not fully recognize sub-national units involvement in foreign relations. A draft provision in the Vienna Convention on the Law of Treaties concerning the right of component states to enter into treaties adopted in 1965, under article 5(2) provides that:

*States members of a federal union may possess a capacity to conclude treaties if such capacity is admitted by the federal constitution and within the limits laid down.*³⁷ [Not included in the 1969 treaty law]

The extent and way of sub-national units’ involvement in the foreign relation varies from federation to federation. Below, the attempt is made to present trends of some federations.

2. MERITS AND NATURE OF CONSTITUENT DIPLOMACY

Scholars pay high attention to the impact of centralization of foreign relation in federal polity. However, rather than insisting only on the impact, it is wise to focus on the advantage that sub-national units achieve by participating in foreign relations.

Sub-national units voice their view in foreign relations for many reasons. Constituent units engage in international activities essentially for three reasons as coined by Kincaid.³⁸ One major reason is economic, mainly connected with trade. It concerns especially the export of goods and services; inward investment for economic development, employment expansion and tax-base growth; and tourism – all of which are highly competitive globally. A second major reason is cultural, whether such activities be merely friendly goodwill

³⁶ Duchacek, Supra note 15, at P5.

³⁷ *International Law Conference Year Book*, 1965, vol. 1, 118 meeting, P 251.

³⁸ Kincaid, Supra note 2, p 164.

cultural exchanges popular with many citizens, or more concerted efforts to achieve global recognition of a region's distinct cultural or "national" identity, or desire to connect with compatriots abroad. A third reason is cross-border housekeeping, namely, the need to resolve numerous cross-border issues, such as wandering cows, automobile traffic and water pollution, between contiguous regions divided by an international border.

Here, it should be noted that constituent diplomacy is far different from nation diplomacy basically in terms of extent and scope. First, constituent diplomacy usually allowed on *low politics areas*.³⁹ Constituent diplomacy devoted, but not limited on cooperation on trade, economic issues, technology, science, education, tourism and culture and etc. Sub national units can, in fact, be involved on foreign relation in all areas in which they have domestic capacity without endangering the nation foreign relation. Exclusive powers of sub-national states by their nature are *low politics* and policy segmentation in those areas is tolerable.

Secondly, many federal states permit their constituent governments only to enter into treaties, compacts, contracts, or agreements, not with foreign nation states, but with constituent regional or local governments of other nation states.⁴⁰ This is because the so called *low politics* areas are under the exclusive area of sub-national units in most of federation and there is no way in which component units enter into compact with foreign nation state.

Ivo D. Duchaecek, who has made an extensive study on this area, categorizes constituent diplomacy namely as: Trans border regional and Global micro-

³⁹ Issues that deals with promotion of trade, attracting investor, truism, cultures, but not policy area, that regard as *low politics*.

⁴⁰ Samuel Lucas McMilla, *Sub-national Foreign Policy Actors: How and Why Governors Participate in U.S. Foreign Policy* (Published by Blackwell Publishing, 2008), P.231.

diplomacy.⁴¹ Trans-border constituent diplomacy, as it can be grasped from its name, is the term employed to describe the contact between adjacent states through formal or informal means.⁴² Global micro-diplomacy on the other hand, describe that pattern of constituent diplomacy that searches for cooperative contacts and compact far beyond the immediate neighborhood and establishes relations with distant centers of economic and political power⁴³. It brings constituent governments, including those of major cities into direct contact with foreign constituent governments. Since the constituents are not adjacent to each other, global micro-diplomacy involves, the stationing of permanent missions (state offices) in distant corners of the world.

The other central issue that might be posed in relation to constituent diplomacy is ‘how do sub-national units involve in constituent diplomacy?’ Sub-national units deploy different channels in undertaking their foreign relations. Hence, it is common to see variations in this regard, too. However, there are some common channels in which sub national units undertake constituent diplomacy. Alexander Kuznetsov, who conducted an extensive study on the constituent diplomacy mainly on the practice, identified the following channels of constituent diplomacy:⁴⁴

- i) Establishment of a special regional ministry or department which is responsible for the international affairs of the constituent unit.
- ii) Opening of permanent sub-national offices in foreign countries.

⁴¹ Duchaecek, *Supra* note 15, at P7, Some Regional governments give high attention to trans-border diplomacy than micro Para-diplomacy due to their geographical situation and the inevitability of such contacts. Frequently they host border development commissioners meeting. Gambella Regional State for instance mainly involves in this kind of contact. This includes discussion on solution on the attacks involved killing, abduction of children, illegal movement of cattle, looting of properties and taking of weapons.

⁴²Ibid.

⁴³Ibid, p 9

⁴⁴Kuznetsov, *Supra* note 7, at p. 217-219.

- iii) Official visits of regional authorities to foreign regions and countries.
- iv) Participation in various international events like exhibitions, forums, etc. organized by foreign actors.
- v) Establishing and participation in global and trans border multilateral regional networks and working groups on specific problems like agriculture, sustainable development, energy, transportation, etc.
- vi) Participation of regional authorities in the international events organized by foreign entities within the official delegation of their central government.

In most of federations, a sub-national unit employs one or the combination of these channels. I have tried to show the channels that have so far employed by Ethiopian regional states referring to the practices.

3. TRENDS OF FEDERATIONS

There are variations among federations with regard to the assignment of foreign relations. Foreign policy in the United States,⁴⁵ Indian,⁴⁶ and Ethiopian,⁴⁷ federations is highly centralized that component units constitutionally have no say on foreign policy. In contrast, in Switzerland,⁴⁸ German,⁴⁹ though in

⁴⁵The 1787 US Constitution, Art. 1.

⁴⁶RobJenkins, *India's States and the making of foreign economic policy: the limits of the constituent diplomacy paradigm*, Publius, Journal of Federalism Vol. 33, No. 4, (2003), P 63.

⁴⁷ FDRE Constitution, Art51(8).

⁴⁸The1999 Federal Constitution of Swiss Confederation,Art. 55, Federal Constitution of Swiss Confederation (1999), Article 8 of the Swiss Constitution says that Confederation has sole right to declare war and peace and to conclude alliance and treaties. However, as per article 9, exceptionally Canton can conclude treaties, on matters of public economy, neighborly, and police relations provided that such treaty should contain nothing contrary to the Confederation interest.

⁴⁹The 1949 German Basic Law, Arts.32 and 23.

principle foreign policy is an exclusive power of federal government, component units have given subsidiary powers on foreign relations. Component units in these federations are constitutionally empowered to enter into the international treaty in matters which are under their respective exclusive powers in the federal constitution.

Sub-national units in some federations are also allowed to be represented in international arena, to maintain diplomatic or consular relations and the right to take part in international conferences or join international organizations.⁵⁰ This is because, international organization and conference frequently deal with matters which are under the exclusive area of competency of sub-national units. The 1993 Belgium constitution makes striking balance in this regard. It incorporates *intro infro extro infro* principles (empowering regions/ community externally with matters which they are domestically empowered) and allow regions and communities appoint their representatives called *community or regional attachés* in Belgium diplomatic and consular posts to foreign states or to international organizations.⁵¹ Sub-nationals in this federation have also the right to appoint “attachés” or “delegates” within Belgium’s permanent representation to the EU.⁵²

⁵⁰ RobJenkins, Supra note 46, at P, 65

⁵¹ Halberstam, Supra note 28, at P1019.

⁵² Ibid.

4. THE ETHIOPIAN EXPERIENCE:

4.1. OF FEDERAL CONSTITUTION

The 1995 FDRE Constitution forms two orders of governments which are parallel.⁵³ Likewise, it divided the competency between the two tiers of governments.⁵⁴ In an unequivocal manner, foreign relation competency is categorized as federal government exclusive power. Suffice to mention here, this power is listed under provision listing exclusive powers of the federal government. As stipulated under article 51(8) of the FDRE Constitution, federal government has the power to formulate and implement foreign policy. Constitutionally speaking, there is no room left for regional states to conduct constituent diplomacy. Worth thing, as the House of Federation has no constitutional mandate to participate on the formulations of federation policy, there is no chance for regional states to participate in federation foreign relation formulation.

The federal government alone designs foreign policy and negotiates, concludes and ratifies the international treaty.⁵⁵ Only federal government can open embassy and appoint diplomat. Thus, it could be said that federal government can exercise exclusive power over the exclusive powers of regional states as far as foreign relation is concerned. True that, elsewhere in the constitution it is stipulated that, the tiers of government are independent and one should respect the powers of the other⁵⁶. However, these valuable principles cease to apply in the area of foreign relation and constitutional division of powers between the regional states and federal government is functional only domestically. Hence,

⁵³ FDRE Constitution, Art.50 (1).

⁵⁴ FDRE Constitution, Arts.51and52.

⁵⁵ FDRE Constitution, Arts 51(8) and 55(12).

⁵⁶ FDRE Constitution, Art 50.

it is fair to say, Ethiopia is not federal country but a ‘*unitary country*’ as far as foreign relation is concerned.

In nutshell, the 1995 FDRE constitution fails to incorporate both constitutional and institutional mechanisms to secure regional governments’ involvement in foreign relation. Worse thing, there is no Constitutional limitation which obliges the federal government to take into account the interest of the regional states while designing the foreign policy. The only limitation on federal government is, to take into account the country’s foreign relations principles as set under chapter ten of the Constitution. Accordingly, while exercising its power of foreign policy designing the federal government shall,⁵⁷

- *Protect national interest and respect the sovereignty of the country.*
- *Ensure that the foreign relation policies of the country are based on mutual interests and equality of states as well as those international agreements promote the interest of Ethiopia.*
- *Observe international agreements which ensure respect for Ethiopia’s sovereignty and are not contrary to the interest of its peoples*
- *Forge and promote ever growing economic and fraternal relation of peoples with Ethiopia’s neighbors and other African countries.*
- *Seek and support peaceful solutions to international relations.*

It is not clear whether federal government can enter into international treaty which its implementation affects the constitutional competency of the regional states. True that, constitutionality of foreign policy and the treaties made by federal government could be contested if federal government fails to observe the country’s foreign policy principles as underlined under the federal

⁵⁷FDRE Constitution, Art 86.

constitution. In fact, if the federal government fails to adhere to those principles, it amounts to unilateral amendment of the Constitution.

In sum, despite all aforementioned drawbacks of centralization of foreign relations and the paramount importance of constituent diplomacy, the newly emerged Ethiopian federations did not allow constituent diplomacy. More importantly, in addition to justification aforesaid for constituent diplomacy, there are other unique factors (some authors call it *internal factors*) that appeal to constituent diplomacy in Ethiopian federation as noted by the writer. The fact that regional states are not represented in federation foreign policy designing, the driving force behind the adoption of federal system which is to decentralize power and resource, that regional states highly need foreign aid in technical and economy from abroad, call for the regional states diplomacy. Regional states also seek to communicate with their respective ‘Diasporas’ on the region’s economic and political issues and invite them to invest in their respective regions.⁵⁸ Similarity of ethnic groups of peripheral region with the neighbor countries is also another unique ground that bloom regional diplomacy.⁵⁹ For instance, the Gambella regional state has the same culture, language, ethnic and religious groups with its adjacent country, South Sudan. Somali regional state has also similar ethno–linguistic with Somalia, Tigray and Eritria are also comprised of similar ethnic group. Oromo people are said to have ancestors with Oromo people living in Kenya and *Gada system* is the root of institution not only in Oromia but also in most of Kenya provinces.⁶⁰

⁵⁸ Interview with Ato Assefa Niguse, Department of Public Diplomacy Director A/Directorate FDRE, Ministry of Foreign Affairs, Addis Ababa (2/11/2010).

⁵⁹ Even though it is difficult to prove this by concrete evidence, it suffices to look at the factual to substantiate the assertion. For instance, it is noticed by the writer most of Gambella people prefer to admit to the South Sudan hospitals than Tikur Anbessa for medical treatment.

⁶⁰ Asmarom Legesse, Oromo Democracy, An Indigenous African System (Published in the Red Sea Press, Inc 2006), P72.

Here, it will be misleading not to mention the horizontal division of foreign relations competency among federal organs and the recent *de facto* recognition of regional states participation in foreign relations. Foreign relation competency is divided among the federal organs. Accordingly, conclusion of international treaty is the competency of executive organs whereas ratification is the competency of House of People Representatives (hereinafter HPR). Likewise, treaty making power is distributed among the executive organs. As it is provided in the proclamation no 471/2005, which affirms the exclusive power of federal government over foreign policy though it is foreign minister which is empowered to conduct foreign relation, other ministers may also involve in designing foreign relations with their respective function.⁶¹

Nevertheless, notwithstanding constitutional deny of constituent diplomacy, time and finding witnessed both constituent diplomacy and regional state participation in federation foreign relation is recognized to some extent. However, such recognition lacks legal framework.

4.1.2. OF REGIONAL STATES CONSTITUTION

Under article 51 of FDRE Constitution, the exclusive powers of federal government are listed and article 52 of the same document lists down the regional state exclusive powers. Accordingly, article 51(8) states that “Federal government shall formulate and implement foreign policy; it shall negotiate and ratify International agreements.” As per article 55(12) of FDRE Constitution, ratification of any international treaty is the power of HPR. Thus, from the wording of the constitution, it is clear that only federal government is empowered to conduct foreign relation and no room is left for regional states constitution to empower regional state with foreign relations competency.

⁶¹ A Proclamation Issued to Define the Powers and Duties of the Executive Organs of the Federal Government, Proc. No 471/2005.

In the federation, the power of both tiers of government shall emanate only from the federal constitution. Hence, regional states constitution cannot empower their respective region with new power other than powers allocated to them by the federal constitution. If regional states constitution assigns new power for either of the government both the notion of federalism as a whole and supremacy of federal constitution will be futile. Regional states constitutions are meant to paraphrase the powers assigned to regional state in working language of that particular state and provide the regional state administrative structure. Of course, that is why the revised regional states constitution is replica of federal constitution in most of issues. The revised regional constitutions of all regional states in affirming the position of federal constitution, limited the regional states diplomacy competency only to the internal diplomacy.

To clarify this point, it is noteworthy to see some articulation of federal constitution and revised regional states constitutions related to foreign relation competency as follows:

Art. 51(8) of FDRE Constitution,

Federal government shall formulate and implement foreign policy; it shall negotiate and ratify international agreements.

Art. 55(12) FDRE of Constitution,

[It] shall ratify international agreements concluded by the executive.

Art. 49(3) (c) of the Revised Constitution of Oromia National Regional State,⁶²

Without prejudice to the jurisdiction of federal state, [it] ratifies agreements concluded with neighboring national regional state adjoining thereto.

Art. 49(3) (3.3) of the Revised Constitution of Amhara National Regional State,⁶³

Without prejudice to the jurisdiction of federal state, [it] ratifies agreements concluded with neighboring national regional state adjoining thereto.

From the above federal and revised regional constitutions, it is clear that regional states have no say on foreign relations of federation, and regional diplomacy (constituent diplomacy) is not recognized. Moreover, internal diplomacy by itself is limited to, neighboring national regional state adjoining thereto. That regional state can enter into bilateral or multilateral agreements

⁶² Oromia National Regional State Revised Constitution, Proclamation No.64/2001, Magalata Oromia, 7th year No.2, Adama 2001. Here, the fact that these provisions employ the term, *without prejudice to* federal governments seems as if regional states shared some powers in foreign relations (i.e., as if constituent diplomacy were recognized). However, it is very confusing to articulate in such a way if it is not constituent diplomacy. Previously, I myself understood this provision as if it permits constituent diplomacy and my comment was that it violates federal constitution. However, the close analysis, those provisions depict that, regional states let alone to involve in contact with trans-regional states, constitutionally (regional constitutions) they are not empowered even to sign treaty with national regional states other than adjacent regional states. For instance, Oromia regional state cannot enter into agreements with Tigray national regional state since they are not adjacent. It is not clear whether internal diplomacy is limited to adjacent regional states and whether adjacent regional states can enter into agreement in relation to their entire constitutional competency or only issues related boundary demarcation and related issues.

⁶³ See the Revised Constitution of the Amhara National Regional State, Proclamation No.59/2001, Zikre Hig, 7th year No.2 Bahir Dar November 5, 2001 Art.49(3); See also the Revised Constitution of Tigray National Regional States, Proclamation No 45/2001, Negarit Gazeta Tigray 10th year No. Mekalle, November 16, 2001, Art 49(3). Though it is common that, executive power of regional state is coextensive with legislative competency, the power to conclude agreements with neighbor national regional state is not given for executive organ. This is also true in all regional state constitutions. But, the practice depicts that regional state executive organ exercises this power.

only with adjacent national regional states.⁶⁴ In a nutshell, regional states constitutions did not empower the regional states to have their own constitution diplomacy, as the same is not made by federal constitution.

4.2. A GLANCE FROM PRACTICE

4.2.1. **Regional States' Participation in Foreign Relations of Federation: Towards Decentralization**⁶⁵

An inquiry on the understanding of the governments' external relations within a particular federal set-up shall start from constitutional dispositions. However, anyone interested in the true functioning of a political system has to go beyond formal structures. In order to gain a better understanding of federal systems, it is necessary to study both their constitutional laws and their political processes and practices.⁶⁶ The political practices and the interplay of the sub-national units with each other, as well as the relationship between the federal and the sub-national level, must be examined since the practices not in line with wording of the constitution.

In Ethiopian federation, for instance, despite foreign relation is constitutionally assigned to the federal government, practice depicts that there is *de facto* recognition of regional states' participation in federation foreign relation. Even though treaty making is the exclusive power of the federal government and consultation requirement is absent, in practice federal government request

⁶⁵ Decentralization, in federal context is not merely decentralization of power from top to down rather competency should constitutionally be divided between the tiers of the governments. In this regard, *de facto* recognition of regional state involvement in foreign relation hardly constitutes decentralization as it is not stipulated under the federal constitution.

⁶⁶ Ronald Watts, *Comparing Federal Systems* (Montreal and Kingston: McGill-Queen's University Press, 1999), P, 14.

the regional governments if they are willing to participate in the negotiation and conclusion of the bilateral arrangements that federation negotiate.⁶⁷ Frequently, regional government delegates participate in the international scene representing the federal government in different conference and hosts bilateral meetings.

The finding shows that, frequently, Ethiopian delegates were represented by the regional states' Presidents on various meetings with adjacent countries in boundary bordering development meeting. For instance, in 12th Ethio-Sudan joint border development meeting held on Mekelle, Tigray Regional State, and the Ethiopian delegation was led by H.E Ato Tsegaye Berhe, Ex- President of Tigray National President⁶⁸. The Southern Nations, Nationalities, and Peoples of National Regional (SNNP) hosted the 26th Ethio-Kenya joint border development commission meeting held in February 2010. The then SNNP Regional State president H.E Shiferaw Shigute gave the opening speech⁶⁹. The Amhara Regional States President H.E Ato Ayalew Gobeze led the Ethiopian delegation on the 1st Ethio-Sudan border development commissioners' committee meeting held in Gidariff, Sudan⁷⁰. When the 27th Kenya-Ethiopia Joint Border Commissioners and Administrators' Meeting was held in Mombasa, Kenya, between 30 April and 1 May, the Ethiopian delegation was led by Ato Shiferaw Shigute, Ex- President of the SNNP.

⁶⁷ Interview with Ato Assefa Niguse, Supra note 58.

⁶⁸ Agreed Minutes of the 12th Ethio-Sudan Joint Border Administrators/Commissioners meeting 28-30, December 2009, Mekelle, Tigray National Regional State.

⁶⁹ Agreed Minutes of the 26th Ethio-Kenya Joint Border Administrators/Commissioners meeting 15-16, February 2010, Hawasa, Ethiopia.

⁷⁰ Agreed Minutes of the 1st Ethio-Sudan Joint Border Administrators/Commissioners meeting 24-25, April, 2000, Gidariff, Sudan. The 13th Ethio-Sudan Joint Border Administrators / Commissioners meeting was held in Sunja town of Sinar state, Sudan, from 25-27/12/2010. The Ethiopian delegates were represented by the chief administrators of Tigray, Ahmara, Gambela and Benishaangul states.

More frequently, delegates from regional government and federal government jointly sent to oversee either for political reasons or for economic purpose⁷¹. What makes things interesting is that the regional states have their own speech time in such occasion. They promote their cultures and their resource so as to attract the investors and tourists⁷². Fascinatingly, such official promotion of their respective regions for the outside world has now become the day to day activities of our regional states officials even if it is not uniform across all regional states. Furthermore, regional governments send fact finding to abroad, make visit and send the profile of their regions and cities to regions and cities that have similar features in geographical location, climate, and history, economic and other cleavages and sign memorandum of understanding in which our regions obtain considerable financial and technical assistance.⁷³

Here, one may ask the importance of constitutional declaration of regional powers on foreign relations as long as they are practicing it de facto. In other words, does it matter whether or not such competency is stipulated in the federal constitution as far as political system recognized it? In this regard, Prof. Noe Cornago argued that political systems should recognize this phenomenon even if there is no provision for it in their constitutions. Constitutions must be open to transformation⁷⁴. This is because, sometimes

⁷¹ Interview with Ato Assefa Niguse, Supra note 58.

⁷² Ibid.

⁷³ Interview with Ato Dawano Kadir, Deputy Foreign Minister, Addis Ababa (11/11/2010). He went on saying that such relation is even becoming at sector level in that some sector of regional states make a contact with their counterparts (He was Legal Advisor of Oromia Regional State President at the time of interview).

⁷⁴. Noe Cornago on the speech in Gilberto, Marcos: The *Global Dialogue on Foreign Relations in Countries*, Meeting report forum of federations, Ottawa (Oct. 25, 2006), available at http://www.forumfed.org/pubs/20070615_GlobalDialogue.doc accessed on 9/10/2012.

constitutions of the countries do not operate within strictly legal frameworks, but are interpreted politically and in the light of history⁷⁵.

In my opinion, even though the practice usually deviates from the constitutional framework, clear constitutional demarcation on foreign policy should not be undermined. This is because, for one thing, division of power between the tiers of governments avoids conflict on the jurisdictional competency between the orders of governments and it gives regional states confidence.⁷⁶ Besides, this constitutional division of foreign policy enables the third party to clearly know the area of competency on the matters it needs to negotiate⁷⁷.

On the other hand, today, regional states are involved in foreign relation not because they have constitutional foundation but because it is recognized by the political scheme and welcomed by the federal government. However, in a federation the capacity of one tier of government should not depend on the charity of the other. The findings show that currently conducting foreign relation in Ethiopia is not challenged by the adoption of federalism.⁷⁸ This is because, for one thing, there is no robust federalism that regional states rarely claim their constitutional autonomy. On the other hand, regional states are in

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ GochaLordkipanidz, Segmentation and Integration. Proposal for a Federalization of Foreign policy in Georgia , P170, available at

<http://poli.vub.ac.be/publi/orderbooks/federal/07lordkipanidze.pdf> accessed on 9/10/2012.

⁷⁸ Interview with an anonymous, legal and Administrative standing committee, House of federation Addis Ababa (11/11/2010). According to him, who personally believe in decentralization of foreign relations, though currently there is regional states involvement in both para -diplomacy and trans border foreign relations there is a bureaucracy from federal government even to get Visa and regional states has to baby foreign affairs to facilitate them Visa and other processes. And this will have adverse effect on regions foreign relations. Though some official of regional states believe in the decentralization of foreign relations, the fact that it is constitutionally assigned for federal government makes thing worth. Both federal and regional government official never like to criticize any provision of the constitutions.

their infant stage and hardly capable to conduct their own foreign relations⁷⁹. Furthermore, there is party line contact (strong link) between regional states and the federal government that helps the federation to undertake foreign relations smoothly.

Here, it should be noted that the current requirement of consultancy itself is not stipulated in the Constitution or other laws. Of course, the country has not yet come up with a law which set treaty making procedures. Proclamation No. 25/80, which sets treaty making procedure under the unitary system, is the only law dealing with the procedure. It is the opinion of this writer that it is essential to set a legal framework since changes in respect of capacity of regions and party structures are inevitable in the future. Likewise, it is judicious to have a new treaty making procedures which takes the federal structures into consideration. The interview with some federal officials revealed that the authorities do rarely make reference to this law for it is developed on the basis of unitary structure and a treaty making draft law is under way.⁸⁰

⁷⁹ In Ethiopia, one can observe that there is de facto asymmetry between the regions in the sense that five regions (Ahmara, Oromia, Harar, Tigray, & SNNP) are relatively strong enough to exercise their administrative responsibility; whereas, regional states of Somalia, Gambela, Benishangul Gumuz, and Afar Regional States are left under the guardianship of Federal Government, and hardly exercise their administrative responsibility. The reality of such could be demonstrated by the establishment of capacity building department under the federal affairs to help the less developed regions in all affairs.

⁸⁰ Interview with W/rt Yanet Shifaraw, Department of Legal Affairs Directorate, FDRE Ministry of Foreign Affairs, Addis Ababa (9/11/2010). The adoption of this draft may clarify certain vague issues. It might help in providing legal framework for the consultancy requirement which currently lack legal basis. Moreover, it may come up with clear cut provision as to the treaties which need ratification and those that do not require one. Currently, it is difficult to ascertain whether a certain treaty needs ratification or not due to absence of treaty making procedure

4.2.2. Regional States Constituent Diplomacy

Despite the FDRE constitution stipulates that foreign relation is the exclusive power of federal government, the practice so far has showed that regional governments have involved in various constituent diplomacy. Though there is no strong empirical data on the extent of regional participation in foreign relations, there is *de facto* recognition that regional states constituent diplomacy to the extent of concluding agreements with *low politics*.⁸¹ Regional States have been in contact with foreign embassies residing in Addis, international organization, other regions and cities of different countries through twining.⁸²

Today, it is not unusual to see regional governments exchanging letter of intent (Memorandum of understanding (MoU) on trade, investment, culture tourism, HIV/AIDS protection, education, human resource, capacity building, environmental protection and etc with their counter parts.⁸³ One question that might be raised as practical matter is how regions got their counterpart and exchange memorandum of understanding? As an interview with Assefa Niguse revealed, proposal for exchange of MoU may be offered by our regions /cities/ mainly through MOFA or it may come from the foreign countries through their embassies residing in Addis.⁸⁴

Time and space does not permit to list all constituents diplomacy held by our regions and towns. However, it is worth mentioning some constituent diplomacy and the results obtained. Until the beginning of the initial work of this paper, Addis Ababa city administration has made contact through twining with fourteen counter parts, Harar city with six foreign cities, Dire Dawa city

⁸¹ Ibid.

⁸² Interview with Ato Assefa Niguse, Supra note 58.

⁸³ Ibid.

⁸⁴ The Regional States report on their foreign relation performance in 2001, P 3.

administration with four cities.⁸⁵ Oromia regional national states, Amhara national regional state, Tigray regional states and South Nations, Nationalities, and Peoples of Ethiopia have also made-para diplomacy with their counter parts, frequently with provinces of China.⁸⁶ The regional states have also formed a relationship with their adjacent countries⁸⁷.

The experience of Harari national regional state stands could be a great example as it was recognized by MoFA itself. The Harari has created a good relation with international organizations, non-governmental organizations, foreign missions residing in Addis and foreign cities. It created city bonds with different countries, such as Charlvilmizier of French, Sanliverfeffi of Turkey, Klarsten of Atlanta, and Arta of Djibouti.⁸⁸ An agreement was signed between the government of Harari and Charlvilmizier of French on developmental projects focused on women income generation, capacity building, renewal of Jugal Hospital of fistula, culture and education, as well as water executed by the sector offices of the government of Harari.⁸⁹ From this agreement, the Harari state received about 116,548.43 Euro to undertake the above mentioned projects.⁹⁰ The Harari government in turn gave a catalogue that contains detailed information of Harari city's economic, social and historical growth including the structure of the cities municipality to its counter parts of charvlmizier city⁹¹.

⁸⁵ Ibid; see also the MoU between the respective cities.

⁸⁶ Ibid.

⁸⁷ Id,P5.

⁸⁸ Id,P6.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

Similarly, the city of Harari has created a sisterly twining relation with its counter parts of Sanliverfefe of Turkey⁹². Turkey and Harari have had historical relation and Turkey once had a consulate in Harari⁹³. The relationship of these cities itself was initiated by the Turkish Ambassador residing in Addis⁹⁴. On the invitation of Harari, the Turkish Ambassador with high level delegates of Sanliverfefe, including the city mayor and Turkish chamber of commerce visited the region for three days and at the end Sanliverfefe delegation exchanged MoU with the Harari Regional State Government. The delegation promised to give around 1.72 million birr to enhance the water problem of the region, a lorry of water container, children medicine, capacity building, technical support, environmental protection, and map preparation. Similar invitation was also extended to the Harari officials to visit Sanliverfefe⁹⁵. The regions have also made contact with Klarsten of Atlanta, in which the team containing senior officials, experts and academician's culture and heritages of the region visited the small city of Atlanta in June, 2009 G.C.⁹⁶

Amhara regional state has also exchanged MoU with Schiwan province/ China since 2006 and majority of the cities in the region have been involved with their respective sister-city relationships.⁹⁷ Likewise, Oromia regional government made considerable diplomacy. The delegation led by H.E Aba Dula Gameda Ex-president of the region severally visited other countries and cities mainly for the promotion of trade, cultures and investment. The region entered into

⁹² Interview with Ato Robel Admasu, Department of Political Relations Affairs Directorate, FDRE Ministry of Foreign Affairs, Addis Ababa (3/11/2010).

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ The Regional State Performance on foreign relation, Supra note 81, P6.

⁹⁶ Ibid, P7.

⁹⁷ Interview with Ato Assefa Niguse, Supra note 58.

agreement with Constanbul cities of Turkey.⁹⁸ In 2002 E.C, H.E Aba Dula Gamada signed agreement with Hunan, China province.⁹⁹ Here, it is worth mentioning the agreement between Ethiopian government and big textile company of Turkey. The objective of the investment is establishing industrial zone in Legatafu, Oromiya Region that worth more than 20 billion birr. As interview with W/rt Nasise Didesa (Protocol Official in the Oromia Regional State President Office) revealed, the then president of Oromia Regional State, H.E Ato Aba Dula Gemada, played paramount role among others in convincing the investors by visiting Turkey and the aforementioned company, facilitating provision of required land for investment, and reaching on the investment agreement within a short period of time¹⁰⁰.

Addis Ababa City administration external diplomacy attained its momentum in comparison with the rest of the Regional States. The City administration organized separate department, headed by a director, which is responsible in twining the city with other cities and conduct others external diplomacy. The City administration has established a strong link with Johannesburg of South Africa, Chun Chun of North Korea, Ankara of Turkey, Sana'a of Yemen, Leipzig of German, and Lion of France. As the result of the relationships, the City administration has secured various technical and financial supports. The municipality got 21 Ambulances, 1 fire extinguisher car, and 180 computers from Chun Chun of North Korea. In return, the Municipality dedicated a park found in Gulelle sub-city to the Korean veterna's memorial monument and

⁹⁸ Interview with W/o Nasise Didesa, Protocol Official in Oromia Regional State President office, Adama (2/10/2010).

⁹⁹ Ibid.

¹⁰⁰ Ibid

museum.¹⁰¹ From the agreement made with the Leipzig of Germany, the city of Addis Ababa got a medical treatment for its lions in *sidist kilo* Zoo and assistance on a project on park zoo, consultancy and public transportation and generation of electricity from bio-products. A partnership was also made between the schools in the two cities, as a result of which education materials and free language training was provided to local schools.¹⁰² Likewise, the municipality got consultancy on BPR and public administration and other assistance from the sister relation with Lion of France, and Johannes berg of South Africa. Efforts are also underway to establish sister city partnership with Washington DC, and the District of Columbia. Recently, a high-level city delegation led by the then Mayor Kuma Demeksa paid a working visit to the Russian Federation from March 22 to March 28, 2011. The Addis Ababa delegation met and held talks on bilateral issues with governors of the cities of Moscow and St. Petersburg. Indeed, the purpose of the visit was to sign a protocol agreement with the city of St. Petersburg. The then Mayor Kuma Demeksa and the Deputy Governor of the city of St. Petersburg inked the protocol agreement.¹⁰³

Some regional governments pay high attention to trans-border diplomacy than micro Para-diplomacy due to their geographical location and the inevitability of such contacts. Foreign relation with adjacent countries is common for regions in most federations due to their physical proximity which enables them to have a stronger relationship with their neighbor than they have with the central government. More frequently, regions devoted their time in settling conflict with adjacent countries on the areas of low politics, such as conflict over

¹⁰¹interview with W/rt Kalkidan Girma, protocol official , department of domestic and foreign relation ,Addis Ababa City administration, Addis Ababa (4/11/2010).See also MoU entered between the two cities in 2004, MOFA report on regional states foreign relations

¹⁰² Ibid

¹⁰³ City Administration Foreign Relation Performance, Annual Report, P5.

grazing land, looting, unlawful transfer of goods, etc. They often host border development commissioners meeting.¹⁰⁴ For instance, Gambella regional state is known for developing this type of relation. Its foreign relation mainly focused on maintaining peace and security with the adjacent states of Sudan. This includes discussion on solution as to attacks, killings, and abductions of children, illegal movement of cattle, looting of properties and taking of weapons.¹⁰⁵ The Gambella Regional State and Jonqeli State of South Sudan meet to take actions and resolve attacks and lootings regularly.¹⁰⁶

Tigrai regional state too, mainly involves in strong relation with the adjacent state of Gedariff and Kessla of Sudan and maintains the peace and security, border trade in accordance with capital ceiling formulated by the federal government.¹⁰⁷ The Road that link Tigrai region with Kessela and Gedariff states of Sudan is under construction.

Amhara Regional State has also contact with Gedariff of Sudan; Oromia with Kenya border provinces.¹⁰⁸ It is common to see Borana child in the land of Kenya in search of water and grass for their cattle. More frequently, Borana *Abba Gada* enters to Kenyas' territory without any passport to visit Oromos in Kenya, or to mediate the conflict between Oromo pastoralist and that of Kenya. The Ethiopian currency and Kenya currency is interchangeably used in some town of the region and Kenya provinces. One may get surprise by the fact that

¹⁰⁴Interview with Ato Gezehagn Tilahun, Ministry of Federal Affairs, IGR Expert, Addis Ababa, 9/13/2010).

¹⁰⁵ Interview with Ato Assefa Niguse, Supra note 58.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

majority of the resident in this area use the Kenya line for their wireless phone.¹⁰⁹

5. OBSERVED CHALLENGES OF THE CURRENT DEVELOPMENTS

Some federations revised their federal constitutions and treaty making laws to empower their sub-national units with treaty making power and to ensure their representation in federation foreign policy and participation in the regional organization, international conference and internal organization partly to realize the federated constituent autonomy and to enable them to overcome the chilling winds of globalization.¹¹⁰

The Ethiopian federation which is unique in various aspects follows the USA paradigm by centralizing foreign relation competency but differ from it in absence of institutional and legal framework that secure regional state participation in formulation of federal policy. The country did not amend the treaty making procedure law which was adopted when the country was ruled by unitary system. The *de facto* recognition of regional participation in foreign relations of federation and regional diplomacy lacks legal frame work and regularity.

The so called *de facto* recognition, if taken seriously, it is on its infant stage that some regional states show a considerable incompetence and reluctance to involve in foreign relations. This could be evidenced by the fact that only five

¹⁰⁹ Personal observations of some border towns of Borana regions and informal talks with individuals from Borana zone.

¹¹⁰ The revised 1993 Belgium constitution accorded the federated entities to be the real actor in the international scene. The specific character of the Belgian system lies in the coexistence of two different federated entities: the regions and the communities. The three regions – the Wallonia, the Flemish, and the Brussels-Capital regions – are territorial entities, whereas the three communities – the French, the Flemish, and the German communities – reflect the cultural diversity of the country.

regional states involve on their own foreign relations and some regional states fail to involve in foreign relations. Regional states lack clear legal and institutional framework, awareness of their contribution in foreign policy for the country's foreign relation as a whole and benefit of constituent for themselves. That is why foreign relation is conducted arbitrarily, i.e. without plan and corresponding budget in some regions.

The current constituent diplomacy under the guise of sister city relations are usually undertaken under the supervision of the federal government and typically it is after the two countries agreed on the main areas that regional government takes step with its counter parts. It doesn't have direct impact on the substance of national foreign policy and embarked only with sub-national counterpart or cities whose countries have diplomatic relation with Ethiopia. Participation on international conference dealing on the area of their competency, opening mini-embassy and representation in international organization such as UNESCO, WHO, and regional organization like IGAD is not yet experienced by our regional states.

6. CONCLUSIONS AND REMARKS

Federalism and regionalization are the key factors for the raise and development of constituent diplomacy. In federal systems, competency is divided between the central government and component by the federal constitution. As there is no hard and fast rule as to which tiers of government should be empowered with what type of powers, there is dissimilarity among federations in dividing the powers between the tiers of government. In the field of foreign relation too, it is common to see variations among the federations.

In some federations, foreign policy is exclusively assigned to the center whereas in some other federations sub-national units have constitutional power

to participate in foreign relation as an extension of domestic competency or through representation in the federation foreign relations.

The dilemma in relation to foreign relation in federal polity is, whether it should be exclusively given to the federal government or should it be divided among the tiers of governments. And how the federal government could fairly reflect the divergent interest of sub-national unit's interest if the power to implement foreign policy is accorded exclusively to it and what mechanism should be employed to overcome the segmentation of foreign policy if foreign policy is divided between the tiers of government. So far, no political system has developed an effective process or institution to handle the sub-national government involvement in the international scene.

Traditionally, it is viewed that the central government monopoly over foreign relation is the right approach to promote and protect national interest, i.e., it enables the country to speak in one voice externally and for the implementation of international law which presume a unitary system. However, due to globalization and regional integration, the sub-national units' participation has become a matter of fact. In response to this development, international law seems to consider component units as actors in international relations though it is a *de facto* recognition.

Today, in most of federations, the federal constitution recognized the sub-nationals units' foreign relation. They usually take part in international conferences dealing with matters under their competency, conclude agreement, and open offices abroad representing their particular interest. In Ethiopia, the involvement of the regional states in foreign relations is a recent phenomenon. Constitutionally, foreign relation is the sole mandate of the federal government. However, there has been a *de facto* recognition for the states to undertake foreign relations. Regional states have been in contact with foreign embassies

residing in Addis Ababa, international organization, and cities of different countries, through twining without a legal framework. Regional governments also involved themselves in boundary bordering development, usually by sending their delegation with the federal representative. Trans-boundary para-diplomacy has become a common practice for the regional government. As a result of their involvement in foreign relation, regional governments managed to obtain various economic aids, technical, and capacity building assistance, etc.

Despite *de facto* recognition of constituent diplomacy, regional states are not able to manage their pace due to lack of expertise, planning, and institutional arrangement. Sub- national units in other federations, Ethiopian regional governments do not have offices and representatives abroad nor do they have any participation in international conferences and have no seat in international organization.

Hence, it is the remark of this writer that, in order to adopt robust federalism in country of diverse ethno-linguistic group through recognition of self determination of these ethnic groups, regional states should involve in the foreign relations. To this end, there should be a legal frame that confers the regional states with the power to involve in foreign relations and it should be stipulated in the Federal Constitution. So, Article 51(8) of the FDRE Constitution, which gives the federal government exclusive power on foreign policy and treaty making should be amended. The Federal Constitution should incorporate the principle of *intro infro externo infro* principle like that of Belgium and there shall be institutional set up to secure regional states involvement in federation foreign relations.