

**FEDERAL SYSTEM OF GOVERNANCE AS AN
APPROPRIATE SYSTEM FOR THE REPUBLIC OF
SOUTH SUDAN**

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DECLARATION

I hereby declare that dissertation entitled FEDERAL SYSTEM OF GOVERNANCE AS AN APPROPRIATE SYSTEM FOR THE REPUBLIC OF SOUTH SUDAN submitted by me for the partial fulfillment of the M.A in ruraldevelopment to IndiraGandhi national open university either to IGNOU or to any other institution for the fulfillment of the requirement for any course of study. I also declare that to chapter of this manuscript in whole or in part is lifted and incorporated in this report from any earlier work done by me or others.

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CHAPTER ONE

Introduction

1.1 Background to the Study

Federalism had been presented as the best system of governance in South Sudan since 1956, when the British administration left Sudan and gave the rights of Self-determination to the Sudanese people to govern themselves. However, differences emerged between the political actors from northern Sudan and Southern Sudan on how the country should be governed (Johnson, 2014).

Subsequently, South Sudanese proposed federalism as a way to keep the union of Sudan in place. This proposed federal system of governance faced a lot of resistances from various political parties involved in restructuring and reconstituting the newly independent country.

Although the south Sudanese people have always demanded this federation throughout their struggle for independence, the efforts exerted to that has been thwarted by the successive governments in Sudan. Failure in implementing the proposed system has been ascribed to lack of trust between Sudan and South Sudan.

In 1930, the British Administration in Sudan left an option for South Sudan to decide whether or not should join the British East Africa and be administered under different system (ibid). This option did not work well for South Sudan due to the fact that Egypt that was a junior partner to Britain in running the Sudan administration was in favour of united Sudan and expected to be left in charge of running it (Sudan Administration) when the British left the country (ibid. P.6).

However, it was also believed that Egypt's support of the union of Sudan had a lot to do with its interest in the Nile water. Meanwhile, the quest for federal system reemerged when the nationalist movements in Sudan began to fight for the rights of Self- government in the country that was jointly administered by both Britain and Egypt where it played a role of a junior partner, following 1939 condominium agreement.

In consequence, an intransigent position of the Sudanese political parties in the Northern Sudan forced the British administration to adopt closed districts ordinance for South Sudan, which allowed the region to exist as a separate entity (Hakim, Et al 2014).

In practice, federalism was not implemented in South Sudan as demanded by the people, but, it found its way to the system of governance as early as 1947. In the same year, South Sudanese educated class held a conference later known as Juba conference where they demanded federal system to be adopted as a system of governance in Sudan. As a result, this conference had to explore possibilities of having federal states within the united Sudan, where the system would allow citizens to participate in running of their own affairs.

In 1948, South Sudanese politicians were appointed to the parliament to represent their respective communities or constituencies pursued the agenda of change that would result in taking into consideration the system of governance deemed appropriate to foster unity among the people of Sudan and South Sudan. The list of the members of parliament from South Sudan included Buth Diu, Edward OdhokDodigo from Upper Nile, Stanislaus Paysama and PaulinoCyerRehan from Bahr El-Gazal and Benjamin Lwoki and Andrea Gore from Equatoria.

In 1950, Northern Sudanese political parties made a move on the issue of self –determination for the people of Sudan. So south Sudanese in the parliament refused to support their counterparts in Northern Sudan because they realised that their case had been left out of the parliamentary debates.

In the years that followed, South Sudanese political parties were formed to present the issues of major concern to the British administration in Sudan. On the other hand, this federation was presented as the only way through which the union of Sudan could be maintained.

Thus, the political trajectory in Sudan changed suddenly with the support northern Sudan was getting from Egypt. In fact, it also influenced the other agreements signed between the other colonial administration and Egypt on Sudan. In consequence, the governor general of Sudan had to reserve some powers over South Sudan that underpinned the closed districts ordinance (ibid).

In response to this, Northern Sudan's political parties excluded South Sudanese politicians in constitutional review because of the fear of it being rejected by them.

The formation of Southern political parties happened before 1953, general elections in Sudan. This was followed by South Sudanese demands for the rights of Self-determination for the three southern provinces namely, Bahr El-Gazal, Equatoria and Upper Nile provinces.

This quest of Self-government threatened the unity of Sudan as a whole. Therefore, the central government in Khartoum had to give autonomy to South Sudan as a way of maintaining union of Sudan and South Sudan, which deterred annexation of the region (South Sudan) to the British East Africa (Johnson, 2014. P.6). This study compares different federal states that are successful.

The current political system in South Sudan divides power between the central government in Juba with the president as the head of state and the states' governors. The second level is the state government headed by the governors, where the system divides powers between the governors and the county commissioners.

While this current system has a structure that looks exactly like the federal system of governance, the level of the control from the central government does not give chance to the country to adopt federalism. The reason being that the ten states of South Sudan have no defined powers and functions enshrined in the country's constitution to handle their issues or affairs independently without interference from the central government

1;2 The statement of the problem

South Sudanese have demanding adoption of federalism since 1947 .The demand for federalism came as result of marginalization of southern Sudan by the north Sudanese in Khartoum . The members of parliament repeated this call for federal system in 1955, which did not work well for them [SOUTH SUDANESE] as it was resisted by the central government in Khartoum.

It has been argued that federalism comes with economic benefits to the citizens of the country . Now after the independence of South Sudan from Sudan in 2011, attempts to adopt federal system has been faced with challenge from opponents who felt that when the federalism is adopted ,it disadvantages some states that do not have natural resource.

Some studies carried out confirmed that most economically developed nations and political stable countries in the world are FEDERAL STATE .for example , the United States,

Britain Germany, south Africa, Ethiopia and Australia have adopted the federal system . in addition to this country have tested federal system to solve their ethnic divide and have succeeded . this study investigates the creation of federalism..

1.3 The Research objectives

- Look at the history of South Sudanese Political thought in Sudan and South Sudan since independence.
- Examine the development of political institutions in the post colonial Sudan and their impact in shaping and influencing the political identities in the two countries
- Assessment and investigation of current restructuring of political institutions inherited from the colonial administration
-

1.4 .The Research Questions

Based on the goals of this study of federal system of governance in Sudan and South Sudan and the use of the available literature and the review of related literature, the following research questions are formulated:

- Can adoption of federal system of governance reduce the political and ethnic divides in South Sudan?
- How can federal system influence the political leadership of the country?

Can federal system shape the political institutions in Sudan and South Sudan and work as a road map towards democratic transformation?

The current political system in South Sudan divides power between the central government in Juba with the president as the head of state and the states' governors. The second level is the state government headed by the governors, where the system divides powers between the governors and the county commissioners.

- While this current system has a structure that looks exactly like the federal system of governance, the level of the control from the central government does not give chance to the country to adopt federalism. The reason being that the ten states of South Sudan have no defined powers and functions enshrined in the country's constitution to handle their issues or affairs independently without interference from the central government

Earlier studies conducted on federal system become valuable in terms of compilation of relevant data in this study. This study adopts comparison mode focusing on various styles of

presenting the collected data. This research design will be qualitative in nature, since the collection of the relevant literature and data will include primary and secondary sources. In addition to this, the process will encompass photocopying relevant materials from the libraries and search of media journals from electronic libraries.

And since the collections of the data include minimal comparisons of statistical materials, it tends to mainly be concentrated on the normal use of establishment of the differences in the frequent compilation of the data.

- The researcher makes sure that he follows research techniques which give priority to circulation of the questionnaires to research participants.
- To identify research participants
- To ensure that open ended questions and close ended questions are structured to get the right answers from the respondents.
-

In addition to this, selecting experts must ensure validity of findings or sampling practitioners to create checks and balances, as well as cross checks the questionnaires and answers.

The Research design Will be made in such a way that its structure will help the respondents to answer promptly.

1;5 Significance of the study

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CHAPTER TWO

Literature Review

2.1. Meaning of Federalism

Federalism is a system of governance that is practiced in many countries, which are bound, together by agreement or covenant with federal structure. It refers to a system of government in which sovereignty is constitutionally shared between a central governing authority and constituent political units such as states or provinces (Johnson, 2015). Leading examples of such a political system, or federation, include Switzerland, Germany, the United States, Canada, Australia and India. Federalism is a system based on democratic values and institutions in which the power to govern is shared between national and provincial/state governments.

Many countries have adopted Federalism in Europe. Division of roles between the different layers informs the implementation of federal system. Federalists refer to those who favor a common federal government, with equal distributions of power at regional, national and supranational levels (Ibid). Political scientists believe that most European federalists have preference for federal systems that originated in post-war Europe; which were attributed to Winston Churchill's initiatives in Zurich in 1946. In the United States, federalism originally referred to belief in a stronger central government (ibid). Decentralized system of government can easily be confused with federal system. This is very different from modern usage of federalism in Europe and the United States.

The U.S. Constitution was written as a reaction to the Articles of Confederation, under which the United States was a loose confederation with a weak central government.¹

In contrast, academics argue that Europe has a great history of unitary states than North America. It is believed that European federalism has weaker central governments as compared to a unitary state. On the other hand, the modern American usage of the word federation is much closer to the European sense. As the power of the Federal government of the United States, the Federal government has increased, some people have perceived a much more unitary state than they believe the Founding Fathers of the United States intended.

In contrast, the call for federal states in South Sudan is underpinned by the need to devolve some powers to the states. Most people who were politically advocating for federalism in South Sudan did that in favor of limiting the powers of the central government.

In comparison, federalism in Canada typically neutralizes opposition in their demand for Separate estate in Quebec province. The governments of Argentina, Australia, Brazil, India, and Mexico, among others, are also organized along federal principles.

Federalism may encompass as few as two or three internal divisions, as is the case in Administrative divisions of Belgium or Bosnia and Herzegovina. In general, two extremes of federalism can be distinguished: at one extreme, the strong federal state is almost completely unitary, with few powers reserved for local governments; while at the other extreme, the national government may be a federal state in name only, being a confederation in actuality

In 1999, the Government of Canada established the forum of Federations as an international network for exchange of best practices among federal states. Headquartered in Ottawa, the Forum of Federations partner governments include Australia, Brazil, Canada, Ethiopia, Germany, India, Mexico, Nigeria, and Switzerland.

This study discusses federal system and its advantages and disadvantages for South Sudanese.

In this study examine the idea of federalism because it has once again become a central issue in political debates in South Sudan pedigree in the country`s political history.

It is believed that some South Sudanese tend to remain neutral on the proposed federal system of governance in the country, while others are interested in discussing the advantages and disadvantages of federalism (Johnson, 2015). This study describes attitudes towards federalism and the way it was presented from before Sudan`s independence in 1956, up to South Sudan`s Independence Day.

The first time that the collective opinion of Southern Sudanese was canvassed concerning a national political issue was at the Juba conference of 1947. Since 1930, British Administrative policy in the Sudan has kept open the possibility that the Southern Provinces might be one day be transferred to colonial authority in British East Africa.

This remained an English colony in international law. Egypt was a theoretical option only: it could not be done as long as Sudan remained as an Egyptian colony in International law. Egypt was a partner in the condominium that ruled Sudan, and East African Governments

were unenthusiastic about the idea of the Southern Sudanese provinces joining them (Johnson, 2015).

In 1946, with Egypt attempting to reassert its sovereignty over the whole Sudan and with northern nationalist groups articulating demands for self-government and self-determination within Sudan's geographical boundaries, the Southern Sudan was no longer even a theoretical possibility and the Sudan government prepared a new linking the future of the Southern Sudan inextricably with that of the Northern Sudan (ibid). But some consultation with the educated leadership of the Southern Sudan- junior administrative officials, teachers, and chiefs was deemed necessary, if only for forms sake. Following a preliminary survey of Southern opinion a conference was convened in Juba in 1947.

The conference was exploratory and could take no decisions by itself. Its main purpose was to find out if the nascent leadership of the Southern educated class was working and able to take part as appointed members in the legislative Assembly that was being established in Khartoum (Johnson, 2015). Johnson claimed that the first day of the conference that was meant to discuss the future of the country ended with no any agreement, between South Sudan delegates who participated in Juba conference.

Finally PaulinoCyerRehan one of the Dinka Chiefs at the Conference spoke. `Gentlemen,` he said `we now have stayed too long, why we should be afraid of the Northerners? If anything happens, if the Northerners want to make injustice to us well we have young children, young men: they will take the responsibility and fight them; they are men like ourselves.

So, in the end the Southern representatives agreed to participate in the Legislative Assembly, but at no point in the conference was any system of government discussed. Despite what South Sudanese now believe there was no mention of federalism.

2.2. Highly Decentralized Federalism

Basically, there are two types of federal system, in Australia and Canada for example, federalism is used in a more decentralized manner. This means that in Australia each individual state and territory carries more power than the federal government does. In Australia and Canada, most of the money which each state receives from the federal government is unconditional. This means that each state or territory is able to allocate the resources as they see fit. This highly decentralized federal system is not without shortcomings. In Canada for example, the province of Quebec has been seeking sovereignty for many years. They wished to preserve their faith, their language, their laws and their culture.

Likewise, in Australia for example, the Western Australia state has also been seeking to secede and become a sovereign country. If Quebec ever does achieve to be separate from the rest of Canada then it will reduce the sense of equality among the rest of the provinces and territories. This could cause other provinces and territories to wish to leave Canada and take control over their own province, the same is the case with Australia. Centralized federalism like the United States on the other hand uses federalism in a more decentralized approach. Here, the national government gives the state government money, but the state government must use the money according to how the national government wants the money spent. The national government has an increase of power here because they can get the state to do whatever they want them to do.

This is also known as a conditional transfer because the state has to follow certain conditions the federal government gives them. Federal mandates is an order from the national government given to the state government that the state government must comply with and if they don't, there will be consequences (federal funding can be revoked). It is used when the federal government wants the state government to implement a certain policy. This also gives the federal government more power because if the state decides not to do it, the state can get punished by failing to comply with the national government. Unlike Australia and Canada where federalism is more decentralized (giving states more powers), this problem of wanting to secede is not seen in the United States because of their centralized approach to federalism. This approach allows each state to be equal and no one state to feel the need to overpower another state.

2.3. The Federalist Papers: The History of Federalism

The strongest arguments for federalism were written during the ratification of the U.S. Constitution. They were meant to explain the advantages of the Constitution and to persuade New York citizens to ratify it. The essays pointed out that the Constitution would allow the principle of popular sovereignty to continue and would help prevent internal dissolution and uneven distribution of power—problems that contributed to the failure of the Articles of Confederation.

2.4. Supreme Court tilting toward States' rights:

The U.S. Constitution establishes a system of federalism that allocates power, authority, and sovereignty between the federal government at the national level and its constituent units at the state and local levels. However, nowhere in the Constitution does the word federalism appear, so the term remained undefined. Nonetheless, Articles I through III expressly delegate certain powers to the three branches of the federal government, while the Tenth Amendment expressly reserves to the states those powers not delegated to the federal government. The Equal Protection and due process Clauses of the Fourteenth Amendment have been interpreted to make most of the Bill of Rights applicable to the states, while the Ninth Amendment preserves for "the people" those rights not enumerated in the Constitution.

So while the term federalism is nowhere to be found in the text of the U.S. Constitution, the principles underlying this theory of government are deeply embedded throughout the national charter. The Framers left it for subsequent generations of Americans to work out the details, allowing them, in effect, to provide their own definition of federalism in what best can be described as an ongoing national dialogue. Over the last 200 plus years, Americans have carried out this dialogue by speaking to each other through their state and federal institutions and by amending the Constitution as a last resort.

The most visible federal institutions participating in this national dialogue have been the U.S. Supreme Court and Congress. Typically, cases involving federalism-related issues have come before the Supreme Court after Congress has enacted a law that a state believes encroaches on its sovereignty. Until the late twentieth century, the Supreme Court leaned heavily in favor of allocating power to Congress at the expense of state sovereignty, and not surprisingly the states often took issue. But from 1993 to 2003, the jurisprudential pendulum of the Supreme Court took a very noticeable swing back in favor of States' Rights. To understand just how

pronounced this swing has been, it is important to place a spate of Supreme Court cases in historical context.

2.5. The First 200 Years of Federalism in the United States in

Chisholm v. Georgia

The Supreme Court ruled that Article III of the federal Constitution gives the Court original jurisdiction over lawsuits between a state government and the citizens of another state, even if the state being sued does not consent. The decision generated immediate opposition from 12 states, and led to the ratification of the Eleventh Amendment, which gives states Sovereign Immunity from being sued in federal court by citizens of other states without the consent of the state being sued. Thirty-eight years later the Court again overstepped its bounds when it invalidated a Georgia state law regulating Cherokee Indian lands on the grounds that the law violated several U.S. treaties. Georgia ignored the Supreme Court's decision, and President Andrew Jackson, an ardent states' rights proponent, refused to deploy federal troops to enforce the Court's order.

Allocation of power to the federal government probably reached its zenith under the Supreme Court's expansive interpretation of congressional lawmaking power exercised pursuant to the Commerce Clause, which gives Congress authority to regulate matters affecting interstate commerce. In *Gibbons v. Ogden*, the Supreme Court ruled that the Commerce Clause power of Congress is "supreme, unlimited, and plenary," acknowledging "no limitations, other than those prescribed in the Constitution." More than a hundred years later Congress applied this plenary power to regulate a farmer's personal consumption of his own privately grown wheat because Congress had found that the effects of such use, when aggregated with that of other farmers, would have a substantial effect on prices in the national wheat market. The Supreme Court ruled that Congress had not exceeded the bounds of its authority under the Commerce Clause.

The Supreme Court deviated from its pattern of enlarging the powers of the federal government in decisions involving race relations. In *Dred Scott v. Sandford*, the Court invalidated the Missouri Compromise, a federal law that outlawed Slavery in the northern Louisiana Territory, on the grounds that under the Constitution Congress was intended "to be carefully limited in its powers, and to exercise no authority beyond those expressly granted by the Constitution, or necessarily to be implied from it." This decision exacerbated the antagonism between the slave-holding states, the free states, and the territories, antagonism

that eventually culminated in the U.S. Civil War. Similarly, the Supreme Court deferred to local lawmakers in *Plessy v. Ferguson*, which upheld the constitutionality of Jim Crow Laws that had created a legal regime of racial Segregation in the South.

2.6.Federalism Since 1990

Beginning in the 1990s, however, the Supreme Court began revisiting the relationship between the state and federal governments on issues other than race-relations. In *New York v. United States*, the state of New York brought a suit challenging parts of the Low-Level Radioactive Waste Policy Amendments Act. The Supreme Court held that the act's "take title" provision, which required states either to regulate low-level radioactive waste according to congressional regulations or to take ownership of the waste, was unconstitutional. The Court reasoned that the "take title" provision was outside the authority delegated to Congress under the Constitution and that the regulation was an attempt to "compel the States to enact or administer a federal regulatory program." Such attempts to compel state behavior, the Court said, violate the federal structure of the government as embodied in the Tenth Amendment.

Three years later the Supreme Court invalidated the Gun-Free School Zones Act in *United States v. Lopez*. The act had made it a federal offense for any individual to knowingly possess a firearm in a place that the individual knows or has reasonable cause to believe is a school zone. Without explicitly overruling *Wickard v. Filburn*, the Court ruled that Congress exceeded its authority under the Commerce Clause, since possession of gun in a local school zone was not economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce, and the statute contained no jurisdictional element to ensure, through a case-by-case inquiry, that possession of firearm had any concrete tie to interstate commerce.

In *Printz v. United States*, a sheriff sought to enjoin provisions of the Brady Handgun Violence Prevention Act. The act established a system of national instant background checks. Local authorities were required to participate in the system by performing background checks on behalf of the federal government. The Supreme Court ruled that Congress had no authority under the Commerce Clause to enlist local authorities to enforce the provisions of a federal law. That same year the Supreme Court continued chipping away at Congressional power in *Seminole Tribe of Florida v. Florida*, a case in which an Indian tribe filed suit against Florida to compel the state to negotiate under the federal Indian Gambling Regulatory Act. The act required states to negotiate in Good Faith towards the creation of a compact between the tribe

and the state allowing for certain gambling activities. States could be sued in federal court for violating the act and compelled by federal courts to comply with its mandates. The Supreme Court found that, while Congress intended to abrogate the states' sovereign immunity in the statute, the "Eleventh Amendment prohibits Congress from making the states capable of being sued in federal court."

Scholars, historians, and other commentators disagree over the long-term impact of the Court's recent decisions that revisit the concept of federalism. New York Times Supreme Court reporter Linda Greenhouse responded to several of the federalism-related decisions by opining that "it is only a slight exaggeration to say that ... the Court is a single vote shy of reinstalling the Articles of Confederation." Joseph Biden (D-Del.) took to the Senate floor to proclaim that "the imperialist course upon which the Court has embarked constitutes a danger to our established system of government."

Other commentators contend that these decisions are likely to have minimal lasting effect. Congress has at its disposal, these commentators argue, a variety of mechanisms by which it can blunt the effects of these rulings. For example, Congress can fund studies that will offer proof that the subject matter of proposed federal laws intimately touch upon interstate commerce, thereby defeating in advance any arguments to the contrary. In the wake of the September 11, 2001, terrorist attacks in New York City and Washington, D.C., other commentators have predicted that the pendulum of federalism would swing in the other direction to allow the federal government to more adequately address concerns over homeland security.

Amid these competing views over the Court's direction, one thing remains certain: each year the court is asked to review an increasing number of decisions relating in one way or another to federalism. Sometimes the Court can influence the balance of power between the state and federal governments even by declining to grant certiorari. For example, in December 2002 the Court refused to intervene after the New Jersey Supreme Court allowed Democrat Frank Lautenberg to replace U.S. Senator Robert Torricelli on the fall ballot, even though the state's legal deadline had passed. *Forrester v. New Jersey Democratic Party*. By declining review, the Court allowed the state leeway in interpreting its own laws. Such "federalism" issues are bound to resurface in other cases, including one that had not yet reached the court: Attorney General John Ashcroft's bid to prosecute doctors assisting in suicides under Oregon law.

The key to the endurance of the Constitution, according to Madison, was that even in a democracy, the majority must not be allowed too much power; it needs to be held in check so that individual and state freedoms will be preserved. Indeed, English writer Edmund Burke said that in a "democracy, the majority of citizens is capable of exercising the most cruel oppression on the minority."

One check in the political process supported by the Constitution is provided by the Supreme Court, which is politically insulated. This check, as explained by Madison, guarantees the right of individuals, even the most obnoxious, to vote, speak and to be treated fairly and with respect and dignity." The function of the judicial branch, then, was to preserve the liberty of the citizens and the states. The principle of federalism states that the greatest danger to liberty is the majority. These rights were decided "according to the rules of justice and the rights of the minor party, not by the superior force of an interested and overbearing majority" (The Federalist no. 10, p. 77). Although the Supreme Court is part of the federal government, it is separate from the legislative and executive branches, and it functions as a check on the federal and state governments.

The Constitution was influenced by two major philosophies: federalism and nationalism. The federalists believed in a noncentralized government. They supported the idea of a strong national government that shared authority and power with strong state and local governments. The nationalists, or neofederalists, believed there should be a strong central government with absolute authority over the states.

When the founders were developing the Constitution, they had four goals. First, they wanted the government to be responsive to the citizens. Second, they wanted the political system to enhance, not discourage, interaction between the government and the governed. Third, they wanted the system to allow for the coexistence of political order and liberty. And finally, they wanted the system to provide a fair way of ensuring that civil justice and morality would flourish.

The Constitution as eventually ratified was labeled a bundle of compromises because it allowed for a strong central government but still conceded powers to the individual states. In The Federalist, no. 45, Madison said, "The powers delegated by the proposed Constitution to the Federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

The constitutional role of the states in the federal government is determined by four factors: (1) the provisions in the federal and state constitutions that either limit or guarantee the powers of the states in relation to the federal government; (2) the provisions in the Constitution that give the states a role in the makeup of the government; (3) the subsequent interpretation of both sets of provisions by the courts, especially the Supreme Court; and (4) the unwritten constitutional traditions that have informally evolved and have only recently been recognized by the federal or state constitutions or the courts.

2.7. Judicial Review

In the early 1990s and early 2000s, the U. S. Supreme Court continued to revisit and reshape the concept of federalism in cases pitting the powers and prerogatives of the state and federal government against each other. Perhaps the biggest changes had occurred in the judicial branch, with its power of Judicial Review. Judicial review allows the courts to invalidate acts of the legislative or executive branches if the courts determine that the acts are unconstitutional. The Supreme Court first exercised judicial review of national legislation in the landmark case of *Marbury v. Madison*, 5 U.S. The decision, written by Chief Justice John Marshall, followed the principles of Publius in *The Federalist*, no. 78. The *Federalist Papers* were based on the principle that the Articles of Confederation were inadequate. The ideas set forth in *The Federalist Papers* challenged those articles and proposed a new governmental style for the Union.

Judges have five sources of guidance for interpreting the Constitution: the original intention of the founders; arguments based on the theory of the Constitution; arguments based on the Constitution's structure; arguments based on judicial precedent; and arguments based on moral, social, and political values. Across the centuries, several justices have attempted to interpret the original, often vague intention of a document written in the late 1700s. Justice BENJAMIN N. CARDOZO said, "The great generalities of the constitution have a content and a significance that vary from age to age." Justice Joseph McKenna wrote, "Time works changes, brings into existence new conditions and purposes. Therefore a principle, to be vital, must be capable of wider application than the mischief which gave it birth. This is peculiarly true of constitutions" (*Weems v. United States*)

Although it may seem unlikely that a federal body would favor states' rights over federal, it is not uncommon. For example, in the 1991 case of *Coleman v. Thompson*, the Supreme Court chose not to interfere with a state's jurisdiction. Roger Keith Coleman had received a death

sentence, which he challenged in the Virginia state and federal courts on the basis that he was an innocent man being executed for a crime he did not commit. The case reached the U.S. Supreme Court, where the majority said, "This is a case about federalism. It concerns the respect that federal courts owe the States and the States' procedural rules when reviewing the claims of state prisoners in federal habeas corpus." The Court ruled that because the state court's decision against Coleman was based on independent and adequate state grounds, it would not review the determination. This deference to state laws is based on the idea that states are separate sovereigns with autonomy that must be taken into consideration.

2.8. Separation of Powers and the Plain Statement Rule

Another key element of federalism is the principle of Separation of Powers. The Constitution's definition of separation of powers is not specific, and the Supreme Court has struggled to interpret it. Separation of powers is based on the premise that there are three branches of federal government, each with its own enumerated powers. For example, the Executive Branch, which includes the president, has Veto power; the Senate and Congress make up the legislative branch and have the power of advice and consent over the appointment of executive and judicial officers; and the courts make up the judicial branch and have the power of judicial review.

The SEPARATION-OF-POWERS principle has had two interpretations. The first, formalism, is rooted in the idea that the Constitution's goal was to divide the new federal government into three defined categories, each with its own set of powers. The second interpretation, functionalism, is based on the belief that the three branches of government are not clearly delineated. Functionalists believe that the goal of separation of powers is to ensure that each branch retains only as much power as is necessary for it to act as a check on the other branches. Although the interpretations appear similar, they differ in terms of what constitutes a breach of the separation of powers. A breach under formalism would be a breach under functionalism only if the power in question either infringed on the core function of another branch or increased another branch's power.

In *Gregory v. Ashcroft*, Justice Sandra Day O'Connor wrote that the Constitution establishes a system of dual sovereignty that balances the power between the states and the federal government. At the same time, however, the Supremacy Clause (U.S. Const. art. VI, § 2) gives the federal government "a decided advantage in this delicate balance" by guaranteeing that Congress can make the states do what it wants if it acts within its constitutional

delegation of power. O'Connor also said that the Court must assume that Congress does not "exercise lightly" this "extraordinary power" to legislate, even in areas traditionally regulated by the states. The people of a state establish the structure of their government and the qualifications of those who exercise governmental authority. Such decisions are of the most "fundamental sort for a sovereign entity."

The Court in *Gregory* also applied the plain statement rule, requiring Congress to state clearly its intent when creating laws that may interfere with state government functions. The plain statement rule, under *Gregory*, serves as a check against federal regulation of the states. This rule has two tiers of inquiry: (1) Congress must clearly intend to extend a law to the states as states, and (2) Congress must outline which state activities and functions it is targeting within the sweep of federal law. Federalism is the oldest form of government in the United States. The timelessness of the Constitution and the strength of the arguments presented by *The Federalist Papers* offer a clue to its endurance: the Founders wrote the Constitution so that it would always remain open to interpretation. Federalism's Ambiguity has contributed to its longevity.

Federations:

The component states are in some sense sovereign, insofar as certain powers are reserved to them that may not be exercised by the central government. However, a federation is more than a mere loose alliance of independent states. The component states of a federation usually possess no powers in relation to foreign policy, and so they enjoy no independent status under international law. However, German *Länder* do have this power, which is beginning to be exercised on a European level. Some federations are called asymmetric because some states have more autonomy than others. An example of such a federation is Malaysia, in which Sarawak and Sabah agreed to form the federation on different terms and conditions from the states of Peninsular Malaysia.

A federation often emerges from an initial agreement between a number of separate states. The purpose can be the will to solve mutual problems and to provide for mutual defense, or to create a nation state for an ethnicity spread over several states. The former was the case with the United States and Switzerland. However, as the histories of countries and nations vary, the federalist system of a state can be quite different from these models. Australia, for instance, is unique in that it came into existence as a nation by the democratic vote of the citizens of each state, who voted "yes" in referendums to adopt the Australian Constitution. Brazil, on the

other hand, has experienced both the federal and the unitary state during its history. Some present day states of the Brazilian federation retain borders set during the Portuguese colonization (i.e. previous to the very existence of the Brazilian state), whereas the latest state, Tocantins, was created by the 1988 Constitution for chiefly administrative reasons. Seven of the top eight largest countries by area are governed as federations.

Unitary states:

A unitary state is sometimes one with only a single, centralized, national tier of government. However, unitary states often also include one or more self-governing regions. The difference between a federation and this kind of unitary state is that in a unitary state the autonomous status of self-governing regions exists by the sufferance of the central government, and may be unilaterally revoked. While it is common for a federation to be brought into being by agreement between a number of formally independent states, in a unitary state self-governing regions are often created through a process of devolution, where a formerly centralized state agrees to grant autonomy to a region that was previously entirely subordinate. Thus federations are often established voluntarily from 'below' whereas devolution grants self-government from 'above'.

It is often part of the philosophy of a unitary state that, regardless of the actual status of any of its parts, its entire territory constitutes a single sovereign entity or nation-state, and that by virtue of this the central government exercises sovereignty over the whole territory as of right. In a federation, on the other hand, sovereignty is often regarded as residing notionally in the component states, or as being shared between these states and the central government.

Devolution:

A federation differs from a devolved state, such as Indonesia, the United Kingdom and the Kingdom of Spain, because, in a devolved state, the central government can revoke the independence of the subunits (Scottish Parliament, Welsh National Assembly, Northern Ireland Assembly in the case of the UK) without changing the constitution

The distinction between a federation and a unitary state is often quite ambiguous. A unitary state may closely resemble a federation in structure and, while a central government may possess the theoretical right to revoke the autonomy of a self-governing region, it may be politically difficult for it to do so in practice. The self-governing regions of some unitary

states also often enjoy greater autonomy than those of some federations. For these reasons, it is sometimes argued that some modern unitary states are de facto federations (ibid)

It is assumed that certain forms of political and constitutional disputes are common to federations. One such issue is the division of power and responsibility between federal and regional governments is often a source of controversy. More often than not, the conflicts are resolved through the judicial system, which delimits the powers of federal and local governments. The relationship between federal and local courts varies from nation to another and sometimes it can be difficult to separate their powers (ibid).

Looking at the federal states, one finds that another common issue in federal systems is the conflict between regional and national interests.

On the other hand, the ability of a federal government to create national institutions that can mediate differences that arise because of linguistic, ethnic, religious, or other regional differences is an important challenge.

Federal governments

The federal government is the common or national government of a federation. A federal government may have distinct powers at various levels authorized or delegated to it by its member states. The structures of federal governments vary. Based on a broad definition of federal system (Johnson, 2015). There are two or more levels of governments that exist within an established territory and govern through common institutions with overlapping or shared powers as prescribed by a constitution.

Federal government is the government at the level of the sovereign state. Federal states usually have responsibilities of different levels of government that include maintaining security of the country and develop good relations, including the right to sign international treaties with other countries.² By and large, a modern federal government is well defined by its constitution and has the power to pass laws through its parliament for the whole country

In addition, federal governments within this structure are the government ministries and departments and agencies to which the ministers of government are assigned. It is often

argued that federal states where the central government has the constitutional authority to suspend a constituent state's government by invoking gross mismanagement or civil unrest, or to adopt national legislation that overrides or infringe on the constituent states' powers by invoking the central government's constitutional authority to ensure "peace and good government" or to implement obligations contracted under an international treaty, are not truly federal states.³

CHAPTER TREE

Methodology

3.1 Collecting the data: In dealing with any real life problem it is often found that data at hand are inadequate, and hence, it becomes necessary to collect data that are appropriate. There are several ways of collecting the appropriate data which differ considerably in context of money costs, time and other resources at the disposal of the researcher. But I use these mechanisms to collect the data

Secondary data can be collected either through experiment or through survey. I observe some quantitative measurements, or the data, with the help of which I examine the truth contained in my hypothesis. But in the case of a survey, data is collected by any one or more of the following ways:

1. By observation: This method implies the collection of information by way of investigator's own observation, without interviewing the respondents.

Through personal interview: The investigator follows a rigid procedure and seeks answers to a set of pre-conceived questions through personal interviews. This method of collecting data is usually carried out in a structured way where output depends upon the ability of the main to a large extent.

Through telephone interviews: This method of collecting information involves contacting the respondents on telephone itself. This is not a very widely used method but it plays an important role in my surveys in developed regions, particularly, when the survey has to be accomplished in a very limited time. I use telephone for some questions

By mailing of questionnaires: The researcher and the respondents do come in contact with each other if this method of survey is adopted. Questionnaires are mailed to the respondents that I chose governmental institutions with a request to return after completing the same. It is the most extensively used method in various economic and business surveys. Before applying this method, I usually conduct a Pilot Study for testing the questionnaire which reveals the weaknesses, if any, of the questionnaire. I prepared the Questionnaire very carefully so that it may prove to be effective in collecting the relevant information.

Through schedules: Under this method the enumerators are appointed and given training. They are provided with schedules containing relevant questions. These enumerators go to respondents with these schedules. Data are collected by filling up the schedules by enumerators on the basis of replies given by respondents. Much depends upon the capability of enumerators so far as this method is concerned. Some

Web Analytics

Web analytics refers to gathering and analyzing usage data to gain insights into research actions and attitudes. Tools such as Google Web Analytics and i have made it possible for companies to adopt a real data driven approach to understanding usage patterns to optimize the experience for the user. In the case of, it is very useful to know the impact on player behavior to adjust and optimize the strategy as needed.

Qualitative research is specially important in the behavioural sciences where the aim is to discover the underlying motives of human behaviour. Through such research we can analyse the various factors which motivate people to behave in a particular manner or which make people like or dislike a particular thing. It may be stated, however, that to apply qualitative research in my research was the one very necessary and I use this method for it .

CHAPTER FOUR

Analysis for South Sudan

4.1. SELF-DETERMINATION, INDEPENDENCE AND FEDERALISM

(1948-1957)

Thirteen Southerners were appointed to the Legislative Assembly, including Stanislaus Payasama, Paulino CyerRehan from Bahr el-Ghazal; Both Diu and Edward OdhokDodigo from Upper Nile; and Benjamin Lwoki and Andrea Gore from Equatoria. South Sudanese Members of parliament formed a political bloc to advocate for federal system and governance in South Sudan. Return to previous point, the MPs demanded that autonomy be given to the southern provinces. But the Sudan government based in Khartoum did not agree to the proposals (Ibid). Subsequently, the Umma Party brought forward a self-government motion in 1950. South Sudanese led the opposition to it on the grounds that not enough had been done to enable the South to participate in self-government on equal basis. Their proposal for a special Minister of South Sudan's Affairs (Southern Affairs) in a future self-governing Sudan was voted down by Northern Sudanese members of parliament. They agreed to continue participating in the constitution process only when Northern Legislators accepted a provision for the Governor General to retain reserved powers over the Southern provinces and civil service. Southerners saw these as important safeguards against the potential abuse of power by a future Northern majority government, but they were highly unpopular provision among Northern parties.

The political landscape of Sudan abruptly changed the parties' agreement of January 1953 in which Egypt- supported by Northern parties. Stated the conditions on which it would agree to a new Anglo-Egyptian treaty establishing the terms for self-determination in the Sudan. The governor-general's reserve powers over the South and civil service were to be a choice between the alternatives of union with Egypt or complete Independence (ibid).

The exclusion of South Sudanese representatives from those talks was based the fact that Northern Sudanese were opposed to the idea of federal states demanded by their counterparts in South Sudan. In consequence, the Sudan administration in Khartoum denied the MPs from South Sudan a chance to attend constitutional review debates. In many occasions, Unionist Democratic Party had made a number of attempts to invite MPs from South Sudan to

participate law reforms. This paved the way for political parties formation in South Sudan (ibid).

Following the 1953 elections, the formation of the first all-southern cabinet under the pro-Egyptian National Union Party (NUP) of Prime Minister Ismail al-Azhari in 1954 further hastened Southern political thinking where federation and self-determination became intertwined. Federation now emerged as the condition for Southern participation in self-determination for the Sudan as one country. One of the earliest statements of this came in a petition addressed to the British Governor General and forwarded by Abdel RahmanSule, a Muslim merchant from Juba and co-founder of the liberal party who, shortly before the new cabinet was sworn in claimed,

“No one in the South Sudan would like at the movement to see these Egyptian proposals carried out, we in the South are still underdeveloped economically, socially and politically” said Buth Diu.

South Sudan based political parties argued that if the Egyptian proposals deprived south Sudan its autonomy and protected the interest of the governor-general, than the British administration in Sudan should put the country under UN trusteeship.

This Federation was presented as the only viable path to the unity of Sudan, and self-determination for South Sudan was raised as the only acceptable alternative to federation.

South Sudanese leaders who later emerged into prominence as organizers of the Liberal party and promoters of new idea of federalism were Benjamin Lwoki (President of the Liberal Party) Abdel RahmanSule (Chairman of the Juba branch), Both Diu (in the House of Representatives), Senators PaulinoLogaliWani from Equatoria and Stanislaus Payasama from Bahr el-Ghazal. They were the ones who organized the first ever pan-Southern conference held in the Juba cinema now an Episcopal Church in October 1954, which debated the South`s future in the Sudan (ibid).

It was confirmed that 250 delegates from all three provinces of South Sudan attended the conference, including chiefs from the rural areas, representatives from the South Sudan Diaspora in Khartoum, and seven South Sudan members of the ruling NUP. Deliberations were conducted in English but translated into five other languages: Bari, Zande, Lotuko, Dinka and Arabic. The conference debated two main questions. The political future of Sudan as a whole, and the political future of South Sudan were all discussed with special focus on

South Sudanese common position on these two issues prior to the general elections. It was in this conference that South Sudanese widely debated the idea of federation for the first time (ibid).

The conference very quickly came out in favor of Independence of Sudan and against union with Egypt. It then went on to debate the form of government Southerners would support in an independent Sudan. AtillonAttor, a Shilluk from Upper Nile province was the first to speak in favor of federation. YonaLumanga, a teacher from Yei, supported him. But not everyone was convinced: AwadSomit from the Juba opposed federation and spoke in favor of the NUP government; Necodemo Gore also from Juba, objected to discussion of the future of the country in general as there was no Northern Sudanese representative present.

Senator Stanislaus Payasama, the Vice President of the Liberal Party was chosen to explain the meaning of federalism. He mentioned different types of federation adopted by different countries as mentioned above from Europe, Asia and America. His explanation had to be translated into all the languages of the conference and took two- and -a quarter hours. By then the conference minutes concluded, the house was well informed with the meaning of federation.

Looking at political trajectory in South Sudan, Nicodemo Gore raised the pertinent question as to why federation for people of South Sudan was so important. Both Diu supported the idea that the country should adopt that system of government for the people to develop sense of belonging.

“May I draw your attention gentlemen chiefs of all tribes, elders, citizens present in this house; I should like to know whether you in this house want to be slaves or it will be better for you to be poor and free and happy? I should like to know whether you understand the meaning of federation as explained to you. Federation does not mean separation but internal law and order in United Sudan, for you to be able to look after your own affairs. My Honorable gentlemen Necodemo Gore brought the question of management and finance of federalism now under debate by Southerners, with regard to the first part of your question government must be bound to manage the federation of the South for fear of separation if they cannot, we can manage to separate the country, this I am quite sure the present Regime has in mind. To conclude my dearest friend Mr. Necodemo Gore we are here for freedom not money” Said Diu, 1948).

Johnson (2015) claimed that local Chiefs from South Sudan shared the same feeling that federation would have more advantages than a unitary system controlled by few individuals in the central government. He declared (Original spelling) I and my people strongly request Federation to safe my fellow blacks in the North, this call were repeated by Musa Beshir non-tribal delegate from Khartoum who announced, I am a delegate of 25,000 Southerners in the North this includes Nuba, Fur and Fung who carry the same idea of federation. In this respect, I am not representing tribe but I would prefer to say colour since the three communities referred to again and again are blacks. There are backward areas in the North far too backward then the Southern Sudan. Therefore, I am speaking here for the blacks that favored your demands for Federation. Federation must go ahead to meet our demand in all our backward areas namely Fur, Fung and Nuba Mountains. Vote was then taken and federation was passed by 227 to 0, with seven abstains from the NUP delegates.

The decision of the conference was conveyed to the foreign Ministers of Britain and Egypt, the British Governor General of the Sudan and Sudan`s Prime Minister Ismail al-Azhari in a letter signed by Benjamin Lwoki, in which he declared that the only alternative facing Sudan are:

1. Either autonomy in the North under federation or if that is not acceptable to the Northerners.
2. A divided Sudan an each ruling itself independent of each other As the South went to parliament on (its) own will so it can choose to walk out of (it) We must determine to the future of the South in the way we think suits our aims or us.

There seems to have been no reply from any of the recipients of Benjamin Lwoki`s letter. There are important points to highlight about 1954 conference. First Federalism was presented as a way to maintain a united Sudan. Second, support for federalism was voiced by delegates from three provinces as well as from the Diaspora living in the North. Third, Southern Sudanese looked beyond their own borders and embraced the other marginalized areas of South. Fourth while forms of federalism might have been discovered there was no explicit proposal of what form a federal Sudan might take, and what balance of powers between federal government and federated states should be achieved. Federalism might have been an ideal but at this point it remained only an idea without a blue print. And finally self-determination leading to independence was presented as a failsafe alternative for Southern Sudanese should they fail in their primary goal of achieving federation for all Sudan.

The August 1955 mutiny of Southern soldiers and police in Torit and other towns of the South convinced the British government that the sooner it was released from its residual responsibility for the Sudan the better, and Sudan's Prime Minister Ismail el-Azhari was advised that if parliament declared independence Britain would recognize it even though parliament had no mandate to make such a decision.

Southern members of parliament at first opposed this move as premature if it were to be made before a constitution for the new country could be agreed. As Britain was reluctant to recognize Sudanese independence without the full support of the South for a while it looked as if Southern opposition could halt the momentum towards independence. In the end the southern legislators agreed to vote for independence on the basis of a vague undertaking that parliament would consider federalism in the future.

It is argued that parliament did consider the federal option in 1957 and rejected it northern Sudanese of all political lives equal federalism with session, rather than as a way to maintain national unity (Johnson, 2015). The Advocates of for the federal system demanded South Sudan should adopt that system of governance rather than consideration. Return to previous proposal, federal party led by EzboniMundiri as president and Darius Bashir as secretary General made a significant move.

In addition, the federal party studied models of federation from around the world and proposed a constitutional structure similar to that of the United States, with the legislative bodies of the federal government replicated in the northern and southern federal states. While earlier demands for federalism have been vague about structures, the federal party emphasized the important point that accepting federal principles meant creating states on the one hand and the central government on the other, and justified the creation of two federal states on the ground of racial and territorial differences between the north and south Sudan.

Between them, the liberal and three federal parties returned a large pro-federal bloc of southerners to the constituent Assembly in 1958, of prominent federal came from all three provinces and included senators Stanislaus Paysama and Paulo Logali (the father of Hilary Paul Logali), and representatives Joseph Oduho, Both Diu, and Fr. SaturninoLohure (a Roman Catholic Priest). Outside parliament, Southern politicians made approaches to other regions, including Darfur, and the east, which began to take an interest in a federal constitution. This was one of the factors that precipitated an army coup to prevent the country

from falling apart according to Northern Sudanese. This was the end of the first parliamentary period and the first military government under General Ibrahim Abboud 1958-1964.

In this first period of political discussion, the federal idea, evolved from a theoretical ideal to a more practical blue print of the structure of government. South Sudanese Legislature adopted federalism as a result of Legislative disappointments, such as when the Northern majority voted down proposals that South Sudanese regarded as essential to safeguard their interests. Federation was originally presented as the only constitutional arrangement that would guarantee a united Sudan. At an early stage, Southerners sought political allies in the quest for a federal constitution from other Sudanese peoples in marginal areas who shared their concerns. Throughout this period federation within a united Sudan remained Southern leaders primary goal, and self-determination was only secondary.

In the twenty-year period between 1969-1989 the idea of federation had been effectively replaced nationally by policies of decentralization and regionalization, where the central government retained its power in part by devolving its responsibility for providing services to the regions that, nevertheless, were denied the resources to bear the burden of that responsibility.

4.2 FEDERATION UNDER NATIONAL ISLAM FRONT (NIF) 1989-2005

The NIF military regime of Omar al Bashir adopted the language of federalism to describe its own policy of decentralization. In the South this was part of a strategy to isolate the SPLA/M and manufacture an internal peace. The SPLM/A had also wavered in its commitment to national restructuring and began to place more emphasis on self-determination as a solution.

4.3. FEDERALISM IN 2011 AND AFTER

In principle South Sudanese rejected version of federalism when they voted for Independence. In practice, they inherited Khartoum `s division of South Sudan into ten states with Juba replacing Khartoum as the central power, in other words, they inherited, decentralization rather federation. Debates over the balance of powers between the central and state governments began with drafting of the transitional constitution. Substantive calls for a federal system were made as early as on May 2011 at Equatoria conference resolutions (Mading, 2016).

The debate over federation in an independent South Sudan is now complicated by the fact the SPLM-IO has adopted federalism as a political platform while the government early equates talk of federalism with subversion and disloyalty. However, in 2015 the government started to implement its version of federalism or more decentralization of 10 states to 28 states.

But if we are to learn anything from the past history of Southern Sudan political thought it is that federalism means many things. As the SPLM/A warned at Abuja peace talks in 1992, no system is federal merely because it claims to be federal; the same term has been used to describe what are, in practice, highly centralized systems of government, as well as more radical projects of devolution, which are tribally motivated. Until there is a full and open discussion of the issue of federalism might mean for South Sudan, and once understood whether the majority of South Sudanese will want to adopt it (www.sudantribune.org).

The most open public debate about federalism today has been conducted on the social media. The Diaspora has dominated it, mostly without specifics falling back instead on dictionary definitions or textbook outlines. Some advocates use the same argument for a federal system in South Sudan that earlier advocates used federalism in the Sudan: that it will promote unity good governance and development, others advocate federalism for parochial reasons, seeing federation mainly as a means for removing persons of the other states from their own. Some Equatorians see a way to get rid of domination of Dinkas and Nuer. In Juba there are some who are now advocating a return to Kokora as federal solution to the domination of the Dinkas.

Currently the term ethnic federalism has become a popular slogan of the government. It appears to offer each community control of its own resources and affairs. Ethiopia is frequently presented as a model for ethnic federalism yet Ethiopian federalism in practice also has been described as a means by which the ruling party has divided the opposition along ethnic lines, making it difficult for a united opposition to arise and challenge its power. The problem with Ethiopian federalism is not it is insufficiently ethnic, but that it is insufficiently federal, and it is possible that its emphasis on ethnicity is the source of that weakness. Current proponents of ethnic federalism have supported creation of 28 states irrespective of current demography or economic viability. The SPLM-IO recent proposal of making 21 states along the 1956 boundaries of Southern Sudan districts threatens to take the Ethiopian example to the extreme, creating weak states unable to challenge or restrain whoever holds power in the Federal Government.

The focus of many South Sudanese has been on the creation of federal state, rather than on the balance of power between federal and state governments. It would be well to remember the point the Federal Party made back in 1957: that accepting the principle of federalism means creating both central government and state governments at the same time. It does not mean creating state government alone. There will be a central government; however its powers are defined. It will have a presence through various federal agencies in every state. If that is well done federal system of governance will be appropriate system of governance in the Republic of South Sudan. This will need public debate so that the people of South Sudan understand what federalism is and whether it's appropriate system of governance.

This study seeks to investigate the application of federal system in South Sudan. To begin with, Federalism is defined and advocated as a good strategy for diverse management in multi-ethnic societies; supposedly contributes to enhance democratic values, reduces chances of rebellion against the state, and tendencies of separatism by some sections of the society (Cohen 1997; Adsera, Boix & Payne 2003; Stepan 2004; Iff 2012).

It builds on non centralization principles; which in words of Elazar (1976:13), implies 'no matter how certain powers may be shared by the general and constituent governments at any particular time, the authority to participate in exercising them cannot be taken away from either without mutual consent'. Watts (1996:6) frames federalism in terms of 'shared-rule & regional self-rule' principles. For diverse management, federalism is often approached through the accommodations and the integrationist models (e.g. Mc Garry & O'Leary 2005; Iff, 2012). However, very little is known on the relations between establishment local governments and conflict in multi-ethnic societies, and what implications this could have on establishment on federal system of governance (e.g. Ayee 2012). Federalism is a principle of government that seeks to reconcile unity and diversity through the exercise of political power along multiple autonomous levels. Federalism is a system of government in which powers are divided between two or more constituent entities (states, territories and counties) by a written constitution. The underlying objective is the decentralisation of power into multiple levels of government. Nevertheless, the differences in the wordings in all definitions can cause huge confusion. Let's assume that we choose the first definition, which define Federalism as a principle of government that seeks to reconcile unity and diversity through the exercise of political power along multiple autonomous levels.

This definition implies that federalism is the best system of government in countries which have different religions, languages and cultures. In other word, federalism works best in states which are multi-cultural or multinational. The reason why federalism works well in the mix of the above mentioned categories is that it provides protection against domination by the majority, and provides opportunity for self-fulfillment and self-development for the minority through institutions that it controls while maintaining the ability of both groups to pursue common goals. Each level of government is protected by the constitution (Johnson et al 2015).

The objective of federalism according to this definition is a division of powers between federal government and the states and territories. Yes states will have substantial powers to make laws and many other things (less domination by the national government). However, in some states domination of minorities by the majority will still likely to cause problems unless we pay attention to it while attempting to define federalism.

4.4. Power Distribution between Federal and States Governments:

Usually, the constitution outlines which level of government should be responsible for what comparably, in all federations, the national or federal government has powers to regulate interstate commerce, declaring war, building an army/navy, making laws to enforce the Constitution, making treaties, regulates immigration and border protection, manage national resources (e.g. river Nile) and printing money. The state governments on the other hand are responsible for issuing licenses, providing public health and welfare, regulates voting, and regulates education.

The concurrent powers or shared powers of the federal and state government are making laws, making courts, building highways, and collecting taxes. The states and federal laws must not conflict each other, in other word, they must be consistent. However if there is inconsistency between the states and federal laws, the federal law will override the state law. With this in mind, it is not hard to see that federal government will still be a 'big brother'.

4.5. Reason for the Referendum;

Let us assume that the above mentioned objectives are the aims of federalism that we would have in South Sudan should we adopt it. Hence if particular individuals or parties disagree with objectives identified above, they would most likely disagree with various prescriptions

provided within federalism. Therefore if the permanent federal constitution is to be developed logically and consistently, the first needs to be some consensus on important issues such as what the meaning of federalism is and what its objectives are. Unless there is agreement on fundamental issues, such as those just mentioned, the proposed federalism will be developed in a rather ad hoc or piecemeal manner with limited consistency between states, federal government and among South Sudanese in general. Furthermore, there are times where each level of government has an advantage of power. This is where we South Sudanese need a proper consultations and awareness to choose the system of federalism that is best for us.

4.6. The Issues of Federalism in the Republic of South Sudan:

When historian Douglas H. Johnson delivered a lecture at the University of Juba on 5 July 2014 on the history of federalism in South Sudan, Central Equatoria State was in the midst of a political crisis. Just two days before, the governor of the state had delivered a searing speech accusing national authorities of disarming troops from his region and trying to pressure him to retract his demand for the adoption of a federal system. There were rumors that the governor was mobilizing a militia to battle national authorities and reports that the army had dispatched forces to the governor's hometown. Though the crisis was eventually diffused, the political differences that had sparked it remained unresolved.

An essay published last month by the Rift Valley Institute is adapted from the lecture delivered by Dr. Johnson at the time of that crisis. The roughly 20-page booklet recounts the history of the idea of federalism within the united Sudan, and later within the independent South Sudan. Johnson's work is based on original research and historical documents, referring to the ideas and experiences of prominent South Sudanese intellectuals and politicians such as Aggrey Jaden, William Deng, Buth Diu, and Ezboni Mundiri.

His history covers several different eras since the mid-20th century, including the important Nimeiri-era precedent of the Southern Regional Government, its later abolishment, and its further re-division into three smaller regions in 1983. Two decades of war that followed this move repudiated the Khartoum national government's domination over the Southern region. But as Johnson points out, after the guerilla SPLM took power in the South in 2005, they developed Juba into a "central power" akin to Khartoum, leaving little power in the hands of state governments. "In principle, southern Sudanese rejected Khartoum's version of federation when they voted for independence. In practice, they inherited Khartoum's division

of the south into ten states, with Juba replacing Khartoum as the central power in other words, they inherited ‘decentralization’ rather than federation,” writes Johnson.

Johnson’s insights and commentary on the political discourse of 2014 are also noteworthy. For instance, he likens a recent SPLM-IO proposal to divide South Sudan into 21 states to the ‘Ethnic Federalism’ practiced in Ethiopia. He argues that the proposal “threatens to take the Ethiopian example to the extreme, creating weak states unable to challenge or restrain whoever holds power in the federal government.” “The problem with Ethiopian federalism is not that it is insufficiently ethnic, but that it is insufficiently federal.” SPLM-IO’s proposal differs from that of the Equatorian federalists, who want to preserve and indeed strengthen the existing states rather than divide them. This form of federalism aims to devolve powers from the national government in Juba and give more autonomy and power to state governors and legislatures.

However, Johnson questions whether all of the so-called federalists in Equatoria want “genuine federalism,” dismissing some as mere “advocates of the new Kokora.” This term, a Bari word meaning ‘division,’ refers to the 1983 re-division of South Sudan, but also is associated with ethnic ideas including “anti-Dinka propaganda.” “Let us be clear: Kokora is not the same as federalism. It did not create a federal state in Equatoria or any place else in southern Sudan. It weakened the powers of the regions while leaving the power of the central government in Khartoum untouched, enhanced even. Those who want genuine federalism are best advised not to adopt Kokora as their model,” writes Johnson.

This historical perspective on the current federalist movement in Equatoria helps explain the hostility of SPLM in the government to federalism as a system, given that the movement long suffered from factionalism. Core principles of federalism including separation of powers and shared sovereignty are opposed by many in the SPLM/A, which has long put a premium on loyalty to a centralized command and which since coming to power in South Sudan in 2005, has focused its efforts on building a unitary state. The present political importance of this should not be overlooked; in spite of the party’s nominal assent to federalism in response to Equatorian demands, few if any of the ruling party leaders have spelled out what they mean by ‘federalism,’ and many remain suspicious of federalist ideas and committed to the development of a unitary state. In light of this, Johnson’s study may have benefited from more discussion of how the political culture of SPLM shaped the current Transitional Constitution,

which was drafted ahead of independence in 2011, and how it continues to shape discussions on constitutional questions at ongoing peace talks.

Many South Sudanese intellectuals have written in broad terms about the current Constitution – as to whether it is ‘authoritarian’ or not, for instance – but few have reflected deeply on the particularities of the South Sudanese constitutional system and hypothesized alternatives, in light of the present situation. Johnson’s own discussion of this is fairly cursory – apparently intentionally so – but his conclusion nonetheless points to the importance of this line of inquiry. “Self- determination means more than choosing independence. It also means choosing a form of self-government, and that choice has still to be made,” he writes. In all, this is a remarkably timely academic work that ought to help inform civic discourse among South Sudanese.

To build on my argument in the context of South Sudan, there is a need to flesh-back and review the history background for the quest of federalism from the people of Southern Sudan in one Republic of Sudan before the independence of the Republic of South Sudan. The demand of federal system for the people of South Sudan was initiated since 1952 , when Constitutional Amendment Commission refuses to endorse a Ministry of Southern Affairs or a federal constitution, “Buth Diu Conference” in Juba endorses federalism for southern Sudan, Nuba, Fur and Funj in 1954, EzboniMundiri’s Federal Party; southern MPs formed “Federal Bloc” in parliament in 1957, Sudan’s first military coup ends parliamentary democracy in 1958, Round Table Conference, Southern Front and SANU-William Deng present federal proposals in 1965, SSLM delegation presents federal proposal at the Addis Ababa talks; get semi-autonomous region for southern provinces only in 1972, Sudan adopts a system of decentralized regions in 1980-83, “federal” constitution creates 10 decentralized states in southern Sudan in 1994 to the present, and federalism debate in South Sudan in 2011.

4.7. Relationship between the Central Government and Its Constituent Units:

Federalism is a principle of government that defines the relationship between the central government at the national level and its constituent units at the regional, state, or local levels. Under this principle of government, power and authority is allocated between the national and local governmental units, such that each unit is delegated a sphere of power and authority only it can exercise, while other powers must be shared. The term federalism is derived from the Latin root foedus, which means "formal agreement or covenant." It includes the

interrelationships between the states as well as between the states and the federal government. Governance in the United States takes place at various levels and branches of government, which all take part in the decision-making process. From the U.S. Supreme Court to the smallest local government, a distribution of power allows all the entities of the system to work separately while still working together as a nation. Supreme Court justice HUGO L. BLACK wrote that federalism meant a proper respect for state functions, a recognition of the fact that the entire country is made up of a Union of separate State governments, and a continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways. The Constitution lists the legislative powers of the federal government. The tenth amendment protects the residual powers of the states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

4.8. South Sudan Opportunities and Challenges

South Sudan's one year after independence opportunities and obstacles for Africa's newest country, the Republic of South Sudan is comprised of three provinces—Bahr el Ghazal, Equatoria and Greater Upper Nile, which are subdivided into 10 states: Northern Bahr el Ghazal, Western Bahr el Ghazal, Warrap, Lakes (Bahr el Ghazal); Unity, Upper Nile, Jonglei (Greater Upper Nile); and Western Equatoria, Central Equatorial (which contains Juba, the national capital) and Eastern Equatoria (Equatoria) (Johnson, 2015).

The Transitional Constitution of South Sudan, which was enacted in 2011, prescribes a decentralized system of governance with three levels of government.

1. The national level, which will exercise authority in respect of the people and the states;
2. The state level of government, which shall exercise authority within a state, and render public services through the level closest to the people; and
3. local government level within the state, which shall be the closest level to the people (The Transitional Constitution of the Republic of South Sudan 2011).

According to the constitution, while the national government has far-ranging powers, states also have broad executive and legislative rights giving them a fair degree of self-governance. In many respects, the transitional constitution is fairly progressive with respect to devolving decision making authority to appropriate levels of government. This is especially true in

relation to service delivery, which is primarily the function of states. Even the lowest unit of government—the local level—is expected to undertake many functions that enhance broad citizen participation, the hallmark for good governance. Furthermore, the constitution also recognizes traditional authority and lays a good foundation for a decentralized federal system of governance.

As the country prepares to write a new constitution to replace the transitional one that is being reviewed. Although the merits and demerits of unitary and federal systems are being studied, South Sudanese are adamant that the country should adopt federal system of governance. For example, in a Sudan Tribune opinion editorial, Isaiah Abraham makes a strong case for a reversion to a unitary state, and argues that “economically, federalism hurts poor states and most of the time, it encourages unnecessary competition and selfishness.

In another word, it breeds inequality and we don’t want it happen in our land. Some states are rich while others could be left behind” (Sudan Tribune 2012). Such arguments suggest an inclination to weaken the decentralized structures in favor of a unitary state. Unfortunately, Africa’s post-independence experiences with unitary state structures have been disastrous. In fact, unitary systems have instead produced the same dreaded results that Abraham attributed to federalism—high levels of inequality, marginalization of vulnerable groups (e.g., women, rural inhabitants, ethnic minorities, and the urban poor) and the promotion of policies that have made corruption and rent seeking endemic. Unitarism concentrates power in the center and enhances the ability of the ethno-regional groups that control the central government to maximize their interests and values at the expense of other citizens, especially those which are not politically well-connected (Kimenyi and Meagher 2004).

There is often a strong motive for ruling political elites to concentrate powers in the central government. Concentration of power enhances the ability of political elites to redistribute income and wealth in their favor and their supporters’ favor, usually at the expense of the larger majority. As has been the case for many African countries during most of the post-independence period, the common tendency for leaders has been to create strong unitary states. In addition to, those countries that had some forms of decentralized governance structures before independence often had post-independence rulers that abolished such systems, arguing that they were not effective instruments of governance and economic development. The Brookings Institution (Africa Growth Initiative 17)

These leaders saw the unitary system as the best institutional arrangement to unite the diverse ethnic and religious groups that inhabited their countries. But, the results of the strong unitary African states are well known—abuse of power, high levels of corruption and financial malfeasance, oppression of minority and other vulnerable groups, regional inequalities, and so on. Moreover, many groups that came to view themselves as disenfranchised and deprived by the existing system of governance resorted to destructive mobilization in an effort to improve their participation in economic and political markets and to minimize further marginalization. The results were brutal civil wars and extremely high levels of political instability.

South Sudan is a very large country with a population estimated at slightly over 8 million with complex ethnic diversity. There are about 64 different ethnic groups of varying sizes currently residing in South Sudan, making diversity management particularly important (UNOCHA 2010). In addition, effectively delivering public goods and services in such a varied and complex environment presents many challenges. To deal effectively with the immense human development obstacles that the new country faces, it must design and implement governance structures in which the civil servants and political elites are accountable to both the citizens and the constitution. Such governance structures must also allow for broad participation of the citizenry in social, political and economic affairs.

Only a decentralized system would bring these desired outcomes in South Sudan. The lesson from other highly heterogeneous countries is that decentralized governance is best suited in dealing with diversity, improving the delivery of services, and entrenching participation and accountability (Kimenyi 1997). As the experiences of other African nations have shown, concentration of power in the center is associated with a whole range of outcomes that undermine unity and development. For this young nation, a major focus must be the strengthening, and not the weakening, of the decentralized federal system. Actions that weaken sub-national governments are likely to create a volatile situation, as some population groups will be marginalized and deprived.

There are several advantages of a decentralized system of governance for a country like South Sudan. First, decentralization, especially if it is guaranteed by the constitution, brings government closer to the people and makes it relevant to their lives and the problems that they face. Second, decentralization enhances the ability of the people at the local level to participate in the design and implementation of policies affecting their lives. This is especially

critical given the fact that the people at the local or community level have more information about demand and supply conditions in their communities than those in Juba, and hence are able to help the government adopt policies that significantly enhance the efficient and equitable allocation of public resources. Third, decentralization increases competition in government provision and therefore enhances government efficiency. Fourth, decentralization improves accountability since civil servants and political elites are forced to work closely with those who provide the resources (i.e., tax payers) that pay their salaries and support their activities. Finally, decentralization enhances the ability of local communities to maximize their values and thus minimizes the conflict that often arises when some groups are forced to sacrifice their traditions and cultures in favor of some national value dictated by those groups that control the central government.

As South Sudan prepares to move from its transitional constitution to a permanent framework of governance, the new nation should focus on strengthening the federal system. Already, there are concerns that the centralization of power in Juba is marginalizing some groups and is creating corruption and wasteful allocation of scarce public resources. Currently, the country's states and their constituent local governments are not really constitutionally functional entities. The people of South Sudan must resist temptations to concentrate power in the national government at the expense of state and local levels of government. Important policy actions should include, prioritize data mapping. Currently essential information to implement a decentralized system efficiently is not available. It is therefore critically important that the government of South Sudan prioritize the undertaking of a comprehensive data mapping exercise that should include the gathering of up-to-date information on the characteristics of the states such as population, resources, economic activities, the economy and the state of service delivery. Such data would assist in the designing of an effective system of intergovernmental transfers. Focus on capacity building for civil servants, probably the most serious constraint to implementing a decentralized system of governance in South Sudan is the lack of administrative capacity at the national, state and local levels. The country urgently requires trained personnel to manage the public sector. Thus, a priority for the Government of South Sudan and its development partners would be to invest heavily in capacity building. Several capacity training modalities should be investigated, with a view to identifying models that are cost effective and appropriate for the country. Increase revenues for state governments, one key aspect of strengthening the system is to ensure that state entities receive a share of the natural resource revenues so that they can provide essential

services. Resource transfers to the states are critical, but this will require South Sudan and the Republic of Sudan to agree on the issue of oil shipment as soon as possible.

Most studies favour federalism than unitary system in a monolithic country like the Republic of South Sudan. Federalism is seen as a compromise option, as it lies mid-way between the options of state that promotes complete assimilation and suppresses diversity or the disintegration of that state. Unlike unitary system, federalism is more appealing as it offers a constitutional mechanism that embraces, tolerates, protects and promotes diversity.

On the other hand, there are concerns about federalism that it may weaken national unity, may promote instead ethnic rivalry and hostility. It may erode common political identity and national identity, may promote “ethnic fundamentalism”. Not only this but also, historical records that show the breaking down of federations in multi-ethnic states in the twentieth century. Yet, it is argued that federalism does not prevent conflict, nor does it eliminate conflict. But it provides institutional framework within which diversity could be managed and acceptable solutions for resolving any conflict could be found. It is argued that the same objectives of federalism in managing diversity can be achieved through decentralization. Federalism devolves powers through a constitutional arrangement. Decentralization devolves powers through policy choice that can occur both in federally and non-federally structured states. Many studies favour decentralization in delivering public goods including peace.

4.9. Systems of government in Sudan and South Sudan:

Systems of government in Sudan and South Sudan, the pre-colonial period, socio-political system adopted ranged centralized political authority, represented by Shilluk (Chollo) and Azandi, and non-centralized political authority, represented by Dinka and Nuer. The adoption of various systems of government by various ethnic groups was largely shaped by ecological environment, internal power struggle, economic activities and external threats. Relative stability and high resilience during the colonial period, Turco-Egyptian and Mahdiyya Regimes, military and assimilationist systems, Anglo-Egyptian Rule, restoring native administration, post-independence period, military, centralized and assimilationist unitary system. Decentralization and self-rule after Addis Ababa, 1972, the current system of government and federal system is an Islamic federal system, 1998. Abuja Peace Talks (1991-3); system of government for managing diversity was on the agenda Sudan People’s Liberation Movement (SPLM), Comprehensive Peace Agreement (CPA) has negotiated powers rather than system of government and discussed systems of government in Sudan and

South Sudan, comparing Comprehensive Peace Agreement (CPA) with a typical federal system. The Comprehensive Agreement (CPA) provided a decentralized federal system for Sudan. While in Southern Sudan semi ethnic federalism was adopted at the local government level.

Moreover, it is very crucial to discuss about constitutional quality of tiers of government, state quality of three levels of government; national, state and local government. The established state quality in terms of each level having its own legislature, executive and judiciary, political competence, all tiers of government enjoy political competence in terms of autonomy and devolution of powers. The concept of sovereignty with people sovereign authority is vested in the people. However, the financial competence for all tiers of government, each tier of government has been assigned a clear financial competence and sources of revenue and Financial and Fiscal allocation and Monitoring Commission established (FFAMC) to ensure implementation of fiscal federalism.

In addition to this, the principle of allocation of tasks subsidiarity (bottom up), the principle of subsidiarity is adopted to resolve conflicts related to concurrent powers and in case of contradiction in provisions of laws at different levels of government. Co-decision in central legislation, second chamber council of states consisting of representatives of all states is established as the second chamber conflict resolution mechanisms. Most decisions in most executive institutions at all levels are taken through consensus conflict resolution in case of conflict, it is to be resolved through consensus as necessity in negotiations, otherwise, the constitutional court should be established as conflict resolution mechanism. The constitutional quality of tiers of government at three levels of governments, national, state and local government are established with state quality in terms of having their own legislature, executive and judiciary. The political competence of three autonomous levels of governments will be established with administrative, political and fiscal decentralization, decentralized police, prisons, wildlife and fire brigade services. The decentralized services of public attorney at state level is to organize local government and its elections according to its constitution and the law. The Concept of sovereignty is that the president of South Sudan has been given power to dissolve an elected state legislature and remove an elected state governor. But it will not arise in this case, the National Elections Commission is to organize and conduct local government elections.

The risk and potential benefits of federalism in South Sudan, the demand for federal arrangement was motivated by fear of northern hegemony, or to put it in another way, we feared that the Arab would dominate politics, trample over our religious rights, and simply spread the policy of Arabization that the British had managed to curtail by governing southern provinces as a separate entity. Today, this historical legacy still permeates the every aspect of debate over federal arrangement. Can we design a purely federal system of government that achieves the following: (a) rigorously promote a single national identity(B) Aggressively protect the right of minor tribes and accommodate their political opinions(C) Could there be safeguards against a quick and nasty degeneration into regionalized politics?

Given these inherent weaknesses in our current quasi-federal arrangement, it becomes imperative to revisit the issue of purely federal system of government that would allow our people to have more say in how they are governed and realignment of accountability. Instead of states being more answerable to the central authorities, they should be attuned to the needs of the electorate. With a rigorous and enforceable design, a purely federal system of government will allow the central government to focus exclusively on projects of national significance such as national highway and railway system, establishment of national and state universities, national security from external threats and to some extent internal spoilers, and many other functions that each individual state would find exceedingly difficult to achieve on its own.

CHAPTER FIVE

CONCLUSION AND RECOMENDTION

5.1.Conclustion

In conclusion, South Sudan is a regression from the decentralized federal system. South Sudan departed from a decentralized federal system after its independence in July 2011. The current system of government in the independent South Sudan is not only centralized but it exhibits features of unitary system. It is a paradox that the people of Southern Sudan, who were the first to demand for the adoption of federal system in 1954 in Sudan and who overwhelmingly voted in favour of federalism in their first pan-Southern Conference in Juba 1954, are unable to adopt a “true federalism” after they gained the much-awaited independence in July 2011.

Success or failure of federal (decentralized) system of governance will greatly depend on the success (or failure) in creation of local government structures. This article emphasizes on the importance of borders as a strategy for successful implementation of federal (decentralized) system of governance. Dependence of ethnicity as a criterion for establishment of local government structures has proved to be problematic elsewhere and also in South Sudan; and should be avoided if other options exist. There is no known universal federal system, and each need to be contextualized to meet the societal needs. If the people of South Sudan choose a federal arrangement, the accommodations model is likely to offer some solutions. This will not only contribute to the freezing of creation of new territories, but could also contribute to processes of nation building and reconciliation, which the country needs most. This could give opportunity for necessary land reform. What is often framed, as ‘ethnic conflicts’ are not conflicts because of belonging to given ethnic communities, but manipulation of ethnicity to achieve individual or group objectives.

5.2. Recommendation

The people of south Sudan having AdvantagesOf A Referendum

people themselves make the decisions, usually through referendums

People are directly consulted on political decisions, this is also known as consultative democracy.

People may take the initiative in creating political change

- It is the purest form of democracy
- Important decisions can be strengthened if they receive the direct consent of people. Referendums give decisions legitimacy.
- Referendums and direct consultation can educate the public about political issues.
- People can participate more directly. This improves engagement with politics and may strengthen positive citizenship.
- Important constitutional changes can be 'entrenched' through a referendum
- When government itself is divided, referendums can solve this conflict and secure a consensus decision.

The aim of securing more than 50% of the local vote would ensure MPs work harder to earn votes.

Help encourage more people to vote, so voters feel their vote counts, as the reason most people don't vote is because they feel their vote won't change anything. Enhances legitimacy to political decisions made based on the results of the referendum.

Awareness creation about federalism

The question of what value federalism generates has no single answer, nor does its corollary of how the system ought to be structured to maximize its virtues. The value generated by decentralized decision-making will appear different depending on the perspective adopted when considering the matter, as will the ideal design of inter-governmental relations. If we step inside the system itself and adopt an institutionalism point of view, the answers will reflect the interests of the system's actors and take on partisan and bureaucratic characteristics. If we try to answer the questions externally, either from a popular or scholarly vantage point, the answers will become more ideological and normative. The question of federalism's value breaks down into several inquiries: Of what value is it to the central government to have state and local governments to contend with? Of what value is it to state and local governments to be embedded in a system with a strong central government and myriad competing governments? Of what value is it to the people to have government power split and decentralized?

it provides more protection for individual rights.it provides more protection against dangerous leaders (demagogues or tyrants) and gridlock, the inability of government to advance policies and solutions

it is more responsive to the needs and desires of its citizens, it can match policies to local conditions and values without having a "one size fits all" national policy.it gives people more choices; each state can offer different services at different costs (taxes) to support them

In particular, in one area of nation-state structure--the institutionalized territorial distribution of power between national and subnational governments--the new nation-states of the late nineteenth century displayed an institutional diversity that raises the question of how nation-states are formed and how the relationship between national and subnational governments comes to be established. Constitutionally sovereign parts in the larger "national" political framework: regional governments had formal access to the national government, discretion over public finance (i.e., taxing and spending), and administrative autonomy.. That both federal and unitary systems were the products of these institution-building experiments raises a deeper theoretical paradox of federalism's origins that is the central question of this book: How can a state-building political core that seeks to integrate its neighbors be strong enough to form a larger nation-state, but also not be too strong to entirely absorb and erase existing units, thereby creating a unitary nation-state? If the core is too unyielding, will not a unitary system result? If too accommodating, will not a union be impossible to forge in the first place

The study of federalism's origins is particularly important for at least two reasons. First, in recent years, federalism has been increasingly viewed as an institutional solution to a broad range of problems. Some scholars such as Barry Weingast have highlighted the positive impact of federalism on the creation and sustaining of free markets

Second, the study of state formation and federalism's origins contributes to our understanding of the political development of Ethiopia itself. Though scholars of Ethiopia political development have long noted the presence of national institutional diversity across the continent of Ethiopia ,

We confront similar problems when considering cultural-historical arguments asserting that, the greater the prenational historical embed-deadness of independent regions and territorial divisions in a society, the more likely federalism will emerge.

Numerous factors will inform the federal government's choices about how to interact with sub-federal legal and political institutions and bureaucracies. The existence of the latter can expand the federal government's capacity to govern and enforce the law. The federalist structure also can amplify the influence of political parties and national politicians. Turning to its institutions can help federal actors advance their substantive agendas through lawmaking, either by locating a substitute for it at the state or local level, or by laying groundwork for future federal action. The federal system also enables federal actors to shift the burden of regulation and accountability for the handling of difficult issues to other south Sudan officials and politicians. Each of these interests will likely be at work in the federal government's "use" of the federal system. But I have certain recommendation about the if the south Sudan people and government may be come up with

People may vote in an irrational, emotional way

If there are too many referendums, people may suffer 'voter fatigue'

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