

**3<sup>rd</sup> Conference on  
Constitutionalism and Human Security in the  
Horn of Africa**

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## Foreword

As noted at the previous conferences on “Constitutionalism” organized by InterAfrica Group (IAG), constitutional arrangements are measured on the degree of adherence to their stipulated provisions of democratic governance and on the equitable power sharing practices they have realized.

Hence, the extent to which constitutional arrangements in the Horn of Africa have succeeded or failed in advancing democratization and conflict management through power sharing remains an issue of critical importance and concern in the Sub-region. Cognizant of this, and to facilitate the exchange of informed views on various aspects of constitutions, InterAfrica Group had previously organized two conferences on constitutionalism. The first in October 2007 and the second in August 2008.

In line with the same objective, a third conference was organized on 8 December 2009, to examine and discuss three issues associated with constitutions: i) conflict management through power sharing; ii) sustainment of equitable and effective intergovernmental relations and iii) the institutionalization of democratic governance systems to Federal Capital Cities.

The conference was attended by a large number of policy makers, representatives of the diplomatic community, civil society from member countries of the Horn and International Organizations.

Key issues on the development and modus operandi of constitutions were identified and discussed with particular focus on their relevance and contribution to building of peace and human security. We trust the conference has generated and provided critical insight to policy makers and all stakeholders concerned with the process of peace building in the Horn.

This publication summarizes the proceedings of the conference and provides the respective papers presented by the prominent scholars.

IAG takes this opportunity to acknowledge and express its gratitude to the Netherlands Organization of International Development Cooperation/Oxfam-Novib for funding the conference. We would also like to acknowledge our appreciation to the scholars who presented their research papers and to all the active participants who made the conference successful.

Tamrat Kebede  
InterAfrica Group, Executive Director

### 3<sup>rd</sup> Conference on Constitutionalism and Human Security in the Horn of Africa

Moderator: Dr. Mehret Ayenew

#### Morning Session

9:00 – 9:30	Registration
9:30 – 9:45	Opening Remarks <i>Tamrat Kebede</i> , Executive Director, IAG
09:45 – 10:15	<b>Paper presentation: Power Sharing Mechanisms (short of Federalism) as a means to contain conflicts</b> <i>Dr. Asnake Kejale</i>
10:15 – 11:15	Plenary
11:15 – 11:30	Tea/Coffee Break
11:30 – 12:00	<b>Paper presentation: Intergovernmental Relations (IGR) and Fiscal issues in Federations</b> <i>Dr. Solomon Negusu</i>
12:00 – 01:00	Plenary
01:00 – 02:30	Lunch

#### Afternoon Session

02:30 – 03:00	<b>Paper presentation: Managing Federal Capitals</b> <i>Dr. Assefa Fiseha</i>
03:00 – 04:00	Plenary
04:00	Concluding Remarks & Tea/Coffee

*government of world cities: The future of the metro model*, L.J. Sharpe, ed. Chichester: John Wiley & Sons Ltd.

Slack, Enid. 2007. "Managing the Coordination of Service Delivery in Metropolitan Cities: The Role of Metropolitan Governance," A report prepared for the World Bank.

Van Wynsberghe, Caroline. 2008. "IGR, A Capital Question?" Paper submitted for the workshop "The dynamics of IGR at the national, supranational (EU) and international (UN) level."

### **Third Conference on Constitutionalism and Human Security in the Horn of Africa**

#### **PROCEEDINGS**

InterAfrica Group hosted the third conference on Constitutionalism and Human Security in the Horn of Africa at the Intercontinental Hotel, Addis Ababa, Ethiopia, on December 8<sup>th</sup> 2009. The conference covered themes addressing power sharing, the applicability of different forms of governance to the Horn of Africa, and intergovernmental relations. The nature of federalism in Ethiopia was addressed from varied perspectives as well. Mr. Tamrat Kebede, Executive Director of InterAfrica Group, provided the introductory remarks for the meeting. He outlined the themes to be covered by the presenters which included, conflict management through power sharing, sustainment of effective intergovernmental relations, and the institutionalization of effective democratic governance to federal capital cities. He thanked the presenters for imparting their research findings and introduced the chair of the conference, Dr. Mehret Ayenew.

The first paper of the conference is entitled, "Containing Conflict through Power Sharing: A Preliminary Survey on the Horn of Africa," presented by Dr. Asnake Kefale. Dr. Kefale is an Assistant Professor of Political Science and International Relations at Addis Ababa University. He defended his PhD thesis on Federalism and Conflict in Ethiopia at the University of Leiden in June 2009. He has published several works on federalism, civil society and governance. Dr Kefale divided his presentation into three parts: the experience of power sharing and its relationship to consociationalism; the use of power sharing to end conflict; and a preliminary survey of how countries in the Horn of Africa have used power sharing.

#### **Program**

The presenter stated that the discussion would focus on power sharing short of federalism. The theory of consociational democracy is one aspect of power sharing and has dominated comparative politics for the last three decades. It was developed from the experience of the Netherlands. Compared to liberal democracy, which identifies the individual as the centre/root of democracy, consociationalism is anchored on the development of institutional capacities following societal cleavages. Societal divisions are used as a means of organizing politics. Traditional liberal democracies in the West used assimilation as a tool for unity while consociationalism uses differences to build political institutions.

Countries that have used the consociational model at some point include Canada, Switzerland, Belgium, Lebanon and the Netherlands. Consociationalism has been used to address divisions arising from religious, linguistic, and ideological differences. For example, it was implemented in the Netherlands in order to address religious differences and was dissolved following the dissolution/muteness of religious differences in the 1960's. However, it has been argued that consociationalism may have negative consequences as seen in the breakdown of the Lebanese state into civil war in 1975. Since the model highlights differences, identity may become rigidified around constructs of dissimilarity highlighting separation over unity.

Consociationalism is an alternative to the winner take all scenario of majoritarian rule. It promotes consensus over adversarial politics. Consociationalism has two components:- pillarization (the social side) which refers to the different social segments, such as, ethnic and religious groups; and the political side which refers to political elites. Additionally, consociationalism is also anchored in the concepts of grand coalitions, proportionality, mutual veto, and segmental authority. Power sharing alone is a more generic term that refers to various techniques through which regimes share power with former

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more revenue-raising authority. Capital cities that are city states do not always enjoy constitutional parity with other states, however.

**Cities in provinces:** In Canada, South Africa and Switzerland, the capital city is simply a municipality situated within a province or state. These capital cities fall under local provincial/state jurisdiction and generally have the same legal status as other cities in the country. They may benefit, however, from special funding arrangements from the federal government.

The political structure of the country has some influence over the extent of federal involvement in the capital city. In South Africa and Ethiopia, for example, single party dominance has reinforced federal influence in the capital city. In Addis Ababa, tension between the federal and local roles has been minimized in the past because of the dynamics of the party system -- the same ruling party has, until recently, been in power at both levels of government.<sup>69</sup>

Roles and responsibilities differ among capital cities. In most cases, locally elected authorities are responsible for the normal local public services such as roads, water, sewers, garbage collection and disposal, fire protection, education, and social services. Land-use planning and policing, however, may be provided by the federal government directly or through a capital commission or they may be shared between the federal government and a local authority. There are also differences in the funding tools available to capital cities in different countries. Revenues may include taxes (such as property taxes, income taxes, sales and other taxes), user fees, and intergovernmental transfers. Reliance on these revenue sources and, in particular, reliance on intergovernmental transfers versus own-source revenues differ among capital cities.

Fiscal relationships between capital cities and their national governments also vary. Although most national governments provide some support to their national capital, there is considerable variation in the nature and amount of assistance.

adversaries. For example, this was used in post conflict scenarios in Zimbabwe and Kenya. Consociationalism is more specific and exhibits the previously mentioned four elements.

Power sharing can exist without federalism. Power sharing has been promoted by international powers as an instrument of peace building in post conflict situations. Power sharing has been used in post civil war periods and more recently in the aftermath of post election violence. It seeks to find a balance between the classical definition of democracy (majority rule) with the need for conflict management. The idea is particularly attractive because it encourages moderate and cooperative relationships between groups and provides a measure of security for political incumbents. Additionally, it can be particularly advantageous in post civil war scenarios where there is no clear cut winner; thus, consensus building is a necessity to attain peace.

Criticisms of “power sharing” include the following:-

- Democratic deficit due to elite control over political processes;
- Overlooking cross cutting identities;
- Resultant weak and fragile states (for example Zimbabwe);
- Highly dependent on interpersonal trust, therefore, lack of such a relationship can result in the breakdown of the political system; and
- It is often viewed as a short term solution as opposed to a long term peace building activity.

The presenter next discussed examples “power sharing” of in the Horn of Africa, particularly looking at the Djibouti, Kenya, Somalia and Sudan experience. Djibouti is faced with Afar-Issa cleavages which were heightened in the creation of the PRP (People’s Rally for Progress) in 1979. The Afar clan claimed to be subjugated in the one

party system. In retaliation the Afar community created the FRUD (Front for the Restoration of Unity and Democracy) political party in 1991. The FRUD signed a power sharing agreement in 1994 which led to the devolution of authority. A second power sharing agreement was signed in 2001 with the militant wing of the FRUD. However, power sharing was relegated by measures of cooptation. This was in part due to the belief by the ruling party that FRUD was a major contender.

Power sharing was applied in the Kenyan landscape following post election violence. This partly stemmed from historical factors. Following independence land was redistributed in Kenya and patronage systems were used to cement political power. These processes subjugated some groups, ultimately leading to sentiments of societal injustice. Multi party elections in the 1990's were often marred by misconduct and some expressions of violence. The power sharing agreements following the post election violence of 2005, held principles such as the need for unanimity, fixed equality of representation, proportionality in government appointments (higher level.) The power sharing agreement stabilized the country to some extent; however, all perpetrators have not gone through the justice system. The ICC is considering setting up a tribunal for the prosecution of the perpetrators of violence.

In the case of Somalia power sharing was used to accommodate clans, however, the country remains unstable. The TFG was established in 2004 and created a transitional assembly of two thousand five members. The latest power sharing agreement occurred in January 2009 and was crafted through the participation of two thousand seventy five MP's. The presenter stated that efforts to expand participatory capabilities in Somalia have concentrated on the inclusion of warlords while excluding civil society and other sectors.

balance in the case of Addis Ababa between the competing interests of the federal government, the city government, and Oromia Regional State, are just emerging. It remains to be seen how these issues are going to be dealt with in the future.

## Overall Conclusions

The main findings are summarized below. In terms of local governing structure, there are three broad categories of capital cities in federal countries. . First, it would appear that federal districts tend to be more common both in planned as well as historic capitals.

**Federal Districts:** federal districts afford the most power to the federal government over its capital city and less autonomy to the city itself. In Australia, Ethiopia, India, Mexico, Nigeria, and the United States, the capital takes the form of a federal district or territory with a different legal status from the state or provincial jurisdictions that surround it. Federal districts are often established constitutionally and are subject to federal legislation. These districts lack the constitutional sovereignty enjoyed by states or provinces. Within a federal district, the federal government can have considerable control over the financial and other decisions of the capital city. Even where local governments are elected, local budgets may have to be approved by the national government in some capital cities. The governments of federal districts generally take on both city and state responsibilities but, in most cases, they do not take on all of the functions assigned to other states.

**City-state:** In some federations the federal capital has the status of a city-state. The political boundaries of the capital define a political unit that is both a city and a state, and the city-state has the powers and responsibilities of both cities and provinces/states. City-states, as a result, tend to have more powers than other cities and generally

lic concern. Moreover, the requirement that enterprises meet environmental conditions has serious cost implications and hence involves intense negotiations. Of late, when the city government failed to respond to the demand of local communities for regulation of enterprises, a non-governmental organization took up the cause of the victims of polluted water and presented their case to the courts, which have yet to make a decision.

**Table 6**  
**Addis Ababa: Sources of environmental pollution**

Institutions	Number
Manufacturing industries	1,353
Hospitals and clinics	356
Religious institutions	157
Garages	450
Others	28
Total	2,344

*Source: The Reporter (Addis Ababa), 12 March 2008.*

### Concluding Remarks

There have been signs of improvement in recent years, but Addis Ababa's governance issues -- despite the city's huge revenue potential and the corresponding autonomy granted to it by the Constitution and by a series of charters issued by the federal government -- seem to be significantly affected by the continuous transitory arrangements. These arrangements were designed to be short-lived but have been required to meet the city's long-term responsibilities, thus having an impact on the city. As a result, the interim arrangements have not been able to address the increasing demands associated with urban life. It is interesting to note, however, that the real issues associated with the governance of federal capitals, such as striking a

The example of Sudan exhibits contradictory tendencies. On the one hand, the country has experienced an economic boom due to the availability of oil, while on the other hand, tensions between political factions and conflict are still evident. The CPA (Comprehensive Peace Agreement) includes provisions allowing for the maintenance of separate armies in North Sudan and South Sudan, a referendum in 2011 which will decide the unity or separation of North and South Sudan and the divisions of resources on a 50/50 basis. Power sharing in Sudan is a distinctly different process because it attempts to address the final question of statehood. Criticisms of the CPA include the agreement ignores other parties in the conflict and allots too much power to the two main groups (SPLA and NCP.) The presenter concluded the session by stating that power sharing schemes are fragile and need strong international pressure to be maintained.

Dr. Ayenew began the discussion portion of the program by stating that power sharing is not a permanent solution because it does not provide a durable mechanism for political stability. Power sharing democracy appears to be highly influenced by international pressure and is a "better than nothing" scheme. Discussion continued with a participant asking whether there are safeguards that can make power sharing more effective. The participant alleged that the presentation on the CPA (Comprehensive Peace Agreement) was misconstrued. The CPA was not solely a power sharing agreement, rather it also tried to address the democratic deficit. The idea of proportional representation and the division of power and resources is also plagued by lack of proper negotiation in good faith. The participant concluded by asking whether there were appropriate ways to fill the gap between constitutional provisions and implementation.

A second participant questioned whether power sharing should only be used to contain conflict as opposed to preventing conflict. A third

participant questioned the absence of Ethiopia in the analysis of power sharing. The participant stated that there could be a relevant discussion on which path the country should follow, i.e. liberal democracy versus consociational democracy. A fourth participant stated that the abandonment of consociational democracy in certain countries needs further explanation. The participant also stated that a more comparative discussion was needed as to why consociationalism worked in certain regions and not in others. The participant also highlighted that the transitional government of Ethiopia in 1991-1995 used a power sharing charter. A fifth participant added that it appears that power sharing is a solution often applied to post conflict scenarios while consociationalism is a more comprehensive system of governance.

Dr. Kefale first responded that discussions on the CPA have highlighted a familiar trend of criticisms towards the CPA; he noted that examples have shown the difference between ideals and implementation. The inability to negotiate in good faith has negated the possibility of a comprehensive settlement. Power sharing should not be applied in a 'copy paste' format. The most blatant example of the problems with this type of attempt is the failure of consociationalism in Lebanon where power sharing made divisions more rigid. The presenter next addressed the issue of federalism stating that although it is a mixture of self-rule and shared rule, it does not have a mechanism for proportional representation. The presenter concluded by stating that consociationalism was abandoned in the Netherlands because religious difference were no longer existent in the 1960's and comparisons between the Horn of Africa and other regions are problematic due to the highly volatile nature of the Horn.

The session concluded with a participant stating that the two groups that maintain consociationalism, i.e. society and the state, need to be considered in power sharing schemes. Power sharing as an elite

the overlap of the federal, regional, and city administrations.

The other set of challenges confronting Addis Ababa stems from the negative externalities that accrue to urban centres of such prominence and relative wealth. Given the fast-growing urban population and corresponding demand for land, the city's boundary is continuously expanding at the expense of the surrounding semi-rural places, which Oromia Regional State considers to be within its jurisdiction. This raises the thorny issue of eviction of farmers from their land, compensation, and resettlement elsewhere. As per the Ethiopian Constitution, rural as well as urban land is public property. Although there has been an increased demand for plots of land for investment and for residential quarters within the city and its surrounding areas, the city government long ago resorted to a centralized land-administration system. The provision of leasehold land for investment and for residential purposes has not been made on a continuous basis, and the demand exceeds the supply. Although this problem was ameliorated when the interim administration was established and when services were decentralized to the sub city level, there have since been increased reports of corruption involving the allocation of land.

Despite the increased investment in infrastructure over the past seven or so years, there is still an acute shortage of clean water for the city's residents. As the water supply fails at least once a week, residents of the entire city are rationed water in turns. Similar and acute supply shortages exist in electricity, and roads. The creaking infrastructure also contributes to heightened pollution levels in the city. The near lack of infrastructure in the surrounding countryside means the polluting enterprises are concentrated in and around the urban core. According to a recent study, there are about 2,344 institutions involved in manufacturing, industrial, and related activities in Addis Ababa that are producing industrial wastes and polluting rivers and the environment more generally. Although there has been an attempt to regulate new investment licences in order to promote engagement in environmentally friendly activities, the above institutions are operating under licences issued before environmental issues were of pub-

One of the challenges facing Addis Ababa's administration emanates from the fact that the city is the seat of three governments: the city government, the federal government, and the government of Oromia Regional State. Geographically, it falls within the boundary of Oromia Regional State, one of the largest states in terms of geography and population (27 million by latest estimates). The federal Constitution stipulates that "The special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia shall be respected."<sup>66</sup>

Although the seat of Oromia Regional State was in Adama/Nazareth between 2002 and 2005,<sup>67</sup> following the May 2005 election and its outcome, the regional government decided to move back to Addis Ababa and indicated clear interest in receiving a share of the revenue collected by the city and in being represented on the City Council and within the city's administration. What this actually means in concrete terms and what the special interest of Oromia Regional State is in Addis Ababa as stipulated in the Constitution are far from clear. Oromia has already presented its case to the House of Federation, an institution mandated to interpret what the constitutional clause means, and the HoF seems inclined to encourage both levels of government to find a negotiated political settlement.<sup>68</sup> Given these ambiguous circumstances, what appropriate institutions need to be designed to reflect the interests of the three governments remains a crucial issue. This is difficult to determine given the likelihood that the political elites representing the three governments may be from different parties, thus making negotiation very difficult and possibly even leading to gridlock. One minor manifestation of this intergovernmental tension is that the constitution of Oromia Regional State and its own media prefer to call the city *Finfinne*, whereas the federal Constitution and federal laws use the name Addis Ababa. Thus the nomenclature of the city itself is part of the debate. A related issue is the question of the city's boundary. Addis Ababa is fast expanding in all corners. This implies land has to be expropriated and borders expanded. The governance of Addis Ababa, then, is complicated by

program may result in peacemaking but does not have the power to transform conflict.

The second paper to be presented was entitled, "Intergovernmental Relations (IGR) and Fiscal issues in Federations: The Situation in Ethiopia and Implications to the Horn" It was presented by Dr. Solomon Negusu. Dr. Negusu is an assistant Professor of Law. He received his LLB from Addis Ababa University, LLM from Amsterdam University and PhD from Utrecht University, the Netherlands. He is the author of the book, "Fiscal Federalism in the Ethiopian Ethni-based Federal System." Currently, he teaches at the Institute of Federalism of the Ethiopian Civil Service College and at the Law Faculty of the Addis Ababa University

The paper tries to analyze the situation in Ethiopia and the legal aspects of IGR in other federations. IGR can be defined as the 'interactions between governmental units of all types and levels within a political system' (Watts); a wide variety of interactions including negotiation, conflict, competition, as well as, collaboration. It encompasses both harmonious and non-harmonious interactions. It excludes relations involving civil societies and it does not deal with relations between countries, although it can address relations between states within a nation.

The presenter next addressed the arrangement of IGR as prescribed by federal constitutions. The divisions of power described by constitutions have an effect on the progression of IGR. For example, in dual federal structures, i.e. where the federal government enacts laws and implements laws through either its own administrative agency or is implemented by state agencies, strong interaction would be expected between federal and state actors because of the alternative modes of implementation.

Cooperative federalism provides the necessary flexibility to make a federation work in a manner that meets the needs of its people. It enables polices to be coordinated; information to be shared and statistics to be gathered for policy development. In addition, it facilitates the spread of successful innovations and encourages efficiency.

It assists to build trust, between groups that may be inherently mistrustful to each other.

It is “a conflict avoidance and resolution, and a means to adapt to changing circumstances without having to resort to formal constitutional amendment.” (Watts).

IGR is often recommended to resolve conflicts which are usually attributed to jurisdiction and autonomy of sub-national governments, regional economic disparities, fiscal relations, the redistribution of wealth and revenue among the constituent units, the use and benefit of natural resources, disputes between neighboring territories, and the protection of human rights and federal intervention in the states. IGR is generally believed to be an effective instrument for better performance of governments. However, ‘if used inappropriately, unnecessarily, or too extensively, it can be a façade for centralization, stifling initiative, inhibiting the capacity of public institutions to be responsive to the needs of the communities that they serve, or leading to deadlock, rather than to coordinate action.’”

Dr. Negusu further added that IGR can be established through two processes. One is the creation of guidelines and policies defining IGR. Most countries create principles to guide IGR since it can provide broad alternatives for the application of the process. One example of this is the South African constitution which includes principles of IGR. There is some contention surrounding the use of laws and guidelines to direct IGR since it is based on trust and harmonious

increased significantly.

Another point is that, although all sources of revenue show a significant increase, direct taxes, fees, and charges remain the major sources of the city government’s revenue. The role of property tax as a source of revenue throughout the country in general and in Addis Ababa in particular is very minimal. There are two basic reasons for this. First, as per the Constitution, land is public property or is owned by the state, so individuals cannot own land outright but can only enter into lease agreements with the government for periods of time. Second, fees paid by individual owners of buildings and houses provide only a symbolic amount since they were fixed in 1975 after the military regime infamously expropriated all land and buildings owned by individuals that the regime considered to be extra property.

As Addis Ababa is subject to certain federal laws, the federal government has some jurisdiction in the city -- this being one example of the city’s lesser autonomy compared to the other nine regional states, which enjoy full-fledged legislative, executive, judicial, and financial autonomy. As a result, federal government employees, enterprises and properties owned by the federal government, and so forth are subject to taxes levied not by the city government but by the federal government. As well, the city government is not compensated for the federal government’s collection of these taxes. Foreign embassies and international organizations are also subject to federal laws and thus fall within the exclusive jurisdiction of the federal government.

### **Emerging Issues of Governance**

Addis Ababa’s role within Ethiopia is somewhat at odds with the views expressed by the late Daniel Elazar, who felt that in a “genuine federation no single urban center should be dominant.”<sup>65</sup> Yet Addis Ababa remains Ethiopia’s political, commercial, and cultural capital. As the country’s largest urban centre and as the national capital, it is afflicted with problems arising from both of these roles.

Land Lease Proclamation, which widened the tax base, deepened the commitment of leadership, and introduced decentralization of services and an improved revenue-collection system.

However, we also see that the city government did not fully exploit its revenue potential. It should be noted that the steady increase in revenue was made possible without much adjustment in the existing tax system. A number of factors explain the inability of the city government to collect its revenue in the years 2003 to 2006. One is the obsolete and inefficient institutional mechanism for collection of taxes. The city government was using an archaic tax-collection system and a highly centralized administration system. Even those who were willing to pay their taxes on time had to waste their precious days and, at times, weeks to pay their taxes. Added to this is the fact that the assessment method for taxes was based on mere estimates by the experts of the city government, a process that resulted in corruption. Those same tax payers resorted to bargaining with the tax assessors instead of paying the amount due to the city government.

As already indicated, with the issuance of the Revised Charter Proclamation and the establishment of the interim government of 2003 to 2005, significant improvement in the city's revenue-collection capacity was observed, and there was also a dramatic increase in the revenue potential from new sources. Thus the total revenue of the city government increased to 900 million Birr (US\$90 million) in 2003, nearly doubled in 2004 and again in 2005, and continued to increase thereafter. Unlike the regional states, which depend heavily on federal subsidies for most of their capital budgets, the city government is capable of financing its activities from its own sources if it exploits its revenue potential fully and efficiently.

Another essential point concerns the areas of expenditure. In the years preceding 2003, whatever limited revenue the city government collected was spent more on recurrent expenditure than on capital projects (some studies covering the pre-2003 period indicate that less than 40% was allotted for capital expenditure).<sup>64</sup> As table 4.5 shows, the percentage of total revenue dedicated to capital expenditure has

interactions. There are both formal and informal channels, vertical and horizontal dimensions through which IGR is practiced. The formal institutional channels of IGR include the legislature, executive, judicial units, as well as, financial institutions. Legislative IGR is less extensive as compared to IGR in the executive branch. IGR in the executive branch varies according to whether it's a parliamentary system (stronger IGR) or presidential system (less IGR.)

Institutions vary in their decision making powers, but are essential forums for expressions of political commitment to IGR. The establishment of intergovernmental executive institutions is not only to cooperatively decide on common interests or to facilitate consultations between governments, but also to give a high level political commitment to the common concerns and to bring IGR into a more public control

The presenter next addressed the arrangement of fiscal issues in the promotion of IGR. The role of second chambers representing states is important in this regard because it presents the concerns of states in the financial realm. An important aspect of fiscal relations is the use of independent commissions. This was reflected in recent events in Sudan where independent commissions were used to settle fiscal disputes. However, this raises the issue whether rigid legal frameworks can inspire trust between different sectors.

The Ethiopian federal arrangement exhibits some disparities and asymmetries because it allots different powers to different constituent units. Although the Constitution enumerates nine member states of the federation, it also grants each nation, nationality and people the right to self-determination. This could not be without serious implications to the nature of IGR in Ethiopia. On the one hand, one can not ignore the impact of internal dynamism for self-rule at the Wereda and Zone levels even claiming statehood in those heteroge-

neous states for greater access to federal resources and revenue. On the other, it has to be seen on how the system of IGR functions in a situation where there exists huge disparity between the constituent units in terms of demographic, territorial, fiscal and economic activities, as well as skilled labour. A close observation of the performance of the states and their level of development seems to have led to a *de facto* asymmetric federal-state relation. The presenter alleged that there are no sufficient guidelines or principles of IGR although there is mention of mutual respect to one another in Article 50/9 of the constitution.

In terms of vertical IGR legislative relations there have been recent reports of annual meetings between the federal houses and the state councils. It is debatable whether these deliberations will be included in the legislative process of the House of Representatives. In terms of executive relations the most aggressive interlocutor is the Ministry of Federal Affairs. The Ministry's mandate indicates that it will promote IGR among states, but this raises the issue of which constituent units will predominate. Additionally, previous studies have shown that this process is dominated by the executive branch. The presenter stated that there needs to be a concrete allotment of responsibility and participatory capability to constituent units.

There have been numerous complaints in the interaction between federal ministries and state actors the latter alleging that decisions regarding the states are imposed before being deliberated upon. However, there have been some changes in the arrangement as seen in recent attempts to include state recommendations in the development of taxation rates. The issue of equal participation is further problematized by the one party control over the federal and state structures. The two competing ideas in this regard are whether this system undermines accountability and participation or maintains federal stability.

**Table 5**  
**Addis Ababa: Capital expenditure, 2004-2007\***

Year	2004	2005	2006	2007
Capital expenditure <sup>a</sup>	730,310,364	933,540,847	1,420,772,640	1,824,497,183
Portion of total revenue	44.5%	46.2%	59.1%	75%

<sup>a</sup> Capital expenditure refers to monies spent on construction of roads (nearly all federal government subsidies to the capital city are earmarked for this purpose), construction of low-cost housing, infrastructure expansion, credit facilities for small-scale businesses, creation of jobs to alleviate the rising urban unemployment, and so forth. In 2003 the city government projected that only if it constructed 50,000 low-cost houses annually for five years would the housing shortage be reduced to an acceptable level. However, reports of the city government indicate that it succeeded in constructing only 30,000 houses per year.

*Source:* Government of Addis Ababa, Bureau of Finance and Economic Development, report prepared annually; percentages are derived from the author's calculations.

One can make several observations from these tables. Notably, the total revenue of the city government shows an upward trend, with the increase becoming significant particularly after 2003. This year coincides with the life span of the very effective, yet unelected, interim administration and its famous mayor, who decentralized decision making and service delivery to the ten sub cities. As already noted, the sub cities were able to raise more than half the city government's revenue. The banks (both private and public) were also encouraged to be involved as intermediaries in the collection of revenue, and this ameliorated part of the corruption problem in the payment of taxes. Among the other major reasons for the increase in revenue of the city government was the enactment of the Urban



**Table 3**  
**Addis Ababa: Revenue sources, 2004-2007\***

Year	2004	2005	2006	2007
Direct tax	596,683,560	897,078,202	875,623,055	1,015,077,325
Indirect tax	106,816,232	191,432,804	154,088,310	122,602,526
Non tax sources	292,192,626	318,950,258	724,993,284	487,857,343
Capital gains	80,967,329	11,216,664	205,072,014	119,885,494
Fees and charges	500,193,870	514,198,047	649,340,215	603,497,373
Subsidies, grants, loans	62,654,858	89,093,814	68,473,425	76,297,452
Totals	1.64 billion	2.02 billion	2.67 billion	2.42 billion

*Source:* Government of Addis Ababa, Bureau of Finance and Economic Development, report prepared annually.

**Table 4**  
**Addis Ababa: Expenditure break-down, 2004-2007\***

Year	2004	2005	2006	2007
General services	191,308,813	192,803,943	219,766,538	269,390,298
Economic activities	115,244,074	102,986,220	209,414,217	288,526,442
Social activities	274,880,174	264,457,518	331,560,925	352,036,010
Municipal expenditure	823,075,371	926,498,618	1,401,714,121	1,736,101,285
Other expenditures	40,000,000	--	73,075,372	55,413,088
Totals	1.64 billion	2.02 billion	2.67 billion	2.7 billion

*Source:* Government of Addis Ababa, Bureau of Finance and Economic Development, report prepared annually.

There are three issues that need to be considered in fiscal relations: fiscal imbalances; revenue sharing; and allocation of grants and institutional arrangements. Fiscal transfer is difficult when coupled with the issue of asymmetry currently faced in the Ethiopian federal landscape. Revenue sharing is supposed to alleviate these concerns since states are given the discretion to disperse funds as they see fit; however, this is based on the willingness of the states to be involved in the process. The House of Federation is the arena where fiscal issues are debated and this may be the wrong forum. The presenter suggested that experts on financial systems need to be involved in the process.

The conclusions that emerge from the practice of IGR in Ethiopia include:

- Formal, semi-formalized, and informal relations are evident.
- There are scant constitutional/legal provisions about the principles of IGR.
- There is a strong reliance on party structure.
- Lack of clarity on HoF (House of Federation) and MoFA (Ministry of Foreign Affairs) relations is evident.
- There is also vagueness of the nature of shared powers in Ethiopia.
- There is need for emphasis on fiscal issues and increasing the efficiency of constituent units in collecting funds in order to decrease dependence on federal funds.

Discussion resumed with a series of six questions. The first participant asked the presenter to define the contrast between IGR and other relations. A second participant stated that the theme of IGR should be related to constitutionalism and that it should be based on a relationship among equals. A third participant clarified the mandate of the Ethiopian House of Federations, stating that the institution is supposed to intervene in cases where federal and state units clash.

A fourth participant continued the discussion on the House of Federations, adding that it is a powerful institution with limited interaction with the House of Parliament. Parliament representatives are not allowed observer status and members of the House of Federation are not elected. The participant questioned the exclusivity of the institution. A fifth participant asked the presenter to describe other strong linkages/relationships between the different ministries in Ethiopia. A sixth participant stated that the executive branch has a powerful influence over the House of Federations and that there is barely any debate over legislative material. The participant alleged that IGR is eroded in this context.

Dr. Negusu clarified the definition of IGR stating that it is much broader than understood by the participants who commented. IGR essentially means cooperating in order to resolve differences. Formulation of laws promoting IGR needed to be buttressed by implementation. Dr. Negusu introduced the example of the U.S. system where the Senate exercises great power; however, fiscal matters are resolved or aided by independent commissions. Independent commissions may be a necessary addition to the Ethiopian landscape. A participant asked whether the Ethiopian House of People’s Representatives can influence budget allocation and federal revenue. The presenter responded that the federal government can administer the tax revenue. Dr. Negusu suggested that this system should be amended to allow states to collect taxes themselves and return a certain portion to the federal government.

A participant asked whether there are any linkages between human security and IGR. A second participant asked if there has been any progress in the region regarding free trade zones. A third participant asked if there is a conflict management system in Ethiopia. The participant added that resource sharing doesn’t appear to be part of IGR. A fourth participant stated that the author’s conceptualization

cences and for services delivered by the city government; and capital-gains taxes on property situated in the city; among others.

The second category of revenue is loans. With the authorization of the federal government, the city government can borrow from domestic sources or sell bonds. And the third category is the financial support from the federal government to which the city government is entitled during emergencies as well as rehabilitation and developmental aid. Of particular relevance in this respect is the Road Fund, a federal subsidy collected from a portion of the sale of imported gas that is earmarked for the expansion of roads within the city. The city government is also entitled to design pilot projects that may have a nationwide impact and to ask the federal government to finance such projects.<sup>63</sup>

Despite such wide-ranging fiscal powers, however, the city government has not fully used its revenue-raising potential. As indicated in tables 4.2 through 4.5, the revenue-generating capacity of the city has increased over the past five years.

**Table 2**  
**Addis Ababa: Actual revenue of the city government, 2002-2007\***

Year	2002	2003	2004	2005	2006	2007
Revenue	879	900	1.64	2.02	2.67	2.42

\* Figures for 2002 and 2003 are in millions of Birr, and figures for 2004 to 2007 are in billions of Birr; 10 Birr = US\$1.

*Source:* Government of Addis Ababa, Bureau of Finance and Economic Development, report prepared annually.

another interim administration. Thus the city's governance structure remains uncertain and very much intertwined with the country's attempt at transition to a multiparty democracy. This is an unhealthy political situation, for it puts Addis Ababa at the forefront of Ethiopia's socio-economic, cultural, and political life.

## 2.4 Financing the City Government

Although the federal capital does not enjoy equal autonomy with the nine regional states, the limited autonomy granted to it by the Revised Charter Proclamation gives the city government important fiscal powers. In this context, it is interesting to note that despite its less autonomous status, the city government is able to finance its recurrent and capital budgets from its own revenue, whereas most of the regional states remain dependent on grants from the federal government. Setting aside the huge disparity among the regional governments, the regional states as a group manage to finance on average only about 33% of their expenditure, thus depending on federal subsidies for the remainder. The regional states combined share of revenue is on average 18%, indicating that most of the lucrative revenue sources belong to the federal government. At the same time, the federal capital's own revenue accounts on average for nearly 97% of its expenditure, indicating the near self-sufficiency of the city.<sup>62</sup>

The city government has three broad categories of revenue. The first is revenue from taxes. The city government is mandated to collect taxes on income from employment within the city (excluding, without compensation, the income of employees of Oromia and of the federal government, as the former are subject to income taxes of Oromia Regional State and the latter to income taxes of the federal government); land-use fees within the city; taxes on income from agricultural activities within the city; profit, excise, and turnover taxes from individual businesspeople trading in the city; urban-land rents and urban-house taxes within the city; tax on income from rented houses in the city; stamp duties on contracts and agreements as well as on the registration of title deeds executed in the city; royalties on the use of forest resources within the city; fees for the issuing of li-

of IGR excluded an analysis of CSO involvement.

The presenter responded that IGR is not used to describe all interactions; however, resource sharing is addressed specifically in the paper. Since taxation is limited by border delineations, the promotion of interstate trade needs to contend with the amendment of the tax system. The presenter concluded by stating that since IGR deals with effective governance it concurrently deals with and addresses human security. IGR is a building block for the establishment of constitutionalism in Ethiopia.

The third presenter for the conference was Dr. Assefa Fisseha, assistant professor at the Ethiopian Civil College, and author of numerous publications on federalism. The presented paper is entitled, "Managing Federal Capitals." The chair of this session prefaced the presentation with a description of the current status of Addis Ababa. The city is the capital of the Oromiya regional state, the national government, and is represented in the Ethiopian parliament. Consequently, the future status of the city is a highly pertinent topic.

Dr. Fisseha divided the presentation into two parts. The first part is a broad overview on the topic of federal capitals; followed by a specific discussion on the status of Addis Ababa. Capital cities throughout the world share similar characteristics. They generally symbolize the whole country and host embassies and international institutions. Federal capitals have an extra burden because they are supposed to reflect diversity alongside unity, and have to maintain neutrality (they shouldn't be influenced by one constituent unit.) Federal capitals are also distinct because they are often the site of tensions between local and national demands. The federal government usually wants to have a greater influence over the federal capital; however, local residents also want some level of autonomy in decision making.

Although there are distinct similarities between federal capitals, there are also distinct differences. For example, older federal capitals are slower in attaining cultural vibrancy and are instead more of institutional centers. Federal capitals are also established for different reasons, for example, the capital city of Switzerland, Bern, was chosen for security reasons, while Berlin was chosen due to its symbolic significance to the German state. Generally, there are three models for federal capitals: the federal district model; the city state model; and the city in a state model.

The federal district model for capital cities is usually established via an act of parliament. The federal cities are not fully autonomous and enjoy grants from the federal government. Addis Ababa is different in this respect because the city covers 97% of its own expenditure. Article 49 of the Ethiopian constitution recognizes the right of self rule by the citizens of Addis Ababa through a city council. 23 seats have been allotted to the federal government for Addis Ababa.

In the city state model, the capital city is a federal capital and a constituent unit at the same time. The capital city has the same autonomy as other constituent units. The model was attempted in Ethiopia during the transitional period in the early 1990's, and it is more commonly found among smaller scale capital cities. In the third model (city in a state), the federal capital is under the jurisdiction of one constituent according to the constitutional/legal framework. Consequently, most issues related to governance are decided by the constituent unit, and it is implied that the federal government can influence the planning of that federal district. This is the least recommended form for capital cities because the government exercises heavy influence over the city.

The presenter next addressed the issue of the expansion of federal capitals, which is an inevitable process considering the continued

-- a coalition of four parties from the opposition -- alleged a rigged election, stifled parliamentary procedures,<sup>54</sup> and decided to boycott Parliament when it was inaugurated in October 2005.<sup>55</sup> The CUD's supporters went further, calling for a "coloured revolution" along the lines of Ukraine and Georgia.<sup>56</sup> The situation was aggravated when, upon the declaration of the election's outcome,<sup>57</sup> the outgoing government amended several laws in order to transfer financial authority from the city government (won by the CUD) to the federal government. Two significant measures taken during the intervening summer included the transfer of the Addis Ababa Road Authority and the Addis Ababa Authentication and Registration Authority to the federal level, resulting in an estimated annual revenue loss of 100 million Birr (US\$10 million) to the city.<sup>58</sup> The opposition accused the EPRDF of acting in bad faith and hobbling the elected CUD administration. This reinforced the tension and led to violent demonstrations in June and November 2005. The resulting loss of life and destruction of property led to the imprisonment of the principal leaders of the CUD, who were released only in the summer of 2007 following negotiations initiated by prominent Ethiopian Elders.<sup>59</sup>

Despite winning an overwhelming victory both in the Addis Ababa City Council and in terms of the federal parliamentary seats held by Addis Ababa, the CUD did not take its place in Parliament or in the city administration.<sup>60</sup> As a result, the federal Parliament handed over administration of the federal capital to a one-year caretaker administration as of early May 2006.<sup>61</sup> By-elections held in April 2008 saw a reversal of fortunes, with the EPRDF gaining seats in the federal Parliament, in the City Council, and in local bodies and established elected bodies that are expected to stay in power until the next election, scheduled for 2010.

The post-election crisis of 2005 had a significant impact on the governance of the city government. Although the plan was to hand over the city government administration to an elected mayor and council following the election and thereby end the interim arrangement established in 2003, the final result was the creation of another caretaker administration. The by-elections of 2008 also created

Broadcasting Network of Africa named him African Mayor of 2005.<sup>52</sup> Regrettably, the decentralization momentum set by the interim administration seems to have ceased since the establishment of the “caretaker administration” following the May 2005 election crisis. The process of decentralization was expected to move one step further by making the *kebeles* centers for the provision of services as well as active partners in the city’s development efforts. Recently, the services provided by the sub cities have reportedly been affected by corrupt practices.

### **The Post-Election Crisis of 2005 and the Caretaker Administration**

Since the adoption of the Constitution in 1995, Ethiopia has undergone three general elections (1995, 2000, and 2005) and will hold its fourth in 2010. In the first two elections, the ruling EPRDF party dominated Parliament since the fragmented opposition preferred to abstain from participating in the political process, claiming that the transition to democracy had not been sufficiently open and inclusive. They hoped that their tactics would call into question the legitimacy of the transition process and that subsequent pressure from the donor community would force the EPRDF to make concessions in the opposition’s favour. The EPRDF for its part argued that the transition to democracy had been negatively affected by the absence of what it called a “loyal and peaceful opposition,” one committed to respecting “the rules of the game” and to working within the constitutional framework. Added to this, the authoritarian, rigid, and exclusionist political culture within the political elite on both sides of the spectrum created a political impasse.<sup>53</sup>

The cumulative effect of such a troubled transition was felt, especially in Addis Ababa, in the aftermath of the May 2005 general election. The campaigning by all parties began on an optimistic note. For the first time since democratization, the opposition participated in the election and was elected to both the federal and regional parliaments. Yet this positive political development was followed by a post-election crisis. The Coalition for Unity and Democracy (CUD)

growth of the world population. The political implications of expansion vary from model to model. The city in a state model is exposed to lesser challenges because it is governed by a specific constituent. Federal capitals in the other models are more likely to face political challenges because there are entrenched within other constituents. There needs to be appropriate intergovernmental linkages to sort out the process.

In the case of Addis Ababa following the end of the Derg regime, the capital became a city state first and then a federal district. The federal district status allows the city to exercise self rule and self representation. The challenges currently faced by Addis Ababa include urban issues and environmental issues. Additionally, the city is the capital of three entities, the Oromoiya regional government, the federal government, and the city government. It is the symbolic capital of Africa as well. The three overlapping jurisdictions can be problematic in decision making processes. The presenter mentioned that according to the norm, no city should dominate in the federal structure. This is especially pertinent because multilevel discussions are expected in different regions.

Dr. Fisseha next went into a description of the historical background of Addis Ababa. In the 20<sup>th</sup> century the city had a population of 60,000 while in 2007 a population census stated that Addis Ababa has 3.1 million inhabitants. This number is doubtful because it ignores the movement of economic migrants. The growing prominence of Addis Ababa coincides with the emergence of the modern Ethiopian state and the end of the wandering capital. Although Addis Ababa was growing in size and prominence, the Ethiopian political system did not have a clear policy towards cities. In 1954 Addis Ababa was a chartered city which meant that it was reserved for the upper class. The status of Addis Ababa was reopened in 2001 and led to the creation of an institutional and legal

framework for Addis Ababa. An overall policy for cities in Ethiopia is currently being explored.

Addis Ababa is currently defined by two legal documents. The first charter transformed Addis Ababa from a city state to a federal state. The revised charter of 2003 reorganized the city structure from institutional levels to resource distribution, i.e. the decentralization of resources. The revised charter also transferred power from the prime minister to the House of Representatives. Ultimately, the federal government is accountable for the federal capital. Among the many challenges facing the capital city is concern over stability, especially, following the violence in the post election period in 2005. An interim administration was established following the events of 2005. The administration has now evolved into an elected city government.

Other challenges faced by Addis Ababa include the obstacles of existing in a transitional status and the challenges of partaking in the democratization process of Ethiopia. The Oromiya regional state has a special interest in Addis Ababa and has asked the House of Federation to define the nature of this relationship. Defining this special relationship has raised issues over the name of Addis Ababa and the expansion of the city. The presenter stated that the expansion of the city requires intergovernmental collaborations between the city, the Oromiya regional state, and the federal state. Dr. Fisseha ended by stating that despite these challenges the federal district model is the best model for the city of Addis Ababa.

Discussion began with a participant asking if there are any policies on the status of religious minorities in Addis Ababa. A second participant asked what branch of government would be the final decision-maker on the status of Addis Ababa. The participant also asked for a more precise definition of the special relationship between the Oromiya regional state and Addis Ababa and whether

from one centre to ten sub cities (popularly known as *keifle-kelemas*, with their own local councils and powers) and ninety-nine *kebeles*. As a result of this decentralization, the sub cities not only provide important municipal services but also collect some 65% of the revenue of the city government.<sup>50</sup> Upon the issuance of the revised charter and dissolution of the old City Council, an interim administration was established by virtue of the law until the next election, which was in 2005.

More important than the legal framework was of course the composition and commitment of the new city mayor and of his cabinet and people's advisory councils (which replaced the old City Council). The new city government, although unelected, abolished the zone structures and *weredas* and established ten new sub cities by decentralizing the various services previously provided at the central level. This led to efficient service delivery for at least the first year and a half. The federal government, along with the city government, started to invest huge resources in infrastructure, the sewerage system, and housing.<sup>51</sup> The city government started to demolish shanty houses and to build low-cost apartments, which it considered a necessary step given the ever-increasing demand for housing. Although these efforts started to bear fruit, the process was not conducted with the consultation of the neighbourhoods, and in some cases the compensation paid to the displaced for expropriated property was not commensurate with the actual or perceived market value of the property and hence was met with challenges. Nevertheless, the measures taken by the new city government and its popular mayor, Arkebe Oqubay, brought significant changes to the city's life.

In response to the threat by some members of the African Union to move its headquarters, the major streets of the city were named after the fifty-two African states and 2,000 square metres of land were provided free to all African embassies for the construction of their chanceries and residential buildings, thus promoting Addis Ababa as the diplomatic capital of Africa. Less than two years after its establishment, the new city government had become so popular that its mayor was awarded the title World Mayor of 2005, and the

## Powers and Responsibilities

In terms of powers and functions, the revised charter stipulates that the city government shall, among others:

- issue and implement policies concerning the development of the city;
- approve and implement economic and social development plans;
- constitute the executive bodies of the city government and establish public enterprises, as legal entities, either on its own or in partnership, as per applicable laws, with the private sector;
- organize subcities and *kebeles*, demarcate their borders, and allocate budgetary subsidies to the same;
- administer, according to law, the land and the natural resources located within the bounds of the city;
- prepare, approve, and administer the budget of the city; determine and levy taxes and duties as well as service charges, according to law, out of the sources of income specifically given to the city government; revoke taxes and penalties imposed as per the law; and participate in income-generating activities and receive donations and gifts;
- borrow money from domestic sources under authorization by the federal government; identify external sources of loans and request that the federal government borrow money on its behalf;
- issue the Master Plan of the city; and
- approve the quality standards of and charges for municipal services.

Two important developments in the revised charter, compared to the previous proclamation, include (1) the slight shift of power from the prime minister to the federal House of People's Representatives, as this concerns the dissolution of the City Council,<sup>49</sup> and more significant, (2) the decision to reform the four hierarchies of administration into three and the subsequent decentralization of municipal services

the legal framework governing Addis Ababa is also applicable to Dire Dawa. The participant asked if there are any limitations on expansion. A third participant questioned the reasoning behind the special relationship between the Oromiya regional state and Addis Ababa. The argument appears to be that Addis Ababa uses resources in the Oromiya region; consequently, the region can demand special benefits. However, this argument can be reversed in that the Oromiya regional state also gains benefits from hosting the federal capital. The participant added that the committee deliberations on the status of Addis Ababa are handicapped by the lack of experts contributing to discussions.

A fourth participant stated regional city centers should be explored. For example, although the capital of India is Delhi, Mumbai serves as a cultural center. A fifth participant introduced the example of Sudan where the location of the capital city became a contentious issue following the decentralization of the country. The participant stressed that this overemphasis on capital cities can be an obstacle in the pursuit of national interests. A sixth participant stated that the definition of special interest should be reconsidered. For example, Brussels as the capital of Belgium is culturally French, but territorially Dutch. This implies that capital cities can harbor multiple identities. A seventh participant stated that the Oromiya regional state should take advantage of the presence of Addis Ababa which contains numerous health and educational services that can be used by the residents of the Oromiya regional state.

Dr. Fisseha stated in response that the comments by the audience showcased all dimensions of the issue. The issue of religious minorities has been addressed by the 1995 constitution which states that Ethiopia is a secular nation. The status of Addis Ababa contends with two issues, the location of the federal capital and the type of governance. The end result will probably be reached via a consensus

between the different political actors or through a popular referendum. The special interest of the Oromiya regional state will include considerations of revenue; for example, the revenue attained from the Bole International Airport. The question of Dire Dawa transplants the same federal issues to the region. The presenter ended by stating that negotiations need to separate party politics from the issues at hand.

Dr. Mehret Ayenew gave closing remarks for the conference. He stated that federalism is an evolutionary project and the 15 year experience of Ethiopia in federalism is still at an early stage. The main objective of federalism is compromise and finding the middle ground between extremes. The speaker ended by thanking InterAfrica Group and the presenters. Mr. Kebede concluded the conference by thanking both the presenters for an educational discourse and the audience for their active participation.

three tiers of administration are recognized in the charter, four tiers actually exist, namely the central level, 6 zones, 28 *weredas* (penultimate-level units), and 328 *kebeles* (lowest-level units). Not surprisingly, the federal government reserves for itself the right to override decisions of the city government and to dismiss it.<sup>44</sup> In retrospect, the Charter Proclamation facilitated the transition of Addis Ababa from a full-fledged regional state to a mayor-led city government under the post-2003 arrangement.

### **2003-2005 Interim Administration**

Rapid urbanization since the 1980s, together with crumbling infrastructure, widespread unemployment, poor service delivery, and the legacies of a protracted civil war, had created a politically volatile situation in Addis Ababa by the end of the twentieth century.<sup>45</sup> Widespread rioting and violence in the spring of 2001 showed just how inadequate the post-1995 governance arrangements were in the city.<sup>46</sup> Following these developments, the prime minister dissolved the City Council, and the federal Parliament subsequently enacted the Addis Ababa City Government Revised Charter Proclamation.<sup>47</sup>

The new proclamation was more comprehensive and instituted the mayor-in-council system.<sup>48</sup> The revised charter states that the city government shall have a city council (legislative body elected for a term of five years) and be responsible for establishing the city's executive organs. More important, the council elects the mayor from among its members. The mayor is the chief executive of the council and responsible for executing the council's decisions, laws, plans, and the city's budget. The mayor is also responsible for drafting a list of nominees for cabinet appointments, which the council has to approve. Once approved, the mayor directs and leads the cabinet.



capital as a symbol of the country relatively free from the influence of the legal and cultural dominance of one state; on the other hand, the planning and governance issues of the city remain within the jurisdiction and sphere of the regional state. Yet tensions over this matter never materialized after Addis Ababa's transition because of the dynamics of the party system (the same party rules at both levels of government) and because federalism was an entirely new experiment during this early phase.

Following the adoption of the federal Constitution in 1995 and the establishment of nine autonomous regional governments, Addis Ababa lost the status of a full-fledged regional government and remained a federal district. In a federal context, the idea of establishing a federal district with some form of self-government accountable to the federal government and with its residents represented in the federal Parliament is an attempt to resolve the challenges that arise when the federal capital remains within the jurisdiction of another state. In this second option, which this author prefers, the federal government is ensured some level of influence/control over the seat of its government and can influence the planning and development of the city as a symbol of the country while also guaranteeing the residents of the city their right to self-rule and representation in the federal policymaking process. In the Ethiopian federal context, this is a crucial point given that there is already a regional state that claims to have a strong influence over the city. Yet Addis Ababa's governance system is subject to another source of tension, as the city also hosts Oromia Regional State.

The issue of Addis Ababa's right to self-government and parliamentary representation as set out in the Constitution was resolved by issuance of Proclamation 87/1997, otherwise known as the Addis Ababa City Government Charter Proclamation.<sup>43</sup> The city government was granted the autonomy to establish its own council (legislative body) chaired by a governor, who is elected by the council from among its members for a term of five years. The executive and judicial organs of the city government are responsible for municipal cases, and the city has the right to collect its own revenue. Although

## **Containing Conflicts through Power-sharing Mechanisms: A Preliminary Survey in the Horn of Africa**

*by*  
*Asnake Kefale*

### **I. Introduction**

Ending civil wars and of late post-electoral violence through elements of power-sharing has become fashionable. Indeed, the majority of civil wars in the post-cold war period have been ceased through internationally mediated power-sharing arrangements. Particularly in a situation where there is no a clear cut winner in military/civil conflicts, international actors promote inclusive power-sharing arrangements. This is despite the poor record of power-sharing arrangements in providing long term peace and stability.

This paper has two objectives. First, it examines the theoretical and conceptual foundations that inform power-sharing or consociational arrangements. It in particular discusses how a consociational arrangement compares and contrasts with a majoritarian democratic system. Second, the paper surveys how some countries of the Horn of Africa used elements of power-sharing as a way of containing/resolving sub-national conflicts. Indeed, elements of power-sharing to a different degree were practiced in Djibouti, Ethiopia, Kenya, Somali and the Sudan. In doing this the paper also discusses some of the pertinent factors that made the success or alternatively failure of power-sharing arrangements in the Horn of Africa.

The paper is divided in divided in the following sections. The first section is the introduction. The second section deals with the theory of power-sharing and consociational democracy. The third section discusses the use of consociational approaches in the ending civil wars and post-electoral violence. The fourth section surveys how elements of power-sharing have been used to contain/resolve conflicts in the Horn of Africa. Lastly, the fifth section provides a conclusion.

### **II. The concept(s) of power-sharing and consociationalism**

The theory of consociational democracy has dominated the study of comparative politics and ethnic conflict management for over the last three decades (Bogaards 2000; Lijphart 1968; Lijphart 1977). It was originally developed by Arend Lijphart. Consociationalism emerged from the recognition that organizing politics and governance around societal cleavages helps build stable democracy and manage ethnic conflicts. In his several works Arend Lijphart showed that societal cleavages and democracy 'are not as incompatible as was often thought and claimed' (Bogaards 2006: 119). His theory 'demonstrated that democracy in divided societies was possible if elites cooperated, even when the masses remained divided' (Ibid.). In other words, consociationalism emerges out of a policy of recognition of cultural and ethnic pluralism. Many countries with societal cleavages like Canada (1840-1867), the Netherlands (1917-1960s), Lebanon (1943-1975), Switzerland (since 1943), Austria (1945-1966), Malaysia (since 1955 with a temporary breakdown from 1969 to 1971), and Belgium (since 1970) used principles of power-sharing (Lijphart 1996: 258). Moreover, '...consociational democracy has been proposed as a normative model for ... ethnically divided countries....'(Ibid.)

Consociational democracy could be defined as '...a twofold concept comprising a social political side (pillarization, (segmented) pluralism), and a political side (coalescing elites)' (Bogaards 2000: 399). More specifically, consociational democracy anchors on four elements, these are (Lijphart 1991: 491):

- *Grand coalition* (that include representatives of all major linguistic and religious groups);
- *Proportionality* (proportional political representation, public service appointments, and allocation of public funds);
- *Mutual veto* (veto as the ultimate weapon by which minorities protect their vital interests); and
- *Segmental autonomy* (on all issues of common concern,

(Committee) military junta significantly affected the city in a number of ways. Municipalities were reorganized as Urban Dwellers' Associations and were politicized as instruments for the enhancement of the regime's socialist ideology and for the consolidation of its powers. The appointed mayor and its de facto council were reduced to mere agents of the central government since most of the decisions were virtually made at the central level.<sup>40</sup> Hence the focus was never on municipal autonomy or decentralization of services and powers to the local level. Besides, the city's life was very much affected by the issuance of the proclamation in 1975 that nationalized the urban land and rental houses and ended the property tax. This measure dramatically decreased the revenue of the city and crippled its capacity to expand services and infrastructure.

Following the overthrow of the military regime in 1991 by the EPRDF (which remained the ruling party at the time of writing) and the establishment of the Transitional Period Charter (1991-94),<sup>41</sup> Addis Ababa emerged as one of the fourteen regional states established by the charter and as the capital of the federal government. As one of the regional self-governments established under Proclamation 7/1992, Addis Ababa enjoyed the status of a regional government with its three branches -- namely the legislative, executive, and judicial organs -- and power to collect its own revenue. Until the end of the transition, Addis Ababa served both as a regional government and as the seat of the newly established transitional national government. Being a city, it combined the government functions of both a city-state and a state. Nonetheless, as there was no distinct identity for cities, the organization of the political institutions in Addis Ababa was not distinct from that of the other thirteen states and their regional governments.

In terms of the federal principle, one thorny issue that arises when the federal capital becomes a full-fledged constituent unit is that the federal government may not be able to influence the planning and development of its own seat of government. There is the likelihood of tension arising from the divided jurisdiction.<sup>42</sup> On the one hand, the federal government may be interested in developing the federal

many resources are focused in the capital, one may expect Addis Ababa to be a well governed city. The reality, however, is that the capital was not carefully planned from the outset and thus lacks the necessary infrastructure. Indeed, until 2001 not only Addis Ababa but also other municipalities throughout the country suffered from the lack of a clearly set institutional and legal framework as a basis for their operation and autonomy.

### 2.3 The Governance Structure of Addis Ababa

The city's governance arrangements have changed over time to reflect the country's evolving political arrangements. For most of the twentieth century, Addis Ababa served both as the capital of what was then Showa Province and as the capital of Ethiopia. Prior to 1974 and with the exception of Addis Ababa, town administration in Ethiopia remained within the jurisdiction of the Ministry of the Interior, which was responsible for all affairs of provincial administration. Towns remained subordinate administrative echelons within the provincial hierarchy and thus remained within the rigid and archaic structure of provincial administration, which was ill-suited for towns.<sup>36</sup> This arrangement continued until 2001, and only in 2006 did the federal government establish nationwide policies for towns throughout the country (including the nine regional state capitals and zonal capitals), recognizing them as distinct entities with some autonomy.<sup>37</sup> Since under Article 50(4) of the Constitution, it is the regional states that are empowered to determine the status of towns, the federal government's broad policy initiative concerning the status of towns became necessary,<sup>38</sup> as most state constitutions were silent on matters related to the establishment, reorganization, and definition of powers and duties of municipalities. Nevertheless, the Amhara and Tigray regions enacted their own proclamations in this regard in 2000 and 2001 respectively.

As of 1954 Addis Ababa was a chartered city administered by a mayor (*kentiba*) who enjoyed some autonomy and had the mandate to raise revenue but was accountable to the then powerful minister of the interior.<sup>39</sup> The assumption of power in 1974 by the Derg

decisions should be made jointly by the different groups or their representatives; on all other issues, decisions should be left to be made by and for each separate group.)

This model by providing representation for every segment of the society and by promoting consensual decision making processes tries to prevent the emergence of conflicts around social cleavages. Thus what Lijphart called 'government by elite cartel' helps bring about a stable democracy in otherwise fragmented and deeply divided societies (Khidashel 1999: 197).

Consociationalism is presented as an alternative to "Westminster"- style majoritarian or power-concentrating political systems, characterized by unitary states and majoritarian-plurality elections' (Norris 2005: 5). Furthermore consociationalists claim that the winner-take-all regimes of majoritarian democracy do not work well 'in societies with a legacy of bitter and bloody civil wars, factional strife, or inter-community violence, and in transitional post-authoritarian states' (Ibid.). In a similar vein, as cited by Lijphart, Diamond said 'if any generalization about institutional design is sustainable it is that majoritarian systems are ill-advised for countries with deep ethnic, regional, religious, or other emotional and polarizing divisions' (See Lijphart 2004:100).

This increases the significance of power-sharing regimes in multiethnic transitional democracies. That is why consociational democracy has been persuasively promoted as a viable instrument of conflict management in divided societies (Lijphart 1977). For instance Graham Smith, notes that consociationalism is: '...a more widely practiced form of managing cultural conflicts, applicable as much to federal [or multiethnic] societies (e.g. Belgium, Canada, Switzerland) as it is to societies which are non-federal and where ethnic groups are not geographically concentrated (e.g. Holland)' (Smith 1995: 15).

While many scholars like Lijphart and others use consociationalism and power-sharing interchangeably, there is now a tendency among scholars to use the power-sharing as a broader/generic concept

which includes the various techniques through which incumbent regimes share power with their former adversaries. In contrast, the concept consociationalism is used in the tradition of Lijphart to a political system where some or all of the elements of a consociational system mentioned above are constitutionally entrenched. In this paper, we consider power-sharing following Hartzell and Hoddie ‘as those rules that, in addition to defining how decisions will be made by groups within the polity, allocate decision-making rights, including access to state resources, among collectivities competing for power’ (2008: 33).

### III. Power-sharing as an instrument of peacemaking

Power-sharing is considered as an important instrument of conflict management. In this respect, Berg and Ben-Porat argue that ‘power-sharing agreements ...designed to balance principles of democracy with the need for conflict management in ethnically divided societies’ (2008: 33). Such a system ‘could both enable ethnic groups to maintain their identity and keep them committed to the existence and performance of the state’ (Bogaards 2006: 123).

Scholars like Lijphart who were working from the theoretical perspective of power sharing/ consociationalism have not considered the potentials of this system to be used as a way of ending civil conflicts or wars (Hartzell and Hoddie 2003: 319). But today it is used as a way of ending civil wars and of late as a means of mitigating post-electoral violence (Bogaards 2006: 119).

It is now almost customary to end protracted civil wars through a power-sharing arrangement. Power-sharing has been one of the most important elements in negotiations/agreements leading to the end of civil wars. For instance, according to Hoddie and Hertzell, from the total of 38 civil wars ended by negotiated settlement between 1945 and 1998, only one did not include provision of power-sharing(Ibid.). Similarly Jarstad observed:

Power-sharing accords have been reached in Angola

Africa, as it houses the African Union, the United Nations Economic Commission for Africa, and many other international organizations. The City covers a total area of 540 square kilometres. Of Ethiopia’s estimated urban population of nearly 13 million, about 30% live in Addis Ababa, making the capital the country’s largest urban centre.<sup>33</sup> The combined effect of the city’s national and international status puts great pressure on the city government to provide adequate services. The composition of Addis Ababa’s population also reflects the country’s diversity. Of its residents, 48.3% are estimated to be Amharas, 19% Oromos, 17.5% Guraghes, and 7.6% Tigrayans, with the rest belonging to different ethnic groups.

**Table 1**  
**Addis Ababa: Population growth in millions, 2002-2008**

Year	2002	2003	2004	2005	2006	2007	2008
Pop.	2,646	2,725	2,805	2,887	2,973	3,059	3,147

*Source:* Central Statistical Authority, July 2008 estimate.

Data from the Central Statistical Authority indicate that industry and the service sector form the basis of the city’s economy. Of the city’s workforce (in both the public and private sectors), 24% are estimated to be engaged in commerce/industries, 72.7% in the service sector, and 2.6% in agriculture. The commercial/industrial sector’s annual contribution to Ethiopia’s gross domestic product (GDP) is 46%, with the service sector and the agricultural sector contributing 45% and 8.3% respectively.<sup>34</sup>

Even after fifteen years of federal experiment, some contend that nearly 50% of national investment projects and main infrastructure expansion is still concentrated in Addis Ababa and its surrounding area.<sup>35</sup> Until recently, people had to travel from remote parts of the country such as Jijiga, Rama, and Gambella to Addis Ababa in order to obtain passports and other rudimentary services. Typical of most African federal regimes, Addis Ababa functions as the political, business, cultural, and administrative capital of the country. Since so

The HoF is an organ whose members are representatives of each nation and nationality. Its main task is constitutional interpretation and determination of revenue derived from joint federal and state tax and from subsidies the federal government grants to the states. It has no lawmaking functions.<sup>29</sup> Similar to parliamentary federal systems, there is a fusion of legislative and executive powers in a popularly elected lower house at both the federal and state levels. A full discussion of the competence of each level of government is beyond the scope of this chapter, but it should be noted that constitutionally, regional governments have wide powers.<sup>30</sup>

## 2.2 Background History of the City

Addis Ababa was established as the capital in 1887, coinciding with Ethiopia's emergence as a modern state. The establishment of Addis Ababa as the political and economic center of Ethiopia ended a long tradition of "wandering capitals,"<sup>31</sup> whereby successive Ethiopian monarchs shifted the capital from place to place. The city was established by Emperor Menlik II during the expansion of his rule into the south and southwest of the country. The site was chosen both because of its huge economic potential (access to resources and fertile land) and because Addis Ababa is more centrally located than the older capitals in the north. The city was named by Menlik's wife -- Empress Taitu. She settled around the natural hot springs in the center of the town, whereas the emperor and his army encamped on the cold hills of Entoto. The empress was so captivated by the beauty of the blooming mimosa trees in the vicinity that she named the new settlement Addis Ababa, meaning "New Flower."<sup>32</sup>

At the beginning of the twentieth century, Addis Ababa's population was estimated to be 60,000. Over the years, the city has steadily increased in population size and has expanded its territory. According to the Central Statistical Authority's latest estimate, Addis Ababa has a population of 3.14 million people. However, many experts think the population is closer to or even greater than 4 million if one takes into account the huge influx of economic migrants from across the country. Addis Ababa enjoys the status of the diplomatic capital of

1994, Bosnia and Herzegovina 1995, Burundi 2000, Cambodia 1991, Cyprus 1959, Democratic Republic of Congo 2002, Ivory Coast 2003, Lebanon 1989, Liberia 2003, Rwanda 1993, Sierra Leone 1999, South Africa 1993, Sudan 2005, Tajikistan 1997, Uganda 2002 and Zimbabwe 1979.<sup>5</sup> Other pertinent post-war power-sharing experiences include the one in Kosovo. The guaranteed governmental positions for Kosovo Serbs did not result from a negotiated settlement between warring parties, but are stipulated by a United Nations regulation (2006: 8)

The majority of protracted sub-national conflicts were ended through the signing of some sort of power-sharing arrangements (Hartzell and Hoddie 2003: 319). The use of power-sharing approaches has also been promoted by the UN and other international powers. International peacemakers have the tendency of recommending power-sharing arrangements as a way of bringing peace between or among warring factions. The standard peace building mechanisms for the international community in the post-cold war order have been the imposition of power-sharing arrangements. For instance in Afghanistan after ousting the Taliban government, international mediators/negotiators put a sort of power-sharing arrangements among those forces who fought along with the western powers the Taliban government.

Power-sharing arrangements could be used to 'manage several types of conflicts. Some power-sharing accords reflect ethnic divisions', while others do not make reference to ethnic divisions (Jarstad 2006: 17). We have showed how power-sharing arrangements have become attractive instruments of ending civil wars and other conflicts. The question that should follow this is what made them so attractive.

Firstly, power-sharing arrangements, according to their advocates 'promote moderate and cooperative behavior among contending groups by fostering a positive-sum perception of political interactions' (Hartzell and Hoddie 2003: 318). Secondly, such mechanisms

provide the sharing of political and economic resources of the state (Ibid: 318). Indeed, as noted by Jarstad, a power-sharing arrangement 'reduces uncertainty by the inclusion of guaranteed positions in the future government'(2006:3).

Thirdly, power-sharing arrangements provide a measure of security for both the incumbent and the other rival parties (Ibid: 319). The issue of 'security' could be seen from the view point of what Ian Spears calls 'balance of power'. Accordingly, a power-sharing arrangement is attractive for attractive for both those 'whose power is declining and to those whose power is rising' (2002: 128). The question regarding who actually controls the armed forces and national security apparatuses is important to ensure mutual trust and security for countries or groups emerging out of civil war (Hartzell and Hoddie 2003: 320).

Fourthly and more importantly, a power-sharing arrangement is necessary where there is no a clear cut winner to a civil war or conflict. In context of Africa, Ian Spears notes that difficulty of finding a clear cut victor in a civil conflict and the lack of enthusiasm by outsider powers to guarantee peace make the use of a power-sharing arrangement not only attractive but also by default 'the only option for a commitment-averse international community because it offers a logically attractive approach to conflict management' (Spears 2002: 124).

Fifthly, some scholars on democratic theory argue that power-sharing helps democratization of society by providing a chance for former rivals/enemies to socialize among themselves and adopt problem solving approaches regarding decision-making and implementation (Jarstad 2006:3).

While there appears to be a wider consensus about the use of power-sharing a way of ensuring peace – it is considered as tradeoff between short-term and long term solutions. In this respect, Bogaards argues that even if power-sharing mechanisms installed by the UN helped in the stabilization of such countries as Cambodia and

(SNNPRS), Gambela, and Harari,<sup>20</sup> in recognition of the country's ethno-linguistic diversity. Addis Ababa and Dire Dawa<sup>21</sup> are specially administered semi-autonomous cities directly accountable to the federal government. The two cities do not enjoy the same level of constitutional autonomy as the nine regional states, as both may be subjected to federal intervention when the need arises. Their position, therefore, is less autonomous than that of the constituent states.

A recognition of the country's inherent diversity is well entrenched in the Ethiopian Constitution, whose preamble proclaims the Constitution in the name of "We the Nations, Nationalities, and Peoples of Ethiopia" rather than in the name of "We the people." As a consequence, constituent states are organized largely on "the basis of settlement patterns, language, identity and consent of the people concerned."<sup>22</sup> The linguistic criteria have been the main basis on which states have been delineated.<sup>23</sup> In practice, seven of the nine constituent states (the exceptions being the SNNPRS and Gambela) are named after the major nationalities that "dominate" the respective states. The Constitution also declares: "All sovereign power resides in the Nations, Nationalities, and Peoples of Ethiopia."<sup>24</sup> Consequently, every nation/nationality is entitled to establish its own state as an expression of the right to self-determination and the right to self-rule.<sup>25</sup>

The federal system operates within a parliamentary form of government comprising a ceremonial president and a powerful prime minister with his cabinet.<sup>26</sup> At the federal level, there are two houses: the House of People's Representatives (HoPR) and the House of Federation (HoF).<sup>27</sup> The former is composed of members elected by the people for a term of five years in a direct and fair election and contains 547 members, 20 of whom hold seats allocated to minorities. The members of the HoPR are believed to be representatives of the Ethiopian people as a whole and not of a specific group.<sup>28</sup>

## 2.1 Context of the 1995 Federal System

Ethiopia has the distinction of being the only country in Africa to have defeated colonial force at the end of the 19<sup>th</sup> century. With a population of 77 million people, it is Africa's second most populous country after Nigeria. Ethiopia is a highly diverse multicultural and multi-religious state. Home to more than eighty "nations, nationalities and peoples," as defined by the 1995 Constitution, Ethiopia is also religiously diverse -- with 50% of its population being Orthodox Christians, an estimated 35% being Muslims, and the rest belonging to other minor religions. Despite such diversity, a common civilization ethos and a shared history of resistance against colonial aggression have left a strong unifying legacy.

For much of its long history,<sup>17</sup> Ethiopia functioned as a decentralized feudal polity unified under an Orthodox Christian monarchy. Varied and diverse regional forces have exercised important powers, such as taxation on some economic activities, maintenance of local security, and regulation of trade. Such de facto decentralization is not only enshrined in the oldest constitutional documents, such as the *Kibre Negast* (Glory of the Kings), but also reflected in the imperial design. The plurality of kings, with the *Niguse Negast* (king of kings) above them, signified a federal or confederal government structure. Thus the seeds of what some authors call "federal society"<sup>18</sup> (regionally grouped diversity) have been present for a long time. The decentralized feudal-state structure changed dramatically with the emergence of a strongly centralized imperial regime (1930-74) and with the military regime (1974-91) that replaced it. The latter gave rise to a protracted civil war and political instability, resulting largely from an overconcentration of power and resources at the centre.<sup>19</sup>

Following the defeat of the military regime in May 1991 by the Ethiopian Peoples Revolutionary Democratic Front (EPRDF), the country was restructured as a federation with two autonomous cities -- Addis Ababa and Dire Dawa -- and nine constituent (regional) states, namely Tigray, Afar, Amhara, Oromia, Somalia, Benshangul/Gumuz, the Southern Nations, Nationalities, and Peoples Regional State

East Timor, it 'contributed to an increasing monopolization of power by already entrenched groups that used their favored position in the transitional arrangements to strengthen their hold on power, with adverse consequences for the consolidation of democracy' (Ibid.).

Parallel with its prominence as a normative theory of managing conflicts in deeply divided societies, the power-sharing approach engendered several criticisms. First, it is criticized for its democratic deficit as it heavily depends on inter-ethnic elite cooperation and coordination (McRae 1991: 96). Second, some scholars are critical of the central role that it gave for ethnic elites. For instance Marxist writers like Paul Brass criticize the theory for its failure to recognize '...the variability of ethnic identities, the pervasiveness of intraethnic, as well as intraclass cleavages in most societies....' (1991: 334). Others, in contrast, criticize the theory for imputing a wrong notion of selflessness to ethnic elites (Arel 2001: 66).

Third, the theory of power-sharing is also criticised for giving 'ethnic ...elites who have an interest in maintaining division instead of crossing ethnic lines' ... (Berg and Ben-Porat 2008: 33) . Hence, it 'recognises some collective identities but often excludes others and, therefore, breeds new frustrations and demands' (Ibid.)

Fourth, a review of many recent power-sharing regimes demonstrate their fragility and instability (Spears 2002: 128). Look for instance the continued wrangling between the two ZANU-PF and MDC which formed the national unity government in Zimbabwe. The same is somewhat true for the PNU and the ODM which formed the national unity government in Kenya. Because of this problem, power-sharing arrangements appear to provide 'short-term reprieve from violence and conflict' instead of long term solutions (Ibid.). Fifth, as noted by Rene Lemarchand, the lack of permissive societal conditions such as interpersonal trust and lack of understanding of the technicalities of power-sharing arrangements contribute to their failure (Lemarchand 2006:2). Finally, power-sharing pacts tend to include those who are fighting on the ground and exclude others.

This has the adverse impact of what Denis Tull and Andreas Mehler call ‘reproduc[ing] insurgent violence in Africa’ (cited in Lemarchand 2006: 4). In this respect some scholars argue that one of the triggering factors for the collapse of the Rwandese power-sharing arrangements brokered by the Arusha agreement (1993) was the exclusion of the pro-Hutu extremist group -- Convention pour la défense de la république (CDR) (Ibid: 4-5). In the Sudan, the upsurge of violence in many parts of the Sudan could be partly explained by the exclusion of other contending forces from the CPA.

In spite of the many shortcomings of the power-sharing approach, it has now emerged as important instrument of containing post-electoral conflict in Africa. The violence that emerged after disputed elections in Kenya and Zimbabwe was ceased after the establishment of a power-sharing pact. Power-sharing appeared as a compromise solution. On the one hand, it guaranteed power for political parties (groups) like ZANU-PF who failed to win elections in a transparent manner. On the other hand, it provided security and access to state power for opposition political parties. Like anything else in the politics of Africa, the use of a power-sharing arrangement to end post-electoral dispute has been controversial. For instance, one skeptical commentator notes:

The concept of power-sharing in Kenya and Zimbabwe is simple but powerful: the voice of the electorate can be disregarded on the condition that the electoral process leads to mayhem and widespread suffering amongst the electorate. Who is behind the violence is less important, as long as a major emergency can be declared. An emergency calls for national unity, which can be translated into power-sharing in a Grand Coalition government that includes the main political adversaries. This way, for example a government that has been voted out can remain in power through the coalition (Nilsson N.D)

The main criticism against the use of power-sharing as way of

City-States		
Brussels	3.1%	Grants include drawing capacity on the federal budget to finance incentives to return the unemployed to work plus transfer to cover regional expenses in relation to competencies transferred from federal govern-
Cities in a State/Province		
Bern	24.4%	Grants include (cantonal) equalization payments within the canton of Bern to its main urban centre plus federal compensation for specific tasks, especially in the fields of security (policing) and culture.
Ottawa	1.6%	Federal conditional grants; provincial transfers are 15.7% of total municipal revenues
Tshwane (Pretoria)/ Cape Town	18% Tshwane; 21% Cape Town	Mostly federal transfers; some provincial transfers; two-thirds of transfers are unconditional

## Part II

### Addis Ababa: A Federal Capital in Search of a Stable and Efficient Governance System

The federal-district model in Addis Ababa, Ethiopia, which was established after the 1995 Constitution, albeit after a series of legal/constitutional reforms, seems a step in the right direction. It guarantees the residents of Addis Ababa some level of self-rule and representation in the federal Parliament while ensuring that the capital city is not under one state’s legal and cultural dominance. This model also guarantees that the federal government will have some influence over its own seat of government in terms of planning and development, thus maintaining the federal capital’s symbolic role. Yet Addis Ababa seems to be suffering from a lack of a stable and efficient governance system due partly to a crisis following the 2005 election and partly to years of accumulated and unresolved urban issues. Another complicating factor is the need to balance the interests of the federal government, Oromia Regional State, and the city government, as Addis Ababa hosts three overlapping administrations.



relates to their capital city status, however. The high proportion of transfers in Abuja, for example, reflects the poor taxation system at the local level and the resulting inability to derive significant revenues from own sources. As in other states in Nigeria, resources from oil revenues have created a sense of complacency on revenue generation. The large proportion of transfers in Berlin reflects the history of that city whereby the federal government provided transfers to the city because of the lagging economic base after the fall of the Berlin wall. The trend over the last 15 years, however, has been towards less reliance on federal transfers in Berlin.

**Table 5: Federal Transfers as Percentage of Revenues for Capital City Governments in federations**

	Percent of Revenue	Comments
<b>Federal Districts</b>		
Abuja	57.4%	Statutory allocation
Addis Ababa	3.2%	Grants include loans and subsidies from the federal government.
Delhi	6.9%	Percentage reflects grants-in-aid from central government in lieu of an assumed share of central tax-
Mexico City	44.7%	Reimbursement transfers (unconditional) relate to the Law on Fiscal Coordination whereby states renounce some of their taxation powers in exchange for a portion of federal tax revenues; compensatory transfers are conditional transfers for health care, education, security and infrastructure
Washington, DC	25% of revenue from all sources	In 1997, federal government took over responsibility for the incarceration of felony prisoners, funding and administration of courts, pre-trial services for defendants awaiting trial, public defender services and parole services for adult offenders in D.C. and increased the matching rate for Medicaid from 50 to

ending post-electoral violence is its adverse implication on democratic participation. Indeed, if some sort of power-sharing is going to be imposed whenever electoral results are disputed, this would have immense adverse implication on the prospect of building democratic governance in Africa. Under such an environment both incumbent regimes and opposition parties would have nothing to lose if they do not respect the verdict of the people. In fact, as underscored by Bogaards, power-sharing arrangements appear to have the tendency of undermining popular participation as it 'is perceived as a potential threat to the fragile power-sharing arrangements that make democracy possible and guard social peace in an ethno-plural society'(2006: 120). Such an approach may also frustrate long-term peacebuilding efforts. For instance, Jarstad for argues that:

Ten years after the peace accords for Bosnia and Herzegovina were signed in Dayton, Ohio, the country remains divided. The peace accords served their main aim – to end the 1992-1995 conflict – but their power-sharing provisions are now seen as an obstacle to peacebuilding and democratization. The political representatives of the three main ethnic groups have not managed to govern jointly (2006: 2).

Hence, it is imperative to increase the capacity of African countries to hold transparent and credible elections by leveling the playing field for all of the contending parties instead of recommending a power-sharing arrangement as an ad-hoc solution to arrest widespread violence.

#### **IV. Comparative Survey of power-sharing experiences in the Horn of Africa**

The Horn of Africa remains one of the most unstable regions of the world. The region is characterized by multiple kinds of conflicts. The various conflicts of the region interlock forming a conflict system. Almost all of the countries of the Horn suffer from conflicts which are one way or the other related to the state, its ideologies, resources

and structures. In some countries of the Horn of Africa such as Somalia, Ethiopia and the Sudan, there are sub-national nationalist movements which challenge the very legitimacy of the state itself. The governments of the region respond in different ways to accommodate and contain sub-national demands which range from outright secession to better representation. Though the Horn of Africa is known for political intolerance, elements of power-sharing have been used in different ways in order to accommodate political rivals. In what follows, we will make a brief review regarding the use of elements of power-sharing in the region by taking the experiences – Djibouti, Ethiopia, Kenya, Somalia and the Sudan.

### *Djibouti*

Djibouti is the smallest country in the Horn of Africa with an estimated territory of 23,000 square km and around 800,000 populations. Though low scale as compared to its neighbors, it experienced tensions and conflicts in inter-ethnic relations particularly between the dominant Issa/Somali and the minority Afar. According to some estimates, the Issa constitute close to 33% of the entire population. The Afar who comprise the second largest group make up 20% of the total population. Two other Somali Dir groups, the Gadaboursi and Isaak comprise about 33% of the total population of the country. Both the Somali and Afar follow the Islamic religion and predominantly engaged in nomadic pastoralism.

The history of Djibouti has been characterized by tensions and conflicts between the Issa and the Afar. The Issa since the independence of the country in 1977 has the political and economic upper hand. Relations between the two groups were partly complicated because of the French colonial policy. On the basis of the level of either their support or opposition to French rule, the French government was favoring one group against the other. For instance, the French used during the 1960s the support of the Afar to defeat the aspiration of the Issa to independence through a referendum. Independence was, however, attained in 1977 through the leadership of a unified political party -- Ligue Populaire Africaine pour l'Inde-

Delhi	NCT – VAT, state excises, taxes on vehicles, stamps and registration fees, non-tax revenue, federal grants (in lieu of assumed share of central taxes) MCD –property tax, property transfer duty, tax on consumption, sale of electricity, tax on advertisements, other minor taxes, non-tax revenues NDMC – charges from sale of electricity and water, income
Mexico City	Taxes on payroll, lodging, vehicle ownership, lotteries, public events, property tax, payroll, real estate transfer, fees and charges, transfers and revenue sharing
Washington, DC	Property tax, income tax, general sales tax, gross receipts tax, grants from the federal government, sales and use taxes, non-tax revenues, other revenues
<b>City-States</b>	
Brussels	Taxes on gambling, entertainment machines, succession fees, property, donations, putting cars on roads, traffic, registration fees on sales, other regional taxes, autonomous taxes, income taxes, agglomeration taxes
<b>Cities in a State/Province</b>	
Bern	Taxes, patents and concessions, assets, fees, transfers
Ottawa	Property taxes, transfers, user fees, other revenues
Tshwane (Pretoria)/ Cape Town	Operating - service charges, property taxes, other income, government transfers; capital – external loans and government

Table 5 compares the dependence on *federal* transfers by governments in the federal capitals. Not surprisingly, federal transfers as a proportion of municipal revenue are smallest for those cities that are cities in a province or state because these cities receive the bulk of their transfers from the provincial/state government. The exceptions are Pretoria and Cape Town where federal transfers are significantly higher than provincial transfers.

Among the city-states and federal districts, federal transfers are highest in Abuja, Mexico City, Canberra, and Berlin. It is not at all clear that the high dependence on federal transfers in these countries

Most federal capitals receive municipal funding that is similar to other cities – taxes (for example, property, income, and sales taxes), user fees, intergovernmental transfers, investment income, licenses and fees, and other miscellaneous local revenues. Table 4 summarizes the sources of revenue for the federal capitals examined in this study. All of the capital cities levy taxes, charge user fees, collect other miscellaneous revenues, and receive transfers from provincial/state and/or the federal government. The dependence on each of these forms of revenue varies depending, at least in part, on the governance structure (in particular, whether the city has the taxing authority of a city only or of a city and a state). Property taxes (taxes on land, property, and real estate) are levied in most of the federal capitals in Table 3 but are only a significant source of municipal revenue in Canberra, Ottawa, Pretoria and Cape Town, and Washington and **nearly symbolic** in Addis Ababa.

**Table 4: Sources of Revenue for Capital City Governments in some Federal Countries**

Federal Districts	
Abuja	Statutory allocations from the Federation Account, excess crude oil in 2007, value added tax, sales of government profiles, withholding tax on rent, sales tax, withholding tax on interest on savings, and development levy, fines and fees, licenses, rent on government property, interest, repayments and dividends, reimbursement of pensions and gratuity from state and parastatals
Addis Ababa	Taxes (on income from employment within the city (but not federal or state employees), land use fee, income from agricultural activities, profit, excise and turnover taxes, urban land rent and urban house tax, tax on income from rented houses, stamp duties, royalties on use of forest resources, fees on licenses and services delivered by city government, capital gains taxes on property), loans, final support from

pendence (LPAI).

The first president of Djibouti was Gouled Aptidon who led the country from 1977 to his retirement in 1999. He was joined by Ahmed Dini (an Afar) as the first Prime Minister. The unofficial power-sharing arrangement between the two groups under the umbrella of LPAI was terminated when president Gouled in 1979 established an Issa dominated political party called Rassemblement Populaire pour le Progrès (RPP). In 1981 like many other African countries, the RPP was made a single party and the Issa took control of almost all of the major political positions in the country.

Years of economic and political marginalization of the Afar boiled up in an ethnic armed uprising since November 1991. This rebellion was led by the Front for the Restoration of Unity and Democracy (FRUD). The government initially sought to counter the armed insurgency of this group by coordinating its activities with neighboring countries – Ethiopia and Eritrea. But latter on a power-sharing arrangement was signed to stop the conflict. This led to the reforming of the constitution allowing a multiparty system. In 1994, the government signed a peace deal with one of the factions of FRUD (Kadamy 1996; Schraeder 1993). This peace agreement included ‘power-sharing between the Issa and Afar, recasting of the electoral rolls, devolution of authority and power and integration of former FRUD combatants into the Djibouti regular armed forces’ (Mbugua 2009: 3).

As per the power-sharing provisions, ‘the president of is an Issa, the prime minister is an Afar and the cabinet is proportionally balanced’ and in March 2006, the country held its first regional elections and began implementing the decentralization plan envisioned in the agreements (Mbugua 2009: 3).

*Ethiopia*

As compared to Djibouti, the problem of nationalist conflict in Ethiopia is more profound and complex. The country is characterized by several patterns of diversity such as ethno-linguistic and religion. There is particularly a legacy of unequal ethnic relations between the northern largely Christian Amhara-Tigrayan ethnic groups and ethnic groups of the southern region which was incorporated to the country at the turn of the twentieth century. Since the second half of the nineteenth century, the twin policies of the Ethiopian state regarding ethnic diversity and the state were – centralization and modernization. Emperor Haile Selassie who ruled the country first as a regent for 14 years (1916-1930) and later as emperor for 44 years (1930-1974) followed imperial policies of centralization and modernization of his predecessors with a renewed vigor and tenacity. In 1931, he introduced the first written constitution of the country. The main purpose of this constitution was to consolidate his power. The constitution neither included provisions on civil liberties nor established a representative legislature (Bahru 1991; Clapham 1969).

Amid the intensification of the emperor's resolve for centralization of power, Eritrea joined with Ethiopia in 1952 under a United Nations (UN) sanctioned federal arrangement. The Ethio-Eritrea federation (1952-1962) was more of an autonomous arrangement than a federation, as Eritrea that had a liberal constitution that recognized limited rights of freedom of association and speech became part of a highly centralized state under an absolutist monarch with guarantees of self-rule. In the end, the constitutional asymmetry between the two contributed to the demise of the federation in 1962 (Markakis 1974).

Since the beginning of the 1960s, the imperial government began to face opposition from increasingly radicalized students who rallied behind 'land to the tiller', 'the nationalities question' and armed insurgency in Eritrea. The abrogation of the Ethio-Eritrea federation in 1962 led to a civil war between different Eritrean separatist movements such as the Eritrean Liberation Front (ELF) and the Eritrean

**Table 3: Expenditure Responsibilities of Capital City Governments in some Federal Countries**

<b>Federal Districts</b>	
Abuja	Agriculture, transport, health, education, social development
Addis Ababa	Economic activities, social activities, municipal expenditure gains, other expenditures
Delhi	NCT – planning and development, health, medical and welfare, education, transport, roads, power (privatized), water, sanitation, housing, urban development Municipal – health and medical, education, roads, solid waste, street lighting
Mexico City	Legislation, tax collection and human rights, democratic process, justice, public security, environment, education, culture and recreation, health, social security, social welfare, labor, urban development, economic development, transportation
Washington, DC	Elementary and secondary education, higher education, libraries, public welfare, health and hospitals, transportation, police and fire, corrections, parks and recreation, housing, sewer and waste management
<b>City-States</b>	
Brussels	Public transportation, municipalities support, transfer to communities, commissions, employment mediation, housing, human and material resources, waste, roads, fire and emergency medical aid, rational energy use, mobility promotion
<b>Cities in a State/Province</b>	
Bern	Police and fire protection, education, culture and leisure, health, welfare, transport, environment and planning, economy (tourism), finance, tax and transfers
Ottawa	Police, fire, roads, transit, water and sewers, waste disposal, health, social services, social housing, recreation and culture, planning and development
Tshwane (Pretoria)/ Cape Town	Water, sanitation, electricity, waste management, planning, fire fighting, traffic, roads, municipal health, community development, housing

for the specific costs incurred such as security for foreign dignitaries or to compensate for tax exemptions on government property. This section discusses how cities are financed in general, describes the federal compensation that is given to federal capitals for costs associated with being a capital and indicates where capital city costs are directly assumed by the federal government.

### **Financing City Governments in General**

Table 3 summarizes the expenditure responsibilities of the governments of each of the federal capitals in this study. Differences in expenditure responsibilities among the capital cities reflect, in part, the type of governing structure of each federal system. For example, local governments in federal capitals in a province or state only take on municipal functions while province or state takes on provincial/state functions. Federal districts that have state and local responsibilities as well as city-states will have a much wider range of expenditure responsibilities because they are performing the functions of two orders of government. Differences across cities also reflect the division of roles and responsibilities set out in the constitution or other legislation and will apply to all municipalities in the province/state. For example, social service expenditures are common at the local level in some countries but are state/provincial (or federal) functions in others. Similarly, primary and secondary education is financed at the local level in some countries but not in others.

Although most of the capital cities provide similar services as other cities in the country, most common of which are police and fire protection, transportation, waste collection and disposal, recreation and culture as well as land use planning. But some of the services could also be performed by the federal government and the federal capital and this brings complicated financial issues because of the overlap.

People's Liberation Front (EPLF) and successive Ethiopian regimes. The 1970s saw many changes that would shape the history and politics of contemporary Ethiopia.

In 1974, revolutionary upheavals rocked the country. The imperial regime, whose structures failed to handle the increasing demands for change coming from the various corners of the country, was overthrown by a popular revolution in September 1974 (Clapham 1988: 32). In the same period, several ML political movements mushroomed throughout the country. After its rise to state power, the military regime took several radical measures that destroyed the material and ideological basis of the imperial regime. The most important decision in this respect was the nationalization of land in 1975 that automatically ended tenancy. In 1976, the Derg officially issued its programme of the National Democratic Revolution Programme (NDRP). The NDRP officially defined 'scientific-socialism' as the main guiding principle of the revolution. It also declared the equality of the country's ethnic groups and promised self-administration through regional autonomy. However, these pledges were not translated into practice.

The Derg introduced its version of regional autonomy after the adoption of the constitution of the People's Democratic Republic of Ethiopia (PDRE) in 1987. This constitution established an asymmetrical regime of regional autonomy in which some of the provinces affected by ethnic/regional insurgency were organized into five autonomous regions – Eritrea, Tigray, Dire Dawa, Ogaden and Assab. Eritrea was provided with more autonomy than the other autonomous regions. In contrast, the military government divided the rest of the country into 24 administrative regions. It is, however, important to note these measures were not intended to provide administrative and political autonomy as the military regime and its vanguard party, the Workers Party of Ethiopia (WPE) continued to centralize power. Additionally, these reforms did not include linguistic autonomy. Amharic remained the working language of the government at all levels. This experiment ended in 1991 after the defeat of the Derg.

The Ethiopian People Revolutionary Democratic Front (EPRDF)

that assumed power in May 1991 after its protracted 17 year armed insurgency undertaken the reconstruction of the Ethiopian state. The July 1991 Peace and Democracy Conference, convened by the ERPDP brought together 25 political organizations. This conference adopted a Transitional Charter that incorporated the 1948 United Nations Declaration on Human Rights (UDHR); promised multiparty democracy, freedom of association and speech; legalized EPRDF's positions on Eritrea's secession and incorporated the right of ethnic self-determination up to and including secession. Following the conference, an interim administration, the Transitional Government of Ethiopia (TGE) was established. The TGE had an unelected legislative assembly known as the Council of Representatives (CoR), which had 87 seats. This council consisted of 32 political organizations.

When we consider the issue of power sharing/consociational democracy in the Ethiopian context, there has been so far no attention to it either in theory or practice. It appears that the idea of sharing power is alien in the political tradition of the country. The dominant strategy which successive Ethiopian regimes used to recruit members of subordinate ethnic groups into the structures of power has largely been cooptation. The only exception to this trend is the brief experiment of limited 'power sharing' for about a year during the transitional period (1991-1992). When the EPRDF after its military victory established the TGE and allowed the representation of about thirty political parties in the interim unelected legislative assembly called the Council of Representatives (CoR). The EPRDF after retaining its dominance, it also provided some cabinet positions to the Oromo Liberation Front (OLF) and other political movements. This brief experiment of 'power sharing' ended when the OLF and other smaller political groupings left the TGE in 1992 and 1993 respectively. Following the crisis of the May 2005 elections, the opposition parties suggested the idea of forming a coalition government through a power-sharing arrangement. This was bitterly opposed by the EPRDF government which was declared as winner of the elections.

*Kenya*

#### **1.4 Federal Capital Expansion and Its Impact**

Very much related to the issue of three models of governance is the question of federal capital expansion and the tensions that may arise there from. This issue is particularly crucial for capital cities that are city-states or federal districts. In this context boundary expansion of the federal capital implies overstepping – some might say expropriating -- another state or province's territory with the political resistance that such an expansion would entail (for political, symbolic as well as financial reasons).

Boundary expansion through municipal amalgamation or annexation might seem easier for federal capital cities located within provinces/states because there is no need to cross provincial/state boundaries as might occur with a federal district or city-state.

In many of the cities in this study, the geographic boundaries of the capital city do not correspond to the metropolitan area or economic region. This is particularly problematic because many federal government employees (or workers in businesses or organizations related to the government function) live outside of the capital city and commute to the capital city for work and use local services (roads, policing, hospitals, and so forth). They do not pay taxes to the capital city, however, and these foregone revenues are a major concern to the cities. Changing municipal boundaries is always difficult but is particularly difficult for federal districts that are carved out of states or constitute states themselves. Many of these cities have resorted to inter-municipal cooperation to address planning and service delivery issues that cross municipal boundaries. Federal capital expansion is becoming a very delicate issue in Ethiopia, details of which are provided in part II.

#### **1.5 Financing the Capital**

Most capital cities make expenditures and collect revenues on much the same basis as other cities in the country. Some federal capitals, however, do receive additional federal funding to compensate them

city and use city services for which they do not pay.

### *City in a State*

As indicated in the table above, there are other federal countries where the capital city is a city in a province or canton with no special status – Canada (Ottawa), Switzerland (Bern),<sup>15</sup> and South Africa (Pretoria and Cape Town). Under this model, the city enjoys the same status and has the same functions as other cities in the province/state. What differentiates this model from the other two models is that the provincial or state government has more control over municipal affairs in the capital city than does the federal government. In Bern, for example, the federal government has no institutional means of intervening in policy decisions made by the city and all federal-local communication has to be done through the canton. The same is true for Ottawa.

In terms of the conflict between national and local interests, this model severely limits the direct control of the federal government over its capital city (Harris, 1996, 240). A federal role in developing the capital city in the interest of the country as a whole is often precluded by the Constitution which prevents the federal government from preempting state or local governments in certain policy areas such as transportation, security, planning, and zoning. In some cases, the federal government cannot control planning or even location of its own buildings but rather must secure planning approvals from the municipal government. Furthermore, the federal government plays no role in decisions around the governing structure of the capital city.<sup>16</sup>

A consequence of this arrangement is that although cities in a province/state experience less federal intervention compared to the federal district model, they often complain that they do not receive adequate recognition or financial support from the federal government to meet the cost of their function as the nation's capital. Their funding depends more on the province or state government than the federal government.

While the disputed 2005 elections in Ethiopia did not lead to a power-sharing arrangement, the post-electoral violence following the December 2007 presidential and parliamentary elections in the neighboring Kenya was only averted after the incumbent ruling party of President Mwai Kibaki – Party of National Unity (PNU) and the opposition – Orange Democratic Party of Raila Odinga agreed to a power-sharing arrangement. The sudden eruption of inter-ethnic violence following the elections was partly an outcome of a simmering tension among the different ethnic groups of the country over a number of things such as land, equitable distribution of economic resources and better representation in the country's power structures. Kenya like the other countries of the Horn of Africa is a multiethnic country. While there is no a single dominant ethnic group, the Kikuyu are the largest group, comprising 21 percent of the country's population. The Luo make up 13 percent of the population. The rest of the population divides into five main ethnic groups (Bekoe 2008: 4).

The post-electoral violence which rocked the country immediately after the announcement of the reelection of president Kibaki at the end of December 2007 led to the death of more than 1,000 people and the displacement of close to 600,000 (Bekoe 2008: 2). Supporters of ODM presidential candidate Mr. Odinga who felt that they were robbed of their electoral victory erupted in violent protest and turned against members of the Kikuyu ethnic group who were suspected of supporting Kibaki's PNU. The violence was particularly severe in western Kenya and the rift valley – the stronghold of the ODM. In Nairobi retaliatory indiscriminate attacks were made against the Luo, Luhya, and Kalenjin who formed the bedrock of the ODM support. The police were also accused of firing on civilian protestors (Chege 2008: 126).

Kenya was saved from the impending brink because of the successful mediation effort Kofi Anan, the former Secretary General of the UN. The mediation effort led by Anan was supported by the US, Britain, EU and the African Union (Ibid.). The parties to the dispute by eschewing extremism managed to arrive at a compromise

decision. After weeks of protracted negotiation, the two parties agreed to a power-sharing mechanism. This put Kibaki as president, Odinga as prime minister. Moreover, the national accord and reconciliation act created two deputy prime ministerial positions. It also brought a more balanced cabinet reflecting Kenya's ethnic diversity. As noted by Chege (2008: 126)

The political tools used to end the conflict are well known. They include a "grand coalition government" of all major parties and leaders; "power sharing" between ethnic-based factions; and allocation of executive positions so that all major groups are fairly represented. Such practices represent important elements of the "power-sharing" or "consensus" model of democracy that Arend Lijphart prescribes for conflict-prone plural societies like Kenya. The agreement, however, left out three important pillars of his full-consensus model—autonomy and federalism, the mutual veto, and the electoral system of proportional representation (PR). It was not a perfect solution, and Kenya is still at risk given the level of political animosity generated by the disputed election and subsequent ethnic killings.

The two parties in addition to the sharing power and ending violence committed themselves to examine the long-standing sources of grievances and establish an Independent Review Commission to examine the electoral process; a Truth, Justice, and Reconciliation Commission; a Commission on Inquiry on Post-Election Violence; and the Constitutional Review Commission (Bekoe 2008: 2). The power-sharing arrangement helped to bring stability to the country. However, the jury is still out there regarding the successes or alternatively failure of the Kenyan power-sharing pact. For instance, there are occasional accusations by the ODM about an alleged lack of willingness by the PNU to fully implement the reforms which were promised by the power-sharing arrangement. In this respect, the US government recently issued a visa ban on one top official of the ruling party for his alleged effort of frustrating crucial reforms. The coalition government of Kenya is also currently facing a crisis regarding the prosecution of those officials who were suspected of

have only been able to vote in presidential elections since 1961. It is interesting to note that residents of Addis Ababa have some level of self governance and representation in the federal parliament.

In summary, federal districts are all creations of the national government, they lie outside of the jurisdiction of states/provinces, and they take on local and state/provincial responsibilities. The extent to which they have similar powers to states/provinces, however, varies among the federal capitals. The extent to which the degree of local autonomy affects the finances of the capital city is discussed further below.

#### *City-State*

City-states are cities which are simultaneously cities and a constitutive unit of the federation (for example, a state, province, or canton). A good example is Brussels.<sup>11</sup> City-states combine local and state functions and, unlike federal districts, face no restrictions on their state functions.<sup>12</sup> Under this model, residents of the capital city enjoy democratic rights and privileges similar to citizens in other cities in the country. While there are some variations, this model implies that the federal government is likely to have less influence or control over a city-state than a federal district or than a city that is simply part of a state or province.<sup>13</sup>

Although city-states often have more responsibilities and greater revenue-raising powers than other cities, this status does not necessarily mean that they are immune from the fiscal problems faced by other cities.<sup>14</sup> Furthermore, city-states tend to be smaller than other states in the country. Over time, the expansion of the urban population beyond its boundaries and into other states can result in inter-jurisdictional conflict in addressing the problems of the larger capital city region (the same can be true for federal districts). This issue is particularly important in capital cities where a large proportion of federal government employees (as well as employees of private sector companies, universities, lobby groups and so forth) are attracted to the capital city but live outside of the boundaries of the capital



### *Federal District*

A federal district is either the creation of the federal government or it is the constitutionally established seat of government. A federal district lies outside the territory (and thus the jurisdiction) of any state or province. The local government of the federal district performs many of the same functions as other cities in the country as well as state or provincial functions. Unlike other constitutive units, however, it often lacks the autonomy and powers granted under the national constitution. One of the main justifications for the federal district model is to ensure that the federal seat of government is not under the jurisdiction or the control of any of the states or provinces. In this way, the model reduces the risk of favoritism among different regions in the country and eliminates potential friction between the federal and state governments in overlapping areas of jurisdiction. In terms of the conflict between the federal and local interests, the federal district model can result in domination from the center; lack of self-government for local residents; and the neglect of local interests.<sup>9</sup>

Compared to city-states or capital cities located within a state, the federal district model gives the federal government greater potential to control its capital city in legal, administrative, and financial terms and can potentially lead to significant restrictions on local autonomy. This choice has also implications for the fiscal autonomy as the federal government retains important powers for itself.

One of the potential shortcomings of the federal district model is the possible risk to sacrifice democratic principles. Where capitals in federal districts began as planned new cities, there were only a small number of residents at the outset and no provision for self-government. This was the case in Australia until 1989. In Abuja, the central government appoints the head of the local governing body. In Washington, D.C. capital city residents do not have the same voting rights and representation in the legislative branch as do residents of other states. Specifically, the residents of D.C. have no representation in the U.S. Senate and only one non-voting representative in the U.S. House of Representatives.<sup>10</sup> District residents

complicity in the post-electoral violence. Investigation and prosecution of those involved in the violence was one of the center pieces of the agreement. As a prosecution of those officials who were engaged in inciting violence may bring to justice some of the officials of both parties, both the PNU and the ODM do not appear to be enthusiastic about the issue. Mr. Anan who was frustrated because of lack of cooperation on this question from the coalition government transferred the list of those suspected officials who might have taken part in the violence to the International Criminal Court (ICC) at The Hague to which Kenya is a party. Nairobi which has so far failed to have a local prosecution acquiesced to international pressure by agreeing to transfer the case to the jurisdiction of the ICC. It is planned that there will be an ICC trial within Kenya on the suspects of the post-electoral violence.

What were the factors that made possible the formation of a power-sharing pact in Kenya? Firstly, the level and expanse of the violence made a sort of power-sharing arrangement absolutely necessary. Concomitantly, the leaderships of the two parties saw the advantages of power-sharing – security, sharing the resources of the state, and legitimacy. Secondly, immense international pressure by the US, Britain, the EU and the African Union was put on the incumbent regime to agree to a power-sharing arrangement. For the western powers, maintaining Kenyan stability was absolutely necessary because of its geopolitical significance to east Africa and the great lakes region.

### *Somalia*

Like Kenya, principles of power-sharing have been used as instruments of peacemaking in Somalia. The result is, however, spectacularly different. The state of Somalia collapsed at the beginning of the 1990s. Since the beginning of the 1990s, there is no an effective central government that controls the country. The country has been consumed by war largely fought on clan basis. The northern part of the country – the former British Somaliland declared (*de facto*) independence in 1991. There also emerged several regional authori-

ties in southern Somalia. Finding peace by resuscitating the state of Somalia has been one of the key objectives of both regional and international players. Hence, more than a dozen of reconciliation conferences were held. Many of the reconciliation efforts incorporated elements of power-sharing in order to accommodate the country's clans in the emerging state structures.

The Transitional National Government (TNG) of Somalia which was established in August 2000 after the negotiation held in Artha, Djibouti established a Transitional Assembly of 245 members based on clan representation. Abdiqasim Salad Hasan was elected as president. The TNG was opposed by Somali war lords who established the Somali Restoration and Reconciliation Council (SSRC) in Ethiopia. The TNG was never able to exert power outside of Mogadishu. Hence, another reconciliation process was sponsored by the regional Intergovernmental Authority on Development (IGAD). Initially, the reconciliation conference was held in the Kenyan town of Eldoret but later on relocated to Mgabati, in the outskirt of Nairobi. The Mgabati process after long and protracted negotiations led to the establishment of the Transitional Federal Government (TFG). In August 2004, the 275 strong transitional parliament was inaugurated. It was established on the principle of what is called 4.5 clan representations in which the larger four clans have 61 seats each in the parliament while an alliance of minority clans was given 31 seats.

The division of executive offices had also some notion of power sharing. The president, Abdulahi Yusuf was elected in October 2004 was from the Darood clan, while the then prime minister (Ali Muhammed Gedi) was from the Hawiye group. The cabinet of Mr. Gedi was composed of 90 members. One can imagine that such a large cabinet was necessitated in order to bring the representation of all the major clans of the country to the executive. Though the TFG has a strong backing of the international community, it was not able to assert its authority within the country. Initially because of fear for the security of its officials it was moved to Baidowa from Kenya. A number of factors were responsible for the weakness of the TFG. Firstly, there were terminal internal divisions within it. Secondly, the

City in a State/Province		
Bern	City in a canton	Historical
Ottawa	City in a prov-	Planned/historical
Tshwane (Pretoria)/	Cities in prov- inces	Historical

Table 2 shows the choice of location (whether it was planned or historical) and type of governing structure for the federal capitals in this study. The majority of them are historical capital cities that existed prior to becoming the capital. The capital of some of the historical cities, however, did move around at some point in their history (for example, Addis Ababa, Bern, Berlin, and Ottawa) sometimes as a result of rather fierce battles between the contending cities or states/provinces. Some capital cities like Abuja and Washington -- are planned cities built solely to act as the capital of the country. For planned cities, the choice of the capital has involved a more conscious decision that is often based on a set of criteria rather than simply being the result of tradition. With the exception of Ottawa, all of the planned cities are federal districts. Finally, it should be noted that South Africa has two historical capital cities – Tshwane (Pretoria) which houses the executive branch of the national government and Cape Town which houses the national Parliament.

In terms of governing structure, one can broadly categorize the capital cities in to three. Some are federal districts,<sup>8</sup> others city-states, and a city cities in a state. Within each of these categories, there are variations in the extent to which the federal government exercises legal, administrative, or financial control over local decisions.

South Africa – Pretoria and Cape Town -- represent, at a symbolic level, the divided nature of the country. In some federations like the USA, the federal capital is chosen as a result of the need for separating the political and financial centers of the nation.

### 1.3 Governing Federal Capitals

The issue of governing federal capitals brings into forth tensions between the federal government and the authorities that administer the federal capital. The governing structure becomes a point of contention because each unit of government is interested to influence the capital. The federal government has a special interest in its development. Yet the local administration also wants to exercise some autonomy. Differences emerge in terms of priorities. Thus issues related to the responsibilities of each order of government, the differences in priorities, the financing arrangements and the governing structure of the capital city remain crucial policy issues in the process of establishing the federal capital.

**Table 2: Choice of Location and Governing Structure of Capital Cities in**

	Governing Structure	Choice of Location
<b>Federal Districts</b>		
Abuja	Federal district	Planned
Addis Ababa	Federal district	Historical
Delhi	Federal district	Historical
Mexico City	Federal district	Historical
Washington, DC	Federal district	Planned

TFG faced strong resistance from war lords who benefited from the existing statelessness. Thirdly, the authority of the TFG was challenged by the Union of Islamic Courts (UIC) which emerged to the political prominence through military prowess in 2005.

While the TFG was paralyzed by internal dissension, the UIC managed to control much of the southern part of Somalia and including Mogadishu. It became successful in enforcing law and order in Mogadishu and in many parts of Somalia for the first time after the collapse of Mohammed Siad Barre’s regime in 1991. After controlling Mogadishu, the UIC began to harass and threaten the weak TFG which was based in Baidowa. International mediation aimed at a power-sharing pact between the two failed. Despite attempts of mediation, the TFG and the UIC could not sort out their differences in a peaceful manner. The bellicose position of the UIC to Ethiopia – which provided key support to president Yusuf’s TFG and the spillover of the Ethio-Eritrean conflict into Somalia somehow precipitated in the military intervention of Ethiopia on behalf of the TFG. In December 2006, Ethiopian and TFG forces managed to eject the UIC from Mogadishu. Following this, the TFG was for the first time relocated to Mogadishu.

The defeat of the UIC and the installation of the TFG in Mogadishu were presented as a rare window of opportunity for state and peace building in Somalia. Consequently, the African Union deployed Ugandan and Burundian troops under the auspices of the African Mission to Somalia (AMISON). Nevertheless, the remnants of UIC and others who were opposed to Ethiopian intervention established in Asmara what is called the Alliance for the Re-Liberation of Somalia (ARS). In Mogadishu and other parts of southern Somalia, the Al-Shabab militia and others began to engaged Ethiopian and TFG troops in guerrilla style warfare. This brought mayhem and destruction to the war torn capital – Mogadishu.

Consequently, a UN sponsored negotiation in Djibouti between the TFG and the ARS resulted in the signing of a three months cease fire

in June 2008. The accord also provided the pulling out of Ethiopian troops in three months time. This peace effort opened cracks both within the TFG and the ARS. Because of the dispute about the inclusion of the moderate wing of the ARS in the TFG, president Yusuf attempted to sack his second prime Minister, Nuur Adde. The parliament however gave a vote of confidence to the PM and considered the move of the president unconstitutional. Following this the president resigned in December 2009.

In January 2009, Ethiopian troops completed their phased withdrawal from Somalia. In the same month, the ARS faction led by Sheikh Sharif Sheikh Ahmed reached a power-sharing deal with TFG in Djibouti. However, the deal is rejected by another faction led by Sheikh Hassan Dahir Aweys. A new expanded parliament, including 275 MPs from the opposition ARS was inaugurated in Djibouti. At the same time, in a dramatic move in Somali politics, Sheikh Sharif Sheikh Ahmed the leader of the moderate ARS was elected by parliament to replace Yusuf. The transitional period was also extended for two more years.

Why the use of power-sharing arrangement failed to bring peace to Somalia? This a complex question. There could be, however, some indications. Firstly, as used in the Somali context, power-sharing rewards the war lords who were engaged in criminal activities and abuses of human rights. Secondly, there was no strong international support. When we look at successful power-sharing pacts, there were strong international pressures. Such involvement makes the option of continuing violence difficult if not impossible. Hence warring factions would have little choice if any other than cooperating in a power-sharing arrangement.

Unlike Somalia, elements of power-sharing helped bring peace and stability in the (*de facto*) breakaway republic of Somaliland. According to Ian Spears, principles of consociationalism were used for the 1993 Borama conference, where compromises were reached among the clans on many of the most difficult political issues regarding Somaliland's proclaimed independence. In addition to sharing power

Country	Capital City	Population of Capital City (millions)	Population of Metropolitan Area (millions)	Year of data
Belgium	Brussels	.15	1.91	2005
Canada	Ottawa	.81	1.13	2005
Ethiopia	Addis Ababa	3.147	5.00	2008
India	Delhi	13.90	21.10	2005
Mexico	Mexico City	8.46	22.10	2005
Nigeria	Abuja	.17	.81	2004
South Africa	Tshwane (Pretoria)	1.78 2.89	2.43 2.89	2006 2001
Switzerland	Bern	.13	.30	2004
United States	Washington, DC	.60	8.10 (including Balti-	2005

**Table 1: Population of Federal Capital Cities and their Metropolitan Area**

Source: Population data were taken from: United Cities and Local Governments (2007) *Local Governments in the World: Basic Facts on 82 Selected Countries* ([http://www.cities-localgovernments.org/gold/upload/pocketbook\\_complete.pdf](http://www.cities-localgovernments.org/gold/upload/pocketbook_complete.pdf)).

## 1.2 Choosing the Capital City

The choice of location for each of the capital cities compared has been made for different reasons and by different actors. Some capital cities like Ottawa and Bern were selected because of security reasons as a result of existing internal rivalry or foreign threat.

Sometimes, it was the symbolism of a particular location that was responsible for the choice even if the financial cost of the location was high. For example, Abuja and Addis Ababa are both located geographically at the centre of the country and, at least in theory, easily accessible to the whole country. The choice of Berlin was symbolic of the re-unification of Germany and the two capitals in

federations and those in the emerging ones. Most of the capital cities in developed federations are not the major population centers in the country but Addis Ababa and Mexico City host the largest population. It is also worth noting that only Addis Ababa and Mexico City remain the major political, cultural, economic and financial centers of the country. In most of the federations, the capital city is neither the largest city nor the major economic capital.<sup>6</sup> For example, the federal government in some countries has chosen to locate the legislature in the capital city but decentralize some of the other federal institutions across the country. The federal governments in Nigeria, Switzerland, and Canada had a deliberate policy to decentralize national institutions. In the case of Nigeria, decentralization ensured a fair share of federal presence throughout the country. In the case of Switzerland, decentralization facilitated the recruitment of linguistic minorities by locating some institutions in the French speaking regions of the country. The judiciary, as well as a significant portion of the federal government administration, has been located outside of Bern. The Constitutional Court in Germany is located deep South, far away from Berlin. In Canada, as part of its attempt to redistribute federal buildings across the larger region in line with a bilingual and bicultural vision of the capital, the federal government located government offices and cultural institutions (such as a national museum) outside of the City of Ottawa, in Gatineau.<sup>7</sup>

among the clans of the breakaway republic, there is a practice 'rotation of power' in Somaliland (Spears 2002: 133).

### *Sudan*

Like the other countries of the Horn of the Africa, Sudan has also used power-sharing principles in order to bring peace and stability. Power-sharing was particularly used in the north-south conflict. The conflict has many dimensions including religious, economic and political domination of the south by the north. The first phase of the conflict – the Anya Nya I (1955-1972) was ended in 1972 when the two parties signed a peace agreement in Addis Ababa. The 1972 agreement provided a considerable autonomy to the south and provided for integration of former *Anya-nya* fighters in the national army (Moller 2004: 75). Even if the power-sharing arrangement brought peace and stability, president Nimeiri who brought peace by signing the 1972 pact reneged on it in 1983 by declaring the Sharia law. The Sharia law was made even applicable to the predominantly Christian south. This unleashed the second round of conflict between the north and the south in 1983. This bitter conflict which led to the death and displacement of millions of people ended in January 2005, when the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of Sudan (GoS) signed a peace agreement in Nairobi, Kenya.

The Comprehensive Peace Agreement (CPA) which was negotiated between 2002 and 2005 in Kenya contained significant elements of power-sharing such as representation of the south in the executive of the national government, regional autonomy for the south, a provision regarding the sharing of the oil wealth, and a referendum in the south regarding its future – whether to remain as part of the Sudan or to be independent. Though there is some displeasure in the south about the slow pace of progress in the implementation of the CPA, the 2005 peace agreement has brought peace in the south.

The CPA has important lessons for the rest of the region. Firstly, it was exclusionary. Rather than looking the north-south conflict as one

element in the broader Sudanese political-economy problem, it only sought to end the war in the south. Hence, it excluded other conflict zones – Darfur and the Eastern provinces. By doing this it gave an incentive for violent resistance to the central government. Hence, Khartoum has since signed separate power-sharing arrangements with rebels in the East and Darfur. Secondly, the CPA by considering the SPLM/A and the GoS as the only legitimate voices who would speak respectively for the south and the north excluded other political forces. This in particular undermined the prospect of expanding democratic space in the Sudan. Thirdly, the signing of the CPA was made possible by the heavy pressure put on both parties particularly the GoS by international powers such as the USA, the EU and others.

## V. Conclusion

This paper reviewed the theoretical and conceptual basis that informs the power-sharing/consociational approach and the application of elements of power-sharing as an instrument of containing conflicts in the Horn of Africa. Based on the theoretical discussions the following broad conclusions could be made. First, a power-sharing/consociational approach to democracy is particularly well suited to countries which are characterized by social cleavages. Indeed, the main argument behind such an approach to democracy is that – the majoritarian democratic approach in which the winner would take all is not conducive for the building of democracy in countries where there are multiple ethnic minorities. Indeed, excepting Somalia all the countries of the Horn of Africa are characterized by the lack of a dominant ethnic group which constitutes more than half of the national population. Hence, power-sharing could be used to ameliorate the tension that usually surrounds the sharing of state power and resources.

Second, though scholars like Arend Lijphart used consociationalism and power-sharing somewhat interchangeably, power-sharing today is considered as a generic concept denoting several methods of sharing power, while consociationalism is a politico-legal practice where power sharing is institutionalized following some of the key

built capital city may be positioned as a neutral space for national politics, often driven by a desire to balance the influence of major states or commercial cities. For example, the establishment of Washington, D.C., as national capital was motivated primarily by the Congress's desire to free itself of reliance on any one state and also because it was reasonably far removed from the major commercial centers.

Federal interest in capital cities tends to revolve around public safety (protecting national leaders and foreign diplomats), land use (making the capital a beautiful showcase for the country), and delivery of services to the extent that they have an impact on the operation of the federal government (such as transportation). The policies that the federal government adopts towards its capital city have an important impact on the relation between the federal government and local authorities, and important implications for the finances of the capital city. The way in which the conflict between the national and local roles plays out in capital cities depends to a considerable extent on how these cities are governed. Who is responsible for making decisions? Is the capital city accountable to a provincial or state government or directly to the federal government? Who is responsible for providing which services? How are these services financed? Does the federal government compensate the capital city for the costs associated with being the capital?

The purpose of this short introduction is to provide a comparative examination of the financing and governance of capital cities in some federal countries. In exploring the organization of capital cities and their relationship with the other orders of government, we observe considerable variation among capital cities.

### 1.1 Capital Cities in Developed and Emerging Federations

Table 1 provides population estimates for some federal capitals and their metropolitan area. Setting aside the major differences, for example, in terms of population size (New Delhi vs. Bern), one observes significant difference between federal capitals in developed

country's linguistic and cultural diversity. In Germany, the decision to relocate the capital to Berlin (because it is the only major urban centre that straddled the east-west divide) was an important gesture in the process of integrating the eastern Lander.<sup>3</sup>

As in most countries, federal capital cities host the legislative, executive, and judicial branches of the national government and are usually home to many national institutions such as national museums, the national library, arts centers, and the central bank. Capital cities also host foreign embassies. Capital cities promote national pride through ceremonies and commemorations, but they also experience more public protest activity than other cities because of links with actions of national governments.

At the same time that capital cities take on special political, administrative, and symbolic roles, they are also places where people live, use local services, and engage in local political activity. In other words, the national and local roles conflate and at times may lead to tension. Often the federal government wants to design and develop the capital in the interest of the nation as a whole while the residents in the capital prefer to govern themselves autonomously.<sup>4</sup>

This conflict is particularly acute in federal countries because the national capital in a federal country, if treated in the same way as any other city, would normally fall under the jurisdiction of a constituent state. In the context of federalism, the state would be the order of government in the position of controlling the capital, thereby denying the federal government a role in the functioning of its capital. Some of the governance structures that federal governments have designed for their capital cities – city-states and federal districts, for example – reflect the desire on the part of the federal government to treat capital cities in a different manner than other cities in the country.<sup>5</sup> These different governance structures, in essence, reduce the role of the constituent state in the affairs of the capital city and give the federal government more input and control over its capital city. The governance model chosen has tremendous symbolic value in diverse federations, where a federally controlled or purposely

elements outlined by Lijphart such as minority veto, proportional representation and others. Third, power-sharing approaches though developed as alternative models of democracy in pluralistic societies, they are increasingly used as instruments of ending civil wars and recently post-electoral violence. In both cases, the use of power-sharing methods has their weaknesses and strengths.

Coming to the brief survey regarding the use of a power sharing approach among the countries of the Horn of Africa, we can make the following concluding remarks. First, power-sharing arrangements emerged as ad-hoc measures of containing conflicts. This appears to be the case both in Djibouti, the Sudan and Kenya. In both cases there was a degree of international pressure for the adoption of such an approach. Second, there is a doubtful commitment of parties to a power-sharing arrangement. For instance, even if a power sharing pact was used to cease the inter-ethnic conflict that erupted the beginning of the 1990s in Djibouti, there is no institutionalized and sustained effort by the Issa majority to mitigate the concerns of the Afar minority. Similarly, the same Sudanese regime which introduced in 1972 a system of regional autonomy to the South was implicated.

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## Governance Systems of Federal Capital Cities: Comparative Overview

by

Assefa Fiseha

At the out set it is important to note that very little has been written about the governance structure and financial sources of federal capitals in general and in Africa in particular. The very few studies made so far merely deal with capital cities with out necessarily creating links with federations.<sup>1</sup> Yet as illustrated in this paper, though capital cities share several common features, federal capitals give rise to particular and distinct political and financial issues that may not arise in capitals within unitary systems, hence the need for a study on federal capitals. The only exception in this respect is a recent book edited by Enid Slack and Rupak Chattopadhyay<sup>2</sup> that deals with 11 federal countries, including a chapter on Addis Ababa contributed by this author. This paper is an effort to fill this gap. It contains two parts. Part one is a brief presentation of the governance systems of some selected federal countries in a broad manner and part II deals specifically with Addis Ababa.

Capital cities are unique, in large part, because they are seen as an important symbol of the whole country. This symbolism has special meaning for federal countries, which tend to be diverse, large, and often aim at forging unity in diversity. Consequently, in federal countries, the choice of a capital city, its location, its monuments, and its governance arrangements have to reflect this diversity while at the same time remaining as neutral as possible with respect to individual states or provinces. Not surprisingly, therefore, several federal capital cities, including Washington D.C., Ottawa, Canberra, and Abuja, are all located on historic regional, linguistic, or ethnic borders. The Nigerian capital, Abuja, is located in the geographic center of a very diverse country, and is home to both a grand mosque and a national cathedral, which together, represent the country's two great religions. Similarly, Brussels, as Belgium's only bilingual region, reflects the



*Comparative Study* (Kingston, Queen's University, Institute of Intergovernmental Relations, 1999 b), p. 1.

<sup>88</sup> *Ibid*, p. 50.

<sup>89</sup> However, most of them had some transitory provisions for obligatory grants by the centre. For a historical analysis see Wheare, *supra*, p. 102-103.

<sup>90</sup> Watts, *Comparing Federal Systems*, *supra*, p. 50.

<sup>91</sup> Art 7 of Proc. No. 33/1992 for the sharing of revenue between the central and regional governments.

<sup>92</sup> K. C. Wheare, *supra*, p. 123.

<sup>93</sup> Art. 62(7) of the FDRE Constitution. During the transition period, the Council of Ministers had the power to decide on the sharing of joint revenues and the provision of grant subsidies to the newly formed regional governments based on the recommendations from the 'committee for the sharing of revenue' and the Ministry of Finance. See Art. 6 of Proc. No. 33/1992

<sup>94</sup> For the powers, functions and structure of the Council of Constitutional Inquiry see Art. 62 (1, 2), 82, 83 and 84 of the FDRE Constitution.

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### **Intergovernmental Relations and Fiscal Issues in Federations: the situation in Ethiopia and implications to the Horn**

<sup>74</sup> Ehtisham Amhad and Jon Craig, 'Intergovernmental Transfers', in Teresa Ter-Minassian (ed.) *Fiscal Federalism in Theory and Practice* (Washington DC., International Monetary Fund, 1997) p. 87.

<sup>75</sup> Similar issues could be raised in the transfer of revenue at the sub-state level, and similarly the solutions adopted at the federal level could also be used at the state level.

<sup>76</sup> As discussed infra, the Ethiopian case reveals a share of joint taxes determined by the HoF, but the gross amount of federal subsidy transferred from the federal revenue is unilaterally decided by the federal government.

<sup>77</sup> Christine I. Wallich, 'Russia's Dilemma', in Christine I. Wallich (ed.) *Russia and the Challenge of Fiscal Federalism* (The World Bank, Washington DC., 1994), p.4.

<sup>78</sup> The fourth method is widely used in unitary decentralized systems.

However, it can also be observed in some federal systems besides using either of the other methods. In Ethiopia, it is used in addition to the mandatory sharing of joint taxes listed in the Constitution under the 'concurrent power of taxation.'

<sup>79</sup> See Arts 62 (7) and 94 of the FDRE Constitution.

<sup>80</sup> Art 62 (7) and 89 (4) of the FDRE Constitution.

<sup>81</sup> Paul Bernd Slahn "Resolving fiscal conflicts" in a conference reader, 4<sup>th</sup> International Conference on Federalism, New Delhi, India, 2007, p. 213-14

<sup>82</sup> For further details see Solomon Negussie, *Supra*, p.259-278

<sup>83</sup> Ehtisham Ahmed and Jon Craig, 'Intergovernmental Transfers', in Teresa Ter-Minassian (ed.) *Fiscal Federalism in Theory and Practice* (Washington DC., International Monetary Fund, 1997) p. 87-88.

<sup>84</sup> K. C. Wheare, *Federal Government*, 4<sup>th</sup> ed., (London, Oxford Univ. Press, 1963), p. 106.

<sup>85</sup> *Ibid.* p. 118-119; As in the case of India, an independent commission is empowered to study and approve specific projects to be financed by the centre but executed by the states. There is also an instance which is easier for the implementation of specific grants, as in the case of Germany, where there is a division of law making and administrative powers.

<sup>86</sup> For the analysis of the arguments, see Hamish Telford, 'The federal Spending Power in Canada: Nation building or Nation-destroying?' Working paper, Institute of Intergovernmental Relations, Queen's University, Kingston Ontario, 1999.

<sup>87</sup> The Canadians use the term 'spending power' instead of conditional or semi-conditional grants. The spending power is defined by the federal government as 'the power of parliament to make payments to people or institutions or governments for purposes on which it does not necessarily have the power to legislate.' Ronald Watts, *The Spending Power in Federal Systems: A*

<sup>59</sup>Personal discussions with the head of legal department, Ministry of Finance and Economic Development.

<sup>60</sup>In his 2008 report to the Parliament, the Prime Minister affirmed that the states have delegated administration of designated plots of land to the federal government.

<sup>61</sup> See D. Elazar, *American Federalism: A View from the States* (New York, Thomas Y. Crowell Co.,1966); R. Watts,, *Comparing Federal Systems*, 2<sup>nd</sup> ed., (Montreal, McGill-Queen's Univ. Press, 1999)

<sup>62</sup> Brian R. Opeskin, 'Mechanism for Intergovernmental Relations in Federations,' (International Social Science Journal, vol. 53 No.167, 2001), p. 129-138. It is also a problem in Ethiopia. Vertical as well as horizontal relations are dependent on the personalities of the authorities, sometimes with strong and fruitful cooperation and in others gloomy and destructive. (Interview with Ato Melaku Fenta, Ministry of Federal Affairs, January 2003).

<sup>63</sup> R. Watts, 'Intergovernmental Council in Federations,' *Constructive and Co-operative Federalism?*, IIGR, Queen's University, IRPP, Montreal, 2003; Elazar (1966), *supra*.

<sup>64</sup> Before the 2001/2002 reform within the ruling party which is called Tehadso (Amharic word- means a Renewal Process), not much heard about relations between ministries and their regional counterparts

<sup>65</sup> See the FDRE policy documents, *supra*

<sup>66</sup> Annual report of the Ministry of revenue to the parliament

<sup>67</sup> This is usually referred to as 'federalism without Bern' as in the case of Swiss, and 'federalism without Washington' in the United States. R. Watts, *Comparing Federal Systems*, 2<sup>nd</sup> ed., (Montreal, McGill-Queen's Univ. Press, 1999) p.59;

<sup>68</sup> In this regard, there are some attempts through cooperation between Oromia and Somali

<sup>69</sup> William Riker and Ronald Schaps, as quoted in Assefa, *supra*, p. 370

<sup>70</sup> Assefa Fiseha, *Supra*, p. 369-372

<sup>71</sup> The House of Federation, "The New Federal Budget Grant Distribution Formula", 2007, p. 3-4

<sup>72</sup> However, care should be given in the use of terms like 'block grants' or 'grants-in-aid'. Block grant usually refers to a general area of state expenditure such as education or health. That is, the fund can not be used other than the specified area.

<sup>73</sup> However, the centre may not be completely deprived of the power of general auditing and surveillance of the spending of grants.

by  
Solomon Negussie

## **Intergovernmental Relations: conceptual underpinnings**

Intergovernmental relations are commonly defined as "interactions between governmental units of all types and levels within a political system."<sup>1</sup> Intergovernmental relations (hereafter IGR) are considered as an essential feature of federal systems and it is widely related to the study of federalism. R. Watts submits that different and complex set of interactions, interdependence or cooperation between levels of government in federations are inevitable.<sup>2</sup> Elazar further submits that IGR are universal phenomenon to be found wherever two or more levels of government intract in the development and in the execution of public policies and programs.<sup>3</sup> Such forms of interactions between different actors of the levels of government are primarily driven by the division of powers. This is because, R. Watts contends, "it is impossible to distribute administrative or legislative jurisdictions among governments within a singly polity into watertight compartments or to avoid overlaps of functions."<sup>4</sup>

In federations, a great variety of arrangements of intergovernmental relations exist due to factors attributed to particular constitutional arrangements, political, social and economic conditions of a particular system. Thus in the study of IGR several issues are raised as to whether it should be constitutionally or legally prescribed or develop through practices; as to whether it is based on mutual cooperation, partnership or coercion by one level of government upon another; as to whether it enhances or undermines political accountability and transparency; and as to who or which institution is in charge of managing IGR. Addressing the above issues is desirable towards defining the different structures and processes to be put in place and the objectives to be achieved.<sup>5</sup>

## **Issues of arrangements of IGR in federations**

The existence of two levels of government and the divided political powers between the federal and state governments are essential features of federations. In a broader context, the form of constitutional division of legislative and executive powers, and the relationship between the legislature and the executive affect the nature of IGR. In this regard, the scope and kind of relations between and among institutions of a federal arrangement have been analyzed in relation to either of the two major constitutional models: “dual federalism” and “executive federalism”.

Under dual federalism, also sometimes called ‘layer cake federalism’, the allocation of executive authority is in principle considered co-extensive with the distribution of legislative responsibilities.<sup>6</sup> This model is usually represented by the US federation. It follows K. C. Wheare’s distinct and coordinate theory of a federal principle.<sup>7</sup> According to this theory the two levels of government remain autonomous in the process of enforcing the respective laws. As a result, legislative, executive, judicial and financial powers remain divided between the federal government and states. In theory, the duality approach assumes little or no overlap of sharing of functions between the two governments. There are also some theoretical constructs that this approach creates more efficient, responsible and accountable government

Under executive or functional federalism, the administrative responsibilities of a government do not necessarily coincide with the legislative authority. Administration of most of the federal authority is constitutionally assigned to the constituent units. This approach is specifically stipulated under the Basic Law and is widely practiced in Germany. In this model, unless otherwise expressly provided by the Basic Law for direct federal administration, administrative responsibility is undertaken by the states/Länder.<sup>8</sup> Although the principle is not extensively provided in the constitution, Switzerland like Germany follows the principle of executive federalism where cantons are constitutionally mandated or delegated by the federation for the administration of federal law.<sup>9</sup> Looking into the details of the constitution and the legal practice, India is also set to follow the principles

<sup>51</sup> These activities have been widely claimed by the ministry since its establishment. See also Proclamation No. 256/2001, for the reorganization of the Executive Organs of the Federal Democratic Republic of Ethiopia.’

<sup>52</sup> For a detailed analysis of the practice see, Solomon Negussie, *Fiscal Federalism in the Ethiopian Ethnic-based Federal System* (Nijmegen: Wolf Legal Publishers, 2006, chapter III, 2.3) Jon Abbink, ‘Breaking and Making the State: The Dynamics of Ethnic Democracy in Ethiopia,’ (Journal of Contemporary African Studies, vol. 13, no. 2, 1995); Aalen, Lovise *Ethnic Federalism in a Dominant party state: The Ethiopian Experience 1991- 2000* (Bergen: Chr. Michelse, Institut Development Studies and Human Rights, no. 2, 2002);

<sup>53</sup> The overlaps of power between the HoF and MoFA are one of the issues that need clarification in order to make them effective IGR institutions. Both institutions will be effective when a high level political intervention through intergovernmental forum sets principles and gives guidelines to their respective activities.

<sup>54</sup> Art. 50(9) reads: ‘The Federal Government may, when necessary, delegate to the states powers and functions granted to it by Article 51 of this Constitution.’ Although the Constitution seems to provide only centre-state delegation of power, the states are not expressly prohibited from delegating their powers. Delegation, after all, does not permanently alter the division of power enunciated by the constitution. In fact, the draft Constitution and the minutes of the constitutional assembly considered federal-state, state-state, and state-federal delegation of power. But the latter two cases of the delegation of power have been omitted from the final version to protect the powers and functions of the states. See the draft constitution and ‘the minutes of the constitutional assembly’ (in Amharic), vol. 6, December 1994, p. 1.

<sup>55</sup> However, the federal government cannot delegate all its powers and functions. For instance, owing to their nature certain powers and functions are non-delegable. The legislative power to print money, to regulate foreign exchange, foreign trade and customs duties, and most of the matters of international relations cannot be delegated.

<sup>56</sup> For instance, despite a clear constitutional authority to establish federal police force, the federal government did not have one except in Addis Ababa, until at least 2002. The establishment of branch offices of the immigration authority in some of the regions is also a new development.

<sup>57</sup> For a detailed account of the party channel for intergovernmental relations see, Assefa Fiseha, *Federalism and Accommodation of Diversity in Ethiopia: The Case of Ethiopia* (Nijmegen: Wolf Legal Publishers 2006, ch. 7)

<sup>58</sup> Article 80/1&2 of the FDRE Constitution; See also Federal High Court Establishment Proc. No. 322/2003, which established federal high courts in six of the nine regional governments.

<sup>44</sup>As the location of Addis Ababa is within the Oromia region, several socio-economic, cultural, legal and administrative issues may arise. For instance, Environmental issues, employment and the displacement of the rural population because of the territorial expansion of Addis Ababa, *inter alia*, would be the major issues. Environmental (and health) issues, for instance, can easily arise since the rivers flowing to the neighbouring Oromia region are highly polluted because of the wastewater emissions from the industries located in and around Addis Ababa. Moreover, if Addis Ababa continues to be also the seat of the Oromia state government, the latter may raise complex issues claiming the share of revenue collected in the city. Therefore, in order to address these and other issues intergovernmental collaboration between the Oromia region, the federal government and the Addis Ababa administration seems inevitable, but has not yet been given due consideration.

<sup>45</sup> For instance, the HOF, according to Art. 62 (3) 'shall, in accordance with the Constitution, decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination... (4) It shall promote the equality of the Peoples of Ethiopia enshrined in the Constitution and promote and consolidate their unity based on their mutual consent. (6) It shall strive to find solutions to disputes or misunderstandings that may arise between States. (7) It shall determine the division of revenues...and the subsidies that the federal government may provide to the States. See the annex, particularly Articles 61, 62, 82-84, of the FDRE Constitution. Also see Proc. Nos. 250 and 251/2001.

<sup>46</sup>See Arts. 62 (7) and 98 of the Federal Constitution of Ethiopia. For a more detailed analysis of the role of the HOF in the revenue sharing and allocation of grants to the states, see Chapter VII.

<sup>47</sup> For instance, see the Amharic documents, 'Yemasfetsem Aqim Ginbata Strategina Programoch', [Capacity Building Strategy and programmes] Ministry of Information, Audiovisual Department, 1994 (Eth. Cal.); 'Be-Ethiopia Yedimocracy Sirit Ginbata Gudayoch', [Some Issues on Building a Democratic System in Ethiopia] Addis Ababa, Ministry of Information, Audiovisual Department, Yekatit 1994 (Eth.Cal.); 'Yeteklay Ministru Ye1996 Yefederal Mengist Yesira Iqid LeParlama Yaqerebut Report', [The Prime Minister's Working Plan of the 1996 (Eth.cal) report to Parliament], Addis Ababa, Ministry of Information, 1996 (Eth. Cal.).

<sup>48</sup> Article 89 of the FDRE Constitution.

<sup>49</sup>Proclamation No. 256/2001, for the Reorganization of the Executive Organs of the Federal Democratic Republic of Ethiopia.'

<sup>50</sup> *Ibid.*

of executive federalism. Although the union (federal) government and the states in India can execute their laws through the respective administration, there are several exceptions to this and the federal government has extensive power to execute its laws through the states. Also in practice, the federal government delegates administrative powers to the states.<sup>10</sup> M.P. Jain concludes "the Indian constitutional system does not envisage that there should be separate, parallel, administrative agencies for the centre and the states for carrying into effect their respective laws. Most union laws are executed through the state administrative machinery."<sup>11</sup>

Executive federalism<sup>12</sup> which is widely practiced in parliamentary systems involves interactions between executives of the levels of government. Interaction or interdependence between governments is therefore a constitutionally designed approach.

Although the constitutional design of the division of power led to the above two different models, almost all federations have some elements of a dual structure and they all have evolved into utilizing various mechanisms of intergovernmental relations. On one hand, there are some responsibilities in which the legislative and administrative responsibilities are assumed by the federal or state government alone. On the other hand, although theoretically the duality approach assumes both tiers of government as separate and distinct and therefore they compete amongst themselves for power, even the American federalism does not fulfill an accurate model of this type. This is due to the fact that each level of government can not function in isolation one from the other. Federal government and states or states amongst themselves create a variety of governmental relations in discharging their exclusive or shared responsibilities. Watts suggests that the relations between and among governments may occur in the form of consultations between them, coordination of policies and objectives, designing joint decision making process and cost sharing programs, or managing conflicts through agreements or negotiations.<sup>13</sup> The inevitability of overlaps of powers and functions and interdependence in the exercise of powers between the orders of governments has led to the some form IGR in federations.

Many have concluded that the relations between the levels of government have shown developments from an early stages of ‘competitive’ intent into a recent ‘cooperative’ one where the federal government and the states engage in some form of intergovernmental relations. This change has led to the origin and expansion of the scope of cooperative federalism in the United States.

### Cooperative federalism

The processes and institutions of federal-state relations that exist in federations modeled either in the form of executive federalism or dual federalism is widely described as ‘cooperative federalism’. IGR in the form of cooperative federalism is understood in the sense that governments cooperate for a better performance or for resolving/managing their conflicts. However, the type of relations between orders of government and their scope vary between federations but primarily influenced by the actual distribution of powers and functions.

As indicated above, the form of IGR in Germany, Swiss, India and South Africa is mainly attributed to the constitutional design, but the United States which is modeled in the form of dual federalism engaged in a fair amount of IGR in the form of cooperative relations. The different natures of relations between the orders of government in these federations can be attributed to various factors. For instance, in Germany IGR is formalized through the constitutionally delimited jurisdiction, through institutional design, and the federal-state relations facilitated through the Upper House (Bundesrat). While in the US the use of grants-in-aid and the Supreme Court decisions have played a role in this regard.

The primary instrument which facilitated cooperative federalism in the US is the the allocation of federal grants-in-aid in the form of conditional grants. Emphasizing the role of grants, Gordzins argued, “the grants, utilize the greater wealth gathering abilities of the federal government and establish nationwide standards, yet they are ‘in-aid’

stitution provides, ‘Nation, Nationality or People’ for the purpose of this Constitution, is a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up and who inhabit an identifiable, predominantly contiguous territory.’

<sup>34</sup> Merera Gudina, *Ethiopia: Competing Ethnic Nationalism and the Quest for Democracy, 1960-2000*, (Chamber Printing Press, Addis Ababa, reprint 2003). This idea was first propounded by the Eritrean liberation movement which started in 1960. Later on, some liberation movements from Oromo elites and Ethiopian Somalis advanced the same idea. The former group traces its argument from the Italian occupation of Eritrea and the dissolution of the federation which lasted from 1952 to 1960, while the latter group refers to the atrocities committed during Menelik II’s expansion to the south and southeast in the late 19<sup>th</sup> century.

<sup>35</sup> For the details see Art 53/3, 54/1, 54/3, 61, 62 of FDRE Constitution

<sup>36</sup> For the details see Art72, 73, 74 of the FDRE constitution

<sup>37</sup> Until all state constitutions revised in 2002, state presidents were the head of both the state council and the administration.

<sup>38</sup> Art. 39 (5) of the FDRE Constitution provides, ‘A ‘Nation, Nationality or People’ for the purpose of this Constitution, is a group of people who have or share a large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up and who inhabit an identifiable, predominantly contiguous territory.’

<sup>39</sup> A number of Constitutional and institutional factors determine the nature of intergovernmental cooperation in a federation. Some of these are issues related to the nature of governmental structures, whether the government is structured according to presidential, parliamentary or congressional principles, the degree of asymmetry within a federation, and the political party system. D. Cameron, ‘The Structures of Intergovernmental Relations,’(International Social Science Journal, Vol. 53 No. 167, 2001), p. 126.

<sup>40</sup> See Art 51(5) and Art. 52(2,d) of the FDRE Constitution.

<sup>41</sup> See Arts 51/2 and 51/3 of the FDRE Constitution.

<sup>42</sup> See Arts 51(12), 93, 102,103 and 105 of the FDRE Constitution.

<sup>43</sup> Article 49(5) of the federal Constitution states that “The special interest of the state of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the state of Oromia, shall be respected. Particulars shall be determined by law.’

<sup>16</sup>With regard to the issue whether the American federalism evolved from competitive to cooperative federalism there are divergent views. Some argue that from its outset the system was cooperative, while many others argue that its cooperative emerged after the 1930s.

<sup>17</sup>For further details see Balveer Arora et al, 'Interactions in a Federal System' in a conference reader, the 4<sup>th</sup> international conference on federalism, New Delhi, 2007, p.284-307

<sup>18</sup>For further details see R. Watts, *Executive Federalism* (Kingston, Institute of IGR, 1989)

<sup>19</sup>R. Watts, *Comparing Federal Systems*, 2<sup>nd</sup> ed., (Montreal, McGill-Queen's Univ.Press, 1999) p. 57

<sup>20</sup>Arora, et al, 'Interactions in a Federal System', supra, p. 298

<sup>21</sup>Watts "Intergovernmental Relations: Conceptual Issues", supra, p. 23

<sup>22</sup>Rajeev Dhawan, 'Federalism in Tension', in a conference reader, the 4<sup>th</sup> international conference on federalism, New Delhi, 2007, p. 308

<sup>23</sup>See for instance, Art 72, 104 and 106(3/2) of the Basic Law

<sup>24</sup>De Villiers, *Bundestreue and Ubuntu – The Key to Intergovernmental Relations*. Year 6, no.2, Centre for constitutional Aalysis, HSRC, 1995, p. 4

<sup>25</sup>Ibid

<sup>26</sup>Ibid

<sup>27</sup>Such horizontal relations in swiss have been referred as

<sup>28</sup>Watts, "Intergovernmental Relations: Conceptual Issues" Supra, p.31

<sup>29</sup>See David Cameron, 'IGR in Canada', in J. P.Meekison (ed.), *Intergovernmental Relations in Federal Countries* (Forum of Federations, 2003) 9-16

<sup>30</sup>C.Murray, "The Constitutional Context of Intergovernmental Relations in South Africa", in Norman Levy and Chris, eds., *Intergovernmental Relations in South Africa: The challenges of Co-operative Government*, Univ. of western Cape, 2001) .p.79

<sup>31</sup>FDRE Population Census Commission, 'Summary and Statistical Report of the 2007 Population and Housing Census, Addis Ababa, 2008, p.16; According to the report, among others, out of the eighty ethnic groups only ten of them have a population of one million and above. Population size by regions shows huge disparity where only two regions comprise around 63 % of the total population size.

<sup>32</sup>Unless otherwise provided, hereafter state, region and regional government are used alternatively.

<sup>33</sup>One can observe its importance from the preamble to the Constitution which states 'we, the Nations, Nationalities and Peoples of Ethiopia...have adopted the Constitution'. The choice to build political community, community solidarity and administrative territories has to be determined from the perspective of the rights of the groups. Art. 39 (5) of the FDRE Con-

of functions carried out under state law, with considerable state and local discretion."<sup>14</sup> The flow of federal grants to states accompanied by conditions which resulted in more regulatory mandates for the federal government on local matters. The Supreme Court decisions (on the commerce clause) also resulted in the expansion of federal powers which legitimized federal regulatory mandates in most of the social and economic powers which are traditionally known under the competence of the states. The decisions which broadened federal powers are attributed to the change in economic conditions due to the Great Depression and new deal, the introduction of the welfare system, the military and economic needs of the country during the 1960s.<sup>15</sup>

These and other factors emphasizing the relations led to the dynamics of IGRs which seem to replace the dual federalism in America.<sup>16</sup> This change is portrayed by many as "cooperative federalism in the US". There is no doubt that cooperative federalism explains federal-state relations exhibited in all federal systems that are engaged in dealing with the administration of shared responsibilities, or a means to cope with new developments within their system. However, they also demonstrate varieties relations as every federal system is unique in its own way.

Thus, when one engages in a detail analysis of IGR, especially of a comparative nature, the factors which may lead to differences have to be taken into consideration. Some of the following may contribute to this.<sup>17</sup> First, the demographic and territorial size of a federation, and size and number of constituent units potentially influence the form of IGR that occur in a federation. For instance, the feature of IGR in Russia could be different from that of Swiss. Second, the actual or potential disparity between constituent units in terms of economic activity, population size or political influence may affect the relations. This implies that developed and developing federal countries may face different problems and have different priorities. Third, the design of institutions of government (whether it is presidential or parliamentary system) affects the type/nature of relations.<sup>18</sup> In both types of systems, interaction is likely to occur

primarily (although not exclusively) between members of the executive branch. In parliamentary system, however, the partial fusion of the legislature and the executive makes implementation of joint action more straightforward than in systems where the legislature and the executive are separate. Fourth, as has been indicated above, the difference between the constitutional models of dual and executive federalism also affects both the design and purpose of interaction. When one level of government enacts legislation and the other implements, as is widely observed in executive federalism, the degree of interdependence is greater than the duality system. Fifth, the homogeneity of diversity of people in a federation has its own impact on the nature and purpose of relations. Especially when federalism is adopted as a means to accommodate multicultural diversity, it has its own impact not only on the nature of IGR but also on the operation of federalism in general. The process and scope of interactions may serve other than administration of shared responsibilities. This is because IGR may have other objectives, e.g., of creating an opportunity to challenge secessionist tendencies by reinforcing the values of unity, reducing regional disparity, promoting equitable development. Federal intervention can be challenged by regional secessionist groups if it solely aims at thwarting regional autonomy. Six, the dynamic nature of IGR has its own impact. Patterns of relations that exist in one time are very likely to change in another sometimes leading to informal relations. The nature of relations depends on the driving forces of change attributed to either to internal or external factors. For example, the challenges attributed to terrorism and economic crises are relatively recent developments. The changes may require redesigning policies or restructuring government in an attempt to effectively coordinate activities and achieve the intended objectives.

## Purposes

<sup>1</sup> R. Watts, 'Intergovernmental Relations: Conceptual Issues', in Norman Levy and Chris, eds., *Intergovernmental Relations in South Africa: The challenges of Co-operative Government*, Univ. of western Cape, 2001) p. 22

<sup>2</sup> Ibid.

<sup>3</sup> Daniel Elazar, *Exploring Federalism* (Tousalusa, Alabam univ press, 1987) p.16

<sup>4</sup> Watts, R. Watts, 'Intergovernmental Relations: Conceptual Issues', supra, p. 22

<sup>5</sup> For the detailed analysis of these issues, see R. Watts, *Intergovernmental Relations: Conceptual Issues*, p 22-42

<sup>6</sup> R. Wtts, *New Federations: Experiment in the Common Wealth*, (Oxford, Clarendon, 1966) p.77

<sup>7</sup> See K.C. Wheare, *Federal Government*, 4<sup>th</sup> ed., (London, Oxford Univ. Press, 1963) p.2-15

<sup>8</sup> According to Art 83, "The lander shall execute federal laws in their own right in so far as this Basic Law does not otherwise provide or permit: Also see Art 30 of the Basic Law. For further details see Jeffrey, Charley and Peter Savigear (eds.), *German Federalism Today*, (St. Martins Press, New York, 1991)

<sup>9</sup> According to Art 46 (1) "The Cantons shall implement federal law in conformity with the constitution and the statute." Also see Art 46 92) of the Swiss constitution; For detailed analysis see Nicolas Schmitt, *Federalism: The Swiss Experience* (Pretoria, HSRC publishers, 1996)

<sup>10</sup> See for instance, Art 162, 258, 73, 154

<sup>11</sup> M.P. Jain, *Indian Constitutional Law*, 8<sup>th</sup> ed. (Lexis nexis Butterworths Wadhwa, 2008) p.655

<sup>12</sup> Sometimes executive federalism is synonymous with cooperative federalism. But there are slight differences since the former rarely used in presidential systems. Executive federalism refers to the situation where coordination of policies and programs between federal and state governments is often dominated by the executives of both levels of government in a parliamentary system. Whereas cooperative federalism exists in both presidential and parliamentary systems. Thus executive federalism is a subset of cooperative federalism

<sup>13</sup> Watts 'Intergovernmental Relations: Conceptual Issues', supra, p. 28

<sup>14</sup> Morton Gordzins, 'The Federal System' in Laurence O'Toole, Jr. ed. *American Intergovernmental Relations* (Washington DC. CQ press, 1985) p.44

<sup>15</sup> For further details see Zimmerman, Joseph F., 'National-State Relations: Cooperative Federalism in the Twentieth Century,' (Publius: The Journal of Federalism, Vol. 31 No.2, 2001): 15-30; Elazar, Daniel J., *American Federalism: A View from the States* (New York, Thomas Y. Crowell Co., 1966).



the major political issues that have to be decided by the representatives of 'nations, nationalities and people' at the HoF. Second, the HoF is designed as an institution that can play a role similar to that of intergovernmental councils. So, by having authority over revenue sharing and the transfer of grants, the HoF may promote intergovernmental relations.

The idea of assigning the power over intergovernmental fiscal relations to the HoF seems similar to federations (such as Germany and the USA) whose Upper House plays a significant role in the allocation of revenue. But among other interesting differences, states are not represented through the HoF at the federal law and policy making processes. However, the approach avoids the danger of complete control of the process by the centre, and limits the use of ad-hoc and discretionary transfers. At present, because of smooth relations between the federal and state governments through party channels the role of the HoF seems well received by the constituent units. But in the future some concerns might arise as to whether the forum brings common consensus to the terms of the formula system, whether it leads to flexibility of fiscal arrangements to accommodate the changing circumstances, and whether there are political standards to accommodate the interests of all participating units *vis á vis* the national objectives that are to be achieved through fiscal interests. In short, can the system avoid unnecessary strains on the function of Ethiopian federalism? One way for the federal system to function without or with a limited strains could be to establish a genuine non-partisan professional institution that can make persuasive recommendations to the HoF. This could be consistent with the procedure for constitutional adjudication where the HoF receives recommendations from the Council of Constitutional Inquiry.

#### Endnotes

R. Watts concludes that institutions and processes of IGR have two important functions: "a conflict avoidance and resolution, and a means to adapt to changing circumstances without having to resort to formal constitutional amendment."<sup>19</sup> In order to adapt to changing circumstance, Arora et al argue that IGR:

Provides the necessary flexibility to make a federation work in a manner that meets the needs of its people, despite the relative rigidity of the formal constitutional division of power. It enables policies to be coordinated, even where harmonization is not sought. It enables information to be shared, statistics to be gathered for the purposes of subsequent policy development and economies of scale to be achieved. It facilitates the spread of successful innovations, which is one of the principal claimed advantages of a federal form of government, and provides a warning mechanism against those that are less successful. It assists to build trust, between groups that may be inherently mistrustful to each other.<sup>20</sup>

It is true that federalism is an important instrument for managing conflicts and tensions between different groups. But conflicts and disputes are also inevitable in a federal system. All conflicts can not be resolved by judicial determinations. Usually it is advised that resorting to the judiciary in order to resolve conflicts between the levels of government should come as the last resort.

IGR is often recommended to resolve conflicts which are usually attributed to jurisdiction and autonomy of subnational governments, regional economic disparities, fiscal relations, the redistribution of wealth and revenue among the constituent units, the use and benefit of natural resources, disputes between neighboring territories, and the protection of human rights and federal intervention in the states. Also IGR is generally believed to be an effective instrument for better performance of governments. However, any form of relation may not bring about the intended objective or objectives. It is argued that, 'if used inappropriately, unnecessarily, or too extensively, however, it can be a façade for centralization, stifling initiative, inhibiting the capacity of public institutions to be responsive to the needs of the

communities that they serve, or leading to deadlock, rather than to coordinate action.” This problem may emanate from the use of IGR which fail to keep the balance between administrations of shared powers with the autonomy of self rule. The other may relate to the failure of designing appropriate standards for accountability and transparency of decisions, lack of appropriate institution, or defective processes of fiscal relations or conflict management.

Towards tackling the problems mentioned here a lot of measures can be taken. But they have to address the issues as to whether there are principles and guidelines of relations between the federal and subnational levels of government, whether there are appropriate standards for accountability and transparency, and whether the system responds to the need for democratic participation of citizens.

### **Principles/guidelines**

The practices of federations demonstrate variations in the design and purposes of IGR. Watts contends that the dynamics of interactions, the structures and processes of relations, the challenges of interactions, the issues of accountability and transparency are some of the issues that reflect the nature of IGR in a particular system.<sup>21</sup> In order to minimize, if not avoid, the tendencies of hierarchical/patriarchal relations and federal coercions, and to promote cooperation as equal partners between the levels of government, principles of IGR are often recommended. Some recommend that general principles of IGR are “efficiency, justice and fairness, and democracy.”<sup>22</sup> There is no doubt these principles are important for the study of forms of governance in general, but not specific about IGR. It may be worthwhile to have a look at the principles as developed in Germany and South Africa.

Cooperative federalism (as an IGR concept) in Germany has a set of principles enshrined in the Basic Law and other policies. The Basic Law refers to the principle that all administrative and fiscal relations should aim at providing ‘uniform living standards’ to the people irrespective of the place where they live.<sup>23</sup> Thus, cooperation should

executives of the levels of government. Thus, conditional grants are an important instrument of IGR. But they are also often used to influence over the functions provided by the state and local governments. They are also used as a coercive mechanism to thwart regional autonomy. Therefore, every constitutional mechanism should be used to keep the benefits of conditional grants while restricting the possibilities of over-centralization of power.

### **Institutional Arrangement**

As Wheare asserts: ‘There is and can be no final solution to the allocation of financial resources in a federal system. There can only be adjustments and re-allocation in the light of changing conditions. What a federal government needs, therefore, is machinery adequate to make these adjustments...’ This can be done successfully when the task is constitutionally conferred on a specific institution which may be well received by the constituent units of the federation. Federal experiences have demonstrated several options in using different institutions dealing with the issues of revenue transfer. Some have opted for independent commissions mandated with advisory roles, while others use the federal legislature/through the upper house or some form of intergovernmental councils.

According to the FDRE Constitution Art 62/7 the power to determine the sharing of revenue collected from joint tax sources and the formula for allocation of federal grants to the states is vested in the HoF. The functions of the HoF, as prescribed by Article 62(7) of the Constitution, are ‘determining the division of revenues derived from joint federal and state tax sources and the subsidies that the federal government may provide to the states.’ It may be worthwhile to raise questions in relation to the power bestowed on the HoF: why is the power conferred on the HoF, and whether this approach is preferable to deal with federal-state fiscal relations. Can it help to achieve the objective of the equitable distribution of revenue?

This can be seen in relation to the constitutional approach which follows the principle that non-political or majoritarian institutions should not deal with all major political issues. Accordingly, constitutional adjudication, secession issues and the transfer of revenue are

provisions on the spending of conditional grants on matters exclusively reserved for the states. The provisions found in Australia and India are more explicit and wider than others in giving a discretionary power over the allocation of conditional grants to the centre.<sup>89</sup> On the other hand, in the USA and Canada the federal governments are able to allocate conditional grants through the judicial interpretation of the constitutions. It is not only the explicit constitutional authority but also the existence of concurrent powers that helped to spend conditional grants in the states.<sup>90</sup>

The FDRE Constitution clearly bestows power on the federal government to raise revenue and to spend on responsibilities assigned to it. It also enunciates (under Art 62/7) the allocation of unconditional equalization grants to the states on a certain (agreed) formula as set by the House of Federation (HoF). It is submitted that Article 94/2 could be an instance where the federal government may give conditional grants for the execution of matters within a state's jurisdiction. Accordingly, the federal government may grant to states emergency, rehabilitation and development assistance. The Constitution also mentions the importance of special grants to avert the dangers of unforeseen natural or man-made crises, and to provide special assistance to regions least advantaged in economic and social advantages (Article 89 (3, 4)). Federal subsidy can also be granted: 'to support projects that will help control negative economic externalities that may be reflected from region to region and strengthen projects that provide common benefit to neighbouring region, and to encourage foreign currency earning projects and other projects of national interest.'<sup>91</sup> The allocation of grants is accompanied by an important power bestowed on the federal government with the power to audit and inspect its proper utilization (Art 94/2).

Although it is not as explicit and powerful as the Indian and Australian Constitutions the Ethiopian Constitution, like other federations, permits the allocation of conditional grants to the states. Conditional grants are specific to the performance of a particular task (or a block of tasks) which is normally the responsibility of the executive and may involve negotiation and bargaining between the

help fulfill this objective. The other principle, which is widely discussed by De Villiers, refers to the famous *Bundestreue* concept which requires both federal and Länder governments to act in partnership, and trust and respect each other.<sup>24</sup> De Villiers argues, "the *Bundestreue* concept places subnational and national jurisdictions under a political and legal obligations to do the following: to assist and support each other; to inform and consult on matters of common concern; to cooperate and coordinate joint projects; and to maintain friendly relations."<sup>25</sup>

The South African constitution, under Ch.3 section 41, is headed 'the Principles of Cooperative Government and Intergovernmental Relations.' This section among other things provides aspects of IGR requiring both *spheres* of government to cooperate with one another in mutual trust and good faith by (a), fostering friendly relations; (b), assisting and supporting one another; (c), informing one another of, and consulting one another on, matters of common interest; (d), coordinating their actions and legislation with one another; (e), adhering to agreed procedures; and (f), avoiding legal proceedings against one another. In addition to the specific principles mentioned under the constitution many believe that South Africa has developed a concept which is regarded as equivalent to *Bundestreue* and it is a Zulu word - *Obuntu* meaning 'humaneness' which implies, according to....." equal treatment of persons, communal sharing of amenities, respect and love for one another, partnership, mutual trust and sharing."<sup>26</sup>

In this regard, one may ask whether there are ideal principles under the FDRE Constitution which may effectively guide IGR in Ethiopia.

### **Patterns of IGR**

IGR have two dimensions: vertical and horizontal. Vertical relations may exist between federal-state, state-local or federal-local governments.<sup>27</sup> The horizontal dimension relates to inter-state or inter-local relations. The major concern, however, in federations is

the federal-state relations and hence most of the discussions are focused on the vertical dimensions. In order to manage IGR, either vertically or horizontally, varieties of instrument of IGR should be put in place - formally or informally, and from information sharing to establishing institutions.

### **Institutional mechanisms**

Formal channels of IGR occur through the legislative, executive, judicial and financial institutions. Legislatures of the federal and state governments may cooperate in the exercise of their respective jurisdictions. In some cases such cooperation may be required by the constitution in the form of consultations, or direct states participation through the upper house as is the case in Germany. Watts concluded that legislative IGR are less extensive compared to the executive IGR.<sup>28</sup> Executive IGR are indispensable channels and are widely observed in all federations. Each sectors of the executive may engage in some form of relations as between themselves or each government may designate separate ministry or department to facilitate relations. In addition to everyday informal interactions, formal executive institutions could also be established. In Canada and Australia the institutions – intergovernmental councils of first ministers- are less formal in nature having small decision making powers, but are essential forums for expressions of political commitment to IGR.<sup>29</sup> In South Africa, most intergovernmental structures are executive based. In particular, the famous ‘MinMacs’- meetings of the national minister in a particular sector and his or her provincial counterpart (the ministers of executive councils Mecs) on issues of concurrent jurisdiction, provide a good example. In this regard, Murray concludes that MinMecs have rapidly become the bedrock institutions in our young system...they provide an opportunity amongst executives for discussion, consensus building, the alignment of policies and the appraisal and review of existing policy.<sup>30</sup> India too has an important IGR institution called interstate council. In general, the establishment of intergovernmental executive institutions is not only to cooperatively decide on common interests or to facilitate consultations between governments, but also to give a

problems associated with the provision of public goods in the less developed and asymmetrical societies by allocating funds to scarcely endowed areas. It can also play a role in curbing financial embezzlement, inefficiency and corruption, as the federal government retains the power to set conditions, to control and audit the spending. This will be consistent with the principles of financial responsibility and accountability to the taxpayer.

In this discussion one of the important questions is whether a federal government can provide conditional grants (to the states) in the areas where it does not have legislative power? R. Watts and K. C. Wheare have dealt with this question as to whether the federal government can prescribe conditional grants for the execution of specific state responsibilities. Wheare argues, consistent with his definition of the federal principle, that ‘on a strictly federal view, perhaps, it would seem that financial power should be confined in its objects to the same ambit as the legislative powers.’<sup>84</sup> That is, the centre should not circumscribe the execution of state power. If there is a need, Wheare argues, the use of grants has to be explicitly or tacitly mandated by the constitution, or the initiative has to come from the states where the state alone cannot finance projects without the assistance of the centre.<sup>85</sup> Similar positions in Canada<sup>86</sup> have raised political controversies since the Canadian Constitution does not explicitly permit the federal government to spend in areas of provincial jurisdiction. Quebec has repeatedly argued against ‘federal spending’<sup>87</sup> considering that it is an encroachment on its sovereignty. Ronald Watts, however, contends that the argument based on the dual sovereignty principle of federalism is flawed. Considering the experiences of several federations, he concluded that: ‘Overlaps and interdependence between the orders of government within a federation are unavoidable, and that therefore a variety of devices, including a federal spending power in areas of exclusive state or provincial legislative jurisdiction, are required for federations to operate effectively.’<sup>88</sup> The practice also implies that the need for constitutional provisions for conditional transfers may be imperative, but it is not a sufficient condition for the existence of an effective system.

The Constitutions of Australia, Germany and India have explicit

volume of grant. In general, whatever the volume of grant may be the constitution (Art 94/2) boldly sets a comprehensive transparency requirement by empowering the federal government with the power to audit and inspect the proper utilization of grant subsidies transferred to the states. But this is often contested by the sovereign units of the federation.

Besides the issue of regional equity there are other legitimate concerns aired in many federations. These are related to the impact of grants on local autonomy, the tendency of creating dependency on the federal government, the reluctance to exploit local tax bases, and the danger of being incentive to inefficiency. But there could also be rivalry between various groups on the process of distributing limited public fund. Some of them may argue that the transfer system is unfair or politicize everything for maximizing their resource share. In this regard, Paul B. Spahn argues 'secession threats may be an effective tactical device for poor regions to maximize their resource flow from the central government' ... or richer regions may seek for greater autonomy in tax administration and resource share.<sup>81</sup> Such issues should be studied well in relation to the FDRE constitutional right of secession (Art 39) and the demand for statehood (Art 47) by any nation, nationality or people of Ethiopia.<sup>82</sup>

**Conditional/specific-purpose grants** are aimed at spending in a specific sector supported by the central government. The grantor may explicitly specify the desired output or the type of expenditure - usually large capital projects - that can be financed. As the conditions become more specific, the states will in effect be left with no option but of spending the money in the area specifically required by the centre. Conditional grants may also be further classified as *matching* (cost-sharing) and *non-matching* - where the states are not required to spend a portion of their income to match the funding by the central government.

Ahmad and Craig claim that the objective of specific purpose grants is to impose conditions on the use of grants in order to maintain nationwide standards for the provision of services such as health and education.<sup>83</sup> However, its objective may go further to address the

high level political commitment to the common concerns and to bring IGR into a more public control.

With regard to financial relations institutions outside the executive could be established. Intergovernmental fiscal institutions are necessary in order to make arrangements for fiscal transfers from one to the other level of government. Normally all federations encounter two types of fiscal imbalances called vertical and horizontal imbalances. In order to correct these imbalances, federations have to devise a mechanism - mostly formulae - for equitable distribution of revenue and resources. Some federations leave the mandate for the federal government alone or for the federal government with the participation of an effective upper house representing states. But the most widely discussed intergovernmental institutional mechanism is the establishment of independent expert commissions. These are the Australian Grant Commission and Loan Council, the Indian Finance and Plan Commissions, the Finance Commissions in South African and Nigeria. Besides the fact that these institutions are manned by the required human resources, they are autonomous but submit their recommendations to the federal government (although usually their recommendation pass), and hear also praised for their role with regard to at least two important aspects: they respect the political accountability of the executive. Since IGR are dominated by the executives the role of executive institutions is broader compared to the legislative ones. Legislative The institutions may engage

Several countries have established IGR institutions under their constitutions or have introduced through practices or other legislations.

### **Federalism in Ethiopia: an introductory remark**

Ethiopia is a country characterized by its distinctive features of culture, history, ethnic heterogeneity and geographic diversity. It has its own written script, numbers and calendar. It is also a country glorified with patriotism and independence, and identified as having a crucial place in the history of mankind. Ethiopia is one of the

signatories to the UN Charter; it is the epitome of the pan-African movement, and the principal founder of the OAU (presently AU). It is a host of more than eighty ethnic groups with a population size of about 78million (as per the 2007 census 73.9m) of which 60.9% Christians (orthodox 40.5, protestant 19.6, and catholic 0.9), 35.4 Muslims, and the rest traditional.<sup>31</sup> The diverse religious groups crosscutting each other along ethno-linguistic dimensions have existed for long sharing together the legacies of independence and the challenges of excessive centralization.

The federal arrangement is introduced *de facto* in 1992 and *de jure* in 1995 with the adoption of the federal constitution. The FDRE, as per the Constitution, comprises of nine states, also called regions or national regional self-governments<sup>32</sup> and a federal capital. The Constitution emphatically posits the importance of recognizing the rights of nations, nationalities and peoples with a view to ensuring their self rule and for the workings of the federal system as a whole.<sup>33</sup> The Constitution embodies the characteristics commonly enshrined in federal systems such as written and supreme constitution, the existence of two level of government, the constitutional division of power, umpiring procedures for constitutional disputes and institutions for intergovernmental relations. It also has its own distinct features. Some of these are the constitutional recognition of the right to secession, ethnic sovereignty, constitutional interpretation, absence of legislative role for the upper house, and lack of federal supremacy.

The federal arrangement was introduced at least after a century old centralized system (for most of the 20<sup>th</sup> century) which failed to address basic rights of the diverse societies of Ethiopia. Many agree that during this time the country has passed through a process where the centre continued its grip on political, fiscal, and institutional structures at times with a complete denial of human rights and prolonged civil war. Due to the growing internal realities, the urgency to recognize the diverse interests of the contending groups and the need to install an effective and accommodative government was

erally decided by the federal government.<sup>78</sup> In general, the volume of federal transfer is dependent upon the nature of the distribution of revenue sources and the degree of vertical imbalances. When the vertical imbalance is significant, the volume of grants will be larger.

The second question raised above refers to the method of apportioning grants to each constituent unit of the federation, which is the main issue in designing the transfer mechanism. Usually a formula based transfer of grants is recommended for developing federations like Ethiopia. Focusing on the formula-based principles used for the allocation of unconditional grants and the variables employed we may classify the experiences of federal countries into four categories: equalization through measuring only the financial capacity of states, equalization through measuring both the financial capacity and expenditure needs of states, equalization through grant formulas and through the principle of equalizing the living standards of citizens.

Allocation of general-purpose federal grants is recognized in the Ethiopian Constitution. It should help address the issue of equity, economic development and political stability of the country. The Constitution provides general provisions for the federal government to provide grants<sup>79</sup> to the regions and to provide special assistance to those least advantaged in economic development.<sup>80</sup> This demands asymmetrical treatment of regions, but without contradicting the right of every citizen to equal access to publicly funded social services and to benefit from the country's intellectual and material resources (Art 41/3 & Art89/1). Although the right of the states to receive grants from the centre is clear, determining the total amount of the grant in question seems to be left to the discretion of the federal government. The only ambiguous limitation on this power is Article 95 of the Constitution which provides that the federal government and the states shall share revenue taking the federal arrangement into account. This provision is not sufficient for transferring revenue which is adequate to address the expenditure needs of the regions. The power of the HoF to determine the grant formula may tacitly be interpreted to argue that the expenditure needs of the states may be used as a baseline to determine the

residence or equity principle). In the future, the relations may at times lead to disputes as in the case of the division of royalties from mining, petroleum and gas operations although at present earnings from these sources seem less significant.

## Grants

Grants are broadly categorized into two types: conditional and unconditional grants.

**Unconditional/general-purpose grants**<sup>72</sup> are characterized by the absence of significant restrictions on the use of funds, as it is at the region's discretion to spend the money for any preferred purposes.<sup>73</sup> The choice of a general purpose grant not only maximizes the financial capacity, (but also preserves local autonomy) broadens the area of spending which may be considered essential by the states.<sup>74</sup> A general purpose grant is widely used as an instrument to augment the revenue capacity of states. Thus, it should be equitably distributed among subnational governments. The main characteristic of general purpose grants is the incongruity between imposing the taxation burden on the federal government while benefiting the subnational governments with the liberty of spending the money.

In principle, designing a mechanism for allocating revenue for general purpose grants has to address two major questions: how should the total volume of revenue transferred from the centre (to the states as a whole) be determined? And how should this gross amount be distributed amongst the states?<sup>75</sup> Concerning the first question, several approaches are used. As in the case of Germany, a significant amount of share is determined on the basis of a constitutionally determined ratio and is secured with the participation of the states at the centre through the Bundesrat (Basic Law, Article 104a & 106). It can be unilaterally determined by the centre on the basis of recommendations given by independent commissions, as is done in Australia, India, and South Africa.<sup>76</sup> As it is practiced in Russia, the share can be determined by an ad hoc negotiation between the centre and the regions.<sup>77</sup> The amount set aside for grants can also be unilat-

almost a widely shared view. The political elites, however, widely differ on their interpretation of the historical process through which the country emerged, on the nature of the conflicts that prevailed in the country and the political structures they recommend to avert the perils of the country. The solutions they recommend vary according to the characterization of the historical processes and conflicts. Some characterize the history as a colonial experience and recommend independence as a panacea for all problems.<sup>34</sup> This is what Merera calls a 'colonial thesis'. There are others who reject the colonial characterisation of the country's history, but admit a problem what they call it 'the oppression of nationalities' which resulted in a political, cultural and economic dominance by ruling elite. Again those who share the oppression of nationalities thesis vary in the solutions they recommend to. The ruling party – EPRDF argues that it is only ethno-linguistic political characterization that can guarantee the equality of all nations and nationalities within the country. While others argue that ethnic mobilization and organization is a means for controlling a state for economic resource, political power and social status, it weakens the state and may lead to fragmentation or may result in a very strong centre at the cost of regional autonomy.

The federal system operates within a parliamentary form of government. There are two federal houses: the House of Peoples' Representatives (hereafter HoPR) and the House of Federation (hereafter HoF).<sup>35</sup> The HoPR, which is the highest authority of the federal government, is composed of members elected by the people for a term of five years on the basis of universal suffrage. It shall be composed of members not exceeding 550, of which 20 seats are reserved to minorities. The HoF is composed of each nation, nationality and people by at least one member. The HoF is restricted to non-legislative powers and lacks an effective role in order to influence the federal policies and laws proposed at the federal level. Unlike other federations, the HoF is granted among other things with the power to interpret the Constitution, to resolve disputes among the states, design grant formula and decide the sharing of joint taxes. The sole power of legislation in all matters assigned to the federal government is reserved to the HoPR, while the HoF is

mandated to determine the provision of grants and the sharing of revenue.

The federal executive consists of the president and the prime minister along with the council of ministers.<sup>36</sup> The Prime Minister and the Council of Ministers are vested in the highest federal executive powers and they are responsible to the HoPR. The Prime Minister is the head of government and is elected from among the members of the HoPR for a term of five years. The federal president, who is the head of state and can be elected only for a maximum of two terms, is nominated only by the HoPR but elected by a two-thirds majority vote of a joint session of the HoPR and the HoF for a term of six years. The president has nominal and symbolic powers such as opening a joint session of both federal houses, signing laws promulgated by the HoPR, and receiving credentials of foreign ambassadors.

State governments are endowed by the constitution with legislative, executive and judicial powers. States have the power establish their own administrative levels which they consider necessary. The State Council is the highest organ of state authority and elects the regional president which is the head of the state administration (the highest state executive organ).<sup>37</sup> The states legislative bodies are uniformly unicameral except in the Harari and the Southern Nations, Nationalities and Peoples State (SNNPS) states. In these two states the second chambers - called Council of Nationalities – exist mainly addressing the question of minorities and constitutional interpretation. States hold residual power in addition to the brief account of powers stated under the constitution (Art 52). They are also empowered to draft, adopt and amend state constitutions.

The other aspect can be related to the utmost importance given to the ethno-linguistic groups within the federation. One can observe its importance from the preamble to the Constitution which states ‘we, the Nations, Nationalities and Peoples of Ethiopia...have adopted the Constitution.’<sup>38</sup> Although the Constitution enumerates nine member states of the federation, it also grants each nation, nationali-

covered 28%. This disparity can primarily be attributed to the fact that regional governments vary considerably in their skilled manpower, financial capacity, as well as in population size. They also have variations with regard to the management and administrative capacities as a result of relative variations in infrastructure, skilled manpower and the characteristics of urbanization. They also vary in their economic environment for private as well as public investment. This asymmetry causes problems in measuring the imbalances between the jurisdictions.

To correct both vertical and horizontal imbalances different instrument of intergovernmental fiscal transfers have been widely used in federations. In Ethiopia, intergovernmental transfers in the form of sharing joint taxes, allocation of grants, and borrowing can be used to deal the imbalances. These instruments also involve some form of federal-state relations.

### **Revenue sharing**

Revenue sharing in this paper refers to the sharing of revenue generated through the federal administration of taxes mentioned under Art 98 of the FDRE constitution. The modality to determine the division of revenue from these sources involves some form of relation between the federal government and states. The current arrangement (as per the decision of the HoF) is to divide direct taxes from companies in the proportion of 50:50 and indirect taxes in the proportion of 70:30. Similarly direct taxes from large-scale mining and petroleum operations to be divided in proportion of 50:50, whereas royalties to be divided in proportion to 60:40 to the centre and the states respectively. It is expected that this arrangement may encourage the states to consider the benefit from joint taxes and to cooperate for an efficient tax administration. At present the states receive whatever share is transferred from the federal revenue and custom authority, and they complain that they do not have any role in the administration of the taxes. However, in the future strong federal-states relations can be envisaged in order properly implement the principle in place (whether it follows consumption/origin,



federalism and covers a range of issues pertaining to the assignment of expenditure and revenue sources, the issues of fiscal imbalances, issues of transfer and redistribution of resources, the types of transfer instruments and their objectives, and subnational borrowing. Here we will be concerned with the fiscal aspects of IGR. With regard to assignment of expenditure and revenue sources, the nature of IGR is covered under the processes and structures of executive relations and to some extent with legislative relations which are highlighted under the preceding sections. In this section we will focus on fiscal imbalances, the types of transfer instruments, and institutional arrangements.

### ***Fiscal imbalances and revenue transfers***

Scholars acknowledge that almost all multilevel governments face the two kinds of fiscal imbalances: vertical and horizontal imbalances. The former refers to the mismatch between the revenue means and the constitutionally assigned expenditure responsibilities of subnational governments. Horizontal imbalances refer to the financial disparity between constituent units and their inability to provide comparable level of services to their citizens.

In Ethiopia, the extent of fiscal imbalances is considerably high. As it is officially reported by the HoF,<sup>71</sup> in the 2006/07 fiscal year states were able to generate around 19% of their total expenditure while the rest was covered through federal transfers. Though there are slight variations between fiscal years, the vertical imbalance in Ethiopia still remains high. Such kind of imbalance occurs for the reason that the major sources of revenue are reserved to the federal government, while the states assume the bulk of expenditure responsibilities such as health, education and social services. The states also have limited administrative and technical capacity to levy tax and collect their revenue.

In Ethiopia, all the regions have fiscal deficits and they also have widely divergent revenue-raising capacities. During the same fiscal year stated above the fiscal disparity between the states is high where one of them covered only 6% of its total expenditure while the other

ty and people the right to self-determination. This could not be without serious implications to the nature of IGR in Ethiopia. On the one hand, one can not ignore the impact of internal dynamism for self-rule at wereda, zone, even claiming statehood in those heterogeneous states for greater access to federal resources and revenue. On the other, it has to be seen on how the system of IGR functions in a situation where there exists huge disparity between the constituent units in terms of demographic, territorial, fiscal and economic activities, and skilled labour. A close observation of the performance of the states and their level of development seem to have led to a *de facto* asymmetric federal-state relation.

### **Intergovernmental relations in Ethiopia**

According to the Ethiopian Constitution, a competitive approach is the norm with regard to powers exclusively assigned to each level of government, unless both levels of government enter into cooperation for a better performance of responsibilities. But it would be difficult to imagine that each level of government can implement all the responsibilities independently. Considering the nature of the federal system and the asymmetries that exist between the constituent units, it would be appropriate for the states and the federal government to engage in continuous cooperation.<sup>39</sup> In general, vertical and horizontal intergovernmental relations exist in federal and decentralized unitary systems. In this section intergovernmental relations in Ethiopia is studied in order to scrutinize the role of both tiers of government in discharging their respective responsibilities enshrined in the Constitution, to identify how it helps to flexibly manage the changing circumstances, and to examine how it helps to manage conflicts. In this regard, the Ethiopian experience could serve as a case study to the countries of the Horn which are in the process of adopting a federal system or a meaningful decentralized system.

### **Constitutional background**

We first examine the extent to which the Ethiopian Constitution recognizes and regulates intergovernmental relations, before we look at the terms and institutions which exist in practice.

Reading the preamble to the Ethiopian Constitution reveals the importance of cooperation between the ‘nations, nationalities and peoples’ of Ethiopia. It provides:

Fully cognizant that our common destiny can best be served by further promoting our shared interests; convinced that to live as one economic community is necessary in order to create sustainable and mutually supportive conditions for ensuring respect for our rights and freedoms and for the collective promotion of our interests.

The preamble implies that the nations, nationalities and peoples of Ethiopia want the country to continue as one economic union. Accordingly, they gave the federal government a constitutional mandate to protect and promote their economic interest. However, the assignment of power to the central government may not suffice to promote cooperation between the nations, nationalities and peoples of Ethiopia. In the process of discharging its responsibilities one of the objectives should be ‘to strengthen ties of equality, unity and fraternity among them’ (Art88/2). Further, the Constitution recognizes the importance of cooperation among the levels of government by including somewhat scanty provisions to that effect.

One of the instances in which the Constitution provides for federal-state relations is when a legislative power is allocated to the centre while its implementation is left to the states. This is possible when the Constitution itself provides for an exception, or when the federal government delegates its powers and functions to be administered by the states, as prescribed in Article 50/9. For example, the federal government enacts law for the utilization and conservation of land and other natural resources, historical sites and objects, but its administration is reserved for the states.<sup>40</sup> And also in cases where the federal executive plays a crucial role in developing appropriate

of scarce resources, to identify genuine and triggering factors of the conflicts, and to reexamine whether the tendencies to erect permanent territories through referendum helps manage these conflicts. For instance, one of the solutions could be to design and work on joint programs to alleviate infrastructural and developmental problems of people living on the neighboring territories.<sup>68</sup>

### ***Relations through Party structure***

R. Watts argued that executive intergovernmental relations will dominate in parliamentary federations. In these systems, the legislature and the executive are partially fused and the head of government (usually prime minister), who is chosen from among the members of the legislature, remains accountable to the legislature which in turn ensures the stability of the government and allows it to dominate. However, the party which controls the federal executive also dominates intergovernmental relations if both levels of government are controlled by the same disciplined party. On the other hand, if all constituent units are controlled by another party, federal-state relations would be tense. In this regard, W. Riker and Schaps argue that the tendency to occur either of these two extremes is rare and there are multiple options in between.<sup>69</sup> The general conclusion is that if both tiers of government are controlled by a single dominant party, it brings the danger of freezing out accountability and public participation in a way that undermines regional autonomy. The Ethiopian federal system seems to fit this choice. However, relying only on party structure undermines the federal division of power and subordinates the regional governments to the federal government. Therefore, Assefa concludes, “institutions for IGR, separate from party channels are not only important for day-to-day coordination of federal laws but are also conditions for maintaining federal stability.”<sup>70</sup>

### **IGR and Fiscal Issues**

One aspect of IGR in federations is federal-states fiscal relations. The fiscal aspect of federalism is discussed under the subject of fiscal

The first step towards promoting interstate cooperation and setting up intergovernmental institutions in Ethiopia was taken when the association of five neighbouring governments was established comprising of Oromia, Afar, Somali, Harar and Dire Dawa Council in 1996. The Association was initially mandated to bolster cooperation between the peoples of these regions, to solve common problems and amicably to solve border disputes that prevailed between them. The major problems which the regions still share concern the lives of pastoralists, conflicts between people bordering the regions and disputes concerning border demarcation. The overall evaluation of the cooperation demonstrates that it was not meaningful and sustainable as it perished together with the dismissal of authorities in these regions.

Horizontal relations can also be observed when governments cooperate in infrastructural projects and technical assistance to assist the least advantaged regions in terms of skilled labour and administrative experiences. In this case, the Amhara state entered into cooperative agreements with Afar and Benishangul-Gumuz regions, and Tigray region had expressed its commitment to cooperate with the Afar region.

In general, the possibility of horizontal cooperation will be extensive in issues involving areas bordering the regions such as security, transportation and other common concerns like controlling epidemics. Thus, as interregional cooperation seems inevitable, it is important to deal with issues of regional concern without necessarily resorting to the centre. Nowadays horizontal relations are sought for resolving serious problems attributed to the issues of border disputes, interethnic conflicts, interethnic migrations and the aspiration to control scarce resources. In this regard, the recurrence of interethnic conflicts involving the regions of Somali and Oromia, SNNPS and Oromia, Oromia and Benishangul Gumuz has been widely observed. Here our aim is not to discuss the causes, effects and manner of resolving these conflicts. However, it is important to note that there should be a concerted effort to address the problem

national policies while the states primarily assume responsibility for the execution of the same policies.<sup>41</sup> Under Art 89 of the Constitution, IGR is clearly envisaged as an important tool towards promoting equitable development among the regions. Some further constitutional provisions that could be interpreted as instances promoting cooperation are the regulation of interstate trade, the process of constitutional amendment, conducting population censuses, elections, and administering places declared to be under a state of emergency.<sup>42</sup> The importance of intergovernmental relations is also envisaged in a particular reference to the relations between Oromia region and the centre or the administration of Addis Ababa (the federal capital as one of the constituent units of the federation).<sup>43</sup> The possibility of interaction in social, economic and political aspects of life, and the need for proclaiming further laws addressing the issues could be observed.<sup>44</sup>

The other instance in which the Ethiopian Constitution provides for extensive interaction between the centre and the states is the process of financial transfers. These are issues involving the sharing of revenue, the provision of grants and loans, and auditing the proper utilization of grants allocated to the states. The mode of addressing such financial issues also determines the nature of intergovernmental cooperation in Ethiopia. With a view to addressing these financial issues, the Constitution established the HoF as the formal intergovernmental body. The power of facilitating and promoting cooperation between the groups is assigned to the HoF, which is composed of representatives of 'nations, nationalities and peoples'. These and other related financial issues are further discussed below.

The other case in which the Constitution envisages relationship is through the delegation of power (Article 50/9). The constitutional provisions explicitly recognize the delegation of any of the central functions to the states. However, it does not qualify delegable and non-delegable powers, although the nature of some of the powers confirms their non-delegable nature. Thus, if the federal government can delegate any of its powers (including its legislative power) to the states, it can bring a change to the constitutionally-stipulated division

of powers. Further, it is not clear whether the centre can make preferences concerning a specific state when delegating power. These are some of the issues that should be addressed in the future clarifying the constitutional principle and the types of powers and functions that can be delegated to the states.

The Ethiopian constitution also provides the principle of mutual respect to one another of the powers defined by the Constitution (Art50/8). But as shown above, there will be instances which require interactions among the levels of government. If federal-state interactions in order to discharge their powers and responsibilities are inevitable, the above constitutional guidelines will not be sufficient. Further guidelines and principles to manage executive relations have to be designed.

### **Vertical intergovernmental cooperation**

From a structural point of view, the executive is the main institutional factor in promoting intergovernmental relations. However, there are also instances where other constitutionally-assigned institutions such as the legislature play some significant roles in promoting collaboration between the federal and state governments. In Ethiopia, there are formally established institutions and other *ad-hoc* mechanisms that are involved in the process of cooperation between the centre and the regions. They are discussed below.

#### *The role of the Federal Houses*

In many federations, since the upper House is composed of representatives of states and participates in the legislative process, it plays an intergovernmental role by representing regional interests at the centre. However, the Upper House (the House of Federation) in Ethiopia has no legislative power but has important intergovernmental roles. It has the power to deal with matters concerning the relations between the constituent units of the federation.<sup>45</sup> On the basis of constitutional bestowed on the House, it has decided in one case in cooperation with the SNNPS where the *Silte* people claim

Economic Development, other federal offices working on tax-related issues and sector bureaus of the regions. The forum with important issues concerning the harmonization of tax laws, the uniform application of tax laws, enhancing taxing capacity, solving tax-related problems and issues related to shared taxes. One of the major achievements of this consultative meeting is the recommendation which it has submitted to the HOF for a division of revenue generated from shared taxes, and for a better administration of VAT.<sup>66</sup>

In general, there are numerous occasions when the relevant representatives engage in workshops, conferences, training programmes and consultations for a specific period or purpose. The process and implementation of capacity-building programmes and reforming the existing civil service system involve close cooperation between the centre and the regions. The proliferation of these interactions has led to sharing experiences, gathering opinions about reform programmes and the uniform application of federal legislation and national policies. Most of the relations discussed, however, are overshadowed by a formidable centralized party channel which primarily implements decisions through the party structures, where reforms are hardly the outcome of negotiations and joint decisions of the levels of government.

### ***Horizontal intergovernmental relations***

Horizontal intergovernmental relations exist between states in their venture to perform constitutionally allocated responsibilities. Federal practices indicate that constituent units of a federation engage in horizontal cooperation between themselves, despite the absence of an express constitutional clause to do so. This horizontal cooperation is important for several reasons. It can be used for addressing conflicts (related either to borders or to resource sharing) between states, for achieving common objectives with a lesser cost since it may be costly for each of them to perform certain activities, for states to lobby against the central government or to initiate some kind of reform within the federal system.<sup>67</sup>

has been emphasized above, cooperation concerning the better performance of responsibilities is actually facilitated through other mechanisms as well. It could be promoted through various forums, conferences, workshops, advisory ad hoc bodies, the exchange of personnel and technical experts, or through personal exchange of information between the authorities of the levels of government.<sup>61</sup> The meetings, discussions, and other forms of cooperation between the centre and the regions take place as the occasion demands. Some of them may remain as forms of informal cooperation between authorities, while others may evolve into more formal institutions with a clear mandate and staffed with skilled labour. Some of the informal relations may disappear or remain without a meaningful role.<sup>62</sup> The practice of several federal systems exemplifies the existence of different forms of informal governmental relations, vertical as well as horizontal, some of which evolve into formal institutions.<sup>63</sup>

An important feature of semi-formalized intergovernmental relations through administrative agencies has been emerging in Ethiopia since 2002, albeit the fact that not much heard about them recently.<sup>64</sup> Each federal ministry or administrative agency is required to engage in cooperation with their counterpart regional bureaus in order to share information, discuss common problems, contemplate joint action on common concerns, exchange experiences, share technical expertise and personnel, and even establish joint agencies.<sup>65</sup> In this regard, the relations concerning trade and investment, taxation and revenue sharing, judicial reform and capacity-building have shown significant development in coming within the terms of intergovernmental cooperation.

A consultative forum between the Ministry of Trade and Industry and sector bureaus has been established to strengthen the partnership between them. It is believed that such is vital not only to promote partnership between the levels of government but also to address administrative hurdles that the private sector may face. Another forum of cooperation has also been established with the partnership of the Ethiopian Revenue and Custom Authority (formerly Ministry of Revenue), the Ministry of Finance and

their own identity and self-administration. It also held referendums in areas bordering on Somali and Oromia states to resolve territorial disputes. The major role of the HoF in promoting cooperation is related to determining the sharing of joint revenues between the federal and regional governments, and the bases on which grant subsidies can be allocated to the member states.<sup>46</sup> However, there are

other constitutional mandates that need to be clarified for the House to play a role in promoting intergovernmental relations. These are the power to promote the equality of the peoples of Ethiopia and consolidate their unity, to determine civil matters which require federal laws, to order federal intervention, to find solutions to disputes or misunderstandings between states, and to interpret the constitution on matters of division of powers.

Intergovernmental legislative relations are required due to overlaps in the distribution of powers among the levels of government. Facilitating legislative relations through consultations, discussions and exchanging views to clarify the respective jurisdictions, share responsibilities or delegate power from one to the other level of government. In Ethiopia, recently the HoPR, the HoF and regional councils conduct annual meetings to discuss on various issues, but it is not yet clear whether they conduct legislative debates or come up with intergovernmental decisions.

#### *Executive Institutional mechanisms for promoting cooperation*

Under the working plan of the federal government, it is usually mentioned the importance of cooperation between the federal government and the states in tackling the social, economic and political problems besetting the country, and the need to promote proportional development between the regions. The desirability of creating 'one economic community' is also highlighted by the Constitution. Similar statements are found in several policy documents that have been issued by the government since 2001.<sup>47</sup> The problem, however, in many federations including Ethiopia is maintaining the fundamental principles of a federal Constitution:

interdependence for common interests and respecting regional autonomy. Identifying and limiting the areas of interaction towards addressing common concerns, and the need to uphold the principles of accountability and transparency should also be properly dealt with.

The FDRE Constitution gives the federal government responsibility for promoting cooperative relations between the federal government and the states.<sup>48</sup> As a result, the federal government has established an executive body. At present, the most formal institution endowed with the relevant powers and responsibilities is the 'Ministry of Federal Affairs' (hereafter, MoFA). Its importance lies with the need to address the *de facto* asymmetries that exist between the states, and the failure of some of the states to resolve interethnic conflicts that were prevalent within their own territory.<sup>49</sup>

The ministry assumes several missions and tasks under Proclamation No. 256/2001 which reorganizes the executive organs of the federal government. Some of them are: to assist the execution capacity of less developed regions and to promote equitable development, to resolve disputes between states and between ethnic groups and to forge cooperation between them, to support the development of modern urban centres, to help pastoralists participate and benefit from the development activity of the country, and in general to implement a working federal system.<sup>50</sup>

The MoFA is a federal executive but it also plays the role of an intergovernmental institution enhancing cooperation between the centre and the regions. In principle it can engage in relations with all states, but the main focus of these relations is the lowland regions (often called emerging states) of Afar, Benishangul-Gumuz, Gambela and Somali and deals particularly with capacity-building, good governance and conflict management.<sup>51</sup> Compared to other regions, these regions lack the essential technical and administrative manpower, and basic infrastructure to administer their own affairs. The ultimate goal of this cooperation is to enhance the capacity of these states so that in the future they will be able to effectively exercise their own jurisdictions. So the cooperation and assistance

recently,<sup>56</sup> some federal institutions have not been established in all the states and there was no formal delegation of power as enshrined by the Constitution. Rather, as we have studied above, the federal government has been using the 'Regional Affairs Department' and presently, the MoFA, and the party structures<sup>57</sup> for the implementation of federal laws and programs. There is also a popular misconception that federal laws are issued to be implemented only in Addis Ababa and Dire Dawa. At present, the courts promote intergovernmental relations as the Constitution delegates judicial power to the state courts following the formation of a dual court structure in Ethiopia. The federal Constitution delegates the jurisdiction of the federal high court and of the first instance courts to a state supreme and high courts respectively, until the HoPR decides on the establishment of federal first instance and high courts in some or all states.<sup>58</sup>

There are also some instances of delegating federal executive power to the states. For instance, delegation of federal tax administration (VAT) to the states has been observed for a brief moment in 2005.<sup>59</sup> Presently, the federal government claims to have been delegated by states to administer allocation of lands for investment.<sup>60</sup> Furthermore, the author of this article has recently gathered from some officials of the Somali region that financial administration of federal grants in the region has been delegated to the federal government.

In general, delegation may pose substantial concerns with regard to the execution of policies or laws. Some of the problems are related to the issues of identifying which federal powers are delegated to the states. In particular, the nature of cooperation between the federal and state governments with regard to the delegated powers, the nature of responsibility of the level of government, the issues of accountability and transparency, and the funding mechanisms have to be addressed.

#### ***Other ad hoc mechanisms***

Although the importance of formal intergovernmental institutions

remarked that unlike its predecessor, the ministry is trying to address local needs rather than directly implementing federal policies. For instance, policies for pastoralist areas have been drafted in consultation with the local administrators and the elders. However, the facts on the ground demonstrate that there are several issues that should be handled with due care. For instance, problems related to the nature of relations between the ministry and the states/or a state with regard to handling of the situation during and after the occurrence of religious or interethnic conflicts between neighboring states or within a state.

The principle of federalism requires the levels of government to identify the objective conditions which foster cooperation and the authorities to act in a responsible manner. At the same time, the tendencies of over-centralization under the guise of cooperation should be avoided. Regional governments' dependence on the federal government is equally problematic because it not only contradicts the principle of federalism, but also leads to a greater disparity between the regions. Therefore, it is necessary to examine the role of institutions to discover how they can assist the regions in implementing the responsibilities and the achievement of the objective of proportional development between the regions.

### *Delegation of power*

One of the mechanisms for promoting intergovernmental cooperation in a federal system is the delegation of power from one level of government to the other. According to Article 50/9 of the Ethiopian Constitution, the federal government can delegate any of the matters reserved to it.<sup>54</sup> The provision covers a wide range of powers, and accordingly, the federal government can delegate legislative power, administrative power (execution) or adjudicative power.<sup>55</sup> However, federal practices demonstrate that it is the executive power rather than the legislative power of the federal government that is delegated to the states where the federal government have not established its agencies.

Apparently, in Ethiopia until some attempts were witnessed very

from the centre is pertinent. However, it requires a genuine and transparent relationship to delimit the area which needs cooperation, and also clear legal and political frameworks. Above all, the regions should be active partners in the process of cooperation.

Although the MoFA formally came into existence in late 2001, it was preceded by 'Yekilil Guday Zerf' [Regional Affairs Department] under the office of the Prime Minister. The department was established to assist the prime minister in regional affairs with a view to promoting relations between the centre and the regions and assisting the performance capacity of the latter. Several studies concluded that the department, which was headed by a minister, led to the existence of a 'dual administrative structure' in the regions. The second 'administrative structure' was managed by party officials of EPRDF and people assigned by the central government. The first one being the regional government, however, it was required to be accountable to the second one.<sup>52</sup> Such an administrative fiat eroded the confidence of the people in the system, and many became suspicious about everything that comes from the centre. Furthermore, despite the fact that the objective of the department was to enhance the capacity of the four regions mentioned above, its activities had no defined legal parameters.

In the post 2001 period, the most important questions raised were: whether the new structure - MoFA - has rectified the misguided approaches of its predecessor, the Regional Affairs Department, and performs its duties within the ambit of federal principles; can it play an intergovernmental role by focusing on good governance rather than by monitoring the regional administration? In other words, what are the emerging trends in the new structure of the ministry concerning the objective of enhancing cooperation between the centre and the regions?

The ministry has a formal mandate and structures under proclamation No.256/2001 which are responsible for intergovernmental collaboration, although there is an overlap of power with the HoF.<sup>53</sup> Some of the authorities at the Ministry of Federal Affairs also