

# **Women Representation in Parliament: Comparative Analysis: Special Emphasis given to South Africa and Ethiopia**

**By**

**Awotash Alemu Tefera**

**A Thesis submitted in  
Partial Fulfillment of the  
Requirement for the Degree of  
Master of Legal Studies  
in Comparative Constitutional Law  
at  
The Central European University,  
Budapest, Hungary  
November, 2010**

## **ACKNOWLEDGMENT**

I am heartily thankful to my supervisor Csilla Kollonay whose encouragement, guidance and support from the initial to the final level enabled me to develop this thesis well.

I would like to record my gratitude to Professor Renata Uitz for her advice supervision and crucial contribution which made her the back stone of this thesis.

Many thanks go to Professor Susanne Baer for her constructive comments and advice. Professor Baer thank you for letting me use your library without which this thesis would not have been completed well!

It is a pleasure to pay tribute also to Professor Gar Yeing NG. I would like to thank her for her devoted advice which helped me to better build this thesis.

I would like also to acknowledge Cherer Aklilu and Emebet Endale for sharing their bright thoughts with me, which were very fruitful for shaping my ideas and thesis.

Words are not strong enough to express my appreciation to my fiancée Likawent Yeheyis whose dedication and financial support sustained throughout my stay in Budapest.

Lastly, I put forward my regards and blessings to all my family and friends who supported me in any respect during the completion of my thesis.

**Awotash Alemu Tefera**

# Table of Contents

ACKNOWLEDGMENT .....	i
I. Introduction .....	i
Chapter 1: Women Representation in Parliament.....	1
1.1. Introduction .....	1
1.2. Why Women representation? .....	3
1.2.1. Descriptive and Substantive Representation of Women.....	4
1.2.2. Representing Women Interest Argument .....	5
1.2.3. Justice Argument .....	10
1.2.4. Role Model Argument .....	13
1.2.5. Legitimacy of Political Institutions Argument .....	13
1.3. Factors for Unequal Representation of Women in Parliament.....	14
1.3.1. Lack Political Interest?.....	14
1.3.2. Dichotomy between Public and Private Sphere as a Setback for Women Representation in parliament 16	
1.3.3. Patriarchy.....	23
1.4. Conclusion and Recommendations.....	24
1.4.1. Conclusion.....	24
1.4.2. Recommendations .....	24
2.1. Introduction .....	26
2.2. Equality: General Overview .....	26
2.4. Affirmative Action ( Substantive Equality).....	35
2.4.1. Definition and Debates of Affirmative Action .....	35
2.4.2. Justice .....	37
2.4.3. Merit .....	40
2.5. Brief Background of Ethiopia.....	40
2.6. Affirmative Action under the Ethiopian and South African Constitution .....	41
2.7. Quota System.....	44
2.7.1. Methods of quota system.....	46
2.7.2. Quota System in Ethiopia and South Africa Comparative analysis.....	47
2.8. Conclusion and Recommendation .....	49
2.8.1 Conclusion.....	49
2.8.2. Recommendations .....	50
Chapter 3: The Role of Legal and Institutional Frameworks .....	52
3.1. Introduction .....	52
3.2. International and Regional Legal and Institutional Frameworks.....	52
3.3. National legal and Institutional Frameworks .....	57
3.4. The Role of Civic Organizations and Community Based Organization in enhancing women Representation .....	62
3.5 The Role of Political Parties in Increasing women Representation.....	64
3.6. Immerging Challenge on Implementing the Legal Frameworks of United Nations on Women Rights Instruments .....	66
3.6.1. Introduction .....	66
3.6.2.. Cultural relativism and Women Rights .....	67
3.7. Conclusion and Recommendations.....	i
3.7.1. Conclusion.....	i
3.7.2. Recommendations .....	ii
II. General Conclusions and Recommendations .....	vii
III. Resources .....	xi
Books.....	xi
Laws and Constitutional Court Cases.....	xiv

*“Freedom cannot be achieved unless the women have been emancipated from all forms of oppression. All of us take this on board that the objectives of the Reconstruction and Development Programme will not have been realized unless we see in visible practical terms that the conditions of women in our country has radically changed for the better, and that they have been empowered to intervene in all aspects of life as equals with any other member of society” Nelson Mandela*

## **I. Introduction**

Centuries have been counted since the need for gender equality between men and women has been discussed debated and advocated for. However gender disparity between men and women still exists in every sector including political life. This disparity is manifested among other things in terms of political representation in which the majority of women are still under-represented. Major feminists’ movements called for the end for patriarchy and emancipation of women from subordination for long. However gender inequality has been considered to be a natural phenomenon of public and private spheres. As such parts of the society still believe that the subordination of women is God given and cannot change. Nevertheless, the progress achieved in the respect of women rights entails women subordination is a result of power imbalance between men and women and it is an imposed burden on women.

Women representation is desired for many reasons, the major one being women are human beings and they deserve to participate in every aspect of life destined for human beings. The other major reason is that women have different experience from men and have different identity that needs to be represented in parliament. Women constitutes half of the population in their number and the legitimacy of liberal political theory of states require that women need to form part of the seats in parliaments. If a political institution opts out women representatives, the modern legitimacy rested upon the will of the people will contradict itself because the will of the people includes the will of men and women.

Women representation is also justified under the principle of equality to which every political institution claims to be committed for. To sum up women representation is of a paramount importance in encouraging increased women representatives in parliament . Such assertion has a lot to do with producing role models for the rest of women to aspire for involving in higher decision makings.

Given these claims , women representation is still an issue of debate around the globe.

The major reasons for absence of equal representation of women in parliament are considered to be the ideology of patriarchy in which the women's place is determined to be home while the public sphere has been left to men. Many feminists assert that the division made between private and public sphere as a result of patriarchal ideology is the deep rooted setback for preventing women from involving in public sphere including politics.

Among other things the major effective mechanisms used for increasing women representation in parliament are , political knowledge about women representation, effective campaigning, increasing the number of women parliamentarians, legislations on equality including gender sensitive electoral law and affirmative action through quotas.

This thesis is particularly committed for improving women representation in Ethiopia. Ethiopia is a country where women have different class, ethnic group and educational status and each of them have their own particular experiences on the basis of their multiple identity. When I will be dealing with increasing the number of women representatives through affirmative measures in parliament, the issue of intersectional

needs is also to be dealt with.

In this thesis, I will be dealing with the major issues and points of views on women representation in the world. The situation of women representation in Ethiopia in comparison with South Africa, and India depending on the best experiences that Ethiopia needs to share because firstly South Africa is considered as a leading country in terms of increasing the number of women representatives in parliament whereas in Ethiopia the number of women representatives in parliament currently is 21%. In addition, South Africa is a country located in the same continent with Ethiopia and the major cultures that African countries share are similar. Therefore, the success that South Africa achieved towards increasing the number of women in parliament may be a great lesson to Ethiopia.

The Ethiopian constitutional provisions on affirmative action have a number of gaps that may inhibit effective implementation of affirmative action measures to increase women representation. Therefore, affirmative action measure will be dealt with in relation to the definitions that are believed to be effective by major affirmative action scholars and jurisdictions. The practical application of affirmative action measures through quota systems will also be discussed in a comparative analysis.

In this thesis I will also deal with the major international, regional and national legal instruments and institutions and the support provided by these institutions and legal regimes in relation to the increment of the number of women participation in politics in particular its role towards South African and Ethiopian governments. The committee on Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) is one of the most useful international institutions which in particular deal

with issues of all aspects of women through providing concluding remarks and recommendations. Both Ethiopia and South Africa are signatory states to CEDAW and have ratified the treaty.

Recent international human rights including women rights are facing with major challenges from the cultural relative scholars. I believe that those challenges may negatively affect the effort international human rights are making towards women representation in parliament. The major arguments for and against cultural relativism will be presented.

### **Purpose of this thesis**

This thesis aims at making a contribution to the effort being made to increasing the number of women representatives in parliament through analyzing the experience of South Africa in having high women representation in parliament and the recommendations and resources of international scholars, legal regimes and institutions as it relates to Ethiopia. Awareness about the current number of women participation in parliament helps change the attitude of the population towards voting for women representatives, therefore, this thesis may be used as a resource in relation to Ethiopian situation for creating awareness raising mechanism about the need and rationale to have women representatives in parliament. In addition, the existing gaps in the Electoral law and affirmative action will be analyzed so as to contribute to the process of increasing women representatives in Ethiopia.

**This thesis will consist of three major chapters.**

Under the first chapter, the feminist philosophy on women representation, the need to women representation, factors inhibiting women representation and suggested solutions to overcome low representation of women through analyzing the experiences of South Africa and in relation to international legal instruments is discussed.

The second chapter deals with theoretical background of affirmative action, effective use of affirmative action to increase women representation in parliament through quota in line with the experience and best practices that Ethiopia can use of will be analyzed. In addition this chapter also deals with issues of intersexionalities in increasing the number of women in parliament through affirmative action measures. Analyzing issues of intersectional is of a particular importance to Ethiopia for the aforementioned reasons. Lastly, in the third chapter the role of international and national institutional and Legal Frameworks in enhancing women representation will be discussed. The last chapter will as well bring out the issue of cultural relativism as a challenge for women rights.

In each chapter, conclusions and recommendation which would be helpful to Ethiopian situation will be provided



## Chapter 1: Women Representation in Parliament

### 1.1. Introduction

Despite the increasing number of women participation in high paying jobs, the participation of women in the political arena had been still a problem.<sup>1</sup> Until the end of last year, except Ruanda where fifty six percent (56%) of the parliament members are women, no legislatures in the world have fifty percent (50%) women in parliament.<sup>2</sup> In fact women participation in politics began to increase in 1990s as a result of women's successful lobbying and politicizing of their absence from higher decision makings.<sup>3</sup> In 1999 the participation of women in Scandinavian countries estimated to be thirty six (36%) whereas, in Nordic countries the number was estimated to be thirty six point four to forty two point seven percent (36.4 -42.7 %)<sup>4</sup>

History has shown that the participation of women in Africa has been a very slow process mainly because Africa has took years to reconstruction and nation building process after the end of colonization.

In Africa, in 1980s women were not able to participate in parliamentary representations due to the hostile patriarchal structure which prevented women from entering into

---

<sup>1</sup> Pamela Paxton and Sheri Kunovich, *Women's Political Representation: The Importance of Ideology, Social Forces*, the University of North Carolina press, (2003), Vol.82, No.1, Pp.87

<sup>2</sup> Women in National Parliament, December (2009), <http://www.ipu.org/wmn-e/classif.htm>

<sup>3</sup> Sawer, Marian, *Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability*, International Political Science Review, Research School of Social Sciences, Australian National University ,(2000), Vol.21, No.4, Pp.361

<sup>4</sup> Geisler, Gisela, *Women and the remaking of Politics in Southern Africa, Negotiating Autonomy, Incorporation and representation*, Nordiska Afrikaintitue , Spain, (2004), Pp.9

parliament.<sup>5</sup> Although the representation of women in parliament constituted to be four percent (4%) in 1999 in Africa, it was only achieved in Southern Africa.<sup>6</sup> The progress made since then in South Africa has been tremendous; currently in South Africa women in parliament constitute 44.5% which is relatively higher and it ranked 3<sup>rd</sup> in the world while in sub Saharan Africa the average percentage of women representation constituted fourteen percent (14%), which is way behind.

In Ethiopia among other things, women were not considered as capable of decision makings as result the number of women in Parliament constitutes only 21.9% of the total representatives in 2010.<sup>7</sup> One can say that the change brought out during the last decade in participation of women in the legislative assemblies has been relatively slow in Ethiopia in particular and the Sub Saharan Africa at large.

Lack of commitment for increased women representation and absence of sufficient political knowledge about women representation have been some of the problems for the slow process of women participation in politics. Political knowledge about the actual representation of women and awareness about women representation in the society can shape the political behavior of the public and change the attitude towards women representatives<sup>8</sup>

---

<sup>5</sup> Ibid, Pp.9

<sup>6</sup> Ibid, Pp.9

<sup>7</sup> Ibid, Pp. 9

<sup>8</sup> Sanbonmatsu, Kira ,Gender-Related Political Knowledge and the Descriptive Representation of Women , Political Behavior, Vol.25, No.4, (2003), PP369)

## 1.2. Why Women representation?

During medieval period and late nineteen century, political representation was perceived as geographical representations whereby representatives were supposed to channel districts and later on it became a mechanism to protect the interests of property owners<sup>9</sup>

However the later suffrage movements fought for a different notion of representation where representatives needed to represent ideologies and interest of groups in the society than mere physical characteristics and land.<sup>10</sup> Recently representation is defined as “acting in the interest of the represented in a manner responsive to them”<sup>11</sup>. In this sense representative should not act contrary to the interest of the represented unless there is an explanation for the contrary decision<sup>12</sup>. Political representation involves questions about actions, what needs to be done in a particular context for those who are represented and therefore questions of political representation are questions that require facts and value judgments about what the represented requires.<sup>13</sup>

It is asserted that political representation is a means to achieve the purpose in which the interests of women are taken into consideration in parliamentary decisions.<sup>14</sup> It is also argued that women representation is an end by itself in which women as human beings take their fair share in political decision makings through representing their proportion of

---

<sup>9</sup> Squires, Judith , Gender in Political Theory, Oxford Polity Press , (1999) , Pp.201

<sup>10</sup> Ibid, Pp.201

<sup>11</sup> Pitkin,H.F , the Concept of Representation, Los Angeles: University of California Press, (1999), Pp..209

<sup>12</sup> Ibid Pp. 209

<sup>13</sup> Ibid, Pp. 2012

<sup>14</sup> Ibid, Pp.2012

the society.<sup>15</sup>

In general scholars divide women representation in to two based on its rational: these are descriptive and substantive representations of woman. The following paragraphs are devoted to present the meanings, types of representations and the different purposes and arguments about these types of women representation.

### **1.2.1. Descriptive and Substantive Representation of Women**

The term descriptive representation denotes representation on the basis of common characteristics and shared experiences, for instance, representing someone on the basis of gender or class can be categorized as descriptive representation of women.<sup>16</sup> Descriptive representation of women is referred to the physical existence of women representatives in parliament until their number reflects their proportion in the population<sup>17</sup>.

Unlike descriptive representation of women, substantive representation of women is concerned with the rationale behind women representation and answers the questions why do women need to be represented by women while men can represent women<sup>18</sup>. Substantive representation of women deals with the values and experiences of women that can serve as input for the political development and completeness unlike the mere

---

<sup>15</sup> Ibid, Pp. 2012

<sup>16</sup> Mansbridge, Jane, Should Blacks Represent Blacks and Women Represent Women?, A Contingent yes, Journal of Politics, Vol.61, No.3, (1999), Pp. 629

<sup>17</sup> Tremblay, Manon and Pelletier, Rejean, More Feminists or More Women?, Descriptive and Substantive Representations of Women in the 1997 Canada, International Political Science Political Review, Vol.21, No.4, (1997), Pp.381

<sup>18</sup> Ibid, PP.381

physical existence of women in parliament.<sup>19</sup> Substantive representation of women is the major concept of representation in feminist theory in which the major assertion is that women by reason of their gender and as a second class citizens can better represent women and protect their interests in national decisions makings.<sup>20</sup>

The following sections deal with some of these points of views and rational for women representation in depth on next page.

### **1.2.2. Representing Women Interest Argument**

As mentioned above, the assertion that women interests would be better represented by women is subject to debate. From functionalist perspective, it seems that the question of women representation is not the question of the physical existence or descriptive representation of women in parliament. Rather having women in parliament is a question whether the interest of women which needs to be well represented and recognized in all decision makings are taken well account of<sup>21</sup>. According to this view, men although are different from women in their sex, can represent women as long as the interests of women are well included in the representation<sup>22</sup>. Theses scholars further argue that while it is true that women have common interests to be represented, it may not be necessarily true that the mere fact that there are more women in parliament can represents women's

---

<sup>19</sup> Ibid, PP.382

<sup>20</sup> Tremblay , Manon and Pelletier, Rejean, More Feminists or More Women? Descriptive and Substantive Representations of Women in the 1997 Canada, International political science political Review, Vol.21, No.4, (1997), Pp.382

<sup>21</sup> Pitkin,H.F , the Concept of Representation, Los Angeles, University of California Press, (1999), Pp..209

<sup>22</sup> Ibid, Pp.209

interest better.<sup>23</sup> Therefore, according to this view, it is absurd to take for granted that women can better take the issues of women in to account in parliament and ensure the portion of women rights while men cannot do so. However these scholars admit that the capacity of men, having different biological setup and experiences from women, to represent the interests of women can also be suspected.<sup>24</sup>

Therefore, this loophole that is, the capacity of men to understand well the issues of women opens the door to believe that for many reasons women better represents women. This conclusion takes us to the feminist school of thought in which women representation in parliament has much more functions than representing the mere interests of women. In this regard, the first school of thought puts forth if increasing women come into higher decision making institutions including representation in parliament, other women will also be encouraged to have self confidence and be able to say that they are also capable of doing what they aspire for including gaining positions in the higher political matters.<sup>25</sup> In other words, women representation produces role model women to other women.

The other school of thought maintains that the mere numerical equal representatives of women and men in the legislative assemblies is a symbol of impartiality and fairness.<sup>26</sup> According to these scholars, political justice begins from providing equal opportunity for men and women to participate in the public matters that affect their interests.

---

<sup>23</sup> Sawyer, Marian, Parliamentary Representation of Women, From Discourses of Justice to Strategies of Accountability, International Political Science Review, Marian, Vol.21, No.4,Pp.361

<sup>24</sup> Ibid, Pp.162

<sup>25</sup> Kudith, Squires, Gender in Political Theory, Cambridge and oxford: Polity Press, (1999), PP. 205

<sup>26</sup> Ibid PP. 205

Other scholars argue that women representation requires sameness in identity.<sup>27</sup> In other words the identity of women to be represented and representatives are the same and therefore, the representatives having the same identity to the represented will better be protected.<sup>28</sup> For these scholars formal presence of women in parliament is not by itself sufficient. Women as group members need to represent and promote the interests because they are in better position to seriously take into account the needs of those who have identical identity<sup>29</sup>. The last argument has a lot to do with the most accepted rationale maintained by many scholars . This is because for some people, the core value behind representation of women is that women as a group have common interests to be represented.<sup>30</sup> Women have common interests in areas such as division of labor common responsibilities in private and public life<sup>31</sup>. Women and men have different relationships and experiences on pregnancy, child birth and other biological makeup.<sup>32</sup> These biological differences are also accompanied by unbalanced division of labor between men and women.<sup>33</sup> Therefore, women as a group in general have a lot of common interests to be commonly represented. Most of the common interests of women are derived from their biological identity.

The identity sameness among women is the major difference from men<sup>34</sup>. Since men do

---

<sup>27</sup> Sapiro, Virginia, When are Interests Interesting?, The problem of Political Representation of Women, Cambridge and oxford: polity Press, (1999), Pp 161

<sup>28</sup> Ibid, Pp. 162

<sup>29</sup> Ibid, Pp.162

<sup>30</sup> Ibid, pp.162

<sup>31</sup> Ibid, Pp.162

<sup>32</sup> Ibid, Pp.162

<sup>33</sup> Ibid, Pp.162

<sup>34</sup> Ibid, Pp.162

not hold those identities they will not be in a position to fully understand women.

I contend that all the arguments maintained by different scholars are complementary and necessary justifications for women representation because the end achieved by women representation is not sufficient rather both the means and end results achieved by women representation are equally important. As far as I am concerned women by way of possessing the identities that other women have can better represent the interests of women. Similarly, women representatives may encourage others and make the society believe that women can do what others do and may better address the common interests of women in the higher decision makings.

Whereas there are feminists who argue that identity is fragmented and changing congregates, according to this view, identity is multi dimensional and dynamic over time as opposed to homogenous identity<sup>35</sup>.

For them, women as an individual has multiplicity of experiences because each woman may belong to different groups depending on her age, class, ethnic origin and many others.<sup>36</sup> Therefore, for all other group, there are different expectations emerging from different groups<sup>37</sup>. Looking at groups as having diversified identities helps us to recognize that individuals experience oppression or discrimination for many other reasons other than being just a woman.<sup>38</sup> Therefore, women as a group have to be considered as having

---

<sup>35</sup> Mateo Diaz, Mercedes Representing Women?, Female legislatures in West European Parliaments, (2005), Pp.20

<sup>36</sup> Ibid, Pp.20

<sup>37</sup> Ibid, Pp.20

<sup>38</sup> Ibid, Pp.20



heterogeneous identities that stems from intersections with other factoring elements such as ethnic origin or class.

Heterogeneity could also result from the hierarchy that individuals give to each of their belongingness.<sup>39</sup> For example a woman might give a priority to her ideologies than sex identity or gender. This point is interestingly elaborated by a philosopher Elisabeth Badinter in one of her debates she states “I feel closer to a man who shares my values than a woman who does not”.<sup>40</sup> It is obvious that this woman has given a priority to her values than her gender.

For instance women in Africa like any other groups of women in the world, have also common interests that need to be represented by women. Most of African States including South Africa and Ethiopia are traditional patriarchal state. The role of women in higher level political decision is very limited because the role of women is perceived to be limited to household chores. In fact, there is a strong stereotyping perpetrated towards women .the society believes that women are incapable of being political leaders. One can argue that the situation in Africa can only be changed if the victims of these domination and oppression are represented by those who have similar experiences and interests taking into account these intersectional issues.

The multiplicity of identity of women who are already in power and those who are represented has not been taken into account in considering women participation in politics. There are numerous ethnicity and political opinion, multiplicity of identity can influence the effort made to increase women participation in politics and in representing

---

<sup>39</sup> Ibid, Pp.20

<sup>40</sup> Ibid, Pp.20

their interests in Africa. Particularly in Ethiopia there are more than 80 ethnic groups having distinct identity culture and interest.

Like other countries, women in Ethiopia as a group share common identity as members of their group; however, they are from different ethnic origin and cultural background. In addition, women hold different political opinions from those who are in power. For some of them ethnic origin could be a priority than sex identity. For others, political view is more crucial than sameness in sex. Therefore, representation of women, may fail to address the interest of women if it does not take into account all those factors.

### **1.2.3. Justice Argument**

Women representation, scholars argue from the justice perspective can be seen as equal opportunity for men and women. In addition, women representation facilitates the utilization of human resources and the talent that women have to contribute the society.<sup>41</sup> Catharine MacKinnon philosophically puts the exclusion of women on certain labor works as original, imposed and imagined.<sup>42</sup> According to MacKinnon, the only original difference is the fact that women are able to gestate children.<sup>43</sup> The imposed reality as opposed to original difference shows that the majority of women are forced to segregate to the lower level jobs.<sup>44</sup> Thus, the imposed reality is what is constructed by the society about the domestic role of women. This thesis will explain in detail the issue of

---

<sup>41</sup> Sawyer, Marian, Parliamentary Representation of Women, From Discourses of Justice to Strategies of Accountability, International Political Science Review, Vol.21, No.4,Pp.361

<sup>42</sup> MacKinnon, Catharine Difference and Dominance on Sex Discrimination, (1984), Pp.84

<sup>43</sup> Ibid,Pp.84

<sup>44</sup> Ibid,Pp.84

opportunity in chapter two.

The Beijing Platform for Action 1995 which is one of the major influential international legal instruments provides aforementioned justifications and also provides “women’s equal participation in decision making is a demand for simple justice or democracy in addition to be seen as a necessary prerequisite for women’s interests to be incorporated”.<sup>45</sup> Convention on the Elimination of All forms of Discrimination against Women. (CEDAW) Article 7 also calls upon the attention of signatory states that State parties to the convention to make sure that women have equal footing in public life and participate in policy making and higher political sphere without any discrimination.

Women representation in parliament is not a question of equality and impartiality issue it is also a question of utilization of resources because women having different experiences and knowledge contribute to the political development. For instance in South Africa the contribution of women in drafting the current South African Constitution was significant.<sup>46</sup>

Both the Ethiopian and South African constitutions deal with equality of women in all

---

<sup>45</sup> United Nations Fourth World Conference on Women, Beijing Declaration and Platform for Action, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995). Para. 181

<sup>46</sup> Manzin, Mavivi Myakayaka I, Women Empowered, Women in Parliament in South Africa, International Idea, Women in parliament in Stockholm, (2002), Pp.1

aspects of lives including the participation of women in politics.<sup>47</sup> In terms of representation of women in parliament South Africa is the leading role model in the world mainly because gender equality in political representation has been one of the major focuses in South Africa since the drafting of the 1996 constitution.

In this respect Nelson Mandela once mentioned *“Freedom cannot be achieved unless the women have been emancipated from all forms of oppression. All of us take this on board that the objectives of the Reconstruction and Development Programme will not have been realized unless we see in visible practical terms that the conditions of women in our country has radically changed for the better, and that they have been empowered to intervene in all aspects of life as equals with any other member of society”*

Whereas, in Ethiopia, despite the fact that the Constitution declares that women have equal right in public and private life, Ethiopia is one of the countries where women representatives in parliament is still unsatisfactory.

South Africa has a proportional representing system whereby seats in the parliament were allotted to the parties on the basis of their percentage of the vote.<sup>48</sup> As a result of successful lobbying made at a national conference in South Africa, it has become a requirement that in each political party at least one third of members need to be women.

Accordingly, in the 1994 election out of the 400 seats 111 were allotted for women.<sup>49</sup>

The parliamentary women’s group was also established in South Africa and one of its

---

<sup>47</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995

<sup>48</sup> Republic Of South Africa, Republic of South Africa Initial Report to CDAW Committee, Compiled by the Commission for Gender Equality, 1998-2008, PP.44

<sup>49</sup> Ibid, Pp.44

major functions is to assist the parliament to take the issue of women in its daily agenda.

Whereas in Ethiopia, the representation system is majoritarian whereby the house of peoples Representatives are elected on the basis of the majority of votes cast in single member constituencies.<sup>50</sup>

#### **1.2.4. Role Model Argument**

As mentioned above and according to this point of view, it is believed that the presence of women in parliament serves as a role model for other women.<sup>51</sup> Without any doubt the presence of women in parliament encourages women to aspire towards becoming higher decision makers. This argument highlights the ability of women to make higher decision makings if the opportunity is given to them. Women representation also plays a vital role in pulling other women into high political decision making institutions. For instance in South Africa, women parliament members were able to bring increasing women in parliament because they were in a position to tackle the setbacks that inhibit women from political participation.<sup>52</sup>

#### **1.2.5. Legitimacy of Political Institutions Argument**

The other justification for women representation is related to the question of legitimacy of legislature. Facts show that women constitute fifty percent of the population in many

---

<sup>50</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 53

<sup>51</sup> Sawyer, Marian ,Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability, International Political Science Review, Vol.21, No.4,Pp.361

<sup>52</sup> Manzini, Mavivi Myakayaka Women Empowered , Women in Parliament in South Africa, International Idea, Women in parliament in Stockholm , (2002), Pp.1

countries. If women are opted out of being part of representatives of the society, the legitimacy of the legislature becomes questionable.<sup>53</sup>

### **1.3. Factors for Unequal Representation of Women in Parliament**

Study shows that the under-representation of women in parliament is a result of two major reasons which are supply and demand of women candidates.<sup>54</sup> Since the legislative candidates are taken from those groups of the society who are highly educated, it fails to accommodate women because the majority of women in many countries are not educated.<sup>55</sup> In practice, this factor is true for example in Ethiopia candidates of parliament are either educated or influential leaders of the society. However the fact that political representation requires high level of education is also controversial. A number of factors are mentioned by scholars for the under-representation of women in parliament. The following are some of the arguments:

#### **1.3.1. Lack Political Interest?**

There are also a number of arguments about why women are underrepresented? Some scholars assert that women representation is low because women are not interested in politics.<sup>56</sup> This scholar further argue that even in recent times, very insignificant numbers of women are interested in politics and very few women are involved in party politics.<sup>57</sup>

<sup>53</sup> Irving, Helen, *Gender and the Constitution, Equity and Agency in Comparative Constitutional Design*, Cambridge University Press, New York, (2008), Pp. 109

<sup>54</sup> Pamela, Paxton and Kunovich, Sheri, *Women's Political Representation, The Importance of Ideology, Social Forces*, Vol.82, No.1, (2003), Pp.89

<sup>55</sup> Ibid, Pp89

<sup>56</sup> Kudith ,Squires, *Gender in Politcal Theory*, Cambridge and oxford: Polity Press, (1999), PP. 206

<sup>57</sup> Ibid ,PP.196

Others argue that the major reason for women to be less interested in politics lies on the fact that the political system fails to represent their interests.<sup>58</sup>

Other scholars on the other hand argue that women are not represented in politics because they do not have the contemporary political knowledge, but not because they are disinterested<sup>59</sup>. The assertion that women lacks political interest has very much to do with the Gilligan Carol psychological analysis of relational feminists on the “different voice of women and men” in which she asserts that women are in a disadvantaged position because women and men are different and women chose to remain in the domestic sphere<sup>60</sup>. These relational feminists offer domesticity for women and further assert that women are less tied to the virtue of public business while they are nurturing tender and attained high morality.<sup>61</sup> The relational feminists claim on the domesticity of women and disinterest to public business was better reflected in a case Equal Employment Opportunity Commission (EEOC) v. Sears, Roebuck & Company. It was argued that the number of women in the Sears Company was small not because the Company discriminated against rather women were not interested to work in public employment companies.<sup>62</sup> Although the assertion that women are not sufficiently represented because the political system fails to address their interest seems a valid argument, it is absurd to argue that women are disinterested in politics.

This way of argument may be grounded on the domesticity of women and gender

---

<sup>58</sup> Geisler, Gisela, *Women and the Remaking of Politics in Southern Africa, Negotiating Autonomy, Incorporation and representation*, Nordiska Afrikaintitue, Spain, (2004), Pp.9

<sup>59</sup> Ibid, Pp.9

<sup>60</sup>. Williams, Joan, *Deconstructing Gender*, Michigan Law Review, Vol. 87, No. 4, (1989), Pp. 806

<sup>61</sup> Ibid, Pp.806

<sup>62</sup> Ibid, Pp.102

stereotyping. Such assertions may also result in further discrimination and stereotyping against women. The Gilligan Carol analysis is not accepted any longer because it believes in women subordination.

The contemporary feminist theories present a number of valid argument for under representation of women in parliament. The following sections will deal with some of the major reasons for under representation of women.

### **1.3.2. Dichotomy between Public and Private Sphere as a Setback for Women Representation in parliament**

The claim of feminists is centered on the need to change the separation or reconsideration of the dichotomy between public and private spheres.<sup>63</sup> Public sphere in this sense is meant the political arena which is under the control of the State and State has the power to interfere whereas the private sphere is connected with what is civil society in which individuals enjoy freedom without the interference of the state.<sup>64</sup> According to Squires, in addition to the public private division there is also a third category of complex tripartite division which is private individual in which the civil society plays in the middle.<sup>65</sup> When the civil society is private as correlated with the State and public, it is correlated with the private individual.<sup>66</sup> When the correlation of civil society is with the State, family is located within the civil society sphere having its own dichotomy with the civil society, whereas the dichotomy between family and civil society also exists.<sup>67</sup>

---

<sup>63</sup> Squires, Judith, *Gender in Political Theory*, Cambridge and Oxford Press, (1999), Pp.1

<sup>64</sup> Ibid, Pp.25

<sup>65</sup> Ibid, PP.26

<sup>66</sup> Ibid Pp.25

<sup>67</sup> Ibid,Pp.25 in the concept of public and private dichotomy, the civil society represents market whereas



For feminists, this theoretical dichotomy explains the place of family and the status of women in both state and private spheres. However the exclusion of family within the civil society and State non intervention in the family is not accepted phenomenon by feminists because State non intervention has resulted in the lag of the family behind the development of market or civil society.<sup>68</sup> Literally speaking women are placed in the family or domestic sphere where State does not interfere in the individual free space of the society. Whereas the family not only enjoys the subordination of women but also it is not allowed to be furthered and developed unlike the market.

Public and private dichotomy as related to the family is traced back to the emergence of political theories by John Lock and Rousseau in the seventeen and eighteen centuries. In those political theories it has been successfully argued how the authority of the State can be legitimate.<sup>69</sup> State legitimizes its power on social contract or the will of the sovereign people.<sup>70</sup> However, feminists assert that this theory of legitimacy grounded on social contract or the will of the people implicitly constituted patriarchal order.<sup>71</sup>

Both early and contemporary theories of State focused on equality and liberty which is

---

the public state. It has been long since the state has intervened and regulated the market although there were free market theories and the state was excluded from the market. As a result the market has developed and state regulates the market to avoid domination. Whereas family has been considered as autonomies and free from state intervention and as a result it has been the place where there is still domination and subordination.

<sup>68</sup> Olsen, Frances, *The Family and the Market, a study of ideology and Legal Reform*, Harvard Law Review, Vol.96 No.7, (1983) , Pp.1514

<sup>69</sup> Pateman, Carole, *the disorder of women, Democracy, Feminism and Political Theory*, Polity Press, (1989), Pp.33

<sup>70</sup> Ibid, Pp 33

<sup>71</sup> Ibid, Pp.33

deemed to be the ideals of a society. For instance Thomas Jefferson called this ideal of humankind as the pursuit of happiness<sup>72</sup> while one of the recent theorists Bernard Crick pointed out that fraternity with liberty is the greatest ideal of humankind.<sup>73</sup> Feminists' appreciation of these theories rely on these themes of theories. These philosophers did not commit their theories to all groups of society rather they were only meant to apply to patriarchal brotherhood- fraternity.<sup>74</sup> Pateman argues that the social contract is the origin of or birth of civil society, at the same time social contract is the source of separation between public and private sphere and she further argues that social contract is the source for the disorder of women and the society at large<sup>75</sup>. In addition, social contract theory implicitly contributed to the proliferation of patriarchy among the society today.<sup>76</sup> The meaning of civil society is created through contract and which means "everything beyond the domestic or private is civil society or public sphere."<sup>77</sup> The division made by the social contract theory had a political significance in a way that the public is politically relevant while the domestic is not.

Later on, this division between the two spheres has been extended into threefold that is public vis a vis private and within the private family vis a vis market.<sup>78</sup> However the meaning of the division between family and the rest of social life is still unnoticed because the original making of civil society through social contract is patriarchal while it

---

<sup>72</sup> United States of America, Articles of Confederation, 1777, Preamble

<sup>73</sup> Pateman, Carole, *The Disorder of Women: Democracy, Feminism and Political Theory*, Polity Press, (1989), Pp.41

<sup>74</sup> Ibid, Pp.41

<sup>75</sup> Ibid, Pp.45

<sup>76</sup> Ibid, Pp.45

<sup>77</sup> Ibid, Pp.34

<sup>78</sup> Ibid, Pp.34

is the crucial center for the feminists' critic.<sup>79</sup> according to Pateman , one of the major features of social contract theory is its less attention on the meaning of fraternity while much attention is given to equality and liberty <sup>80</sup> The conception of fraternity does not take into account the composition of individual through the patriarchal separation of public and private sphere.<sup>81</sup> Thus absence of much discussion as to what constitutes fraternity had implicitly excluded the role and fair benefit of women in this political theory. If this power inequality is not regulated by the State, family will remain to be remote to politics. State non intervention into the family also results the absence of women in the political sphere because the prevailing patriarchy within the family covers their eyes from seeing politics.

Similarly in Africa, in pre-colonial African Societies, women had been subordinate to men. This phenomenon was also originated from economic production and legal relations.<sup>82</sup> Scholars assert that in pre colonial Africa, although women were not totally excluded from the political sphere, their power was nominal.<sup>83</sup> However, it is argued that the colonization of Africa eliminated the pre existing notion of women participation in holding power as a whole.<sup>84</sup>

---

<sup>79</sup> Pateman, Carole, *The Disorder of Women: Democracy, Feminism and Political Theory*, Polity Press, (1989), Pp.34

<sup>80</sup> Ibid, Pp.34

<sup>81</sup> Ibid, Pp.35

<sup>82</sup> Geisler, Gisela, *Women and the Remaking of Politics in Southern Africa, Negotiation Autonomy, Incorporation and Representation*, Nordiska Africanstitutite, (2004), Pp.19

<sup>83</sup> Ibid, Pp.19

<sup>84</sup> Ibid, Pp.19

Geisler asserts that, the public and private dichotomy in Africa was originated from the colonial States during the colonization era.<sup>85</sup> The subordination of women in Africa therefore, was proliferated in 1980s as a result of the colonial State targeting men for improved productions while the role of women was neglected in public. As such women were only required to devote themselves to the family and become proper housewives.<sup>86</sup> As a result since then, women were subject to subordination and oppression.<sup>87</sup> Nevertheless significant changes have been made in the world at large recently about the position of women. The fight against the root of patriarchy is encouraging while women in Africa are still shouldering subordination and violence.

The marginalization of women in post colonial era is partly the result of illegitimacy of states on the will of the people. Post colonial Africa continued to be authoritarian rule of government and the legitimacy of the power of the government was nation building and reconstruction of states.<sup>88</sup> Consequently, the legitimacy of African states has been poverty and illiteracy reduction.<sup>89</sup> Few developments have been recorded on human rights in the last three decades; however women participation in politics is still seen as challenging the work of God and nature. Therefore, like the Western world, the division of family Vis avis other public spheres and absence of sufficient access to politics has been a problem in Africa as well.

---

<sup>85</sup> Ibid, Pp.19

<sup>86</sup> Ibid, Pp. 19

<sup>87</sup> Ibid, Pp.19

<sup>88</sup> Prempeh, Kwasi , Africa's Constitutionalism Revival, False Start or New Dawn?, International Journal of Constitutional Law, Vol. 5, No. 469, (2007),Pp. 6

<sup>89</sup>Ibid, Pp. 6

The Ethiopian women's role history has a separate dimension because Ethiopia has never been colonized. Absence of comprehensive studies on the roles of women in the Ethiopian history adds up on the complexity of the problem.

As it was mentioned above, women are underrepresented in Ethiopia like other sub-Saharan countries. Women suffer from similar subordination and public and private dichotomy. Ethiopian governors had been emperors and kings for centuries. The participation of women in public sphere was not however totally condemned. At times of war for example women mostly provided food and drink, they were not fully allowed to participate in war and rulings thus their role was believed to be at home. The dichotomy between private and public sphere also existed in the Ethiopia where the role of women was limited to the household chores only. Although it is hard to trace the history of private and public dichotomy in Ethiopia, history shows that traditionally women were subordinate to their husbands even in instances that men had multiple wives and concubines. The role of women is measured in terms of their home management and child rearing.<sup>90</sup> The majority of women are not included as members of leaders of the community associations. Even though some legal reforms have been made in relation to the role of women, the change is limited to the domestic role of women.<sup>91</sup> Like other African countries the role of women in the public sphere is still very minimal.

<sup>90</sup> Library of Congress Country Studies, the Role of women in Ethiopia, <http://womenshistory.about.com/gi/dynamic/offsite.htm?site=http://lcweb.loc.gov/rr/frd/>

<sup>91</sup> Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia , The Revised Family Code Proclamation of 2000, Federal Negarit Gazeta Extraordinary Issue No. 1/2000, Addis Ababa, 2000, section 50

, Article 50

The improvements made in the Federal Democratic Republic of Ethiopia Revised criminal code still needs improvement as regards to their sexual freedom.<sup>92</sup>

In Africa the core of feminists claim which is the boundary of public and private sphere has gained focus as women organizations and governments started to believe that national policy needs to be favorable for women .<sup>93</sup> The society has been slowly changing its attitude on the role of women. The role of women in the public sphere has significantly changed in the world. This is manifested by few women politicians in power in the world. Among others, President Dilma Rousseff, the president of Brazil, President Pratibha Patil, president of Argentina, President Doris Leuthard, president of Switzerland, Chancellor Angela Merkel, Germany Chancellor and from Africa , President Ellen Johnson-Sirleaf, president of Liberia are some of the pioneer of women in the world.

However, equal representation of women in parliament and the subordination of women is still a problem all over the globe. In Ethiopia significant numbers of the society do not believe in the importance of women representation in parliament. Ineffective State intervention on the family matters is still a huge problem. Ethiopia is a country with Ethnic Federalism system. The current constitution provides unlimited right to develop culture for every ethnic groups.<sup>94</sup> Many of the cultures of these ethnic groups not only

---

<sup>92</sup> Ibid, Article 49

<sup>93</sup> Geisler, Gisela, Women and the Remaking of Politics in Southern Africa: Negotiation Autonomy, Incorporation and Representation, Nordiska Africanstitutite, (2004), Pp. 17

<sup>94</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995  
, Article 39

violate the rights of women but also discourages women involvement in decision making at all levels. For instance, in the majority of community associations women are not entitled to be leaders, therefore, efficient State intervention in the family is crucial to liberate women from subordination and increasing their participation in the public affairs.

In this regards, the major claim of feminists is not to erode the distinction between public and private spheres. It is rather to remake the dichotomy in a way that is sensitive to gender identities in public and private sphere.<sup>95</sup> To redraw the line between public and family distinction, the role of the State intervention is crucial.

### **1.3.3. Patriarchy**

In every political history the notion of ideology is a fundamental melody. In general, absence of equal representation of women is a result of patriarchal ideology about the power relationship between men and women<sup>96</sup>

A study demonstrates that the more a society has religious or cultural justifications to preserve patriarchy the less women would be in a position to hold political offices because religious and cultural practices reflect the society's attitude.<sup>97</sup> As it was mentioned in the public and private dichotomy section, patriarchy has emerged implicitly as a political ideology. Although, recent political theories do not explicitly deny the rights of women as part of human beings, the early patriarchal ideology has been changing as a result of the feminist's hard work. Therefore, continued gender analysis in the political

---

<sup>95</sup> Squires, Judith, *Gender in Political Theory*, Cambridge and Oxford Press, (1999), Pp.46

<sup>96</sup> Paxton, Pamela and Kunovich, Sheri, *Women's Political Representation, The Importance of Ideology* Social Forces, Vol.82, No.1, (2003), Pp.91

<sup>97</sup> *Ibid*, , Pp.91

theory and philosophy coupled with practical legislations and policies may change the patriarchal ideology.

## **1.4. Conclusion and Recommendations**

### **1.4.1. Conclusion**

Needless to say under representation of women in parliament requires all-encompassing intervention at all levels. Although equal representation of women in parliament is a problem everywhere in the world, the situation of sub-Saharan Africa including Ethiopia is appalling. Women representation is justified in several grounds. Inter alia, women need to represent women because they share similar identity, women representatives in parliament may serve as role models, women have a lot of common experiences among themselves as a result women representatives may understand the needs of women better than men. However due to several reasons the number of women in parliament has remained to be unequal. In particular in Africa, although many of the Constitutions declare about women representation, participation in public sphere, the issue of women representation has been considered secondary because in the last few decades African governments have been committed to nation building and reconstruction of economy, poverty and illiteracy eradication. In addition, the public and private dichotomy emerged from the West has also prevented furthering of women rights. The number of women representatives in Ethiopia has been less than other African countries such as South Africa and Rwanda.

### **1.4.2. Recommendations**

- Awareness raisings and public education about women representation needs to be



given to the society at large.

- The history of the role of women in the public sphere in Ethiopia is not well documented and therefore it calls upon to do more in this regard.
- Political ideologies and theories need to analyze and mainstream gender as part of their theories.

## **Chapter 2: Affirmative Action**

### **2.1. Introduction**

It has been long since adopting affirmative action to remedy the gender inequality between men and women in political representation has been called for however, affirmative action is still facing major challenges all over the world. This chapter, up on providing general overview on equality, it will specifically be dealing with meanings of affirmative action, and affirmative action measures to promote equal political representation of men and women through quota system. This chapter will also deal with the major issues and arguments revolving around affirmative action and quota in the South African and Ethiopian Constitutional contexts .

The gaps inhibiting effective implementation of affirmative action in Ethiopia and good practices from other countries such as South Africa and India will also be analyzed and the gaps of affirmative action in Ethiopia will be pin pointed.

### **2.2. Equality: General Overview**

Although it is hard to define the term equality in the abstract, equality is the ideal of every society which is implicitly incorporated in the rule of law, human dignity and other human rights. The notion of equality exists in many international legal regimes including the Universal Declaration of Human Rights 1949, the International Convention on Civil and Political Rights (ICCPR) 1966, the International Covenant on Economic Social and Cultural Rights (ICESCR) 1966 and Convention on the Elimination of All

forms of Discrimination against Women (CEDAW) 1979 and its Optional Protocol.<sup>98</sup> State parties to Convention on the Elimination of all forms of Discrimination against Women are bound to promote equality between men and women in social, cultural and political spheres.<sup>99</sup> In its General Recommendation, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) committee also noted that the States obligation under Article seven encompasses all aspects of public administration and the formulation and implementation of policy at national and local level, which includes political representation at a national level.<sup>100</sup> At a regional level, the African Charter on Human and Peoples' Rights enshrines the principle of non-discrimination on the ground of sex.<sup>101</sup>

Section nine of the South African Constitution provides equality clause in its Bill of Rights. Particularly, section nine (9), reads as “everyone is equal before the law and has the right to equal protection and benefits of the law”.<sup>102</sup> Under the title of equality, the constitution further prohibits that the state should not unfairly discriminate directly and indirectly against anyone on one or more grounds and among other things, discrimination

---

<sup>98</sup> United Nations General Assembly, International Covenant on Civil and Political rights, Resolution 2200A, December 16, 1966

<sup>99</sup> United Nations General Assembly, Convention on the Elimination of All forms of Discrimination against Women, 1989, Article 7

<sup>100</sup> United Nations CEDAW and the Gender Dimensions of the HIV/Aids Pandemic, United Nations Development Fund for Women, (2001), New York, Pp31

<sup>101</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), Entered into Force, Oct. 21, 1986, Article 2

<sup>102</sup> Statutes of the Republic of South Africa, Constitutional Law, Constitution of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18 December, 1996 date of commencement : 4 February, 1997, Chapter 2 Bill of Rights, 18 December, 1996, section 9

on the basis of sex has been prohibited.<sup>103</sup>

Similar provision is enshrined under the Ethiopian Constitution. Article 25 of the constitution.<sup>104</sup> Nevertheless, all of the above legal regimes do not specifically define the term equality. In order to better understand the notion of equality, it is worth starting with the definitions provided by the early philosophers.

Theoretically, many philosophers have committed a portion of their effort to understand the core of equality in different ways.<sup>105</sup> Like treatment of like persons, as a concept of conventional equality was provided by Aristotle.<sup>106</sup> Aristotle's understanding of equality was a moral virtue in the form of justice.<sup>107</sup> Although he has done the basic job in defining equality, his understanding of equality is no more acceptable. It has in fact attacked by several contemporary philosophers and feminists. The locus of the criticisms rely on the fact that Aristotle does not provide a reference point or standard for sameness or difference in order to be treated same or different.<sup>108</sup> In addition, the Aristotle theory reaffirms the existing social inequalities and domination and subordination. It is further said that Aristotle in his equality definition presupposes that those who are

---

<sup>103</sup> Ibid, section 9

<sup>104</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 25

<sup>105</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February, 1997 , Chapter 2 Bill of Rights, Article 9 (3)

<sup>106</sup> Ethica Nicomachea,113 (J.L.Ackrill §J.O. Urmson eds. §W.RossTrans, (1980)

<sup>107</sup> Ibid

<sup>108</sup> MacKinnon, Catharine , Sex Equality, the University of Michigan Law School , Michigan, (2007), Pp.7

unlike could be treated unlike whereas those who are like can be treated like.<sup>109</sup> In other words slaves are treated equally only with each other. Therefore, slaves and Lords are treated within the society differently and are not equal although both are human beings.

According to MacKinnon, the Aristotelian approach, although have been followed by many legal systems, it would perpetuate and reinforces inequality and patriarchy between men and women.<sup>110</sup>

Jean -Jacques Rousseau had a different understanding about equality. His approach, in understanding equality focused on identifying two types of inequalities in the society . The first inequality for Jean -Jacques Rousseau is natural whereas the second inequality is political.<sup>111</sup> Accordingly, Jean -Jacques Rousseau believed that there is natural inequality between men and women.<sup>112</sup> Per se his notion of natural inequality between men and women was specifically explained in the *discourse on the origin of inequality*. He stated that the location of women's sex organ determines her power and subordination, as it is a natural fate that women are created to be subordinate to men.<sup>113</sup>

Rousseau's work on the "theme of double birth", puts forth his belief in the then school of thought that women are created as supporter of men.<sup>114</sup> For him men are born free and equal however, women can only get involved in public life so long as men need them so and provided that their involvement in public live is done to support men.<sup>115</sup> For

---

<sup>109</sup> Ibid, Pp.7

<sup>110</sup> Ibid, Pp.11

<sup>111</sup> Scott, Jean Wallach, Only Paradoxes to Offer, French Feminists and the Rights of Man, (1996), Pp. 49

<sup>112</sup> Ibid, Pp.49

<sup>113</sup> Rousseau , Jean Jacques , Emile Dent and Sons , London, 1972), Pp.356

<sup>114</sup> Ibid, Pp.356

<sup>115</sup> Gatens, Moria, Feminism and philosophy, perspectives on Difference and Equality, Indiana University Press, Great Britain, (1991), Pp.13

Rousseau women 's role is located in private sphere and domestic matters only.<sup>116</sup> The core of his value in understanding equality is that the domesticity of women does not entitle her to be equal , rather women are created to facilitate the private and public recourses for men therefore, by virtue of social contract women have agreed to be obedient to men.<sup>117</sup> According to Rousseau women are simply moving natural properties created to help men. Rousseau's concept of equality is most criticized by feminists. Particularly, his notion of contract was severely criticized by Catharine MacKinnon . One of her core criticism relays on his theory that one can consent to be a slave to others.<sup>118</sup> If women becomes slaves to men by virtue of social contract, the contract fails to be a valid contract, as contract requires a will that two contractants give freely and on equal footings.<sup>119</sup> The notion of quality of human beings maintained by Rousseau, thus skips out women.

In the contemporary context, equality can be defined as same treatment of men and women before the law on the basis of his/her equal worth as human beings. Hence, woman as human beings cannot be left out in the regime of equality in any legal context today even if its definition may vary depending on the understanding of its meanings. Feminists further divide equality into two categories, Formal and substantive equality. The contemporary jurisprudence has also in support of the Feminists division regarding Formal and substantive equality and both recognized that formal equality is not sufficient if every groups of society having different position in the community needs to

---

<sup>116</sup> Ibid, Pp.18

<sup>117</sup> Ibid, Pp.18

<sup>118</sup> MacKinnon, Catharine, Sex Equality, the University of Michigan Law School , Michigan, (2007Pp.11

<sup>119</sup> Ibid, Pp. 11

be treated equally.

## Formal Equality

The Canadian Charter on the Rights and Freedoms in its section 15 states that: Every individual is equal before and under the law and has the rights to equal protection and equal benefit of the law without discrimination and, in particular discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.<sup>120</sup>

The Ethiopian Constitution Article 25 consists of a similar provision and it reads “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.”<sup>121</sup>

Both of the constitutions provide the notion of formal equality. Therefore, formal equality can be defined as non discrimination on any ground.

## Substantive Equality

Substantive equality unlike formal equality provides a broader view of equality. A

---

<sup>120</sup> Canadian Charter on the Rights and Freedoms , Part of I of the Constitution Act, 1982, proclaimed in force April 17, 1982. Amended by the Constitution Amendment Proclamation, 1983, SI/84-102, effective June 21, 1984. Amended by the Constitution Amendment, 1993 [New Brunswick], SI/93-54, *Can. Gaz.* Part II, April 7, 1993, Effective March 12, 1993 Assented to March 29th, 1982, Section15

<sup>121</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August,1995, Article 25

“substantive equality approach recognizes patterns of disadvantage and oppression exist in society and requires that law makers and government officials take this into account in their actions”.<sup>122</sup>

It examines “the effects of legislations within its social context to ensue that laws and policies promote full participation in society by everyone, regardless of personal characteristics or group membership”.<sup>123</sup>

Therefore substantive equality can be viewed as synonym for affirmative action measures.

Substantive equality is recognized under the South African and Canadian constitutions.

The South African Constitutional Court Jurisprudence provides comprehensive definition on substantive equality in the case of Hugo and Harksen. In the case of Hugo the constitutional court had the chance to entertain substantive equality. In this case, Hugo and Others brought a case on the ground of “unfair discrimination” against the president.<sup>124</sup> The plaintiffs claimed that the President’s executive claimed that a number of women and children need to be released from prison as part of the amnesty programme.<sup>125</sup> Hugo, the person bringing the claim of ‘unfair discrimination’, said that the President by its action discriminated against men.<sup>126</sup> The President on the other hand

---

<sup>122</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February, 1997, section 9 (2)

<sup>123</sup> Our Equality rights in the Charter ,<http://www.ccpcj.ca/e/rights/rights-charter.shtml>

<sup>124</sup> President of the Republic of South Africa and Another v Hugo (CCT11/96) [1997] ZACC 4; 1997 (6) BCLR 708; 1997 (4) SA 1 (18 April 1997), Para.3

<sup>125</sup> Ibid, Para.3

<sup>126</sup> Ibid, Para.3



claimed that women were needed to take care of their children and that is the reason for women to be released however men do not have the same reason to be released<sup>127</sup>. The court upheld the presidential act and said that while the act is prima facie discriminatory on the basis of sex, the discrimination was not however ‘unfair’.<sup>128</sup> In doing so, the Constitutional Court of South Africa gave further interpretation of section nine (9) of the Bill of Rights on substantive equality.

The notion of substantive equality was also explained by the Constitutional Court in the case of *Harksen* as follows, “is there differentiation between people or categories of people in any measure or governmental action?”<sup>129</sup> If there is ‘differentiation’, the second question needs to be whether there is a rational connection between the differentiation and the legitimate government purpose.<sup>130</sup> However, if there is no rational connection between the legitimate government interest and the differentiation, then there is a violation of section 8(1) of the Interim Constitution.<sup>131</sup> if on the other hand the differentiation and the legitimate government interest has a rational connection the government measure is justified and does not amount a breach of section 8 (1).<sup>132</sup>

The term equality has not been sufficiently defined either in the Ethiopian constitution or the Court jurisdictions. The Ethiopian equality clause appears to be an empty and

---

<sup>127</sup> Ibid, Para. 3

<sup>128</sup> Ibid, Para. 53

<sup>129</sup> Ibid, Para. 53

<sup>130</sup> Ibid, Para. 53

<sup>131</sup> Ibid, Para. 53

<sup>132</sup> Jeanetter Harksen V. Lane No & others cct T9/97 (1997) 2Acc 12: 1997 (11) BcLR 1489, 1998 (1) SA. October 1997, Para. 42

abstract term.<sup>133</sup> The approach used by South Africa in defining and application of equality can be an important experience that Ethiopia may adopt.

### 2.3 The Role of Feminists in the Equality Regime

Many scholars and philosophers have called for the necessity of equality between women and men if development is to be achieved fully. In this regard, feminists' role is worth dealing with.

The effort that feminists' made on equal opportunity and equal treatment of women as humans can be traced back to the early feminists' works such as Mary Wollstonecraft's who was fighting for the inclusion of women in the market and she was one of the influential theorists who challenged the belief on the exclusion of women in public sphere by Jean Jacques Rousseau. Other many Feminists such as Patman and Catharine MacKinnon's work can also be sited as the prominent and pioneer one. Despite the fact that these philosophers have successfully been advocating for increasing women participation in the public sphere<sup>134</sup>, equality rights has not attained its desired results

Their contribution particularly focused on the equality policies governments use. They have demonstrated in their advocacy work that the government policies are proven to be ineffective for they are based on just society with the principle of Aristotelian justice coupled with the Laissez fair labor market be it in politics or employment opportunities.<sup>135</sup> As a matter of fact, even in places where affirmative action measures

<sup>133</sup> Western, Peter, *The Empty Idea of Equality*, Harvard, Law, Review, Vol. 95, 1882, Pp. 537

<sup>134</sup> Rees, Teresa, *Mainstreaming Equality in the European Union*, Education, training and Labor Market Policies, London and New York, (1988) Pp.29

<sup>135</sup> Ibid, , Pp.26

is permitted, equality between men and women in public sphere ,specifically political representation has a long way to go apart from few countries who have achieved equality between representation in parliaments, such as Rwanda Sweden and South Africa. However, the role of feminists, in bringing out the current changes should be recognized.

One can argue that one of the major problems which inhibits the effectiveness of affirmative action (substantive equality) is the controversy in adopting affirmative action and in believing in women.

The following sections deals with the definition and controversies revolving around affirmative action.

## **2.4. Affirmative Action ( Substantive Equality)**

### **2.4.1. Definition and Debates of Affirmative Action**

Affirmative action, although full of controversies has been believed by many to do away with the existing inequality and societal hierarchies between men and women. Some legal systems have adopted it by way of quota , as a solution to remedy these hierarchies and the subordination of women.

Affirmative action and quota are interrelated and intertwined concepts. In order to realize the purpose set for affirmative action, one of the major measures used is quota be it for political representation or any other sector .Therefore, In order to understand what quota is, it is also crucial to begin with defining what affirmative action means.

Affirmative action is a concept designed to realize justice among different groups in a society. The definition of affirmative action is controversial. Different people understand affirmative action in a different way. One of the definitions given to affirmative action in

1990s and well describe affirmative action in a positive manner is the following.

*“Affirmative action is a generic term for programmes which take some kind of initiative either voluntarily or under the compulsion of law, to increase, maintain, or rearrange the number or status of certain group members usually defined by race or gender, within a larger group. (1990:77)”*<sup>136</sup>

This definition is crucial to understand affirmative action from the notion of women subordinate position in a society. In addition this definition presupposes that affirmative action can be used both for past and present exclusion of women from political life or in other different fields.

The definition of affirmative action has also been enshrined under Article Four (4) of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) as a mechanism to compensate the disadvantaged groups in a society.

The wording of the definition given by CEDAW Article four (4) (1) is subject to controversy on several grounds. Article four was one of the subjects of debate at a meeting held to establish a general recommendation for Article four of Convention on the Elimination of Discrimination against Women (CEDAW). During this meeting the Rapporteur noted that the terms such as preferential treatment and positive discrimination should be avoided and rather than showing the current disadvantages of women, emphasis needs to be given to the existing advantages of men and the impairment of women's rights<sup>137</sup>

The South African way of putting affirmative action on the other hand can be cited as a good example of framing it. It states “in order to promote the achievement of equality ,

<sup>136</sup> Bacchi, Carol. the politics of Affirmative Action, Women Equality & Category, Politics, (1996), PP.x

<sup>137</sup> Bacci, Carol , Edited by Dahlerup , Drude , Women, Quotas and Politics, Pp.35

legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination would be taken.”<sup>138</sup>

Affirmative action has been and still facing major challenges and resistance from the proponents of liberal equality advocates who believes that affirmative action is against the principle of equality. However this approach overlooks and to the extent denies the normative and cultural realities of the society.<sup>139</sup> In this respect, among others, the following arguments are presented below.

### 2.4.2. Justice

Justice in this context is referred to as distribution of political power on equal basis and if power is not distributed on the basis of equality, it results in injustice. “Justice should refer not only to distribution, but also to the institutional conditions necessary for the development and exercise of individual capacities and collective communication and cooperation.”<sup>140</sup>

It is a good approach to start from the premise that affirmative action measures for political representation cannot be taken without violating the principles of equality on the basis of merit<sup>141</sup>. For many people affirmative action is considered as a mechanism to increase injustice or bring about reverse discrimination. I support the view of Iris Young

---

<sup>138</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February, 1997 , section 9 (2)

<sup>139</sup> Young, Iris Marison Justice and the Poitics of Difference. Prenecton: Preneston , University Press, (1990), PP.193-201

<sup>140</sup> Young, Iris, Justice and the Politics of Difference, Princeton University, Press, New Jersey, 1990 Pp.39

<sup>141</sup> Ibid, Pp.39

about how affirmative action needs to be understood. Affirmative action according to her should be understood from the perspective of oppression and domination instead of discrimination because if affirmative action is understood as discrimination, it leaves us with a huge debate as to how to reconcile positive discrimination with the principles of non discrimination.<sup>142</sup> Instead of focusing on discrimination and try to justify that, it is better to admit that affirmative action involves discrimination and start from that premise. In light with this, the controversy can be settled if we understand affirmative action with an assumption that preferential treatment assumes that there is unconscious bias , prejudice and disadvantage against women and therefore it is used to conscious preferential practice that favor to women members or women as a group of different kinds of ethnicity on the grounds of their membership<sup>143</sup>. This concept of distribution of justice presupposes formal treatment as opposed to the notion of equality of result. The premise of this argument is that equal opportunity can be achieved once women are liberated from domination. However equality does not necessarily exist just because formal barriers are removed. The challenge lies on the fact that explicit discrimination as well as complex pattern of hidden barriers still precludes women from getting their fair share opportunity to influence in every dimension including political influence.<sup>144</sup> As Irish Yong, Carol Bacci also argues that affirmative action should not be understood as positive discrimination or preferential treatment rather affirmative action needs to be understood as to do justice.<sup>145</sup>

---

<sup>142</sup> Young, Iris, *Justice and the Politics of Difference*, Princeton: Princeton University Press, (1990) Pp.197

<sup>143</sup> Ibid, Pp. 195

<sup>144</sup> Dahlerup, Drude, *Women in Parliament Beyond Numbers*, International IDEA, (1998), PP 95-108

<sup>145</sup> Carol Bacci, edited by Drude Dahlerup, *Women, quotas and Politics*, Pp. 35

One of the other major arguments raised as part of justice, on affirmative action is that it subordinates the individual's rights to the benefit of the society at a larger level.<sup>146</sup> On the other hand affirmative action is defended on several grounds. Affirmative action aims at keeping status quo through opportunity provisions based on a number of assumptions, for those who have been historically excluded. To better elaborate this point it is helpful to mention the assertion some of the scholars make. As mentioned, although affirmative action is condemned on the basis of individual benefit, to begin with women formerly excluded have suffered as the results of the policy made in the past and in some instances at present and therefore, they are victims of injustice.<sup>147</sup> On the other hand members of groups that are excluded have been the beneficiary of the systems and policy of injustice even though they are not the ones who did the injustice<sup>148</sup>. As a natural consequence, the members of the group who have suffered injustice for lack of opportunities need to be compensated whereas the members of the group who have benefited from injustice need to compensate.<sup>149</sup> In short the existing inequality of opportunities and unequal treatment is the fruit of injustices made and being made, therefore, the tree needs to be changed for the new fruit to change - injustice to justice. If not injustice continues to produce unequal opportunity and treatment. Given the opportunity imbalances, equal treatment or equal distribution of opportunity in political representation to all groups in a society would be not only perpetuates inequality of women and men in political representation but also gender blind approach.

---

<sup>146</sup> Cohen, Marshal, Nagel Thomas, and Scanlon, Thomas, Equality and Preferential Treatment, Princeton University Press, New Jersey, (1977), Pp. VIII

<sup>147</sup> Ibid, Pp. IX

<sup>148</sup> Ibid, Pp. IX

<sup>149</sup> Ibid, Pp. IX

### 2.4.3. Merit

The second argument condemns affirmative action on the ground that rewards and positions whether in the political arena or other sphere should be distributed on the basis of merit<sup>150</sup>. According to Iris Young, on the other hand the legitimacy of merit is grounded on superior and subordinate division of labor in a liberal democratic society<sup>151</sup>. For those who believe that opportunity is embedded on the basis of merit, affirmative action subverts and interferes in the fair competition principle because individuals need to be assessed and qualified for rewards or positions on the basis of their educational background and to those most qualified with the greatest aptitude and skill for performing the works those positions are deemed to require.<sup>152</sup> The fallacy on this argument lies on the fact that this approach brings and perpetuates women subordination and oppression because it disapproves the fact that certain groups such as women or ethnic minorities or blacks have undergone though and are still suffering from cultural biases and prejudice. For example it is impossible to take a person who for years has been tied with the chains of shuffle and liberated to ask to compete with others who have been in a system and structure that favors and supports them.<sup>153</sup>

## 2.5. Brief Background of Ethiopia

Ethiopia is a country with ethnic federalism system with more than 80 different ethnic

<sup>150</sup> Young, Iris, *Justice and the Politics of Difference*, Princeton: Princeton University Press, (1990), pp. 196

<sup>151</sup> *Ibid*, Pp.200

<sup>152</sup> *Ibid*, PP.201

<sup>153</sup> Bacchi, Carol, *The politics of Affirmative Action, Women, Equality & Category Politics*, (1996) PP.34



groups with their own culture. Article 39 of the constitution gives unlimited power to each state to develop and exercise their culture as a group. Almost all of the Ethiopian nation and nationalities culture puts women in a subordinate and exploitative state. In Ethiopia each state has its own Community Based Associations in all cultural settings where in any of them women are not elected as representatives for those traditional gatherings. Those community Associations also do reinforce the subordinate position of women in Ethiopia. It is a great challenge to reconcile the commitment of the constitution to improve the situation of political participation and representation of women on one hand<sup>154</sup> and to maintain, keep and develop state's culture on the other hand.

## **2.6. Affirmative Action under the Ethiopian and South African Constitution**

Affirmative action has been adopted in Ethiopia with the issuance of the 1995 constitution and the 1993 National Women's policy.

Affirmative action enshrined under the Ethiopian constitution Article 35 which provides *"The historical legacy of inequality and discrimination suffered by women in Ethiopia taken into account, women, in order to remedy this legacy, are entitled to affirmative measures. The purpose of such measures shall be to provide special attention to women so as to enable them to compete and participate on the basis of equality with men in political, social and economic life as well as in public and private institutions"*

---

<sup>154</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of Peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 25

In light of the above definition, the Ethiopian approach lacks a number of elements that affirmative action needs to consist of. As it has been defined affirmative action presupposes the past as well as present operation and prejudice.<sup>155</sup> However, this provision fails to address the present operation and domination that women suffer from. The provision seems assuming that there is no present operation whereas there is blatant present operation and domination perpetrated towards women and women as multiplicity of identity. It could also be argued that, the fact that the term discrimination is employed as a base for affirmative action raises a lot of debates and controversies which also could be a setback to practical implementation of affirmative action.

Under the South African Constitution, affirmative action is enshrined as part of the effort to promoting of equality. Article 9 states that for the purpose of promoting quality, unfair discrimination may be taken<sup>156</sup> in the South African Constitution, preferential treatment or affirmative action has been provided to promote the ideal of equality in a general manner. Measure that are taken for the greater advantage of the society in general for a certain group, albeit unfair discrimination, is considered as just and equality rather than an exception to equality. Affirmative action is enshrined as a tool to promote equality as a way to equality guarantee.<sup>157</sup> The approach taken by the framers of South African Constitution can be taken as a solution to put a stop on the controversies raised against affirmative action on the grounds of reverse discrimination and

<sup>155</sup> Bacchi, Carol, the Politics of Affirmative Action, Women Equality & Category, Politics, (1996), PP.x

<sup>156</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February, 1997, Article 9(2)

<sup>157</sup> MacKinnon, Catharine, Sex Equality, the University of Michigan Law School, Michigan, 2007, Pp.41

justice.<sup>158</sup> One can safely assert that the South African Constitution is one of the best model of legal regimes to achieve equality of opportunity and treatment. As such, the number of women parliamentarian in South Africa are the living witnesses and manifestation for the effectiveness of the Constitution in guaranteeing equality of opportunity.

Like the Ethiopian Constitution, the South African Constitution also provides guarantee of cultural rights. It provides that everyone has the right to practice his/her culture, religion and speak their languages.<sup>159</sup> In most cases, cultural rights violate the rights of women. For instance in Ethiopia as mentioned, almost all cultural practices reinforces the subordination of women. The tension between women rights and culture is however solved under the South African Constitution. It is stated that the cultural rights cannot be exercised in a manner that are inconsistent with the Bill of Rights enshrined under the Constitution.<sup>160</sup> Equality, including affirmative action or fair discrimination therefore, precedes over cultural rights under the South African Constitution. What would be the effect in Ethiopia? Although the constitution provides that government takes action in order to eliminate harmful traditional practices, only few harmful traditional practices are incorporated under the Criminal Code. Can the criminal code provisions be considered as the details of limitation of cultural rights enshrined under the constitution? The constitution does not provide clear limitation on cultural rights in case it contradicts

---

<sup>158</sup> Ibid, Pp.41

<sup>159</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 ,Date of commencement : 4 February, 1997, Section 31(1)

<sup>160</sup> Ibid, Article 31(2)

with women rights. Can the constitutional provision which stipulates that State takes action to eliminate harmful traditional practices be considered as a general limitation to human rights ? If that would be considered as true, would it be possible to prohibit secession if it is requested on the grounds of cultural rights that violates the rights of women under the Constitution? Culture has been seen as one of the major setbacks to implementing the rights of women in general. Studies show that in some countries women belonging to these cultures and religion are faced with a dilemma of choosing between their culture or ethnicity and protection of their rights for culture collides with feminism.<sup>161</sup> Feminists in third world are victims of these dilemma between defending the misrepresentation of their or revealing in the description of the practices that are deemed to be disreputable and in an attempt to affirm the validity of western feminism.<sup>162</sup> As a result division is also created about affirmative action among third world feminists.

Particularly in Ethiopia, absence of clear provision adds up to the existing challenge and perpetuation of women subordination. It can be argued that in order to effectively promote equality between men and women, clear constitutional provisions like the South African one plays a crucial role.

## 2.7. Quota System

Like affirmative action quota is also condemned on several grounds such as merit, justice, reverse discrimination etc. those women who are in favor of quota argue on the

---

<sup>161</sup> African Gender Studies, Reader Edited by Oyeronke Oyewumi, Palgrave Macmillan , United States of America, ,(2005). Pp.71

<sup>162</sup> Ibid, Pp.71

same grounds as that of affirmative action. Some women further argue those persons who argue that opportunity for political representation needs to be given on the basis of merit, have narrowly interpreted merit because the definition of merit does not necessarily work for political representation.<sup>163</sup> Political representatives need to constitute the members of each group's society including, literate and illiterate. If political representatives are elites such as lawyers and political scientists, the representation fails to address other segments of the society.<sup>164</sup> Quota is also subject to debate among scholars, policy makers and within feminists. In particular electoral quota aims at increasing the number of women in parliament by way of affirmative action.<sup>165</sup> In some legal systems quotas are placed under the electoral system.<sup>166</sup>

Unlike affirmative action which aims at equality in terms of results, quota is used as a means or process to achieve equality.<sup>167</sup> In other words, quota is taken as a synonym for opportunity<sup>168</sup> Although quota is also subject to controversy, it is asserted that it is easily defended when it comes to political representation because political representation is different from employment quotas in a way that the gender can be considered as merit as a given government needs to reflect the voices of all population.<sup>169</sup> Like affirmative action, not all women including feminists support quota. Both quota and affirmative

---

<sup>163</sup> Bacci, Carol Edited by Dahlerup, Drude, Women, Quotas and Politics, (2006), Pp.34

<sup>164</sup> Ibid, Pp.34

<sup>165</sup> Bacch, Carol Edited by Dahlerup, Drude, Quotas and Politics, Rutledge Tailor Franchise Group, London and New York, (2006), Pp.33

<sup>166</sup> Ibid, Pp.33

<sup>167</sup> Ibid, Pp.34

<sup>168</sup> Ibid, Pp.34

<sup>169</sup> Ibid, Pp. 34

action are designed to promote and increase women representation.<sup>170</sup> The difference between quota and affirmative action relies on the fact that affirmative action is a political commitment that governments or political parties declare while quota is a mechanism or a way to implement affirmative action.

### **2.7.1. Methods of quota system**

There are different methods of quota system and they are presented below: The first method is the presence of centralized statute that prescribes the minimum number of elected representatives. For instance statute prescribes that women must make up 50% of the proportional representation.<sup>171</sup> This method is preferable because it avoids subjectivity and promotes transparency. In addition as it is a centralized statute, each party including the ruling party will be bound by it. The India method of quota system is enshrined under their constitution. This quota system is effective than the statutory system because the apportionment of quota is established at the level of the constitution which is not subject to easy amendment.<sup>172</sup>

Secondly there could be a statute on election that requires each party to recruit a certain number of women. This system works to legal systems that have proportionate representation.

The third form of quota method is that political parties may have their own informal quotas for women as parliamentary representatives. This is the most common form of

---

<sup>170</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February :97,Section, 9(2)

<sup>171</sup> Dahlerup, Drude, Women in Parliament, Beyond Numbers, , International IDEA, (1998) Pp.98

<sup>172</sup> The Constitution Seventy Fourth Amendment Act, The Indian Constituion (1992) , Section 243T, Article 1-6

mechanism to increase the participation of women in political arena for instance South Africa uses this form of quota system.<sup>173</sup>. Ethiopia also uses this method of quotes system.

### **2.7.2. Quota System in Ethiopia and South Africa**

As aforementioned, affirmative action is enshrined under Article 35 of the Ethiopian Constitution. This provision declares the commitment of the constitution to promote gender equality though among other things, affirmative action. Ethiopia is a party to International legal Instruments including CEDAW. Article 7 of CEDAW reiterates that Nation States should take appropriate measures to ensure that women votes and to be eligible for election on equal basis with men. In Ethiopia there is quota neither under the Constitution nor by a statute. The Electoral Proclamation No. 111 incorporates affirmative action to the minority ethnic groups in Ethiopia. Where a certain ethnic group is considered to be minority according to the lower House on the basis of their number, those groups will be represented by additional 20 seats in the parliament.<sup>174</sup> However, the proclamation is totally silent about the measures that should be taken to bring women representation though quotas. Rather what is in place is that voluntary quota system introduced by the majority party in the parliament i.e. Ethiopian people Liberation Democratic Front. This quota has introduced 30% seat for women candidates. Having a voluntary quota system is not a problem by itself. However if there is no strong mechanism to implement is, the quota system can be easily curtailed as there is no possibility to enforce it. This situation of voluntary system in Ethiopia has left the

---

<sup>173</sup> Ibid, Article 1-6

<sup>174</sup> Federal Democratic Republic of Ethiopia House of Peoples Representative Consolidated Version of the Election Laws of FDR Ethiopia, proclamation, NO. 111/199 With Amendments made by Proclamation, No. 438/2005 , Article 15(3)

effectiveness of the quota system controversial. In addition, it is not clear as to whether this 30% quota system works for Federal, Regional or at all levels. Thus this shows that the government 30% quotas system is nominal and subject to easy abuse.

In fact, the South African quota system is also voluntary quota system. However the number of women in South African Parliament is by far greater than that of Ethiopia. It can be argued that although South Africa follows voluntary quota system, under the Local Government Municipal Structure Act, it has mentioned that each party must make sure that the women representatives are listed evenly in their list of representatives<sup>175</sup>. One can also argue that proportional representation system the South Africa has can contribute to the advancement of women representation<sup>176</sup>. In addition, the South African initial country report on CEDAW demonstrates that the majority political party, the African National Congress (ANC) which adopted 30% quota to increase women representation can be cited as the major tool for the present successes.<sup>177</sup> Whereas Ethiopia follows the simple majority representation system therefore, unless the party voluntarily recruits women by way of quota, there will not be a way to implement increased women representation in parliament. Therefore, in Ethiopia one can argue that although affirmative action is enshrined under the constitution for the ethnic minority and women, women's right to affirmative action is not strongly implemented unlike the ethnic minority which has been brought into the ground by the Election Proclamation.

<sup>175</sup> Republic of South Africa, Local Government Municipal structure Act, CAPE TOWN, No. 19614, 18 December, 1998, Article 11(3)

<sup>176</sup> Ibid, Article 11(3)

<sup>177</sup> General Assembly, Convention on the Elimination of All forms of Discrimination Against women, Summary Report of 387<sup>th</sup> Meeting, Initial Report of South Africa, 1998, Para. 8



## 2.8. Conclusion and Recommendation

### 2.8.1 Conclusion

Affirmative action is a mechanism designed to bring about increased political representation of women. Affirmative action is subject to a number of arguments and criticisms on the basis of justice and merit. Understanding affirmative action from the perspective of oppression and domination helps to settle the debates that inhibit the effective functioning of affirmative action. The Federal Democratic Republic of Ethiopia envisages that affirmative action measures will be taken in order to bring about gender equality in Ethiopia. However the Constitution is focused on past oppression and domination and does not take into account present domination. In addition, the Constitution looks at affirmative action from discrimination perspective and this is subject to different controversy from merit and justice perspective. As affirmative action is declaration of commitment to realize gender equality, quota system should be used to implement it. Like affirmative action, quotas system is subject to criticism on the basis of the fact that people should be in a position to elect and quota is against this principle election. However, since quotas system is used to nominate candidates only and people have still opportunity to elect their representatives, the controversy can be easily settled. In order to nominate women on the basis of quotas system, there also must be a good method of quotas system and to this effect there are a number of methods that different countries use.

The Ethiopian system is party quota system and is subject to different interpretation. As a result, it is easily susceptible to abuse.

On the other hand the South African Constitution provides affirmative action as a mechanism to promote equality. The wording of affirmative action, according to the South African Constitution, is based on the understanding of the purpose set for it which is not to give opportunity to past disadvantaged rather affirmative action is to do justice and create environment where men and women can enjoy equality of opportunity. Unlike the Ethiopian Constitution, the South African one does not mention about past discrimination or exclusion and compensation for that. This approach also puts an end to the controversies about identifying persons who have standings to enforce affirmative action in the courts where cases appear before courts. Therefore, the Ethiopian system needs to be reframed in order to solve the issues arise such as the mentioned ones.

Although CEDAW with its Committee is one of the major legal instruments which encourages countries to promote equality, its wording needs also to be clear enough in order to avoid confusion. In addition, as the optional protocol to CEDAW helps individuals lodge complaints, Ethiopia needs to adopt it.

### **2.8.2. Recommendations**

Based on the above conclusion, I recommend the following measures to be taken in order to use affirmative action to increase the political representation of women in legislative assembly and effective use of quota system.

- The controversy over affirmative action and quota system should be solved as debates create obstacle to the effective implementation of quotas.
- The Constitution of Ethiopia should be amended so as to include all elements that a good affirmative action law consists of such as changing the word discrimination to domination and oppression, and incorporating measures for

present domination instead of focusing on the past oppression only.

- The Ethiopian quotas system needs to be backed up by Constitutional provision like Indian Constitution or Ethiopia has to take the experience of the South African majority party commitment to increasing women representation in parliament

## **Chapter 3: The Role of Legal and Institutional Frameworks**

### **3.1. Introduction**

Women representation requires binding laws and both partisan and non partisan institutions to implement those laws. Among many international legal regimes that are crucial to enhance women representation, multilateral and bilateral international legal treaties , bilateral and multilateral agencies, local community based organizations, community institutions, governmental organs, and NGOs are some.

This chapter will be dealing with these international, regional and national legal instruments and institutions and their roles in bringing women in to political power. In this regards, the South African experiences that may help enhancing women representation will be presented.

Inter alia, specifically this chapter will be dealing with the contributions that the political parties at a national level, the UN Committee on the Convention on the Elimination of all forms of Discrimination against Women, Convention on the Participation of Women in politics, the Beijing Declaration, the Millennium Development goals, and at the Regional Level African Union on Human and People Rights and at country level the Ministry of Women Affairs, other governmental organizations and Civic organizations in empowering women to increase their participation in the parliament and politics at large.

### **3.2. International and Regional Legal and Institutional Frameworks**

The Convention on the Elimination of All forms of Discrimination against Women (CEDAW), Beijing Platform for Action and the Millennium development Goal ( MDGs)

are all international instruments that drive governments and NGOs to work towards, inter alia on women participation in the public sphere.

Needless to say, convention on the Elimination of All forms of Discrimination against Women (CEDAW) issued in 1979 is a binding document to the countries that have adopted and ratified it. According to Article 18 of CEDAW, Governments are duty bound to submit reports on various aspects of women rights including political participation. The CEDAW Committee also plays an important role in providing concluding remarks, guidelines, and general recommendations. CEDAW requires state parties to the convention to guarantee women equality in political participation, in laws, policies and administrative actions.<sup>178</sup> Article seven of the Convention further states “ States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;”<sup>179</sup> Both South African and Ethiopian governments are party states to the convention and are required to promote gender equality in political participation. It goes without saying that international legal instruments play an important role in pushing governments to take measure on the advancement of women rights through requiring the

<sup>178</sup> General Assembly, United Nations Convention on the Elimination of All forms of Discrimination against Women, 1989, Article 2 and 3

<sup>179</sup> Ibid, Article 7

States to submit periodic reports and thereby the Committee supports the enhancement of women rights through providing general comments and concluding observations. Ethiopia has submitted five periodic reports to the CEDAW committee as required under Article 18 of the Convention. Accordingly, the report envisages that the Ethiopian Federal Civil Service Commission has carried out affirmative measures to increase women participation in the Federal structure.<sup>180</sup> The Federal Structure officials are not elected by the people. They are rather nominated and deployed. Although the federal and state governmental employees contribute towards women empowerment at large, the major political role is left to the parliamentarians. Therefore, the affirmative action measures taken by the Federal Civil Service Commission do not include parliamentarians.

It is also worth noting that Ethiopia has not adopted the Optional Protocol to CEDAW, whereas South Africa has ratified the Optional Protocol to CEDAW in 2005 and the Protocol has entered into force in 2006. Without exaggeration, apart from naming and shaming effects, international legal instruments that are not accompanied by ratifying optional protocols do not remedy individuals victims of violations of rights. In this regard, the optional Protocol to Convention on the Elimination of All forms of Discrimination against Women is of a paramount importance in providing remedies to individual victims of human rights violations up on exhausting the available local remedies. However for unclear reasons, Ethiopia has not adopted the Optional Protocol yet. Therefore, although the role of CEDAW is crucial, it is only limited to obligating the

---

<sup>180</sup> Consideration of Reports Submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women Combined fourth and fifth Periodic Reports of States Parties, Ethiopia, 28 October 2002, Para, IV, F, section 72

Ethiopian government to submit periodic reports which is followed by the comments of the CEDAW Committee on the implementation of the document. The optional protocol however adds a lot pressure on the government, in addition to remedying individual victims of human rights and thereby advancing women empowerment.

The Beijing Platform for Action 1995 embodies similar obligation and content on women rights. Both South Africa and Ethiopia are Parties to this international document. The progress brought out on gender equality between 1995 and 2000 and the implication of the Beijing platform for Action internationally was assessed by the general Assembly in 2000 and in 2005. In particular, the twenty third special session of the general assembly on "Women 2000: gender equality, development and peace for the twenty-first century" took place at the United Nations Headquarters in New York from June 5 to June 9, 2000 and adopted a Political Declaration and outcome document entitled "further actions and initiatives to implement the Beijing Declaration and Platform for Action".<sup>181</sup> Regional review meetings were also held in Africa, Asia, Europe and Latin America. The regional meeting of Economic commission for Africa issued a declaration that reaffirmed the commitment of the ECA countries to the Beijing platform for Action.<sup>182</sup> The general monitoring of the Beijing Platform for Action in 2000 has shown that tremendous changes have been recorded on women's role in economic decision making and their active involvements in the rise of civil societies.<sup>183</sup> The Beijing plus ten reviews pulled out very similar information about the progress made in enhancing the power of women decision makings and representations in the political arena.

<sup>181</sup> UN General Assembly, Five-year Review of the implementation of the Beijing Declaration and Platform for Action (Beijing + 5), 5 - 9 June 2000,

<sup>182</sup> Ibid, Para. 16 (b)

<sup>183</sup> Ibid, Para, 21

Both Ethiopia and South Africa have submitted reports on the implementation of the Beijing Platform for Action. The report submitted by Ethiopia indicates that the Ethiopian government has been implementing the 30% ruling party quota commitment and other progresses made on the enhancement of women representation.<sup>184</sup>

The Millennium Development Goal can be cited as one of the complementary international document that puts tremendous pressure on governments to take the necessary steps in the effort to bring gender equality. The government of Ethiopia has adopted the Millennium Development Goals that incorporates eight major goals to be achieved in 2015 among which the promotion of gender equality and women empowerment is one.<sup>185</sup> The Ethiopian Report on the implementation of the Millennium development goals also pinpoints that the establishment of women Affairs Office in each government departments plays an important role in gender mainstreaming.<sup>186</sup>

At a regional level, there are a number of legal instruments on women empowerment. The AU Solomon Declaration on Gender Equality, the Maputo Declaration on gender mainstreaming and the effective participation of women in the African Union are the major instruments. Both Ethiopia and South Africa have adopted the declaration. South Africa has submitted periodic implementation reports to the African Union.

The Maputo Declaration 2003 calls for sufficient representation of women in the African union from each country<sup>187</sup>. As such the Maputo declaration does not envisage

---

<sup>184</sup> Report on the Implementation of the Beijing Declaration and Platform for Action(1995, the Federal Democratic Republic of Ethiopia, Report, Pp. 3

<sup>185</sup> United Nations Millennium Development Goals (Goal number 3),2000

<sup>186</sup> Ibid, Pp.9

<sup>187</sup> Maputo Declaration, Fourth Summit of ACP Head of States Government, Pauto, Mozambique, 24 June, 2004, Para. A



fifty percent representation of women in the African union. However, the declaration states the major setbacks to an effective gender mainstreaming in each government and the African Union itself. In particular, the declaration provides that the African Union Gender, Women and Development Directorate is suffering from resource deficit.<sup>188</sup> The declaration also calls for concerted accelerated progress on gender mainstreaming in heads of States and Governments.<sup>189</sup>

### 3.3. National legal and Institutional Frameworks

The South African Constitution 1996 pinpoints the major values and principles of the constitution among which non sexism is one.<sup>190</sup> The Constitution Bill of Rights further envisages “everyone is equal and has the rights and protection and benefits of law”.<sup>191</sup> Similarly, the Ethiopian Constitution envisages an equality clause under Article 25 and Article 35.<sup>192</sup> Article 35 of the Ethiopian Constitution particularly states “Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right

---

<sup>188</sup> Ibid, Preamble

<sup>189</sup> Ibid, Preamble

<sup>190</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February :97,Section, Preamble.

<sup>191</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February :97,Section1996, Bill of Rights, Chapter two, Article 9(1)

<sup>192</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 25 and 36

with men.”<sup>193</sup> According to the same provision, there is only positive discrimination that will enable them compute equally within the higher decision makings. Any negative discrimination is therefore, prohibited under Article 25 and 35 of the constitution. However, these constitutional provisions are very general and elusive words unless some other interpretational mechanisms are put in place. Neither the term discrimination nor equality has been the subject of judicial deliberations in Ethiopia.

Political participation or enhancing the number of women in political representation has been the province of NGOs or government policy. I hasten to say that the implementation of those policies is effective as they don’t have binding effects.

These constitutional provisions on political participation are often considered as non justiciable matter. As a result no victim of discrimination has brought a case on the ground of equality clause under the constitution.

Needless to say, in Ethiopia constitutional interpretation is out of the province of the Courts. Nevertheless, constitutional rights can be challenged on procedures set forth by the Constitution in which the Constitutional Inquiry deals with issues of constitutional rights challenged and referrals are made by the courts.<sup>194</sup> However, non discrimination as a constitutional right has not been challenged by any one yet. The implementation of the Constitution in this regard is therefore limited to its contradiction with other ordinary laws. Women participation in politics is also a right under the Constitution of Ethiopia

---

<sup>193</sup> Ibid, Article 35 (1)

<sup>194</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 62

which however is practically implemented through affirmative action.

In South Africa the Constitution in its bill of rights section has provided non sexism, equality and unfair discrimination under section nine of the final constitution.<sup>195</sup> Only fair discrimination is permitted under section nine sub section two.<sup>196</sup> Although the constitution does not provide the precise meanings of these general terms, the Constitutional court has engaged itself in interpreting those terms as it was discussed in the previous chapter.<sup>197</sup>

The South African Constitutional Court jurisprudence can therefore, be seen as one of the best practices. Having mentioned all the above international legal and institutional frameworks, compared to the South African progress in enhancing the number and impacts of women representation in parliament, women in Ethiopia are by far under-represented. As mentioned elsewhere, in South Africa the number of women in parliament has increased steadily from 27 percent in 2004 to 45 percent in 2009. However women in Ethiopian parliament still constitutes 21 percent of the total representatives. In this regards, there is much possibility that the South African women parliamentarian has much more influence and voice on decisions affecting the lives of women compared to the Ethiopian women representatives which constitutes minority( which is not the case in the society). The south African women parliamentarian has been

<sup>195</sup> Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18December, 19, 96 date of commencement : 4 February :97,Section, section 9 (1)

<sup>196</sup> Ibid, section 9(2)

<sup>197</sup> Government of the Republic of South Africa and others v. Grootboom and others 2000, BCLR, 1169 CC, 2001, and S V. Rens, 1996(1) AS 1218, CC, 1996(2), BCLR (CC) 155

proved to have contributed to the effort to reduce and eliminate the plights of women in the country. <sup>198</sup>One can easily conclude that the voice of Ethiopian women parliamentarians cannot have hands on decisions affecting women because of the seventy nine to twenty one percent of voting power. This numerical imbalance of vote, clearly shows that the issue of women can easily be disregarded by the majority vote. Therefore, the voluntary quota system introduced by the Ethiopian ruling party needs to increase from thirty percent to fifty percent. In addition, there needs to be a national law which obliges the opposing party to give quota for women in their party members listing.

The increment of women parliamentarians in South Africa is not that mystery but obvious commitment of the political parties, government agencies, civic organizations and others. The South African leading political Party the African National Congress, establishes 50 percent quota system. The issuance of National Policy Framework on Gender Equality and the creation of machinery to promote gender mainstreaming and gender equality in each sphere of government have also its own contributions. The Government of South Africa established an Office on the Status of Women (OSW) in the Presidency to oversee and coordinate policy on women at the national level. This office has expanded in Premiers' offices to coordinate policy in seven of the nine provinces.

The OSW functions as an organ that puts forward the National Empowerment Policy document, making baseline information accessible and implementing gender-mainstreaming activities at national and provincial levels<sup>199</sup>. Gender focal point persons

---

<sup>198</sup> The South African Parliament Newsletter, Issued on 20th of August 2008, Pp.2

<sup>199</sup> Manzi, Mavivimyakayaka Women in Parliament: Beyond Numbers, International IDEA's

that coordinate with OSW are tasked with each government departments' functions . This structure is put in place precisely because it ensures that gender issues are indeed mainstreamed in government departments and that the CEDAW and the Beijing Platform for Action are effectively implemented<sup>200</sup>. In addition, parliament has issued legislation to create a National Commission on Gender Equality and the commission plays the major role in this regard. Apart from the advancement of women representation in parliament, women parliamentarians have been engaged in protecting the interests of women through ensuring the design and implementations of projects gender specific projects. .<sup>201</sup>

In Ethiopia, in the 1960s and 70s women's activities were mainly carried out by nongovernmental organizations and government was not much involved in women rights activities.

With the coming into power of the current government, Ethiopia has issued a National Action plan on Gender Equality in addition to the National Women's Policy which was issued in 1993. Although, the issuance of the National Action of Gender Equality can be cited as a major progress on gender mainstreaming, the two documents have different approaches. The National Women Policy follows women in development approach where as the National Action plan on Gender Equality follows gender and development.

The National Women Policy has been implemented by the Ministry of Women's Affairs through establishing women affairs office from the Federal Ministry to the Kebele ( the

---

Handbook, 1998, Pp.2

<sup>200</sup> Ibid, Pp.2

<sup>201</sup> Ibid, Pp.2

lowest administration unit) level. Although the National Women Policy has similar content and approach with the constitution, the National Women Policy has not brought out the expected women empowerment in politics apart from its affirmative action measure provision. The major problem relies on absence of effective measure to increase men involvement in enhancing women participation. Even though it is hard to support by accurate data, women affairs office representative's positions are filled by women and programs do not fully participate men. This problem is further aggravated by the name itself- Women Affairs Office. Arguably, equality between men and women in the public sphere can be achieved if men are fully involved and convinced. I maintain the argument that women empowerment be it in politics or private life can be a reality if gender and development approach is used.

### **3.4. The Role of Civic Organizations and Community Based Organization in enhancing women Representation**

The role of Civic organizations and national community based organizations are the key ingredients to building on women representation in parliament. In the last two decades, the contribution of civic organizations has been immense in Ethiopia. Many key legislations and policies were issued inter alia, because of the successful advocacy and lobbying efforts of civic organizations. Civic organizations are particularly important because they reach non elites and desperate interests at the grassroots level through ensuring legitimacy accountability and transparency. Civic Organizations strengthens

State capacity for good governance and gender equality. Civic organizations are of paramount importance in democratic change. South Africa was an example in this process.<sup>202</sup> Civic Societies also play an important role in the strengthening of democracy, in checking abuses of state power, consolidate wider citizen participation and public scrutiny of the state. Such actions enhance state legitimacy.<sup>203</sup> Nevertheless, this does not mean that Civic societies can limit gender equality than furthering it if it has its own transparency, accountability and democracy deficit.

The positive impact of civic organization in furthering democratic change was demonstrated in the 2005 election in Ethiopia where they took active role in organizing and training the public on democratic elections and participate in verifying the election process. Regarding enhancing women participation in politics, the role of civic organizations was proved to be crucial. Among the notable civic organizations, the Ethiopian Women Lawyers Association was the major one in advancing women rights as a whole. For example, this organization had a serious influence in revising the previous criminal code of Ethiopia that severely limited women rights and decision makings in public and private spheres.

Starting from 2008 however, the role of civic organizations was limited by the newly promulgated proclamation on the Charities and Civic organizations.

---

<sup>202</sup> Mercer, Claire, NGOs, civil society and democratization: a critical review of the literature, Department of Geography, University of Leicester, UK, (2002), Pp.4

<sup>203</sup> Ibid, Pp.4

### 3.5 The Role of Political Parties in increasing Women Representation

Political parties may play an important role in bringing women into the political arena through nominating women politicians and effective election campaigning particularly, in countries where there is not national legislation that binds all political parties to take measures of affirmative action. In both South Africa and Ethiopia, an affirmative action measure to increasing women participation in politics is voluntary. Therefore, the role of parties in increasing the number of women in parliament through recruiting and nominating them is significant. This can be explained by the South African party commitment to provide 50% of quota for women.

In addition, three aspects of party organizational structure may influence women's representation- centralization, institutionalization and the location of candidate nomination.<sup>204</sup> Centralization explains the distribution of power over decision makings within the party structure.<sup>205</sup> Centralization further explains, does centralization of power in party structure promote women or decentralization? This clause argues that a highly centralized political party structure promotes women participation than decentralized structure because centralized structure is more accountable.<sup>206</sup> In addition centralized structure allows more pressure from other parties to promote diversity in its party listings.<sup>207</sup> Therefore, centralized party structure opens the door for promoting women

<sup>204</sup> Caul, Miki, Women Representation, in parliament , The Role of Political Parties, Party Politics, , (1999) Vol. 5 . No . 1 pp. 80

<sup>205</sup> Ibid, Pp.80

<sup>206</sup> Ibid, Pp. 81

<sup>207</sup> Ibid, Pp.81



participation in that particular party.

Institutionalization of political parties describes the nature of the process by which members of the parties are recruited. Norris argues that highly institutionalized political party provides the opportunity to the power without the necessity to have ties to each other.<sup>208</sup> Put differently, a highly institutionalized political party defines clear rules and criteria how potential party members are nominated and recruited. Those clear rules and criteria prevent discrimination and bias. Therefore, women can easily enter into the political parties. In addition, high institutionalized political party may not change rules or bend it easily in order to favor certain people. Institutionalization is one of the challenges of Ethiopian political parties. Firstly, the political parties are often well established and strengthen during pre election period. Most of the political parties are not permanent. As a result they fail to define rules and criteria for political parties recruitment. Most of their rules and criteria are flexible and changing.

According to Caul, another important factor for promoting women participation is the level of nomination.<sup>209</sup> Some people argue that, local nomination is more favorable for women than the national one because once women are nominated at a local level, they can easily make up their way to the national level.<sup>210</sup>

As mentioned in the chapter two electoral systems may have impacts on promoting women participation in politics as a whole. For instance proportional representation is more effective in promoting women representation than plurality systems. For example in the 1999 south African Election Mitso explained the importance of proportional

---

<sup>208</sup> Ibid, Pp.82

<sup>209</sup> Ibid, Pp.81

<sup>210</sup> Ibid, Pp. 81

representation as follows:

*“The 1994 national and provincial elections were run wholly on a proportional representation basis. The advantage of the proportional representation system for women is illustrated by the contrast between the national/provincial and local government elections. In the seats contested on the basis of proportional representation, women won 27.9 percent of the seats. In the ward or constituency based seats, women won only 10.84 percent of the seats. This gave an overall average of 19 percent of the seats in local government being won by women.”<sup>211</sup>*

Political ideologies of political parties may also determine promoting women involvement in political parties. Women may incline to the party that has egalitarian and democratic approaches.

### **3.6. Immerging Challenge on Implementing the Legal Frameworks of United Nations on Women Rights Instruments**

#### **3.6.1. Introduction**

International legal instruments and the universality of human rights have been taken for granted for long time. However, the universality of women rights and international legal instruments are questioned by many scholars on the grounds of relativism. Although this issue does not appear to be much entertained by human rights activists in Africa yet, it may seriously impact on the continued efforts of implementing international human rights.<sup>212</sup> The major arguments raised for and against cultural relativism are presented

<sup>211</sup> Mtintso, Keynote Address – Into the Future: Gender and SADC, 1997

<sup>212</sup> Shweder, Richard, When Culture Collides: Whose Traditional Values? A Critique of the Global Anti-FGM Campaign, (2005), PP.181

below:

### 3.6.2. Cultural Relativism and Women Rights

The universality and relativity of human rights has been the center of debates recently . Some of the arguments from the relativists point of view has been deeply unsettling and challenging particularly for universalists had been strongly maintained human rights work irrespective of culture ethnic and historical background.<sup>213</sup> The universalists has however failed to answer the core claims that relativists put forth. In this section, I argue that the claims of cultural relativists may negatively impact on the effort being made towards women rights respect if ways that can reconcile the claims of universalists and relativists . Therefore, I maintain the point of view that universalism and relativism approaches for human rights can be reconciled and complement to each other.

Some scholars argue that human rights that emerged from the West cannot work for the third world countries for varying reasons.<sup>214</sup> One of the scholars for example asserted *“the corpus falls within the historical continuum of the colonial project, in which a superior and a subordinate are essential actors, it undermines its basic claim of universality.”*<sup>215</sup> For these scholars the current human rights body therefore is in short of a valid universalist justifications and it is biased assertion for what constitutes human rights or human rights violations.<sup>216</sup> . This assertion is not wholly valid. As far as I

<sup>213</sup>Kennedy, David, the International Human Rights Movement, Part of the Problem, Harvard Human Rights Journal, Vol. 15, (2001), Pp. 109

<sup>214</sup> Ibid, Pp. 21

<sup>215</sup> Makau Mutua, A Third World Critique of Human Rights, Pp.21

<sup>216</sup> Ibid, Pp.21

understand, the universal human rights lack legitimacy in the third world countries to a certain extent but not as a whole for reasons I will mention below. Cultural relativists further argue that for human rights to attract respect, the author or the society that consented to them and prioritized the human rights provisions has to be the one who makes the effort for the continued respect and remedy if it fails to work.<sup>217</sup> They also argue that given the existing power imbalance between the West and the third world countries, the human rights legal instruments may validly acquire legitimacy by the mere approval of the leaders through the United Nations. Precisely because the African leaders participate in the legitimation process through adopting those international legal instruments but they may not fully participate in drafting those human rights regimes.<sup>218</sup>

In fact many African leaders have been adopting several human rights instruments developed and innovated from the West. This has evidently been seen from that fact that the African leaders are incorporating those international legal instruments into the regional legal documents. The Maputo Declaration on Gender Mainstreaming and the effective participation of women in the African Union, the African Charter on People and Human Rights Protocol on the Rights of women and other regional instruments are living evidences.

Nevertheless, those legal instruments are proved to be ineffective as they are not implemented often. Unarguably, one needs to critically question these issues and try to provide concrete answers for the questions why international human rights documents have not played much of its roles in curbing or at least minimizing human rights

---

<sup>217</sup> Ibid, Pp.21

<sup>218</sup> Ibid, Pp.22

violations in Africa while it was supposed to be.

Some might argue that human rights violations occur in Africa because of lack of sufficient resources or due to poverty.<sup>219</sup> This claim can however effectively reinforce the problem than solve it because lack of resources cannot be the sole challenge to implement human rights. In other words civil and political human rights protection for instance does not require huge investment. If violation of those rights is justified by lack of resources, it gives green light for continued human rights violation by the authoritarian leaders who are not already politically willing to commit themselves for human rights respect.

Today human rights particularly, women rights violations in Africa are seen as a normal day today life of the society. Women rights are violated not only by the African societies but mainly by human rights officials including police. Cultural relativists argue that this is precisely because human rights have not been drafted and so not internalized by the African human rights officials.<sup>220</sup> David Kennedy, in one of his influential book effectively argues that the human rights movement emerged from the West, incapacitates the alternative available resources that exist in the traditional African society.<sup>221</sup> Most of the traditional societal and religious institutions that provide long and short term solutions are however, in most cases, condemned to be against women rights by the Western human rights movement actors.<sup>222</sup> On the other hand, women rights that are imposed on the society which is neither internalized nor owned those are expected to be

---

<sup>219</sup> Prempeh, Kwasi, Africa's Constitutional Revival, Start, False Start or new Down, *IntJ Constitutional Law* (2007) 5(3): 469-506 first published online, Pp. 9

<sup>220</sup> Kennedy, David, the International Human Rights Movement Part of the Problem, Harvard Human Rights Journal, Vol.15, (2000), Pp. 109

<sup>221</sup> Ibid, 1 Pp. 109

<sup>222</sup> Ibid, Pp.109

implemented.<sup>223</sup>

It is true that the emergence of human right in the West and in Africa has different historical developments. The scope and meaning of women rights renew in the course of time.<sup>224</sup> However, the centers of the universalists' particularly Feminists' claim have been Human rights bestow naturalness, permanency and universality to rights.<sup>225</sup> This claim however, fails to consider the very fact that human rights have gone through a lot of changes through time.

It was mentioned above that on one hand, Universalists claim that culture changes over time on the other hand, they argue that human rights do not go through transformations and modifications. The two statements are contradictory. As a matter of fact, human rights depend on a given society and in a particular time. Even within the West, the human rights theory developed such as by John Lock, Jean Jaques Rousseau and other philosophers have gone through permanent modifications and renewals. These changes and contexts had happened in Africa too. However those changes and contexts do not preclude as a whole, human rights to be applicable in Africa.

Regarding with how the human rights are emerged in Africa , One of the African Professor in his presentation on Human Rights in Africa stated that human right in Africa has been introduced during the post colonial era precisely because the Western colonizers needed to protect the Western inhabitants who stayed in Africa after the colonization period.<sup>226</sup> He further asserted that, the purpose set for the emergence of

---

<sup>223</sup> Ibid, Pp.109

<sup>224</sup> Makau Mutua, A Third World Critique of Human Rights, Pp.21

<sup>225</sup> Ibid, Pp.23

<sup>226</sup> Sooka, Yasmin , Lecture Presented at Central European University, African Lecture series 1,Budapest, Hungary, June 9, 2010

human rights in Africa was not the protection of the African community rather the protection to the property rights of the Westerners who have already possessed property during the colonization period in addition; it was purely developed by the West<sup>227</sup>. However, this assertion means to find good excuses for those African offices to ignore the effort being made to change the continued violation of women rights in Africa.

On the other hand universalists argue that whatever the means by which human rights were introduced, what is important is the function it does for the African women and the society as a whole.

It is true that human rights to be validly workable, they need to be moored in the people's culture. Simply put, internal societal problems can sufficiently and sustainably be curbed if the solution is initiated internally. External solutions might seem solve human rights violations but only in the short run. Sustainable human rights respect can only be acquired if a society develops it.

These arguments present no fundamental issue that can totally make the universal human rights be ignored in the third world countries. It is rather possible to come up with solutions to the challenges relativists raise.

The third world States leaders have been adopting international legal instrument and in many instances the legislative assembly of that particular State discusses on it before it becomes part of the domestic laws.

Arguably, that cultural relativism puts the rights of women at risk. Particularly the fight between cultural relativism and universality of human rights requires reconciliation for the purpose of women rights. Put differently, I think there are possible values that human

---

<sup>227</sup> Ibid, June 9, 2010

beings from every culture can share. For example human dignity in the sense of human worth, can be one of them. If human dignity is a value that is shared across the board, there are other similar values that are centered at human beings. Therefore, there are factors that affect those values which are shared among all human beings. If those factors hurt those human values, rejection follows.

The cultural relativists maintains an extreme argument that using the international legal instruments as values of third world countries is necessarily cultural imperialism.<sup>228</sup>

The culture prevailed in Africa is rooted in the feminization of poverty and private and public dichotomy.<sup>229</sup> In this context, cultural relativism perpetuates the prejudice and violence perpetrated towards women as the result of culture.

It is also argued that the perfect human rights drafted in the West is too luxurious for the African women who have not yet secured access to basic services such as food and water. This argument fails to consider that equality to access to resources are part parts of just society. I hold the view that political representation and other rights need to include women for all reasons put forth in the chapter one and two of this thesis.

In fact the dichotomy between cultural relativism and universalism of human rights is not totally unknown in the existing within the existing African context. For example as it was mentioned elsewhere, Ethiopia is an ethnic federal state. Each ethnic group has their own culture and ways of lives. In most of the Ethiopian ethnic culture, women subordination and prejudice towards women is common. Women are not allowed to participate in the public live including public social events and social problems. Elders meeting to discuss

<sup>228</sup> Nduwimana, Françoise , , Chief Counsellor for Human Rights, *UNDP Yemen*, (2004), Pp. 1

<sup>229</sup> Ibid, Pp.4



with a particular societal problem are limited for men. On one hand under the Ethiopian constitution each ethnic group has the right to belong to a particular culture and practice its culture.<sup>230</sup> On the other hand, women have their own rights that should not be taken away because of a particular cultural practice.<sup>231</sup>

Nevertheless, cultural rights are absolute whereas, women rights are can in effect be limited under the secession clause.<sup>232</sup>

Therefore, women rights are failed to be respected not because they lack legitimacy but because both the society and the victims consider the violation part the culture. In addition, many of the domestic laws are issued without women participation and the majority officials who implement women rights are men.

In conclusion, major human rights as the name indicates are shared among human beings in the world. The cultural relativism approach to women rights can perpetuate the prejudice and injustice that women experience in Africa. Therefore, solving the all encompassing problems of women requires recognition of the shared values and shared harms on human beings.

---

<sup>230</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995, Article 39

<sup>231</sup> Ibid, Article 35

<sup>232</sup> The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, 1<sup>st</sup> year No. 1 Addis Ababa, 21<sup>st</sup> August, 1995

Article 39

## 3.7. Conclusion and Recommendations

### 3.7.1. Conclusion

International and national legal and institutional frameworks immensely contribute towards enhancing women representation in parliament. Among the major international legal instruments, Convention on the Elimination of all Forms of Discrimination against Women, the Beijing Platform for Action and the Millennium Development Goals (MDGs) are some.

The international and national institutions also play crucial roles in consolidating women representation in parliaments. The CEDAW Committee, the African Union Commission and other international and regional institutions enhance women representation through their recommendations and concluding observations on the reports of the states.

Civic organizations and national community based organizations also further the participation of women in politics through advocacy of women rights and involving all groups of the society at all level in their programs.

Despite all the contributions that international legal regimes and institutions make, they are facing challenges from cultural relativists. One can argue that the efforts of international legal regimes and institutions are based on the universality of human rights. However, the challenge cultural relativists put forth on the legitimacy of those institutional frameworks and international laws cannot be easily ignored. However, it is possible to strongly argue that human beings share many of the values accepted internationally and based on those values, the things that benefits and hurts human beings can be identified. Accordingly, the universality of human rights can be legitimized.

### 3.7.2. Recommendations

- Like south Africa did, Ethiopia needs to ratify the Optional Protocol to the Convention on the Elimination of All Discrimination against Women in order to put mechanisms by which individual or groups of victims of human rights can seek for remedy internationally. In the country where democracy has not achieved yet, international remedying mechanisms can be more effective than the domestic one.
- Women and men are equal before the law as it is envisaged under the constitution. However, the term equality is not clearly defined and as a result it has not been given a practical effect. Therefore, the government needs to put a policy or manual that provides a clear meaning to it.
- The National Women Policy needs to be revised and the approach needs to be gender and development in order to better involve men and the community to effectively empower women.
- The State needs to allow all civic organizations to work on gender and women rights because civic organizations play a crucial role in enhancing women participation in politics and community mobilization for the same effect.
- The dichotomy between cultural relativism and women rights needs to be further researched that will put forth reconciliation mechanisms.

## II. General Conclusions and Recommendations

### Conclusion

Despite the fact that equal representation of women in parliament has been facing challenges around the globe, the situation of sub-Saharan Africa including Ethiopia is worse. Women representation is for a number of reasons. First of all, needs to be represented by women because they share similar identity secondly, the existence of women representatives in parliament may appeal to other women to seek for participating in politics. ,thirdly, women share same experiences and their biological make is same therefore, women better understand what other women undergo in their lives.

However, for several reasons gender inequality is still a problem in parliament assemblies. In particular in Africa, the issue of women representation has been substantially ignored partly because in the last few decades African governments have been committed to nation building and reconstruction of economy, poverty and illiteracy eradication.

In addition, the public and private dichotomy emerged from the West has also prevented furthering of women rights. The number of women representatives in Ethiopia has been less than other African countries such as South Africa and Rwanda.

Despite the fact that Ethiopia has never been colonized, the private and public dichotomy has also been one of the challenges for gender inequality in the parliament.

Affirmative action is a tool adopted to increase women parliamentarians. It is however attacked on a number of reasons by the liberal equality scholars. The Federal Democratic Republic of Ethiopia envisages that affirmative action measures will be taken in order to

bring about gender equality in Ethiopia. However the Constitution is focused on past oppression and domination but does not remedy present domination.

Like affirmative action, quotas system is also subject to criticism on the basis formal principles of election. However, since quotas system is used to nominate candidates only the controversy can be easily settled.

In order to nominate women on the basis of quotas system, there also must be a good method of quotas system and to this effect there are a number of methods that different countries use.

The Ethiopian system is party quota system and is subject to different interpretation. As a result, it is easily susceptible to abuse.

The wording of the South Africa affirmative action, provision is designed based on the understanding of the purpose set for it which is not to give opportunity to past disadvantaged rather affirmative action is to do justice and create environment where men and women can enjoy equality of opportunity.

Unlike the Ethiopian Constitution, the South African one does not mention about past discrimination or exclusion and compensation for that. This approach also puts an end to the controversies about identifying persons who have standings to enforce affirmative action in the courts where cases appear before courts.

Therefore, the Ethiopian system needs to be revised if current discrimination needs to be addressed .

CEDAW with its Committee is one of the major legal instruments which encourages countries to promote equality however, its wording needs also to be clear enough in order

to avoid confusion.

International legal instruments such as the Convention on the Elimination of all Forms of Discrimination against Women, the Beijing Platform for Action and the Millennium Development Goals( MDGs) play the major role in increasing the number of women parliamentarians.

The international and national institutions also play crucial roles in consolidating women representation in parliaments. The international institutions coupled with civic organizations and national community based organizations further the participation of women in politics.

Despite all the contributions that international legal regimes and institutions make, they are facing challenges from cultural relativists. However, the challenge cultural relativists put forth on the legitimacy of those institutional frameworks and international laws cannot be easily ignored . Nevertheless, it is possible to reconcile the two arguments in a way that furthers women rights.

## **Recommendations**

- The need for women representation needs to be further advocated
- The history of the role of women in the public sphere needs to be further studied and documented
- Political ideologies and theories need to analyze and mainstream gender as part of their theories
- government of Ethiopia needs to put a policy or manual that provides a clear meaning Equality

- The National Women Policy needs to be revised and the approach needs to be gender and development in order to better involve men and the community and reconcile it with the National Action plan on Gender Equality
- The State's legislations that prohibits civic organizations not to work on gender and women rights need to be revised.
- Further advocacy needs to be done for effective implementation of affirmative action measures
- The Constitution of Ethiopia should be amended so as to include all elements that a good affirmative action law consists of such as changing the word discrimination to domination and oppression, and incorporating measures for present domination in stead of focusing on the past oppression only.
- The Ethiopian quotas system needs to be backed up by Constitutional provision like Indian Constitution
- The Ethiopian Election Proclamation needs to be revised so as to integrate gender equality in elections
- The issue of intersectionality needs to be further studied in the Ethiopian context
- The dichotomy between cultural relativism and women rights needs to be further researched that will put forth reconciliation mechanisms.
- Ethiopia needs to ratify the Optional Protocol to the Convention on the Elimination of All Discrimination against Women in order to put mechanisms by which individual or groups of victims of human rights can seek for remedy internationally. In the country where democracy has not achieved yet, international remedying mechanisms can be more effective than the domestic one.

### III. Resources

#### Books

1. African Gender Studies, a Reader Edited by Oyewumi , Oyeronke, Palgrave Macmillan , United States of America, 2005
2. Pateman, Carole, *the Disorder of Women, Democracy, Feminism and Political Theory*, Polity Press, 1989
3. Bacci, Carol, edited Dahlerup, Drude , *Women, Quotas and Politics*, Jersey City , N.J, 2006
4. Bacchi, Carol, , *The politics of Affirmative Action, Women Equality & Category*, Politics, SAGE Publications, 1996
5. MacKinnon, Catharine, *Difference and Dominance on Sex Discrimination*, University of Toronto, Faculty of Law, Toronto Ont. 1985
6. MacKinnon, Catharine, *Sex Equality*, University of Michigan Law School , Michigan, 2007
7. Kennedy, David, *the International Human Rights Movement Part of the Problem*, Harvard Human Rights Journal Vol.15, No.99, 2002
8. Dahlerup, Drude, *Women in Parliament Beyond Numbers*, International IDEA, 1998
9. Olsen, Frances E. , *The Family and the Market, a Study of Ideology and Legal Reform*, Harvard Law Review, Vol.96 No.7, 1983 ,
10. Geisler, Gisela, *Women and the Remaking of Politics in Southern Africa, Negotiating Autonomy, Incorporation and Representation*, Nordiska Afrikainstitutet , Spain 2004
11. Irving, Helen , *Gender and the Constitution, Equity and Agency in Comparative*



- Constitutional Design*, Cambridge University Press, New York, 2008,
12. Williams, Joan C. *Deconstructing Gender*, Michigan Law Review Vol.87, No.4, Feb. 1989
  13. Scott, Wallach, *Only Paradoxes to Offer, French Feminists and the Rights of Man*, Harvard University Press, 1996
  14. Rousseau, Jean Jacques, *Emile Dent and Sons*, London, 1972
  15. Squires, Judith, *Gender in Political Theory*, Cambridge and Oxford Polity Press, 1999
  16. Sanbonmatsu, Kira, *Gender-Related Political Knowledge and the Descriptive Representation of Women*, Political behavior, Vol.25, No.4, 2003,
  17. Tremblay, Manon and Pelletier, Rejean, *More Feminists or More Women? Descriptive and Substantive Representations of Women in the 1997 Canada*, International Political Science Review, Vol.21, No.4, 1997
  18. Sawyer, Marian, *Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability*, International Political Science Review, Vol.21, No.4, 2000
  19. Manzin, Mavivi Myakayaka I, *Women Empowered, Women in Parliament in South Africa*, International Idea, Women in parliament in Stockholm, 2002
  20. Mansbridge, Jane, *Should Blacks Represent Blacks and Women Represent Women?, A Contingent Yes*, Journal of Politics, Vol.61, No.3, 1999
  21. Mutua, Makau, *A Third World Critique of Human Rights*, [http://law.buffalo.edu/Faculty\\_And\\_Staff/submenu/profiles/mutua\\_makau\\_cv.pdf](http://law.buffalo.edu/Faculty_And_Staff/submenu/profiles/mutua_makau_cv.pdf)

22. Mateo, Mercedes, *Representing Women?, Female legislatures in West European Parliaments*, ECPR Press, European Consortium For Political, 2005
23. Caul, Miki, *Women Representation, in parliament , The Role of Political Parties, Party Politics*, Legislative Studies Quarterly, Vol. 5 . No.1, 1999
24. Yoon, Mi Young, *Explaining Women's Legislative Representation in Sub-Saharan Africa*, Legislative Studies Quarterly, Vol.29, No. 3, August, 2004
25. Paxton, Pamela and Kunovich, Sheri, *Women's Political Representation: The Importance of Ideology*, Social Forces, Vol.82, No.1, 2003,
26. Prempeh, Kwasi H., *Africa's Constitutional Revival, Start , False Start or new Down*, Int J Constitutional Law (2007) 5(3), 469-506 first Published Online, 2007
27. Negotiation Autonomy, Incorporation and Representation, Nordiska Africanstitute, Library of Congress Country Studies, the Role of women in Ethiopia, <http://womenshistory.about.com/gi/dynamic/offsite.htm?site=http://lcweb.loc.gov/rr/ford/>
28. Pitkin, H.F , *The Concept of Representation*, university of California Press, Los Angeles, 1999
29. Kudith Squires, (Gender in Political Theory, Cambridge and oxford: Polity Press1999)
30. Sapiro, Virginia, *When are Interests Interesting? The problem of Political Representation of Women*, Cambridge and oxford: polity Press, 1999
31. Women in National Parliament, <http://www.ipu.org/wmn-e/classif.htm>, 2009
32. Paxton, Pamela, and Kunovich, Sheri, *Women's Political Representation: The Importance of Ideology*, Social Forces, Vol.82, No.1, 2003

33. Gatens, Moria, *Feminism and philosophy, Perspectives on Difference and Equality*, Indiana University Press, Great Britain, 1991
34. Teresa Rees, *Mainstreaming Equality in the European Union, Education, training and Labor Market Policies*, London and New York, 2010
35. Young, Iris Marison, *Justice and the Poitics of Difference*, Prenecton: Preneston , University Press1990
36. Cohen, Marshal, Nagel, Thomas and Scanlon, Thomas, *Equality and Preferential Treatment*, Princeton University Press, New Jersey, 1992
37. Mercer, Claire, *NGOs, Civil society and democratization: a Critical Review of the Literature*, Department of Geography, University of Leicester, UK, 2002
38. Shweder, Richard A, *When Culture Collides: Whose Traditional Values? A Critique of the Global Anti-FGM Campaign*, 2007

### **Laws and Constitutional Court Cases**

1. Articles of Confederation, , United States of America , 1977
2. Fourth World Conference on Women, Beijing Declaration and Platform for Action, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995).
3. United Nations General Assembly, Convention on the Elimination of All forms of Discrimination Against Women, New York, 1979
4. United Nations General Assembly, Convention on the Elimination of All forms of Discrimination against women, Summary Report of 387<sup>th</sup> Meeting, UN General Assembly, Five-year Review of the Implementation of the Beijing Declaration and Platform for Action (Beijing + 5) June,2010
5. United Nations General Assembly, Convention on the Elimination of All forms of

Discrimination against Women, 1989, Article 7 CEDAW and the Gender Dimensions of the HIV/Aids Pandemic, United Nations Development Fund for Women, New York, 2001

6. Federal Democratic Republic of Ethiopia House of Peoples Representatives Consolidated Version of the Election Laws of, FDRE PROCLAMATION NO. 111/1995 with Amendments by proclamation No. 438/2005
7. United Nations General Assembly, Internationasl Covenant on Economic Social and Cultural Rights , General assembly Resolution 2200A, (XXI) December, 1996, entry into force , 3 january, 1976, in Accordance with Article 27.
8. Harksen v President of the Republic of South Africa and Others (CCT 41/99) [2000] ZACC 29; 2000 (2) SA 825 (CC); 2000 (1) SACR 300; 2000 (5) BCLR 478 (30 March 2000)
9. Larbi-Odam and Others v Member of the Eexecutive Council for Education (North-West Province) and Another (CCT2/97) [1997] ZACC 16; 1997 (12) BCLR 1655; 1998 (1) SA 745 (26 November 1997)
10. The Federal Democratic of Ethiopia, a National Report on the Implementation of the Beijing Declaration and Platform for Action ,Prime Minister's Office, Women's Affairs Sub Sector , March, 2004
11. The Federal Democratic Republic of Ethiopia (FDRE) House of peoples Representatives , The Federal Democratic Republic of Ethiopia Constitution, <sup>1st</sup> year No. 1 Addis Ababa, 2<sup>1st</sup> August, 1995
12. The Republic of South Africa Initial Report to the Convention all forms of

Discrimination against Women (CEDAW) Committee, Geneva Switzerland , 1998

13. Statutes of the Republic of South Africa, Constitutional Law, Constituion of the Republic of South Africa, No. 108 OF 1996, Date of Promulgation: 18, December, 19, 96 Date of Commencement : 4 February :97
14. Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169; (4 October 2000)
15. Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia , The Revised Family Code Proclamation of 2000, Federal Negarit Gazeta Extraordinary Issue No. 1/2000, Addis Ababa, 2000