

Decentralisation, development and accommodation of ethnic
minorities: The case of Ethiopia

By Zemelak A Ayele

LL.B (Addis Ababa University); LL.M (University of the Western Cape)
Diploma (Fribourg: Institute of Federalism)

A thesis submitted in fulfillment of the requirements for the degree of Doctor of
Philosophy (Law) in the Faculty of Law, University of the Western Cape

Promoter:
PROFESSOR Jaap De Visser

Faculty of law
University of the Western Cape
4 June 2012

FACULTY OF LAW

Declaration

I declare that '**Decentralisation, development and accommodation of ethnic minorities: The case of Ethiopia**' is my work and has not been submitted for any degree or examination in any other university or academic institution. All sources and materials used are duly acknowledged and are properly referenced.

Signature

Date

**Abstract**

Decentralisation of political, financial, and administrative powers to sub-national units has been, and remains to be, a major trend in both developing and developed states. Very often decentralisation is not optional for a state. However, a state has the option to choose what to achieve through its decentralisation programme.

After choosing what it intends to achieve through its decentralisation programme, a state may design it in such a way that it may attain the intended purpose.

Many countries design their decentralisation programmes with the purpose of ‘deepening’ democracy and empowering their citizens. Other states decentralise power with the purpose of achieving development. They do so based on the postulate that development is preferable when it is achieved through the participation of those who benefit from it and that decentralisation enhances the extent and quality of citizen’s direct and indirect participation. States also decentralise powers based on the assumption that decentralisation brings efficiency in planning and implementing development projects. Several states also use their decentralisation programme to respond to the ethnic, religious, or other diversities of their people. They use territorial and non-territorial arrangement to accommodate the diversity of their people. Therefore, in some cases they create ethnically structured regional and local units and transfer to such unit political powers including the power to decide on cultural matters.

Like in so many countries, the wind of decentralisation has blown over Ethiopia. The country has been implementing a decentralisation programme starting from 1991. Ethiopia has selected to achieve two principal purposes through its decentralisation programme namely, to achieve development and to respond to the ethnic diversity of its people. It is axiomatic that the success of a decentralisation programme, whether for achieving development or accommodating ethnic diversity, is greatly impacted on by its institutional design. This thesis, therefore, examines whether Ethiopia’s decentralisation programme

incorporates the institutional features that are likely to impact the success of the decentralisation programme for achieving its intended purposes.



Acknowledgments

I was assisted by many people in so many ways in the preparation of this thesis. I am especially grateful to Professor Jaap De Visser who patiently guided me beginning from the preparation of the proposal to the completion of this thesis. He indefatigably read each chapter of this thesis numerous times and provided me with insightful comments. His sense of thoroughness, enthusiasm, and friendliness were beyond depiction.

My sincere gratitude goes to Professor Nico Steytler who helped me in various ways. He, along with Professor De Visser, provided me the opportunity to work on this thesis. He has also been ready to read and comment on my works, to discuss issues relevant to my work, and to provide me with his perceptive comments. I am greatly indebted to him. I am also grateful to Professor Israel Leeman for all his assistance in editing the various chapters of the thesis

I am thankful to the Community Law Centre (CLC) and the Local Democracy, Peace and Human Security Project (LDPHSP) which not only assisted me financially but also provided me with an environment which was ideal for research. I am especially obliged to Professor Steytler (the director of CLC) and Professor De Visser (the co-ordinator of LDPHSP) for providing me the opportunity to work on this thesis. I am also thankful to Nuffic Scholarship Programme, Utrecht University, and Jimma University which, in collaboration, made it possible for me to attend LL.M programme at UWC. It was while I was attending this LL.M programme that the opportunity for the PhD opened up.

I am indebted to all CLC staff for their assistance and for making my stay at the CLC pleasant and memorable. I am in particular thankful to all the assistance I received from Trudi Fotuin, Jill Claassen, Valma Hendricks, Derek Powell, Annette May, Phindile Ntliziywana. I would love to say thank you for their assistance and encouragement throughout the past three years. I would also like to thank my friends at CLC Conrad Bosire, Douglas Sigiza, Aquinaldo Mandlate,

and Muthaka Kangu for making long hours in office, including many weekends, sufferable and, in so many ways, enjoyable and memorable.

This thesis would not have been possible if it was not for the prayer, love, and encouragement that I abundantly received from my mother Abezu Mekonnen, my sisters Menen and Seble, my brother Yohannes, my nephew Yisehak and my friend Kalkidan; I thank you all so very much. I never lacked the warmth and affection of a family throughout my stay in Cape Town as I was embraced into the family that included Tigist, (TG) Woldekidan, Emanda, Yonatan, Natsinet, Messeret W and Messeret K. I would like to say thank you for your support and encouragements. I am especially indebted to Yonatan who, not only has been a great friend, but also a great inspiration. His perceptive comments, questions, and suggestions have immensely helped in making this thesis a better work.

Lastly, I would love to praise the name of God for making this possible and for His countless blessings.

Zemelak Ayitenew Ayele

June 2012

Contents

Abstract.....	ii
Acknowledgments	iv
Acronyms	xxi
A glossary of local terms.....	xxiv
Chapter 1	1
Introduction.....	1
1. BACKGROUND TO THE THESIS	1
1.1. Decentralisation in Ethiopia.....	5

2.	RESEARCH QUESTION.....	6
3.	SCOPE OF THE STUDY.....	7
4.	SIGNIFICANCE OF THE STUDY.....	7
5.	ARGUMENT.....	8
5.1.	Decentralisation and development.....	8
5.1.1.	Institutional features.....	8
5.1.1.1.	Political, financial, and administrative autonomy.....	8
5.1.1.2.	Central supervision and inter-governmental co-operation.....	9
5.2.	Decentralisation and accommodation of ethnic minorities.....	10
5.2.1.	Territorial autonomy at local level.....	10
5.2.1.1.	Self-rule.....	10
5.2.1.2.	Shared-rule.....	11
5.2.2.	Non-territorial means of accommodating ethnic minorities.....	11
6.	STRUCTURE.....	12
7.	METHODOLOGY.....	14
	Chapter 2.....	16
	Decentralisation, development, and accommodation of diversity: A theoretical exposition...	16
1.	INTRODUCTION.....	16
2.	DECENTRALISATION DEFINED.....	16
2.1.	Features of decentralisation.....	17
2.2.	Forms of decentralisation.....	17
2.2.1.	Deconcentration.....	17
2.2.2.	Delegation.....	18
2.2.3.	Devolution.....	19
3.	DECENTRALISATION FOR DEVELOPMENT.....	20
3.1.	Introduction.....	20
3.2.	Conceptualising development.....	20
3.3.	Working definition of development.....	26
3.4.	Why decentralisation for development?.....	26
3.4.1.	‘Deepening’ democracy.....	27
3.4.1.1.	Decentralisation, representative democracy, and development.....	28
3.4.1.2.	Decentralisation, public participation, and development.....	33

3.4.2.	Efficiency and institutional responsiveness	36
3.4.3.	Decentralisation and sustainable development	42
3.4.4.	The danger of inequity	44
3.4.5.	Concluding remarks	46
3.5.	Institutional features of a decentralised development	47
3.5.1.	Political autonomy	48
3.5.1.1.	‘Certainty of existence’	48
3.5.1.2.	Political structure and local democracy	51
3.5.1.3.	Devolution of original, relevant, suitable, and clearly defined functions	55
3.5.1.4.	Political Power	61
3.5.2.	Financial autonomy	62
3.5.2.1.	Taxes and fees	62
3.5.2.2.	Borrowing	63
3.5.2.3.	Inter-governmental transfers	64
3.5.3.	Administrative autonomy	66
3.5.4.	Central supervision and inter-governmental co-operation	67
3.5.4.1.	Central supervision	68
3.5.4.2.	Inter-governmental co-operation	71
3.5.5.	Concluding remarks	73
4.	DECENTRALISATION AND ACCOMMODATING ETHNIC MINORITIES	73
4.1.	Introduction	73
4.2.	Ethnic groups and ethnicity	74
4.2.1.	Ethnic identity as a political identity	75
4.2.2.	Ethnic minorities	77
4.3.	Managing ethnic diversity	79
4.3.1.	Eliminating diversity	80
4.3.2.	Neutrality	81
4.3.3.	Integrationist approach	83

4.3.4.	Accommodation approach	84
4.4.	Local government and accommodation of minorities	86
4.4.1.	Introduction.....	86
4.4.2.	Territorial autonomy at local level.....	87
4.4.2.1.	Concluding remarks	94
4.4.2.2.	The advantages and disadvantages of territorial autonomy	95
4.4.2.3.	Institutional features of territorial autonomy at local level	99
4.4.2.4.	Shared-rule?	108
4.4.3.	Consociationalism for accommodating minorities at local level.....	111
4.4.3.1.	Deficiencies of consociational democracy	113
4.4.3.2.	Institutional features consociationalism.....	114
4.4.4.	Cultural autonomy	115
4.4.5.	Concluding remarks.....	116
5.	DECENTRALISATION, DEVELOPMENT, AND ACCOMMODATION OF MINORITIES: A SYNTHESIS.....	116
6.	CONCLUSION.....	118
Chapter 3	120
Local administration, development, and ethnicity in Ethiopia: A historical perspective		120
1.	INTRODUCTION.....	120
2.	GENERAL FACTS ABOUT ETHIOPIA.....	121
3.	LOCAL GOVERNANCE FROM AXUM TO THE EMERGENCE OF ‘MODERN ETHIOPIA’	122
3.1.	Traditional institutions of local governance	124
3.1.1.	Introduction.....	124
3.1.2.	Traditional local administrative institutions of northern Ethiopia.....	124
3.1.3.	Traditional administrative institutions of southern Ethiopia	127
3.1.4.	Assessment.....	128
4.	THE BIRTH OF ‘MODERN ETHIOPIA’: ‘CREEPING CENTRALISATION’ (1855-1930).....	130
4.1.	Political marginalisation	131
4.2.	Economic marginalisation	133
4.3.	Cultural marginalisation.....	134

4.4. Assessment.....	134
5. FORMAL CENTRALISATION UNDER EMPEROR HAILE SELASSIE I (1930-1974) 135	
5.1. The 1942 administrative reform.....	137
5.1.1. Re-drawing provincial boundaries.....	137
5.1.2. Centralising the appointment of provincial administrators.....	138
5.1.3. Local administration after the 1942 reform.....	139
5.1.3.1. Centralising the appointment of local authorities.....	140
5.1.3.2. Functions of local authorities.....	140
5.1.3.3. Central supervision.....	142
5.1.3.4. Urban administrations in the 1942 administrative reform.....	142
5.1.4. The ‘attempted decentralisation’ of 1966.....	145
5.1.5. Local administration and ethnic minorities of southern Ethiopia.....	146
5.1.6. Assessment.....	147
5.1.6.1. Non-developmental.....	148
5.1.6.2. Repressive of ethnic minorities.....	150
6. LOCAL GOVERNANCE UNDER THE <i>DERG</i> (1974-1991).....	151
6.1. The <i>Derg</i> on the ethnic question.....	152
6.2. The debate on local administration: Addressing the development question.....	154
6.2.1. The UDA.....	156
6.2.1.1. Institutional structure.....	156
6.2.1.2. Powers and functions of UDAs.....	157
6.2.1.3. Financial sources of UDAs.....	158
6.2.2. The Peasant Associations (PAs).....	159
6.2.2.1. Institutional structure.....	159
6.2.2.2. Powers and functions PAs.....	159
6.2.3. Re-centralisation and the weakening of UDAs and PAs.....	160
6.2.4. The formation of the Peoples Democratic Republic of Ethiopia.....	160
6.2.5. Assessment.....	162

7. THE END OF THE <i>DERG</i> AND THE BEGINING OF RE-DECENTRALISATION (1991-1995).....	165
7.1. Introduction.....	165
7.2. The formation of the Transitional Government of Ethiopia	166
7.2.1. The TPC on the ethnic question.....	166
7.2.2. Local government and development under the TGE	169
7.2.1. Assessment	171
7.3. The FDRE Constitution: the groundwork for local level decentralisation 1995-	173
8. CONCLUDING REMARKS	173
Chapter 4	175
Ethiopia: From federalism towards local level decentralisation.....	175
1. INTRODUCTION.....	175
2. ETHIOPIA AND ITS ETHNIC-BASED FEDERAL SYSTEM	176
2.1. Intra-regional ethnic diversity	178
2.2. Territorial, social, and economic variations among the regional states	180
3. FEDERAL AND STATE GOVERNMENT STRUCTURES.....	181
3.1. Introduction.....	181
3.2. Federal government	181
3.2.1. Federal legislature.....	181
3.2.1.1. HoPR.....	181
3.2.1.2. HoF	184
3.2.2. Federal executive	185
3.2.3. Federal courts.....	186
3.3. The regional governments.....	187
3.3.1. State legislature.....	187
3.3.2. Regional executive.....	187
3.3.3. State judiciary	188
3.4. Division of functions.....	189
3.5. Financial powers	191
3.5.1. Taxes.....	191
3.5.2. Federal grants.....	192

3.5.3. Financial power; fairly divided?	193
3.5.4. Concluding remarks	193
4. LOCAL GOVERNMENT AS ENVISIONED IN THE FDRE CONSTITUTION	194
4.1. General	194
4.2. Article 39 local government.....	196
4.3. Article 50(4) local government	199
4.3.1. A logical interpretation of Article 50 (4).....	200
4.3.2. Local government and self-rule	200
4.3.3. Local government and public participation	202
4.3.4. The drafting history of Article 50 (4)	202
4.4. Conclusion	203
5. TOWARDS LOCAL LEVEL DECENTRALISATION	205
5.1. Introduction.....	205
5.2. Establishing Article 39 local government.....	205
5.3. District level decentralisation programme (DLDP): The second phase decentralisation	206
5.3.1. Introduction.....	206
5.3.2. Drivers of the formulation of the DLDP	207
5.3.4. Decentralisation as poverty reduction strategy	209
5.3.5. Local democracy for development.....	212
5.3.6. Concluding remarks	213
5.3.7. Beyond the decentralised development rhetoric	214
5.3.7.1. Political division as a driver of the decentralisation programme.....	214
5.3.7.2. Decentralisation to discourage ‘ethnic entrepreneurs’	217
5.3.8. Concluding remarks	218
6. A BRIEF OVERVIEW OF ETHIOPIA’S LOCAL GOVERNMENT STRUCTURE.....	218
6.1. Article 50 (4) local government	219
6.1.1. <i>Woredas</i>	220
6.1.2. Urban local government.....	221

6.1.2.1.	Municipalities.....	221
6.1.2.2.	Cities.....	222
6.2.	Article 39 local government system.....	222
6.3.	The <i>kebele</i>	223
6.4.	Addis Ababa and Dire Dawa.....	224
6.5.	Governance and administrative structure of local government: An overview	225
6.5.1.	Representative councils	226
6.5.2.	Executive organs.....	226
6.5.3.	Administrative organs.....	227
7.	CONCLUSION.....	227
	Chapter 5	229
	Decentralisation and development in Ethiopia: Local government’s political, financial, and administrative autonomy.....	229
1.	INTRODUCTION.....	229
2.	POLITICAL AUTONOMY.....	230
2.1.	Introduction.....	230
2.2.	Certainty of existence.....	230
2.2.1.	Constitutional recognition.....	231
2.2.1.1.	Recognition in the federal Constitution	231
2.2.1.2.	Recognition in regional constitutions.....	232
2.2.2.	Wall-to-wall local government	235
2.2.3.	Formal protection for individual local government units	236
2.2.3.1.	Demarcation of <i>woreda</i> boundaries	236
2.2.3.2.	Demarcation of city boundaries	238
2.2.4.	Assessment.....	239
2.2.4.1.	Constitutional recognition.....	239
2.2.4.2.	Constitutionally unprotected urban local government	242
2.2.4.3.	Wall-to-wall local government.....	244
2.2.4.4.	Protection of individual local units	245
2.3.	Local democracy	246

2.3.1.	Local elections	247
2.3.1.1.	Electoral system	247
2.3.1.2.	Competitiveness and representativeness in local elections	248
2.3.1.3.	Assessment	251
2.4.	Local government functions.....	253
2.4.1.	Introduction.....	253
2.4.2.	The principle of subsidiarity	253
2.4.2.1.	Introduction	253
2.4.2.2.	Subsidiarity under the FDRE Constitution.....	254
2.4.2.3.	Subsidiarity under the regional constitutions and regional laws.....	256
2.4.3.	Functional competences of <i>woredas</i> and cities/municipalities.....	257
2.4.3.1.	The <i>woreda</i>	257
2.4.3.2.	Functions of urban local government.....	262
2.4.4.	Assessment.....	265
2.4.4.1.	Devolution or delegation?	265
2.4.4.2.	Unclear functions	266
2.4.4.3.	Inaccessibility of legislative instruments	267
2.4.4.4.	Relevant for development?.....	268
2.5.	Local government powers.....	271
2.5.1.	Introduction.....	271
2.5.2.	Development policy making.....	271
2.5.2.1.	<i>Woredas</i>	272
2.5.2.2.	Urban local government.....	274
2.5.3.	The power to plan	275
2.5.3.1.	<i>Woreda</i> planning.....	275
2.5.3.2.	Development planning in urban local government.....	278
2.5.4.	Local government legislative powers	281

2.5.4.1. <i>Woredas</i>	281
2.5.4.2. Urban local government.....	283
2.5.5. Local government executive power	285
2.5.5.1. <i>Woreda</i>	285
2.5.5.2. Urban local government.....	286
2.5.6. Assessment.....	288
2.5.6.1. Unclear policy making powers	288
2.5.6.2. Vague legislative power.....	289
2.5.6.3. Compromised executive powers	290
3. FINANCIAL AUTONOMY	292
3.1. Introduction	292
3.2. Local finances under FDRE Constitution	293
3.3. Local finances under regional constitutions and laws.....	293
3.3.1. Taxes and fees	293
3.3.1.1. <i>Woreda</i> taxes and fees.....	293
3.3.1.2. Urban local government taxes and fees.....	296
3.3.1.3. Addis Ababa and Dire Dawa.....	297
3.4. Inter-governmental fiscal transfers to rural local government	299
3.4.1. Block grants	299
3.4.1.1. <i>Woreda</i>	299
3.4.1.2. Grants for cities	304
3.4.2. Specific-purpose grants (SPGs).....	305
3.4.3. Other sources of revenue	306
3.4.3.1. Sales of assets.....	306
3.4.3.2. Revenue from business activities	306
3.4.3.3. Borrowing.....	307
3.4.3.4. Donors funds	309
3.4.3.5. Public Contribution	310

3.5.	Budgeting and expenditure authority	310
3.5.1.	Introduction.....	310
3.5.2.	Budgeting power of <i>woredas</i> and cities.....	311
3.5.3.	Budget preparation.....	311
3.5.4.	The legal status of an approved budget.....	312
3.6.	Assessment	313
3.6.1.	No adequate <i>woreda</i> taxes and fees.....	313
3.6.2.	Inadequate block grants	315
3.6.3.	Public contribution: voluntary?.....	317
3.6.4.	Neglected municipal services	318
4.	ADMINISTRATIVE AUTONOMY.....	318
4.1.	Introduction	318
4.2.	Determining the internal administrative structure of local government	319
4.2.1.	<i>Woreda</i>	319
4.2.2.	Administrative organs of a <i>woreda</i>	320
4.2.3.	Urban local government.....	321
4.2.4.	Civil service and employment	323
4.2.4.1.	<i>Woreda</i>	324
4.2.4.2.	Urban local government.....	324
4.2.5.	Assessment.....	325
5.	CONCLUSION.....	328
	Chapter 6	332
	Decentralisation and development in Ethiopia: Central supervision and inter-governmental co-operation	332
	1. INTRODUCTION.....	332
	2. CENTRAL SUPERVISION OF LOCAL GOVERNMENT IN ETHIOPIA.....	333
	2.1. Introduction.....	333
	2.2. Regulation	333
	2.2.1. Federal government	334
	2.2.1.1. Federal government policy papers.....	334

2.1.1.2. Federal framework legislation	336
2.2.2. Regulation by regional and nationality zones governments	339
2.2.2.1. Regional policy papers.....	339
2.2.2.2. Regional framework legislation.....	340
2.2.3. Assessment.....	341
2.3. Monitoring	343
2.3.1. Federal monitoring.....	343
2.3.1.1. Monitoring <i>woredas</i> and regional cities	343
2.3.1.2. Monitoring the federal cities.....	344
2.3.2. Monitoring by regional and zonal governments	345
2.3.2.1. Monitoring <i>woredas</i>	345
2.3.2.2. Monitoring urban local government	347
2.3.2.3. Methods of monitoring	347
2.4. Support.....	349
2.4.1. Introduction.....	349
2.4.2. Federal support.....	349
2.4.3. Support by regional government.....	351
2.4.3.1. Supporting <i>woredas</i>	351
2.4.3.2. Urban local government	351
2.5. Intervention	352
2.5.1. Federal intervention	352
2.5.1.1. Intervention in <i>woreda</i> and regional cities.....	352
2.5.1.2. Federal intervention in federal cities.....	355
2.5.2. Regional intervention.....	356
2.5.2.1. Intervention in a <i>woreda</i>	356
2.5.2.2. Regional intervention in urban local government.....	359
2.5.3. Procedural safeguards against undue intervention.....	361

2.6. Assessment.....	362
3. INTER-GOVERNMENTAL CO-OPERATION IN ETHIOPIA	365
3.1. Introduction.....	365
3.2. Normative principles of co-operation in Ethiopia	366
3.2.1. Under the FDRE Constitution.....	366
3.2.2. Under the regional constitutions	367
3.3. Horizontal co-operation	368
3.3.1. Co-operation between <i>woredas</i>	368
3.3.2. Co-operation among cities	369
3.3.3. ‘Rural-urban linkages’	372
3.4. Vertical co-operation: Forums for inter-governmental relations	374
3.4.1. Nationality zone council as forum for IGR.....	374
3.4.2. Local government associations	375
3.4.3. Communication through sectoral offices	376
3.5. Assessment.....	378
3.5.1. Co-operation between unequal	378
3.5.2. Horizontal co-operation	379
3.5.3. Vertical co-operation	379
3. CONCLUSION.....	382
Chapter 7	383
Decentralisation and accommodation of intra-regional ethnic minorities in Ethiopia.....	383
1. INTRODUCTION	383
2. TERRITORIAL AUTONOMY AT LOCAL.....	384
2.1. Normative principle for self-rule under FDRE Constitution	384
2.2. Self-rule at local level	386
2.2.1. Ethnically organised local territorial units	387
2.2.1.1. Assessment.....	395
2.2.2.2. Secession.....	408
2.2.2. Governance institutions and their powers.....	416
2.2.1.1. Introduction.....	416

2.2.1.2. Political organs.....	417
2.2.3. Competences of <i>liyu woredas</i> and nationality zones	427
2.2.3.1. Competences relating to language	429
2.2.3.2. Assessment.....	432
2.2.4. Revenue.....	435
2.2.4.1. Assessment.....	437
2.2.5. Concluding remarks.....	439
2.3. Shared-rule.....	439
2.3.1. Introduction.....	439
2.3.2. Shared-rule at regional level	441
2.3.2.1. The Council of Nationalities of SNNPR.....	441
2.3.2.2. Judicial organs	443
2.3.2.3. Assessments	445
2.3.3. Shared-rule at federal level.....	450
2.3.3.1. Introduction.....	450
2.3.3.2. The House of Federation (HoF).....	450
2.3.4. Assessment.....	456
2.4. Concluding Remarks	457
3. ACCOMMODATING TERRITORIALY DISPERSED ETHNIC COMMUNITIES....	457
3.1. Introduction.....	457
3.2. A case for non-territorial options in Ethiopia	458
3.3. Political representation.....	460
3.3.1.1. Representation in <i>woredas</i>	460
3.3.1.2. Representation in city councils	462
3.3.2. Ethnic migrants	465
3.3.2.1. Political representation of ethnic migrants	466
3.3.2.2. Language and cultural rights of ethnic migrants.....	470
3.3.3. Assessment.....	473

4. CONCLUSION	478
Chapter 8	481
Conclusion.....	481
1. INTRODUCTION.....	481
2. LOCAL GOVERNMENT AND DEVELOPMENT	482
2.1. Political autonomy.....	482
2.1.1. Political autonomy and Article 50 (4) local government.....	483
2.1.1.1. Certainty of existence.....	483
2.1.1.2. Local democracy	486
2.1.1.3. Local government’s functions.....	488
2.1.1.4. Local government powers	489
2.2. Financial autonomy	491
2.3. Administrative autonomy.....	493
2.4. Central supervision and inter-governmental co-operation	494
2.4.1. Central supervision	494
2.4.2. Inter-governmental co-operation	495
3. DECENTRALISATION AND ACCOMMODATION OF ETHNIC MINORITIES ...	497
3.1. Territorial autonomy	498
3.1.1. Self-rule.....	498
3.1.1.1. Ethnically structured local territorial units.....	498
3.1.1.2. Governance structure.....	500
3.1.1.3. Functions	501
3.1.1.4. Revenue.....	501
3.1.2. Shared-rule.....	502
3.2. Non-territorial.....	503
4. Harmonsing Article 39 and Article 50 (4) local governeemnts	505
Bibliography	509



Acronyms

ADLI	Agricultural development led industrialisation
AEPA	All Ethiopian Peasants' Association
ANC	African National Congress
ANDM	Amhara National Democratic Movement
ANDP	Afar National Democratic Party
BV	Block Voting
BPDUF	Benishangul Gumuz Peoples Democratic Unity Front
CIC	Constitutional Interpretation Commission

CIDA	Canadian International Development Agency
CoN	Council of Nationalities
CSCE	Commission on Security and Co-operation in Europe
CUDA	Central Urban Dwellers' Association
DLDP	District Level Decentralisation Programme
EDAG	Ethiopian Democratic Action Group
EPDM	Ethiopian People Democratic Movement
EPLF	Eritrean People's Liberation Front
EPRDF	Ethiopian People's Revolutionary Democratic Front
FPTP	First-past-the-post
GPUDM	Gambella Peoples' Unity Democratic Movement
GTP	Growth and Transformation Plan
HNL	Hareri National League
HoF	House of Federation
HoPR	House of Peoples Representatives
IGR	Inter-governmental relation
IPRS	Interim Poverty Reduction Strategy
IULA	International Union of Local Authorities
MDGs	Millennium Development Goals
MMS	Manager of Municipal Services
MoCB	Ministry Capacity Building
MoFED	Ministry of Finance and Economic Development
MoUDC	Ministry of Urban Development and Construction
MoWUD	Ministry of Works and Urban Development
NCOP	National Council of Provinces

NEBE	National Electoral Board of Ethiopia
NRM	National Revolutionary Movement
OAPO	All Amhara People Organisation
OLF	Oromo Liberation Front
OPDO	The Oromo People Democratic Organisation
PA	Peasant Association
PBS	Protection of Basic Services
PASDEP	Plan for Accelerated and Sustained Development to End Poverty
PDOs	Peoples Democratic Organisations
PDRE	The People's Democratic Republic of Ethiopia
PM	Prime Minister
PMAC	Provisional Military Administrative Council
PR	Proportional Representation
RADC	Revolutionary Administrative and Development Committees
SALGA	South African Local Government Association
SAP	Structural Adjustment Programmes
SEPDC	Southern Ethiopia Peoples' Democratic Coalition
SNNPR	Southern Nations, Nationalities and Peoples Region
SPDP	Somali People Democratic Party
SPG	Special Purpose Grants
SDPRP	Sustainable Development and Poverty Reduction Program
TGE	Transitional Government of Ethiopia
TPC	Transitional Period Charter
TPLF	Tigray People's Liberation Front
UDA	Urban Dwellers Associations

WWII World War II



A glossary of local terms

Abegaz or *azmach*- Clan leader in Gurage ethnic community

Affessa - A process of forceful military conscription during the *Derg* in which local officials went door to door in search of young men to be conscripted

Agar, *Samugnet*, *yejoka* – Clan level traditional governance institutions of the Gurage community

Awraja- The Amharic name of a province between 1942-1946 and of sub-province between 1946-1991

Balabbat- Traditional local administrators of Southern regions who served under centrally appointed provincial and local administrators

Birr- Ethiopian currency. One Dollar is exchanged for approximately 17 Ethiopian Birr

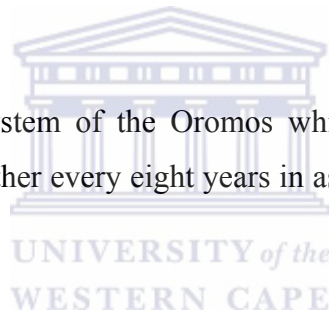
Chiqa shum- Village level local unit and the administrator of such local unit

Derg- The military junta which ruled Ethiopia from 1974 to 1991

Enderase - A title of a provincial governor between 1942 and 1974

Etyopiya-Tikdem - The literal translation of the term is ‘Ethiopia first’. It was the leading slogan of the *Derg*

Gada- A socio-political system of the Oromos which consisted of ‘age grade classes that succeed each other every eight years in assuming economic, political, and social responsibilities’



Gebar - The literal translation of the term is ‘tax payer’. Historically it refers to *rist* land holding peasants

Ghizat - The literal translation of the term is ‘governorate’. This was the designation that a province between 1890s to 1942

Kebele - The smallest constitutionally recognised local unit first created by the *Derg*

Kefitegna - A structure established over two or more urban *kebeles* during the *Derg*

Kistane & Sebat bet - The two clans of the Gurage ethnic community

Manok, nao and sewo - Districts of the ancient Kaffa Kingdome

Meison - The Amharic acronym of the 'All Ethiopian Socialist Movement'

Meredaja mahiber or *lemat mahiber* - Associations which were established by natives of a certain province or locality with the purpose of undertaking development projects

Misle'ene and Mikitl mislene - A sub-district and village level local unit respectively until 1946. The administrators of these units also took the same designation

Melkegna, Abegaz, Gult-gejzi - Traditional district level administrators of the northern Ethiopian regions

Liyu woreda - A local unit which, while equivalent to a regular *woreda* in terms of population and territorial size, is organised based on ethnic criteria

Neftegna - A direct control and militaristic administration in the southern regions which was introduced during the reign of Emperor Menilik

Niguse-Negest- The literal translation of the term is 'King of Kings'. This was the title of Ethiopian Emperor holding the central throne

Nigus/Ras - A title of a provincial ruler before 1942

Rist - A communal land holding system of northern Ethiopia which was based on 'ancestral descent claim and effective possession of land'

Shengo – A local, provincial, or national representative council during the *Derg*

Teklay Ghizat - The designation that a provincial administrative unit took from 1946 to 1974

Werabe rasher or *waraki* - District administrators in ancient Kafa Kingdom

Worajo, rashe-showo, gudo and *gafo* - Provincial sub-divisions of the ancient Kaffa Kingdom

Woreda- The basic local government unit which is equivalent to a district

Zemene Mesafint - The period between 1769-1855 during which the Ethiopian central throne was extremely weak and had little control over provincial rulers



Chapter 1

Introduction

1. BACKGROUND TO THE THESIS

Until the 1970s, centralisation of political power was a major trend.¹ This trend was motivated by several factors. Central management of the economy was one of the key motives for the tendency towards incremental centralisation. A centralised system was deemed economically efficient and, therefore, the most appropriate means of planning and implementing a sound and equitable use of resources.² The economic justification for centralisation gained impetus as the economic role of the state grew. Especially after World War II (WWII) the economic role of the state was recognised along the Keynesian economic theory which remained dominant for several decades after WWII.³ The failure of the market system from the 1950s to the 1970s also added force to the economic relevance of the state.⁴ Moreover, the economic justification of centralisation found ideological support with the rise of socialism which sought to create a national economic system which was primarily, if not fully, controlled and run by the state. Decentralisation was, in contrast, viewed as wasteful, and liable to cause or exacerbate inefficiency and an inequitable distribution of resources.⁵

Centralisation was also necessitated by yet another policy rationale, *viz.* nation building. With the birth of the concept of nation-state and sovereignty after the

¹ Sharma (2004) 2.

² Sharma (2004) 2; De Vries (2000) 199.

³ Rapley (2002) 7-10.

⁴ Sharma (2004) 2.

⁵ De Vries (2000) 199-200; Sharma (2004) 2.

signing of the Westphalia treaty in 1648, the quest began for nation-building.⁶ At the core of nation-building and the notion of a nation-state was the ‘ideal’ to create a common national identity. This ideal was underpinned either by a denial of the existence of the diversity of any form or by a conviction that diversity was inherently harmful to the security of the state and, thus, should be eliminated.⁷ Diversity was, therefore, associated with ‘sectarianism, parochialism, narrow-mindedness, and chauvinist bigotry’.⁸ States implemented various mechanisms, including centralisation, to eliminate diversity.⁹ Decentralisation, in contrast, was feared to augment ethnic, religious or other social divides, leading to conflict and, ultimately, to the disintegration of the state.

Starting from the 1970s, however, the economic role of the state began to be reconsidered. With the rise of neo-liberalism, a new trend, restricting the economic role of the state, emerged.¹⁰ Unfettered state interference in the economy, coupled with a centralised system of decision making, was blamed for the economic crisis and stagnation in many countries.¹¹ Nonetheless, the role of the state in economic and developmental matters was not entirely discarded. It was rather discovered that the state can play its role as agent of economic development efficiently at sub-national level.¹² This, therefore, required a measure of decentralisation.

⁶ Töpperwien (2001) 67 & 195.

⁷ Réaume (1995) 121.

⁸ McGarry and O’Leary (1994) 103.

⁹ Kymlicka (2007) 62-63.

¹⁰ Sharma (2004).

¹¹ Litvack, Ahmad, & Bird (1998) 7.

¹² Sharma (2004); Litvack, Ahmad, & Bird (1998) 7.

In addition, globalisation diminished the economic significance of the national government.¹³ Technological advancement in communication and the ‘global integration of market factors’ reduced the size of government required to manage certain economic activities.¹⁴ Consequently, services and infrastructures that were essential for economic development could be efficiently delivered by smaller sub-national political units, not necessarily by national government. Globalisation, by enhancing the economic role of sub-national political units further encouraged decentralisation.¹⁵ Moreover, global financial institutions, such as, the World Bank and the International Monetary Fund (IMF), encouraged, even pressurised, developing states to undertake Structural Adjustment Programmes (SAP) in order to receive loans and aids. Decentralisation was one of the central components of SAP.¹⁶ Furthermore, several inter-governmental treaties including free trade and loan agreements included clauses that required a certain forms of decentralisation.¹⁷ In this manner globalisation led to localisation creating a phenomenon called ‘glocalisation’.¹⁸

States also began to reconsider their stance on the question of diversity. Efforts to eliminate ethnic or any other social diversity proved to be unsuccessful. Almost all states remained multi-ethnic, multi-lingual, or multi-religious. Not only did the attempt to suppress ethnic diversity fail, it also led to appalling identity related

¹³ Sharma (2004) 5.

¹⁴ Litvack, Ahmad, & Bird (1998) 7.

¹⁵ Litvack, Ahmad, & Bird (1998) 7.

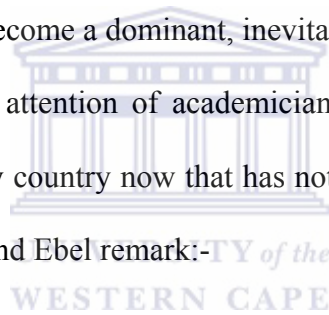
¹⁶ see Gore (2000).

¹⁷ Sharma (2004) 5.

¹⁸ Sharma (2004) 5.

conflicts in many countries.¹⁹ Therefore, states were forced to review their policies on diversity. Moreover, there was a change in outlook towards diversity. Diversity was no longer viewed as an inescapable vice, but as a desirable virtue. It was viewed as something which enriches the lives of individuals and which, therefore, should be preserved and promoted, not necessarily eliminated.²⁰ Accordingly, many states embraced the multi-cultural paradigm and began restructuring their territorial and government organisation to respond to the ethnic diversity of their people. Decentralisation emerged as one of the mechanisms adopted by states for managing diversity.²¹

Decentralisation has now become a dominant, inevitable, and unstoppable trend.²² It increasingly attracts the attention of academicians, professionals, and policy makers. There is barely any country now that has not implemented some form of decentralisation. As Bird and Ebel remark:-



‘Developed countries, developing countries, transitional countries, federal countries, and unitary countries—wherever one looks, some kind of decentralization is to be taking place, or is at least being discussed.’²³

Decentralisation of powers, functions and resources from the central government to sub-national governments and the growing influence of sub-national

¹⁹ Kymlicka (1995); Addis (2001); Yonatan (2010 a) 10.

²⁰ Kymlicka (1995).

²¹ Kymlicka (2007).

²² World Bank (1999) 124.

²³ Bird & Ebel (2005) 3.

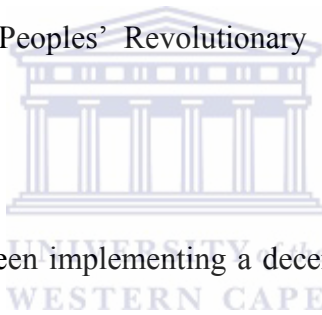
governments in economic and political matters are seen as major trends of the 21st century.²⁴

1.1. Decentralisation in Ethiopia

Ethiopia is no exception to the trend towards decentralisation. Ethiopia has been incrementally centralised for over a century. The centralised system is believed to have caused, or at least exacerbated, the prevalence of poverty in the country.²⁵

It is also alleged that it resulted in the concentration of political and economic powers in a single ethnic community resulting in political, economic, and cultural marginalisation of the scores of minority ethnic communities of the country.²⁶

This in turn led to decades of gruesome civil war which came to an end only in 1991 when the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) assumed power.



Since 1991, Ethiopia has been implementing a decentralisation programme. The decentralisation programme was implemented in two phases. Ethiopia, a hitherto unitary state, became a federal state in the first phase of the decentralisation process.²⁷ As the federal system of the country was principally meant to respond to the ethnic question, the nine regional states, constituent units of the federation, were chiefly organised on the basis of ethnic criteria. Yet none of the constituent units were ethnically homogenous. Therefore, it was imperative to accommodate intra-regional minority ethnic communities. This entailed the need to consider

²⁴ World Bank (1999) 108.

²⁵ See chapter 4; § 5.3.4.

²⁶ See the discussion in chapter 2.

²⁷ See chapter 4; § 5.

local government as an alternative mechanism for accommodating these communities.

The second phase of decentralisation began in 2001.²⁸ This phase of the decentralisation process was meant to respond to the development question. The decentralisation process began when the federal government adopted a plan for poverty reduction which sought to use decentralisation as a strategy to achieve poverty reduction.²⁹

2. RESEARCH QUESTION

Ethiopia seeks to achieve two principal purposes through its decentralisation programme. It seeks to accommodate intra-regional minority ethnic communities that are found almost in every region of the country. It also aspires to use decentralisation as a strategy to reduce the prevalence of poverty. Several studies show that the institutional design of a decentralisation programme impacts on whether such programme can achieve a particular purpose. The research question that this thesis seeks to answer, therefore, is whether Ethiopia's local government system demonstrates the institutional features that are likely to enhance the prospect of a decentralisation programme to achieve development and accommodate ethnic minorities. With a view to answering this question, the thesis defines concepts such as decentralisation, development, ethnic community, ethnic minority and the like. It also raises and answers related questions including:-

²⁸ See chapter 4; § 5.

²⁹ See chapter 4; § 5.

- How does decentralisation impact development or accommodation of minorities?
- What are the institutional features that are likely to impact on the success of decentralisation to achieve development?
- What are the institutional features that are likely to impact on the success of decentralisation to accommodate ethnic minorities?

3. SCOPE OF THE STUDY

Ethiopia is a federal state composed of nine regional states and two autonomous federal cities.³⁰ Local government, under Ethiopia's federal system, is the competence of the regional states. This study will cover the local government system of eight of the nine regional states. The federal cities will also be part of the discussion.³¹

4. SIGNIFICANCE OF THE STUDY

Decades have passed since Ethiopia has begun implementing its decentralisation programme. Yet, there is barely any academic work which comprehensively deals with the legal and constitutional principles governing the country's local governance system. This thesis provides a comprehensive description of Ethiopia's local government system. Moreover, poverty and ethnic diversity, the two challenges that Ethiopia seeks to tackle through decentralisation, are not unique to Ethiopia. Almost all African countries face these challenges. It is believed that important lessons can be drawn from the excellence and mediocrity

³⁰ The regional states are Afar, Amhara, Benishangul-Gumuz, Gambella, Hareir, Oromia, Somali, Southern Nations, Nationalities and Peoples (SNNP), and Tigray.

³¹ Hareri, one of the nine regional states, is a small city state whose Constitution does not provide for a local government system. Therefore, the discussion in this thesis will not include the Hareri regional state.

of Ethiopia's decentralisation programme as an institutional arrangement both for achieving development and accommodating ethnic minorities.

5. ARGUMENT

The argument of the thesis is developed in the following manner

5.1. Decentralisation and development

Development scholars and global development institutions claim, based on experience of the past several decades, that decentralisation has the potential to achieve development. They also warn that decentralisation may in fact result in inequity, corruption, and in the exclusion of the poor. However, a correct institutional design may optimise the developmental benefits of decentralisation and minimise the dangers it poses.

5.1.1. Institutional features

The study argues that what is considered to be a correct institutional design of decentralisation may vary depending on the particular circumstances of each state. However, there are certain institutional features that are critical to optimise the potential of decentralisation to achieve development. These institutional features are political, financial, and administrative autonomy and institutional arrangements for central supervision and inter-governmental co-operation.

5.1.1.1. Political, financial, and administrative autonomy

Political autonomy has four critical elements. The first element of political autonomy is the certainty of the existence of local government. The existence of local government in turn involves three interrelated matters *viz.* the existence of local government as an order of government, the establishment of local government units in every part of a country, and the protection of the institutional integrity of each unit of local government. The second element of political

autonomy is the establishment of political structures which are democratically constituted. The political structure may include legislative and executive organs. The third element of political autonomy involves transferring to local government of original, clearly defined, and relevant functions. The fourth element of political autonomy is political power which may include policy making, planning, legislative, executive powers. Financial autonomy pertains to local government's revenue raising and expenditure powers. An administrative autonomy has two elements: the power of local government to determine the structure of its administrative organs and a personnel system that allows local government to hire and fire its own staff. Against the backdrop of these institutional features, the thesis examines whether Ethiopia's local government units have political, financial and administrative autonomy.

5.1.1.2. Central supervision and inter-governmental co-operation

Local political, financial and administrative autonomy is critical for decentralised development. Unfettered local autonomy, however, is likely to cause several problems. It is therefore important to complement local autonomy with central supervision. Central government may supervise local government's activities through regulation, oversight, and intervention.

In addition, development related functions cannot be neatly divided among different levels of government. There are likely to be grey areas and overlaps. Inter-governmental co-operation is therefore important in order to deal with such grey areas and overlaps. Inter-governmental co-operation may involve co-operation among local government units (horizontal co-operation) and co-

operation between local government units and senior levels of government (vertical co-operation).

Against the backdrop of the above institutional features, the thesis will examine whether the necessary institutional feature for central supervision and inter-governmental co-operation are existing in Ethiopia.

5.2. Decentralisation and accommodation of ethnic minorities

An examination of international literature shows territorial and non-territorial means of accommodation of ethnic minorities which may be implemented through a scheme of decentralisation.

5.2.1. Territorial autonomy at local level

One of the principal means of accommodating an ethnic minority community is providing it with territorial autonomy. The most common way to provide an ethnic community with territorial autonomy is through regionalisation or some form of federal arrangement. However, the thesis argues that territorial autonomy may also be exercised at local level. This territorial autonomy may have elements of self-rule and shared-rule.

5.2.1.1. Self-rule

Territorial autonomy, by definition, allows the relevant ethnic minority community to exercise self-rule. Self-rule first and foremost entails the creation of a local unit which is demarcated along the settlement structure of the relevant minority ethnic community. It involves the establishment of a political structure in the autonomous locality. It also requires devolving functions which are relevant for the promotion and protection of the identity of the relevant ethnic community.

Against the backdrop of these institutional features, the thesis examines whether there are local territorial unit that are designed to provide a minority ethnic community territorial autonomy and allow it to exercise self-rule.

5.2.1.2. Shared-rule

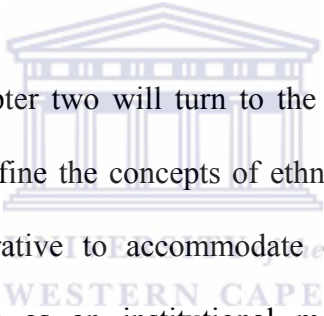
Shared rule is an institutional principle often associated with federal systems. Shared-rule aims to ensure that the constituting units of a federation are represented in a central government. Conceptually, territorial autonomy does not entail shared-rule. It does not, therefore, demand that local units be represented in the sub-national and national government organs. However, the thesis argues, a scheme of decentralisation, which provides minority ethnic community with self-rule, must also be complemented with shared-rule. The thesis then examines the constitutional principles allowing for the representation ethnic minorities or ethnic-based local territories at regional and federal level of government.

5.2.2. Non-territorial means of accommodating ethnic minorities

Territorial autonomy can only be used to accommodate territorially concentrated ethnic communities. When an ethnic community is territorially dispersed or when its size does not permit using territorial options, non-territorial arrangements should be considered. These may take the form of power-sharing or cultural autonomy. The thesis argues that decentralisation may create an environment that is conducive for accommodating minority ethnic communities on non-territorial basis. Then it will examine whether ethnic migrants and other territorially dispersed communities in Ethiopia are accommodated at local level through non-territorial arrangements.

6. STRUCTURE

The thesis is divided into eight chapters including this introductory chapter. Chapter two has three main sections. The first section discusses different forms and types of decentralisation and identifies the working definition of decentralisation of the thesis. This section will also discuss the evolution in the conceptualisation of ‘development’ with a view to formulate a working definition of development of this thesis. Then it will discuss the advantages and disadvantages of decentralisation as a strategy for achieving development. It will then identify the institutional features that are claimed to optimise the potential of a decentralisation scheme to achieve development.



The second section of chapter two will turn to the issue of accommodation of ethnic minorities. It will define the concepts of ethnicity and ethnic minority. It discusses why it is imperative to accommodate ethnic minorities and how decentralisation may serve as an institutional mechanism for doing so. It examines territorial and non-territorial schemes and the corresponding institutional design of decentralisation to accommodate ethnic minorities.

Chapter three explores the history of local governance in Ethiopia with a view to identifying the historical factors that necessitated a scheme of decentralisation in Ethiopia. This chapter briefly describes the traditional local administrative authorities and institutions that existed before the emergence of ‘Modern Ethiopia’ in the 1850s. It then discusses how the country became increasingly centralised. The chapter will also assess the impact of the centralisation of political power on development and ethnic minorities. Finally the chapter

describes the historical factors and processes leading to the decentralisation programme being implemented.

Chapter four has four sections. The first section will provide an overview of the federal and state governments' structure, functions, and powers. The second section will identify the place and status of local government in the federal system. The third section will deal with the policy rationales behind decentralisation in Ethiopia. The fourth section will provide an overview of Ethiopia's local government structure.

Chapter five and six will deal with the issue of decentralisation and development in Ethiopia. The two chapters evaluate Ethiopia's local governance system against the institutional features identified in chapter two. Chapter five will, therefore, examine whether Ethiopia's local government has political, financial, and administrative autonomy. Chapter six will discuss the institutional features of central supervision and inter-governmental co-operation in Ethiopia.

Chapter seven will deal with the issue accommodation of intra-regional ethnic minorities. It will discuss the territorial arrangements employed to accommodate territorially structured intra-regional minority ethnic communities and the role that local government plays in this respect. It also examines whether non-territorial schemes are used to accommodate territorially dispersed ethnic communities.

Chapter 8 will summarises the findings of the thesis. It also provides an overall conclusion and recommendations.

7. METHODOLOGY

Chapter two of the thesis is based on the review of relevant literature from books, journal articles, and other materials. Ethiopia's national and sub-national constitutions and laws are also consulted for the discussion in chapter three to seven. Moreover, government policy papers, reports, and other relevant materials are consulted.

As the discussions in chapter four to seven show, the local government structure, functions, powers, sources of revenue, and administrative structure of the eight regional states under consideration are, very similar. Hence, the discussion will be conducted in general terms and the relevant constitutions and proclamations will be cited. Where there are differences in local government system among the regions, those differences will be specifically mentioned and the provisions of the specific proclamations and constitutions will be cited.

As indicated above, national and sub-national constitutions and laws are used as the main sources of information for writing this thesis. However, accessing sub-regional laws has been extremely difficult for the author. They are not available on the internet. Hence, it was imperative to find the hard copies of the regional laws and constitutions by visiting each region. Even then, the regional laws might not be available as they might not be published immediately upon approval by the relevant regional council. Several years pass before some of the regional laws are published. There are even instances where regional laws are amended before they

are published. The regional laws are not made available to the public even when they are published. They are generally kept in government offices. As a result, despite the effort made to find all relevant regional laws, there still might be relevant laws which are duly passed by a regional council and yet are not included the discussion in this thesis.



Chapter 2

Decentralisation, development, and accommodation of diversity: A theoretical exposition

1. INTRODUCTION

As indicated in the previous chapter, this study aims to examine the suitability of the institutional framework of Ethiopia's local governance system for achieving development and accommodation of minorities. This undertaking requires a clear understanding of the concepts of 'decentralisation', 'development' 'ethnic community' and 'ethnic minority'. It also entails establishing the link between decentralisation and development and accommodation of minorities.

To that effect, § 2 defines decentralisation and discusses the various features and forms of decentralisation. § 3 offers a definition of development and shows the link between decentralisation and development. It identifies the prerequisite institutional features for decentralised development. Next § 4 will deal with the issue of accommodating ethnic minorities and links the issue with decentralisation. Finally, § 5 will synthesise the whole discussion in this chapter.

2. DECENTRALISATION DEFINED

Decentralisation is generally considered to involve a transfer of political, administrative, and/or fiscal powers, functions, and resources from a political centre to another sphere/level of government.³² The 'centre' may be a national or a sub-national government. A national government is viewed as a centre *vis-a-vis* federating states where federalism is considered as a form of decentralisation.³³

³² Ribot (2000) 453; Kauzya (2005) 4; Crawford & Hartmann (2008) 7.

³³ Gillette (1997)1352. Federalism is not always a result of decentralisation. It may also be a result of centralisation. See Stepan (1999)

Each of the federating states may also be regarded as a centre in relation to local government.³⁴ In a unitary state, the national government is often taken as the only centre from which power and resources are decentralised to localities.³⁵

2.1.Features of decentralisation

Decentralisation has three key features; political, administrative, and fiscal.³⁶ Political decentralisation seeks to empower local communities and enhance their role in decision making processes.³⁷ It is, therefore, directed at transferring political powers to citizens at grassroots level and/or their representatives.³⁸ It is also often associated with ‘political pluralism’ and democratic governance.³⁹ The administrative aspect of decentralisation pertains to transferring to local government the power to ‘hire and fire local staff without reference to higher level of government’.⁴⁰ The fiscal aspect of decentralisation relates to providing local government with ‘clear expenditure assignments and budget autonomy’.⁴¹ Decentralisation, for the purpose of this thesis, includes all of these three features.

2.2. Forms of decentralisation

Decentralisation takes various forms. The most common forms of decentralisation are deconcentration, delegation and devolution.⁴²

2.2.1. Deconcentration

³⁴ Gillette (1997) 1352.

³⁵ Gillette (1997) 1352.

³⁶ Scott (2009) 4; Sharma (2005) 39-40; Ebel & Yilmaz (2002) 159.

³⁷ Rondinelli (1999) 2; Shah (2004) 4.

³⁸ Sharma (2005) 39-40; Ebel & Yilmaz (2002) 159; Shah (2004) 4; Cohen & Peterson (undated) 29.

³⁹ Rondinelli (1999) 2; Ebel & Yilmaz (2002) 159.

⁴⁰ Shah (2004) 4.

⁴¹ Ebel & Yilmaz (2002) 159.

⁴² Rondinelli & Nellis (1986) 5.

Deconcentration is not decentralisation *per se*. It is rather a transfer of powers from ‘the central government and its agencies to field units of government agencies, subordinate units of government’.⁴³ It is, therefore, an intra-governmental ‘technocratic’ power transfer.⁴⁴ The lower units to which powers and resources are transferred are considered parts of, and accountable to, the centre, and not autonomous units as such.⁴⁵ Deconcentration is often referred to as ‘administrative decentralisation’ as it is meant to create administrative expediency.⁴⁶ Deconcentration may be either general or functional. In the first case multiple tasks are deconcentrated to local units⁴⁷ while in the latter case specifically selected tasks are deconcentrated to local units of the centre.⁴⁸

2.2.2. Delegation

Delegation, unlike deconcentration, is an inter-governmental decentralisation in which powers and functions are transferred from a centre to lower levels of government.⁴⁹ Specific responsibilities are transferred through delegation for a specific time and under specific conditions as fixed by the centre.⁵⁰ The centre remains the principal holder of authority. Hence, it is entitled to withdraw the responsibilities it has so transferred through delegation when it so chooses. Nonetheless, the local unit enjoys a wide range of discretion regarding how it

⁴³ Rondinelli & Nellis (1986) 5.

⁴⁴ Crook & Sverrisson (1999) 2; De Visser (2005) 14.

⁴⁵ De Visser (2005) 14.

⁴⁶ Manor (1999) 5; Rondinelli & Nellis (1986) 5.

⁴⁷ UNDP (1999) 7.

⁴⁸ UNDP (1999) 7.

⁴⁹ De Visser (2005) 14.

⁵⁰ De Visser (2005) 14.

exercises the delegated powers and functions during the validity of the delegation.⁵¹

Delegation may also be functional. This happens when a government creates ‘special-purpose agencies’ and provide them with functions appropriate to them.⁵² Such entities may include library boards, special service districts, autonomous school districts and the like.⁵³ Such entities may also be allowed to collect fees for their services, and are often permitted to enjoy a certain degree of autonomy.⁵⁴

2.2.3. Devolution

Devolution, also known as democratic decentralisation, is the most ‘genuine’ form of decentralisation.⁵⁵ Devolution involves a transfer of political, administrative, and financial authorities to a lower level/sphere of government for an undetermined period of time through a constitution or other legislative instruments.⁵⁶ Devolution also entails the creation of an autonomous level of government at local level with clearly demarcated geographical areas over which local government authorities exercise full political, administrative, and financial powers.⁵⁷ The role of the central government becomes limited to standard setting and monitoring once powers are devolved to a lower level government. The lower

⁵¹ De Visser (2005) 14.

⁵² Shah (2006) 7; Rondinelli (1999) 3.

⁵³ Shah (2006) 7; Rondinelli (1999) 3.

⁵⁴ Rondinelli (1999) 3.

⁵⁵ Manor (1999) 6-7; De Visser (2005) 15.

⁵⁶ Manor (1999) 6-7; De Visser (2005) 15.

⁵⁷ Rondinelli (1999) 2.

level government becomes accountable to the community within its territorial jurisdiction.⁵⁸

For the purpose of this thesis, decentralisation will be considered as devolution and is assumed to involve the transfer of political, financial and administrative functions and powers to local government units.

3. DECENTRALISATION FOR DEVELOPMENT

3.1. Introduction

As indicated earlier, one of the aims this thesis is to examine whether the institutional design of Ethiopia's decentralisation programme is suitable for development. This chapter, therefore, enquires into whether, how, and when decentralisation becomes an appropriate strategy for development. To this effect, the following sections will first create conceptual clarity on what development is. The subsequent sections will continue to examine the link, if any, between decentralisation and development.

3.2. Conceptualising development

The meaning of development has been discussed in various contexts for several decades. The industrial revolution was, for instance, viewed as a form of development.⁵⁹ 'Developing' the colonies was also invoked to justify colonial occupation during the colonial era.⁶⁰ Even the South African apartheid policy of racial segregation was embellished with a notion of development.⁶¹ However, serious attempts to conceptualise development and to determine the role that the

⁵⁸ Manor (1999) 6-7; De Visser (2005) 15

⁵⁹ Anand (2009) 11.2.

⁶⁰ Pieterse (2001) 5-6.

⁶¹ De Visser (2005) 10.

state can or should play in achieving development began only during the last days of World War II (WWII).⁶² Even then, the initial discourse on development was restricted to rebuilding the then war-ravaged Europe.⁶³

The discourse on development found a new thrust in the 1950s when a growing number of so called third world countries declared their political independence from colonial rule.⁶⁴ These countries were generally typified by rampant poverty, manifested in low per capita income, short life expectancy, high rate of infant mortality, illiteracy, and other social ills.⁶⁵ The discourse on development, therefore, began to focus on finding solutions to the social and economic quandaries of these countries.

There was a general concurrence among developmental economists at the time that the social problems of the developing countries were rooted in their poor economic situation.⁶⁶ The low level of industrialisation in these countries was in turn thought to be the main cause for their poor economic situation. From the 1950s and for about three decades, therefore, the discourse on development centred primarily on whether and how the west should assist the developing states to achieve economic growth.⁶⁷ The modernisation and *dependencia* development theories, the two most influential development paradigms until the 1970s, accentuated the need to achieve economic growth through rapid industrialisation

⁶² Dube (1988) 1-3.

⁶³ Dube (1988) 1-3; Rapley (2002) 5-6.

⁶⁴ Rapley (2002) 5-6. See also Pieterse (2000); Coetzee (1989); Slater (1993); Carmen (1996).

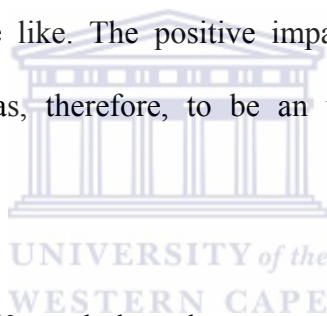
⁶⁵ Rapley (2002) 10.

⁶⁶ Rapley (2002) 7.

⁶⁷ Rapley (2002) 7.

as sole solution for the social problems of developing nations. These two development theories also recognised that the state has a critical role to play in achieving economic growth in these countries. However, they diverged on whether the western countries should play any role in bringing about economic development in the developing countries.⁶⁸

The above development paradigms paid little attention to the implications of the economic growth for the ordinary people.⁶⁹ Rather, the theorists assumed that economic growth, if realised, will eventually and naturally bring social benefits to the people in these countries in the form of access to education, adequate food, better health care, and the like. The positive impact of economic growth on human lives, if at all, was, therefore, to be an unintended offshoot of the economic growth.⁷⁰



Beginning from the 1970s scholars began to question the wisdom of conceptualising development solely in terms of economic growth. The proponents of the ‘alternative development’ paradigm, for instance, began to argue that development should be measured in light of human welfare it advances, and not

⁶⁸ Modernisation theorists argued that the West should serve as a model and play central role in bringing about economic development in the developing countries by using its capital, ‘entrepreneurial culture, and values’. *Dependencia*, on the other hand, blaming the west itself for the economic situation of the developing countries, maintained that the developing states should delink their economy from the west. They rather should formulate ‘autonomous national-development strategy’. Matunhu (2011) 68; Anand (2009) 11.2 ff; Botchway (2001) 175; Pieterse (2001) 6; Gore (2000) 792; Coetzee (1989) 20; Webster (1995); Slater (1993) 421; Carmen (1996) 92-95; Blaney (1996) 460; Smith (1979) 247; Vorster (1989) 55ff.

⁶⁹ Matunhu (2011) 67 & 70.

⁷⁰ Matunhu (2011) 67 & 70.

solely based on economic growth.⁷¹ They maintained that the effort rather should be ‘geared to the satisfaction of needs endogenous and self-reliant and in harmony with the environment’.⁷² Alternative development advocated community centred and participatory development; hence it was dubbed ‘development from below’.⁷³

It was, however, in the 1990s that the discourse on development took another turn from advocating mere economic growth to promoting the need to ensure the betterment of human lives. It was well recognised at this time that the economic growth, though important, was not enough. It became increasingly accepted that the appropriate ‘goal and measure’ of development is human development which finds expression in improved living conditions of the citizens of a state.⁷⁴ The ‘human development’ paradigm was among the first development paradigms that rejected the idea of development as being exclusively economic growth.⁷⁵ The premise of this paradigm is that economic growth, in terms of a rise in GNP and the amassing of commodities and wealth, on its own cannot be viewed as development. Rather, development should be measured against the ‘human goods’ that it advances.⁷⁶ Economic growth, therefore, should promote:-

‘better nutrition and health service, greater access to knowledge, more secure livelihood, better working condition, security against crime and physical violence,

⁷¹ Pieterse (2001) 75.

⁷² Pieterse (2001) 75.

⁷³ Pieterse (2001) 75.

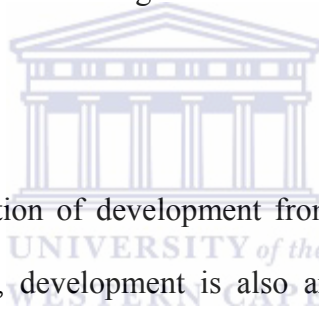
⁷⁴ Pieterse (1998) 344.

⁷⁵ UNDP (1990) 9-16.

⁷⁶ UNDP (1990) 9.

satisfying leisure hours, and a sense of participating in the economic, cultural and political activities of their communities'.⁷⁷

It is necessary to note that the concept of development as advancing human good recognises the value of national economic growth and increased per capita income. It, however, considers all these to have little worth unless translated into improved living conditions for the people. It was based on this perception that development or human development was defined as 'a process of enlarging people's choice'.⁷⁸ The choices include a long and healthy life, education, and a decent living standard. The human choices are, however, not to be limited to the above. They may include a whole range of other choices which may be attained through time.⁷⁹



With a shift in the conception of development from mere economic growth to betterment of human lives, development is also articulated within the human rights discourse. From a human right perspective development is defined as:

'[A] comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom'.⁸⁰

⁷⁷ UNDP (1990) 9.

⁷⁸ UNDP (1990) 9-10.

⁷⁹ UNDP (1990) 9-10.

⁸⁰ General Assembly Resolution 41/128 of 4 December (1986) Preamble.

After experimenting with several economic theories in the developing countries with a declared intention to bring about economic development, the World Bank also changed its approach to development in the 1990s. The 1999 World Development Report defined development as ‘sustainable improvements in the quality of life for all people...by reducing poverty, expanding access to health services, and increasing educational levels’.⁸¹ In short, development was defined as the opposite of poverty, poverty being a ‘pronounced deprivation in well-being’.⁸² What is considered as poverty is not merely an economic deprivation in the form of low income and consumption. It also encompasses lack of education, poor health, ‘voicelessness’, and ‘powerlessness’.⁸³

Furthermore, several writers have approached the concept of development from the point of view of human welfare. Amartya Sen rejects the conceptualisation of development exclusively in terms of economic growth, even though he admits that economic growth can be used to remove all ‘sources of unfreedom’.⁸⁴ Sources of ‘unfreedom’, according to Sen, include ‘poverty, tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over-activity or repression’.⁸⁵

De Visser also writes that development is more than mere economic growth. He contends:

⁸¹ World Bank (1999) 13. See also World Bank (2000) 1.

⁸² World Bank (1999) 15.

⁸³ World Bank (1999) 15.

⁸⁴ Sen (2001) 1.

⁸⁵ Sen (2001) 1.

‘The argument that [economic] growth brings jobs, which expands the tax base, which then pays for service delivery misses the inevitability of the eschewed distribution of life chances.’⁸⁶

He then defines development as a ‘material wellbeing’ of the people which is achieved based on their ‘choices’ and on ‘equitable’ basis.⁸⁷

3.3. Working definition of development

As can be gathered from the above discussion, with a shift in the conceptualisation of development from mere economic growth to the betterment of human lives, certain elements stand out almost in all definitions of development. These are: the advancement of human good or welfare, fairness, the central importance of public participation in development, and sustainability. It should be stressed that no definition of development detracts from the significance of economic growth for development. However, the focus now has been on whether and how a state should use existing resources, no matter how little, to improve the lives of its people. This study will, therefore, take the above as the core elements of development.

3.4. Why decentralisation for development?

The discussion above has briefly depicted the evolution in the conceptualisation of development from mere economic growth to human good and welfare. The elements of development which will inform the discussion in this study also have been identified. The next task is to examine the link between development and decentralisation.

⁸⁶ De Visser (2005) 12.

⁸⁷ De Visser (2005) 10-13.

Many scholars and global institutions, such as the World Bank, claim that decentralisation is an appropriate strategy for development. The case for decentralised development rests on the claim that decentralisation brings efficiency and institutional responsiveness in service delivery.⁸⁸ It is also claimed that decentralisation enhances democracy and public participation which is a critical element of development. The following sections will discuss these and other justifications for decentralised development. The dissensions against these claims will also be considered.

3.4.1. 'Deepening' democracy

Several scholars maintain that a genuine development can be achieved only through a democratic process which involves the direct and indirect participation of the people. As Botchway notes, development 'is more visible in countries with a history of democratic governance'.⁸⁹ Bahl also maintains that democracy is a 'necessary condition' – and not merely a 'desirable condition' – for successful

⁸⁸ It is not clear whether decentralisation results in economic growth, especially in developing countries. There is no empirical evidence which either conclusively demonstrates or refutes the claim that decentralisation brings economic growth. Akai and Sakata, based on studies conducted in the USA, conclude that decentralisation results in economic growth. Conversely, other scholars such as Prud'homme, Zhang and Zou are sceptical about the suggestion that decentralisation brings economic growth in developing states. Martinez-Vazquez and McNab could not find conclusive empirical evidence that supports the argument that decentralisation brings economic growth. Iimi, on the other hand, in a study conducted based on the macro-economic data of 51 developed and developing states and using the analytical framework of Xie, Davoodi and Zou, who found in their studies that in developing countries decentralisation hampers economic growth and it had no relation with economic growth in developed states, found out that fiscal decentralisation has an optimistic impact on per capita GDP growth. Akai & Sakata (2002); Prud'homme (1995); Martinez-Vazquez & McNab (2005) 25ff; Iimi (2005) 450; Xie, Zou & Davoodi (1999).

⁸⁹ Botchway (2001) 195.

development.⁹⁰ Crook and Sverrisson note that competitive and representative elections are the most preferable mechanisms to identify a community's developmental preference.⁹¹ In addition, 'voicelessness' and 'powerlessness' themselves are forms of deprivation which result from a lack of democracy.⁹² Based on these premises, scholars argue that decentralisation augments democracy and enhances the extent of public participation which is a condition for, and a central element of, development.

3.4.1.1. Decentralisation, representative democracy, and development

Crook and Sverrisson maintain that electoral democracy that aims to enhance development should be both representative and competitive.⁹³ Representativeness is about ensuring that all opinions and political forces are somehow represented in local government.⁹⁴ Competitiveness presupposes a 'possibility of alternation' in leadership which avails to 'all political forces a real chance of winning'.⁹⁵ Competitiveness is critical since an unrelenting electoral triumph of one party is likely to lead to authoritarianism while an ever certainty of defeat creates apathy in community matters.⁹⁶ It may even lead to violence. Hence, democratic competition should provide for a possibility of change in leadership.⁹⁷ It is the possibility of being ousted from power through competitive elections that

⁹⁰ Bahl (1999) 6.

⁹¹ Crook & Sverrisson (1999) 8.

⁹² World Bank (1999) 15.

⁹³ Crook & Sverrisson (1999) 8.

⁹⁴ Beetham (1996) 39.

⁹⁵ Sisk (2001) 120; Diamond (1996) 22. See also Arat (1995) 25.

⁹⁶ Sisk (2001) 120.

⁹⁷ Universal Declaration on Democracy (1997) Art 5.

motivates local authorities to be responsive to the public choices and to invest in pro-poor public services.⁹⁸

Several scholars argue that decentralisation augments the quality of representation.⁹⁹ This assertion is founded on the assumption that the existence of numerous electoral positions at multiple levels of government enhances the quality of representation.¹⁰⁰ This, in turn, enhances the extent of public influence on developmental policies of a government.¹⁰¹ Therefore, as Crook notes, the existence of multiple representative institutions that results from decentralisation enlarges the degree of social representation.¹⁰² By so doing, it improves the effectiveness of elections as an expression of the kind of development members of a local community desire. Manor also maintains that decentralisation enhances the quality of electoral participation by creating multiple representative institutions.¹⁰³ Furthermore, as Lindberg notes, the very act of holding repeated elections ‘promotes and breeds democratic qualities: The more successive elections, the more democratic a nation becomes’.¹⁰⁴ According to Lindberg, this is true even in African states where the most critical conditions for democratisation are seldom all to be present together.¹⁰⁵

⁹⁸ Gorden (2008) 238.

⁹⁹ Chhatre (2008) 15; Crook (2003) 79.

¹⁰⁰ Chhatre (2008) 15; Crook (2003) 79.

¹⁰¹ Chhatre (2008) 15.

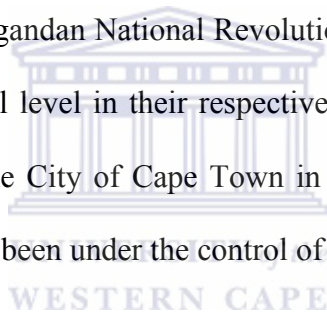
¹⁰² Crook (undated) 408.

¹⁰³ Manor (1999) 8.

¹⁰⁴ Lindberg (2006) 149.

¹⁰⁵ Lindberg (2006) 149.

Crook also argues that decentralisation injects an element of competitiveness in elections even in countries where there are dominant political parties.¹⁰⁶ The assumption here is that the policies, plans, and programmes of a single party are unlikely to satisfy all groups of the society in a country, even if they suit the majority of the people. Decentralisation affords minority parties opportunities to adapt their developmental agenda to suit the minority groups.¹⁰⁷ This, in turn, increases the competitiveness of democratic elections in a country and provides small parties the opportunity to govern at local level. Crook invokes as examples South Africa, Uganda, Cote d'Ivoire, and Mexico where decentralisation enhanced electoral competitiveness.¹⁰⁸ The South Africa's African National Congress (ANC) and the Ugandan National Revolutionary Movement (NRM) are dominant parties at national level in their respective countries. Yet a number of municipalities, including the City of Cape Town in South Africa and Kampala, the capital of Uganda, have been under the control of opposition parties



However, many writers, including those who advocate decentralised development, let alone its critics, confess that the significance of decentralisation for deepening democracy and, therefore, for development, may not be as rosy as depicted above; especially not in developing African and other states.¹⁰⁹ Prud'homme, in particular, critically questions the validity of the democratic argument along with the assumptions on which the argument is founded. He is

¹⁰⁶ Crook (undated) 408.

¹⁰⁷ Crook (undated) 408.

¹⁰⁸ Crook (undated) 408.

¹⁰⁹ Hiskey & Seligson (2003); Bardhan (2002) 188; Prud'homme (1995).

especially sceptical about the soundness of this argument so far as it relates to developing countries.¹¹⁰

Prud'homme maintains that the above argument is founded on two flawed assumptions. Firstly, the democratic argument erroneously assumes that local citizens express their preferences through democratic elections and direct participation.¹¹¹ Prud'homme contends that in developing countries voters seldom cast their votes based on issues. They rather vote by considering their 'personal, tribal, or political party loyalties'.¹¹² Besides, in many developing countries local elections are mere repetitions of national elections and hardly reflect local choices.¹¹³ Moreover, elections are not likely to be competitive in these countries as voters have no alternative choices.¹¹⁴

An empirical study in South Africa by Susan Booysen confirms this contention of Prud'homme for South African context.¹¹⁵ According to this study, the African National Council (ANC) retained great support in local elections despite the fact that communities, in several ANC-run municipalities, were unhappy about the scale and quality of services they received. The communities rather opted to vote

¹¹⁰ Prud'homme (1995).

¹¹¹ Prud'homme (1995) 208.

¹¹² Prud'homme (1995) 208.

¹¹³ Prud'homme (1995) 208.

¹¹⁴ Alberto Porto and Natalia Porto refute this argument of Prud'homme based on their study in Argentina where voters replaced municipal officials of incumbent parties with that of the opposition parties as they were unhappy with the performance of the former. Their study also shows that the probability of a local official who performs poorly being replaced is greater in smaller communities. See Porto & Porto (2000) 145.

¹¹⁵ Booysen (2007).

for the ANC but, at the same time, compel it through other mechanisms to improve service delivery.

Second, Prud'homme argues, the democratic argument incorrectly assumes that elected officials would work to fulfil local preferences for they would lose their positions unless they do so.¹¹⁶ Prud'homme says this is not necessarily true. In developing states elected officials are likely to retain their position even if they perform badly. Besides, they do not have the required resources to meet local preferences even if they desired to do so.¹¹⁷

In addition, the claim that democratic competition translates to development is not supported with adequate empirical evidence.¹¹⁸ On the contrary, several empirical studies show that countries, which have little or no political competition, provide better services than those with competitive local democracy. As a UNDP report indicates the ineffectiveness of democratic countries, such as USA, in providing public health services attests to the fact that democracy does not necessarily translate to development.¹¹⁹ Likewise, Keefer and Khemani argue that in India the poor tend to vote in local elections than the middle class or the rich. Yet the poor often end up receiving poor services as politicians redirect resources to satisfy special interests of the rich.¹²⁰

¹¹⁶ Prud'homme (1995) 208.

¹¹⁷ Prud'homme (1995) 208.

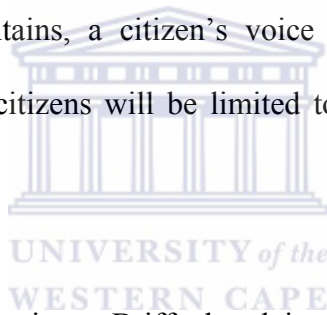
¹¹⁸ UNDP (2010).

¹¹⁹ UNDP (2010).

¹²⁰ See Keefer & Khemani (2004).

3.4.1.2. Decentralisation, public participation, and development

Many scholars maintain that decentralisation enhances the scope of public participation which is, as indicated before,¹²¹ a key element of development. This is based on two assumptions. The first is that communities prefer the decisions they make for themselves to those that are passed by another on their behalf.¹²² The second assumption is that the ‘degree of opportunity’ for participation is ‘inversely proportional’ to the territorial and population sizes of a political unit.¹²³ This is so because direct participation entails direct and indirect personal contact between the people, the political institutions, and public authorities, which become possible only when a political unit is small in sizes.¹²⁴ In a large community, as Blair maintains, a citizen’s voice is less likely to be heard. Therefore, the role of the citizens will be limited to rubber-stamping decisions made for them by others.¹²⁵



Based on the above premises, Briffault claims that decentralisation, by establishing small political units, enhances the extent of people’s participation.¹²⁶ As argued by several authors, decentralisation, by reducing the size of a state,

¹²¹ See above § 3.4.1.2.

¹²² Schiller states while representative democracy is justified on the basis of efficiency, direct participation is justified because it realises political equality and actualises the claim that the people are the ‘final sources of legitimation for political decisions’. Schiller (undated) 4. See also Loughlin (2001) 19.

¹²³ Beetham (1996) 30; Tuene (1995) 15; Dowding (1996) 53.

¹²⁴ Tuene (1995) 15; Dowding (1996) 53; Blair (1981) 3; Beetham (1996) 30; Gillette (1997) 1349. The European Charter on Local government provides that direct participation is ‘most directly exercised’ at local level. European Charter of Local Self-government (1985) Preamble.

¹²⁵ Blair (1981) 3; Kissam (2007) 60; Agrawal & Ribot (1999) 477.

¹²⁶ Briffault (1990) 395.

‘brings government closer to the people’.¹²⁷ Local political institutions, in turn, amplify the chances of citizens to participate in political dialogues and debates.¹²⁸ As Agrawal and Ribot note, ‘at its most basic’ decentralisation seeks to satisfy one’s desire to have a say in one’s own affairs by transferring ‘power closer to those who are most affected by the exercise of power’.¹²⁹ Frug states that ‘individual involvement in decision-making is impossible except on a small scale’ which results from decentralisation.¹³⁰

Moreover, within the context of the public-participation argument, several writers maintain that decentralisation by enhancing direct participation provides a platform for public accountability.¹³¹ This argument is premised on the assumption that public control and accountability entail ease of access which in turn presupposes a physical proximity.¹³² Decentralisation establishes that close proximity between the citizens and their officials.¹³³ Agrawal and Ribot maintain that by bringing government decisions to the people decentralisation enhances public accountability.¹³⁴

Furthermore, as Beetham argues, decentralisation not only increases one’s opportunity to participate, but also provides one with the incentive to

¹²⁷ De Visser (2005) 24; World Bank (2004) 89; Shah (2004) 5; Smoke (2001) 3; Canel (2001) 26; Porras (2009).

¹²⁸ Kissam (2007) 60.

¹²⁹ Agrawal & Ribot (1999) 477.

¹³⁰ Frug quoted in Briffault (1990) 395.

¹³¹ Tuene (1995) 15; Dowding (1996) 53; Beetham (1996) 38.

¹³² Tuene (1995) 15; Dowding (1996) 53; Beetham (1996) 38.

¹³³ De Visser (2005) 24; Shah (2004) 5; Smoke (2001) 3.

¹³⁴ Agrawal & Ribot (1999) 477.

participate.¹³⁵ Blair also argues that the many opportunities for participation at local level create a sense of common interest in community affairs.¹³⁶ The immediacy of the effect of local decisions, according to Sisk, motivates the local community to play a part in the decisions.¹³⁷ Thus, decentralisation provides the people not only with opportunities to participate in government but also with reasons and motivations to do so.¹³⁸

However, several writers critically question the above arguments. Parry and Moyser fear that participation may even reinforce inequality because the advantaged in a community may dominate the process.¹³⁹ They also say that the most active participants do not necessarily represent the concerns of the majority of the people.¹⁴⁰ Goetz and Jenkins also note:

‘Poorer people usually have as little influence in their local settings as they do in the national political arena, and sometimes substantially less....largely obscured from scrutiny of either the media or public advocacy groups, local political environment frequently reduce the incentive for elites to reorient their priorities.’¹⁴¹

¹³⁵ Beetham (1996) 30.

¹³⁶ Blair (1981) 5.

¹³⁷ Sisk (2001) 11. See also Føllesdal (1998) 198

¹³⁸ Besides, frequent participation that results from decentralisation builds people’s skill to participate. As Briffault maintains, direct participation allows the public to learn ‘about the issues, processes and institutions of government’ and how to use and control them. Therefore, it affords the people the opportunity to build their ‘democratic skills’. Pateman (1985); Briffault (1990) 395.

¹³⁹ Parry & Moyser (1994) 54.

¹⁴⁰ Parry & Moyser (1994) 57.

¹⁴¹ Goetz & Jenkins (1998) 10 quoted in Luckham, Goetz & Kaldor (2003) 32.

The issues of ‘elite capture’ and corruption are also often raised as counter-arguments against the argument that decentralisation enhances public participation.¹⁴² The 2011 World Development Report states:

‘Devolution can ... lead to a lack of local accountability and significant opportunities for corruption and reinforce or create elites who can use devolved power to pursue their own interests—to the detriment of both local and national interests.’¹⁴³

The ‘disadvantaged’, therefore, ‘may remain disadvantaged’ even in a decentralised system in spite of the enhanced representation and augmented opportunity for participation that decentralisation offers. Rather, local elites will use their ‘superior knowledge’ and connections to dominate and use local agendas for their own interest than for communal preferences.¹⁴⁴ Veron and William argue that it is unlikely that the ordinary citizens will effectively participate if there is no developed tradition of political participation.¹⁴⁵ It is much less likely where there is pervasive illiteracy, unfair distribution of economic power, lack of transparency in decision making, and the like.¹⁴⁶

3.4.2. Efficiency and institutional responsiveness

The other argument in favour of decentralised development rests on the claim that decentralisation results in efficiency and institutional responsiveness in identifying and implementing development projects.¹⁴⁷ The premise of this argument is that development, as a human good, entails the creation of efficient

¹⁴² Olowu (2001) 12; Bardhan (2002) 188; Shah (2004) 5; De Visser (2005) 29; Platteau & Gaspart (2003) 2. This phenomenon is called the ‘paradox of participation’. Crook & Sverrisson (1999) 3.

¹⁴³ World Bank (2011) 166.

¹⁴⁴ Olowu (2001) 12; Shah (2004) 5; De Visser (2005) 29; Platteau & Gaspart (2003) 2..

¹⁴⁵ Veron & Williams (2006) 1925-1926.

¹⁴⁶ Veron & Williams (2006) 1925-1926.

¹⁴⁷ Porras (2009) 557; Robinsons (2007) 8; Barankey & Lockwood (2007) 1197ff; Bardhan (1996) 140; Crook & Sverrisson (1999) 6; Ebel & Yilmaz (2002) 151; Adamolekun (1991) 68.

and appropriate means of formulating and implementing development projects.¹⁴⁸

It also requires prompt response by a government to meet articulated priorities of the people.¹⁴⁹

Based on the above assumptions, scholars maintain that decentralisation enhances efficiency in a sense that it responds to people's needs by creating 'congruence' between 'community preferences' and 'public policies'.¹⁵⁰ This argument either explicitly or implicitly assumes that decentralisation enhances democracy and public participation.¹⁵¹ Democracy and public participation are, in turn, assumed to allow a smooth flow of information from the citizens to government and *vice versa*. The smooth information flow, in turn, is expected to make development programmes cost effective, efficient, and 'responsive' to the needs of the poor.¹⁵² Shah states that '[l]ocal governments understand the concerns of local residents'.¹⁵³ Bardhan also maintains that self-governing local communities have a superior mechanism of co-ordination and enforcement.¹⁵⁴

Within the context of efficiency and institutional responsiveness, it is claimed that decentralisation allows a simultaneous satisfaction of varied preferences.¹⁵⁵ This argument is anchored in a postulate that communities in different localities are

¹⁴⁸ Barankey & Lockwood (2007) 1198; Bardhan (1996) 140.

¹⁴⁹ Bardhan (1996) 140; Shah (1994) 7.

¹⁵⁰ Crook (2003) 78; Yilmaz (2001) 3; Ford (1999) 6-7; Crook & Sverrisson (1999) 6; Crook (1994) 341-342.

¹⁵¹ Barankey & Lockwood (2007) 1198; Adamolekun (1991) 71.

¹⁵² Porras (2009) 557; Barankey & Lockwood (2007) 1198; Robinsons (2007) 8; Bardhan (1996) 140; Crook & Sverrisson (1999) 6; Ebel & Yilmaz (2002) 151.

¹⁵³ Shah (1994) 16.

¹⁵⁴ Bardhan (1996) 141.

¹⁵⁵ World Bank (2004) 74-75; Smoke (2001) 6; Treisman (2007) 59.

likely to have different priorities. As Botchway argues, in a centralised system these priorities are liable to remain 'unaddressed'.¹⁵⁶ A decentralised formulation and implementation of development programmes, in contrast, allows the various choices of the people of different localities to be observed.¹⁵⁷ In addition, decentralisation allows the innovation of wide-ranging methods of tackling development related problems through trialling.¹⁵⁸ As De Visser notes, 'constitutional scope for sub-national 'dissent' and a degree of competition with the central state is a fertile ground for innovative policies that benefit the entire state'.¹⁵⁹

Again within the efficiency argument, scholars maintain that decentralisation boosts constructive competition among local units. This is based on the postulate that individuals consider the variety and quality of services they will receive and the costs they will incur when choosing where to reside. Hence, they 'vote with their feet' by relocating themselves and their businesses to localities where there is efficient service delivery.¹⁶⁰ In a decentralised system, therefore, localities would strive to provide services efficiently in order to attract and retain investment and enlarge their tax bases.¹⁶¹

¹⁵⁶ Botchway (2001) 208.

¹⁵⁷ Smoke (2001) 6; De Visser (2005) 23-24.

¹⁵⁸ De Visser (2005) 23-24.

¹⁵⁹ De Visser (2005) 24-25; Smoke (2003) 9.

¹⁶⁰ Shah (2006) 5; Bradhan (2002) 188; World Bank (1999) 108-109; Adamolekun (1991) 72.

¹⁶¹ Bradhan (2002) 188; World Bank (1999) 108-109; Treisman (2007) 75.

Related factor is political accountability that decentralisation is claimed to promote.¹⁶² This, according to Bardhan, makes the most important difference between an inefficient centralised system of service delivery and an efficient system of decentralised service delivery.¹⁶³ Bardhan states that local politicians have a greater incentive to respond to local needs than politicians at national level since the former are accountable to small communities while the latter have ‘wider constituencies’.¹⁶⁴ In centralised systems, therefore, local communities are seldom able to correct the inefficiency of public authorities, even though they may be aware of it. A decentralised system, on the other hand, provides local communities with the institutional mechanism to correct such inefficiencies.¹⁶⁵

The efficiency argument is, however, critically questioned by several writers, especially to the extent that it relates to developing countries.¹⁶⁶ Writers, such as, Prud’homme and Adamolekun argue that the efficiency and institutional responsiveness argument is based on an incorrect assumption that there are significant differences in the development choices of various localities of developing states.¹⁶⁷ In developing countries the concern is not about satisfying ‘thinly differentiated tests’ of various localities. It is rather delivering basic services to all localities.¹⁶⁸

¹⁶² Bardhan (1996) 141.

¹⁶³ Bardhan (1996) 141.

¹⁶⁴ Bardhan (1996) 141.

¹⁶⁵ Bardhan (1996) 141.

¹⁶⁶ Bardhan (1996) 189; Prud’homme (1995) 208.

¹⁶⁷ Prud’homme (1995) 208; Prud’homme (2003) 21; Adamolekun (1991) 72.

¹⁶⁸ Prud’homme (1995) 208; Prud’homme (2003) 21. See also Bradhan (2002) 188.

Olowu, although in principle supportive of the efficiency argument, cautions that decentralisation may be too costly and administratively complex for African states as it involves institutional transformation.¹⁶⁹ Prud'homme also states '[t]he poorer a country is, the less attractive decentralisation is'.¹⁷⁰ The reason is that the creation and operation of a level of government entails several expenses which are only indirectly linked to development.¹⁷¹

Shah and others, while generally accepting the efficiency argument, maintain that decentralisation may result in 'financial perversity' harmfully affecting the national economy.¹⁷² The policy making power of lower level governments may hinder the power of the central government to use monetary and fiscal policies to ensure macro-economic stability (recession, inflation, balance of payments), equity (income distribution), and efficient resource allocation.¹⁷³

In addition, despite the theoretical elegance of the efficiency argument, several scholars who conducted empirical studies on the impact of 'decentralisation' on development maintain, decentralisation has little positive impact on development.¹⁷⁴ Crawford, based on an empirical study in Ghana, maintains that

¹⁶⁹ Olowu (2002) 13-14.

¹⁷⁰ Prud'homme (2003) 23.

¹⁷¹ Prud'homme (2003) 23-24.

¹⁷² Shah (2004) 5; Martinez-Vazquez & McNab (2005) 26; Martinez-Vazquez & Rider (2006) 2.

¹⁷³ Prud'homme (2003) 20; Sharma (2007) 38. On the other hand, some authors argue that decentralisation does not necessarily bring macro-economic instability. To the contrary, the countries with most stable macro-economy are the most decentralised countries such as Switzerland. Ebel & Yilmaz (2002) 152.

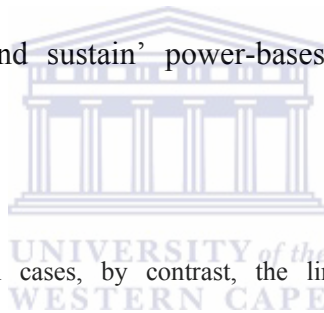
¹⁷⁴ See Scott (2009).

the success of 'decentralisation' in terms of reducing poverty is at best limited'.¹⁷⁵

Based on an empirical study in selected African, Asian and Latin American countries, Crook and Sverrisson observed that:

'The notion that there is a predictable or general link between decentralization of government and the development of more 'pro-poor' policies or poverty alleviating outcomes clearly lacks any convincing evidence.'¹⁷⁶

The study also found that 'decentralisation' could not bring development in several countries. Rather, as another study by Crook shows, local units are used by the incumbent parties of many African countries, including Kenya, Tanzania and Uganda, to 'create and sustain' power-bases at local level and in the countryside.¹⁷⁷



'In most of the African cases, by contrast, the linkage between the central government's decentralisation scheme and local leaders had an entirely different purpose. Here, central governments were using funding either to create *ab initio* dependent local elite or to consolidate an alliance with local elites based on availability of patronage opportunities.'¹⁷⁸

In spite of the prevailing cynicism about the significance of decentralisation for development, many writers, including those who failed to find any positive factual connection between decentralisation and development, insist that decentralisation can deliver. Besides, it is unclear whether the institutional

¹⁷⁵ See Crawford (2008).

¹⁷⁶ Crook & Sverrisson (2001) 52.

¹⁷⁷ Crook (2003) 85.

¹⁷⁸ Crook (2003) 85.

features that are deemed critical for decentralised development existed in the countries whose decentralisation programmes were alleged to have been unsuccessful. The existence of local authorities in a particular country does not mean the country is decentralised so long as the local authorities are unable to decide autonomously.¹⁷⁹ As some studies show, some elements which are critical for a successful decentralisation were lacking in the countries where decentralisation was allegedly failed to bring development.¹⁸⁰ One such critical element is central government commitment. As Crook maintains, political commitment of the central government determines the institutional responsiveness of local government.¹⁸¹ According to Gordon, the major reason for the failure of decentralisation to bring development in Ghana was the national government's lack of commitment to allow some measure of autonomy to local government.¹⁸² Measures that are taken by central governments to stifle local democracy, civil society engagement, public participation, accountability, and public discourses on poverty, are also considered factors harmfully affecting the success of decentralisation as a strategy for bringing about development.¹⁸³

3.4.3. Decentralisation and sustainable development

As was stated above, sustainability is a critical element of development. Sustainable development bears the notion of preserving natural resources while,

¹⁷⁹ See De Visser (2005) 30.

¹⁸⁰ See De Visser (2005) 30-31.

¹⁸¹ Crook (2003) 77.

¹⁸² Gordon (2008) 254.

¹⁸³ Gordon (2008) 241.

simultaneously, ensuring the welfare of the people.¹⁸⁴ It, therefore, bears a notion of inter-generational equity. As De Visser notes, the present generation has to take into account the rights of the generations-to-come while exploiting natural resources.¹⁸⁵

Scholars argue that decentralisation is a strategy preferable to a centralised one for implementing development projects while still conserving natural resources.¹⁸⁶ This claim is based on another assumption that decentralisation enhances public participation which is in turn assumed to allow the implementation of development projects without harming natural resources. As Porras states, due to the fact that decentralised decision making is participatory, conservation of natural resources has increasingly become a local matter.¹⁸⁷ Westerland also argues that, in developing countries, decentralising control over environmental matters to local units is preferable as these countries lack capacity to implement a centralised and effective system of environmental conservation.¹⁸⁸ Bardhan maintains that communities in rural areas have more incentive to preserve the environment than national politicians,¹⁸⁹ as their daily livelihood depends fundamentally on the local environmental resources.¹⁹⁰ Central management of natural resources, he argues, not only is inefficient and

¹⁸⁴ Gro Harlem Brundtland, Norway's Prime Minister, defined sustainable development as 'a development in which present generations find ways to satisfy their needs without compromising the chances of future generations to satisfy their needs'. Adam (2009) 6.

¹⁸⁵ De Visser (2005) 13.

¹⁸⁶ De Visser (2005) 13; Porras (2009) 542; Westerland (2007) 201; Bardhan (1996) 144.

¹⁸⁷ Porras (2009) 542.

¹⁸⁸ Westerland (2007) 201.

¹⁸⁹ Bardhan (1996) 144. See also Westerland (2007) 201.

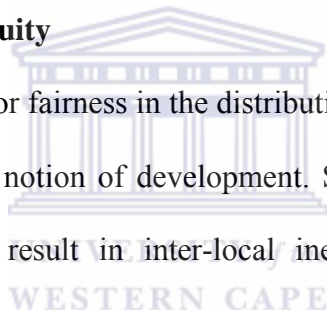
¹⁹⁰ Bardhan (1996) 144. See also Westerland (2007) 201

ineffective, but also takes away the incentive for a local community to protect the environment.¹⁹¹

Critics, however, maintain that a centralised system is economically efficient and, therefore, most appropriate means for planning and implementing a rational and an equitable use of natural resources.¹⁹² A decentralised system, on the other hand, is likely to be an impediment to efficient and rational use of natural resources.¹⁹³ This is because conservation of natural resources and the interests of local communities are in conflict.¹⁹⁴ Local communities are likely to destroy natural resources due to ‘ignorance’, ‘greed’, or ‘need’.¹⁹⁵

3.4.4. The danger of inequity

As indicated above, equity or fairness in the distribution of resources and services is a central element of the notion of development. Some scholarly works show that decentralisation may result in inter-local inequity (also called vertical



¹⁹¹ Some empirical studies also demonstrate that democratic local institutions are effective in natural resource conservation. In India, a ‘Joint Forest Management Programme’ which enabled the government to put more than two million hectare of forest under local community protection, is found to be a less costly and more effective scheme of forest protection. There are also other similar initiatives in other countries including CAMPFIRE in Zimbabwe and the *Gestion des Terroirs* of Mali. Having recognised the importance of participatory natural resource conservation, Local Agenda 21 which stemmed from the Rio de Janeiro Earth Summit recognises the need for the involvement of local communities. It thus, requires states to ‘promote and provide opportunities for the participation of interested parties, including local communities and indigenous people in the development, implementation and planning of national forest policies’. Johns & Carswell (2004) 143ff; Ribot (2000) 456; World Bank (1997) 118; Brugman (2002) 40-48; Bardhan (1996) 144.

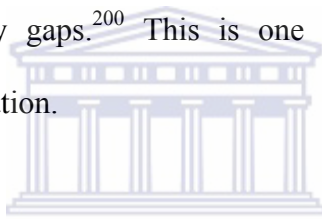
¹⁹² Sharma (2004) 2.

¹⁹³ Agrawl & Gibson (2004) 153.

¹⁹⁴ Agrawl & Gibson (2004) 153.

¹⁹⁵ Ribot (2000) 456.

inequity) and intra-local inequity (horizontal, personal, or household inequity).¹⁹⁶ Intra-local inequity (horizontal inequity) is expected to arise for local units might be unwilling or unable to ensure equitable resource distribution among their residents.¹⁹⁷ The argument that pertains to vertical inequity is predicated on the supposition of the existence of disparity in resources and tax bases among localities.¹⁹⁸ Such disparity is liable to exist because '[i]ncome is often geographically concentrated, both because of agglomeration economies and initial endowments of natural resources and infrastructural facilities'.¹⁹⁹ These variances, coupled with exclusionary use of resources, are feared to cause or exacerbate inequitable distribution of wealth which, in turn, is feared to extend the 'intra-national' poverty gaps.²⁰⁰ This is one of the strongest arguments levelled against decentralisation.



Many scholars agree that the above concerns are not baseless. However some still maintain that equity should not be confused with uniformity: A certain variation in the kind and extent of services that are delivered by different local units should be tolerated.²⁰¹ Others argue, local government, in particular metropolitan cities may ensure equity through redistribution.²⁰² Most importantly, it is incorrect to

¹⁹⁶ World Bank (1999) 109; Bardhan (2007) 189; Prud'homme (2003) 21; Mckinlay (2006) 59.

¹⁹⁷ Bardhan (2007) 189; World Bank (1999) 109; Prud'homme (2003) 21.

¹⁹⁸ Prud'homme (2003) 21; Olowu (2001) 13; Bardhan (2007) 189.

¹⁹⁸ Ebel & Yilmaz (2002) 155; Fjeldstad (2001) 12.

¹⁹⁹ Bardhan (2007) 189.

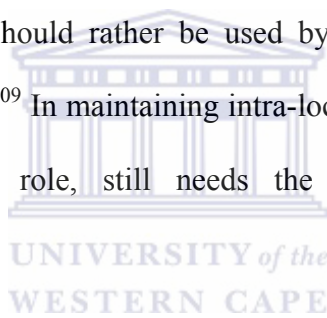
¹⁹⁹ Ebel & Yilmaz (2002) 155; Fjeldstad (2001) 12.

²⁰⁰ Ebel & Yilmaz (2002) 155; Fjeldstad (2001) 12; Crook (2003) 83.

²⁰¹ See Mckinlay (2006) 60.

²⁰² Mckinlay (2006) 45.

assume that the central government has no role in a decentralised system.²⁰³ Inequitable distribution of resources is likely to occur where an institutional device for redistribution does not exist.²⁰⁴ Redistribution has two dimensions; inter-local equity and intra-locality equity.²⁰⁵ Horizontal equity is related to ensuring equivalent service delivery in all localities while intra-local equity refers to equivalent income distribution among local citizens.²⁰⁶ The central government is expected to play a critical role maintaining horizontal equity through redistributive policies.²⁰⁷ As Shah argues, it is not preferable to put local governments in charge of re-distribution since they have limited resources and expenditure and re-distributional capacity.²⁰⁸ 'Equalisation grants', conditional and unconditional grants should rather be used by the central government to maintain horizontal equity.²⁰⁹ In maintaining intra-local equity, even though local government may play a role, still needs the assistance of the central government.²¹⁰



3.4.5. Concluding remarks

The foregoing discussion shows that decentralisation may potentially bring about participatory, equitable, and sustainable development. It may, however, result in marginalisation of the poor and the uneducated, unfair distribution of resources, and environmental degradation. On The other hand, as indicated in the

²⁰³ De Visser (2005) 45.

²⁰⁴ De Visser (2005) 45; Seer (1979) 11.

²⁰⁵ Ebel & Yilmaz (2002) 155.

²⁰⁶ Ebel & Yilmaz (2002) 155.

²⁰⁷ Smoke (2001) 5; Shah (2004) 12; Crook (2003) 83.

²⁰⁸ Smoke (2001) 5; Fjeldstad (2001).

²⁰⁹ Ebel & Yilmaz (2002); Fjeldstad (2001) 10.

²¹⁰ Smoke (2001) 5.

introductory chapter,²¹¹ decentralisation is not an option that a state can disregard. Global economic and local political forces push countries to undertake some form of decentralisation, sometimes even if unwillingly. The question, therefore, is not whether a country should implement some form of decentralisation programme. It is rather how a state can design its decentralised system of governance in such a way that the developmental potential of local units can be utilised. The following sections will discuss the institutional features that are claimed by development scholars and institutions to be important for decentralised development.

3.5. Institutional features of a decentralised development

Decentralisation on its own is ‘neither good nor bad’: its success or failure hinges on the nature or design of the decentralisation process.²¹² Moreover, there is no specific institutional design of decentralisation that brings development under all circumstances.²¹³ The design of a decentralised system, therefore, needs to be country-specific and contextualised.²¹⁴ Yet, international development institutions, such as the World Bank, as well as development scholars maintain that there are certain institutional features that are likely to impact the success of a decentralisation programme. This claim is based on international practice and the experience of the past several decades.²¹⁵ These institutional features are political autonomy, fiscal autonomy, administrative autonomy, and central supervision and co-operation.

²¹¹ See chapter 1; § 1.

²¹² World Bank (1999) 107; World Bank (2000) 106; Prud’homme & Shah (2002) 2; Sharma (2005) 43.

²¹³ Sharma (2005) 43.

²¹⁴ Sharma (2005) 43; Prud’homme (2003) 21.

²¹⁵ See World Bank (1999).

3.5.1. Political autonomy

Political autonomy is inherent in the notion of devolution.²¹⁶ Moreover, according to Bahl, political autonomy is ‘the most crucial element’ of decentralised development.²¹⁷ Political autonomy is fundamentally about the existence of local government that regulate its own affairs without interference from the centre. It, therefore, implies the certainty of the existence of local government. It also implies the establishment of local political structures. Moreover, it implies devolving suitable functions and powers to local government.²¹⁸

3.5.1.1. ‘Certainty of existence’

The continuous existence of local government is the foundation of local government political autonomy.²¹⁹ Local government cannot be considered politically autonomous if it can be freely abolished by a central government. Certainty of existence of local government involves three interrelated matters: The first element of certainty of existence relates to a secure and continued existence of local government as a sphere or level of government.²²⁰ Local government, as a level of government, should neither be created nor abolished at the caprice of the centre. An unrestrained central discretion in this regard puts local government under a constant threat of abolition and hinders its ability to formulate a long-term development plans.²²¹ As the World Bank accentuates, a certain measure of permanency in a decentralisation programme ‘reduces

²¹⁶ Rondinelli (1999) 2.

²¹⁷ Bahl (1999) 5.

²¹⁸ Kalin (1999) 1; De Visser (2005) 35-42.

²¹⁹ Kälin (1999) 1.

²²⁰ Kälin (1999) 1.

²²¹ Kälin (1999) 1.

uncertainty’ and ‘provides a common ground for all players in the political processes’.²²²

The question, therefore, is how the existence of local government can be ensured. Undoubtedly, the ultimate guarantee for the continued existence of local government emanates from a genuine conviction of the centre in the developmental merits of local government. As the earlier discussion shows, a lack of such conviction is the main cause of the failure of decentralisation programmes in several countries.²²³ The formal mechanism for ensuring the existence of local government is its being recognised as a sphere/level of government in a national constitution.²²⁴ This is why various international instruments, including, the Aberdeen Agenda²²⁵ and the European Charter of Local Self-Government, and the 1993 International Union of Local Authorities (IULA) World Wide Toronto Declaration of Local Self-government, call for the constitutional recognition of local government as ‘a sphere of government’.²²⁶

The constitutional recognition of local government as an autonomous level of government is also in keeping with the increasing political and economic role that local government units are playing. Local government units, especially

²²² The World Bank (2000) 113.

²²³ See above at § 3.4.2.

²²⁴ Steytler (undated) 14.

²²⁵ The ‘Aberdeen: Commonwealth principles on good practice for local democracy and good governance’ was passed in the conference of the Common Wealth Local Government Conference that was held in Aberdeen, Scotland.

²²⁶ The European Charter of Local Self-Government (1986) Art 2. Aberdeen Agenda (2005) Art 1. See also the Toronto Declaration (1993) Art 1.

international mega-cities, play central role in economic and political affairs.²²⁷ Their growing social and economic role calls for corresponding constitutional recognition to local government.²²⁸ This is why countries such as Germany, India, and South Africa, have constitutionally recognised local governments ‘as autonomous political [entity]’.²²⁹

The second element of certainty of existence pertains to ensuring that local government is established in every part of a country on a wall-to-wall basis.²³⁰ As De Visser argues, developmental local government is not needed only in certain parts of a country. Fairness dictates that, if decentralisation brings development, all people, regardless of where they live, should be able to share from its benefits.²³¹ This does not, however, mean that all local units across a country should assume an identical structure or function. Localities with different social and economic realities may require different structures. For instance, rural and urban local government units may have different structures.²³² According to the World Bank, it may be necessary to establish a local government structure with different tiers and jurisdictions depending on a country’s ‘physical characteristics, its ethnic and political makeup, and possibly its income level’.²³³

²²⁷ Watts (2000) 947.

²²⁸ Watts (2000) 947.

²²⁹ Watts (2000) 947.

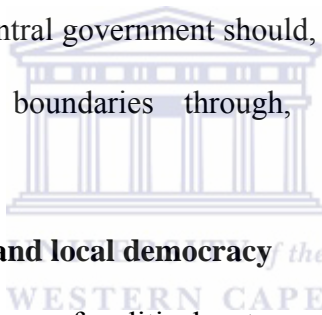
²³⁰ De Visser (2005) 270.

²³¹ De Visser (2005) 270.

²³² Bahl (1999) 9-10; Shah (2004) 28.

²³³ World Bank (1999) 115.

The third element of certainty of existence relates to ensuring the continued existence of each individual unit of local government. This does not, however, mean that no change may be introduced to the boundaries of local government. Rather, it means that it is useful to have clear criteria and transparent procedures, which involves the community, for so doing. The World Bank, therefore, accentuates that it is important to take into consideration, in demarcating local boundaries, factors, such as, territorial and population sizes, resources, developmental level and rural-urban differences.²³⁴ It is also important to consult the relevant community in the process altering local boundaries.²³⁵ Once established, the territorial boundaries of individual local unit should not be haphazardly altered. The central government should, therefore, be restrained from randomly altering local boundaries through, for instance, division or amalgamation.



3.5.1.2. Political structure and local democracy

The other institutional feature of political autonomy is the establishment of a political structure at local level. As was indicated above the establishment of political organs such as representative councils and other political organs is a defining element of devolution.²³⁶ The notion of political autonomy implies that the political organs, in particular the representative councils, are democratically constituted.²³⁷ This is especially important because the efficiency and

²³⁴ World Bank (1999) 115.

²³⁵ World Bank (2000) 12. The European Charter of Local Self-Government ((1985) Art 5) provides that 'Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute'. See also The World Wide Declaration of Local Self-Government (1993) Art 4(2).

²³⁶ See above at § 2.2.3.

²³⁷ Rondinelli (1999) 2; Bahl (1999) 5.

responsiveness of decentralised development depends on the success of local government as a democratic institution.²³⁸ Local democracy is also critical for development, not to be an imposition from above but to be achieved through the ‘active, free and meaningful’ participation of the people.²³⁹ A representative and competitive local democracy is, therefore, considered an important feature of political autonomy and a crucial prerequisite for decentralised development.

Local democracy, in turn, implies conducting regular, free, and fair elections. This, in turn, depends on several institutional requirements. These may include: a suitable electoral system, constituency delimitation, political parties, an independent or balanced election administration organ, dispute settlement mechanism and the like.²⁴⁰ However, one issue persists as far as local elections and decentralised development are concerned. This is whether local elections should involve political parties.

Political parties

There is a disagreement among some writers on whether local elections should be partisan or non-partisan. There are arguments both for and against the involvement of political parties in local elections. Those who oppose partisan local elections maintain that local government deals with ‘bread and butter’ issues and no division along party lines should exist regarding these matters.²⁴¹ Besides, partisan local elections are likely to contaminate policy with patronage, clientelism, and temporary political gains, thereby diverting the focus from the

²³⁸ See above at § 3.4.1 & 3.4.2.

²³⁹ See above at § 3.3.

²⁴⁰ See Goodwin-Gill (2006).

²⁴¹ Packel (2008) 3.

essential issues.²⁴² Furthermore, party politics discourages openness, stifles debate, and takes decisions away from the local community.²⁴³

Supporters of partisan local elections, on the other hand, maintain that partisan local elections facilitate the link between local government and the central government.²⁴⁴ It also signifies the recognition of the key role that local government plays in a democratic process. In addition, the ‘butter and bread’ argument does not hold water given the growing political and economic role of local government. Moreover, excluding the involvement of political parties would take away from small parties the opportunity that results from decentralisation. Moreover, according to Koryakov and Sisk, political parties can formulate comprehensive policies that articulate and combine public interests and preferences on a wide range of issues unlike other organisations which deal with specific issues.²⁴⁵ In addition, political parties train political leaders and educate and mobilise citizens to be a politically active society.²⁴⁶

In any case, political parties would not refrain from influencing local politics by instilling people amenable to them even if they are formally excluded from local elections. In the USA, for instance, where local elections are mostly held on non-partisan basis, political parties often interfere by endorsing and campaigning on

²⁴² Packel (2008) 3.

²⁴³ This was more or less the finding of the New York City Charter Revision Commission. Staff Report to the New York City Charter Revision Commission (2003).

²⁴⁴ Packel (2008) 3.

²⁴⁵ Koryakov & Sisk (undated) 23.

²⁴⁶ Koryakov & Sisk (undated) 23.

behalf of certain candidates.²⁴⁷ In South Africa it is alleged that political parties often interfere in the work of ward committees which are legally designed to be non-partisan. Such practices allow a backdoor deal and veil transparency.²⁴⁸ The above controversy aside, practice shows that in many countries, local elections are conducted on multi-party basis.

Institutional framework for direct public participation

As was pointed out above, public participation is a key element of decentralised development. Public participation is a process ‘continuum’ that takes place at different ‘levels’ and may bring various outcomes.²⁴⁹ The various levels of public participation may need various institutional arrangements. As a minimum, local government should be transparent about its works and allow the local community to access information. In addition, local government may take active measures to publicise its performances. To this effect, a legal framework may require that local government to be transparent and publicise how it works.²⁵⁰ Public participation may also require an institutional system for public consultation and lodging petitions which²⁵¹ should involve local communities both in their individual and collective capacities through civic society organisations (CSO).²⁵²

²⁴⁷ Staff report to the New York City Charter Revision Commission (2003).

²⁴⁸ Packel (2008) 3.

²⁴⁹ Smith (2003) 36; Steytler & De Visser (2007) 6-11.

²⁵⁰ Smith (2003) 36; Steytler & De Visser (2007) 6-11.

²⁵¹ Steytler & De Visser (2007) 6-11.

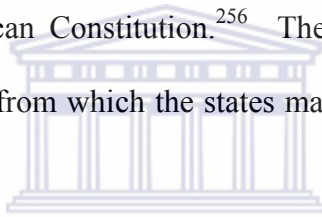
²⁵² Civil organisation or civil society organisations (CSOs) are 'associated movements and individualities which participate in exercising social control over political class, without formally or exclusively belonging to it'. Currently, there is a general consensus that no democracy can thrive devoid of CSO. The Universal Declaration on Democracy provides that an active CSO is an essential element of democracy. The Aberdeen Agenda also provides that '[t]he building of a robust relationship between local government and civil society is central to local democracy'. According to McGinnis civil society organisations have greater influence in a decentralised

3.5.1.3.Devolution of original, relevant, suitable, and clearly defined functions

Devolution of functions to local government is another key element of political autonomy. Scholars argue that local government should have original, suitable, and clearly defined developmental mandates.²⁵³

Original functions

De Visser argues that local government's functions should be 'original' on which it is a 'primary decision maker'. The way to do so is to define local government's functions in a national constitution.²⁵⁴ This is in line with the international trend.²⁵⁵ The constitutions of several countries contain a list of local government functions. For instance, local government competences are listed in Schedule 4B and 5B of the South African Constitution.²⁵⁶ The Nigerian Constitution also contains a list of functions from which the states may select and transfer to local government.²⁵⁷



Relevant for development and suitable for local government

De Visser stresses that it is important to ensure that the functions that are transferred to local government are relevant for decentralised development. A function is considered relevant for development if it is useful for enhancing the welfare of local communities.²⁵⁸ Functions relating to public health, education, housing, drinking water etc are considered relevant for development.

system and at local level. Sèhouèto (1997); Ake (2000) 134; Universal Declaration on Democracy (1997) Art 18; Aberdeen Agenda (2005) 5; McGinnis (2002) 491.

²⁵³ De Visser (2005) 39. See also World Bank (1999); Bahl (1999); Shah (2004).

²⁵⁴ De Visser (2005) 271.

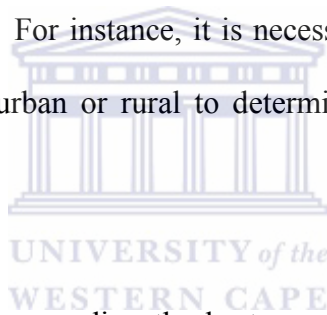
²⁵⁵ See Watts (2000).

²⁵⁶ The Constitution of the Republic of South Africa (1996).

²⁵⁷ The Constitution of the Federal Republic of Nigeria (1999).

²⁵⁸ De Visser (2005) 40; World Bank (1999); Shah (2004) 9. See also Tapscott (2004).

As stated above, the functions are devolved to local government should be not only relevant for development but also suitable for local government. ‘Suitability’ has to do with the human and institutional capacity of a local government unit to effectively and efficiently exercise a particular function.²⁵⁹ According to Manor, it is not prudent to devolve complex functions which are beyond the human and institutional capabilities of local government.²⁶⁰ It is not also sensible to devolve functions that extend beyond a geographical jurisdiction of a local unit.²⁶¹ According to Shah, in determining the suitability of a function to local government, an asymmetrical approach, rather than ‘one-size-fits-all’, is preferable which takes into account the nature, size, capacity, and financial resources of local units.²⁶² For instance, it is necessary to consider whether the particular local unit is an urban or rural to determine the appropriateness of a particular function to it.²⁶³



There are different theories regarding the best way to determine functions that may be devolved to local government units.²⁶⁴ In general, the principle of subsidiarity is proposed as the most preferred approach for determining local government functions.²⁶⁵

²⁵⁹ Manor (1999) 81.

²⁶⁰ Manor (1999) 81.

²⁶¹ Manor (1999) 81.

²⁶² Shah (2004) 9.

²⁶³ De Visser (2005) 40.

²⁶⁴ These include the fiscal equivalency theory, the decentralisation theorem, the correspondence principle, and the principle of subsidiarity. Shah (2006) 3-4.

²⁶⁵ The Aberdeen Agenda (2005) Art 5. The principle of subsidiarity, even if not expressly mentioned, is provided impliedly in international treaties such as the European Charter of Local government and the Toronto Declaration. European Charter of Local Government (1987) Art 4(3). See also The Toronto Declaration (1993) Art 3(1).

The principle of subsidiarity

The principle of subsidiarity is a complex concept with multitude of features.²⁶⁶

The feature of subsidiarity that is relevant for this discussion, however, is what is called ‘institutional subsidiarity’:

‘Institutional subsidiarity, as a force in societal life, constrains any more encompassing or superordinate institution (or body or community) to refrain from taking for its account matters which a more particular, subordinate institution (or body or community) can appropriately dispose of, irrespective of whether the latter is an organ of State or of civil society.’²⁶⁷

The principle of institutional subsidiarity, in its classical sense, regulates the centralisation of competences rather than their decentralisation.²⁶⁸ Under institutional subsidiarity a decentralised exercise of power is the norm. It does not assume the existence of a centre with original powers from which power streams down to the local units like decentralisation does. On the contrary, it views the local units as the original custodians of political power and regulates when and how the centre can justifiably assume some of these powers and functions.²⁶⁹

The principle of institutional subsidiarity has certain philosophical underpinnings.²⁷⁰ The liberal conception of individual sovereignty is one of the

²⁶⁶There are also similar concepts such as strategic subsidiarity, jurisdictional subsidiarity, adjudicative subsidiarity etc. For a detailed discussion see De Visser (2010) 91. See also Du Plessis (2006) 209-218.

²⁶⁷ Du Plessis (2006) 209-10; See also Føllesdal (1998) 190.

²⁶⁸ De Visser (2010)104.

²⁶⁹ De Visser (2010)104

²⁷⁰ For detailed discussion of these justifications see Føllesdal (1998).

philosophical bases of subsidiarity.²⁷¹ The reasoning is that associations of a family, communal or cultural nature are essential for the development of the individual, and that government should not assume the role of these associations.²⁷² Similarly, the Catholic religious conception of social philosophy, as espoused initially by Pope Pius XI and later by Pope Leo XIII, emphasises the importance of family and civic associations for the individual.²⁷³ Thus, it rules out any government interference with these bodies except where justified by a ‘common good’.²⁷⁴ Subsidiarity is also linked to the efficiency argument that was discussed above.²⁷⁵ Within the context of development this argument is based on the premise that developmental preferences vary depending on ‘external or internal parameters such as geography and tastes and values’.²⁷⁶ Local decisions should be left to local decision makers as they ‘have a better grasp of affected preferences and alternatives, making for better service’.²⁷⁷ The principle is also defended on democratic principles. The argument in this respect is that only those who have a direct interest in a particular public service should be allowed to deliberate on its delivery.²⁷⁸

The principle of subsidiarity is, thus, in a sense ‘proscriptive’ or ‘protective’ as it restricts the central government from assuming a particular task unless it is justified

²⁷¹ Føllesdal (1998) 200-205

²⁷² Føllesdal (1998) 208.

²⁷³ Føllesdal (1998) 207-208; De Visser (2010) 92.

²⁷⁴ Føllesdal (1998) 208.

²⁷⁵ See above at § 3.4.2. Føllesdal (1998) 205.

²⁷⁶ Føllesdal (1998) 205-206.

²⁷⁷ Føllesdal (1998) 206.

²⁷⁸ De Visser (2010) 93.

by efficiency or necessity.²⁷⁹ Subsidiarity protects local units from undue intrusion by the centre. Subsidiarity may also be considered as ‘prescriptive’ for it enjoins the centre to assume a particular task when its assumption of the task is justified by ‘comparative efficiency’ and/or dictated by ‘necessity’.²⁸⁰ Moreover, the principle of subsidiarity both as a proscriptive and prescriptive principle is ‘biased’ in favour of local units. It thus presupposes that power ‘originally rests with the subnational units and is delegated upward at [their] discretion and not at the discretion of the central authority’.²⁸¹

Even though initially the principle of subsidiarity is conceptualised with a ‘automatic bias’ in favour of sub-national units in the allocation of competencies, now, however, it is given a rather toned down meaning in different constitutional and legal instruments. De Visser, for instance, argues that there is no automatic assumption under the European Charter on Local Government that power belongs to local units. However, there is a ‘preference’ in their favour in the allocation of competencies.²⁸² De Visser also argues that the approach to the subsidiarity principle which has been infused in the South African Constitution is that of ‘functionality’.²⁸³

²⁷⁹ Føllesdal (1998) 195.

²⁸⁰ Føllesdal (1998) 195.

²⁸¹ De Visser (2010)104.

²⁸² De Visser (2010) 99.

²⁸³ The principle of subsidiarity as provided under section 156(4) of the South African Constitution requires the assignments functional competences to local government to be based on the principle of ‘functionality’ which embodies both ‘efficiency’ and ‘effectiveness’.De Visser (2010) 102.

Clearly defined functions

Clarity in the definition of local government functions is an important consideration in devolving functions to local government.²⁸⁴ This prevents uncertainty about who does what. It also helps ensure that locally identified priorities are implemented at local level as opposed to ‘populist’ projects with no or transient benefits or ‘centrally determined programmes’.²⁸⁵ Moreover, clarity is a key for ensuring downward accountability.²⁸⁶ Based on an empirical study in seven African countries, Olowu and Smoke maintain that clearly defined local government function is a precondition for a successful decentralisation programme.²⁸⁷ Lack of clarity, in the division of competences among different levels of government, results ‘in wasteful redundancy in service provision’.²⁸⁸ It also creates confusion about which level government is responsible for the provision of certain service.²⁸⁹ Moreover, it makes holding local authorities accountable difficult, if not impossible, as local citizens will not be able to know the kinds and extent of services that they may justifiably expect from local government.²⁹⁰ McLure and Martinez-Vazquez maintain that one of the critical errors in the design of decentralisation in some Latin American countries was the transferring of revenue to local government without clearly defining its

²⁸⁴ Ebel & Yilmaz (2002) 161; De Visser (2005); World Bank (1999) 115; Olowu & Smoke (1999) 8; Steytler & Fesha (2007) 324.

²⁸⁵ Ebel & Yilmaz (2002) 161.

²⁸⁶ World Bank (1999) 115

²⁸⁷ Olowu & Smoke (1999) 8.

²⁸⁸ Steytler & Fesha (2007) 324; Olowu & Smoke (1992) 8.

²⁸⁹ Olowu & Smoke (1992) 8.

²⁹⁰ Steytler & Fesha (2007) 324.

competences.²⁹¹ The lack of clarity in functional competences resulted in a ‘weak decentralised system’ and financially ‘overburdened’ centre.²⁹²

Yet, the definition of local government competences should not be too detailed. As Botchway argues it is important to afford local government a certain measure of discretion.²⁹³ ‘Extreme formalism’ discourages creativity in tackling social problems. Moreover, it counters local autonomy by allowing the centre to decide developmental projects that should be undertaken at local level under the pretext of defining the functional competences of local government.²⁹⁴

3.5.1.4. Political Power

The notion of political autonomy implies the transfer to local government of full and exclusive political powers in certain functional areas.²⁹⁵ Political power may include the power to formulate policies, to legislate, and to execute local legislation and decisions. Thus, political power embodies the power of local government to have a ‘final say’ on its functions to the exclusion of any other level of government. As De Visser notes if development is to be based on the preferences of the local community, local government should be able to ‘translate locally generated [policies] into [laws]’.²⁹⁶ The legislative powers of local government should be original and emanate directly from a constitution. Thus,

²⁹¹ McLure and Martinez-Vazquez (undated) 1.

²⁹² McLure and Martinez-Vazquez (undated) 1.

²⁹³ Botchway (2001) 201.

²⁹⁴ Botchway (2001) 201. Steytler calls the over-regulation of local government in South Africa ‘strangulation of local government’. See Steytler (2008).

²⁹⁵ European Charter of Local Government (1987) The World Wide Declaration of Local Self-Government (1993) Art 3(4).

²⁹⁶ De Visser (2005) 272.

local government should be ‘the first entity to fill legislative space with regulation’.²⁹⁷

3.5.2. Financial autonomy

Financial autonomy is a defining element of devolution.²⁹⁸ It is also among the most critical institutional features of a successful decentralisation programme that achieves development.²⁹⁹ The World Bank states ‘independent tax bases and sources of credit’ directly affect the political and administrative autonomy of local government.³⁰⁰

3.5.2.1. Taxes and fees

Financial autonomy implies revenue raising and expenditure powers.³⁰¹ The revenue raising power of local government involves taxing and borrowing powers.³⁰² The taxing powers of local governments include the power to determine the tax rates, to collect the taxes, and to spend the revenues collected from the taxes.³⁰³ This will help local government preserve its political and administrative autonomy and render it responsive to the preference of, and accountable to, local citizens.³⁰⁴ It is stressed in many scholarly works that it is important to maintain a balance between the revenue raising powers of local government and its developmental responsibilities and expenditure needs.³⁰⁵ This is, according to Shah, critical for shielding local government’s political and

²⁹⁷ De Visser (2005) 272.

²⁹⁸ Rondinelli (1999) 2.

²⁹⁹ Gordon (2008) 253; Olowu & Smoke (1999) 8.

³⁰⁰ World Bank (1999) 117.

³⁰¹ Shah (2004) 17ff; World Bank (1999) 117; Ebel & Yilmaz (2002) 147; Bahl (1999) 10.

³⁰² Bahl (1999) 7.

³⁰³ Shah (2004) 21.

³⁰⁴ Bahl (1999) 10; De Visser (2005) 41; Shah (2004) 38.

³⁰⁵ World Bank (1999) 117; Sharma (2005) 39; Bahl (1999) 7; Shah (2004) 18.

administrative autonomy from central intrusion and to maintain its downward accountability.³⁰⁶ McLure states:-

‘Subnational governments that lack independent sources of revenue can never truly enjoy fiscal autonomy; they may be – and probably are – under the financial thumb of the central government.’³⁰⁷

The taxes that are considered suitable to local government are direct taxes such as user charges, property taxes, and personal incomes taxes.³⁰⁸ However, local government’s taxing and expenditure power should not be totally unfettered. Unfettered local taxing power has the potential to harmfully impact on the capacity of the central government to maintain equity and regulate national macro-economy.³⁰⁹

3.5.2.2. Borrowing

There is a prevailing apprehension about local borrowing. Many fear that local borrowing has the potential to destabilise the national macro-economy.³¹⁰ This is based on the assumption that local borrowing often presupposes an explicit or implicit guarantee by the central government which encourages lenders to extend unwarranted loans to local government.³¹¹ It also allows local government to

³⁰⁶ Shah (2004) 17.

³⁰⁷ McLure & Martinez-Vazquez (undated) 2. See also Weingast (2007) 14.

³⁰⁸ World Bank (1999) 120; Sharma (2005) 39; Bahl (1999) 7; Shah (2004) 18.

³⁰⁹ World Bank (1999).

³¹⁰ Ahmad (1999) 32.

³¹¹ Ahmad (1999) 32.

spend excessively.³¹² In the end, the central government will be faced with ‘unplanned fiscal liabilities’.³¹³

The World Bank, therefore, stresses that the central government should use its regulatory power to control local government borrowing, if local borrowing is at all permitted.³¹⁴ It may, for instance, impose a limit on the amount that local government may borrow annually.³¹⁵ It may also require a local government to secure prior authorisation before borrowing, especially borrowing from foreign sources. The World Bank also accentuates that the central government should consistently refrain from guaranteeing local government’s loan or from bailing out local government units if the latter default.³¹⁶ This will encourage lenders to take extra care before extending loans to local government units.

3.5.2.3. Inter-governmental transfers

Whilst internally raised revenue is inherent in local autonomy and vital for downward accountability, the reality is that local government is rarely able to raise sufficient own revenue.³¹⁷ This is especially true in Africa where local government, save for a few urban areas, suffers from severe financial limitations. Moreover, there is almost always a disparity in resources and tax-bases among localities. This necessitates a scheme of revenue transfer from the central

³¹² Ahmad (1999) 32.

³¹³ This was the case in countries such as Brazil and Argentina where uncontrolled sub-national borrowing led to inflation destabilising the macro-economy of these countries. Ahmad (1999) 32. See also Hoffman (1999) 89.

³¹⁴ World Bank (1999) 120.

³¹⁵ World Bank (1999) 120.

³¹⁶ World Bank (1999) 117.

³¹⁷ Ebel & Yilmaz (2002) 148; World Bank (1999) 117.

government to local government. It may also require financial equalisation scheme that favours local units with weaker financial sources in order to maintain horizontal equity.³¹⁸

Shah argues it is preferable to use formula-based general purpose grants to transfer revenues to local government units, rather than those that are determined on discretionary basis.³¹⁹ Such grants, he maintains, are expected to ‘augment the budget resources’ of local government without compromising its autonomy.³²⁰ General purpose grants are also in keeping with the assumption that local government is better informed of the preference of a local community than the central government.³²¹ A grant made on a discretionary basis, on the other hand, is prone to ‘political manipulation’ which would lead to uncertainties and, therefore, discourage local ‘fiscal planning and effective budgeting’.³²²

Moreover, the central government should cover the financial costs of functions which local government discharges on the central government’s behalf.³²³ It may also use financial transfers to ensure that a particular sector is given special attention by local government.

³¹⁸ World Bank (1999) 117; Ebel & Yilmaz (2002) 148.

³¹⁹ Shah (2010) 3.

³²⁰ Shah (2010) 3.

³²¹ Prud’homme & Shah (2002) 2-3.

³²² Ebel & Yilmaz (2002) 148.

³²³ World Bank (1999) 117.

The World Bank warns that grants should not replace local internal revenue nor should they be excessively large.³²⁴ Local taxes are necessary to ‘ensure that subnational governments face, at least to some degree, the political consequences of their spending decisions’.³²⁵

3.5.3. Administrative autonomy

Administrative autonomy is a defining element of devolution.³²⁶ Administrative autonomy is essentially about local government being able to implement its own policies, by-laws, and decisions using its own administrative structure and personnel. Administrative autonomy, therefore, has two elements. The first element is the power of local government to determine the structure of its administrative.³²⁷ The power of local government to determine its own administrative structure provides it a certain degree of flexibility to respond to local situation. The second element of administrative autonomy relates to whether local government may hire and fire its own personnel, and to hold them accountable.³²⁸ This is important because, as Olowu and Smoke state, in many African countries the central government is in charge of hiring and firing local personnel. The local personnel are, therefore, controlled by the line ministries at national or state level rather than to the political organs of the local government. They maintain that the ‘stifling’ effect of such control is among the critical reasons for the failure of decentralisation to bring development in many of these

³²⁴ World Bank (1999) 117.

³²⁵ World Bank (1999) 117. See also Shah (2010) 3.

³²⁶ Rondinelli (1999) 2; Olowu & Smoke (1999) 3; Gordon (2008) 253.

³²⁷ These two elements are visible in the European Charter of Local government (1987) 6 (1). See also the World Wide Declaration of Local Self-Government (1993) Art 5 (1).

³²⁸ Shah (2004) 5; World Bank (1999) 122.

states.³²⁹ Therefore, local administrative staff should be controlled by and accountable to local political organs.

3.5.4. Central supervision and inter-governmental co-operation

Devolution is by definition only about local political, financial and administrative autonomy. However, as was discussed above unfettered local autonomy has several negative effects including inequity, corruption, elite capture and the like.³³⁰ In order to ensure the success of decentralisation as a strategy for development, while at the same time mitigating its harmful consequences, many scholars suggest that it is important to complement local autonomy with central supervision and inter-governmental co-operation.³³¹

Supervision is meant to allow a senior level of government to harmonise the activities of local government with national/sub-national developmental policies.³³² It is, therefore, conducted on the basis of seniority of the national level of government. Many scholars and development institutions, including the World Bank, accentuate the importance of supervision.³³³

In addition, based on the South African Constitution and practice, De Visser argues that decentralised development requires inter-governmental co-operation. Inter-governmental co-operation is conducted on the basis of equality of local and national government.³³⁴ It is predicated on the assumption that it is unattainable

³²⁹ Olowu & Smoke (1999) 3; Gordon (2008) 253.

³³⁰ See above at § 3.3.1- 3.3.4 .

³³¹ Watts (2001) 2.

³³² De Visser (2005) 45.

³³³ World Bank (1997) 120; Shah (2004); Bahl (1999); De Visser (2005) 43.

³³⁴ De Visser (2005).

to neatly divide powers and functions among different tiers of government as there is always 'interdependence and interpenetration' among the different tiers of government.³³⁵ The main objective of inter-governmental co-operation in general is to 'avoid unnecessary overlaps'. Inter-governmental co-operation is, therefore, important wherever there is a multi-level or multi-tiered government, for example, in federal states and decentralised unitary states.³³⁶

3.5.4.1. Central supervision

As stated above, there is a general consensus that unchecked local autonomy is as harmful as its total absence. The World Bank states that decentralisation, in the absence of certain rules that restrain local government, will simply pass down to a lower level the crisis that troubles centralised governments.³³⁷ De Visser notes that the success of decentralised development depends on the 'correct balancing' of local autonomy with central co-ordination.³³⁸ Sharma also stresses the importance of 'central regulatory powers' for solving decentralisation related problems.³³⁹ Supervision is, therefore, necessary to maintain a certain degree of uniformity across a country. It is also important to ensure that 'national priorities are not undermined' by local units.³⁴⁰ Moreover, the central government has an interest in ensuring that local government functions properly and within its mandates and means. Or else, the crisis that arises from unrestrained local autonomy will creep back to the centre, for instance, as a request for 'bailout'.³⁴¹

³³⁵ Watts (2001) 22.

³³⁶ Watts (2001) 22.

³³⁷ World Bank (1997) 120.

³³⁸ De Visser (2005) 34.

³³⁹ Sharma (2005) 42.

³⁴⁰ Olowu & Smoke (1992) 11.

³⁴¹ World Bank (1999) 117.

Furthermore, central co-ordination can serve as a ‘safeguard’ against ‘elite capture’ and the alienation of the poor in the process of decision making.³⁴²

There are four recognised mechanisms of supervision; regulation (standard setting), monitoring, support, and intervention.³⁴³ Regulations aim to set a minimum standard that ought to be met by local government in its public service delivery.³⁴⁴ The involvement of the centre by way of setting minimum standards is justified by the need to ensure ‘horizontal equity’ and minimum standards of service in all jurisdictions.³⁴⁵ However, the importance of balancing the regulatory power of the centre with the autonomy of local units should be given due consideration.³⁴⁶ The centre should refrain from imposing a requirement of absolute homogeneity on all local units under the pretext of standard setting, as it will compromise local autonomy.³⁴⁷ De Visser accentuates the need to make regulatory frameworks ‘reasonably permanent’ since ‘a continuously changing institutional environment is harmful for the local government’s ability to achieve optimal service delivery and development results’.³⁴⁸

The other interrelated elements of supervision are oversight (monitoring), support and intervention.³⁴⁹ The World Bank stresses the importance of central oversight

³⁴² World Bank 2000 (106); World Bank (2011) 166-67; Smoke (2001) 18.

³⁴³ De Visser (2005).

³⁴⁴ De Visser (2005).

³⁴⁵ Shah (1994) 18.

³⁴⁶ De Visser (2005) 44.

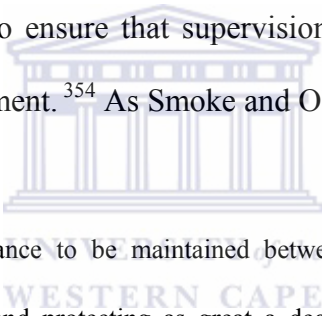
³⁴⁷ McKinlay (2006) 61; De Visser (2005) 44.

³⁴⁸ De Visser (2005) 44.

³⁴⁹ Olowu & Smoke (1992) 11; Smoke (2001) 26; De Visser (2005) 44.

over whether the local units are performing up to the required standard.³⁵⁰ If the oversight reveals a notable deficiency in performance on the part of local government, the centre should attempt to rectify the problem by extending support to that particular local government. Where support does not resolve the problem, the centre will be justified to intervene in local matters.³⁵¹ De Visser argues that local autonomy and central interventions are ‘complimentary’ though may appear to be in utter conflict with each other.³⁵² He argues that the power to observe and intervene provides incentives to central government to hand over more power and autonomy to local government.³⁵³

Nevertheless, it is crucial to ensure that supervision does not stifle the smooth functioning of local government.³⁵⁴ As Smoke and Olowu write:



‘There is...a delicate balance to be maintained between ensuring that national priorities are being met and protecting as great a degree of local autonomy as possible. Too much control is likely to undermine administrative and economic efficiency, particularly if it is exercised arbitrarily or under excessive political manipulation.’³⁵⁵

³⁵⁰ World Bank (1999) 117.

³⁵¹ Olowu & Smoke (1992) 11; Smoke (2001) 26; De Visser (2005) 44.

³⁵² De Visser (2005) 45

³⁵³ De Visser (2005) 45.

³⁵⁴ Smoke & Olowu (2001) 11.

³⁵⁵ Smoke & Olowu (2001) 11.

Therefore, it is important to create a mechanism of ensuring compliance with national (state) laws and standards without compromising local government's autonomy.³⁵⁶

3.5.4.2. Inter-governmental co-operation

As was explained above, the importance of central supervision for decentralised development is emphasised in many scholarly works and reports of the World Bank.³⁵⁷ Inter-governmental co-operation is mainly discussed in the context of federal system and in terms of co-operation between federal and state governments.³⁵⁸ Little is said about the importance of involving local government in inter-governmental co-operation for development. Trench maintains that inter-governmental co-operation is not limited to federal systems.³⁵⁹ De Visser also based on the South African Constitution, maintains that a decentralised system which aims to be developmental must have an institutional arrangement for co-operation among the various orders of government: including local government.³⁶⁰ He provides three justifications for his submission. First, co-operation is necessary because it provides the central government with the incentive to 'genuinely relinquish power to local government'.³⁶¹ It also mitigates the danger of promoting narrow local interests at the expense of national development. Secondly, the impracticability of neatly demarcating competences among the different orders of government necessitates co-operation among the

³⁵⁶ European Charter of local government (1987); The World Wide Declaration of Local Self-Government (1993) Art 7.

³⁵⁷ World Bank (1999); Sharma (2005); Shah (2004).

³⁵⁸ See for instance Conlan (2006); Wright (2003); Kinckaid (1990); Watts (2006).

³⁵⁹ Trench (2006) 226.

³⁶⁰ De Visser (2005) 210.

³⁶¹ De Visser (2005) 210

various levels of government.³⁶² Thirdly, the need to communicate local needs, which cannot be addressed by local government, to senior level of government requires an institutional device of co-operation.³⁶³

According to De Visser inter-governmental co-operation has three elements.³⁶⁴ The first element is a normative framework of co-operation. Inter-governmental co-operation must be based on a relationship of 'equality'; not on subordination. Hence, there must be a principle that requires the various levels of government to co-operate based on 'mutual respect' and 'recognition' of each other's 'institutional statuses'.³⁶⁵ The second element is horizontal co-operation. The trans-boundary effects of most local government developmental activities require co-operation among local governments.³⁶⁶ The third element is institutional framework for vertical co-operation. Local government activities should be harmonised with those of the national and state governments. This entails not only that the activities of local government be in line with national policies and strategies but that also national policies take into account the interests of local government.³⁶⁷ This in turn requires the institutionalisation, through a legal framework of vertical co-operation.³⁶⁸

³⁶² De Visser (2010) 210.

³⁶³ De Visser (2005) 210.

³⁶⁴ De Visser (2005) 211.

³⁶⁵ De Visser (2005) 278.

³⁶⁶ De Visser (2005) 212.

³⁶⁷ De Visser (2005) 212. See also Watts (2006) 207.

³⁶⁸ De Visser (2005) 212.

It is debatable whether inter-governmental co-operation should be institutionalised, especially at the initial stage of a decentralisation process. Watts writes that there is a risk of rigidity in institutionalising inter-governmental co-operation which prevents purposeful and evolutionary development of IGR structures.³⁶⁹ De Visser is also in favour of an IGR structure that evolves from practice. However, he acknowledges that the need to ensure inclusivity, better attendance, transparency, and to increase the structure's political significance may entail a certain degree of institutionalisation from the outset.³⁷⁰

3.5.5. Concluding remarks

The above sections have outlined the institutional features that are likely to optimise the success of decentralisation in achieving development. It is important to note that the above discussion does not attempt to formulate a model institutional design for a decentralised development. It was rather meant to identify those institutional features that are likely to impact on decentralised development. It is against these institutional features that Ethiopia's local governance and its efficacy for development will be examined. Before that, the next section will deal with the second central issue of the study, namely whether and how local government may be of use for accommodating ethnic minorities.

4. DECENTRALISATION AND ACCOMMODATING ETHNIC MINORITIES

4.1. Introduction

As indicated earlier, the second principal purpose of the decentralisation programme in Ethiopia is to accommodate ethnic minorities. It is also one of the

³⁶⁹ Watts (2001) 24.

³⁷⁰ De Visser (2005) 213.

two main aims of this thesis to examine the suitability of the institutional design of Ethiopia's local governance system for this purpose.

To this effect, the next sections will first define concepts such as 'ethnic community', 'ethnicity', and 'minority'. Next, the justifications for accommodating ethnic minorities will be discussed. A discussion of the various institutional forms of accommodating ethnic minorities will follow along with a discussion on how local government features in this.

4.2. Ethnic groups and ethnicity

There is little agreement on the meaning of the terms 'ethnic group' or 'ethnic community'. Different meanings are attached to the term 'ethnic' in different disciplines.³⁷¹ Most commonly, a group of people is considered as an 'ethnic community' when it differs from others in terms of 'cultural criteria'.³⁷² The 'ostensible' cultural 'markers' of ethnicity are language, tradition, beliefs, values, religion, and history.³⁷³ Some writers maintain it is critical for a group of people to have a real or mythical affinity in the form of common ancestor in order to be considered an ethnic community.³⁷⁴ Still others argue that the particular group of people must occupy a certain identifiable territorial area which members of the

³⁷¹ The lexical origin of the term 'ethnic' is a Greek word 'ethnos' which is translated as a 'nation'. However, the lexical origin of the term provides no clue as to what 'ethnic group' is as it has evolved throughout the ages to denote several meanings. From a sociological perspective, some equate ethnicity with race. Still others consider as an ethnic group those racial or religious or linguistic 'subgroups' that live amidst a dominant group. For instance blacks, Hispanics and Jews in USA are considered as ethnic groups while the dominant whites are not considered so. This notion of ethnic group however creates another conceptual confusion by incorrectly equating 'ethnicity' with the status of being a minority. Pieterse (1996) 25; Le Vine (1997) 46.

³⁷² Le Vine (1997) 46.

³⁷³ Le Vine (1997) 46.

³⁷⁴ Johnson (1997).

group consider as their 'homeland' while others maintain that territory is not a necessary element of ethnic identity even though it may reinforce it.³⁷⁵

For the purpose of this study, a group of people that demonstrate cultural markers, such as, language, beliefs and values, religion, or history will be considered an ethnic community.

4.2.1. Ethnic identity as a political identity

Accommodation of ethnic minorities and the relevance of decentralisation in this respect become important only when ethnic identity becomes a political identity. Ethnic identity becomes a political identity when the above mentioned cultural markers, rather than being viewed as mere social peculiarities, are used to further a particular political cause.³⁷⁶ Even though the how and the whys of this transformation are far from clear, there are two generally accepted lines of explanation to this transformation. The first line of explanation is known as a primordialist explanation.³⁷⁷ Primordialism explains the transformation of an ethnic identity to political identity as a natural (biological or genetic) phenomenon.³⁷⁸ The primordialists maintain that people naturally identify with, and emotionally attach themselves to, the community to which they biologically relate.³⁷⁹ They do so not rationally, but they are forced by 'socio-psychological forces internal to [them] and related to primordial human needs for security and, more importantly, survival'.³⁸⁰ This emotional and biological tie, which

³⁷⁵ Le Vine (1997) 46.

³⁷⁶ Ghai (2000) 4.

³⁷⁷ Ghai (2000) 4.

³⁷⁸ Ghai (2000) 4.

³⁷⁹ Harvey (2000) 40.

³⁸⁰ Harvey (2000) 40.

primordialists assume to be ‘durable’, if not unchanging, naturally and necessarily leads to a political demand.³⁸¹

The other line of explanation is called the instrumentalist (also circumstantialist) approach. For the instrumentalists, ethnic communities themselves are ‘rational associations of self-interested actors’ not, as the primordialists claim, ‘irrational...groupings governed by emotional attachments’.³⁸² Ethnicity for an instrumentalist is ‘artificial’ not natural, and changing not static. The transformation of ethnic distinction to political identity has, therefore, little to do with nature. The transformation is rather ‘rational’, ‘situational’ or ‘instrumental’.³⁸³ This is so since the transformation is driven by rational individuals who seek to advance their own political, social, and economic goals by using ethnicity as an instrument of political mobilisation.³⁸⁴

Several scholars are of the view that neither primordialism nor instrumentalism in itself fully explains the transformation of an ethnic identity to a political identity.³⁸⁵ Ethnic identity is not unchanging as the primordialists claim, since the aforementioned objective cultural markers are not the only drivers for the transformation of ethnic identity to political identity. Ethnic identity has also subjective elements.³⁸⁶ The manner in which members of a certain group view themselves is equally important. The subjective element of ethnic identity is

³⁸¹ Ghai (2000) 4.

³⁸² Gil-White (1999) 792.

³⁸³ Ghai (2000) 4; Henders (2010) 33; Nagel (1994) 152ff.

³⁸⁴ Nagel (1994) 152ff; Henders (20) 33.

³⁸⁵ Nagel (1994) 152ff; Yonatan (2008) 25.

³⁸⁶ Nagel (1994) 152ff; Yonatan (2008) 25.

liable to change depending on the benefits that the transformation of the ethnic identity to a political identity is likely to bring to members of the relevant ethnic group. On the other hand, the subjective attitude of individuals towards their ethnic identity and its relevance as a political identity cannot be totally devoid of certain objective cultural markers. Therefore, unlike the claim of the instrumentalists, the political relevance of ethnic identity is not purely artificial.³⁸⁷

4.2.2. Ethnic minorities

The majority-minority distinction, be it ethnic or otherwise, is principally based on two important considerations; namely numerical size and political weight.³⁸⁸

In general, a group of people which constitutes more than 50 percent of a country's nationals is considered a majority.³⁸⁹ The rest of the groups are regarded as minority groups. A numerically minority group, however, might be considered a majority if it has a political ascendancy. A case in point is the status South African whites during the apartheid era.³⁹⁰ Therefore, the simultaneous existence of both elements (numerical inferiority and political lowliness) is essential for an ethnic community to be considered a minority.³⁹¹

The above is even true in a state which is composed of minority ethnic communities with no particular dominant ethnic community. In such

³⁸⁷ Nagele (1994):152ff.

³⁸⁸ The most accepted definition of a minority is that of Capotorti who defines minority groups as '[a] group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics different from those of the rest of the population and show, if only implicitly, a sense of solidarity directed towards perceiving their culture, tradition, religion or language.' Capotorti quoted in Henrard (2000) 22; see also Wheatley (2005) 19; Casals (2006) 20f.

³⁸⁹ Wheatley (2005) 19.

³⁹⁰ Ramaga (1992) 108.

³⁹¹ Wheatley (2005) 19.

circumstances (this is the case in many African countries) each ethnic community is considered a minority.³⁹² This, however, is subject to the proviso that none of the numerically minority groups should have political control.³⁹³

In addition, intra-substate (also intra-provincial or intra-regional) ethnic minority communities may be considered as minorities when and to the extent the sub-state government has the power to make decisions impacting on them.³⁹⁴ Two types of intra-substate minorities can be considered here. First, some members of an ethnic community, which is dominant either nationally or in a particular region or province of a country, may find themselves in a minority in another region, state, or province of the country where another minority ethnic community is dominant. Cases in point are: English speakers in Quebec, Spanish speakers in Catalonia, and the Dutch speakers in Wallonia.³⁹⁵ Secondly, there may be an ethnic

³⁹² Wheatley (2005) 19.

³⁹³ Wheatley (2005) 19; Ramaga (1992) 108.

³⁹⁴ The definition of a minority under international law did not include an intra-substate minority. For instance, the United Nations Human Right Commission was of the view that minorities that are referred to under Article 27 of ICCPR are 'minorities within a state not minorities within any province'. Henrard, however, argues that, if members of a nationality dominant ethnic community are found in the minority in a particular region or province wherein a national minority constitute a majority, the former may be considered a minority if the sub-national government is autonomous and can pass laws affecting intra-substate minorities. The European Commission for Democracy through Law (also known as the Venice Commission), with respect to Belgium, stated that whether an ethnic community is a minority may need to be assessed both at national and sub-national level. In India the Court ruled that when a state law affects the interests of a group of people, the group may be considered a minority if it is numerically inferior to the population of the state (not necessarily to the whole nation of India). Henrard (2001); Wheatley (2005) 108; Toggenburg (2003) 282; Ramaga (1992) 108.

³⁹⁵ The English speakers and Spanish speakers are nationally dominant groups in Canada and Spain, respectively. The Dutch speakers are dominant in the Flemish region of Belgium while French speakers are dominant in the Wallonia region. Many English speakers are found in Quebec which is an autonomous homeland of the French speaking Canadians. Spanish speaking

community which is dominant neither nationally nor regionally. Such community, also known as ‘double minority’, may be found in a minority in a particular region, state, canton, or province, amidst another national minority which is however dominant in the particular area.³⁹⁶ Two examples are Cree-speakers in Quebec and Aran-speakers in Catalonia. These intra-regional minorities are considered as minorities.

The central issue here is whether and how local government can be used as an institutional mechanism for accommodating ethnic minorities. Before discussing this issue, it is necessary to raise yet another and broader issue: why is accommodation of an ethnic minority, be it national or intra-subnational ethnic minority, a matter of concern in the first place?

4.3. Managing ethnic diversity

Countries have experimented with different methods to respond to challenges that are associated with the ethnic, racial, religious, or other diversity of their people. The methods that are used to this effect have been underpinned by different rationales. Depending on the particular objective they sought to achieve, states used eliminating diversity itself, protecting individual rights of members of minority communities, integration, and/or accommodation to deal with the ethnic diversity of their people.

minority groups are also found in Catalonia which is an autonomous region of the Catalans. The same is true with regard to the Dutch speaking groups that are found in the predominantly French speaking Wallonia region and *vice versa*. Deschouwer (2005) 49f; Kymlicka (1995) 119; Ghai (2000) 3; Henders (2010); Suksi (2011).

³⁹⁶ Patten (2004) 138.

4.3.1. Eliminating diversity

The first method that was used by many states to ‘manage’ diversity, ethnic or otherwise, was to eliminate diversity itself. States sought to eliminate diversity and to build an ethnically, linguistically, and religiously homogenous or homogenised nation-state.³⁹⁷ They sought to do so for either or both of two major reasons. The first major reason is a conviction that human beings would be better off if they have ‘more common values and avoid or minimise those values and beliefs that divide them.’³⁹⁸ Those with such conviction, the best example being France, associated diversity with ‘sectarianism, parochialism, narrow-mindedness, and chauvinist bigotry’.³⁹⁹ In order to achieve the ideal of nation building, states took measures which were meant to remove all cultural practices failing to conform to dominant cultural practices. States coerced minority ethnic and cultural groups to assimilate into the culture of the dominant group. A refusal to assimilate resulted in minorities being politically, socially, and/or economically marginalised.⁴⁰⁰

The second key reason for the quest to eliminate diversity was a belief that humankind is naturally divided into different nations: Each person belongs to one nation and each nation to one state.⁴⁰¹ This required keeping ethnic or cultural groups apart. In this scenario even assimilation was not an option for minorities. To achieve this ideal, as was the case in South Africa during the apartheid era,

³⁹⁷ McGarry & O’Leary (1994) 95; Orentlicher (1998) 7; Marko (2006) 503-506; Moore (2004) 1324; Töpperwien (2001) 68-69; Kymlicka (2007) 62; Kamusella (2009) 24.

³⁹⁸ Réaume (1995) 121.

³⁹⁹ McGarry and O’Leary (1994) 103.

⁴⁰⁰ Kymlicka (2007) 62-63; Moore (2004) 1324; Töpperwien (2001) 68-69; Kamusella (2009) 48.

⁴⁰¹ Réaume (1995) 121.

states forced ethnic minorities to migrate to the states where those who look like them were found.⁴⁰² As was done by Turkey and Greece after the conclusion of World War I, states also exchanged populations with other states.⁴⁰³ In some extreme cases, they engaged in the act of ethnic cleansing.⁴⁰⁴

The above efforts of the states to eliminate ethnic differences, however, have not succeeded since there is hardly a single state which has ethnically or culturally homogenous population.⁴⁰⁵

4.3.2. Neutrality

The second method that was used by several states for managing diversity was declaring a state's neutrality on cultural matters. This approach, which is also known as the 'individual liberal approach' seeks to be indifferent towards ethnic diversity.⁴⁰⁶ It rather assumes that 'identity' is a private matter; not a public matter.⁴⁰⁷ An attempt by the state to protect minority group rights will lead to the violation of individual rights.⁴⁰⁸ The state therefore should not be obliged to provide institutional recognition to identity groups. It suffices for the state to recognise the basic human rights of the individual members of any identity group.⁴⁰⁹ The individual approach assumes that the rights of minorities and minority cultures can be protected by providing citizenship to the individual

⁴⁰² McGarry & Oleary (1994) 97.

⁴⁰³ Réaume (1995) 121; Coakley (1992) 350-352; Kamusella (2009) 11; McGarry & Oleary (1994) 94ff.

⁴⁰⁴ Réaume (1995) 121; Coakley (1992) 350-352; McGarry & Oleary (1994) 97

⁴⁰⁵ Kymlicka (1995); Addis (2001); Yonatan (2010 a) 10.

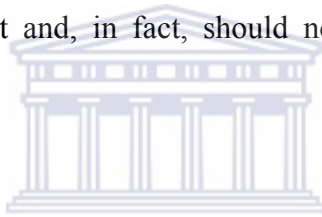
⁴⁰⁶ McGarry *et al* (2008) 41f; Addis (2001) 736; Casals (2006) 88.

⁴⁰⁷ McGarry *et al* (2008) 41f.

⁴⁰⁸ Casals (2006) 88.

⁴⁰⁹ Ryan (1988) 62.

members of the communities and by recognising the basic civil, political and cultural rights of same. It was, otherwise, unnecessary to confer any institutional recognition on any specific identity group so long as the rights of the individual members of the group were protected.⁴¹⁰ Besides, to do so was considered to be against the principle of equality.⁴¹¹ This approach assumes that the state has no obligation to promote the culture of any particular group. Its sole obligation rather is, or should be, to simply be indifferent to cultural differences and refrain from interfering in the enjoyment of cultural rights.⁴¹² If a group's rights are to be recognised, it will augment the political relevance of ethnicity and inevitably lead to perennial conflicts⁴¹³ and 'prejudice, intolerance and stereotypes'.⁴¹⁴ Ethnic minorities therefore, cannot and, in fact, should not be entitled to or granted special rights.⁴¹⁵



However, as many scholars point out, this approach is inherently self-contradictory. The critical problem with the approach is that states simply cannot be neutral on ethnic issues.⁴¹⁶ They lose their neutrality the moment they select and use a particular language for official purposes.⁴¹⁷ Moreover, equal opportunity for individual members of minority communities does not always translate into equal access to 'cultural goods' and the 'protection of minorities'.

⁴¹⁰ Kymlicka (1995) 3.

⁴¹¹ McGarry *et al* (2008) 41f; Addis (2001) 736.

⁴¹² McGarry *et al* (2008) 41f; Addis (2001) 736.

⁴¹³ Addis (2001) 745; Coakley (2003) 6.

⁴¹⁴ Yonatan (2010a) 16.

⁴¹⁵ Coakley (2003) 6-7; Addis (2001) 741; Ryan (1988) 62; Kymlicka (2007) 29-30.

⁴¹⁶ Kymlicka (1995) 113; Casals (2006) 93; De Schutter (2005) Addis (2001) 739; Deets & Stroschein (2005) 287; Yonatan (2010a) 17-18.

⁴¹⁷ Kymlicka (1995)113; Kukathas (1998) 688-689; De Schutter (2005) Addis (2001) 739; Yonatan (2010a) 17-18.

Rather the 'majority rule' results in 'demographic and political dominance' of minority communities by the majority community, leading to cultural assimilation.⁴¹⁸ Therefore, the institutional recognition of group rights is indispensable.⁴¹⁹

Now the trend is in general towards multiculturalism. The attempt to eliminate diversity and to be neutral on the issue of diversity are losing acceptance. There is still, however, a disagreement on the best strategy to institutionally recognise minorities. The two most commonly proposed methods are integration and accommodation.

4.3.3. Integrationist approach

The integrationists argue that minorities and their culture should be given institutional recognition. Yet, they maintain, majorities and minorities should be prevented from 'from breaking perfectly along ethnic lines'.⁴²⁰ The integrationists, therefore, aim to eliminate the political relevance of ethnicity by promoting integration amongst the various ethnic communities of a state.⁴²¹ Horowitz, for instance maintains that there should be institutional arrangements that 'encourage moderate behaviour', reward 'conciliation', and 'compromises' among members various ethnic communities.⁴²² Among such institutional arrangements is an electoral system that 'induces political parties to rely for their margin of victory on the votes of members of groups other than their own'.⁴²³

⁴¹⁸ Deets & Stroschein (2005) 287

⁴¹⁹ Deets & Stroschein (2005) 287

⁴²⁰ Horowitz (2001) 92.

⁴²¹ Hadden (2005) 34.

⁴²² Horowitz (2001) 92.

⁴²³ Horowitz (2001) 94.

Horowitz suggests the ‘alternative vote’ as the best electoral system for this purpose.⁴²⁴ The integrationists also seek to create an executive system which is composed of individuals ‘who rise above religious, linguistic, and ethnic factions’.⁴²⁵

The integrationist approach is however criticised for providing no room for accommodating minorities. It rejects all institutional arrangements of accommodation including proportional representation, territorial and non-territorial arrangements.⁴²⁶ By so doing, as Lijphart notes, the integrationists permanently deprive minorities of any form political representation.⁴²⁷

4.3.4. Accommodation approach

Accommodation of minority groups is a method of conferring institutional recognition on ethnic minorities. Accommodation recognises and aims to preserve a minority’s identity by adjusting a state structure, territorial or otherwise, and by providing ‘formal recognition [to] the cultural or ethnic diversity of [a state’s people]’.⁴²⁸ Many scholars, including some of those within the liberal school, argue that diversity, at least to some extent, must be given institutional recognition and be accommodated.⁴²⁹ The normative argument for the accommodation of diversity is based on the supposition that an individual’s rights and dignity are interwoven with the dignity of the group to which he/she

⁴²⁴ Horowitz (2001) 94.

⁴²⁵ McGarry & O’Leary (2007) 670.

⁴²⁶ McGarry & O’Leary (2007).

⁴²⁷ Lijphart (2006) 43f.

⁴²⁸ Coakley (1992) 7.

⁴²⁹ Kaplan (2008) 53; Kymlicka (1995) 89; Deets & Stroschein (2005) 287.

belongs.⁴³⁰ Scholars, such as Kymlicka, maintain that a failure to protect a group's rights will necessarily result in a failure to protect the rights of the individual members of the group.⁴³¹ One's dignity will, therefore, be violated if the group of which one is a member is held in a low regard.⁴³² As Magnet maintains, 'individuals can only find fulfilment by being members of a social group'.⁴³³ Kaplan also argues that there is a difference in the value that different societies attach to individual rights and group rights. While western states value individual freedom, in other societies people do not desire personal freedom in isolation from their collective freedom.⁴³⁴ They rather yearn 'for the sense of belonging that comes from seeing their ethnic, religious, tribal or other sectarian group actualise its many beliefs and govern its own affairs'.⁴³⁵

In the human rights sphere the link between group rights and individual human rights is also increasingly recognised.⁴³⁶ Former international human rights instruments, which were underpinned by the individualist approach, are now re-interpreted to require accommodation of diversity and positive measures for the protection of minorities as part of the protection of the rights of their individual members.⁴³⁷ In addition, new declarations and conventions which seek to

⁴³⁰ Kaplan (2008) 53; Kymlicka (1995) 89; Deets & Stroschein (2005) 287.

⁴³¹ Réaume (1995) 121ff; Kymlicka (1995) 89; Kaplan (2008) 53.

⁴³² Kymlicka (1995) 89.

⁴³³ Magnet (1986) 32.

⁴³⁴ Kaplan (2008) 53.

⁴³⁵ Kaplan (2008) 53. See also Mackerras (2003) 5.

⁴³⁶ See Kymlicka (2007).

⁴³⁷ It was based on the individualist approach that all major international human right instruments including were drafted. These include the Universal Declaration of Human Rights (UDHR), International Convention on Civil and Political Rights (ICCPR) and other human right instruments were drafted. Therefore these instruments recognise the rights of individuals who

preserve minorities' identity have been adopted by international, regional and sub-regional organisations including the specialised agencies of the UN.⁴³⁸

Therefore, the issue now is how ethnic minorities can be protected and accommodated, and the obligation that the state has in this respect.⁴³⁹ At the centre of this issue is what positive measures should a state take to accommodate ethnic minorities. For the purpose of this thesis the issue include the role that local government is expected to play in this respect.

4.4. Local government and accommodation of minorities

4.4.1. Introduction

Coakley identifies four principles of accommodating ethnic minorities that can be achieved at different levels depending on the demands of a particular minority ethnic community.⁴⁴⁰ At the first level, members of an ethnic minority community may demand simple equal social and economic opportunities.⁴⁴¹ In such cases, the individual approach suffices to ensure that members of ethnic minorities are not discriminated against.⁴⁴² At the second level, ethnic minorities may demand non-territorial cultural autonomy through the use of their languages

belong to minority groups not that of the groups *per se*. This was also the reason why no mention of minority rights was made in the UN Charter. See Kymlicka (2007); Hadden (2005) 31.

⁴³⁸ See General Assembly resolution 47/135 of 18 December (1992) Art 1(1); ILO Convention 169 (1989) Preambles; Framework Convention for the Protection of National Minorities Strasbourg, 1.II. (1995) Art 1; Document of the Copenhagen Meeting of the Conference for Security and Co-operation in Europe (CSCE) UNESCO Universal Declaration on Cultural Diversity Art 5; General Assembly resolution 47/135 of 18 December (1992) Art 1(1); Document of the Copenhagen Meeting of the Conference for Security and Co-operation in Europe (CSCE) (1990) Art 31.

⁴³⁹ Gurr (1994) 347-348.

⁴⁴⁰ Coakley (2003) 7.

⁴⁴¹ Coakley (2003) 7.

⁴⁴² Coakley (2003) 7.

in educational and other public institutions.⁴⁴³ This calls for a system that protects and promotes the language, culture, and religion of ethnic minority communities through non-political institutions such as special schools or other institutions.⁴⁴⁴ At the third level, minorities may be politically mobilised to demand ‘institutional political recognition’ in the form of internal self-determination through territorial autonomy and the establishment of local or regional governments. Their demand may also extend to a power sharing scheme at central government level, which is known as consociationalism.⁴⁴⁵ At the fourth level, ethnic minorities may demand secession.⁴⁴⁶ This study principally focuses on accommodation ethnic minorities at the third level and, to some extent at the second level. The following sections, therefore, considers whether and how local government can be of use to accommodate ethnic minorities.

4.4.2. Territorial autonomy at local level

There is a little agreement among scholars on the exact meaning of territorial autonomy. Hechter defines territorial autonomy⁴⁴⁷ as any territorial arrangement ‘falling short of sovereignty’.⁴⁴⁸ According to Gurr territorial autonomy is a territorial scheme that provides a minority community ‘a collective power base, usually a regional one, in a plural society’.⁴⁴⁹ Nordquist defines an autonomous

⁴⁴³ Coakley (2003) 7.

⁴⁴⁴ Coakley (2003) 7. See also Henders (2010) 280; Moore (2004) 1330; Cornell (2002) 249.

⁴⁴⁵ Coakley (2003) 7.

⁴⁴⁶ Coakley (2003) 7.

⁴⁴⁷ The term ‘autonomy’ originated from two Greek words ‘*auto*’ which means ‘self’ and ‘*nomos*’ which means ‘law’ or ‘rule’. The original meaning of autonomy is the right to make one’s own law. Lapidoth (1994) 276.

⁴⁴⁸ Hechter M *Containing nationalism* Oxford: Oxford University Press (2000) quoted in Wolff (2010) .

⁴⁴⁹ Henders (2010) 12; Lapidoth (1994) 277; Steiner (1991) 1542; Wheatley (2005) 108; Cornell (2002) 249; Weller (2009) 115.

territory as ‘a territory with a higher degree of self-rule than any comparable territory of a state’.⁴⁵⁰ For Palley territorial autonomy may range from ‘devolution of power to small communities, through regionalism, to federal government’.⁴⁵¹ Territorial autonomy is also understood as ‘an arrangement which grants a certain degree of self-determination’⁴⁵² to a distinct minority group which constitutes the majority in a specific region or locality.⁴⁵³

There are certain common elements that resonate in almost every definition of territorial autonomy. First and foremost, territorial autonomy involves a carving out of a certain territorial entity primarily on the basis of ethnic criteria, in contrast to on the basis of administrative, economic, or geographic criteria.⁴⁵⁴ Secondly, territorial autonomy entails the transfer, and not a mere delegation, of certain political power to the autonomous territorial entity. The political powers necessarily include legislative and executive powers.⁴⁵⁵ The territorial entity must be allowed to exercise these powers with a certain measure of autonomy.⁴⁵⁶

⁴⁵⁰ Nordquist K A ‘Autonomy as conflict solving mechanism’ in Suksi M (ed) *Autonomy: Applications and implications* The Hague: Kluwer Law International (1998) quoted in Benedikter (2009) 18.

⁴⁵¹ Palley C (1991) ‘Introduction, in minority rights group’ in Palley (ed) *Minorities and autonomy in western Europe* London: Minority Rights Group International quoted in Wolff (2010) 8.

⁴⁵² The right to self-determination has internal and external aspects. The external aspect of self-determination pertains to determining the ‘international status of [a] territory’. The internal aspects of the right to self-determination, in contrast, relates to ‘the right of all people to pursue freely their economic, social and cultural development’. Wheatley (2005) 107.

⁴⁵³ Gurr T R *Minorities at Risk: A Global View of Ethnopolitical Conflicts* Washington D.C.: United States Institute of Peace Press (1993) quoted in Wolff (2010) .

⁴⁵⁴ Wolff (2010) 7; Henders (2010) 12.

⁴⁵⁵ Wolff (2010) 10; Benedikter (2009) 20.

⁴⁵⁶ Wolff (2010) 7; Henders (2010) 12.

Thirdly, territorial autonomy entails the transfer of specific, mainly culture-related, governance areas to the particular territorial entity.⁴⁵⁷ Territorial autonomy does not imply independence nor does it allow secession.⁴⁵⁸ Moreover, unlike federalism or simple devolution, territorial autonomy may not cover an entire territorial area of a country. An autonomous area, therefore, may be established only in specific area/s where ethnic minority community/communities are found.⁴⁵⁹

It is only when members of ethnic community are found to be geographically concentrated that territorial autonomy serves as a means to accommodate a minority ethnic community. In the main, multi-ethnic states use federalism or regionalism to provide territorial autonomy to ethnic minority communities within their territory.⁴⁶⁰ For instance, Nigeria has adopted what is often described as ethnic federalism since the boundaries of the constituent units of Nigeria's federation are demarcated largely on the basis of ethnic criteria.⁴⁶¹ The federation of Switzerland is a classic example of a federation designed to accommodate diverse linguistic and religious communities.⁴⁶² The Belgian federation also aims to accommodate the French and the Dutch speaking communities.⁴⁶³ In Canada, Quebec is viewed as the homeland of the French speaking communities while Spain has used regionalisation to empower the Catalan, the Basque, and the

⁴⁵⁷ Suski (2011) 1; Wolff (2010) 7; Henders (2010) 12.

⁴⁵⁸ Benedikter (2009).

⁴⁵⁹ Wolff (2010) 10; Benedikter (2009).

⁴⁶⁰ See Gurr (1993) 229; Kymlicka (2000); Cornell (2002); Steiner (1997); Erk & Anderson (2010); Benedikter (2009).

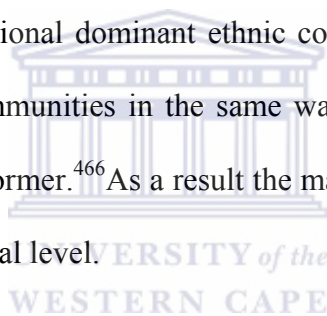
⁴⁶¹ See Osaghae (1991) & Osaghae (2004).

⁴⁶² See Fleiner & Fleiner (2009).

⁴⁶³ Deschouwer (2005) 49f.

Galicia.⁴⁶⁴ Puerto Rico in the USA, Aland Islands in Finland, Zanzibar in Tanzania, South Tyrol in Italy, Nagas in India, and Miskitos in Nicaragua are also autonomous regions.⁴⁶⁵

Regional structure, nevertheless, may not be sufficient to accommodate ethnic minorities. First, a territorial unit that is occupied by a particular ethnic community that demands territorial autonomy may not be as large as a territorial area that is considered as a region. Second, a region, that is structured to empower a minority ethnic community, may not be ethnically homogenous. Other intra-substate minorities may still be found amongst the regionally empowered ethnic community. The regional dominant ethnic community may deal with the intra-regional minority communities in the same way that the national majority group have dealt with the former.⁴⁶⁶ As a result the majority-minority tension may still continue at intra-regional level.



Thirdly, and most importantly, regionalisation is not the only mechanism of providing ethnic minorities with territorial autonomy even if in most cases autonomous regimes are created through regionalisation. As indicated above, the most critical element of territorial autonomy is the constitutional transfer of full political power, chiefly legislative and executive powers, to an ethnically organised territorial unit.⁴⁶⁷ Otherwise, there is no hard and fast rule that requires territorial autonomous regimes to be established only through regionalisation. As

⁴⁶⁴ Weller (2009) 116; Erk (2008) 44ff; Kymlicka (1995) 119; Ghai (2000) 3; Henders (2010) Suksi (2011).

⁴⁶⁵ See Kymlicka (1995) 119; Ghai (2000) 3.

⁴⁶⁶ Yonatan (2011) 17.

⁴⁶⁷ Benedikter (2009) 20; Wolff (2010) 8-9.

Lapidoth writes, autonomy is ‘a flexible concept’.⁴⁶⁸ As Gilbert also notes ‘autonomy is a continuum’.⁴⁶⁹ Elazar states territorial autonomy may range ‘from classic federation to various forms of cultural home rules’.⁴⁷⁰ The creation of regional units is, therefore, only one of the many territorial options available to accommodate minorities. Therefore, Wheatley writes, local government can be considered as territorial autonomy where it is established based on ethnic criteria and if it allows a particular ethnic community to exercise sufficient political powers.⁴⁷¹ Frankovits states that self-determination may include *local autonomy*.⁴⁷² Lapidoth also seems to suggest that the establishment of local government through decentralisation may be considered as territorial autonomy if it is accompanied by a transfer (as opposed to mere delegation) of relevant powers to the local level government.⁴⁷³ Buchsbaum observes that ‘the problems of minorities can be solved through greater autonomy at local or regional level’.⁴⁷⁴ Likewise, Crook argues that local government, by creating ‘an autonomous sphere of political power or community’ may serve as a ‘strategy that addresses the issue of exclusion or subordination of a mobilised minority’.⁴⁷⁵

In addition, various international instruments provide for the accommodation of ethnic minorities through the establishment of ethnic-based local government units. Recommendation 1201 (1993) of Experts of Commission on Security and

⁴⁶⁸ Lapidoth (1994) 285.

⁴⁶⁹ Gilbert (2002) 340.

⁴⁷⁰ Elazar (undated).

⁴⁷¹ Wheatley (2005).

⁴⁷² Frankovits (2001) 19.

⁴⁷³ Lapidoth (1994) 284.

⁴⁷⁴ A speech of D Thomas Buchsbaum quoted in Welhengama (2000) 194.

⁴⁷⁵ Crook (undated) 403-404. See also Erk & Anderson (2010) 2; Braathen & Hellevik (2008) 14.

Co-operation in Europe (CSCE) provides that minorities ‘shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation’.⁴⁷⁶ Likewise, the Document of the Copenhagen Meeting on the Human Dimension of the CSCE, 29 June 1990, states that local self-government could be used ‘to create conditions for the promotion of ethnic, cultural, linguistic and religious identity of certain minorities’.⁴⁷⁷ Similarly, the Congress of Local and Regional Authorities in its resolution declared that territorial autonomy may be effective for accommodating minorities where they are found concentrated in a certain municipality.⁴⁷⁸ The Congress further expressed ‘its conviction that territorial autonomy for minorities should not be restricted to States having federal or regional structures’.⁴⁷⁹ Thus, local government units, such as, districts and municipalities, may serve as autonomous territorial units of minority groups. A local government unit can be considered as an autonomous area of a particular ethnic community if it is organised on the basis of ethnic criteria and if it has the prerequisite (legislative and executive) political powers.

Practice in some countries, though very limited, also show that local territorial units, such as municipalities, serve to manage ethnic diversity both in unitary and federal states. For instance in the ‘inter-war’ period the Free City of Danzig, the

⁴⁷⁶ Recommendation 1201 (1993)

<http://assembly.coe.int/Documents/AdoptedText/ta93/EREC1201.HTM>. (last accessed on 28 May 2012).

⁴⁷⁷ Document of the Copenhagen Meeting of the Conference for Security and Co-operation in Europe (CSCE) (1990) Art 35.

⁴⁷⁸ The Congress of Local and Regional Authorities Resolution 52 (1997) Para 10.

⁴⁷⁹ The Congress of Local and Regional Authorities Resolution 52 (1997) Para13.

majority of whose residents were Germans, became part of Poland as a result of the Versailles Treaty of 1918.⁴⁸⁰ As part of the agreement, the City became an autonomous area of the German minority.⁴⁸¹ In Hungary Act LXXVII of 1993 allows ethnic minorities to establish self-government and enjoy territorial autonomy at local level.⁴⁸² Therefore, a local unit is considered a ‘minority local government’ if the majority of the residents of a local unit belong to a particular minority ethnic community.⁴⁸³ This is viewed, Teller writes, as ‘a form of territorial autonomy’ at local level.⁴⁸⁴ Likewise, in Macedonia minorities, such as, ethnic Albanians, Serbs, and Turks, enjoy local territorial autonomy where they are found in majority.⁴⁸⁵ Local government is also used for accommodating Serb minorities in Kosovo.⁴⁸⁶ In Russia, there are territorial units known as *oblast* and autonomous *okrug*. These units, according to Welhengama, are found at the lowest level of the federal structure⁴⁸⁷ and are meant to accommodate sub-regional minorities.⁴⁸⁸ In Belgium, local government is used to accommodate minority ethnic Germans,⁴⁸⁹ while in Finland it is used to accommodate ethnic Swedes.⁴⁹⁰ According to Benedikter ‘the German Community forms an autonomous entity ... within a precisely defined territory’.⁴⁹¹ Moreover in

⁴⁸⁰ Ramaga (1992) 107; Wolff (2010) 6.

⁴⁸¹ Hungarian Act LXXVII of (1993) on the Rights of National and Ethnic Minorities, Art 5 (91).

⁴⁸² Hungarian Act LXXVII of (1993) on the Rights of National and Ethnic Minorities, Art 5 (91).

⁴⁸³ Teller (2002) 74.

⁴⁸⁴ Teller (2002) 74.

⁴⁸⁵ Todorovski (2002) 40.

⁴⁸⁶ See Tahiri (2009); Monteux (2006) 177ff.

⁴⁸⁷ Welhengama (2000) 106-107.

⁴⁸⁸ Welhengama (2000) 106-107.

⁴⁸⁹ Deschouwer (2005) 49f.

⁴⁹⁰ Kymlicka (1995) 119.

⁴⁹¹ Benedikter (2009) 119.

Switzerland local units are used to accommodate ethnic minorities. Fleiner and Basta Fleiner note that local government units in Switzerland are structured in the form of small municipalities. This has allowed the territorial management of ethnic diversity at local level in multi-ethnic or multi-lingual cantons.⁴⁹² A typical example is the ‘tri-lingual’ canton of Garison where one finds ‘small Romansh-speaking Protestant as well as Catholic municipalities and German speaking Protestant as well as Catholic municipalities side by side within a small area’.⁴⁹³ The municipalities have the power to decide on cultural matters and on matters relating to education. As they have tax revenue to implement their decisions, the communities ‘do not fall into conflicts’.⁴⁹⁴

4.4.2.1. Concluding remarks

The above discussion shows that one approach to accommodating politically mobilised minority ethnic community is providing the community with territorial autonomy. The discussion also shows that territorial autonomous regimes are in the main created through regionalisation. However, if local territorial units are ethnically organised, and if they have sufficient and relevant political powers, they may also be considered as autonomous territorial units of the relevant ethnic community. This raises another question i.e. what are the benefits of providing an ethnic community with territorial autonomy? What are the dangers it poses, if any? The following section will answer these questions.

⁴⁹² Fleiner & Basta Fleiner (2009) 609.

⁴⁹³ Fleiner & Basta Fleiner (2009) 609.

⁴⁹⁴ Fleiner & Fleiner (2009) 609.

4.4.2.2. The advantages and disadvantages of territorial autonomy

Advantages

Territorial autonomy, whether it is established at regional or local level, has several benefits both for the relevant minority ethnic community and the state as a whole. The most evident advantage of territorial autonomy is that it provides the relevant ethnic minority with the necessary territorial space to preserve its identity, culture, and language.⁴⁹⁵ This is based on the premise that preserving ethnic and cultural differences is an ‘ideal’ which ‘[enriches] human experience and [expands] human potential’.⁴⁹⁶ Based on this premise scholars argue that territorial autonomy counters homogenisation. By so doing autonomy not only ensures the ‘survival’ but also a ‘complete development’, of the cultures and languages of minority ethnic communities.⁴⁹⁷ As Cornell argues, territorial autonomy sustains, promotes, and enhances identity.⁴⁹⁸

It is also claimed that territorial autonomy allows minorities, who are often not included in the political process at national level, to participate in the process in their ‘immediate environment’.⁴⁹⁹ It also strengthens self-determination and self-rule of minority groups. This provides the state as a whole a measure of legitimacy.⁵⁰⁰ Such arrangement also introduces a certain degree of ‘constitutionalism’ by distributing power to different levels of government.⁵⁰¹

⁴⁹⁵ Steiner (1991).

⁴⁹⁶ Steiner (1991) 1552. See also Erk & Anderson (2010) 2.

⁴⁹⁷ Steiner (1991).

⁴⁹⁸ Cornell (2002) 254.

⁴⁹⁹ Sasaoka (2008) 7-8.

⁵⁰⁰ Sasaoka (2008) 7-8.

⁵⁰¹ Benedikter (2009) 54.

Scholars also argue that autonomy has the potential to prevent an imminent conflict or to resolve an on-going one. This argument is based on the assumption that ethnic conflicts often have a territorial dimension.⁵⁰² Braathen and Hellevik maintain that in many African countries, conflicts are caused when claims for territorial autonomy are rebuffed.⁵⁰³ A promise of some form of territorial autonomy is, therefore, often seen as a condition for conflict resolution. Most of successfully settled conflicts have also involved some form of territorial autonomy.⁵⁰⁴

Territorial autonomy also allows minorities to exercise a certain measure of control over natural resources within the territorial entity.⁵⁰⁵ This also impacts on peace since ethnic conflicts are caused by real and perceived discriminatory resource distributions and violations of rights of a particular group occupying a particular territory.

Disadvantages

The idea of creating ethnic-based autonomous territorial units also causes immense practical challenges and poses serious risks, particularly in Africa. As has been discussed above, some European and other states have attempted, and to some extent succeeded, to accommodate ethnic minorities by establishing autonomous regimes at regional or local level. However, most of these states have only one or a few more ethnic minority communities. Therefore, in these

⁵⁰² Braathen & Hellevik (2008) 8.

⁵⁰³ Braathen & Hellevik (2008) 6.

⁵⁰⁴ Braathen & Hellevik (2008) 5.

⁵⁰⁵ Benedikter (2009) 54.

countries, the use of territorial schemes to accommodate minorities was undertaken fairly easily. It is debatable, however, whether this can be achieved with same ease in the African context.⁵⁰⁶ Most of the sub-Saharan African states are so ethnically diverse that many of them do not have even an ethnic community which constitutes a national majority. It is controversial whether it is feasible or even desirable to afford either regional or local autonomy for each ethnic community in such contexts.⁵⁰⁷

In addition, it is not an 'ideal' in a state with many ethnic communities, to create a territorial unit for each ethnic community, even if it could be achieved. As Steiner maintains, it rather constitutes 'a counter ideal of locking into place the historical differences among groups'.⁵⁰⁸ Such measure renders a state 'a museum of social and cultural antiquities'.⁵⁰⁹ It accentuates division, legitimises separateness,⁵¹⁰ alienates groups from one another, makes social cohesion unattainable, and enfeebles a 'sense of common humanity'.⁵¹¹ Hence, by restricting interaction among groups, territorial autonomy destroys all unifying elements.⁵¹²

⁵⁰⁶ Mozaffar and Scarritt write that there are more than 1, 200 ethnic communities in Africa. Many of these ethnic communities are also divided into several tribes and clans. Moreover, most of the ethnic communities are too small to exercise territorial autonomy. Mozaffar and Scarritt (1999) 236.

⁵⁰⁷ Mozaffar & Scarritt (1999).

⁵⁰⁸ Steiner (1991) 1552.

⁵⁰⁹ Steiner (1991) 1552.

⁵¹⁰ Cornell (2002) 250.

⁵¹¹ Steiner (1991) 1554.

⁵¹² Montoux (2006) 165.

In addition, the territorial approach cannot be implemented to the satisfaction of every ethnic community, especially in Africa. This is because, even if local territorial units are established based on ethnic criteria, it is not likely that such local units will be ethnically homogenous. This is likely to create new minorities, within the minority regime, who may be subjected to domination.⁵¹³ Thus, this may ‘simply reproduce and [entrench] the problems of the national level’.⁵¹⁴ Furthermore, territorial autonomy puts all individuals who reside in the autonomous local territorial unit under the jurisdiction of the local unit.⁵¹⁵ This is despite the fact that there may be internal migrants who do not belong to the minority community which is meant to enjoy territorial autonomy in the territorial unit. This often creates minorities within minorities that are vulnerable to discrimination or assimilation.⁵¹⁶

Concluding remarks

As the above discussion shows, territorial autonomy as a means of accommodating minority ethnic communities has several shortcomings. However, even if territorial autonomy is not an ‘ideal’ solution, in some contexts, the need to resolve on-going conflicts or to prevent conflicts may justify the establishment of autonomous regimes either at regional or local level.⁵¹⁷ Hence, the usefulness or otherwise of local territorial autonomy should be evaluated in context. One thing is clear though: territorial autonomy can be a risky project unless ‘designed, created, and maintained with necessary safeguards’.⁵¹⁸ What are

⁵¹³ Monteux (2006) 165.

⁵¹⁴ Cook (undated) 405; Monteux (2006) 165.

⁵¹⁵ Deets & Stroschein (2005) 289.

⁵¹⁶ Deets & Stroschein (2005) 289.

⁵¹⁷ Steiner (1991) 1550.

⁵¹⁸ Cornell (2002) 252.

then the institutional features of a workable territorial autonomous regime? The following section will deal with this matter.

4.4.2.3. Institutional features of territorial autonomy at local level

Introduction

As the preceding discussion shows, ethnic minorities may justifiably demand territorial autonomy. Local government units, such as, municipalities and districts, with sufficient political power, may also be used to provide a certain measure of territorial autonomy to ethnic minorities (both national and intra-regional minorities). The most obvious objective of providing territorial autonomy to an ethnic community is to allow it to exercise self-rule.⁵¹⁹ As the discussion below shows, territorial autonomy may also be complimented with shared-rule.

Self-rule

Self-rule embodies the idea of political autonomy.⁵²⁰ Political autonomy in turn implies ‘the exercise of final responsibility by the sub-national governments on a range of matters’.⁵²¹ Therefore, self-rule embodies the idea of ‘constitutionally entrenched powers ...to exercise control over some or all of ... own economic, political, social and cultural affairs’.⁵²² Self-rule has a territorial dimension which entails that local boundaries be demarcated based on the settlement structure of the ethnic group which seeks to exercise territorial autonomy.⁵²³ It also entails the establishment of government institutions, including political and

⁵¹⁹ Henders (2010) 12.

⁵²⁰ Watts (2008) 8.

⁵²¹ Watts (2000) 948.

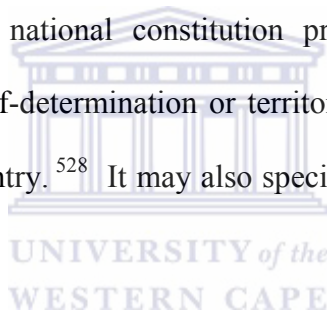
⁵²² Yonatan (2010 a) 41.

⁵²³ Benedikter (2009) 19.

administrative organs, which are necessary for exercising self-rule.⁵²⁴ Moreover, it entails the division of functions and powers, and resources.⁵²⁵ The above three elements are enshrined in a national and, where applicable in sub-national constitutions, as constitutional principles.

Constitutional principle

One of the central elements of territorial autonomy, whether it is established at regional or local level, is that the central government has limited power to revoke the autonomous regime.⁵²⁶ The abrogation of the autonomous regime can take place only in accordance with constitutionally defined procedures and often with the consent of the minority community enjoying territorial autonomy at local level.⁵²⁷ To this end, a national constitution provides a general principle recognising the right to self-determination or territorial autonomy of a minority ethnic community in a country.⁵²⁸ It may also specifically refer to the particular autonomous areas.



In addition, as indicated earlier an ethnic minority community may be an intra-regional or intra-provincial minority which is found among other ethnic community which is constitutionally empowered to exercise self-rule at regional level. Often when an ethnic community enjoys territorial autonomy at regional level through regionalisation or some form federal arrangement, it is also

⁵²⁴ Cornell (2002) 254.

⁵²⁵ Cornell (2002) 254.

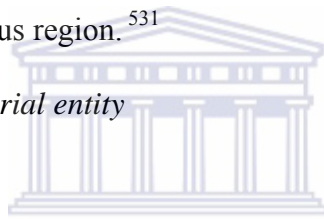
⁵²⁶ Lapidoth (1994) 285.

⁵²⁷ Lapidoth (1994) 285.

⁵²⁸ The Spanish Constitution (1978) Art 143 (1) provides a general right to establish autonomous communities to those with 'common historic, cultural and economic characteristics, island territories and provinces with historic regional status'.

empowered to decide on its internal affairs and to determine its political structure by adopting its own constitution or a legislative instrument with similar content, purpose, and status.⁵²⁹ Through the sub-national constitution, the regional unit, among other things, is entitled to set its ‘social and political goals’ and define the rights it seeks to protect. It is also entitled to determine the structure of its governmental institutions, to decide on its official language, to create and structure local government, and to determine who its citizens are.⁵³⁰ In effect, matters relating to intra-regional minority communities become the competence of the autonomous regional unit. In such cases, a regional constitution may also provide a safeguard for the autonomous territorial regime which is created at local level within such autonomous region.⁵³¹

Ethnically organised territorial entity



UNIVERSITY of the
WESTERN CAPE

⁵²⁹ This is the case, for example, in most federal and quasi-federal systems, including Switzerland, South Africa, Canada, and the USA, where the constituent units are allowed to adopt their own constitutions. The autonomous communities of Spain also have the power to determine their internal structure including local government. Thus, Catalonia and Basque have a quasi-constitutional instrument called ‘the Statute of Autonomy of Catalonia’ and ‘Statute of the Basque Country’, respectively. Quebec has a set of legal rules which together constitute the Constitution of that province. Watts (2000); Tarr (2008). See also the Constitution of the Republic of South Africa (1996) S 104(a); Spanish Constitution (1978) S 146.

⁵³⁰ Tarr (2008) 192.

⁵³¹ Watts (2000) 946; Tarr (2008) 192. Yonatan suggests that the national constitution should not deal with intra-substate matters; matters relating to sub-regional governance included. Local matters should be left to the sub-national units; a contrary arrangement would allow the national government to undermine the autonomy of the regional unit under the pretext of protecting intra-substate ethnic minorities. Nevertheless, the regional unit cannot be fully entrusted with the protection of intra-substate ethnic minorities. To balance regional autonomy with the need to protect intra-subregional ethnic minorities, the national constitution should provide a general normative principle which requires the regional units to guarantee the right to self-rule of intra-substate ethnic minorities. The details should be provided in sub-national constitutions. Yonatan (2010 b) 12ff.

As was mentioned above, territorial regimes serve the purpose of accommodating ethnic minorities when the latter are found concentrated in a particular geographical area. In order for an ethnic minority group to be able to exercise self-rule at local level, therefore, members of the minority group must be found geographically concentrated in a particular locality, constituting a majority in that locality. Local self-rule, therefore, involves the creation of a territorial unit which is organised chiefly based on ethnic criteria.⁵³² A clear demarcation of the boundaries of such territorial unit is critical to territorial autonomy since boundaries determine the territorial space where the benefit of autonomy is enjoyed. Moreover, the territorial space where the local government unit may legitimately exercise its political powers is determined through boundary demarcation. Boundaries also determine the territory based resources over which the local self-government may exercise a certain measure of control. Besides, a clear demarcation of local boundaries also helps prevent conflicts and maintain peace and stability as boundary related disputes often lead to violent conflicts.

Governance structure and democracy

As indicated above, one of the most critical elements of territorial autonomy is the power to exercise legislative and executive powers over certain cultural matters are among. This in turn entails the establishment of government institutions through which an ethnic minority may exercise these political powers.⁵³³ The government institutions which need to be established must include representative assemblies, and executive and administrative organs. As Cornell writes, ethnic-based autonomous units ‘typically’ have representative council and executive organs ‘that act as legitimate representatives of their ethnic

⁵³² Cornell (2002) 253; Benedikter (2009) 19.

⁵³³ Benedikter (2009) 38; Cornell (2002) 254.

constituencies and constitute legitimate decision-making bodies'.⁵³⁴ Benedikter also argues that an autonomous territorial unit by definition has a 'locally elected legislative assembly...with a minimum power to legislate in some basic domain'.⁵³⁵ It must also have an executive which is elected either directly by the voters or by the local council.⁵³⁶ The executive organ should be responsible for implementing the decisions of the former.⁵³⁷

The establishment of representative institutions, in turn, entails conducting regular democratic elections which is a vital component of self-rule. As Loper argues, the notion of the right to internal self-determination implies a representative democracy.⁵³⁸ Democracy is essential for the enjoyment of local territorial autonomy. First, democracy mitigates the possibility of the central government (whether the regional or national government) undermining the autonomy of the intra-substate unit and tramping on local decisions.⁵³⁹ Secondly, competitive democracy prevents the possibility of the central government playing a role of 'patronage' by appointing loyalists from among the members of the ethnic minority groups.⁵⁴⁰ As Ghai states, democracy not only 'compels' local leaders to protect the autonomy of the local units but also 'empowers them to do so'.⁵⁴¹ Thus, as Tranchant notes, democracy should be 'a perquisite for local

⁵³⁴ Cornell (2002) 254.

⁵³⁵ Benedikter (2009) 38.

⁵³⁶ Benedikter (2009) 38.

⁵³⁷ Benedikter (2009) 49.

⁵³⁸ Loper (2003) 180. See also Benedikter (2009) 10.

⁵³⁹ Tranchant (2007) 3.

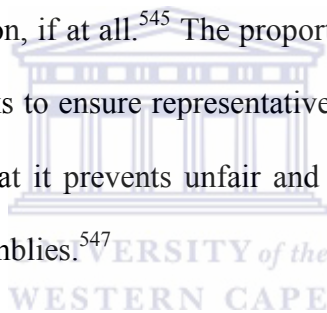
⁵⁴⁰ Tranchant (2007) 3.

⁵⁴¹ Ghai (2000) 22.

empowerment'.⁵⁴² Without democracy the establishment of local self-government will result in the location of the oppression being shifted from the centre to the local level; which may be even worse.

Electoral system

An issue related to local democracy is whether there is any particular electoral system that is particularly suitable where an autonomous area is created for a particular ethnic community at local level. In general there are two options as far as electoral system is concerned; a plurality system and a proportional representation system.⁵⁴³ The plurality electoral system, which uses electoral constituencies, aims to identify a winner in elections.⁵⁴⁴ Representativeness of electoral outcomes is of secondary consideration, if at all.⁵⁴⁵ The proportional representation system, in contrast, principally seeks to ensure representativeness.⁵⁴⁶ The strength of the PR system, therefore, is that it prevents unfair and exclusionary distribution of seats in representative assemblies.⁵⁴⁷



Clearly, the electoral system should allow the ethnic community on whose behalf a local territorial unit is established, to be in control of the council of the territorial unit. Otherwise the whole purpose of the establishment of an autonomous area for an ethnic community would be defeated. Territorial

⁵⁴² Tranchant (2007) 3.

⁵⁴³ Plurality-majority electoral system (in short plurality system) has different variations. The plurality system is called First-past-the-post (FPTP or FPP) when it uses a single member district and block -voting system when it uses multi-member districts. The PR system also may take the form of Mixed Members Proportional (MMP), list PR or Single Transferable Vote (STV) systems of which the list PR is the most known. Reynolds, Reilly, & Ellis (2005) 28.

⁵⁴⁴ Reynolds (1999) 94.

⁵⁴⁵ Sartori (1994) 3.

⁵⁴⁶ Sartori (1994) 58; Reynolds (1999) 97-98; Reynolds, Reilly, & Ellis (2005).

⁵⁴⁷ Sartori (1994) 58; Reynolds (1999) 97-98; Reynolds, Reilly, & Ellis (2005).

autonomy at local level presupposes carving out a territorial area wherein an ethnic minority group is found to be in the majority. It can be, therefore, safely assumed that a proportional representation electoral system would result in a sub-regional council which is largely dominated by the particular ethnic community on whose behalf the sub-regional territorial unit is created.⁵⁴⁸ A plurality electoral system may also have similar results if the ethnic community is found in the majority in most of the electoral districts of the autonomous territorial unit.⁵⁴⁹ It is nonetheless likely that there will still be other minorities amid the ethnic minority groups which is provided with territorial autonomy. The need to ensure the accommodation of these communities without compromising the interests of the ethnic community which is meant to enjoy territorial autonomy at local level may necessitate a proportional representation electoral system. Moreover, members of the ethnic community on whose behalf the local territorial unit is created cannot be expected to hold a single political view. A political competition is, therefore, liable to occur within the ethnic community. In such cases, the plurality system may allow the representation of the relevant ethnic community. It may not, however, ensure the representation of all 'significant' political views within the ethnic community.⁵⁵⁰ Therefore, for the purpose of ensuring that various political views within a minority ethnic community are adequately represented, Wolff that maintains proportional representation is the preferable electoral system.⁵⁵¹

⁵⁴⁸ Wolff (2005) 62.

⁵⁴⁹ Wolff (2005) 62.

⁵⁵⁰ Wolff (2005) 62.

⁵⁵¹ Wolff (2005) 62.

Competences

The other element of self-rule is transferring powers and functions to the government of the sub-regional territorial unit.⁵⁵² The competences that are to be so transferred may depend on whether the local unit is meant to address only cultural issues or, additionally, other social, economic and developmental matters. As Henders states the competences so transferred may include matters relating to ‘economic development, environmental protection, and social policy’. These may include local planning, natural resources, economic development, housing, health, and other social services.⁵⁵³ These governance areas are ‘important to the ability of a community to protect its values and way of life’.⁵⁵⁴

There are, however, certain culture-related functions that should in any event be transferred to ethnic-based local territorial units. The first in this respect is a competence in respect of language.⁵⁵⁵ It is axiomatic that language is central to ethnic identity. As Smith argues, language is not only mere speech but ‘also a carrier of culture, of individual, community and even national identity’.⁵⁵⁶ Hence, it is important to provide some form of official status to the minority language in the autonomous locality. This may include using the language of the ethnic minority group in schools, as a means of instruction, and as the working language of the legislative, executive, administrative, and judicial organs of the local self-government. Therefore, legislative and administrative acts of local government may be published in the language of the ethnic group. Documents, such as,

⁵⁵² Lapidoth (1993) 277.

⁵⁵³ Benedikter (2009) 52. The Lund Recommendations (2009) S 15.

⁵⁵⁴ Henders (2010) 12.

⁵⁵⁵ Benedikter (2009) 52; Deets & Stroschein (2005) 289; Henders (2010) 12.

⁵⁵⁶ Smith (2008) 212.

identification cards, birth, death and marriage certificates may also be issued in the language of the ethnic group. Moreover, street signs and other adverts may be written in the official language of the local self-government. In Macedonian, for instance, a municipality may adopt as its official language the language which is spoken by 20 percent of the local community.⁵⁵⁷ Therefore Albanian, Turkish, Serbian and Romani languages are used for official purpose in various localities.⁵⁵⁸

Education is also important function that needs to be transferred to local self-government.⁵⁵⁹ Control over education is critical for minority ethnic groups because education ‘is central vehicle of cultural transmission’.⁵⁶⁰ Moreover, schools have been used to discriminate against ethnic minority groups by excluding them as ‘uneducable’.⁵⁶¹ Public schools also exclude the history and culture of ethnic minority groups from their curricula ‘leading minorities to feelings of invisibility, inferiority and second-class citizenship’.⁵⁶²

There are also other culture-related functions which may be transferred to local self-government, including, radio, television, public libraries, cultural centres, and the like.⁵⁶³

⁵⁵⁷ Lyon (2011) 34.

⁵⁵⁸ Lyon (2011) 34.

⁵⁵⁹ Benedikter (2009) 52; Riech (2004) 210; Cornell (2002) 254; Deets & Stroschein (2005) 289.

⁵⁶⁰ Riech (2004) 210; Cornell (2002) 254.

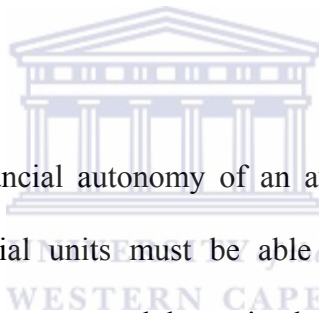
⁵⁶¹ Yi (2007).

⁵⁶² Riech (2005) 210.

⁵⁶³ Benedikter (2009) 52; Cornell (2002) 255.

Revenue

Henders argues that fiscal autonomy is critical for a political autonomy of an autonomous territorial unit.⁵⁶⁴ Fiscal autonomy is also likely to impact on the effectiveness of the local self-government in promoting and developing the culture and language of the ethnic group for which it is established. Building schools, publishing books in the language of the ethnic minority, hiring teachers, and establishing other cultural centres, all require adequate funds. In addition, it impacts on peace given that ethnic conflicts are often caused or exacerbated by unjust resource distributions.⁵⁶⁵ Therefore, it is essential that there is some form financial sources over which the ethnic based local territorial unit has unhindered control



In order to ensure the financial autonomy of an autonomous regime, Henders suggests that such territorial units must be able to ‘raise and keep locally generated tax revenue, set tax rates, and determine how revenue is spent’.⁵⁶⁶ Bird and Ebel also argue that internal revenue may be complemented with inter-governmental transfer.⁵⁶⁷ They argue a system of inter-governmental revenue transfer may help create a ‘sense of national-solidarity’.⁵⁶⁸

4.4.2.4. Shared-rule?

Shared rule is an institutional principle which is often associated with a federal system and aims to ensure that the constituting units of a federation are

⁵⁶⁴ Henders (2010) 47.

⁵⁶⁵ Braathen & Hellevik (2008) 13.

⁵⁶⁶ Henders (2010) 47.

⁵⁶⁷ Bird & Ebel (2005) 8.

⁵⁶⁸ Bird & Ebel (2005) 8.

represented in a central government.⁵⁶⁹ Territorial autonomy conceptually does not entail shared-rule so as to allow local units to be represented in the sub-national and national government organs.⁵⁷⁰ However scholars argue that territorial autonomy, whether exercised at regional or local level, should be complimented with shared rule. As Henders writes:

‘Regardless of form or degree, territorial autonomy is not independence, and it cannot do away with interdependence. Autonomous territories are subject to the authority of state-wide governments in some policy areas. Its people also have common citizenship rights with the population of the state as a whole, even if they also possess distinctive rights connected with the substate territory. Moreover, territorial autonomy is not only about separation, in the sense of protecting the minority territorial community from external preferences that can harm its distinctive values. Territorial autonomy is necessarily also a means of organizing relations of interdependence with the wider state and other political communities within and beyond. As such, territorial autonomy arrangements often include the sharing of some competencies with state or other substate authorities.’⁵⁷¹

In general shared-rule is considered to be important for three reasons. First, it is essential to protect the autonomy of an autonomous unit (whether regional or local) from undue interference by national and sub-national governments. The decisions of national and sub-national governments are likely to affect the autonomy of a local or regional autonomous entity. Therefore, the representation of ethnic minorities or the autonomous local units in sub-national and national institution allows them to influence the policies and decisions that have a bearing on their autonomy.⁵⁷² Secondly, the representation of ethnic minorities in sub-

⁵⁶⁹ Watts (2008) 136.

⁵⁷⁰ Benedikter (2009).

⁵⁷¹ Henders (2010) 12-13.

⁵⁷² This is central justification of shared rule in federal systems.

national and national institutions is an integrative institutional arrangement which promotes unity.⁵⁷³ Thirdly, shared rule helps harmonise local preferences with national and sub-national priorities. This is especially important because, even if territorial autonomy is accompanied by devolved power which is carefully defined, the lack of clarity which is liable to arise from the practical application of devolved powers and competences requires co-operation among the various levels of government for it to be resolved.⁵⁷⁴

Concluding remarks

The discussion in the above sections shows that in certain instances establishing autonomous territorial units at the local level may be a suitable method of accommodating a minority ethnic community. Territorial autonomy first and foremost allows ethnic minority to exercise self-rule. Self-rule in turn allows ethnic a minority ethnic community to enjoy political autonomy. Hence it involves a constitutional principle recognising the right to self-rule of an ethnic community, an ethnically organised territorial unit, governance structures (including legislative and executive organs) and sufficient sources of revenue. Self-rule should be complemented by shared-rule. Shred-rule is about the representation of the autonomous local unit, or the ethnic community for whom such unit is established, in regional and national government organs.

As indicated earlier, a minority ethnic community may be accommodated through schemes of power sharing or by providing it cultural autonomy depending on its demand.⁵⁷⁵ The following sections will examine these two methods of

⁵⁷³ See Assefa (2007a) 141.

⁵⁷⁴ Lapidoth (1995) 278.

⁵⁷⁵ See above at § 4.4.2.

accommodating ethnic minorities and the relevance of local government in this regard.

4.4.3. Consociationalism for accommodating minorities at local level

Consociationalism, also known as power-sharing or consociational democracy, is an institutional arrangement that seeks to ensure that political power is shared among various ethnic, religious, racial, or any other social groups of a country depending on the social divide in a particular country.⁵⁷⁶ Power-sharing, as formulated by Lijphart, takes place through the co-operation of the leaders of the various social groups.⁵⁷⁷ In a country where society is divided along ethnic line, consociation democracy advocates power sharing and co-operation among the leaders of key ethnic communities of the country.

Consociationalism is considered to be a workable arrangement in a society which is segmented by social divides and where ‘overarching loyalty’ and ‘social mobility’ between the social segments is absent.⁵⁷⁸ Therefore, it aims to maintain a political ‘equilibrium’ by preventing a ‘permanent exclusion’ from power of any ethnic or other social group. This is based on the premise that majoritarian democracy does not work in divided societies as it allows state power to be concentrated into a particular social group. This, in turn, relegates others to a ‘permanent minority position’.⁵⁷⁹ Consociationalism, therefore, seeks to prevent decision making on a majoritarian basis and seeks to accommodate various

⁵⁷⁶ Bogaards (2006) 119.

⁵⁷⁷ Lijphart (2006).

⁵⁷⁸ Andeweg (2000) 511.

⁵⁷⁹ Lijphart (2006) 43.

political interests ‘through compromise or amicable agreement’ among the political elites.⁵⁸⁰

Consociational democracy or a power-sharing is in the main implemented at national government level. Several states, including the Netherlands, Lebanon, Belgium, Bosnia, the former Czechoslovakia, Northern Ireland, and South Africa, have implemented consociational democracy at a particular point in time.⁵⁸¹ Recently, some form of power-sharing scheme has become the most preferred arrangement in post-conflict countries such as Kosovo, Cypress, Bosnia-Herzegovina, and Macedonia.⁵⁸²

Some scholars, however, argue that the usefulness power-sharing is not limited to ‘national politicking’; it may also take place at local level.⁵⁸³ Power sharing might be even more useful in ethnically heterogeneous localities to ensure the representation of minorities in local councils, local executive bodies, and administrative offices.⁵⁸⁴ Such kind of special representation at local level is important because minorities are affected more by ‘local situations’ than at national level. A scheme of power sharing at local level has the potential to enhance the prospect of maintaining ‘inter-ethnic power equilibrium’ even where it is unbalanced at the national level.⁵⁸⁵ Hence, through decentralisation and the

⁵⁸⁰ Andeweg (2000) 511.

⁵⁸¹ Bieber (2005) 107.

⁵⁸² Bieber (2005) 107.

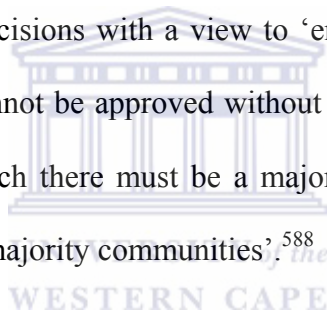
⁵⁸³ Wolff (2009) 30; Daskalovski (2000).

⁵⁸⁴ Wolff (2009) 30.

⁵⁸⁵ Daskalovski (2000) 129.

creation of autonomous local government, the representation and accommodation of diverse segment of a community can be ensured.

There are certain examples, though limited, of accommodating ethnic minorities in local government through power sharing schemes with a degree of success. In Slovenia, for instance, the autochthonous communities of Hungarian and Italian origin are guaranteed representation based on a power sharing scheme in local councils. In local councils these communities are represented by one or more councillors.⁵⁸⁶ In Macedonia, not only are the various ethnic communities are proportionately represented in local councils, special voting procedure is also used for passing certain decisions with a view to ‘ensure greater consensus’.⁵⁸⁷ Hence certain decision ‘cannot be approved without a qualified majority of two-thirds of votes, within which there must be a majority of the votes from those claiming to belong to non-majority communities’.⁵⁸⁸



4.4.3.1. Deficiencies of consociational democracy

As some scholars point out, power sharing arrangements have a number of shortcomings. The most critical deficiency of such a scheme is that it goes against democratic principle as it shuns the participation of the relevant ethnic community and encourages backdoor deals among the elites.⁵⁸⁹ Moreover, power-sharing does not strive to create social cohesion. It rather aims to prevent contact among ethnic communities and thereby not only maintaining ethnic divisions but

⁵⁸⁶ Flere & Klenovešek (2000) 38-39.

⁵⁸⁷ Lyon (2011) 31.

⁵⁸⁸ Lyon (2011) 31.

⁵⁸⁹ Bogaards (2006) 121.

also reinforcing them.⁵⁹⁰ Many authors agree that in a post conflict period, power sharing arrangements may create some calm and provide a window of opportunity for formulating more democratic and permanent political arrangements.⁵⁹¹ However they maintain that it cannot be a long-lasting solution.

4.4.3.2. Institutional features consociationalism

There are three institutional features of consociational democracy. The first is 'segmented' or 'group' autonomy.⁵⁹² This aims to allow each ethnic community to autonomously decide on its own affairs. Matters relating to education and culture fall in this category.⁵⁹³ The autonomy may take territorial or non-territorial form.⁵⁹⁴ The second is proportional representation.⁵⁹⁵ This entails the establishment of an executive coalition with the representation in the executive of the leaders of each ethnic community.⁵⁹⁶ It also requires the proportional representation of the main ethnic communities in representative assemblies. To this effect, consociational democracy requires proportional representation electoral system. Consociational democracy also requires the equitable distribution of public offices among members of the various ethnic communities. The third element is mutual veto.⁵⁹⁷ Decisions are passed with consensus and minorities should be able to veto decisions that most directly affect them.⁵⁹⁸

⁵⁹⁰ Bogaards (2006) 121.

⁵⁹¹ Bogaards (2006) 121.

⁵⁹² Lijphart (2006) 43.

⁵⁹³ Lijphart (2006) 43.

⁵⁹⁴ McGarry & O'Leary (2007) 671.

⁵⁹⁵ Lijphart (2006) 43.

⁵⁹⁶ Lijphart (2006) 43.

⁵⁹⁷ Lijphart (2006) 43.

⁵⁹⁸ Andeweg (2000) 511.

4.4.4. Cultural autonomy

Cultural (also personal) autonomy⁵⁹⁹ is a non-territorial form of autonomy which aims to protect territorially dispersed ethnic, cultural or religious groups in heterogenous countries or regions.⁶⁰⁰ Cultural autonomy aims at protecting and promoting the language, culture, and religion of ethnic minority communities through non-political institutions such special schools for ethnic or religious minorities.⁶⁰¹

The earliest form of cultural autonomy can be traced back to the 18th century in the Polish-Lithuanian Commonwealth which provided cultural autonomy to the Jewish community. The Jewish community had a local council which decided on cultural matters and which was also represented at regional council (*kahal*), and national council (*vaal*).⁶⁰² These institutions decided on religious, cultural and even economic issues of the Jewish community in the Commonwealth. Cultural autonomy was also used in the Ottoman Empire to accommodate non-Muslim minorities such as the Jews and the faithful of Greek Orthodox Church.⁶⁰³ With the dismemberment of the Austro-Hungary Empire after WWI, the newly created countries such as the former Czechoslovakia, Estonia, and Latvia attempted to accommodate their territorially dispersed ethnic minorities through non-territorial mechanism. In Finland the Swedish minorities run their own school while in Estonia an ethnic community, with 3000 and more members who voluntarily

⁵⁹⁹ Also known as ‘segmental autonomy,’ ‘functional autonomy,’ ‘corporate autonomy,’ and ‘corporate federalism’. Moore (2004) 1330.

⁶⁰⁰ Cornell (2002) 249.

⁶⁰¹ Lapidoth (1993) 280; Moore (2004) 1330.

⁶⁰² Coakley (1994) 299.

⁶⁰³ Coakley (1994) 299; Lapidoth (1993) 280.

identified themselves as members of the group, was given a legal personality.⁶⁰⁴ Once given a legal personality, the group could have its own cultural council which had the power to levy taxes on its member and decide on matters such as '[e]ducation, culture, libraries, theatres, museums, sports and youth affairs'.⁶⁰⁵ More recently, a tri-cameral parliament was established in South Africa for the Whites, Asian and Coloured communities whose members were elected on non-territorial basis. Despite its racist underpinnings this arrangement was considered as a form of cultural autonomy.⁶⁰⁶

Even now, certain countries attempt to accommodate minorities on non-territorial basis. In New Zealand the Maoris, in Canada the Indians, and in Norway the Saamis are accommodated on non-territorial basis.⁶⁰⁷

4.4.5. Concluding remarks

The discussion in the preceding sections has outlined the institutional principles that can be employed for accommodating intra-substate ethnic minorities through territorial and non-territorial arrangements. The following section will bring together and synthesises the entire discussion of this chapter.

5. DECENTRALISATION, DEVELOPMENT, AND ACCOMMODATION OF MINORITIES: A SYNTHESIS

The §.3 and § 4 have separately analysed whether, how, and when decentralisation can serve as an institutional arrangement to achieve development and accommodate ethnic minorities. The discussion has

⁶⁰⁴ Coakley (1994) 307.

⁶⁰⁵ Coakley (1994) 307.

⁶⁰⁶ Coakley (1994) 307.

⁶⁰⁷ Coakley (1994) 307.

identified the strengths and deficiencies of decentralisation as an institutional device for development. It has also shown how local government can serve as an institutional response to the challenge of accommodating minority ethnic communities. The institutional prerequisites which are likely to optimise the effectiveness of local government in achieving these two objectives have been identified.

Achieving development and accommodating minorities is not an either-or matter. An ethnic minority is sure to be disgruntled unless its developmental needs are not fulfilled even if it is allowed to decide on its cultural matters. Achieving both objectives is therefore critical. Moreover, as the summary in the table below shows, the institutional principles that have to be employed for achieving the two objectives are not necessarily mutually exclusive even though they may not be identical.

Table 1 A summary the institutional principles for decentralised development and accommodation of minorities

Institutional features	Development	Accommodating minorities
Constitutional recognition	Constitutional recognition of local government as a level/sphere of government	Constitutional recognition of the right to self-rule of ethnic communities
Area of establishment	On wall-to-wall basis	Only in a specific geographical area where a minority ethnic

		community is found
Boundary demarcation	Should take into consideration urban/rural differences, development level, financial viability, territorial and population size,	Based on the settlement structure of an ethnic community
Electoral system		Proportional representation
Competences	Development related matters such as health, education, water, housing	Cultural matters such as language, education, media
Political powers	Legislative and executive powers	Legislative and executive powers
Inter-governmental relations	Based on the principle of supervision and co-operation	Based on the principle of shared-rule

Therefore, a well-considered harmonisation of these institutional features will be necessary. This chapter does not seek to discuss on how these institutional principles can be harmonised. Rather based on these institutional principles, the successive chapters will examine Ethiopia's local governance system.

6. CONCLUSION

This chapter has discussed whether, how, and when decentralisation may serve as an effective institutional device for achieving development and accommodating ethnic minorities. It has also outlined the various institutional principles that are

suggested by scholars and institutions that a decentralisation programme should fulfil in order to effectively achieve either of these two objectives.

Against these institutional principles, the succeeding chapters will evaluate Ethiopia's decentralisation programme and its appropriateness to the objective that it has set out to achieve, namely realising development and accommodating intra-substate ethnic minority communities. To this effect, the next chapter will provide a historical background on Ethiopia's previous local governance system. The historical discussion is necessary as the decentralisation programme aims to correct problems allegedly caused by previous centralised system of governance.



Chapter 3

Local administration, development, and ethnicity in Ethiopia: A historical perspective

1. INTRODUCTION

The appropriateness of Ethiopia's local government system for achieving development and accommodating minorities cannot be fully explained or fairly evaluated without reference to the country's political, social, and legal history. The historical discussion is especially important because the new local governance system was introduced based on an explicit or implicit supposition that the previous centralised system of governance either caused or exacerbated the prevalence of poverty and in the country.⁶⁰⁸ It is also based on an allegation that the former system has caused or resulted in the political, economic, and cultural marginalisation of scores of ethnic communities of the country.

This chapter, therefore, provides a brief account of Ethiopia's previous system of local of governance. In view of that, § 2 briefly describes Ethiopia's geography, demography and economic system. §3 will briefly describe the system of local governance that existed since the emergence Ethiopia as a state until the emergence of 'Modern Ethiopia' in the 1850s. This section also briefly explains the various traditional authorities that existed in Ethiopia and their role. § 4 and § 5 will look at the emergence of 'Modern' Ethiopia and the gradual centralisation of power and bureaucratisation of local administration of the country. These sections will also assess the impact of centralisation on development and management of the ethnic diversity the Ethiopian people. The factors and

⁶⁰⁸ See the discussion in chapter 4 § 5.

processes that led to the current process of decentralisation will be highlighted in § 6 and 7.

2. GENERAL FACTS ABOUT ETHIOPIA

Ethiopia is found in the Eastern African Region which is commonly referred to as the Horn of Africa. The country shares borders with Djibouti, Eritrea, Somalia, Kenya, the Sudan, and South Sudan. With a total area of 1 104 300 sq. km. Ethiopia is among the largest countries in Africa.⁶⁰⁹ Ethiopia's elevation ranges between -125m below sea level at Danakil depression to 5,620 at Ras Dejen (Dashen) Mountain in the north. The landscape of the country is principally a high plateau, with chains of mountains in the east and west, running parallel from north to south, with the Great East African Rift Valley cutting through the mountain ranges from north to south.⁶¹⁰ The country also has a wide expanse of lowlands in the south-east and north-east.⁶¹¹

The population of the country is estimated at 80 million.⁶¹² The majority of the people (62 %) are Christians (Orthodox, Catholic and Protestant).⁶¹³ Muslims account for 34 % of the population.⁶¹⁴ There are approximately 80 ethnic communities in Ethiopia. The Oromos constitute the largest ethnic community in

⁶⁰⁹ Central Intelligence Agency (CIA) <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last accessed on 19 May 2012).

⁶¹⁰ Central Intelligence Agency (CIA) <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last accessed on 19 May 2012).

⁶¹¹ Central Intelligence Agency (CIA) <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last accessed on 19 May 2012).

⁶¹² FDRE Population Census Commission (2008) 8.

⁶¹³ FDRE Population Census Commission (2008) 17.

⁶¹⁴ FDRE Population Census Commission (2008).

Ethiopia, accounting for 34.5 percent of the total population, followed by the Amharas 26.9 percent, the Somali 6.2 percent and the Tigre 6.1 percent.⁶¹⁵

Ethiopia's economy has traditionally been based on agriculture which contributed up to 90 percent to the country's GDP. There are, however, some reports that show that the service sector has overtaken the agriculture sector as the leading economic sector.⁶¹⁶ In 2009/2010, for instance, the average contributions to the national GDP of the agriculture, the industry, and the service sector were 41.6 percent, 12.9 and 45.5 percent respectively.⁶¹⁷

3. LOCAL GOVERNANCE FROM AXUM TO THE EMERGENCE OF 'MODERN ETHIOPIA'

Historians claim that Ethiopia has a more than 2000 years of existence as a state tracing the country's origin to the Axumite Civilisation (Axumite Kingdom) which arose in the northern part of the country around the 10th Century B.C.⁶¹⁸ They maintain that the Axumite Kingdom was one of the most powerful, rich, and well known civilisations in the world and demonstrate as evidence for their claim relics of stelae, ruins of palaces, and other artefacts.⁶¹⁹ There is no concurrence among historians concerning the territorial extent of the Axumite Kingdom, in particular its southern boundaries.⁶²⁰ There is a general agreement

⁶¹⁵ See chapter 4 at Table 2.

⁶¹⁶ MoFED (2010) 4-5.

⁶¹⁷ MoFED (2010) 4-5.

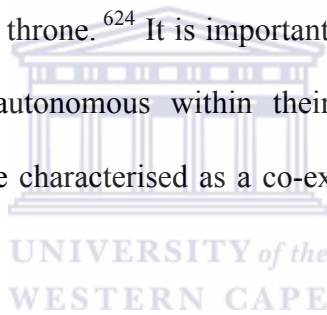
⁶¹⁸ Markakis (1975) 1; Bahru (2002) Teshale (1994).

⁶¹⁹ Bahru (2002) 8.

⁶²⁰ Bahru (2002) 8; Teshale (1995); 41.

though that the present day the State of Eritrea, Tigray, and Amhara were within the domain of Axume.⁶²¹

From the time of the Axumite Kingdom until the emergence of ‘Modern Ethiopia’ in the 1850s, decentralised rule was the dominant feature of the country’s political structure in which ‘triple layers of authority’ co-existed.⁶²² At the centre was an emperor who exercised a central authority. Regional or provincial and local authorities also exercised power autonomously within their respective territorial domains.⁶²³ Some scholars maintain that the country’s governance system was characterised by the co-existence of ‘double’ authorities; regional lords and a central throne.⁶²⁴ It is important, however, to note that local authorities were equally autonomous within their realm. Hence, Ethiopia’s decentralised system can be characterised as a co-existence of triple authorities; local, regional, and central.



Ethiopia was a decentralised state primarily due to its colossal territorial size, its rugged and broken landscape, the economic and cultural diversity of the people, and the absence of infrastructure, especially roads connecting the various regions.⁶²⁵ These factors hindered centralised rules and led to the creation of historical regional and local boundaries which, in turn, reinforced the social and economic diversity of the people.⁶²⁶ Thus, localities had significance in the lives

⁶²¹ Bahru (2002) 8; Teshale (1995) 41.

⁶²² Gebru (1991)36. See also Assefa (2007a) 17; Solomon (2006) 11-13.

⁶²³ Gebru (1991) 36; Assefa (2007a) 16.

⁶²⁴ Assefa (2007a) 16; Solomon (2006) 11.

⁶²⁵ Solomon (2006) 12; Gebru (1991) 36.

⁶²⁶ Gebru (1991) 36.

of the Ethiopian people. In fact localities often had a more prominent impact on the people's life than the regions.⁶²⁷ As Teshale notes, in Ethiopia '*the parish... defined one's identity*' even though 'Ethiopian nationalism' was felt strongly at a time of foreign aggression.⁶²⁸ Even now people tend to identify themselves with the localities of their birth. It is common to hear people say that 'I am Manzé, she is Yifaté, or he is Agamé'.⁶²⁹ Manze, Yifat and Agame are, but small localities in the present day Amhara and Tigray regions. Most of the current local government boundaries are also drawn based on these historical boundaries.⁶³⁰

3.1. Traditional institutions of local governance

3.1.1. Introduction

Ethiopia's territorial enormity and the rough terrain together with the social, economic, and cultural diversity of the people had resulted in the emergence of diverse endogenous local administrative institutions throughout the country. A detailed discussion of each of the traditional institutions local administration is beyond the scope this thesis. The following section will, therefore, provide a brief depiction of some of the traditional local authorities and institutions of local administration of northern and southern Ethiopia.

3.1.2. Traditional local administrative institutions of northern Ethiopia

The area which is referred to as the 'northern Ethiopia' is that part of Ethiopia which was within the domain of the Axumite Kingdom. This included, as

⁶²⁷ Gebru (1991) 36.

⁶²⁸ Teshale (1995) 108. Emphasis added.

⁶²⁹ Gebru (1991) 10.

⁶³⁰ Kinfé (1994) 26.

indicated above, the area of the present day State of Eritrea, Tigray and Amhara region.⁶³¹ This part of Ethiopia was also known as the Abyssinian Empire.⁶³²

The Abyssinian Empire had five provinces or regions: The Tigre (which includes the present Tigray and Eretria), Gojam, Wollo, Gonder (Begemidir), and Showa.⁶³³ Each of these regions was ruled either by a *Ras* (head) or a *Nigus* (king).⁶³⁴ At the centre was the *Niguse-Negest* (King of Kings or Emperor) whose central authority was recognised by the regional rulers. The regional rulers exercised power autonomously even though the extent of their autonomy depended on the strength of the Emperor at the centre.⁶³⁵



⁶³¹ Solomon (2006) 11.

⁶³² It was also in this part of Ethiopia where Christianity was first introduced in the 4th century. The Abyssinian Empire is also called the 'Christian Kingdom'. The Abyssinian Empire was first ruled by emperors belonging to the Axumite dynasty. With the decline of Axume in the 7th century, mainly due to the rise of Islam, power shifted to the Zagwe dynasty of the Agaw people who ruled the Empire until they were ousted in 1270 by Yikuno Amlak who established the Solomonic dynasty. Emperors from the Solomonic dynasty ruled the country until Emperor Haile Selassie I, the last Ethiopian monarch, was dethroned in 1974. Assefa (2007a) 22.

⁶³³ Abbera (2000) 222.

⁶³⁴ Abbera (2000) 222.

⁶³⁵ When the centre was weak, the regions enjoyed unhindered autonomy. For instance, the regional rulers enjoyed unfettered autonomy during Ethiopia's historical epoch known as *Zemene Mesafint* (The Age Princes) (1769-1855) in which the central throne was extremely weakened. The provincial leaders also attempted to control the central throne whenever one of them felt militarily strong. Therefore, the seat of the central throne moved from one region to the other depending on the regional ruler who asserted power. For instance, Gonder was the seat of the throne until power shifted to Showa when Emperor Menilik II ascended to the throne. What is remarkable is that the provincial ruler sought to control the centre; hardly ever did they seek to break away from it. Assefa (2007a) 20-21; Bahru (2002) 11; Keller (1981) 316.

Each of the five regions or provinces was further divided into several districts. A district governed by a district level authority who took the designation of either *melkegna* or *abegaz* or *gult-gejzi*.⁶³⁶ The districts were divided into sub-districts and each of the sub-districts was ruled by a local authority known as *misle'ene*. There was also a village level authority called *chiqa shum* below the *misle'ene*.⁶³⁷ In most cases, the offices of traditional provincial and local authorities in northern Ethiopia were hereditary while in a few cases the positions rotated among the *rist* land holders.⁶³⁸

The traditional local authorities at all levels exercised both administrative and judicial functions.⁶³⁹ They, therefore, had the duty to maintain peace and order, resolve disputes, collect taxes, and implement orders of the *Niguse-Negest* as well as the regional rulers.⁶⁴⁰ The traditional local authorities in northern Ethiopia were hierarchically organised in that the administrative and judicial decisions of a lower level local authority were reviewed by a higher level local authority. For instance, a *chiqa-shum's* administrative and judicial decisions were reviewed by *misle'ene* or *melkegna*.⁶⁴¹ As part of their administrative functions, local

⁶³⁶ Markakis (1975) 106-108; Teshale (1995) 82-84; Abbera (2000) 51.

⁶³⁷ Abbera (2000) 46 & 50.

⁶³⁸ A *rist* is a land holding system which was practiced in the northern Ethiopia. It was based on an 'ancestral descent claim and effective possession of land'. A *rist* was a communal ownership of land which was not measured and the possessor of which had no right to dispose it by sale or by any other means. Being a *rist* holder brought to the holder not only economic benefit but also social prestige among them being holding administrative office. In practice all of the peasants in the northern part were *rist* holders. Teshale (1995) 73; Abbera (2000) 134-135; Markakis (1975) 99-104.

⁶³⁹ Abbera (2000) 46 & 50.

⁶⁴⁰ Abbera (2000); Teshale (1995); Markakis (1975) 107.

⁶⁴¹ Abbera (2000) 222ff.

authorities also served as liaisons between a higher level of administration and the people at local level. Accordingly, they communicated government decisions and laws to the people and the people's grievances and wishes to the senior rulers.⁶⁴²

In return for their services, local authorities were entitled to retain a certain percentage of the taxes they collected from within their jurisdiction. For instance, a *chiqa shum* was entitled to retain up to 3 percent of the taxes that he collected from the village under his chieftainship.⁶⁴³ A *gult-gejzi* or *melkegna* was also permitted to collect tribute, which could amount to a fifth of the produce of each *rist* holder or from the *gebars* who were *rist* holding peasants in his *gult*.⁶⁴⁴

3.1.3. Traditional administrative institutions of southern Ethiopia

'Southern Ethiopia' is that part of Ethiopia which, arguably, did not form part of the Abyssinian Empire even though it had commercial relation with it.⁶⁴⁵ The southern regions were fully incorporated into the Ethiopian Empire only in the second half of the 19th Century following the expansion of the latter. In the southern part of Ethiopia there were (still are) numerous ethnic communities whose political 'organisations ranged from communal societies to states with powerful kings and elaborate mechanisms for the exercise of authority'.⁶⁴⁶ Each of these ethnic communities had its own traditional local authorities and administrative institutions.⁶⁴⁷ The Oromos, for instance, had a socio-political system known as *gada* which consisted of 'age grade classes that succeed each

⁶⁴² Teshale (1995) 124.

⁶⁴³ Teshale (1995) 125.

⁶⁴⁴ Markakis (1975) 107.

⁶⁴⁵ Bahru (2002); Assefa (2007a) 17-18.

⁶⁴⁶ Bahru (2002) 16.

⁶⁴⁷ Assefa (2007a) 17.

other every eight years in assuming economic, political, and social responsibilities'.⁶⁴⁸ There were also strong kingdoms in the southern part of Ethiopia, including, the kingdoms of Kaffa and Wolyita which had various local level administrative institutions.⁶⁴⁹ The Gurage, also an ethnic community of Southern Ethiopia, had well developed traditional local administrative institutions at village, clan and regional level which were known as *yejoka (gordana)*, *agar* and *samugnet* respectively.⁶⁵⁰ In the east and north east, there were the Sultanate of Afar, the Emirate of Harer and the Somalis with their own regional and local administrative institutions.⁶⁵¹

3.1.4. Assessment

The institutions of the Ethiopian traditional local authorities were numerous and diverse. Hence, a general assessment of their excellence or mediocrity as institutions of development and accommodation of ethnic diversity is simply impossible. It is safe however to say that the traditional local institutions and authorities enjoyed legitimacy in the eyes of the relevant community. They were home-grown and the local authorities often held power with the 'explicit or implicit consent of the relevant community', and derived their authorities mainly from the 'respect and support' of their community.⁶⁵²

⁶⁴⁸ Mohammed (1995) 10.

⁶⁴⁹ The kingdom of Kaffa, for instance, had provincial sub-divisions known as *worafo*, *rashe-showo*, *gudo* and *gafo* which were administered by sub-kings. It also had three autonomous districts, *manok*, *nao* and *sewo*, which were administered by local authorities called *werabe rasher* or *waraki*. Bahru (2002) 16; Bekele (2005) 15.

⁶⁵⁰ Bahru (2008) 62-63.

⁶⁵¹ Bahru (2002) 19-20; Assefa (2007a) 17.

⁶⁵² Markakis (1975).

There were also democratic local institutions in southern Ethiopia, such as, the *gada* of the Oromo. In the *gada* system the local authorities held power with the consent of the people and for a limited period of time, which is a key feature of a democratic system.⁶⁵³ The *yejoka* and *samugnet* of the Gurage people also had features which were democratic. The legitimacy of the local authorities in the eyes of the people is self-evident even in the instances where local administrative positions were hereditary.

Development and service delivery were foreign concepts to Ethiopia's traditional local authorities.⁶⁵⁴ The local authorities viewed their responsibility to be limited to maintaining law and order, administering justice, and collecting taxes. However, local officials, such as the *chiqa shum*, mobilised the local people to engage in what could be viewed as developmental activities, such as building roads. The role of the *samugnet* of the Gurage in maintaining an equitable use of resources such as grazing land, among members of a clan can be considered a developmental function.⁶⁵⁵ The developmental significance of the local officials' role in maintaining peace and order and amicably settling disputes in the localities, and in administering justice is also self-evident.

A further, and perhaps the strongest, aspect of the decentralised structure of the Ethiopian state was its accommodation of diversity. The system allowed each ethnic and cultural group, starting from village level, to administer itself in accordance with its tradition and culture.

⁶⁵³ Hussien (2006) 258.

⁶⁵⁴ Cohen & Koehn (1980) 37.

⁶⁵⁵ Abbera (2000) 59; Bahru (2006) 21.

However, the traditional institutions and authorities were not flawless. In particular, the traditional local authorities of the northern regions with their feudalistic character were not only undemocratic but also exploitative. In the past the only productive section of the Ethiopian society was the peasantry also known as in Amharic *gebar*, which literally means a tax payer.⁶⁵⁶ The government and the nobility depended on the *gebar* for their sustenance. In order to sustain itself, the government, with the help of local authorities, exacted excessive taxes, tributes and other dues from the *gebars*.⁶⁵⁷ The local officials were particularly hard-hearted towards the peasants since what accrued to them depended on the amount they could collect in the form of taxes and tributes. By so doing, local authorities were ruining the only productive section of the society instead of bringing about development to it.

4. THE BIRTH OF 'MODERN ETHIOPIA': 'CREEPING CENTRALISATION' (1855-1930)

The emergence of 'modern Ethiopia' is associated with the beginning of processes of territorial expansion and centralisation of political power.⁶⁵⁸ These two processes, undertaken in the name of nation building, were first initiated by Emperor Tewodros II (1855-1868) in 1855.⁶⁵⁹ The process of territorial expansion, which also continued during Emperor Yohannes IV (1872-1889),

⁶⁵⁶ Bahru (2002) 87.

⁶⁵⁷ Bahru (2002); Tehsale (1995); Tekle-Hawariat (1998 Ethiopian Calendar) 362.

⁶⁵⁸ Teshale (1995) 31; Bahru (2002) 27-31.

⁶⁵⁹ Teshale (1995) 31; Bahru (2002) 27-31.

reached its climax under Emperor Menilik II (1889-1913) in the late 1890s resulting in Ethiopia taking its current shape.⁶⁶⁰

Emperor Menilik II, who was a Showan King until he assumed the Emperorship after the death of Emperor Yohannes IV, expanded the Ethiopian Empire mainly to the southern and south-eastern Ethiopia using both diplomacy and military force.⁶⁶¹ Following the incorporation of the southern regions into the Ethiopian Empire, the various ethnic communities of the southern regions became politically, economically, and culturally marginalised.⁶⁶²

4.1. Political marginalisation

As stated above Menilik used both diplomacy and military to expand his empire. In some cases Menilik's diplomatic effort secured him the peaceful submission of some regional and local rulers to his authority. As a reward for their peaceful submission, he allowed them to retain their positions. He also left the local administrative institutions in the areas largely unaltered.⁶⁶³ However, he expected the regional and local leaders who so submitted to him to serve him as 'vassals'.⁶⁶⁴ Menilik persuaded, even coerced, these rulers to convert to Orthodox Christianity, the official religion until 1974 and to learn the Amharic language, the language of the Amhara ethnic community to which Menilik belonged.⁶⁶⁵

⁶⁶⁰ Bahru (2002) 60-68.

⁶⁶¹ Teshale (1995) 42.

⁶⁶² Yonatan (2010 a) 161.

⁶⁶³ Teshale (1995) 42.

⁶⁶⁴ Among the kingdoms in this category were *Jimma Abba Jiffar*, *Leqa Naqamte*, *Leqa Qellam*, *Assosa* and *Bella Shangul*, *Awsa* of *Afar* and *Gubba* of western *Gojjam*. Markakis (1975) 132; Teshale (1995) 42

⁶⁶⁵ Mekruia (1997) 325 ff.

The regions that resisted Menilik's authority were militarily overpowered and put under Menilik's direct rule. The Emperor personally appointed each regional administrator to these areas thereby abolishing the traditional rulers and institutions of the southern regions.⁶⁶⁶ This was the case, for instance, in the Kaffa, the Gibe, the Sidama, and the Emirate of Harer. Menilik appointed the military leaders who led his military campaign as administrators of these regions.⁶⁶⁷ The military leaders, who were in most cases Showan-Amharas, in turn, subdivided the conquered regions into different localities and appointed their subordinates as administrators of the localities.⁶⁶⁸

The traditional regional and local institutions of administration of the southern regions were virtually abolished altogether. In their place, the local institutions of northern Ethiopia such as *chiqa shum*, *gult gedzi* and the like were imposed in these regions along with northern rulers.⁶⁶⁹ The endogenous institutions of the southern regions were allowed to exist only where they were found to be useful for exerting control over the local population. Even in such cases they were subordinated to the northern local institutions which were 'superimposed' in the southern regions.⁶⁷⁰

However, the traditional leaders of the southern localities were indispensable for exerting certain control over the local population. They were, therefore, placed

⁶⁶⁶ Keller (1981) 313; Teshale (1995) 42.

⁶⁶⁷ Markakis (1975) 133.

⁶⁶⁸ Markakis (1975) 133.

⁶⁶⁹ Abbink (1997) 323.

⁶⁷⁰ Abbink (1997) 323.

under the northern provincial and local rulers to serve as ‘liaison-men’.⁶⁷¹ The traditional local authorities of the southern regions, commonly known as *balabbats*, did not however have formal administrative authority.⁶⁷² Their function was limited to maintaining security and assisting the centrally appointed local rulers in collecting taxes and tributes. They also mobilised local communities whenever their services were needed by the central government. In return for their services, the *balabbats* were allowed to retain their lands when, as will be shown below, the land in the southern regions were expropriated.⁶⁷³

In the north-eastern and south-eastern lowland areas of the country where the pastoral people of the Somali and Afar ethnic communities are found, the direct control of the central government was minimal.⁶⁷⁴ Direct control of these communities by the central government was impossible as they were in constant movement in search of grazing land and water. Therefore, the central government had to rely on the clan and tribal leaders of these communities to exert indirect control.⁶⁷⁵

4.2. Economic marginalisation

Two-thirds of the southern regions was expropriated by Menilik and was given to settlers who moved from northern Ethiopia.⁶⁷⁶ Settlement sites and military garrisons were established as a large number of Amhara settlers moved to the southern regions as soldiers, administrators, and priests.⁶⁷⁷ The settlers suppressed

⁶⁷¹ Abbink (1997) 322.

⁶⁷² Abbink (1997) 323.

⁶⁷³ Markakis (1975) 134.

⁶⁷⁴ Hess (1970) 132.

⁶⁷⁵ Hess (1970) 132.

⁶⁷⁶ Keller (1981) 313; Markakis (1975) 136.

⁶⁷⁷ Keller (1981) 313; Teshale (1995) 46.

any resistance against the Emperor, and ensured security and ‘the smooth flow of tribute’ to Menilik’s ‘imperial treasury’.⁶⁷⁸

4.3. Cultural marginalisation

Amharic was imposed as the sole official language of the Ethiopia Empire. The ethnic communities of the southern regions were therefore, encouraged, if not coerced, to abandon their languages and to adopt Amharic as their language.⁶⁷⁹

Their cultures and traditions were viewed as inferior to the Amhara culture.⁶⁸⁰

They were also required to convert to Orthodox Christianity which was then a state religion.⁶⁸¹

4.4. Assessment

The southward territorial expansion that was carried out by Emperor Menilik is of critical significance in the Ethiopian history. The territorial expansion is given conflicting interpretation by different historians. For some, Menilik’s expansion was a mission of nation building and a process of re-unifying hitherto lost territories to the Ethiopian Empire. For others, it was an undertaking of colonial subjugation.⁶⁸² It is not the purpose or within the scope of this thesis to provide ‘the correct interpretation’ to this epoch in Ethiopia’s history. However it cannot be gainsaid that the process of territorial expansion and administrative centralisation that Menilik undertook resulted in the political and cultural marginalisation of scores of ethnic communities of the country. The ethnic

⁶⁷⁸ This direct control and militaristic administration of the southern regions came later to be disreputably known as the ‘*neftegna* system’. ‘*Neftegna*’ means ‘one with a gun’ and it implies the militaristic nature of the local administration in the southern part of the Ethiopia. Markakis (1975); Abbink (1997); 322; Bahru (2002); Keller (1981) 313; Teshale (1995) 46.

⁶⁷⁹ Markakis (2004) 12.

⁶⁸⁰ Bahru (2002).

⁶⁸¹ Markakis (2004) 12.

⁶⁸² See Yonatan (2010) 163; Teshale (1995).

conflicts that plagued the country for more than a century are one way or the other related to this era. This is why one of the alleged purposes of the decentralisation process is to curtail the more than a century long inter-ethnic hostility.

5. FORMAL CENTRALISATION UNDER EMPEROR HAILE SELASSIE I (1930-1974)

The political and administrative centralisation process continued even after Emperor Menilik. Emperor Haile Selassie I took the centralisation process to its extreme. Haile Selassie, who reigned for over five decades, is best known for his use of formal constitutional and legal means to centralise power.

Haile Selassie began his part of the centralisation process in 1931 when he promulgated the first written Constitution of the country.⁶⁸³ The Constitution was intended to serve three objectives. The first objective was to provide a constitutional foundation for the authority of the Emperor which was hitherto founded on a ‘convention based on “divine kingship”’.⁶⁸⁴ The second was to define the line of succession to the throne.⁶⁸⁵ The third objective, which is most relevant here, was to ‘define’ the relationship between the Emperor and the nobility.⁶⁸⁶ This, in effect meant to centralise all powers in the Emperor through constitutional means and to strip provincial and local rulers of their traditional hereditary claims to provincial or local leadership.⁶⁸⁷ In other words, the Emperor used the Constitution to exclude ‘the nobility from any political position not

⁶⁸³ Keller (1981) 320.

⁶⁸⁴ Abbera (2000) 167.

⁶⁸⁵ Abbera (2000) 167.

⁶⁸⁶ Abbera (2000) 167; Bahru (2002) 140.

⁶⁸⁷ Abbera (2000) 167.

derived directly' from him.⁶⁸⁸ The Constitution, therefore, served as a starting point towards formal centralisation of political power. The Emperor took the most critical formal and practical measure of centralisation in 1942 when he reclaimed the throne after the Italian occupying forces had been ousted from the country.⁶⁸⁹

The five year occupation of the country by the Italian forces had facilitated Haile Selassie's subsequent centralisation in various ways.⁶⁹⁰ The Italians built roads linking each province with Addis Ababa, which later helped overcome the difficulty that the topography of the country posed for a centralised administration.⁶⁹¹ Furthermore, hoping to smoothly run the administration of their East African colonies, the Italians had introduced a hierarchical, centralised and bureaucratised administrative structure which Haile Selassie used as a model.⁶⁹² These factors facilitated Haile Selassie's post-Italian occupation centralisation which was put into effect with the 1942 local and provincial administrative reform. The centralisation that was carried out by Haile Selassie had military, administrative, and judicial aspects.⁶⁹³ Only the administrative aspect is discussed here.

⁶⁸⁸ Cohen & Koehn (1980) 7.

⁶⁸⁹ From 1931 until 1935 the Emperor was in exile as the country was under Italian occupation. He began the 1942 provincial and local reforms a few years after the expulsion of the Italian forces.

⁶⁹⁰ Teshale (1995) 107.

⁶⁹¹ Teshale (1995) 107.

⁶⁹² Bahru (2002) 162.

⁶⁹³ Teshale (1995) 107.

5.1. The 1942 administrative reform

In 1942 Haile Selassie issued Decree 1 (1942) in order to reform and modernise the country's administrative structure. The 1942 local administrative reform involved three measures: redrawing provincial and local boundaries, centralising the appointment of provincial and local administrators, and deconcentrating 'central ministries through the establishment of subordinate field offices staffed by appointed officials'.⁶⁹⁴ Each of these measures was intended and contributed to the centralisation of powers in the person of the Emperor.

5.1.1. Re-drawing provincial boundaries

After the completion of the territorial expansion during Emperor Menilik and until Italian occupation in 1930, Ethiopia was divided into 32 *ghizats* (governorates).⁶⁹⁵ Until Decree 1 (1942) was promulgated, the *ghizats*, in particular those in northern Ethiopia,⁶⁹⁶ enjoyed a wide range of autonomy from the centre. As Teshale notes, each territorial unit was 'a kind of a state within a state' despite the fact that the Emperor exercised overall authority.⁶⁹⁷ The boundaries of the *ghizats* were re-drawn after the enactment of the Decree and the 32 *ghizats* were reduced to 12 *awrajas* (provinces).⁶⁹⁸ In the process, some

⁶⁹⁴ Teshale (1995); Cohen & Koehn (1980) 8.

⁶⁹⁵ Danie (1994) 97.

⁶⁹⁶ Under Emperor Menilike the hereditary and semi-hereditary system of local administration was maintained in northern Ethiopia. In the southern part however, new governors were sent from the centre. The traditional leaders of the southern part played only complimentary role to the centrally installed administration. Teshale (1995) 128.

⁶⁹⁷ Teshale (1995) 115. See also Keller (1981) 314.

⁶⁹⁸ Daniel (1994) 98. Latter, the number of the provinces increased to 14. The 14 provinces were Arusi, Balé, Begemider (Gonder), Eretria, Gamo-Gofa, Gojjam, Harergé, Illubabor, Keffa, Showa, Sidamo, Tigray, Wollega, and Wollo.

provinces were amalgamated while others were dissected or reduced in size.⁶⁹⁹ It should be stressed that the main aim of this re-drawing of provincial boundaries and the standardisation of provincial administration was to weaken the hitherto autonomous provincial or regional rulers, especially those of northern Ethiopia.⁷⁰⁰ As Teshale notes, '[b]y redrawing the internal territorial boundaries of Ethiopia, Haile Selassie destroyed the traditional power base of the nobility'.⁷⁰¹

5.1.2. Centralising the appointment of provincial administrators

The 1942 reform centralised the appointment of provincial and local governors in the person of the Emperor.⁷⁰² The centralisation of the appointment of provincial governors formally abolished any hereditary provincial governorship. It also reduced the status of provincial governors to the agents of the Emperor. A provincial governor was expected to exercise government power in the name and on behalf of the Emperor.⁷⁰³

Provincial governors were prohibited from demanding taxes and tributes for themselves.⁷⁰⁴ They were instead required to collect taxes and dues on behalf of the Emperor and to transfer the revenue so collected to the Government Treasury.⁷⁰⁵ For their services, they were paid salaries from the central

⁶⁹⁹ Teshale (1995) 115.

⁷⁰⁰ Keller (1981) 321; Teshale (1995) 115-116.

⁷⁰¹ Teshale (1995) 115-116.

⁷⁰² Decree 1 (1942) Art 1.

⁷⁰³ Hess (1970) 131; Cohen & Koehn (1980) 8-9; Decree 1 (1942); Art 1 &2. This was even reflected in the governor's title which became '*enderase*', the literal translation of which is 'like myself' or 'on my behalf'. This title was in contrast to the former title of provincial governors which was either *Negus* (king) or *Ras* (head) both of which signify a certain level of autonomy. Teshale (1995)

⁷⁰⁴ Decree 1 (1942) Art 6.

⁷⁰⁵ Decree 1 (1942) Art 6.

government treasury. Provincial governors, therefore, became simply salaried employees of the state.⁷⁰⁶

The Amhara and, to some extent, the Tigray nobilities remained the ‘main pool of recruitment’ and appointment for provincial governorship even if they lost their autonomy as a result of the reform.⁷⁰⁷ The Emperor also used ‘traditional criteria’ for recruiting provincial governors, the most important criterion being strong loyalty to him.⁷⁰⁸ Therefore, in the northern regions one of the sons of a provincial governor was allowed to inherit the position so long as the latter showed loyalty to the Emperor.⁷⁰⁹ The governors of the southern regions were, however, almost exclusively Amharas even though in some cases one from among the *balabbats* was appointed as deputy to the Amhara governor.⁷¹⁰ In this way Haile Selassie continued the political marginalisation of the various ethnic communities of the southern regions which began during Menilik.

5.1.3. Local administration after the 1942 reform

The 1942 reform created a three tiered local administrative structure throughout the country.⁷¹¹ The 12 *awrajas* (provinces) were sub-divided into 60 *woredas* (districts).⁷¹² The *woredas* were in turn divided into 339 sub-districts (*mislene*)⁷¹³

⁷⁰⁶ Decree 1 (1942) Art 7. See also Keller (1981) 321.

⁷⁰⁷ Markakis (1975) 277ff.

⁷⁰⁸ Markakis (1975) 278.

⁷⁰⁹ Markakis (1975) 278.

⁷¹⁰ Markakis (1975) 278.

⁷¹¹ Daniel (1994) 99-100; Cohen & Koehn (1980) 9.

⁷¹² Daniel (1994) 98.

⁷¹³ Daniel (1994) 98.

and the sub-districts into 1176 village level administrative units (*mikitl mislene*).⁷¹⁴

5.1.3.1. Centralising the appointment of local authorities

The Decree also centralised the appointment of *woreda* administrators and *mislenes* in the person of the Emperor: The Emperor appointed administrators up on the recommendation of the Ministry of the Interior.⁷¹⁵ In effect, all forms of traditional hereditary and semi-hereditary local administrative positions were formally abolished. The Decree further provided that the governors at each level would act as the agents of the Emperor.⁷¹⁶

5.1.3.2. Functions of local authorities

The functions of local administrators were left without any significant change despite centralising the appointment and removal the administrators. Provincial and local administrators retained their traditional functions of maintaining security and order and collecting taxes.⁷¹⁷

⁷¹⁴ In 1946 slight adjustments were made to local level administration, which were basically limited to re-naming the administrative unit without any change on its territorial size. The three tiered local administration was maintained. Thus, the provincial administrative unit that up until then was called *awraja* became *teklay ghizat* (Governorate General). The sub-provincial administrative unit that was referred to as *woreda* under the 1942 Decree was renamed *awraja ghizat*. The *mislene* became ‘*woreda ghizat*’ and the sub-district level unit which had been *mikitl mislene* became *mikitl woreda*. Following the incorporation of Ogaden in 1954 into Ethiopia and the unification of Ethiopia and Eritrea in 1962, the number of the *teklay ghizats* in the country grew from 12 to 14. The country was also divided into 103 *awrajas* (sub-provinces), 505 *woredas* (districts) and 949 *mikitl woredawoch* (sub-districts). Daniel (1994); Cohen & Koehn (1980) 9.

⁷¹⁵ Decree 1 (1942) Art 36.

⁷¹⁶ Decree 1 (1942) Art 2.

⁷¹⁷ Decree 1 (1942) Art 6-20.

The notion of development and service delivery hardly featured at the time. Prior to 1974, therefore, the great majority of Ethiopians, especially those in the rural area, did not expect to receive any service either from the local administrative units or the field agents of the various ministries of the central government.⁷¹⁸ As Cohen and Koehn note;

‘A number of people used roads and the courts, but few could take advantage of education or health stations, and rarely did rural people see agricultural extension officers, much less a telephone or postal service. What did touch the lives of rural people was the tax collector of the Ministry of Finance and the policemen of the Ministry of the Interior.’⁷¹⁹

The people, therefore, had to organise themselves to raise funds to finance certain development projects, such as, building roads, bridges, schools, clinics and other facilities.⁷²⁰ A number of self-help organisations which were known as *meredaja mahiber* or *lemat mahiber* were formed.⁷²¹ These associations were established in Addis Ababa and other towns by the ‘natives’ of a given district or province and bore the name of the area or ethnic community for whose benefit the development associations were organised. However, these associations were accused of engaging in ‘subversive action’ against the government and were banned.⁷²²

⁷¹⁸ Cohen & Koehn (1980) 37.

⁷¹⁹ Cohen & Koehn (1980) 37.

⁷²⁰ Markakis (1975) 212.

⁷²¹ Markakis (1975) 212.

⁷²² Metcha and Tulema of the Oromo, the Sidamo voluntary associations, and the Alem-Gena-Wollamo Road Construction Association were among the best known development associations. Markakis (1975) 220-221; Hamer (2007) 214.

5.1.3.3. Central supervision

As indicated, above third element of Haile Selassie's centralisation scheme was the deconcentration of central ministries at local level. In order to supervise the provincial and local administrative units, therefore, the ministries stationed field agents in all provinces and localities.⁷²³ Each *awraja*, *woreda* or *mislene* administrator was under the administrative supervision of the Ministry of the Interior. It was also under the technical supervision of the Ministry of Finance pertaining to financial matters.⁷²⁴ Whether a decision was technical or administrative was a source of incessant controversy among the field agents of the various ministries of the central government.⁷²⁵ The directives of the different units of the central government often contradicted each other. Such disputes had to be taken to the Emperor for final decision, which clearly meant 'delay in or abandonment' of the implementation of local development projects.⁷²⁶ In short, the Decree established an extremely centralised, complex, inefficient, and highly bureaucratised local administrative system.

5.1.3.4. Urban administrations in the 1942 administrative reform

The 1942 Decree regulated the establishment and administration of urban areas separately.⁷²⁷ It was, however, Proclamation 74 (1945) that in detailed regulated urban administrations. Proclamation 74 (1945) categorised urban areas into municipalities and towns.⁷²⁸ Addis Ababa, Gondar, Harar, Jimma, Dessie and

⁷²³ Cohen & Koehn (1980) 9.

⁷²⁴ Decree 1 (1942) Art 2.

⁷²⁵ Cohen & Koehn (1980) 9.

⁷²⁶ Cohen & Koehn (1980) 9.

⁷²⁷ Decree 1(1942) Art 71.

⁷²⁸ Proclamation 74 (1945) Art 6 (1) & Schedule A and B.

Dire Dawa became municipalities.⁷²⁹ Asmara also joined this category after the unification of Ethiopia and Eritrea in 1963. The Proclamation also provided 100 urban areas with the status of towns.⁷³⁰ The towns were, in turn, divided into first, second and third class towns, even though the distinction between the different classes of the towns was unclear.⁷³¹

Municipal councils

Proclamation 75/1945 provided for the establishment of a municipal council in each urban area.⁷³² The councils consisted of seven elected representatives of the residents of a town and the representatives of the ministries of the central government. Only a resident of a municipality or a town who had immovable property could vote for and be elected to the municipal councils.⁷³³ Moreover, the Emperor personally appointed mayors for the municipalities and city officers for the towns upon the recommendation of the Ministry of the Interior. In many cases the provincial governors assumed the office of mayors or town officers of some or all of the cities in the provinces under their authority.⁷³⁴

In 1954 Addis Ababa became a chartered city with the power to prepare and adopt laws of local scope, and by-laws which were necessary for the

⁷²⁹ Proclamation 74 (1945) Schedule A.

⁷³⁰ The Proclamation gave the power to create new municipalities and townships and to change the category of an urban area to the Ministry of Interior. After the issuance of Proclamation 74/1945 the Ministry created more than one hundred townships. However the number of municipalities remained the same. Proclamation 74 (1945) Art 6 (1) (a) & Schedule B.

⁷³¹ Proclamation 74 (1945) Art 6 (1).

⁷³² Proclamation 74 (1945) Art 3 (2).

⁷³³ Proclamation 74 (1945) Art 3(2).

⁷³⁴ Cohen & Koehn (1980).

⁷³⁴ Cohen & Koehn (1980).

implementation of national laws.⁷³⁵ The autonomy of the city was, however, undercut as the Mayor of the City was accountable to the Emperor and the City's Council needed approval of the Ministry of the Interior for every decision.⁷³⁶

Functions of urban administrations

Proclamation 74(1945) contained a list of municipal functions including streets, squares, bridges, public gardens, sewerage, and alignment of buildings.⁷³⁷ A municipal council had the power to decide on municipal services, such as, water, electricity, market areas, cemeteries, abattoirs, fire fighting, municipal welfare institutions, municipal health services, and the like.⁷³⁸ Finance and capacity related constraints, however, rendered most of the towns and municipalities unable to provide basic services.⁷³⁹ Furthermore, as indicated above any decision that was adopted by a municipal council had to be submitted to the Ministry of the Interior for approval.⁷⁴⁰ This long and often 'politicised' process of seeking approval hindered the prompt implementation of locally adopted development programmes.

Financial sources of urban administration

Proclamation 74 (1945) authorised a municipal council to impose certain taxes and to decide on the municipal or town budget.⁷⁴¹ A municipality or a town could impose and collect property rates, trade, and professional licence fees, market

⁷³⁵ Cohen & Koehn (1980) 106.

⁷³⁶ Cohen & Koehn (1980) 106.

⁷³⁷ Proclamation 74 (1945) Art 4 (1-3).

⁷³⁸ Proclamation 74 (1945) Art 4 (3) (a-f).

⁷³⁹ Cohen and Koehn (1980) 147.

⁷⁴⁰ Proclamation 74 (1945) Art 4.

⁷⁴¹ Proclamation 74 (1945) Art 4 (i).

fees, and municipal service fees.⁷⁴² In addition, municipalities and towns received funds from the central government.⁷⁴³ The revenue that was collected from the aforementioned taxes was not sufficient to allow the municipalities and the towns to undertake any significant development project. First, a municipal council's decision to adopt a budget or to impose rates, fees, or dues had to be submitted to the Ministry of the Interior for approval.⁷⁴⁴ The lengthy process of approval in the Ministry of the Interior hindered the municipalities from effectively utilising these sources of revenue. Second, the city councillors were not willing to impose considerable taxes. To do so was against their personal interest as all of them were property owners. They, therefore, levied 'flat, nominal, and static land tax rates' out of self-interest.⁷⁴⁵ Third, there were large tracts of church and government land which was exempted from taxation. Fourth, the absence of competent staff and the limited economic base of the cities and the towns put further limitations on the revenue raising capacity of the urban areas.⁷⁴⁶

WESTERN CAPE

5.1.4. The 'attempted decentralisation' of 1966

By Decree No. 43, 1966, the Emperor attempted to decentralise power to the local level administration, in particular to the *awraja* (sub-provincial level) administration. This move was prompted by development experts who argued that the centralised system had thwarted 'local innovation'.⁷⁴⁷ Some provincial

⁷⁴² Proclamation 74 (1945) Art 11 (1-4).

⁷⁴³ Cohen & Koehn (1980) 135.

⁷⁴⁴ Cohen and Koehn state that prior to submitting municipally adopted budget to the Ministry of Interior for approval, the approval of the provincial administrator was sought. Cohen & Koehn (1980) 141; Proclamation 74 (1945) Art 11(5).

⁷⁴⁵ Cohen & Koehn (1980) 135.

⁷⁴⁶ Cohen & Koehn (1980) 135

⁷⁴⁷ Cohen & Koehn (1980) 52.

administrators, in support of this proposal, argued that the inefficiency in the Ministry of the Interior, which had an extensive supervisory role over the provinces, made provinces unresponsive to local needs.⁷⁴⁸ The decentralisation attempt sought to make *awraja* administration autonomous administrative units. However, the plan was rejected by Parliament and the decentralisation scheme was applied only in 17 selected *awraja* administrations on an experimental basis.⁷⁴⁹

5.1.5. Local administration and ethnic minorities of southern Ethiopia

The political, cultural and economic marginalisation of the southern population, which began during Menilik, continued during the reign of Haile Selassie I.⁷⁵⁰ As was indicated above, in Southern Ethiopia, *awraja* and *woreda* governors were appointed, almost always from among the Amhara settler community who had moved southward from the north.⁷⁵¹ The local communities therefore had no say in the appointment of the governors of their localities. Their traditional institutions were abolished. Their traditional local leaders were allowed to exist but only to serve as auxiliary to the centrally appointed local officials. As was the case under Menilik, the *balabbats* were allowed to exercise some form of quasi-administrative functions.⁷⁵² Below the *balabbat*, the institution of *chiqa shum* - which was essentially a local institution of northern Ethiopia - was installed in the region.⁷⁵³ Even where the office bearers were among the original inhabitants of

⁷⁴⁸ Cohen & Koehn (1980) 52.

⁷⁴⁹ Cohen & Koehn (1980) 52.

⁷⁵⁰ Keller (1981) 322.

⁷⁵¹ Clapham (1975) 75.

⁷⁵² Abbink (1997) 322.

⁷⁵³ Abbink (1997) 322.

the southern region, the institutions of *balabbat* and *chiqa shum* were at odds ‘the local leadership pattern based on indigenous socio-cultural ranking’.⁷⁵⁴

The land that was expropriated during Menilik remained in the hands of the Showan-Amhara nobility. Hence the economic marginalisation of the communities of the southern regions was perpetuated. The cultural marginalisation also continued. The southern population were encouraged, if not coerced, to learn Amharic and abandon their own languages.⁷⁵⁵ Whenever the local residents wanted to lodge petition to the local rulers or judges, they had to do so in Amharic or take an interpreter with them.⁷⁵⁶ Moreover, Amharic became the sole language of instruction in primary schools.⁷⁵⁷

The reach of the central government remained minimal with respect to the north-eastern and south-eastern lowland areas of the country, where the pastoral Somali and Afar ethnic groups were found.⁷⁵⁸ The central government, therefore, had to rely on clan and tribal leaders of these communities in order to exert some level of control.⁷⁵⁹

5.1.6. Assessment

It is submitted that the local governance system which was created by the 1942 Decree and the subsequent legislation was, non-developmental and un-accommodative of the ethnic diversity of the Ethiopian people.

⁷⁵⁴ Abbink (1997) 323.

⁷⁵⁵ Markakis (2004) 12.

⁷⁵⁶ Markakis (2004) 12.

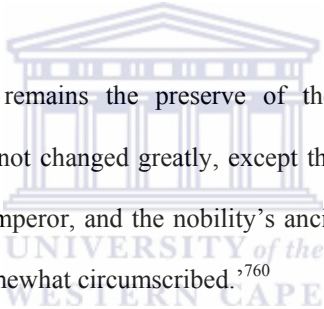
⁷⁵⁷ Markakis (2004) 12.

⁷⁵⁸ Hess (1970) 132.

⁷⁵⁹ Hess (1970) 132.

5.1.6.1. Non-developmental

The local administrative system that was put in place through the 1942 reform did not create a local institutional structure conducive for development. To the contrary, the reform was a hindrance to development. Several reasons can be given for this submission. Firstly, as was seen above, it was with a declared motive of modernising local administration that the 1942 reform was introduced. The reform however did little to modernise the local administration of the country. Local and provincial administrative structures and the manner in which local administrators were recruited and appointed remained traditional. As Markakis states:



‘Provincial administration remains the preserve of the traditional ruling group. Recruitment methods have not changed greatly, except the process has become more closely controlled by the Emperor, and the nobility’s ancient privilege to office in its home province has been somewhat circumscribed.’⁷⁶⁰

Local administrators were appointed on the basis of loyalty, connections, and favouritism rather than competence. The appointment to a local administrative position was often regarded as an ‘apprenticeship’ for members of the royal family and the nobility to prepare themselves for higher appointments.⁷⁶¹ In some cases the appointment to a particular local administrative position was used as a form of punishment of one who had fallen from grace in the eyes of the Emperor.⁷⁶²

⁷⁶⁰ Markakis (1975) 352.

⁷⁶¹ Markakis (1975) 354.

⁷⁶² Natty (2002) 61 252.

Second, democratic representative institutions, which are critical for local development, were virtually non-existent in the rural areas both at provincial and at local levels. Even if in some municipalities representative institutions were established, as was seen above, only property owners could vote for and be elected to these councils. In short, municipal councils were councils of the rich few. Public participation in decision making was unknown. Thus, the post-1942 reform of local government was far from democratic. On the contrary, the reform did away with all traces of the democratic elements of the pre-1942 traditional institutions of local administration.

Third, local authorities were not intended to be agents of development. Rather, they were meant to serve as instruments of control. This can be inferred from their functions which were focused on maintaining security and collecting taxes. In fact, the concept of public services was barely known. As a consequence, very few people had access to education, primary health care, clean water, and electricity. That is why the rate of illiteracy was soaring at 96 percent when Haile Selassie was removed from power.⁷⁶³

Fourth, no development related mandates were devolved to local units. Local administrators were left with their traditional functions of tax collection and maintenance of law and order. As Melakou notes, development was not the regime's agenda.⁷⁶⁴ Moreover, the reform did not provide a clear functional division between the provincial and local levels of administrative units. The vagueness in power division caused perennial jurisdictional conflicts between

⁷⁶³ Gilkes (1979) xvi.

⁷⁶⁴ Melakou (2005) 92.

provincial units, local units, and the field agents of the Ministries of the central government. A complex and bureaucratic system of central control was imposed on the local administrative units which hindered independent local developmental actions unattainable.

‘The formally deconcentrated, loosely defined system provided a fertile context for conflicts over centralisation, local autonomy, resource exploitation, and administrative co-ordination. Moreover structural constraints and persistent conflict reinforced independent, security conscious, rather than development oriented behaviour on the part of local officials...Under Emperor Haile Selassie, the national center never seriously attempted to use... municipal government units as vehicles of social and economic change or political mobilisation and support.’⁷⁶⁵

5.1.6.2.Repressive of ethnic minorities

The political, economic, and cultural marginalisation of the communities of the southern regions worsened after the 1942 reform. They were not allowed to administer themselves according to their custom and tradition. Their traditional rulers and institutions were abolished. Where the traditional rulers were allowed to exist, they played an informal support role only. Moreover, all local government institutions in the southern regions were staffed and run by settlers who came from the north. As Clapham notes, in 1967, two of the six provinces in southern Ethiopia were governed by army generals, the other four provinces by Amhara or Tigray noblemen.⁷⁶⁶ Almost all of the local governors, the clerks, judges and police officers were from the north.⁷⁶⁷

⁷⁶⁵ Cohen & Koehn (1980) 12. Emphasis added

⁷⁶⁶ Clapham (1975) 75.

⁷⁶⁷ Clapham (1975) 76.

In brief, the 1942 provincial and local government reform and subsequent legislative measures created a system of local administration which was non-developmental, and repressive of ethnic and cultural minorities.

6. LOCAL GOVERNANCE UNDER THE *DERG* (1974-1991)

Starting from his early days in power, Haile Selassie had been facing sporadic public rebellions from different sections of the public.⁷⁶⁸ The rebellions were mainly due to his never-ending centralisation and the inefficiency and corruption that ensued from it.⁷⁶⁹ The opposition against the Emperor intensified in the 1970s. Several uprisings took place in various urban areas, in which every section of the public took part, including the teachers, peasants, soldiers, students, taxi drivers, and trade unions.⁷⁷⁰ Prolonged strikes, boycotts, and mutinies were widespread during the last days of Haile Selassie.⁷⁷¹

The public protests revolved around two issues: development and the ethnic question. The demand for development was advanced under the revolutionary motto '*land to the tiller*'. The ethnic question was mainly raised by the Addis Ababa University (then Haile Selassie I University) students and their political groups.⁷⁷²

⁷⁶⁸ The 1940 Woyanne rebellion of the Tigray province, the peasant rebellion of the Bale province, and the military insurrection in Eritrea are among the recorded uprisings against the Emperor. McCann (1985); Gebru (1984); Andargachew (1994) 18; Solomon (2006) 17-18.

⁷⁶⁹ Andargachew (1994) 18.

⁷⁷⁰ Andargachew (1994) 37; Markakis (1979) 6.

⁷⁷¹ Markakis (1981) 11.

⁷⁷² Balsvik (2005). See also Teshome (1999) 79.

After several months of protracted protest and urban uprising, on 12 September 1974 a committee of 120 military officers called the *Derg*, which was formed by representatives of the various divisions of the imperial army, carried out a *coup* and dethroned the Emperor.⁷⁷³ Soon after ousting the Emperor, the *Derg* established itself as a military government.⁷⁷⁴

6.1. The *Derg* on the ethnic question

A few months after deposing the Emperor, the *Derg* formulated a ‘Ten Point Programme’ on a range of issues, including development and ethnicity.⁷⁷⁵ The initial position of the *Derg* on the issue of ethnicity was ‘denying the existence of ethnic and related differences’.⁷⁷⁶ The *Derg* made it clear that maintaining the territorial integrity of the country was its main concern. Hence, it adopted ‘*Ethiopia Tikdem* (Ethiopia first)’ as its main slogan.⁷⁷⁷ It also averred in the first paragraph of the programme that ‘Ethiopia shall remain a united country, without ethnic, religious, linguistic and cultural differences’.⁷⁷⁸

On 20 April 1976 the *Derg* adopted another programme known as ‘Programme of the National Democratic Revolution of Ethiopia’ (frequently referred to as the NDR). In this programme the *Derg* made a turnaround in its policy direction on the ethnic question.⁷⁷⁹ The shift in the *Derg*’s policy on the ethnic question was a ‘concession’ that the *Derg* made to *Meison*, a leftist political group, when the

⁷⁷³ Markakis (1981) 12.

⁷⁷⁴ Markakis (1981) 12.

⁷⁷⁵ Clapham (1988) 46.

⁷⁷⁶ Clapham (1988) 46.

⁷⁷⁷ Clapham (1988) 46; Markakis (2004) 17.

⁷⁷⁸ The ten-point programme quoted in Markakis (2004) 17; Clapham (1988) 46.

⁷⁷⁹ Clapham (1988) 199; Teshome (1999) 81.

latter joined the *Derg's* government.⁷⁸⁰ The NDR not only acknowledged the past injustices that the various ethnic communities of the country had suffered, but also recognised the right to self-determination of the ethnic communities of the country.⁷⁸¹ The right to self-determination was meant to be enjoyed 'on the basis of equality and within the framework of local self-government'.⁷⁸²

The *Derg*, however, took no significant practical measure to implement this programme. The territorial structure of the provincial and local administration remained unchanged. The *Derg* retained Amharic as the only working language of the country.⁷⁸³ In fact the ethnic question was ignored for almost 10 years as the government was preoccupied with countering other challenges.⁷⁸⁴ Only in the 1980s did the ethnic question became an issue among the *Derg* officials and this was mainly because the regime was facing sustained military assaults from several ethnic-based rebellious groups including the Eritrean People's Liberation Front (EPLF) and the Tigray People's Liberation Front (TPLF). To appease these

⁷⁸⁰ Clapham (1988) 199.

⁷⁸¹ 'The right to self-determination of all nationalities will be recognized and fully respected. No nationality will dominate another one since the history, culture, language and religion of each nationality will have equal recognition in accordance with the spirit of socialism. Given Ethiopia's existing situation, the problem of nationalities can be solved if each nationality is accorded full right to self-government. This means that each nationality will have regional autonomy to decide on matters concerning its internal affairs. Within its environs, it has the right to determine the contents of its political, economic and social life use its own language and elect its own leaders and administrators to head its internal organs.' Quoted in Clapham (1988) 199 & Cohen & Koehn (1980) 278-279; Teshome (1999) 81.

⁷⁸² Markakis (1981) 19.

⁷⁸³ Markakis (2004) 21.

⁷⁸⁴ From within the country, the EPRP and other political groups were engaged in urban armed struggle against the *Derg*. And from without the country, Said Bare of Somalia, with an eye to establish his 'Greater Somalia', had launched offensive against Ethiopia and had invaded much of south-eastern part of Ethiopia.

rebellious groups, the *Derg* established the Institute of Nationalities with mandates to study the ethnic composition of the country, to draft a new constitution, and to propose on how the administrative units of the country could be re-designed to respond to the ethnic question.⁷⁸⁵ As will be discussed below, it was based on the proposal of the Institute that the *Derg* attempted to re-organise the boundaries of the provincial administrative units of the country in 1987.⁷⁸⁶

6.2. The debate on local administration: Addressing the development question

The 'Ten Point Programme' stated that 'every regional administration and every village shall manage its own affairs and be self-sufficient'.⁷⁸⁷ This was an indication of the *Derg's* initial intention to decentralise power. The programme also gave an indication that an economic transformation would take place in the country which included nationalisation of lands and industries. This was also reiterated in the NRD. This economic transformation in fact took place when the *Derg* nationalised rural and urban lands, urban extra-houses, private industries, banks, insurance companies, and other financial institutions.⁷⁸⁸

The *Derg* also began transforming the provincial administration. It changed the title of the provinces from *tekaly ghizat* to *kifle hager* (sub-state unit) and the title of a provincial governor from 'enderase' to a 'chief administrator'. This was meant to symbolise the fact that a provincial administrator no longer was a 'ruler

⁷⁸⁵ Yonatan (2010a) 174-175.

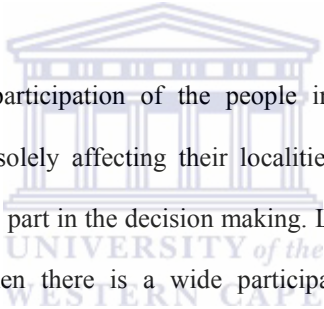
⁷⁸⁶ See below § 6.2.4.

⁷⁸⁷ The ten-point programme quoted in Clapham (1988) 46.

⁷⁸⁸ Clapham (1988).

or a governor of a passive population'.⁷⁸⁹ The *Derg* also abolished the institutions of *balabbat* and replaced the previous *woreda* and *awraja* administrators with new ones.⁷⁹⁰

At the same time, a debate began within the *Derg* about what the future local government system should look like, what role it should play in terms of development, and how it should involve the people in the planning and implementation of development projects.⁷⁹¹ There was an agreement among the *Derg* officials on the need to decentralise power and to ensure public participation.



‘As far as possible, the participation of the people in administration has to be encouraged. For all cases solely affecting their localities, the people, of necessity, should be authorized to take part in the decision making. Local development programs can easily be realized when there is a wide participation of the people in the administration mechanism.’⁷⁹²

The form the decentralisation was supposed to take was however unclear. Some officials of the *Derg* were of the view that service delivery functions should be devolved to *woreda* while others opted for ‘the wholesale implementation of self-administration at *awraja* level’.⁷⁹³

⁷⁸⁹ Cohen & Koehn (1981) 280.

⁷⁹⁰ Cohen & Koehn (1981) 280.

⁷⁹¹ Cohen & Koehn (1981) 280.

⁷⁹² Editorial of the Ethiopian Herald 25 April (1975) quoted in Cohen & Koehn (1981) 280.

⁷⁹³ Cohen & Koehn (1981) 280.

In the end, the *Derg* opted to establish two institutions of local administration; the Urban Dwellers Associations (UDAs)⁷⁹⁴ and Peasant Associations (PAs) in the rural and urban areas respectively.⁷⁹⁵ The purpose of the establishment of these associations was to organise and enable urban dwellers and peasants at each level to run their own affairs, solve their own problems, and directly participate in political, economic, and social activities of the country.⁷⁹⁶

6.2.1. The UDA

6.2.1.1. Institutional structure

UDAs were established in urban areas at *kebele* (neighbourhood), *kefitegna*, and depending on the size of a city, at city levels.⁷⁹⁷ Each *kebele* had a general assembly consisting of all the residents of the *kebele*.⁷⁹⁸ The general assembly elected a 'policy committee'.⁷⁹⁹ The policy committee, which had around 15 members, was divided into an executive committee, financial inspection committee, and judicial tribunal.⁸⁰⁰ In towns and cities with more than two *kebeles*, there was a higher UDA, commonly known as *kefitegna*.⁸⁰¹ A *kefitegna*

⁷⁹⁴ It was also called co-operative society of urban dwellers.

⁷⁹⁵ *Derg* also issued the Urban Dwellers Association Consolidation and Municipalities Proclamation No 104 (1976) and the Peasant Association Organisation and Consolidation Proclamation No. 71 (1975) in which the organisational structures and functions of UDAs and PAs were provided for in detail. Proclamation 47 (1975) Art 22; Proclamation 31 (1975) Art 8.

⁷⁹⁶ Proclamation 104 (1976) Preamble; Proclamation 71 (1975) Preamble.

⁷⁹⁷ Proclamation 47 (1975); Arts 22, 25(1), 26(1); Proclamation No 104 (1976) Arts 2(3), 2(4) & 2(5).

⁷⁹⁸ Proclamation 47 (1976) Art 23; Proclamation 104 (1976) Art 4(2); Proclamation 206 (1981) Art 14(1) (a) read with Art 15(1).

⁷⁹⁹ Proclamation 104 (1976) Art 2 (8).

⁸⁰⁰ Proclamation 104 (1976) Art 2 (8).

⁸⁰¹ Proclamation 47 (1975) Art 25 (1); Proclamation No. 104 (1976) Art 13 (1).

had a Council in which each *kebele* was represented.⁸⁰² For the towns with more than two *kefitengnas* a city council which was called a Central Urban Dwellers' Association (CUDA) was established.⁸⁰³ The CUDA had a congress in which each *kefitegna* was represented by two persons. Furthermore, each of the ministries and offices of the central government was also represented on the city councils, but without vote.⁸⁰⁴ The two largest cities, Addis Ababa and Asmara, which at the time had more than four *kefitengnas*, had another intermediary administrative institution above the *kefitengnas* and below the CUDA which was called a zone. Addis Ababa had five zones while Asmara had two.⁸⁰⁵ In this hierarchical administrative system the zones (where they existed) supervised the *kefitengnas*, and the *kefitengnas*, in turn, supervised the *kebeles*.

6.2.1.2. Powers and functions of UDAs

The *kebeles* in the urban areas were given a number of developmental mandates. They were, for instance, authorised to build roads, markets, low cost houses, and other facilities, and to provide primary health services, and education, to preserve forests, to register houses, residents, births, deaths and marriages, and to maintain peace and security.⁸⁰⁶

The *kefitegna* had the power to co-ordinate and supervise the *kebeles*.⁸⁰⁷ The *kefitegna* was also responsible for maintaining an equitable income distribution

⁸⁰² Proclamation 104 (1976) Art 15 (1).

⁸⁰³ Proclamation 104 (1976) Art 19 (1).

⁸⁰⁴ Proclamation 104 (1976) Art 21 (2).

⁸⁰⁵ Clapham (1988).

⁸⁰⁶ Proclamation 104 (1976) Art 9.

⁸⁰⁷ Proclamation 104 (1976) Art 17.

among its *kebeles*.⁸⁰⁸ It discharged this responsibility by using contributions from the *kebeles* within it.⁸⁰⁹ It also received funds from a city council where such council existed.⁸¹⁰ Moreover, the *kefitegna* liaised between the *kebeles* and the CUDA in the provision of social services.⁸¹¹ A CUDA had the competence to provide municipal services including streets, squares, bridges, resorts, parks, sewerages, abattoirs, water and electric supplies, and markets.⁸¹² Organising and maintaining urban transportation, fire brigades, and ambulance services were also within the competences of the CUDA.⁸¹³

6.2.1.3. Financial sources of UDAs

Proclamation 104 (1976) authorised the *kebeles* to collect urban land and house rents.⁸¹⁴ The *kebeles* were allowed to retain and use the revenue they collected from house rents and other sources. However, they were required to transfer 15 percent of the revenue they collected to *kefitegnas*.⁸¹⁵ A *kefitenga* financed itself by using the contribution that it received from the *kebeles*. It also received funds from the CUDA.

⁸⁰⁸ Proclamation 104 (1976) Art 17 (1).

⁸⁰⁹ Each *kebele* contributed 15% of its income to the higher or *kefitegna* level UDAs, Proclamation 104 (1976) Art 9 (18).

⁸¹⁰ Proclamation 104 (1976) Art 17 (9).

⁸¹¹ Proclamation 104 (1976) Art 17 (10).

⁸¹² Proclamation 104 (1976) Art 23 (2).

⁸¹³ Where there was no CUDA, those responsibilities were discharged by the *kefitenga* level UDA. Where there was no *kefitegna*, the *kebeles* discharged the responsibilities of both the *kefitegna* and the CUDAs. Proclamation 104 (1976) Art 23 (4) & Proclamation 104 (1976) Art 40(1) (b).

⁸¹⁴ Proclamation 104 (1976) Art 9 (6-11).

⁸¹⁵ Proclamation 104 (1976) Art 9 (1) & 9 (18).

6.2.2. The Peasant Associations (PAs)

6.2.2.1. Institutional structure

In the rural areas, PAs were established at *kebele*⁸¹⁶ *woreda*, and *awraja* level.⁸¹⁷ The territorial jurisdiction of the *chiqa shum* was taken as the basis for delimiting the territory of each PA at *kebele* level.⁸¹⁸ A PA at *kebele* level had an average membership of 281 households.⁸¹⁹ It had a general assembly which consisted of all peasants in the PA and an executive committee which was elected by the general assembly.⁸²⁰

6.2.2.2. Powers and functions PAs

The *kebele* level PAs were responsible for effecting land re-distribution as per the nationalisation and redistribution policy of the *Derg*.⁸²¹ In addition, they were authorised to administer and conserve public property, establish market centres, credit and other co-operatives, build schools, clinics and other similar institutions, cultivate the lands of elders, minors and widows, and undertake villagisation.⁸²²

⁸¹⁶ Proclamation 31 (1975) Art 8 read with Proclamation 71 (1975) Art 2(4)

⁸¹⁷ Proclamation 31 (1975) Art 8, 11(1), & 11(3); Proclamation 71 (1975) Art 2(4).

⁸¹⁸ Proclamation 31 (1975) Art 8.

⁸¹⁹ Clapham (1988) 158.

⁸²⁰ Proclamation 71 (1975) Arts 12 & 15. Proclamation 71 (1975) established a Revolutionary, Administrative and Development Committees (RADC) at *awraja* and *kifle hager* and at central levels in which *woreda* level PA was represented. The RADCs were, however, replaced in 1977 with the establishment of the All Ethiopian Peasant's Association (AEPA) which was set up with a structure similar to that of the RADC. Clapham (1988) 157

⁸²¹ Proclamation 31 (1975) Art 10 (1).

⁸²² Proclamation 31 (1975) Art 10 (2-9). A villagisation program involved the re-settlement of scattered peasants into centralised villages. Making service delivery to the peasants convenient was the declared reason for the villagisation program. Clapham (1988) 175.

6.2.3. Re-centralisation and the weakening of UDAs and PAs

In the 1980s, the *Dreg* centralised the UDAs and PAs under the pretext of providing them ‘guidance’.⁸²³ The *kebele* was deprived of its power to collect and use certain taxes. It was required to transfer all revenue it collected to the CUDA⁸²⁴ thereby making it dependent on grants. Furthermore, all *kebele* projects were required to be submitted to the CUDA for approval and funding which, needless to say, caused delay and even neglect of development projects.⁸²⁵ The PAs, likewise, came under the control of central government and began to act as administrative arms of the central government rather than as institutions of self-administration.⁸²⁶ The central government began using the PAs for enforcing its socialist policies in the rural areas.⁸²⁷

6.2.4. The formation of the Peoples Democratic Republic of Ethiopia

After ruling the country without a constitution and on a provisional basis for 13 years the military government issued a new Constitution in 1987. The Constitution established the country on the basis of Marxist-Leninist ideology, structure, and operation at the heart of which was the principle of ‘democratic-centralism’.⁸²⁸ A one party system was introduced with the establishment of the Workers’ Party of Ethiopia (WEP). Ethiopia formally became a republic (The People’s Democratic Republic of Ethiopia (the PDRE)).⁸²⁹ The Constitution also provided that Ethiopia was a unitary state with hierarchically structured

⁸²³ Proclamation 206 (1981) Preamble. See also Clapham (1988) 133

⁸²⁴ Proclamation 206 (1981) Art 13 (1-4).

⁸²⁵ Proclamation 206 (1981) Art 13 (6-10); Clapham (1988) 134.

⁸²⁶ Clapham (1988) 161.

⁸²⁷ Clapham (1988) 161.

⁸²⁸ Clapham (1988) 92.

⁸²⁹ Clapham (1988) 92-100.

administrative areas and autonomous regions in line with the principle of democratic-centralism.⁸³⁰ With this Constitution, the military government transformed itself into a civil government. Colonel Mengistu Haile-Mariam, the chairman of the provisional military government since 1974, was ‘elected’ President of the PDRE.

With the establishment of the PDRE, the administrative boundaries of the country, which were maintained without any significant change since 1942, were re-drawn. This change was made, as indicated before, based on the recommendation of the Institute of Nationalities. Ethiopia was accordingly divided into 25 ‘administrative areas’⁸³¹ and 5 ‘autonomous regions’.⁸³² In spite of what their name, the ‘autonomous regions’ were not actually autonomous. Both the administrative regions and the autonomous regions had similar administrative structures, functions, and powers under the Constitution.⁸³³

Every administrative area and autonomous region was further divided into 354 *awrajas*.⁸³⁴ The *kebele* level UDAs and PAs were retained. The *woreda* was abolished.⁸³⁵ A representative assembly, which was known as ‘*shengo*’, an executive committee, various commissions, and sectoral offices were established

⁸³⁰ The Constitution of the People’s Democratic Republic of Ethiopia (1987) Art 59 & 60(1).

⁸³¹ The administrative regions were North Gondar, South Gondar, North Wollo, South Wollo, East Gojam, West Gojam, Metekel, Assossa, Wollega, North Showa, Addis Ababa, West Showa, South Showa, West Hararge, East Hararge, Arsi, Bale, Gambella, Illubabor, Keffa, Gamu Gofa, Sidamo, Omo, and Borena.

⁸³² Eritrea, Assab, Tigray, Dire Dawa and Ogaden were declared autonomous regions.

⁸³³ Proclamation 14 (1987).

⁸³⁴ Eritria was first divided into a number of special administrative regions and each administrative region was further divided into *awrajas*. Proclamation 14 (1987) Art 4 (1).

⁸³⁵ Proclamation 14 (1987) Art 4 (3).

in each of the administrative and autonomous regions and their *awrajas*.⁸³⁶ The *shengo* was directly elected by the people while the executive committee, which ran regional and local administration, was elected by the *shengo*.

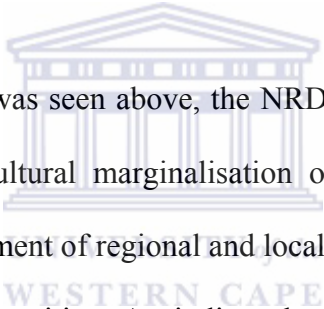
6.2.5. Assessment

Its true political and ideological motive aside, the *Derg's* initial programmes and measures were promising, even though lamentably short-lived, in terms of introducing democratic processes, articulating the need for development, and recognising the plight the ethnic minorities. As was explained in the previous sections, prior to 1974, virtually no representative institutions existed in the country other than Parliament and a few municipal councils. Parliament was the domain of the nobility. Even if in some urban areas municipal councils were established, democratic practice was limited to property owners. On the other hand with the establishment of UDAs and PAs people were afforded the opportunity to directly deliberate on their own affairs. They were also given the chance to elect their representatives at local level which was a democratic exercise unprecedented in the country's history. The significance of public participation for the purpose of realising development was clearly articulated in the *Derg's* programme. The establishment of the UDAs and PAs, even if short-lived, was a significant stride towards democratisation.

Furthermore, the *Derg* stated in its programme that local administrative units would serve as development agents. It was with this objective that the UDAs and PAs were initially established and given with development oriented functions. This was a noteworthy departure from the past in which local authorities' main

⁸³⁶ Proclamation 14 (1987) Art 6(1).

purpose was to collect taxes and suppress resistance against the Emperor. Moreover, as result of this measure, a significant improvement was recorded in expanding the provision of social services such as health care and education. The number of students with access to primary education in 1974 was only 811,114. This number quadrupled to 3, 076 948 in 1984,⁸³⁷ presumably, due to the role that the UDAs and PAs played. The UDAs and PAs are also credited for implementing the adult literacy programme, which is claimed to have halved illiteracy in the country. In short, as Andargachew points out, ‘the establishment of UDAs and the granting to them of such powers and responsibilities was an admirable exercise of devolution of power’.⁸³⁸



On the ethnic question, as was seen above, the NRD of the *Derg* recognised the political, economic, and cultural marginalisation of ethnic minorities. It also pledged to use the establishment of regional and local self-government as a means to accommodate ethnic minorities. As indicated previously this move was a political manoeuvre by the *Derg* to win over the *Meison* to join the government. It cannot be gainsaid, however, that the recognition of the plight of ethnic minorities was another important ‘departure’ from the past. A pledge to allow each ethnic community to administer itself, to determine its political destiny, and to use its own language was unheard of in the past 100 years of the country’s history.

Despite the *Derg*’s promising start, the reforms were short-lived and the promises were reneged upon. The *Derg* quickly recoiled back to authoritarianism. The

⁸³⁷ Clapham (1988) 150.

⁸³⁸ Andargachew (1994) 117.

focus of the regime became on how to maintain power. Development became, if at all, secondary to protecting the political power of Colonel Mengistu and his cronies. The UDAs and PAs began serving, as was previously the tradition, as instruments of control. They were effectively used for eliminating the *Derg's* arch-rival, the EPRP, in the so called Red Terror campaign.⁸³⁹ They were used for implementing the villagisation programme of the *Derg*.⁸⁴⁰ UDAs and PAs also helped the *Derg's* war effort against the TPLF and other rebel groups through forceful conscription which was known in Amharic as *affessa*.⁸⁴¹

The *status quo* was maintained with regard to the right to self-determination of the various ethnic groups of the country. Amharic was still the only language of work and academic instruction. The cultures of the various ethnic communities, which were regarded as backward and anti-revolutionary, were displaced.⁸⁴²

Even if there was an endeavour to reform the provincial and local administration by providing formal autonomy to certain areas, it was not done out of a genuine

⁸³⁹ The EPRP, having declared urban armed struggle against the *Derg*, began assassinating several *Derg* officials. It even made an attempt to assassinate Colonel Mengistu himself, wounding him in the process. EPRP's attack against the *Derg* was named 'white-terror'. The *Derg* immediately set out to eliminate EPRP in an operation that it termed 'Red Terror'. The UDAs and PAs played a central role in carrying out the 'Red Terror' operation. Andargachew (1994) 209; Bahru (2008) 428-444; Kinfu (1994). See also Kissi (2003).

⁸⁴⁰ The *Derg's* villagisation programme involved the resettlement of scattered peasants into centralised villages. The programme necessitated the forceful removal of peasants from their localities to other areas. The declared policy reason of the *Derg* for the villagisation programme was creating convenience for service delivery to the peasants. The true motive was, however, to create a convenient way of controlling the peasants. Once again, local officials were instrumental in the implementation of this programme. Clapham (1988) 161.

⁸⁴¹ See Tele (1999 Ethiopian Calendar), Eyob (2002 Ethiopian Calendar). See also Zemmelak (2011).

⁸⁴² See Dereje (2006).

intent to devolve power. It was rather to appease the ethno-national insurgent groups who were intensifying their attacks on the government.⁸⁴³ Moreover, practical measures were not implemented to allow the autonomous regions to make use of their ‘autonomy’.

7. THE END OF THE *DERG* AND THE BEGINING OF RE-DECENTRALISATION (1991-1995)

7.1. Introduction

From the day it assumed power, the *Derg* was confronted with multitudes of challenges, its biggest challenge being ethnic-based armed insurrections in different parts of the country. The armed insurrection in Eritrea that was led by the EPLF since the 1960s further escalated.⁸⁴⁴ The TPLF also intensified its attack against the *Derg* in northern Ethiopia.⁸⁴⁵ Other armed groups, including, the Oromo Liberation Front (OLF), the Ethiopian People Democratic Movement ((EPDM) which later became the Amhara National Democratic Movement (ANDM)), and the Oromo People Democratic Organisation (OPDO), were also formed and began waging war against the regime. In the late 1980s the TPLF, EPDF (ANDM), OPDO, and other rebellion organisations came together and formed an umbrella organisation called the Ethiopian People’s Revolutionary Democratic Front (EPRDF) and intensified their co-ordinated military attack against the *Derg*.⁸⁴⁶ The 1984-87 famine and the mishandling of the disaster by

⁸⁴³ Keller (1995) 130.

⁸⁴⁴ This rebellion began following the 1962 termination of the federation between Ethiopia and Eritrea which was established in the 1950s by the United Nations. Young (2004) 25. See also UN General Assembly Resolution 390 (V) (1950).

⁸⁴⁵ Young (1996) 534f.

⁸⁴⁶ Young (1996) 534f; Vestal (1999) 3.

the *Derg* farther sharpened the conflict.⁸⁴⁷ The *Derg* also lost a ‘powerful ally’ and its ‘only source of arms’ when the U.S.S.R. fell into its own crisis.⁸⁴⁸ As a consequence, the *Derg* began to lose one battle after the other. Finally, on 21 May 1991 Colonel Mengistu fled the country to seek asylum in Zimbabwe. Eight days after Mengistu’s flight, the EPRDF forces took control of Addis Ababa. Almost at the same time the Eritrean People Liberation Front captured Asmara. With that the 17 year gruesome civil war, which claimed the lives of more than a million Ethiopians, came to an end.

7.2. The formation of the Transitional Government of Ethiopia

After one month of interim rule, on 1 July 1991, the EPRDF convened ‘*the Peaceful and Democratic Transitional Conference of Ethiopia*’. The Conference was attended by delegations from 24 ethnic-based movements, representatives of international organisations, and religious organisations.⁸⁴⁹ This Conference debated and discussed the future of the country and on 22 July 1991, adopted a ‘Transitional Period Charter (TPC)’ which served as a Constitution until the promulgation of the 1995 Constitution.⁸⁵⁰

7.2.1. The TPC on the ethnic question

The TPC laid down the groundwork for the first phase of the decentralisation process in Ethiopia. This phase of the decentralisation process was aimed primarily at responding to the ethnic question. The TPC recognised the right to self-determination for ‘each nation, nationality and people’ of Ethiopia.⁸⁵¹ The

⁸⁴⁷ Kinfe (1994); *xx*; Vestal (1999) 3.

⁸⁴⁸ Kinfe (1994) *xx*.

⁸⁴⁹ Vestal (1999) 7; Kinfe (1994) 21. See also Young (1998) 193-194.

⁸⁵⁰ Vestal (1999) 7; Kinfe (1994) 21.

⁸⁵¹ Transitional Period Charter (TPC) (1991) Preamble 2nd paragraph.

right to self-determination of each ethnic community became the ‘governing political principle’ of the country.⁸⁵² This principle was to find expression in the right of each ethnic community to administer its own affairs within the territory it inhabited, and to participate in the central government.⁸⁵³ The right to self-determination also included the right of each ethnic community to secede from the country and declare its own independence, if it so chose.⁸⁵⁴ The TPC, therefore, established a *de-facto* ethnic federal system.

The TPC also provided for the establishment of a central transitional government which had a ‘multinational council’ called ‘the Representative Council’ and an executive body.⁸⁵⁵ The Representative Council was composed of the representatives of the ethnic-based movements that participated in the conference and other ‘prominent individuals’.⁸⁵⁶ The Representative Council served as Parliament until 1995. Meles Zenawi was elected the Chairperson of the Council and the President of the Transitional Government of Ethiopia (TGE).⁸⁵⁷

Ethnic-based regional and local units under the TGE

⁸⁵² Transitional Period Charter (TPC) (1991) Preamble 2nd paragraph.

⁸⁵³ TPC (1991) Art 2 (b).

⁸⁵⁴ TPC (1991) Art 2 (c). This right was conditional which could be exercised only if an ethnic community was convinced that its right to self-government was denied, abridged or abrogated. In addition, the right could be exercised if a nation and nationality’s right to participation in the central government freely and on an equal basis was ‘denied, abridged or abrogated’. As will be discussed in the subsequent chapters, this was changed under the 1995 Constitution which recognises each ethnic community’s right to an unconditional secession.

⁸⁵⁵ TPC (1991) Art 6.

⁸⁵⁶ TPC (1991) Art 7.

⁸⁵⁷ The Representative Council had the power to elect its own chairman. According to the TPC, the chairman of the Council would be the Head of State of the country. TPC (1991) Art 7.

The TPC provided that a law would be issued to establish transitional local and regional councils.⁸⁵⁸ The TPC also provided that the boundaries of the regional and local units would be demarcated based on the geographical settlement structures of the ethnic communities of the country.⁸⁵⁹ In view of that, the Representative Council issued Proclamation No 7 (1992). The Proclamation identified 63 territorially concentrated ethnic communities.⁸⁶⁰ Forty-seven out of the 63 ethnic communities were declared capable of establishing their own self-government, starting from *woreda* level.⁸⁶¹ The boundaries of each ethnic-based self-government area were demarcated based on the pre-1974 *woreda* boundaries.⁸⁶² Hence, *woredas*, the majority of whose residents belong to a specific ethnic community were brought together to form a regional or a sub-regional self-governing area of the particular ethnic community.⁸⁶³

In the manner described above, 14 self-governing regions were established: The regions were Amhara, Afar, Harari, Benishangul, Kambata, Gambella, Gurage, Hadiya, Keffa, Addis Ababa, Oromia, Sidama, Tigray and Somali.⁸⁶⁴ Under

⁸⁵⁸ TPC (1991) Art 13.

⁸⁵⁹ TPC (1991) Art 13.

⁸⁶⁰ Proclamation 7 (1992) Art 3(1).

⁸⁶¹ Proclamation 7(1992) Art 3(2)

⁸⁶² Proclamation 7 (1992) Art 4 (2).

⁸⁶³ Proclamation 7 (1992): Art 4 (2). See also Kiefe (1994) 26.

⁸⁶⁴ According to Kiefe an agreement was signed by the national movements on October 18th, 1991 to the effect that Afar, Agew, Amhara, Benishangul, Kambata, Gambella, Gurage, Hadiye, Kaffa, Omo, Oromia, Sidama, Tigray and Somali were established as regions. The agreement also provided that Harar and Addis Ababa cities would be granted a special charter status with a full right to the minorities who inhabit them. Furthermore the agreement provided that major Ethiopian towns with significant Amhara populations will be given special status within their regions. As it turned out in the end the Agews were not given their own region. Rather nationality

Proclamation 7 (1992) smaller ethnic communities could by agreement join together to create a larger unit.⁸⁶⁵ Accordingly, Gurage, Kambata, Hadiya, Sidama, and Kaffa ‘opted’ to unite and create the region now known as the Southern Nations, Nationalities and Peoples region. The other 17 ethnic communities (also called ‘minority nationalities’) were found to be too small in size to exercise self-governance even at the *woreda* level.⁸⁶⁶ The Proclamation, nevertheless, guaranteed them fair representation in the *woreda* and other councils.⁸⁶⁷

7.2.2. Local government and development under the TGE

The *woreda* became the ‘basic’ unit in the hierarchy of national, regional and local transitional self-governments.⁸⁶⁸ As indicated above, the pre-1974 territorial boundaries of *woreda* were adopted as the boundaries of the *woreda* administrations under the new dispensation.⁸⁶⁹ Proclamation 7 (1992) provided for the establishment of a representative council (*woreda* council) and an executive committee in each *woreda*. The Proclamation also provided that members of a *woreda* council would be directly elected.⁸⁷⁰ It also provided that minority nationalities in a *woreda* would be represented in a *woreda* council

zones were established to them within the Amhara region. Harari was established as a regional state. Kifle (1994).

⁸⁶⁵ Proclamation 7 (1992) Art 3(2) (b).

⁸⁶⁶ Proclamation 7 (1992) Art 5(3).

⁸⁶⁷ Proclamation 7 (1992) Art 5(3).

⁸⁶⁸ Proclamation 7 (1992) Art 5(1).

⁸⁶⁹ Proclamation 7 (1992) Art 4(2).

⁸⁷⁰ Proclamation 7 (1992) Art 5(2).

regardless of their numerical size.⁸⁷¹ The *kebele* was retained by the Proclamation as the lowest administrative unit.⁸⁷²

Local elections

The TPC provided that regional and local elections would be held within three months of the establishment of the Central Transitional Government.⁸⁷³ However, the elections could not be held as was planned and were postponed to June (1992). In order to administer the June (1992) local elections, provisional local administrations were established in each district (*woreda*) and sub-district (*kebele*).⁸⁷⁴ The elections (called ‘snap elections’) were held at public meetings on non-partisan basis. These *kebele* and *woreda* committees administered the 21 June 1992 regional and *woreda* elections in which EPRDF claimed to have won 96 percent of the seats in the regional and *woreda* councils.⁸⁷⁵

Powers and functions of local government

Proclamation 7 (1992) states that a *woreda* administration could exercise both legislative and executive powers with a view to planning and implementing social services and economic development programmes for the *woreda*.⁸⁷⁶ The *woreda* administration was also entrusted with the responsibility of implementing the laws, policies and directives of the Central Transitional Government.⁸⁷⁷ In addition, it was authorised to establish security and police forces for the area, to

⁸⁷¹ Proclamation 7 (1992) Art 5(3).

⁸⁷² Proclamation 7 (1992) Art 5(1).

⁸⁷³ TPC (1991) Art 13.

⁸⁷⁴ Proclamation 9 (1992) Preamble & Art 3(1).

⁸⁷⁵ Keller (1995) 136.

⁸⁷⁶ Proclamation 7 (1992) Art 40 (1) read with 42.

⁸⁷⁷ Proclamation 7 (1992) Art 40(1).

appoint the heads of judicial organs, and to establish public prosecution offices, audit offices, and a police force for the *woreda*.⁸⁷⁸

Local finances under the TGE

The Proclamation did not provide any clear source of income of the *woreda* administration. However, it put the responsibility of identifying the source of income on the *woreda* itself, and of preparing and approving the *woreda* budget, on the *woreda* administration.⁸⁷⁹

7.2.1. Assessment

The TGE invested all its energy during the transitional period in responding to the ethnic question. The TPC and Proclamation 7 (1992) also went a long way to responding to the ethnic question. Local government's role in this regard was also clearly articulated. Important practical measures were taken to respond to the ethnic question. The right to self-determination of each ethnic community was recognised. Local and regional boundaries were reorganised along ethnic line. This is a great departure from the past.

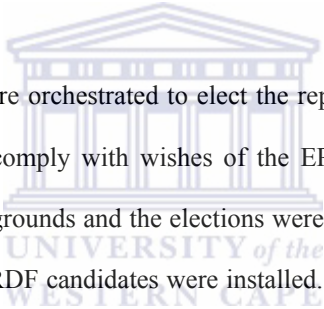
However, the TGE was so preoccupied with the ethnic question that the development question was not given as much attention. The developmental role of local government was not clearly articulated. Neither the TPC nor Proclamation 7(1992) clearly defined the precise developmental functions of *woredas*. The TPC merely provided that local government could decide on local socio-economic matters. It did not spell out the socio-economic matters that could be decided at *woreda* level. Moreover, the Proclamation 7 (1992) provided that the regional and local governments were 'in every respect, entities subordinate to

⁸⁷⁸ Proclamation 7 (1992) Art 43(1)

⁸⁷⁹ Proclamation 7 (1992) Art 43(1) (d).

the Central Transitional Government'.⁸⁸⁰ By so doing it maintained the pre-1991 hierarchical government structure.

Furthermore, the June 1992 *woreda* elections were far from competitive. They were marred by controversies and irregularities. The independence of the provisional local administrators, who administered the June 1992 elections, was contested. As indicated above, the provisional administrators were supposed to be elected on a non-partisan basis, in public meetings. However, it is alleged that the EPRDF ensured that individuals who were loyal to it were installed in each *woreda* and *kebele*. As Pausewang, Tronvoll and Aalen write:



'These public meetings were orchestrated to elect the representatives of the EPRDF. Where the public did not comply with wishes of the EPRDF, election results were declared invalid on formal grounds and the elections were repeated, in some places up to three times, until the EPRDF candidates were installed. In few places, the results of the snap elections were simply disallowed and EPRDF cadres were appointed.'⁸⁸¹

This 'allowed [the EPRDF] to determine when and to whom voter registration materials were distributed'.⁸⁸² Alleging such irregularities, the major political parties and other small parties withdrew from the elections.⁸⁸³ The withdrawal of the opposition parties from the elections undermined the representativeness of the result. As Keller states, due to the withdrawal of these parties from the elections,

⁸⁸⁰ Proclamation 7 (1992) Art 3(3).

⁸⁸¹ Pausewang, Tronvoll & Aalen (2002) 31.

⁸⁸² Lyons (1996) 127.

⁸⁸³ These included OLF, the All Amhara People Organisation (OAPO), the Ethiopian Democratic Action Group (EDAG), Joireman (1997) 402.

an estimated 50-60% of those who were eligible to vote were left unrepresented.⁸⁸⁴

7.3. The FDRE Constitution: the groundwork for local level decentralisation 1995-

In 1995 a new Constitution was promulgated. The promulgation of the Constitution formalised the *de facto* ethnic federal system that had already been formed under the TPC. The establishment of Ethiopia on a federal basis completed the first phase decentralisation process. The nine regional states which were already established during the transitional period were confirmed to be the constituting units of the federation.⁸⁸⁵ Addis Ababa, the capital of the country, became a self-governing city.⁸⁸⁶

8. CONCLUDING REMARKS

The discussion in this chapter shows that historically, Ethiopia was a decentralised state in which local, regional and central authorities co-existed and exercised government powers autonomously. This decentralised system was the result of Ethiopia's rugged topographical landscape and the absence of modern means of communication, which rendered centralised rule impracticable. The diversity of the socio-economic systems and cultures of the people led to the creation of a variety of traditional local governance institutions. In many respects these institutions were democratic, legitimate and even to a great extent developmental.

⁸⁸⁴ Keller (1995) 136.

⁸⁸⁵ FDRE Constitution (1995) Art 47.

⁸⁸⁶ FDRE Constitution (1995) Art 49 (1 & 2).

Nevertheless, a process of centralisation began in the second half of the 19th century and continued until 1991. The centralisation of political powers and the bureaucratisation of local administration resulted in inefficiency and corruption which in turn led to a pervasive and multi-faceted poverty. The centralisation also led to the concentration of political power within members of a single ethnic community and the marginalisation of the rest of the ethnic communities of the country. In short, the centralised system of administration which existed in the country prior to 1991 was undemocratic, non-developmental, and repressive of ethnic and cultural differences. It was merely a system for central control.

Subsequent to the demise of the *Derg*, Ethiopia was formally re-decentralised through the TPC. However, while the TPC succeeded in providing a constitutional ground for the establishment of a local governance system which was democratic and accommodative of the interest of minority ethnic groups, it fell short of clearly articulating the developmental role of local government.

With the promulgation of 1995 Constitution, Ethiopia formally became a federal state. Now, the questions remain: what kind of local government is envisaged in the Constitution? Does the Constitution require the establishment of autonomous local government in Ethiopia? What are the measures taken in establishing local government? What are the policy considerations behind the creation of local government that exists in Ethiopia? The following chapter will provide answers to these and other related questions.



Chapter 4

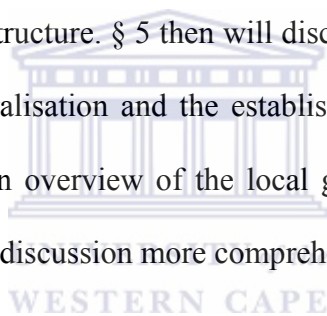
Ethiopia: From federalism towards local level decentralisation

1. INTRODUCTION

As indicated in the preceding chapter, Ethiopia is a federal state. Decentralisation within a federal system involves the formation of an autonomous level of government within an autonomous sub-national unit. The constitutional status of local government in a federal dispensation is likely to impact on its significance for development and for management of ethnic diversity. Therefore, it is crucial to provide a brief overview of Ethiopia's federal system and to locate the place of

local government within the federal milieu in order to better address the central issues of the thesis. It is also necessary to provide an overview of the political rationales that underpin the decentralisation programme, since these are crucial in understanding the design of the country's local government system. This chapter, therefore, provides such a background.

This chapter has four main sections. First, § 2 and 3 will provide an overview of Ethiopia's federal system and the governance structures of the federal and regional governments. § 4 will discuss the type of local government envisaged by the FDRE Constitution. This section identifies the place and status of local government in the federal structure. § 5 then will discuss the political process and motives that led to decentralisation and the establishment of local government. Finally, § 6 will provide an overview of the local government structure with a view to making subsequent discussion more comprehensible.



2. ETHIOPIA AND ITS ETHNIC-BASED FEDERAL SYSTEM

As was indicated in the preceding chapter, Ethiopia formally became a federal country with the promulgation of the 1995 Constitution.⁸⁸⁷ Ethiopia's federation is conceptualised as a 'federation of ethnic groups' in which the various ethnic groups are 'joined together in a federal union'.⁸⁸⁸ This is reflected in various parts of the 1995 Constitution. The Preamble to the Constitution states that the federal

⁸⁸⁷ The fact that Ethiopia is a federal country is clearly depicted in the various parts of the Constitution. The Constitution itself is titled 'Constitution of the Federal Democratic Republic of Ethiopia'. The very first provision of the Constitution provides that '[t]his Constitution establishes a Federal and Democratic State structure'. The provision goes on to state that 'the Ethiopian state shall be known as the Federal Democratic Republic of Ethiopia'. FDRE Constitution (1995) Art 1. See also Assefa (2007a) 236-237.

⁸⁸⁸ Herther-Spiro (2007) 321-371.

system is a result of a concurrence among the ‘the nations, nationalities and peoples’ of the country.⁸⁸⁹ The Constitution also provides that ‘sovereign power resides in the nations, nationalities and peoples’ of the country.⁸⁹⁰ This departs from the commonly held conceptualisation of ‘popular sovereignty...based on “a body of citizens” acting in their capacities as individuals’.⁸⁹¹ Ethiopian citizens, therefore, are no longer viewed as ‘a people’.⁸⁹² The Constitution, in addition, recognises the unconditional right of each ethnic community to self-determination which also includes the right to secession.⁸⁹³ Under the federal dispensation, therefore, Ethiopia is seen as a state which is ‘founded by and belongs to all ethnic groups’.⁸⁹⁴

Within the federation the right to self-determination of the ethnic communities finds expression in their ability to exercise self-rule.⁸⁹⁵ Hence, the Constitution provides that the boundaries of the constituent units of the federation would be demarcated ‘on the basis of the settlement patterns, language, identity and consent of the people’.⁸⁹⁶ It is based on this constitutional principle that, as was

⁸⁸⁹ FDRE Constitution (1995) Preamble. The Constitution defines nation, nationality and people as: ‘[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.’ FDRE Constitution (1995) Art 39 (5).

⁸⁹⁰ FDRE Constitution (1995) 8(1).

⁸⁹¹ Alemante (2003) 55.

⁸⁹² Fasil (1997) 51.

⁸⁹³ FDRE Constitution (1995) Art 39 (1).

⁸⁹⁴ Alemante (2003) 55.

⁸⁹⁵ FDRE Constitution (1995) Art 39 (3).

⁸⁹⁶ FDRE Constitution (1995) Art 46 (2).

indicated in chapter three, the nine ethnically organised regional states were created.⁸⁹⁷

2.1. Intra-regional ethnic diversity

The federal Constitution recognises the right to self-government of each ethnic community in the country.⁸⁹⁸ However, as is indicated in the table below, the ethnic federal system has not created a single ethnically homogenous regional state. Each regional state hosts several ethnic communities. The Amhara, Oromia, Tigray, Afar, and Somali regional states have a dominant ethnic community each. For instance the Amhara constitute 91 percent of the population of the Amhara region while Tigrawiyans constitute 96 percent of the Tigray region. Each of these five regions actually bears the name of the dominant ethnic community on whose behalf it is established. These regions are also considered the ‘mother state’ or ‘homeland’ of the ethnic communities whose name they bear.⁸⁹⁹

Table 2 Intra-regional ethnic diversity

Region	Ethnic groups						
Amhara	Amhara (91%), Agew (5%), Oromo (3%) others (2%)						
Oromia	Oromo (87 %), Amhara (7 %), Ghurage (1 %) Somai (1%) others (4 %)						
Tigray	Tigrawi (96.55%), Kunama (0.7%) (, Irob/Saho (0.71%) Others (2.4 %)						
SNNPR	Surma (0.17%)	Zeyise (0.10)	Gidecho (0.03%)	Arbore (0.04%)	Geleb	Kore (1.01%)	Gideo
	Gurage (7.52%)	Hamer (0.31)	Gewada (0.43%)	Basketo (0.52%)	Burji (0.37%)	Alaba (1.35%)	Bena (0.17%)
	Kambata (3.81%)	Shinasha (0.01%)	Dawro (3%)	Bumi	Dime	Tembaro (0.64)	Shekicho (0.44%)

⁸⁹⁷ FDRE Constitution (1995) Art 47 (1).

⁸⁹⁸ FDRE Constitution (1995) Art 39 (3).

⁸⁹⁹ See Assefa (2007a) & Yonatan (2010) 201.

	Kafficho (5.43%)	Wolaita (10.71%)	Gacho	Nao (0.05%)	Tsemay (0.13%)	Hadyia (8.02%)	Alaba (1.35%)
	Qebena (0.29%)	Gamo (6.96%)	Derashe (0.19%)	Bench (2.33%)	Yem (0.50%)	Konta (0.54%)	Amhara (2.79%)
	Konso (1.46%)	Sidama (19.%)	Me'enite (1%)	Mareko (0.38%)	Oida (0.05%)	Ari (1.89%)	Gedeo (4.92%)
	Gofa (2.39%)	Oromo (1.57%)	Silte (5.%)	Desenech (0.32%)	Surma (0.11%)		
Afar	Afar (90.3%), Amhara (5.22%) Argoba (1.5) other (2.98%)						
Gambella	Anywaa (21.17%), Nuer (46.65%), Mejenger (4%), Amhara (8.42%), Oromo (4.33%) Other (18%)						
Benishangul-Gumuz	Berta (25.90%), Gumuz (21.11%), Shinasha (7.5%), Mao (2%), Koma (1%) Agew (5%) Amhara (21.25) Oromo (13.32%), Other (2.92%)						
Hareri	Hareri (8.65 %), Oromo (56 %), Amhara (22.%), Somali (3.87%), Ghuraghe (4%) Others (5.8%)						
Somali	Somali (97%) Others (3)						

Source: FDRE Population Census Commission (2008)

The rest of the regional states do not have even a dominant ethnic community, let alone being ethnically homogenous. As can be seen from the table above, for instance, the Sidama, the ethnic community with the largest population in SNNPR, does not even constitute 20 percent of the region's population.

In addition, there are hundreds of thousands of ethnic migrants in many urban areas of most of the regional states. For instance, more than 3 million ethnic migrants live in many cities of Oromia.⁹⁰⁰ It is this intra-regional ethnic heterogeneity that brings to the fore one of the two central questions that this thesis aims to address, namely whether local government plays a role in managing diversity at intra-regional level.

⁹⁰⁰ FDRE Census Commission (2008) 93.

2.2.Territorial, social, and economic variations among the regional states

The regional states exhibit wide variations in terms of territorial and population sizes, and political and socio-economic development levels even if they have identical functions and powers under the federal Constitution.⁹⁰¹ Oromia, containing more than 30 percent of the country's population, stands out as the largest region followed by the Amhara regional state. At the other extreme there is Hareri, a small city-state with just more than 150, 000 inhabitants.⁹⁰²

There is also variation in terms of the level of social and economic development each of the regional states has attained.⁹⁰³ Evidently, all of the regional states have attained low level social and economic development as Ethiopia itself is one of the least developed African countries. Yet, the so called 'low land', 'emerging', or 'least developed' regions, which include the Afar, Somali, Gambella and Benishangul-Gumuz regions, have even lower economic development, due to historical reasons.⁹⁰⁴ The low level of economic and infrastructure development in these regions is attributed to the neglect and marginalisation of the regions by the previous regimes.⁹⁰⁵ The pastoralist livelihood of the communities in these regions which requires them to constantly move from one place to the other has also hampered the establishment of an 'indigenous settled administration'.⁹⁰⁶ Therefore, as Assefa writes, the lowland regions are still unable to articulate their own interests and 'to evolve into viable

⁹⁰¹ Young (1999) 328; Aalen (2002) 73.

⁹⁰² FDRE Census Commission (2008).

⁹⁰³ Young (1999) 328; Aalen (2002) 73.

⁹⁰⁴ Young (1999) 328; Aalen (2002) 73.

⁹⁰⁵ Young (1999) 322; Aalen (2002) 73.

⁹⁰⁶ Young (1999) 342.

entities'.⁹⁰⁷ As will be discussed in the subsequent chapters, the difference in socio-economic development among the regional states has a direct impact on the design and effectiveness of the local government system of each regional state.

3. FEDERAL AND STATE GOVERNMENT STRUCTURES

3.1. Introduction

The FDRE Constitution, true to Ethiopia's federal dispensation, provides for the establishment of two orders of government that are structured at federal and state level.⁹⁰⁸ The federal government and the regional governments have three branches: legislative, executive, and judicial.⁹⁰⁹

3.2. Federal government

The federal government has two federal houses, the House of Peoples Representatives (HoPR) and the House of Federation (HoF),⁹¹⁰ a parliamentary executive,⁹¹¹ and a judiciary.⁹¹²

3.2.1. Federal legislature

3.2.1.1. HoPR

The HoPR is the lower house of Parliament. It has a maximum of 550 seats which are held by parliamentarians who are directly elected for a five year term.⁹¹³ The electoral system that is used in general elections is first-past-the-post (FPTP).⁹¹⁴

The *woredas*, which have approximately 100 000 residents, are used as electoral

⁹⁰⁷ Assefa (undated) 22.

⁹⁰⁸ FDRE Constitution (1995) Art 50 (1).

⁹⁰⁹ FDRE Constitution (1995) Art 50 (2, 5, 6 & 7).

⁹¹⁰ FDRE Constitution (1995) Art 53.

⁹¹¹ FDRE Constitution (1995) Arts 72-78.

⁹¹² FDRE Constitution (1995) Arts 78-79.

⁹¹³ FDRE Constitution (1995) 54 (1 & 3).

⁹¹⁴ FDRE Constitution (1995) Art 54 (2).

districts in national elections.⁹¹⁵ Around 20 of the 550 seats are reserved for minority ethnic groups.⁹¹⁶

Political parties

There are more than 79 registered political parties in Ethiopia which contest in national elections.⁹¹⁷ These political parties, most of which are organised along ethnic lines, operate alone or in coalition. The political parties, based on their political standing, are divided into three categories: the first category comprises ethnic-based political parties which are members of the ruling party. In the second category are those that are affiliates to the EPRDF and in the third category are opposition parties.⁹¹⁸

The EPRDF itself is composed of four political parties which are organised along ethnic lines.⁹¹⁹ These are the Tigray Peoples Liberation Front (TPLF), the Amhara National Democratic Movement (ANDM), and the Oromo People Democratic Organisation (OPDO), and, the Southern Ethiopia Democratic Movement (SEPDM). SEPDM is a coalition of 20 small ethnic-based political parties.⁹²⁰

⁹¹⁵ FDRE Proclamation 532 (2007) Art 20.

⁹¹⁶ FDRE Constitution (1995) Art 54 (3).

⁹¹⁷ The official website of the National Electoral Board of Ethiopia
<http://www.electionethiopia.org/en/> (last accessed on 28 February 2012).

⁹¹⁸ Wondwosen (2009) 62ff; Vaughan (2004) 15; Pausewang *et al* (2002) 14; Aalen (2002) 83 ff.

⁹¹⁹ Wondwosen (2008) 790.

⁹²⁰ South Ethiopian Peoples' Democratic Movement (SEPDM)

<http://www.eprdf.org.et/EPRDFE/faces/ssi/member.jsp?type=SEPDM> (last accessed on 28 January 2012).

Political parties which are affiliate to EPRDF are those parties which are organised along ethnic lines and are considered allies of the ruling party, without formally being members of it.⁹²¹ These are the Somali People Democratic Party (SPDP), the Afar National Democratic Party (ANDP), the Benishangul-Gumuz Peoples Democratic Unity Front (BPDUF), the Gambella Peoples' Unity Democratic Movement (GPUDM), and Hareri National League.⁹²² Each BPDUF and GPUDM is a coalition of two ethnic-based political parties. The affiliate parties are allegedly created by the EPRDF itself and not opposition parties *per se*.⁹²³

There are also opposition parties which supposedly have policies and programmes that differ from the EPRDF and its affiliate parties.⁹²⁴ Most of the opposition parties are ethnic-based and operate alone or in coalition with other ethnic-based parties. Almost for every ethnic-based party which is a member of, or an affiliate to, the EPRDF, there is a counterpart in the opposition camp.⁹²⁵

National elections

Since 1995, four national elections have been held. In all of these elections, EPRDF came out victorious. Opposition parties registered their major success in the 2005 general elections, the most contested elections in Ethiopia's history, by

⁹²¹ Wondwosen (2009) 62ff; Vaughan (2004) 15; Pausewang *et al* (2002) 14; Aalen (2002) 83 ff.

⁹²² Ishiyama (2009); Aalen (2002) 83.

⁹²³ Aalen (2002) 83; Vaughn (2004); 16; Merera (2002) 2.

⁹²⁴ Vaughan (2004) 17; Wondwosen (2009) 66.

⁹²⁵ For instance the Ethiopia Federal Democratic Unity Forum (in short FORUM) is composed of a number of ethnic-based opposition political parties. The Southern Ethiopia Peoples' Democratic Coalition (SEPDC) which is one of the members of the FORUM is a coalition of a number of ethnic-based parties which claim to represent certain ethnic communities in SNNPR. The SEPDC can be considered as the counterpart of the SEPDM in the opposition camp. See Wondwosen (2009).

winning more than 170 seats in the HoPRs along with all the seats in Addis Ababa City Council.⁹²⁶ However the post-election dispute which arose when leaders of the opposition parties accused EPRDF of vote rigging and refused to join Parliament led to violence in many parts of the country. All the leaders of the opposition parties were accused of inciting violence and were arrested, tried and sentenced to life imprisonment, even though they were released later as a result of a Presidential Pardon.⁹²⁷ In the 2010 elections EPRDF and its affiliates claimed to have won 99.6 percent of the seats in HoPRs.⁹²⁸

3.2.1.2. HoF

The HoF, the upper house of the federal government, is composed of one or more representatives of each ethnic community in the country⁹²⁹ depending on the size of the population of the particular ethnic group.⁹³⁰ Each ethnic group is represented by one representative in this House. An ethnic community with a population of more than a million is represented by one additional representative for each extra one million people belonging to it.⁹³¹

Only the HoPR has legislative power.⁹³² The HoPR issues proclamations on all federal matters that are listed under Article 51 of the Constitution. The proclamation is the highest statutory law that the highest federal or regional

⁹²⁶ International Crisis Group (ICG) (2009) 8-10; See also Wondwosen (2009).

⁹²⁷ ICG (2009) 10.

⁹²⁸ National Electoral Board of Ethiopia (NEBE) (2010) <http://www.electionethiopia.org/en/> (Last accessed on 27 May 2012).

⁹²⁹ FDRE Constitution (1995) Art 61(1).

⁹³⁰ FDRE Constitution (1995) Art 61(2).

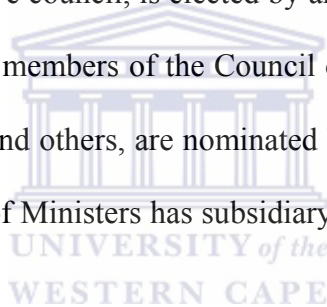
⁹³¹ FDRE Constitution (1995) Art 61(2).

⁹³² FDRE Constitution (1995) Art 55.

legislative council issues.⁹³³ The HoPRs also has the power to approve the country's fiscal and monetary policies as well as policies on social and economic development.⁹³⁴ The HoF deals only with non-legislative matters pertaining to, among other things, self-determination of ethnic communities, inter-state disputes, division of revenue, and the like.⁹³⁵ In addition, the HoF has a final say on disputes involving the interpretation of the federal Constitution.⁹³⁶

3.2.2. Federal executive

The Council of Ministers, which is composed of a Prime Minister (PM) and other ministers, forms the highest executive organ of the federal government.⁹³⁷ The PM, who heads the executive council, is elected by and from among the members of the HoPRs.⁹³⁸ The other members of the Council of Ministers, which includes the deputy PM, ministers, and others, are nominated by the PM and appointed by the HoPR.⁹³⁹ The Council of Ministers has subsidiary legislative powers over and



⁹³³ Fasil (1997) 82

⁹³⁴ FDRE Constitution (1995) Art 54 (10).

⁹³⁵ FDRE Constitution (1995) Art 62.

⁹³⁶ It was believed that there was no other federal organ other than the HoF that was better suited for interpreting the Constitution considering the fact that the Constitution is 'a political contract' among the ethnic communities that the HoF is composed of the representatives of the ethnic communities, 'the authors' of the Constitution. Moreover, if the power to interpret the Constitution was to be given to the judiciary, there was a fear that judges, while interpreting the Constitution, might indulge in 'judicial adventurism'; 'in the process of interpreting vague clauses of the Constitution, [the judges would] put their own preferences and policy choices. [T]his might result in hijacking the very document that contains the 'compact between the nationalities' to the judges' own personal philosophies'. Assefa (2007a). FDRE Constitution (1995) Art 62 (1).

⁹³⁷ FDRE Constitution (1995) Art 72.

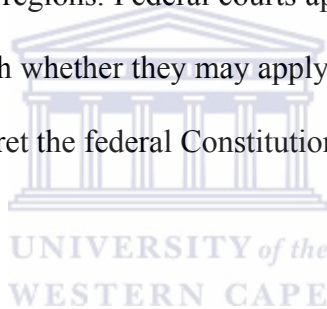
⁹³⁸ FDRE Constitution (1995) Art 73 (1).

⁹³⁹ FDRE Constitution (1995) Art 72 (1), 76 (1) & 74 (2). Meles Zenawi, the Chairman of the EPRDF, has been serving as the Prime Minister of the Country since 1995. He was also the President of the Transitional Government of Ethiopia from 1991 to 1995. Following the 2005

above its executive powers: It issues executive regulations based on the proclamations enacted by the HoPR.⁹⁴⁰

3.2.3. Federal courts

The Federal Supreme Court is the highest judicial organ at the federal level.⁹⁴¹ Several benches of the Federal High Court and a Federal first Instance Court are also established in Addis Ababa and Dire Dawa. In the regional states, the powers of the federal First Instance and High Courts are delegated to and exercised by the state High Courts and State Supreme Courts, respectively.⁹⁴² However, the federal government is busy establishing benches of federal First Instance and High Courts in some of the regions. Federal courts apply federal laws in deciding cases.⁹⁴³ It is unclear though whether they may apply the Constitution in deciding cases as the power to interpret the federal Constitution is given to the HoF.⁹⁴⁴



national elections Meles declared his intention not to seek office of the PM of the country after serving until 2010. However, sometime in 2009 it was declared that the EPRDF has set a procedure of alternation (*kibibilosh*) in which the leadership of the party which took part in the war against the *Derg* would retire one after the other, leaving the leadership position to the new generation. The alternation is to take place at different stages. In the first stage some of EPRDF's heavy weight politicians including Siyum Mesfin, the former Minister of Foreign Affairs, Addisu Legesse the former deputy chairman of the EPRDF and Deputy Prime Minister have left their ministerial post. They did not also participate in the 2010 elections. Meles, according to the rule of *kibibilosh*, will be the last to retire, which is expected to take place in 2015.

⁹⁴⁰ FDRE Constitution (1995) 77 (13).

⁹⁴¹ FDRE Constitution (1995) 78 (2).

⁹⁴² FDRE Constitution (1995) Art 78 (2).

⁹⁴³ FDRE Constitution (1995) Art 80.

⁹⁴⁴ Assefa argues that despite the fact that the HoF has a final say on constitutional issues, federal courts may still interpret and apply the Constitution to decide cases. Yonatan, in contrast, argues whenever a resolution of a particular case involves the interpretation of the Constitution, the Court must transfer the case to the HoF. See Assefa (2007 b) & Yonatan (2008)

3.3. The regional governments

A state government that is established in each regional state has legislative, executive, and, judicial branches.⁹⁴⁵

3.3.1. State legislature

All of the regional states, except SNNPR, have a unicameral legislative house called a State/Regional Council.⁹⁴⁶ In SNNPR there is an upper house which is called the Council of Nationalities (CoN). It has a structural organisation and function that is similar to the HoF.⁹⁴⁷ The Regional Council is the highest regional political organ.⁹⁴⁸ It has the power to draft, adopt and enact a regional constitution as well as proclamations on state matters.⁹⁴⁹

3.3.2. Regional executive

Each regional state has an Executive Council which is headed by a regional chief administrator or president.⁹⁵⁰ The regional states have structured their governments based on the parliamentary system. Members of a regional council, therefore, elect a regional chief administrator (also called regional President) from among themselves.⁹⁵¹ The regional chief administrator is nominated from a

⁹⁴⁵ FDRE Constitution (1995) 50 (3, 6, &7).

⁹⁴⁶ FDRE Constitution (1995) Art 50 (3).

⁹⁴⁷ See the SNNPR Constitution (2001) Art 58 & 59.

⁹⁴⁸ FDRE Constitution (1995) 50 (3).

⁹⁴⁹ FDRE Constitution (1995) 50 (5).

⁹⁵⁰ FDRE Constitution (1995) 50 (6).

⁹⁵¹ Amhara Regional State (ARS) Constitution (2001) Art 59 (1); Afar Regional (AfRS) Constitution (2001) Art 58 (1); Somali Regional State (SRS) Constitution (2001) 60 (1); Gambella Regional State (GRS) Constitution (2001) 63 (1); Oromia Regional State (ORS) Constitution (2001) Art 56 (1); SNNPR Constitution (2001) Art 67 (1); Tigray Regional Constitution (TRS) (2001) Art 49 (3) (e); Benishnagul-Gumuz Regional State (BGRS) Constitution (2002) 49 (3) (5).

party or coalition of parties' occupying the majority of the seats of the regional council.

The regional executive council is responsible for executing regional laws. It is charged with formulating regional economic and social policies.⁹⁵² It is also responsible for implementing the policies when approved by the regional council.⁹⁵³ Under the regional constitutions, the executive council exercises subsidiary legislative power. Hence, it issues regulations based on a regional proclamation.⁹⁵⁴

3.3.3. State judiciary

State judicial power is entrusted to the states courts. All of the regional states have state First Instance, High, and Supreme Courts which have first instance and/or appellate jurisdiction.⁹⁵⁵ State courts apply state laws to decide cases except when they act as federal courts. It is not clear whether they may apply state constitutions in deciding cases.⁹⁵⁶

⁹⁵² ARS Constitution (2001) Art 58; AfRS Constitution (2001) Art 56; BGRS Constitution (2002) Art 57; SRS Constitution (2001) 59; GRS Constitution (2001) 62; ORS Constitution (2001) Art 55; SNNPR Constitution (2001) Art 66; TRS Constitution (2001) Art 56.

⁹⁵³ ARS Constitution (2001) Art 58; AfRS Constitution (2001) Art 56; BGRS Constitution (2002) Art 57; SRS Constitution (2001) 59; GRS Constitution (2001) 62; ORS Constitution (2001) Art 55; SNNPR Constitution (2001) Art 66; TRS Constitution (2001) Art 56.

⁹⁵⁴ ARS Constitution (2001) Art 58 (7); AfRS Constitution (2001) Art 56 (5); BGRS Constitution (2002) Art 59(7); SRS Constitution (2001) 59 (7); GRS Constitution (2001) 62 (7); ORS Constitution (2001) Art 55 (6); SNNPR Constitution (2001) Art 66 (6); TRS Constitution (2001) Art 56(7).

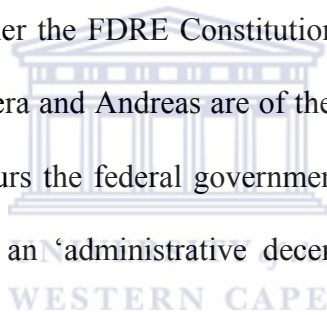
⁹⁵⁵ FDRE Constitution (1995) Art 50 (7). See also chapter 7; § 2.3.2.2.

⁹⁵⁶ In all regions, the power to interpret the regional constitution is given to a constitutional interpretation commission (CIC) which is composed of representatives of *woredas*, regional states, and where applicable, nationality zones. In the SNNPR, the CoN has the final say on the interpretation of the state's Constitution. The CIC or the CoN interprets the state Constitution

3.4. Division of functions

The Constitution divides government functions between the federal and regional governments. Article 51 of the Constitution contains a list of exclusive federal competences.⁹⁵⁷ The Constitution provides that all residuary powers (i.e. those neither exclusive to the federal government nor concurrent state-federal competences) exclusively to the regional states.⁹⁵⁸ Besides, the Constitution explicitly authorises the regional states to formulate and approve policies on regional economic and social matters.⁹⁵⁹ The Constitution also authorises the regions to administer land and other natural resources.⁹⁶⁰

Scholars disagree on whether the FDRE Constitution provides sufficient powers to the regional states. Abbera and Andreas are of the opinion that the division of government functions favours the federal government.⁹⁶¹ Andreas even suggests that the federal system is an ‘administrative decentralisation’ as the regional



based on the opinion of a constitutional inquiry commission which is composed of judges and lawyers. See chapter 7; § 2.3.2.2. .

⁹⁵⁷ According to Assefa, the exclusive competences of the federal government are not, however, limited to those listed under Article 51. The Constitution mentions additional exclusive federal powers which are not listed under Article 51 in the provisions that deal with the powers of the different branches of the federal government. For instance under Article 55 the Constitution authorises the House of People’s Representatives to enact labour law, a commercial code and a penal code and to approve the appointment of federal judges, ministers, commissioners, the auditor general and other appointees. As Assefa notes, the powers of the regional government can be ascertained only after deducting the federal powers which are mentioned throughout the Constitution. Assefa (2007a) 337.

⁹⁵⁸ FDRE Constitution (1995) Art 52 (1).

⁹⁵⁹ FDRE Constitution (1995) Art 52 (2) (b).

⁹⁶⁰ FDRE Constitution (1995) Art 52 (2) (d).

⁹⁶¹ Abbera (1999) 191.

states have little powers.⁹⁶² Assefa and Yonatan conversely argue that the regions have significant functions.⁹⁶³ Yonatan, for instance, argues that there are many areas that are not within the list of federal competences on which the states may exercise legislative power.⁹⁶⁴ These include ‘intra-state transport, state roads, state tourism, health services, agriculture, disaster management, housing, intra-state trade, vehicle license, firefighting services, traffic regulation, electricity, liquor license’.⁹⁶⁵ There is an agreement though that the Constitution is generous to the regional states so far as matters pertaining to ethnic and cultural identities are concerned.⁹⁶⁶

In practice the federal government plays a dominant role. It makes excessive use of its power to formulate policies relating to social and economic development.⁹⁶⁷ The federal policies and strategies relating to social and economic matters are so detailed that they leave little room for regional action.⁹⁶⁸ According to Assefa, the centralisation of policy formulation is the upshot of the centralised structure and operation of the ruling party. Most of the policy papers ‘originate’ as ‘party documents’.⁹⁶⁹ After being discussed by the party leaders at the federal and state government levels, the documents are tabled for approval by Parliament and published as government policy papers.⁹⁷⁰ As the discussion in

⁹⁶² Andreas (2003) 167.

⁹⁶³ Assefa (2007a) 142; Yonatan (2010) 211-212.

⁹⁶⁴ Yonatan (2010) 212.

⁹⁶⁵ Yonatan (2010) 212.

⁹⁶⁶ Andreas (2004) 167; Yonatan (2010) 211-212; Assefa (2007a) 142.

⁹⁶⁷ Assefa (2006) 139.

⁹⁶⁸ Assefa (2006) 143.

⁹⁶⁹ Assefa (2007a) 395.

⁹⁷⁰ Assefa (2007a) 395.

chapter five and chapter six shows, the dominant role that the federal government plays in policy making impacts on local government.⁹⁷¹

3.5. Financial powers

The allocation of financial sources between the state and federal governments is likely to have bearing on the financial autonomy of local government. As will be argued below, whatever taxing power is devolved to local government must be deducted from the taxing power of the regional governments. The financial powers of the federal and state governments are therefore, briefly discussed below.

3.5.1. Taxes

The federal Constitution provides for four categories of taxes; exclusive federal taxes, exclusive state taxes, concurrent taxes, and undesignated taxes.⁹⁷² The first two categories of taxes are imposed and collected by federal and state governments, respectively. Article 96 lists federal taxes which include custom duties, import and export taxes, and income taxes from federal employees and employees of international organisations. Article 97 of the Constitution contains a list of regional taxes which includes land taxes, agriculture income taxes, and income tax from regional government employees as well as from employees of private enterprises which are licensed by and operate in a regional state.⁹⁷³

The concurrent taxes are levied and administered by the federal government and the proceeds are shared by the federal government and the relevant regional

⁹⁷¹ See chapter 5§ 2.5.2.

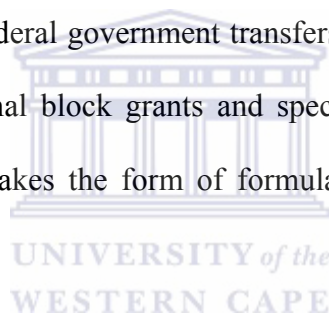
⁹⁷² FDRE Constitution (1995) Arts 96-99.

⁹⁷³ FDRE Constitution (1995) Art 97 (9-10).

government.⁹⁷⁴ These taxes include taxes on profit, sales, excise and personal income of enterprises which are jointly owned by federal and state governments.⁹⁷⁵ An undesignated tax becomes either a federal, regional, or concurrent tax when so decided in a joint session of the two federal Houses.⁹⁷⁶

3.5.2. Federal grants

The federal Constitution provides that the federal government may grant to the regions certain financial assistance.⁹⁷⁷ The HoF is charged with the responsibility to determine the manner in which the federal grants would be divided among the regional states.⁹⁷⁸ The Constitution further enjoins the federal government to cover the costs of discharging functions that it has delegated to the regional states.⁹⁷⁹ In practice, the federal government transfers two types of federal grants to the regions: unconditional block grants and specific purpose grants.⁹⁸⁰ The bulk of the federal grant takes the form of formula-based unconditional block



⁹⁷⁴ The Constitution provides that the concurrent taxes shall be levied and collected jointly by both the federal government and a regional government. However this provision was interpreted to mean that concurrent taxes are levied and administered by the federal government and the proceeds are shared between the federal government and the region. Solomon (2006) 141; FDRE Constitution (1995) 98.

⁹⁷⁵ FDRE Constitution (1995) 98 (1).

⁹⁷⁶ FDRE Constitution (1995) Art 99. However, the Constitution seems to assume that there will be an agreement on whether or not a particular tax is undesignated or otherwise. What if there is a dispute regarding whether a particular tax is designated or not? The Constitution is silent in this respect. Should such a dispute arise, as it raises the interpretation of the Constitution, it seems that the House of Federation will have the power to decide whether or not the tax in question is designated. If it is not designated, the level of government which has the power to collect the tax would be decided by the two houses in accordance with the above procedure.

⁹⁷⁷ FDRE Constitution (1995) 94 (2).

⁹⁷⁸ FDRE Constitution (1995) Art 62 (7).

⁹⁷⁹ FDRE Constitution (1995) 94 (1).

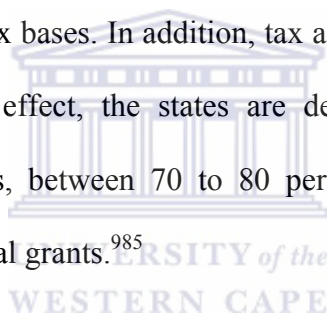
⁹⁸⁰ Solomon (2006) 193f.

grants over which the regional states have unrestricted expenditure autonomy.⁹⁸¹

On the other hand, programmes that are mandated by the federal government and executed by regional and local governments are funded through Special Purpose Grants (SPG).⁹⁸² The SPGs are conditional grants which the regions may spend only for the purpose of executing federal programmes.

3.5.3. Financial power; fairly divided?

The federal government is superior as far as financial power is concerned since the most buoyant categories of taxes, such as import and export taxes, are within its control.⁹⁸³ The regional taxes are far from buoyant since very little revenue is collected from rural land use tax and agriculture income tax. Moreover, the regional states have poor tax bases. In addition, tax administration of the regional states is inefficient.⁹⁸⁴ In effect, the states are dependent on federal grants. According to some studies, between 70 to 80 percent of the regional states' budgets is covered by federal grants.⁹⁸⁵



As will be discussed in chapter five, the inadequacy of the taxing power of the regional states directly impacts on the revenue raising capacity of local government.⁹⁸⁶

3.5.4. Concluding remarks

⁹⁸¹ Solomon (2006) 193f.

⁹⁸² Solomon (2006) 193f.

⁹⁸³ Over and above that, the federal government owns almost all major public enterprises including banks and insurance companies. In addition, the federal government has a monopoly on telecommunication, electricity, and water. These enterprises, as Solomon states, 'are not only a major sources of income to the [federal] government but also...the primary sources of personal income tax, excise tax, and business profit tax'. Solomon (2006) 155.

⁹⁸⁴ Solomon (2006) 155.

⁹⁸⁵ Garcia & Rajkumar (2008) 16.

⁹⁸⁶ See chapter 5; 3.

The above sections have briefly described the structure, functions, powers, and financial sources of the federal and state governments. The next crucial issue to be discussed here is whether the FDRE Constitution envisions the establishment of local government. If it does, what are the features of local government that it envisions to be established? Related to this issue is the question where the FDRE Constitution positions local government in the federal arrangement. The following section addresses these issues.

4. LOCAL GOVERNMENT AS ENVISIONED IN THE FDRE CONSTITUTION

4.1. General

The constitutional status of local government is contentious in many federal systems. The idea of creating constitutionally entrenched local government is often perceived by the constituent units of a federation as a threat that may upset the federal equilibrium.⁹⁸⁷ This does not, however, mean that federal countries do not have autonomous local government. In fact, most federal states have three levels of government: at federal, state/regional, and local.⁹⁸⁸ The disagreement is rather about the constitutional status of local government.⁹⁸⁹

⁹⁸⁷ In the classical federal systems of the USA, Canada, and Australia local government is established as an institution of service delivery, not as a level of government with a democratic pertinence (Steytler (2005) 2; Steytler (2009) 40). In USA and Australia local government is not even mentioned in their constitutions. In federal countries, such as Canada, where local government is mentioned in the national constitution, it is unambiguously stated that local government is states' competence. Young (2009) 113; Steytler (2009) 406.

⁹⁸⁸ Steytler (2005) 1.

⁹⁸⁹ In Australia, for instance, the referenda which were conducted on two different occasions with the intention of providing local government a constitutional recognition failed to achieve their purpose (Sansom (2009) 12). This was, among other things, because the move was seen by the states as the central government's plan to marginalise them and to centralise power (Saunders (2005) 51). Furthermore, the constitutional entrenchment of local government was seen as

The constitution of a federal state is viewed as a covenant that is entered into by the constituent units of the federation. In a federal system, therefore, the constitution is a supreme law to which all levels of government are expected to adhere.⁹⁹⁰ The constitution guarantees uninterrupted existence and broad autonomy to each sphere/level of government in exercising the power allocated to it.⁹⁹¹ The main distinction between a unitary system - where sub-national units may be eliminated by national government at any given time - and a federal system is the constitutional protection that is afforded to all spheres/levels of government.⁹⁹² As Anton states, in a federal system '[a]ll constituent units...are guaranteed existence so long as the system exists because they are the system'.⁹⁹³ In short, the constitution is a defining element of a federal system. The constitution is such an important document in a federal system that, as Saunders maintains, it is the 'ultimate goal' of local government of a federal state to be recognised in a federal constitution.⁹⁹⁴ Providing local government with a constitutional status is a manifestation of its significance. It is also important since, as was stated in chapter two, the recognition of local government in a national constitution is related to the very existence of local government as an order of government.⁹⁹⁵

undesirable as it would create 'another level of government which would be in competition with the States' (Saunders (2005) 56-57).

⁹⁹⁰ Assefa (2007a) 121.

⁹⁹¹ Watts (2008) 83.

⁹⁹² Chandler (1987) 4; Watts (2008) 83.

⁹⁹³ Anton (1989) 3.

⁹⁹⁴ Saunders (2005) 47.

⁹⁹⁵ See chapter 2; § 3.5.1.1.

Ethiopia is a federal state. The fact that Ethiopia is a federal state raises the question: what are the place and status of local government under the FDRE Constitution? Does the Constitution provide for the establishment of local government? What type of local government does it envisage?

It will be argued in the following section that the FDRE Constitution envisions the establishment of two different systems of local government. The two systems of local government will be referred to in this thesis as Article 39 local government and Article 50 (4) local government based on the Articles in the FDRE Constitution that refers to each of them. These two categories of local government envisaged by the Constitution differ from each other both in structure and purposes.⁹⁹⁶

4.2. Article 39 local government

As was mentioned earlier, the Ethiopian federal system is viewed as a ‘federation of ethnic groups’.⁹⁹⁷ It is assumed to be a federation which came to be when various ethnic communities came together in a federal union. The federal Constitution is also regarded as a confirmation of the covenant that was entered into by and among the ethnic groups of the country based on their right to self-determination.⁹⁹⁸ The covenant is not assumed to have been entered into only by the major ethnic communities that are given their own regional states. Rather it is assumed to be a covenant of and for all ethnic groups of the country; including the ethnic minority communities that are found within each regional state.⁹⁹⁹ The

⁹⁹⁶ For more on this see Zemelak & Yonatan (2012).

⁹⁹⁷ See above at § 2.

⁹⁹⁸ FDRE Constitution (1995) Preamble.

⁹⁹⁹ FDRE Constitution (1995) Preamble.

type of local government that is envisaged under Article 39 of the Constitution is, therefore, linked to the right to self-determination of the ethnic communities of the country; a principle which serves as the foundation of Ethiopia's federal system.¹⁰⁰⁰ Article 39(3) of the Constitution provides that:

‘Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments.’

The above provision clearly provides that each ethnic community in the country has the right to establish self-government in its own territory.¹⁰⁰¹ Evidently, the right to self-government is not a right which is exercisable only by those ethnic communities that have their own regional states. Rather, it is a right which is constitutionally entrenched for all ethnic communities of the country.¹⁰⁰² Moreover, the right to a full measure of self-government is not necessarily to be effected through the establishment of a regional state for every ethnic community. The Constitution could not have sought to provide each ethnic community with its own regional government; to do so would have resulted in the establishment of 80 or so ethnically defined regional states. This would have simply been unfeasible. On the other hand, the Constitution could not have merely recognised the right to self-government of each ethnic community without the intention to somehow give it effect. The Constitution, thus, implies that self-government

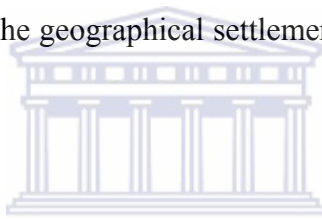
¹⁰⁰⁰ See Assefa (2007a) 237.

¹⁰⁰¹ FDRE Constitution (1995) Art 39 (3).

¹⁰⁰² See Assefa (2007a) 237.

might be established at local level or sub-regional level in order to give effect to the right to self-government of each ethnic community.¹⁰⁰³

What is envisaged under Article 39 (3) is a special type of local government. It is not a regular system of local government that is established in every part of the country. It is rather constitutionally envisaged to be established only in those parts of the country where territorially concentrated intra-regional minority ethnic communities are present. This can be inferred from the Constitution itself which provides that each ethnic community would establish self-government ‘in the territory it inhabits’. Therefore, the boundaries of Article 39 local government are to be demarcated based on the geographical settlement structure of a sub-regional ethnic minority group.



Secondly, ‘self-determination’, as per Article 39 (3) of the FDRE Constitution, evidently, implies political autonomy. Political autonomy in turn implies a final say on certain matters.¹⁰⁰⁴ Political autonomy, therefore, of necessity entails the establishment of a devolved local government; not a deconcentrated administrative unit of the regional states. Moreover, a ‘full measure of self-government’ implies the establishment of a government which has all political (legislative and executive), administrative, and even possibly, some judicial powers, and one which can autonomously exercise these powers. Therefore, Article 39 (3) local government is meant to be an autonomous sub-regional

¹⁰⁰³ See Tsegaye (2004) 5.

¹⁰⁰⁴ Watts (2000) 948.

government which has devolved powers. It certainly is not intended to be an administrative structure of the regional states with deconcentrated power.¹⁰⁰⁵

4.3. Article 50(4) local government

The second system of local government envisioned by the Constitution is mentioned in Article 50(4) of the Constitution. In this study this type of local government will be referred to as Article 50(4) local government. Article 50(4) of the 1995 Constitution provides that-

‘State government shall be established at State and other administrative levels that they find necessary. Adequate power shall be granted to the lowest units of government to enable the People to participate directly in the administration of such units’.¹⁰⁰⁶

Clearly, local government is what the Constitution refers to as ‘other administrative levels’ or ‘lowest unit of government’. Here the Constitution noticeably makes Article 50(4) local government the creation of the regional states. The Constitution also provides that the regional states may establish ‘other administrative levels’ where and when they ‘find [it] necessary’. This suggests that the regional states have the option not to establish Article 50(4) local government. Moreover, the Constitution refers to local government as ‘administrative levels’ or ‘lowest units of government’ and not as a level of ‘government’. This may be interpreted to mean that the regional states may establish their own deconcentrated administrative apparatus; not necessarily autonomous local government. It is submitted here that the above is not what the Constitution envisages. It is argued below that, when Article 50 (4) is read with

¹⁰⁰⁵ For a discussion on deconcentration see chapter 2 § 2.2.1.

¹⁰⁰⁶ FDRE Constitution (1995) Art 50(4).

other related parts of the Constitution, it leads to the conclusion that the Constitution envisages Article 50 (4) local government to be an autonomous level of government. The drafting history of Article 50 (4) also shows that the framers of the Constitution intended Article 50 (4) local government to be an autonomous level of government.

4.3.1. A logical interpretation of Article 50 (4)

A careful perusal of the Constitution reveals that the Constitution envisages an autonomous local government; and not a mere structure of local administration. To begin with, the second sentence of Article 50 (4) provides that '[a]dequate power shall be granted to the lowest units of government to enable the [p]eople to participate directly in the administration of such units'. As indicated earlier, it is unambiguous that local government is what the Constitution refers to as the 'lowest unit of government'. Here the Constitution imposes a binding obligation on the states to transfer 'adequate' powers to local government. Impliedly, it enjoins the states to create a system of local government that has 'adequate powers'. It can be argued that, under the Constitution, the regional states have the options to determine the number of tiers of local government they may establish.¹⁰⁰⁷ They have also the discretion to determine the number of local government units they may create. It is, however, not logical to maintain that the creation of local government itself is optional, and, at the same time, to maintain that the regional states are subject to an obligation to transfer adequate powers to local government units.

4.3.2. Local government and self-rule

¹⁰⁰⁷ See Solomon (2006) 79.

The establishment of Article 50 (4) local government can be linked to the right to self-rule as enshrined under Article 88 (1) of the Constitution. Article 88 (1) of the Constitution provides that the promotion of the people's right to democratic '*self-rule at all levels*' is one of the political objectives of Ethiopia's constitutional system that must guide the interpretation and implementation of the Constitution and other laws.¹⁰⁰⁸ The right of the people to self-rule, as the Constitution clearly states, should be exercised at all levels. This includes the local level of government. Therefore, the establishment of local government must be informed by the need to promote the citizens' right to self-rule. The right to self-rule as provided under Article 88 (1) is a principle that is broader than the principle of the right to self-government that was discussed above in relation to the right to self-determination of ethnic communities within the framework of Ethiopia's ethnic federal system. The right to self-rule, as provided in Article 88 of the Constitution, is based on the notion of democracy as a self-rule.¹⁰⁰⁹ This is clearly indicated in Article 88 (1) which provides that '*guided by democratic principles, Government shall promote the people's right to self-rule at all level*'. Self-rule as a democratic principle embodies the idea of communal control over collective decisions.¹⁰¹⁰ Community control over collective decisions is exercised either indirectly through elected representatives or through direct personal participation.¹⁰¹¹ This principle requires Article 50 (4) local government to be structured in such a way that it enhances the communities' right to democratic self-rule.

¹⁰⁰⁸ FDRE Constitution (1995) Art 88 (1).

¹⁰⁰⁹ See FDRE Constitution (1995) Art 88(1).

¹⁰¹⁰ Beetham (1999) 5; Arblaster (1987) 8.

¹⁰¹¹ Beetham (1999) 5.

4.3.3. Local government and public participation

It is clear from the Constitution that the need to enhance direct public participation is one of the constitutional objectives that underpin the establishment of Article 50 (4) local government. The assumption behind this constitutional objective appears to be that the establishment of autonomous local government will best promote direct public participation. This line of interpretation of the Constitution is also consistent with the general view at international level that local government is ‘the terrain most amenable to effective public participation’.¹⁰¹² The European Charter of Local Self-Government, for instance, provides that ‘it is at local level that [the people’s right to participate] can be most directly exercised’.¹⁰¹³ Shah also argues that the current trend in governance is a steady change from a ‘bureaucratic to a participatory mode of operation’.¹⁰¹⁴ According to a World Bank report, there is an increasing trend towards the establishment of autonomous local government predicated on enhancing the role of the public in governance.¹⁰¹⁵ The drafters of the FDRE Constitution seem to have intended to make local government a site of public participation. It also appears that they were influenced by the aforementioned global trend. That must be why the Constitution clearly provides that the purpose for the establishment of local government is ‘to enable the [p]eople to participate directly in the administration of such units’.¹⁰¹⁶

4.3.4. The drafting history of Article 50 (4)

¹⁰¹² Porras (2009) 542.

¹⁰¹³ European Charter of Local Self-Government (1985) Preamble.

¹⁰¹⁴ Shah (2004) 4.

¹⁰¹⁵ World Bank (1999) 108ff.

¹⁰¹⁶ FDRE Constitution (1995) Art 50(4).

The drafting history of Article 50 (4) of the Constitutions, as narrated by Assefa, sheds some light on the intention of the drafters of the FDRE Constitution with respect to the constitutional status of Article 50 (4) local government. Assefa writes Article 50 (4) was a result of a compromise to accommodate two important interests.¹⁰¹⁷ The first interest was to leave the responsibility regarding the creation of local government to the regional states. The other was to ensure the establishment of autonomous local government. The compromise was that, in keeping with the dual federal system, local government would remain the competence of the regional states. However ‘it was clearly stated that the local governments should not merely be agents of the state government but should have some level of autonomy’.¹⁰¹⁸

4.4. Conclusion

In chapter two, the institutional features of a developmental local government were identified based on international literature.¹⁰¹⁹ Local government must be constitutionally recognised as an order of government and established throughout a country on wall-to-wall basis.¹⁰²⁰ On the other hand, a local territorial unit which is meant to serve as an autonomous territorial regime for accommodating minority ethnic communities is not expected to be established throughout a country. It is rather expected to be established only in specific area wherein politically mobilised and territorially concentrated minority ethnic community is found.¹⁰²¹

¹⁰¹⁷ Assefa (2007a) 341.

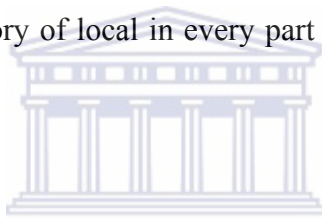
¹⁰¹⁸ Assefa (2007a) 341. Emphasis added.

¹⁰¹⁹ See chapter 2; § 3.5. & 4.4.2.3.

¹⁰²⁰ See chapter 2; § 3.5.

¹⁰²¹ See chapter 2; § 4.4.2.3.

As the discussion in the preceding two sections show the FDRE Constitution envisages two categories of local government (Article 50 (4) and Article 39 categories of local government respectively) that demonstrate the aforementioned feature. The Constitution does not in fact explicitly recognise Article 50 (4) local government as an autonomous order of government. However, the constitutional objectives that underpin its establishment (self-rule and public participation) requires this category of local government to be autonomous level of government. Moreover, these constitutional objectives are of general relevance as everyone in every part of the country has the right to participate in communal matter. The purpose that Article 50 (4) local government intended to achieve entails the establishment of this category of local in every part of the country on a wall-to-wall basis.



Article 39 local government, on the other hand, has specific purpose namely to allow minority ethnic communities to enjoy territorial autonomy. The constitutional principle that underpinned its establishment is the right to self-determination of every ethnic community which is recognised under Article 39 of the FDRE Constitution. Hence, unlike Article 50 (4) local government, Article 39 local government is not meant to be established for every part of the country, but only in parts of the country where there are territorially concentrated intra-regional minority ethnic communities.

§ 5 will discuss the political motives and processes that led to and underpinned the decentralisation of powers to local government. § 6 then will provide a brief

overview of the organisational structure of the two categories of local government envisaged by the Constitution.

5. TOWARDS LOCAL LEVEL DECENTRALISATION

5.1. Introduction

In accordance with the constitutional prescription discussed above, the regional states have established either or both of the Article 39 and Article 50(4) local government. The establishment of the two categories of local government took place at different times. Moreover, different policy and political motives underpinned the establishment of the two types of local government.

5.2. Establishing Article 39 local government

As was discussed in chapter three, the Transitional Period Charter (TPC) recognised the right to self-government of each ethnic group even before the formal establishment of the Ethiopian federal system.¹⁰²² Proclamation 7 (1992), which was issued during the transitional period, identified the ethnic communities that could establish their own self-governments starting from *woreda*.¹⁰²³ Some of the Article 39 local government units were, therefore, established during the transitional period, that is even before Ethiopia's federal system was formally introduced. The regional states adopted their own regional constitutions shortly after the promulgation of the federal Constitution.¹⁰²⁴ Some of the regional constitutions which were adopted in 1995 merely formalised the existing ethnic-based local territorial units.¹⁰²⁵ Hence, the establishment of Article 39 local

¹⁰²² See chapter 3; § 7.

¹⁰²³ See chapter 3; § 7.

¹⁰²⁴ See FDRE Constitution (1995) Art 50 (5).

¹⁰²⁵ The 1995 regional constitution of the SNNPR, for instance talk about nationality zones and *liyu woredas*. See Article 68 ff. For the discussion on nationality zones and *liyu woredas* see chapter chapter 4; § 6. 2.

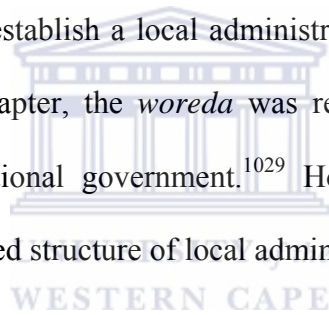
government can be viewed as part of the first phase of the decentralisation process which began during the transitional period and was concluded with the establishment of the federal system in 1995.¹⁰²⁶

5.3. District level decentralisation programme (DLDP): The second phase decentralisation

5.3.1. Introduction

The system of local government which is envisaged under Article 50(4) of the FDRE Constitution did not exist before 2001 in any of the regional states.¹⁰²⁷

This does not, however, mean that no local administrative structure existed until 2001. In fact, among the first tasks undertaken by the EPRDF during the transitional period was to establish a local administrative structures.¹⁰²⁸ As was stated in the preceding chapter, the *woreda* was retained as the basic unit of government by the transitional government.¹⁰²⁹ However, prior to 2001, the *woreda* was a deconcentrated structure of local administration without autonomy.



In 2000, the federal government launched the DLDP which marked the beginning of the second phase of the decentralisation process.¹⁰³⁰ The decentralisation programme, as will be discussed in the next sections, was underpinned by official and unofficial political motives. The official political motives are detailed in several federal policy papers. The ‘Interim Poverty Reduction Strategy (IPRS)’ briefly outlined the DLDP.¹⁰³¹ In 2002 ‘the Sustainable Development and

¹⁰²⁶ Tegene (2002) 1.

¹⁰²⁷ Tegene (2002) 1.

¹⁰²⁸ See chapter 3; § 7.

¹⁰²⁹ See chapter 3; § 7.2.1.2.

¹⁰³⁰ Tegene (2002) 2.

¹⁰³¹ Ministry of Finance and Economic Development: Ethiopia (MoFED) (2000).

Poverty Reduction Program (SDPRP)¹⁰³² and in 2005 the ‘Plan for Accelerated and Sustained Development to End Poverty (PASDEP)’ further elaborated on the DLDP.¹⁰³³ Other policy documents which were prepared as sub-programmes of the main development programmes also complemented the DLDP.¹⁰³⁴

5.3.2. Drivers of the formulation of the DLDP

The preparation for the IPRS began in 1998, seven years after the end of the two decade long war.¹⁰³⁵ The civil war, aggravated by chronic drought and famine, had taken a heavy toll on the population.¹⁰³⁶ Ethiopia’s already troubled economy had further plummeted as a result of 17 years of command economy under the *Dreg*.¹⁰³⁷ At the time the IPRS was being formulated the great majority of the Ethiopian people were living below the national poverty line.¹⁰³⁸

The poverty in the country was not only widespread but also multi-faceted, manifested by economic deprivation, hunger, malnutrition, illiteracy, diseases, and the like.¹⁰³⁹ More than 45 percent of the population could not afford to consume the minimum 2200 calories of food per day.¹⁰⁴⁰ Life expectancy was

¹⁰³² MoFED (2002).

¹⁰³³ MoFED (2005).

¹⁰³⁴ These include ‘Public Sector Capacity Building Program (PSCAP)’, ‘Capacity Building for Decentralised Service Delivery (CBSDS)’, ‘Plan for Urban Development and Urban Good Governance (PUDUGG)’. These documents elaborated and complimented the decentralisation programme.

¹⁰³⁵ MoFED (2000).

¹⁰³⁶ See chapter 3; § 7.

¹⁰³⁷ Dercon (2000).

¹⁰³⁸ MoFED (2000) 3.

¹⁰³⁹ MoFED (2000) 3.

¹⁰⁴⁰ MoFED (2000) 3.

below 50 years of age.¹⁰⁴¹ Infant mortality was high at 118 per 1000 infants while child mortality was 117 per 1000 children.¹⁰⁴² Maternal mortality was also soaring at 7 per 1000 mothers.¹⁰⁴³ The rate of illiteracy was high at 77 and 55 percent for women and men respectively. Access to education was so limited that the gross enrollment to primary education in 1995 was only 23 percent.¹⁰⁴⁴

Poverty was prevalent both in urban and rural areas, even though it was much harsher in the rural areas where 90 percent of the poor lived.¹⁰⁴⁵ Urban centres were characterised by ‘a poorly developed economic base, a high level of unemployment and a worrying incidence of poverty and slum habitation’.¹⁰⁴⁶ Besides, they lacked effective urban management, infrastructure, and systems of efficient service delivery.¹⁰⁴⁷

With a declared intention to curb these problems, the national government, initiated several measures to transform the economic system from a command economy to a market-based economic system.¹⁰⁴⁸ The transformation of the economic system was undertaken as part of the Structural Adjustment Programmes (SAPs) in collaboration with the World Bank and the IMF.¹⁰⁴⁹

¹⁰⁴¹ MoFED (2000) 3.

¹⁰⁴² MoFED (2000) 3.

¹⁰⁴³ MoFED (2000) 3.

¹⁰⁴⁴ MoFED (2000) 3.

¹⁰⁴⁵ MoWUD (2007) 16.

¹⁰⁴⁶ MoWUD (2007) 3.

¹⁰⁴⁷ MoFED (2002) 125.

¹⁰⁴⁸ Dercon (2000).

¹⁰⁴⁹ World Bank Country Office in Ethiopia (2001); MoFED (2000) 3. The SAP was prescribed in 1990s by World Bank and the International Monetary Fund (IMF) to developing states, including

Around the same time the Millennium Declaration (also known as the Millennium Development Goals (MDGs)) was adopted by the General Assembly of the United Nations in the Millennium Summit. The Declaration committed the member States of the UN, including Ethiopia, to work to improve the living conditions of their peoples.¹⁰⁵⁰ At the Summit, the heads of states and governments pledged to halve poverty in its various forms by 2015.¹⁰⁵¹

5.3.4. Decentralisation as poverty reduction strategy

The above were the drivers that prompted the federal government to position poverty reduction at the 'core' of the country's development agenda.¹⁰⁵² The government, therefore, planned to achieve economic growth so as to redirect the wealth created 'towards poverty reducing sectors'.¹⁰⁵³ The poverty reduction strategy was also pointed towards maintaining equitable inter-regional and intra-regional development through a scheme of re-distribution.¹⁰⁵⁴ The inter-regional aspect of equitable development intended to reduce the difference in development among the regional states. This, in particular, aimed at elevating the development level of the lowland regions.¹⁰⁵⁵ The intra-regional aspect of equitable development was meant to reduce inequality between the urban and rural

Ethiopia, as one of the conditions for obtaining loan. At the centre of the SAP were privatisation and liberalisation of that country's market. On SAP see Gore (2000).

¹⁰⁵⁰See the Millennium Declaration, United Nations Resolution 55/2 (2000).

¹⁰⁵¹ Millennium Declaration (2000) Para 19.

¹⁰⁵² MoFED (2000) 8; MoFED (2002).

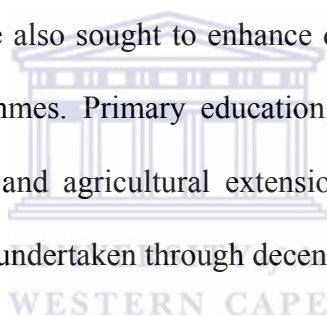
¹⁰⁵³ MoFED (2002) 47.

¹⁰⁵⁴ MoFED (2002) 26.

¹⁰⁵⁵ As the discussion in § 2.2 of this chapter reveals, there is wide variation in the socio-economic development between the highland and lowland regional states. MoFED (2002) 26.

communities within each region. Moreover, the poverty reduction strategies sought to incorporate and implement the MDGs.¹⁰⁵⁶

The poverty reduction and development plan rested on four ‘pillars’, of which one was decentralisation.¹⁰⁵⁷ The programme of decentralisation, as a poverty reduction strategy, was focused on tackling ‘poverty directly at the grassroots level’.¹⁰⁵⁸ To this end the *woreda* was chosen as the key local level government because it already served as a constituency in national and regional elections.¹⁰⁵⁹ It was viewed, therefore, as ‘a suitable point of merger between political empowerment and economic development at the grassroots level’.¹⁰⁶⁰ The decentralisation programme also sought to enhance direct public participation in local development programmes. Primary education, primary health care, rural water supply, rural roads, and agricultural extension services, were chosen as areas of development to be undertaken through decentralised system.¹⁰⁶¹



¹⁰⁵⁶ MoFED (2002) 26.

¹⁰⁵⁷ The other three pillars of the poverty reduction strategy were agriculture development led industrialisation (ADLI), judicial and civil reform, and capacity building in public as well as private sectors. ADLI is an economic strategy which attempts to put agriculture and industrialisation within a single framework of development in which agriculture serves as springboard for industrialisation by providing the industry raw material, capital as well as a market base. ADLI is also meant to create food security. ADLI is premised on the assumption that given the acute capital shortage, the large number of working population and vast arable land, ‘faster growth and hence economic development could be realised if the country adopts a strategy that help raise the employability of ... labour resources and enhance productivity of land resources aimed at capital accumulation’. ‘Capacity building is taken to comprise the development of human resources, building and strengthening of institutions, and establishment of effective working practices in combination’. MoFED (2000) 8-12; MoFED (2002) 38-40

¹⁰⁵⁸ MoFED (2000) 13.

¹⁰⁵⁹ MoFED (2000) 13. See also above chapter 4; § 3.2.1.

¹⁰⁶⁰ MoFED (2000) 13.

¹⁰⁶¹ MoFED (2000) 13.

In order to allow *woredas* to undertake developmental activities, the policy papers pledged that *woredas* would be ‘fully empowered to take up expenditure and revenue assignments within their competences’.¹⁰⁶² A *woreda* would be entitled to unconditional block-grants so that it may decide and make use of a grant to respond to local needs and priorities.¹⁰⁶³ To that effect, each region was required to develop its own equitable formula for transferring to *woredas* block grants.¹⁰⁶⁴

The need for enhancing urban development was also considered in the policy papers. As was pledged in the SDPRP, a fully-fledged urban policy was adopted in 2007 by the federal government.¹⁰⁶⁵ The policy focused on urban governance, infrastructure provision, housing, and land management, creating employment opportunities, and protecting the urban environment.¹⁰⁶⁶ Furthermore, the programme recognised the need to harmonise the activities of *woredas* and urban local government.¹⁰⁶⁷

The decentralisation programme was further complemented by a ‘multi-sectoral, inter-governmental programme’ of capacity building.¹⁰⁶⁸ A ‘Ministry of Capacity Building’ was established in 2001.¹⁰⁶⁹ The Ministry was mandated to provide

¹⁰⁶² MoFED (2002) 138.

¹⁰⁶³ MoFED (2002) 138-139.

¹⁰⁶⁴ MoFED (2002) 139.

¹⁰⁶⁵ See MoFED (2007).

¹⁰⁶⁶ MoFED (2007) 20 f

¹⁰⁶⁷ MoFED (2007) 20..

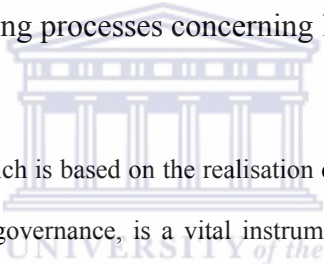
¹⁰⁶⁸ Spielman *et ale* (2008) 6.

¹⁰⁶⁹ See FDRE Proclamation 256 (2001) Art 4 & Art 5 and FDRE Proclamation 471 (2005) 9(1).

policy directives in relation to capacity building.¹⁰⁷⁰ It was also mandated to programme and finance several capacity building sub-programs; one of which was DLDP.¹⁰⁷¹

5.3.5. Local democracy for development

In the aforementioned policy papers, political reform at local level was considered to be critical for achieving decentralised development. By shifting decision making power from the centre to the *woreda*, the government pledged to empower local communities, in particular the poor, to take part in and enjoy the full advantages of developmental activities.¹⁰⁷² Furthermore, the government declared its plan to enable local communities to ‘participate, negotiate and influence’ the decision making processes concerning local matters.¹⁰⁷³



‘A democratic system, which is based on the realisation of people's participation ... and which ensures good governance, is a vital instrument for combating poverty and backwardness. It is therefore mandatory that democratisation be one of our major objectives....The on-going reforms [of]...devolution to [local government] are critical measures that would help deepen the democratisation process and good governance in Ethiopia.’¹⁰⁷⁴

¹⁰⁷⁰ FDRE Proclamation 256 (2001) Art 6(1); FDRE Proclamation 471 (2005) Art 9(1).

¹⁰⁷¹ Meanwhile, the World Bank launched two projects namely ‘*Capacity Building for Decentralised Service Delivery (CBDS)*’ and ‘*Public Sector Capacity Building Program (PSCAP)*’. The projects were launched in 2000, with the intent to assist capacity building at local level. It, in particular, sought to strengthen local governments financially so that it could develop the ability and the incentives to improve service delivery, especially in the rural areas. Spielman *et al* (2008) 6.

¹⁰⁷² Canadian International Development Agency (CIDA) (2005).

¹⁰⁷³ CIDA (2005).

¹⁰⁷⁴ MoFED (2002) 50.

To this effect, the policy papers pledged that regular local elections would be conducted and that the capacity of local representative councils and other democratic institutions would be strengthened.¹⁰⁷⁵ Furthermore, in order to enhance local democracy, the SDPRP stated that the capacity of communities and civil society groups would be strengthened.¹⁰⁷⁶ The civil society organisations in this regard are expected to play a role in the process of democratisation by facilitating ‘interaction, and mobilising groups and communities to participate in social, economic and political activities’ in particular at local level.¹⁰⁷⁷

The need to empower women was also considered as an integral part of the decentralisation programme. The IPRP, SPRDP, and PASADEP considered empowering women and reducing gender inequality among the most important objectives that the decentralisation programme was to achieve.¹⁰⁷⁸ To this effect, the SPRDP pledged to increase the membership of women in local government councils, especially in *kebele* councils.¹⁰⁷⁹

5.3.6. Concluding remarks

In chapter two it was stressed that human welfare should be the core element, as well as the goal and measure, of development.¹⁰⁸⁰ Moreover, public participation in developmental activities, fairness, and sustainability were identified as the central elements of development.¹⁰⁸¹ As can be gathered from the discussion in

¹⁰⁷⁵ MoFED (2002) 40.

¹⁰⁷⁶ MoFED (2002) 40; MoFED (2006) 177.

¹⁰⁷⁷ MoFED (2006) 176.

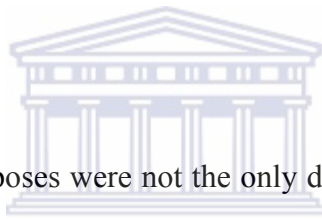
¹⁰⁷⁸ MoFED (2000) 13; MoFED (2002) 40.

¹⁰⁷⁹ A Women Affairs Office was established within the Office of the Prime Minister. Women affairs offices were also established at regional and zonal levels in all parts of the country.

¹⁰⁸⁰ See chapter 2; § 3.2. & 3.3.

¹⁰⁸¹ See chapter 2; § 3.2. & 3.3.

the preceding sections, these critical elements of decentralised development are canvassed in the various policy papers of the Ethiopian federal government. The urgency to reduce poverty is clearly recognised. Development is articulated in terms of elevating the living conditions of the people; not merely from the angle of economic growth. Central elements of development, including equity and sustainability, have found their way into the policy papers. Local democracy and public participation are viewed as critical elements of decentralised development. The need to ensure the articulation of the special needs of women is also taken into account. Moreover, the need to follow a differentiated approach in addressing the developmental needs of rural and urban areas is also conspicuously stated.



However, these benign purposes were not the only drivers of the decentralisation process. The following section discusses the unofficial and less benevolent political motives that underpinned the second phase decentralisation process.

5.3.7. Beyond the decentralised development rhetoric

The first non-official driver of the decentralisation programme was the need to diminish the power of the regional government. This became necessary due the division that arose within the Tigray Peoples Liberation Front (TPLF), a dominant member of the EPRDF. The other unofficial motive is the need to discourage the demand for the establishment of ethnic-based local units.

5.3.7.1. Political division as a driver of the decentralisation programme

The political division within the TPLF arose out of a disagreement between Meles Zenawi (the Prime Minister and the Chair Person of both the EPRDF and

the TPLF) and some of the top brass of the TPLF.¹⁰⁸² However, the split in the TPLF occurred in 2001,¹⁰⁸³ in the same year that the EPRDF-led regional states began to revise their constitutions with the alleged purpose of decentralising powers to *woredas*.¹⁰⁸⁴ The true reason for the dispute remains unclear.¹⁰⁸⁵ That aside, it is clear that the PM faced formidable opposition from senior party members. Furthermore, some of the leaders of the other members of the EPRDF coalition sided with the dissenters following the split in the TPLF. This led to an extensive political ‘purge’ within the TPLF, other EPRDF member parties, and affiliate parties. Dissenters were expelled from the TPLF and the EPRDF.¹⁰⁸⁶ Those among the dissenters who had been elected to national and regional representative councils representing the EPRDF were ‘recalled’.¹⁰⁸⁷

The political scuffle also led to structural reforms, in particular at regional government level. These aimed at diminishing the power of the regional government, especially of the regional presidents. Before 2001, the regional state

¹⁰⁸² The dispute allegedly began back in 1998 while Ethiopia was still at war with Eritrea over a border dispute. Medhane & Young (2003) 390. See also Bereket (2003 Ethiopian Calendar) & Daniel (2003 Ethiopian Calendar).

¹⁰⁸³ Medhane & Young (2003) 391.

¹⁰⁸⁴ See below at § 6.

¹⁰⁸⁵ Those who stood opposing the PM allege that the disagreement related to on how to handle the Ethio-Eritrean war. Members of the dissenting groups claim that they were in favour of a forceful regime change in Asmara. Meles was, however, against such suggestions due to international pressure. Meles and his supporters, on the other hand, maintain that the dispute related to corruption and lack of discipline that prevailed in the party. Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.

¹⁰⁸⁶ Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.

¹⁰⁸⁷ Bereket (2003 Ethiopian Calendar); Medhane & Young (2003); Solomon (2007) 239; Assefa (2007a) 388.

president (also called chief administrator) was immensely powerful. Not only was he or the head of a regional executive council but he or she was also the speaker of the regional council.¹⁰⁸⁸ This gave the regional president enormous influence over both branches of a regional government. Moreover, as indicated above, the pre-2001 regional constitutions had created local administrative units – as opposed to local government units - which were structurally subordinate to the regional governments. The *woredas* and municipalities were deconcentrated units of the regional governments and under the direct control of the regional presidents.

It was, therefore, decided that the power of the regional presidents as well as of the regional government should be diminished. To this effect, it was decided that more powers would be transferred to the regional governments to local government. A process was initiated in 2000 to revise the constitutions of the four highland regional states. The revision of the regional constitutions took place in the PM's office on the order of the PM himself and without the involvement of the regional states.¹⁰⁸⁹ In fact, not only were the regional states not involved in the revision, the regional officials were unaware of what was taking place.¹⁰⁹⁰

With a view to weaken the power of the regional chief administrators separation of powers was introduced in the new regional constitutions between regional councils and regional executives. The regional chief administrator was no longer

¹⁰⁸⁸ See Tsegaye (2004) 9.

¹⁰⁸⁹ Tsegaye (2004) 10; Solomon (2008) 239.

¹⁰⁹⁰ Solomon (2008) 239.

a speaker of the regional council. Furthermore, autonomous *woredas* were created over which the regional president no longer had absolute control.¹⁰⁹¹

5.3.7.2. Decentralisation to discourage ‘ethnic entrepreneurs’

A further unofficial motive that might have influenced the second phase of decentralisation was the exigency to discourage the demands for autonomous ethnic-based local territorial units.¹⁰⁹² As was discussed above, the federal Constitution implies that ethnically structured autonomous local government units may be established.¹⁰⁹³ As will also be discussed in chapter seven, more than 28 ethnically structured local units have been established in the country.¹⁰⁹⁴ Often the establishment of such local units is perceived to allow the elites of a particular ethnic community access to increased regional funding and other resources.¹⁰⁹⁵ Motivated by the increased financial and other resources, elites of every ethnic community were engaged in ‘ethnic entrepreneurship’.¹⁰⁹⁶ They established political parties organised along ethnic lines and began demanding their own ethnic-based local units. The EPRDF on the other hand had a change of heart on the establishment of a large number of such territorial units, despite initially encouraging their creation. The party said that the creation of so many ethnic local units was leading to inefficiency.¹⁰⁹⁷ The party therefore decided to curtail the further establishment of ethnic-based territorial units. It even tried to

¹⁰⁹¹ Medhane & Young (2003) Solomon (2007) 239.

¹⁰⁹² Assefa (2007a).

¹⁰⁹³ See above chapter 4; § 4.2.

¹⁰⁹⁴ See above chapter 7; § 2.2.1.

¹⁰⁹⁵ Vaughn (2003) 228ff.

¹⁰⁹⁶ Vaughn (2003) 228ff.

¹⁰⁹⁷ Aalen (2007) 128; Vaughn (2003) 249; Assefa (2007a) 347.

amalgamate some of the already established ethnic-based local units.¹⁰⁹⁸ With the intention to discourage ‘ethnic entrepreneurs’ from demanding the establishment of more ethnic-based local units, the party also decided to transfer more powers and resources to Article 50 (4) local government units.¹⁰⁹⁹

5.3.8. Concluding remarks

Poverty reduction was the official rationale for Ethiopia’s decentralisation programme. There was a clear understanding by the federal government that decentralisation was an appropriate arrangement to tackle the challenges of poverty. Several federal government policies, including the IPRP, SPRDP and PASDEP, clearly indicated that. However, poverty reduction was not the only driver of the second phase of decentralisation programme. The central government sought to use decentralisation to weaken the regional states. Moreover, the decentralisation process sought to remove factors that motivated ‘ethnic entrepreneurs’ to demand ethnic-based local units. The subsequent chapters will examine which rationale was given prominence in the design of the local government system of the country. Before that, the following section will first introduce Ethiopia’s local government structure.

6. A BRIEF OVERVIEW OF ETHIOPIA’S LOCAL GOVERNMENT STRUCTURE

As indicated above, the Amhara, Oromia, SNNPR, and Tigray regional states revised their constitutions in 2001 with the intention to redesign their government structure to fit the policy objectives described above: they were followed by Gambella, Benishangul-Gumuz, Afar, and Somali regional states.¹¹⁰⁰ With the

¹⁰⁹⁸ See chapter 7; § 2.2.1.

¹⁰⁹⁹ Assefa & Mohammed (2010) 156.

¹¹⁰⁰ Tegene (2007) 2.

revision of the regional constitutions, various types and tiers of Article 50(4) local government units were created. Furthermore, the regional constitutional revisions were followed by the enactment of other local government related laws. This section provides a brief description of Ethiopia's local government structure.¹¹⁰¹

As was stated in § 4.4, the federal Constitution envisages the establishment of two types of local government: Article 39 and an Article 50(4) local government. All of the regional states have established Article 50 (4) local government units. Five out of the nine regional states have established Article 39 local government units.

There are two types of Article 39 local government units: nationality zones and *liyu woreda* (special districts). Similarly, there are two types of Article 50(4) local government units; rural *woreda* (districts) and urban local government units which include cities and municipalities. The following section will provide an overview of the structural organisation of both categories of local government.

6.1. Article 50 (4) local government

As indicated above, the category of Article 50 (4) local government can be classified into rural and urban local units. The *woreda* is a rural local government unit while the city and the municipality are urban local government units. In regions, such as, Oromia and Afar, there is a zonal administration which covers several *woredas* and cities. A zonal administration is a 'deconcentrated arm' of

¹¹⁰¹ The discussion in § 6.5.1, § 6.5.2, & § 6.5.3 are based on an overview of eight regional constitutions and several proclamations. A particular provision in a regional constitution or proclamation is cited only where there are differences among the regions. In the subsequent chapter the relevant provisions will be cited.

the regional state which is meant to serve as liaison between *woredas* or cities and regional government. It is also run by regional appointees.¹¹⁰² Therefore, a zonal administration will not be the focus of this thesis; it will be mentioned in thesis only when it is necessary to do so.

6.1.1. Woredas

The *woreda* is the most important unit of Article 50 (4) local government. The criteria for establishing a *woreda* are unclear as the regional constitutions are silent on the issue. However, as some government policy documents indicate the main criteria for the establishment of a *woreda* is the population size of a particular territorial area: Generally, a *woreda* is established in an area which is inhabited by approximately 100, 000 people.¹¹⁰³ However, in some of the regional states, *woredas* have been established in territorial areas with significantly smaller or larger population sizes.¹¹⁰⁴

There is no official figure on the number of *woredas* existing in the country. It is also unclear how they are demarcated. As already discussed previously, when the current government seized power, the *woreda* boundaries that existed previously were taken as the basis for establishing the regional states.¹¹⁰⁵ At that time there were around 600 *woredas*.¹¹⁰⁶ According to a National Electoral Board report,

¹¹⁰² See Oromia Regional (ORS) Constitution (2001) Arts 70-75.

¹¹⁰³ MoFED (2000) 13.

¹¹⁰⁴ For instance Benishangul-Gumuz regional state has 20 *woredas* (BGRS Proclamation 86 (2010) Art 9 (1). The total number of the population of the region is 670, 847. The average population of each *woreda* in this region is therefore approximately 33, 000 people.

¹¹⁰⁵ See chapter 3; § 7.2.

¹¹⁰⁶ See chapter 3; 7.2.

there are 623 *woredas*.¹¹⁰⁷ A report by Yilmaz and Venugopal indicates there are 671 rural *woredas*.¹¹⁰⁸

The SPRDP¹¹⁰⁹ indicated that a re-demarcation of *woredas*' boundaries would take place so as to create 'financially viable local government jurisdictions'.¹¹¹⁰ However, no major re-demarcation of *woreda* boundaries has taken place, save for intermittent adjustments of *woreda* boundaries in some regions which also entailed the establishment new *woredas*.

6.1.2. Urban local government

There are 925 urban areas in Ethiopia.¹¹¹¹ In these areas the regional states have established urban local government units. Urban local government in Ethiopia can be classified into cities and municipalities.

6.1.2.1. Municipalities

Municipalities are urban settlements which are found within a *woreda*, and which do not have their own separate autonomous city government. More than 820 of the 925 urban centres fall within this category.¹¹¹² While within a *woreda*, a municipality provides its residents with municipal (urban specific) services, such as, ambulance services, sewerage, fire fighting and the like. The non-municipal functions - or what are called state functions – which include education and public health, are implemented by the *woreda* within which the municipality is

¹¹⁰⁷ NEBE (2008) 33.

¹¹⁰⁸ Yilmaz & Venugopal (2008).

¹¹⁰⁹ See above § 5.3.4.

¹¹¹⁰ MoFED (2002) 40.

¹¹¹¹ MoWUD (2007) 2.

¹¹¹² MoWUD (2007) 6.

found.¹¹¹³ There are municipalities in the Amhara, Benishangul-Gumuz, SNNPR, and Tigray regional states. Before 2006, the Oromia regional government had municipalities which were referred to as third and fourth grade cities.¹¹¹⁴ However, the regional government abolished the municipalities in 2006 reducing them to *kebele* status.¹¹¹⁵

6.1.2.2.Cities

A city is an autonomous urban local government unit which is outside a *woreda* structure and which has the status of a *woreda*. There are 98 cities.¹¹¹⁶ More and more urban areas are joining this category. Most of the cities (94 of them) are found in the four highland regions.¹¹¹⁷ In the low land regions, only the capital cities are organised as autonomous cities.

6.2. Article 39 local government system

There are two types of local government units which fall under Article 39 local government category: a nationality zone (special zone) and a *liyu-woreda* (special districts). Nationality zones are established, as institutions of self-government, for regional ethnic minority groups who occupy a territorial area covering two or more *woredas*. A *liyu-woreda*, on the other hand, is - in terms of territorial and population size - comparable to a regular *woreda*. The territorial demarcation of a nationality zone or a *liyu-woreda* follows the territorial settlement structure of the

¹¹¹³ See chapter 5; § 2.4.3.2 for a discussion on the distinctions between municipal functions and state functions.

¹¹¹⁴ See ORS Proclamation 65 (2003) Art 6.

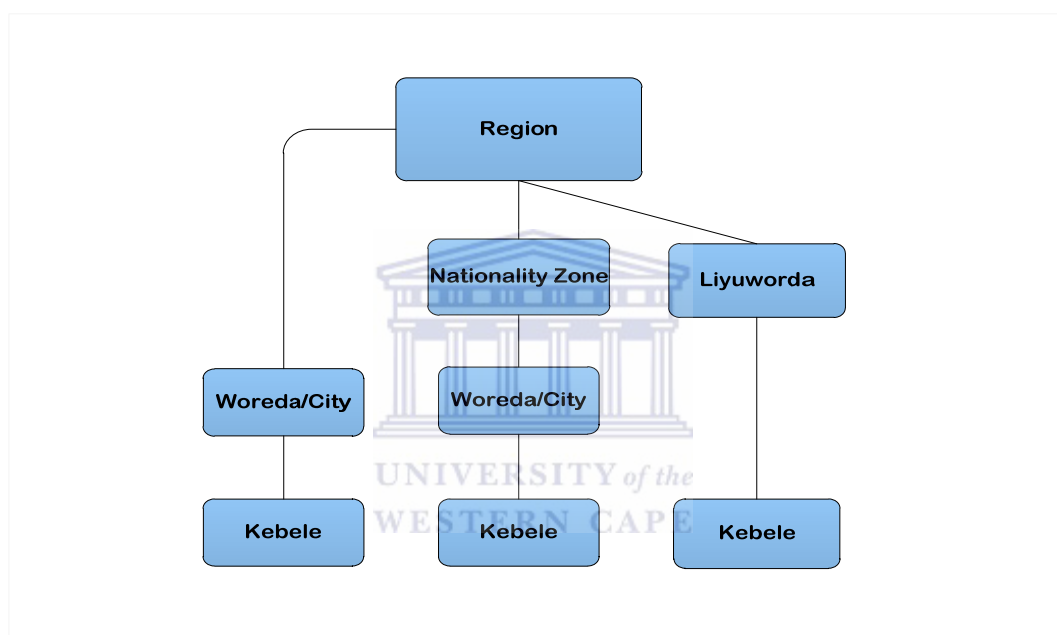
¹¹¹⁵ See ORS Proclamation 116 (2006) Art 2 (7).

¹¹¹⁶ MoWUD (2007) 6.

¹¹¹⁷ Yilamaz & Venugopal (2008).

particular ethnic community for whom it is established.¹¹¹⁸ A nationality zone or a *liyu woreda* not only is an autonomous local territorial unit, it may also secede from a region wherein it is found and become a separate regional state should the ethnic community for whom it is established so prefer.¹¹¹⁹ Article 39 local government units are found in the Afar, SNNPR, Benishangul-Gumuz, Gambella, and Amhara regions.

Fig. 1 Organisational structure of local government



6.3. The kebele

The *kebele*, which is the lowest territorial and administrative unit of the regional state, is also recognised recognised in regional constitutions.¹¹²⁰ As was discussed

¹¹¹⁸ AfRS Constitution (2002) 43 (2); SNNPR Constitution (2001) Art 45(2); ARS Constitution (2001) Art 45(2); BGRS Constitution (2002) Art 45(2); GRS Constitution (2002) Art 46(2).

¹¹¹⁹ FDRE Constitution (1995) Art 47 (2) recognises the right to secession from a region. It provides that ethnic communities within the existing regions have the right to establish their own regional state. See for more on this chapter 7; § 2.2.2.2.

¹¹²⁰ There are other *sub-kebele* territorial units and institutions such as *gott*, *mengistawi-budin* and *lemat budin* which are not constitutionally recognised and which are established with the declared intention of enhancing public participation. Helland (2004) 16; Bevan & Pankhurst (2007) 134.

in chapter three, the *kebele* as an administrative unit was created by the *Derg* and is still retained.¹¹²¹ Presently each *woreda* (including *liyu woredas*) is sub-divided into a number of *kebeles*.¹¹²² The *kebele* is also the second sub-division of a city.¹¹²³ As is the case for the *woreda*, the main criterion for establishing a *kebele* is the size of the population. In general, a *kebele* is established in a territorial area which is occupied by 5000 to 10,000 people. A *kebele* is not an autonomous local government. It is rather an administrative arm of a *woreda* or a city within which it is found.

6.4. Addis Ababa and Dire Dawa

Addis Ababa and Dire Dawa are autonomous federal cities. Addis Ababa is the capital of Ethiopia and the seat of the federal government. With more than three million people, the city holds the largest number (25%) of urban dwellers in the country.¹¹²⁴ It is also a hub for several international organisations, including the head-quarter of the African Union. Addis Ababa is a cosmopolitan city and a melting pot of many ethnic communities.

Dire Dawa is found in the eastern part of the country close to the Ethiopia-Djibouti border. With a total population size of 342, 827, it is the second largest city in Ethiopia.¹¹²⁵ Dire Dawa is located adjacent to the railroad which runs from Djibouti to Addis Ababa, which made the City the economic as well as the

¹¹²¹ See chapter 3; § 6.2.1.

¹¹²² ARS Constitution (2001) Art 45 (1); AfRS Constitution (2001) Art 43(1); SRS Constitution (2001) Art 45; GRS Constitution (2001) Art 46(1); ORS Constitution (2001) Art 45; SNNPR Constitution (2001); Art 45(1); BGRS Constitution (2002) Art 45(1) 84.

¹¹²³ See for instance SNNPR Proclamation 103 (2006) Art 27(1); ORS Proclamation 65 (2003) Art 13(1).

¹¹²⁴ MoWUD (2007) 2.

¹¹²⁵ FDRE Population Census Commission (2007) 10.

industrial centre of eastern of Ethiopia.¹¹²⁶ Dire Dawa is the most cosmopolitan city after Addis Ababa.

On account of their unique position, the two cities are structured as autonomous federal cities. Each of the two cities is governed by a Charter issued by Parliament.¹¹²⁷ The Charter provides for the structural organisation, powers, and functions of the cities' government. Each of these cities has its own government which has a direct relation with the federal government.¹¹²⁸

Addis Ababa is divided into 10 sub-cities. Previously Addis Ababa was also divided into 99 *kebeles*.¹¹²⁹ In 2009, however, the Addis Ababa city government elevated the *kebeles* to *woreda* status thereby abolishing the *kebele* system.¹¹³⁰ Dire Dawa still retains the *kebele* as its lowest administrative structure.¹¹³¹

6.5. Governance and administrative structure of local government: An overview

Each unit of both the Article 39 and Article 50(4) systems of local government has a representative council, an executive council, and several administrative organs.¹¹³²

¹¹²⁶ Dire Dawa City Administration official website <http://www.dire-dawa.gov.et/site/index.php>.

¹¹²⁷ See FDRE Proclamation 361 (2003) & FDRE Proclamation 416 (2004).

¹¹²⁸ FDRE Constitution (1995) Art 49 (3).

¹¹²⁹ FDRE Proclamation 361 (2003) Art 2(5). See also Addis Ababa City Proclamation 13 (2004).

¹¹³⁰ See Addis Ababa City Proclamation 15 (2009).

¹¹³¹ FDRE Proclamation 361 (2003) Art 2(6); Addis Ababa City Government Proclamation 13 (2004) Art 2(3).

¹¹³² The discussions in § 6.5.1, § 6.5.2, & § 6.5.3 are based on an overview of 8 regional constitutions and several proclamations. Here a particular provision in a regional constitution or proclamation is cited only where there are differences among the regions. In the subsequent chapter the relevant provisions will be cited.

6.5.1. Representative councils

Members of the representative councils of *woredas*, *liyu woredas*, cities, and *kebeles* are directly elected by the residents of the respective local unit for a five year term. Members of a nationality zone council are generally not directly elected by voters. A portion of members of a national zone council are elected by *woredas* councils within the nationality zone. The remainder of the members of a nationality zone council are members of a regional council who are elected from *woredas* within the nationality zone. In SNNPR, members of a nationality zone council are directly elected by voters.

6.5.2. Executive organs

The executive council¹¹³³ of the *woreda*, the *liyu woreda*, and the nationality zone is composed of a chief administrator and the heads of the various executive organs of the respective local unit. The chief administrator, who is elected by and from among the members of the *woreda*, *liyu woreda* or nationality zone council, chairs the executive council of the relevant local unit.

A city has a mayoral committee as its highest executive organ. The mayoral committee is composed of a mayor and the heads of the executive organs of the city. The mayor is elected by and from the members of a city council when the party which controls the majority of the seats of the city council nominates, from among the members of the city council, a person for the position. In Oromia, the mayor is appointed by the Regional President.¹¹³⁴

¹¹³³ This organ is referred to as ‘administrative council’, ‘executive council’, or ‘cabinet’ in the regional constitutions. In order to avoid confusion and for the sake of consistency, this organ will be referred to as ‘executive council’ throughout this study.

¹¹³⁴ ORS Proclamation 116 (2006) Art 2 (6).

The *woreda* executive council is accountable to the *woreda* chief administrator, who is in turn answerable to the *woreda* council. The *woreda* chief administrator is also accountable to the chief administrator of the nationality zone (if the *woreda* is found within a nationality zone) and to the regional chief administrator.¹¹³⁵ Similarly, a mayor of a city is accountable to the city council, to the regional chief administrator and, where applicable, to the nationality zone's chief administrator.¹¹³⁶ In Oromia, the mayor is not accountable to the city council but to the Regional President.¹¹³⁷

6.5.3. Administrative organs

The administration of *woredas*, *liyu woredas* and nationality zones is undertaken by sectoral offices. The administration of a city with regard to its state functions is also undertaken by sectoral offices. The administration of a city with respect to its municipal functions is carried out by a city manager, a professional employee of the city, and other municipal organs which are organised by him or her.

7. CONCLUSION

Under Ethiopia's dual federal system, local government is the competence of regional state. The regional states are, however, enjoined to establish one or both of two categories of local government *viz.* Article 39 and Article 50 (4) local governments. The two categories of local government are meant to serve two different purposes. Article 39 local government is meant to accommodate regional ethnic minority communities while Article 50 (4) local government is

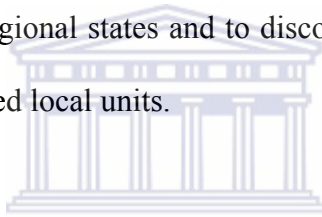
¹¹³⁵ ARS Constitution (2001); Art 93(1); BGRS Constitution (2002) Art 94(2); SNNPR Constitution (2001) Art 100(2); GRS Constitution (2002) Art 97(1).

¹¹³⁶ ARS Proclamation 91 (2003) Art 18(2); AfRS Proclamation 33 (2006) Art 13.

¹¹³⁷ ORS Proclamation 116 (2006) Art 2 (6).

intended to be developmental. The Constitution envisages both categories of local government to be autonomous.

Most of the local government units in the Article 39 category were established as part of the first phase of the decentralisation process in the country, which began during the transitional period and culminated with the establishment of the federal system. The second phase of the decentralisation process which resulted in the establishment of Article 50 (4) local government began in 2001. It was driven by official and unofficial political motives. The official motive was to introduce local government as the *locus* of development. The unofficial motives were to reduce the powers of the regional states and to discourage ‘ethnic entrepreneurs’ from demanding ethnic-based local units.



In the Article 39 category, nationality zones and *liyu woredas* were established. In the Article 50 (4) category *woredas*, cities and municipalities are established.

All local government units have representative councils, executive organs, and administrative organs.

Against the backdrop of the institutional features that were formulated in chapter two and against the background outlined in this and the preceding chapter, the next three successive chapters will examine the institutional design of Ethiopia’s local government system.

Chapter 5

Decentralisation and development in Ethiopia: Local government's political, financial, and administrative autonomy

1. INTRODUCTION

As the discussion in the preceding chapter reveals, the official motive underpinning the second phase of Ethiopia's decentralisation programme is to achieve development. Development is articulated in terms of reducing the prevalence of poverty in the country.¹¹³⁸ Decentralisation is one of the four pillars on which Ethiopia's poverty reduction programme rests. This thesis examines whether the institutional features that are considered to be critical for decentralised development are observed in the institutional design of Ethiopia's local governance. In chapter two, the institutional features that are likely to positively impact on decentralised development were identified, based on a study of international literature on international practices.¹¹³⁹ These are political, financial, and administrative autonomy. Central supervision and inter-

¹¹³⁸ See chapter 4; § 5.3.4.

¹¹³⁹ See chapter 2; § 3.5.

governmental co-operation were also identified as critical for decentralised development. In this and the next chapters, Ethiopia's local governance system will be examined against the backdrop of these institutional features.

As was discussed in chapters 3 and 4, Article 50 (4) local government (which includes *woredas*, cities, and municipalities) is intended and designed to be developmental. Hence, the discussion in this chapter focuses on these local government units. *Woredas*, in this chapter, will also include *liyu woredas* unless indicated otherwise. Zonal administration and nationality zones will be mentioned only to the extent that they are relevant for the discussion.

2. POLITICAL AUTONOMY

2.1. Introduction

Political autonomy was introduced as one of the central institutional features of decentralised development. Political autonomy has four elements: certainty of local government's existence, local democracy, devolution of original, pertinent and suitable functions to local government, and political powers.¹¹⁴⁰ The following sections will evaluate Ethiopia's local governance system against these elements.

2.2. Certainty of existence

The existence of local government on a permanent basis is a fundamental element of local political autonomy.¹¹⁴¹ Certainty of existence, as was discussed in chapter two, has three elements: The first is the establishment of local government as a sphere/level of government on a permanent basis and with secured and uninterrupted existence. The second element is the establishment of local

¹¹⁴⁰ See chapter 2; § 3.5.1.

¹¹⁴¹ See chapter 2; § 3.5.1.1.

government on a ‘wall-to-wall’ basis. The third element relates to ensuring the continued existence of individual local government units.¹¹⁴² The following section will examine how these elements are reflected in the federal and regional constitutions.

2.2.1. Constitutional recognition

2.2.1.1. Recognition in the federal Constitution

As was stated in chapter two, the institutional mechanism to ensure the continued existence of local government as sphere/level is to provide it with constitutional recognition.¹¹⁴³ As was also argued in chapter four, the FDRE Constitution enjoins the regional states to establish what is called in this thesis Article 50 (4) local government.¹¹⁴⁴ The FDRE Constitution envisions this system of local government to be the locus of democratic participation.¹¹⁴⁵ Therefore, it can be inferred that the Constitution requires Article 50 (4) local government to exist. To this extent, it can be held that local government is indeed recognised in the federal Constitution.

Nonetheless, the Constitution is vague and fails to explicitly recognise Article 50(4) local government as an autonomous order of government. The Constitution is not as explicit as, for instance, the Nigerian Constitution which provides that

¹¹⁴² See chapter 2; § 3.5.1.1.

¹¹⁴³ See chapter 2; § 3.5.1.1.

¹¹⁴⁴ See chapter 4; § 4.3.

¹¹⁴⁵ See chapter 4; § 4.3.

‘[t]he system of local government by democratically elected local government councils is under this Constitution guaranteed’.¹¹⁴⁶ Nor is it like the South African Constitution which devotes an entire chapter to regulate local government matters.¹¹⁴⁷ Only one sub-article (Article 50(4)) in the FDRE Constitution, which principally deals with the structure of the regional states, makes a passing reference to local government. In fact, read on its own, this Article may appear to be an authorising provision rather than obligating one. In other words the Article conveys the impression that the regional states have the authority, if they so choose, to create their own administrative arms; not necessarily an autonomous level of government. The Constitution also fails to provide even the basic structure of local government that the regional states are supposed to establish. It becomes clear that the federal Constitution indeed envisages the establishment of autonomous local government only when Article 50(4) is read and interpreted together with other provisions in the Constitution and with the drafting history of the Constitution in mind.¹¹⁴⁸ Therefore, the FDRE Constitution envisages Article 50 (4) local government to be autonomous order of government but it does not provide it with an adequate recognition.

2.2.1.2. Recognition in regional constitutions

The prescription under Article 50 (4) of the FDRE Constitution was given effect to with the establishment of *woredas* and cities in every regional state.¹¹⁴⁹ *Woredas* are created through regional constitutions. The regional constitutions

¹¹⁴⁶ Constitution of the Federal Republic of Nigeria (1999) S 7(1).

¹¹⁴⁷ Constitution of the Republic of South Africa (1996) chapter 7.

¹¹⁴⁸ See chapter 4; § 4.3.

¹¹⁴⁹ See chapter 4; § 6.1.

provide a certain measure of recognition to the *woreda*.¹¹⁵⁰ The regional constitutions are promulgated on the basis of the regional states' power to 'draft, adopt and amend' their own constitutions.¹¹⁵¹ They are the supreme regional laws that may be amended only through a stringent procedure. Moreover, the amendment of a regional constitution requires the assent of the *woredas* themselves. Any part of a regional constitution, save for the Bill of Rights, is amended only when half of (in most cases two-thirds) of the *woreda* councils in a region approve the amending Bill.¹¹⁵² Furthermore, at least two-thirds of the members of a regional council have to vote in favour of the amending Bill.¹¹⁵³ The amendment of a regional constitution also requires the assent of the councils of nationality zones in the regions, such as Amhara and SNNPR which have them.¹¹⁵⁴ Constitutionally speaking, therefore, not only is the existence of *woredas* as a level of government ensured, they appear to be in a position where they can safeguard themselves from arbitrary abolition. In this sense it can be claimed that *woredas* are the creation of a constitution and their continued existence is guaranteed in the regional constitutions.

¹¹⁵⁰ ARS Constitution (2001) Arts 45 (1) & 83; BGRS Constitution (2002) Arts 45 (1) & 84; GRS Constitution 2002; Arts` 46(1) & 87; ORS Constitution (2001) Art 77; AfRS Constitution (2002) 43; SNNPR Constitution (2001) Art 90; SRS Constitution (2001) Art 45 & 74; TRS Constitution (2001) Arts 45 (1) & 71.

¹¹⁵¹ FDRE Constitution 1995; Art 50(5).

¹¹⁵² ARS Constitution (2001) Art 118 (2); BGRS Constitution (2002) Art 119(2); GRS Constitution (2002); Art 123(2) TRS Constitution (2001) Art 107 (2); ORS Constitution (2001) Art 112 (2); AfRS Constitution (2002) 110 (2); SNNPR Constitution (2001) 125; Art SRS Constitution (2001) (108).

¹¹⁵³ ARS Constitution (2001) Art 118 (2); BGRS Constitution (2002) Art 119 (2); GRS Constitution (2002) Art 123(2) TRS Constitution (2001) Art 107 (2); ORS Constitution (2001) Art 112 (2); AfRS Constitution (2002) 110 (2).

¹¹⁵⁴ ARS Constitution (2001) Art 118 (2); SNNPR Constitution (2001) 123 (3) (b).

The situation is different regarding cities. It can be argued that the establishment of urban local government, like rural *woredas*, is impliedly prescribed by the federal Constitution. Moreover, the regional constitutions have also, either explicitly or impliedly, authorised the regional governments to establish urban local government wherever appropriate.¹¹⁵⁵ However, cities and municipalities are the creation of ordinary regional statutes, not of the regional constitutions as such. It is unclear why it was necessary to make a distinction between *woredas* and cities in providing constitutional recognition. It can however be assumed that this is related to the fact that the development policy of the EPRDF is centred on the rural areas.¹¹⁵⁶ Agricultural Development Led Industrialisation (ADLI) has been the mainstay of the EPRDF's development policy.¹¹⁵⁷ Cities and municipalities are considered important in this policy only to the extent that they contribute to agricultural development. This might be the reason why *woredas* are recognised in regional constitutions while cities are not. Whatever the reason may be, the non-recognition of cities in the regional constitutions has rendered them vulnerable to arbitrary elimination. This has happened, for instance, in Oromia where municipalities were eliminated and reduced to the status of *kebeles*.¹¹⁵⁸

¹¹⁵⁵ ARS Constitution (2001) Art 45 (4); BGRS Constitution (2002) Art 45 (4); GRS Constitution (2002) Art 46 (3); TRS Constitution (2001) Art 45 (1); SRS Constitution (2001) Art 45; ORS Constitution (2001) Art 45; SNNPR Constitution (2001) Art 45 (3); TRS Constitution (2001) Art 45 (1).

¹¹⁵⁶ Heymans & Mussa (2004).

¹¹⁵⁷ See chapter 4; § 5.3.4. For more discussion on ADLI see MoFED (2002) and MoFED (2006).

¹¹⁵⁸ ORS Proclamation 116 (2006) Art 3. See also chapter 4; § 6.1.2.1.

2.2.2. Wall-to-wall local government

The second element of the principle of certainty for the existence of local government is the establishment of local government in every part of the country.¹¹⁵⁹ This relates to equity as it impacts on whether everyone in the country has an easy access to basic services.¹¹⁶⁰

The federal Constitution clearly links the establishment of Article 50(4) local government with democracy and public participation.¹¹⁶¹ It is evident that everyone in the country has a constitutional right to democratically participate in developmental activities of his/her community. This may be interpreted to necessitate the establishment of some form of local government system in every part of Ethiopia. In addition, each of the regional constitutions provides that a regional state is organised at regional and *woreda* level, implying that *woredas* would be established on a wall-to-wall basis.¹¹⁶² The facts on the ground confirm that this is so. Every part of the country falls within one of the 670 or so *woredas*, 106 cities, or the two federal cities. *Liyu woredas*, which principally are Article 39 local government, discharge a *woreda's* functions as they are like any other regular *woreda* in terms of population and territorial size except that they are ethnically structured. Thus, in Ethiopia, the establishment of wall-to-wall local government is both constitutionally implied and practically effected.

¹¹⁵⁹ See chapter 2; § 3.5.1.1.

¹¹⁶⁰ See chapter 2; § 3.5.1.1.

¹¹⁶¹ See chapter 4; § 4.3.

¹¹⁶² ARS Constitution (2001) Art 45 (1); BGRS Constitution (2002) Art 45 (1); GRS Constitution (2002) Art 46(1); TRS Constitution (2001) Art 45 (1); ORS Constitution (2001) Art 45; AfRS Constitution (2002) Art 43; SNNPR Constitution (2001) Art 45 (1); SRS Constitution (2001) Art 45 (1); TRS Constitution (2001) 45 (1).

2.2.3. Formal protection for individual local government units

The third element of the principle of certainty for the existence of local government which has a direct bearing on local political autonomy pertains to protecting each individual local government unit. As was said before, each individual unit of local government should be protected from random elimination, change, or diminution in status or size, through division or amalgamation.¹¹⁶³

This entails a process of local boundaries demarcation that takes into consideration factors such as population size, administrative convenience, financial variability and the like.¹¹⁶⁴ It also requires clear substantive and procedural criteria for adjusting local government boundaries.¹¹⁶⁵ The objective for the creation of local government should determine the criteria for demarcating or adjusting local boundaries. Thus, where local government is intended to be developmental the factors that should be taken into account include territorial and population size, financial viability, developmental level, rural-urban differences. It should also provide for community engagement.¹¹⁶⁶

In Ethiopia the Article 50(4) local government is intended to be developmental. This begs the questions: what are the criteria for demarcating *woreda* and city boundaries? Who has the authority to decide on local government boundaries? How does the local community participate in the process of local government boundary demarcation?

2.2.3.1. Demarcation of *woreda* boundaries

¹¹⁶³ See chapter 2; § 3.5.1.1.

¹¹⁶⁴ See chapter 2; § 3.5.1.1.

¹¹⁶⁵ See chapter 2; § 3.5.1.1.

¹¹⁶⁶ See chapter 2; § 3.5.1.1.

As was stated in chapter three, the pre-1974 *woreda* boundaries were retained during the transitional period.¹¹⁶⁷ There were approximately 600 *woredas* at the time.¹¹⁶⁸ When the 2001 decentralisation programme was launched, it was indicated in the SPRDP that *woreda* boundaries might be re-demarcated with a view to creating ‘financially viable’ local jurisdictions.¹¹⁶⁹ It is unclear though whether any major local boundary re-demarcation has taken place in the country. What is clear, however, is that the number of existing *woredas* has increased since 1991. Now the number of *woredas* is estimated to be 670.¹¹⁷⁰

The increase in the number of *woredas* could only have resulted from the division of the existing ones. It is not clear however on what constitutional basis these changes were introduced. The trend is that the regional states are attempting to regulate this matter through ordinary legislation. This is the case, for instance, in Tigray and Benishangul, which have enacted proclamations which, among other things, deal with the issue of *woreda* boundaries.¹¹⁷¹ The two proclamations provide formal recognition to hitherto existing *woredas* in the respective regional state.¹¹⁷² The proclamations also authorise the respective regional councils to create new *woredas*, and/or to divide, amalgamate, or eliminate any existing *woreda* within the jurisdiction of the respective regional state.¹¹⁷³ Proclamation 99 (2006) of the Tigray regional state authorises the regional executive council to

¹¹⁶⁷ See chapter 3; § 7.2.1.2

¹¹⁶⁸ See chapter 3; § 7.2.1.2.

¹¹⁶⁹ MoFED (2002) 40.

¹¹⁷⁰ For instance, in 2007 the Afar Administrative Council partitioned three of the regions *woredas* and created three new *woredas*. Afar Pastoralist Association (2007) 5.

¹¹⁷¹ See TRS Proclamation 99 (2006) & BGRS Proclamation 86 (2010).

¹¹⁷² TRS Proclamation 99 (2006) Art 7 (1) & BGRS Proclamation 86 (2010) Art 9 (1).

¹¹⁷³ TRS Proclamation 99 (2006) Art 6(4) & BGRS Proclamation 86 (2010) Art 10(4).

define, through executive regulation, the criteria for the creation of a new *woreda*.¹¹⁷⁴ The proclamation also provides that the criteria, that are to be defined by the executive council, should include capacity to deliver services, administrative convenience, and the communities' culture and preference.¹¹⁷⁵ Proclamation 86 (2010) of Benishangul-Gumuz provides certain criteria for the creation of a new *woreda*. These are population size,¹¹⁷⁶ capacity to cover 25 percent of its expenses from own resources, population settlement structure and the history, culture and interest of the community.¹¹⁷⁷ When deciding to create a new *woreda*, or to divide or amalgamate an existing one, a regional council has to take into consideration the studies and a proposal of a regional a bureau of finance and economic development as well as of administrative and security affairs bureau.¹¹⁷⁸

2.2.3.2. Demarcation of city boundaries

The city proclamations of Benishangul-Gumuz and Amahara provide that the criteria for the establishment of a city will be provided in an executive regulation.¹¹⁷⁹ It is not clear whether they have adopted such regulation as yet. The city proclamations of Oromia and SNNPR set certain preconditions and procedural guidelines for the creation of new cities and municipalities.¹¹⁸⁰ Among the preconditions are clearly defined boundaries, a minimum population size,

¹¹⁷⁴ TRS Proclamation 99 (2006) Art 6 (1).

¹¹⁷⁵ TRS Proclamation 99 (2006) Art 6(3).

¹¹⁷⁶ BGRS Proclamation 87 (2010) Art 11(1) (a). This Article provides 5000 as a minimum population size for the creating of a new *woreda*. This must be a typographic error as Article 11(2) (a) of the same Proclamation provides 5000 as a minimum population size for creating a *kebele*. Moreover in general a *woreda* is expected to have approximately 100, 000 people.

¹¹⁷⁷ BGRS Proclamation 86 (2010) Art 11(1).

¹¹⁷⁸ TRS Proclamation 15 (2006) Art 6 (4) & BGRS Proclamation 87 (2010) Art 10 (4).

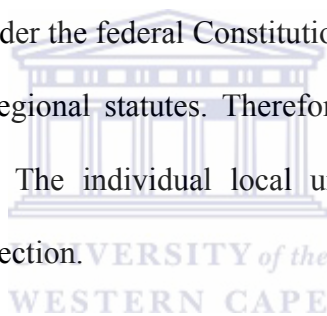
¹¹⁷⁹ BGRS Proclamation 69 (2007) Art 4 (2); ARS Proclamation 91 (2003) Art 4 (1) (ii) (2).

¹¹⁸⁰ ORS Proclamation 65 (2003) Art 4 (1-2); SNNPR Proclamation 103 (2006) Art 8 (1).

commercial and industrial economic activities, financial self-reliance, and other objective criteria that may be stipulated by the regional executive council.¹¹⁸¹ An urban community that wishes to have its locality incorporated as a city may petition the regional government (in particular the Bureau of Works and Urban Development) to that effect. The petition should be supported with documents that prove that the legal preconditions for the incorporation of an urban settlement are fulfilled.¹¹⁸² The regional executive council has the final say on whether or not to grant the petition.¹¹⁸³

2.2.4. Assessment

From the foregoing discussion three points stand out. Local government is not given proper recognition under the federal Constitution. Cities and municipalities are creations of ordinary regional statutes. Therefore, their lasting existence is continuously under threat. The individual local units are not provided with adequate constitutional protection.



2.2.4.1. Constitutional recognition

As was discussed in chapter four, the framers of the FDRE Constitution intended Article 50(4) local government to have ‘some level of autonomy’, and not to be a mere agent of the state governments.¹¹⁸⁴ The drafters, nonetheless, did not deal with the details of local government matters in the federal Constitution. They believed it would be appropriate to leave it to regional governments to define their own system of local government.¹¹⁸⁵ The decision of the framers of the

¹¹⁸¹ ORS Proclamation 65 (2003) Art 4 (1-2); SNNPR Proclamation 103 (2006) Art 8 (1).

¹¹⁸² ORS Proclamation 65 (2003) Art 4 (1-2); SNNPR Proclamation 103 (2006) Art 8 (1).

¹¹⁸³ ORS Proclamation 65 (2003) Art 4(4).

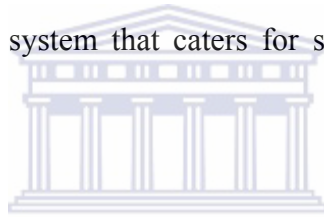
¹¹⁸⁴ Assefa (2007a) 341.

¹¹⁸⁵ See chapter 4; § 4.3.

Constitution not to encroach into the competence of the regional states is in keeping with the logic of the dual federal system of the country. Moreover, each regional state has diverse social and economic conditions.

‘[The social and economic system in Ethiopia] ranges from settled upland *teff* cultures of the north to the *enset*-based farming system of the south to a range of agro pastoralists and nomadic system along the margins of the Rift Valley, each with their own particular socio-economic dynamics.’¹¹⁸⁶

This diversity makes varied the developmental needs of those in different parts of the country.¹¹⁸⁷ Clearly, only the regional states can be assumed to be able to devise a local government system that caters for such diverse socio-economic conditions.



However, the compromise that the framers of the federal Constitution made was so extensive that it has left local government without proper protection in the federal Constitution. This in turn has rendered the existence and status of local government to depend on the policy preferences and political interests of the party in power at federal and regional levels rather than on constitutional and legal principles. As stated above, Article 50(4) of the FDRE Constitution is so vague that, if read by itself, may lead to the conclusion that it envisions the establishment of deconcentrated administrative structures rather than devolved local government units. This seems to be how the regional states understood Article 50 (4) prior to 2001. Thus, before the district level decentralisation

¹¹⁸⁶ World Bank (2001) 2.

¹¹⁸⁷ World Bank (2001) 2.

(DLDP) was launched in 2001, *woredas* and municipalities were viewed as administrative arms of the regional governments without a modicum of autonomy. This was never viewed as incompatible with the Constitution. Moreover, the 2001 revision of the regional constitutions, which sought to provide *woredas* with some level of autonomy, was not the result of an effort to meet the prescriptions of the federal Constitution. Rather, it was the outcome of a change in the policy of the EPRDF.¹¹⁸⁸ It was also, at least to some extent, a political manoeuvre that was directed at diminishing the power of the regional authorities following the political in-fighting within the ruling party.¹¹⁸⁹

It may be argued that *woredas* are recognised under the regional constitutions even though they are not explicitly recognised in the federal Constitution. Not only are the regional constitutions amended through stringent procedures, but the *woredas* themselves are involved in the amendment thereof.¹¹⁹⁰ Therefore, *woredas* have adequate protection under the regional constitutions. Such an argument, however, does not take into account the reality on the ground. The protection offered to local government by the regional constitutions is not as adequate as the protection that would have been offered by the federal Constitution. As was discussed in chapter four, the amendments of the regional constitutions are usually undertaken without strictly following the procedures that are provided in the regional constitutions. For instance, the amendment of the regional constitutions in 2001 did not follow the procedures which were prescribed in the regional constitutions themselves. In fact, the regional

¹¹⁸⁸ See chapter 4; § 5.3.

¹¹⁸⁹ See chapter 4; § 5.3.7.

¹¹⁹⁰ See above § 5.2.2.1.

constitutions were not amended by the regional states.¹¹⁹¹ As was discussed in chapter four, the revision of the regional constitutions rather took place at the federal level, in the Prime Minister's Office, without the knowledge of the regional states.¹¹⁹² As Solomon notes:-

'The process of constitutional revision has been criticised for its failure to emanate from within the states. The regional authorities were not aware of the reasons for this massive revision. It did not follow the amendment procedure set out in the states Constitutions, and, moreover it was an abrupt process under the command of the Prime Minister's office.'¹¹⁹³

It is submitted, therefore, that the FDRE Constitution should be more explicit in recognising the constitutional status of Article 50(4) local government. Recognising local government in a national Constitution is not atypical or repugnant to a federal system. Several federal and *quasi*-federal states, including Belgium, Nigeria, Russia, and South Africa have explicitly recognised local government in their Constitution.¹¹⁹⁴

2.2.4.2. Constitutionally unprotected urban local government

As the earlier discussion shows, cities and municipalities are not recognised even by regional constitutions, while *woredas* are in a relatively better position in this respect. The difference in the constitutional status of cities and *woredas* demonstrates the vulnerability of local government to central government policy preferences. This is caused by the ambiguity in the FDRE Constitution regarding

¹¹⁹¹ Solomon (2006) 239.

¹¹⁹² See chapter 4 § 5.3.7.

¹¹⁹³ Solomon (2006) 239.

¹¹⁹⁴ Watts (2000) 947.

the status of Article 50(4) local government. The development policy of the EPRDF has centred on the rural areas ever since it assumed power.¹¹⁹⁵ Hence, rural *woredas* are recognised by and created in the regional constitutions. Cities and municipalities were, in contrast, considered important only to the extent that they complemented rural development.¹¹⁹⁶ They are, therefore, created through ordinary regional statutes. As was mentioned in chapter four, all cities and municipalities were initially within the administrative structure of rural *woredas*, like municipalities currently are.¹¹⁹⁷ The separate restructuring of cities with the status of a *woreda* was rather an afterthought.

In fact, the recognition of cities in regional constitutions does not adequately ensure their existence. Yet, the non-recognition of cities in the regional constitutions deprives them of that symbolic value that such recognition accords. It also renders cities vulnerable even to a swifter and unrestrained regional interference. The regional governments may, if they choose to, eliminate cities and municipalities as autonomous local government units by easily amending the regional statute that created them. This was the case, for instance, in Oromia where municipalities were reduced to the status of *kebeles*.¹¹⁹⁸

It is, therefore, submitted that as a minimum the regional constitutions should recognise cities as autonomous governments and guarantee their existence. There is no acceptable reason as to why only rural local government units should be

¹¹⁹⁵ See chapter 4; § 5.3.4. See also Heymans & Mussa (2004).

¹¹⁹⁶ See chapter 4; § 5.3.4. See also Heymans & Mussa (2004).

¹¹⁹⁷ See chapter 4; § 6.1.2.

¹¹⁹⁸ See chapter 4; § 6.1.2.

constitutionally protected. Urban dwellers have equal need for development and efficient service delivery. This should entail the establishment of constitutionally protected urban local government system.

2.2.4.3. Wall-to-wall local government

As the discussion above shows the federal and regional constitutions explicitly or impliedly require Article 50 (4) local government units to be established in every parts of the country. Practice also shows that Article 50 (4) local government units are in fact established in every part of the country. There are two important points that needs to be highlighted here. First, the establishment of Article 50 (4) local government units on wall-to-wall basis meets the prescription of the federal and regional constitutions. Over and above that, as it was indicated in chapter two,¹¹⁹⁹ it is important for ensuring that everyone, in every part of the country, participates in, and ‘reaps’ the ‘fruits’ of, local development. Second, as was stated in chapter two, while it is necessary to ensure that local government units are established in every part of a country, it does not however mean that all local units across a country should assume an identical structure.¹²⁰⁰ Localities with different social and economic realities may require different local structure structures. Accordingly, in Ethiopia, the manner in which each local government units are structured shows that the developmental preferences of communities in different parts of the country are taken into account. Rural communities and urban communities are expected to have varied developmental preferences. Hence, in rural areas, *woredas* are established while in urban areas municipalities and cities are established. Within the urban category the different status and capacity of each local unit seems also to have been taken into consideration.

¹¹⁹⁹ See chapter 2; § 3.5.1.1.

¹²⁰⁰ See chapter 2; § 3.5.1.1.

Hence, Addis Ababa and Dire Dawa are established as autonomous federal cities; outside the jurisdiction of a regional state. A distinction is also made in the manner in which cities and municipalities are structured; the former is established as autonomous unit of local government while the latter is established as administrative unit. In Ethiopia, therefore, the second element of ‘certainty of existence of local government’ is constitutionally prescribed and practically implemented

2.2.4.4. Protection of individual local units

As was explained above, in most of the regional states, the creation of new *woredas*, as well as the division and/or amalgamation of the existing ones, do not seem to be clearly regulated. The regional constitutions are completely silent on the issue. Even in Tigray and Benishangul-Gumuz, where proclamations are enacted to regulate the matter,¹²⁰¹ the criteria for establishing a new *woreda* and for dividing and amalgamating existing *woredas* remain vague. In Tigray, the regional Executive Council is authorised to define these criteria in executive regulation, a legal instrument which the executive council can effortlessly amend.¹²⁰² The absence of a constitutional framework regulating the creation new *woredas* and the demarcation and adjustment of the boundaries of existing *woredas* is likely to render each individual *woreda* vulnerable to random division or amalgamation.

It is also unclear how local communities participate in the demarcation and adjustment processes of *woreda* boundaries. There are certain instances in which

¹²⁰¹ See above § 2.3.3.1.

¹²⁰² See above § 2.3.3.1.

the regional states established *woredas* in response to petitions that were lodged by local communities. There are also instances in the Somali, Oromia, and SNNPR regional states where some communities participated in referendums that had the effect of altering existing *woreda* boundaries.¹²⁰³ These referenda were, however, conducted for the alterations of *woreda* boundaries which entailed changes to regional boundaries. Had this not been the case, the change with regard to *woreda* boundaries might not have involved referenda. Hence, no constitutional principle constrains the regional state governments, so it seems, from changing local government boundaries as and when they see fit.

It is, therefore, submitted that local boundaries, *as a rule*, should be established on a permanent basis. Justifiable gradual changes and adjustments of *woreda* boundaries may be introduced. However these changes should not be arbitrary. The changes should rather be based on pre-determined substantive and procedural criteria. These substantive and procedural criteria must be clearly listed in the relevant regional constitution.

2.3.Local democracy

As was discussed in chapter two, competitive local democracy is a central element of local political autonomy.¹²⁰⁴ It is also one of the key mechanisms for achieving development based on public participation.¹²⁰⁵ Local democracy also serves as a mechanism of ensuring that local government is responsive to local preferences. Moreover, it is a critical means of ensuring downward accountability

¹²⁰³ See *Ye-Etypiya Biherawi Mircha Bord* (1997 Ethiopia Calendar) (National Electoral Board of Ethiopia (NEBE) (2005) herein after cited as NEBE (2005).

¹²⁰⁴ See chapter 2; § 3.5.1.2.

¹²⁰⁵ See chapter 2; § 3.5.1.2.

which is vital to local government's political autonomy.¹²⁰⁶ It was also indicated in chapter two, that local democracy entails the establishment of local councils and holding regular competitive elections. The following section will examine Ethiopia's local democracy against the backdrop of these institutional features.

2.3.1. Local elections

FDRE Proclamation 532 (2007) provides that local elections are held on the basis of multi-party system and universal suffrage.¹²⁰⁷ The Proclamation also provides that independent candidates may participate in elections.¹²⁰⁸

2.3.1.1. Electoral system

Proclamation 532 (2007) provides that the plurality system will be used in all elections which includes local elections.¹²⁰⁹ The Block Vote (BV) system, a version of the plurality system which uses multi-member constituencies is used in local elections.¹²¹⁰ This system awards each voter as many votes as the number of councillors that can be elected from a constituency.¹²¹¹ The *kebele* is used as a multi-member constituency for *woreda* and city council elections.¹²¹² The

¹²⁰⁶ See chapter 2; § 3.5.1.2.

¹²⁰⁷ FDRE Proclamation 532 (2007) Preamble read with Art 29 & 26.

¹²⁰⁸ FDRE Proclamation 532 (2007) Preamble.

¹²⁰⁹ FDRE Proclamation 532 (2007) Art 45 (1) (d)

¹²¹⁰ Pausewang *et al* (2002) 17. Proclamation 532 (2007) Article 29 (2) authorises the regional states to determine through a regional law the number of candidates that may be elected in local elections from a constituency, based on the size the population of the locality and the size of the local council.

¹²¹¹ Reynolds, Reilly, & Ellis (2005) 44.

¹²¹² FDRE Proclamation 532 (2007) does not provide that the *kebele* will be used as a constituency for local elections. Article 20 (2) of this Proclamation rather provides that '[l]ocal elections at different levels shall be conducted by establishing proportional constituencies by taking into consideration the size and the number of deputies to be elected and the electors in accordance with the laws of State [*sic*] governments'. The regional constitutions provide that the *kebele* will be used as constituency in *woreda* elections. ARS Constitution (2001) Art 85 (1);

number of councillors that are elected from each *kebele* varies depending on the size of the council which in turn depends on the territorial and population size of the *woreda* or city. Under the BV system, therefore, each voter in a *kebele* casts as many votes as the number of representatives that are elected from the *kebele*. Vote counting in the BV system is similar to the first-past-the-post (FPTP). Hence, two or more candidates, with the highest numbers of votes, even if without an absolute majority, become a winner.¹²¹³

2.3.1.2. Competitiveness and representativeness in local elections

Local elections have been held several times since the EPRDF took power. These elections were however far from competitive. The EPRDF and its affiliates claimed close to absolute victory in all the local elections thus far. The EPRDF and its affiliates control all the seats in all *woredas* and cities.¹²¹⁴ There is barely a single seat that is held by an opposition party save for a few seats that are held by independent candidates. In fact, the opposition parties hardly participated in local elections. Most of the opposition parties either boycotted or withdrew from all local elections held to date.¹²¹⁵

Various reasons are given for this. Opposition parties blame the electoral system and the National Electoral Board of Ethiopia (NEBE) for the non-competitiveness of elections in the country. Merera, an opposition party leader, writes that the plurality electoral system was the ruling party's 'constitutional engineering' to

AfRS Constitution (2001) Art 74 (2); GRS Constitution (2001) Art 89 (1); SNNPR Constitution (2001) Art 92 (1); SRS Constitution (2001) Art 75 (2) (a); BGRS Constitution (2002) Art 86 (1); ORS Constitution (2001) Art 77(2) (a); TRS Constitution (2001) Art 71(1).

¹²¹³ See Reynolds, Reilly, & Ellis (2005) 44.

¹²¹⁴ NEBE (2008) 23-36.

¹²¹⁵ NEBE (2008) 23-36.

ensure its continued dominance.¹²¹⁶ The actual impact of the electoral system on local elections is however difficult to appraise as the opposition parties hardly participated in local elections that were held to date. It can, however, be argued that the plurality electoral system might have discouraged the opposition parties from participating in local elections as they stand little chance of winning an electoral position with this electoral system in place. The chance that the opposition parties have to win local elections is further restricted particularly because BV is the version of the plurality system which is used for local elections. This is because, in general, all forms of plurality electoral systems are criticised for awarding to a party council seats that are disproportionate to the votes it receives.¹²¹⁷ The BV system further exaggerates this disproportionality and results ‘in an even greater distortion of seats to votes’ than other forms plurality system.¹²¹⁸ Therefore, as Pauswang *et al* write, in Ethiopia, in a constituency which can send, for instance, six delegates to a local council, a party may win all the six seats with just six more votes than the other parties.¹²¹⁹

The opposition parties also allege that NEBE thwarts their participation by preventing them from registering their candidates or dropping their candidates from the voting roll. Merera says the NEBE acts as ‘a player not a referee with handpicked EPRDF cadres serving in the electoral management and restricting opposition candidates from registering’.¹²²⁰ Furthermore, the poor organisation and financial constraints of the opposition parties are claimed to have contributed

¹²¹⁶ Merera (undated) 9.

¹²¹⁷ See Reynolds, Reilly, & Ellis (2005) 35-52.

¹²¹⁸ See Reynolds, Reilly, & Ellis (2005) 44.

¹²¹⁹ Pauswang *et al* (2002) 17.

¹²²⁰ Aalen & Tronvoll (2008) 115.

to this situation. There are more than 3 million electoral positions at *woreda*, city, and *kebele* level. The opposition parties simply cannot compete for all these seats.¹²²¹

The opposition parties seem to be either disinterested in local elections or to believe that it is meaningless to control local councils without controlling the federal and regional governments. This seems to be why that opposition parties participate in national elections while protesting against the electoral system and questioning the independence of the electoral commission. However they readily boycott local elections for the same reasons.. Moreover, it had been difficult for opposition parties to find suitable candidates for local elections.¹²²² Many of their members view candidacy for a local council with disdain and prefer the more rewarding candidacy for Parliament and regional councils. Thus Lidetu Ayalew, an opposition party leader, states that when his party decided to participate in the 2001 *woreda* and *kebele* elections, most party members were not keen to stand as candidates.¹²²³ In order to encourage party members to stand for local election, Lidetu writes, he had to present himself as a candidate for a *woreda* council.¹²²⁴

Additional point is that the international community does not appear to be interested in Ethiopia's local elections which have its own impact on the

¹²²¹ Aalen & Tronvoll (2008) 115.

¹²²² Lidetu (1998 Ethiopian Calendar) 32.

¹²²³ Lidetu (1998 Ethiopian Calendar) 32.

¹²²⁴ Lidetu (1998 Ethiopian Calendar) 32.

competitiveness and representativeness of local elections.¹²²⁵ Since the fall of the *Derg*, international institutions and donors, such as the Carter Centre, European Union, and African Union have been involved as observers in Ethiopian national and regional elections. They have also assisted financially and logistically. Yet they have been dispassionate about local elections in Ethiopia. The last three local elections were, therefore, held without any international observers.¹²²⁶

2.3.1.3. Assessment

The significance of competitive and representative elections for development was highlighted in chapter two.¹²²⁷ As it is clear from the discussion above, local elections in Ethiopia are neither competitive nor representative, regardless of why this is so. All local councils are controlled by the EPRDF or its affiliates. The opposition parties are completely unrepresented in local councils. Only a few independent candidates managed to win a few seats in local elections. It would be absurd to assume that the dominance of the EPRDF and its affiliates of all local councils is due to the fact that these parties and their policies have a complete and unreserved support throughout the country. It should not be assumed that there is not a single section of the Ethiopian society that has a different preference of development to the one promoted by the EPRDF and its affiliates. It is argued that the lack of competitiveness and representativeness in local elections has diminished the significance of the decentralisation programme as an institutional mechanism for bringing about development based on the democratic participation of the people.

¹²²⁵ Abbink (2000) 169; Zemelak (2011) 20.

¹²²⁶ Aalen & Tronvoll (2009) 205; Abbink (2000) 169; Zemelak (2011) 20.

¹²²⁷ See chapter 2; § 3.5.1.4.

Furthermore, as was discussed in chapter two, one of the most important benefits of decentralisation is the possibility to simultaneously respond to a variety of developmental preferences. However, in Ethiopia, the EPRDF, with its affiliates, controls all levels of government. This by itself reduces the potential of the decentralisation programme to simultaneously respond to varied developmental preferences of different localities. Not only does the party with its affiliates control all local units, but it has also an extremely centralised structure and method of decision making. The decision making system of the party is based on the principle of 'democratic centralism'.¹²²⁸ Under this system, the local structures of the party are only involved in the execution of decisions passed by the centre. Moreover, there is a little or no practical distinction between the government and the party. The policies and decisions of the party are executed as government policies and decisions. The lack of competitiveness and representativeness in local elections, and the domination of the entire political landscape of the country by a single party, coupled with the centralised decision making system of the party, is likely to have undercut the benefit that the decentralisation programme is expected to offer.

It would, nonetheless, be unreasonable to claim that that the decentralisation process is an absolute fiasco in terms of bringing about electoral participation. For better or worse, several consecutive local elections have been conducted in the past years. This is not only a fundamental departure from the past, but it has also been a significant democratic exercise. Moreover, even in the absence of competitive elections, the decentralisation programme has registered some

¹²²⁸ See Assefa (2007a) 391; Vaughn (2004) 17.

successes in terms of bringing about development. A 2010 UNDP report states that despite the lack of competitiveness and representativeness in Ethiopia's local elections, the country has registered a significant improvement in providing primary health care and primary education.¹²²⁹

2.4. Local government functions

2.4.1. Introduction

One of the central elements of local government autonomy, and which is a crucial institutional feature of decentralised development, is the devolution of original, relevant, suitable, and clearly defined functions.¹²³⁰ It was contended in chapter two that local government functions should be clear enough to prevent uncertainty about who does what. Yet, it should not be too detailed so as to afford local government a degree of discretion.¹²³¹ It was also stated that the devolution of functions to local government should be based on the principle of subsidiarity.¹²³² The following section will discuss local government functions in Ethiopia.

2.4.2. The principle of subsidiarity

2.4.2.1. Introduction

In chapter two the principle of subsidiarity and its role in the allocation of functions to local government was discussed.¹²³³ The issue now is whether and what role the principle of subsidiarity plays in the allocation of powers and functions to local government in Ethiopia. The following section will discuss this matter.

¹²²⁹ UNDP (2010) 51.

¹²³⁰ See chapter 2; § 3.5.1.3.

¹²³¹ See chapter 2; § 3.5.1.3.

¹²³² See chapter 2; § 3.5.1.3

¹²³³ See chapter 2; § 3.5.1.3

2.4.2.2. Subsidiarity under the FDRE Constitution

With regard to the allocation of competences to local government the FDRE Constitutional provides:

‘Adequate power shall be granted to the *lowest units* of government to enable the [p]eople to participate directly in the administration of such units’.¹²³⁴

It has been argued by some writers, and correctly so, that Article 50(4) is based the principle of subsidiarity.¹²³⁵ If this provision is interpreted to embody the principle of subsidiarity, and it is submitted it does, clearly it is not based on an automatic ‘bias in favour of local government’. Nor is it based on the recognition of the sovereignty of the individual. The Ethiopian constitutional system recognises the sovereignty of ethnic communities, not of the individual.¹²³⁶ The sovereignty of the individual is secondary under the Ethiopian constitutional system.

It is clear from Article 50 (4) that powers will be granted to local government. Clearly, it is the regional governments who will grant powers to local government. This implies that the regional states are the original custodians of the powers that are devolved to local government. Therefore, no assumption can be made in favour of local government in the allocation of functions.¹²³⁷ On the contrary, local government is expected to exercise those functions that are specifically granted to it by the regional states. The Constitution does not require

¹²³⁴ FDRE Constitution (1995) Art 50(4).

¹²³⁵ Solomon (2006) 79; Yilmaz (2008) 2.

¹²³⁶ See FDRE Constitution (1995) Art 8(1).

¹²³⁷ See also Solomon (2006) 80.

the regional states to justify their retention of certain functions on the basis of ‘comparative efficiency’ or ‘necessity’. Rather, the Constitution implies a particular function should be allocated to local government if public participation is crucial for the implementation of the particular task.

The other issue that arises is the meaning of ‘people’ in Article 50(4). As stated above, the allocation of powers to local government is meant to allow the ‘people’ to participate in decision making directly affecting them. The question here is whether ‘people’ refer to ethnic communities or to a collection of individuals. The federal Constitution uses the term ‘peoples’ to refer to ethnic communities as well as to collections of individuals.¹²³⁸ It is submitted that ‘people’ does not mean ethnic communities here. As the discussion in chapter four reveals, the Constitutions envisages the establishment of two categories of local government: 50(4) local government and Article 39 local government. The objective underpinning the establishment of Article 39 local government is specific: namely accommodation of intra-regional ethnic communities.¹²³⁹ On the other hand, the objectives underpinning the establishment of Article 50(4) local

¹²³⁸ The Preamble of the FDRE Constitution begins with ‘we the nations, nationalities and, peoples’. Here the term ‘Peoples’ refers to ethnic communities. Article 39 is captioned as ‘the right of nations and nationalities and peoples’. Article 39 (5) uses the terms people and ‘nation and nationalities’ as if they refer to the same concept. The Constitution also uses the term people to refer to a mere collection of individuals. For instance Article 40 provides ‘the people of Ethiopia as a whole and each nation nationality and people’ has the right to development. Clearly, the ‘people of Ethiopia as a whole’ is considered to be a collection of individual citizens. Article 10 provides that the human and democratic rights of the people will be respected. The term ‘people’ seems to refer to a collection of individuals. Article 12 also provides that ‘the people’ may recall elected official if and when they lose confidence in him or her. Clearly the term people refer to a collection of individuals, as people vote in their individual capacity, not as members of an ethnic community.

¹²³⁹ See chapter 4; § 4.

government are not specific to accommodating ethnic communities. The objectives, which include democracy and public participation, have a universal relevance and application.¹²⁴⁰ Therefore, it is argued that ‘people’ under Article 50 (4) does not refer to a certain ethnic community. Rather, it refers to a collection of individuals who constitute a local community, regardless of their ethnic background.

From the above it can be gathered that Article 50 (4) of the FDRE Constitution reflects the principle of subsidiarity. However, the principle of subsidiarity as implied in the Constitution is not based on the classical notion of subsidiarity with an automatic ‘bias’ or ‘preference’ in favour of local government. It is rather based on the democratic principle that those who have a direct interest in a public service should have the power to deliberate on it.

2.4.2.3. Subsidiarity under the regional constitutions and regional laws

The regional constitutions of Amhara, Benishangul-Gumuz, Gambella, SNNPR, and Tigray provide that a *woreda* will have all powers that will ‘enable’ or ‘allow’¹²⁴¹ it to prepare, determine, and implement social services and economic development within its jurisdiction.¹²⁴² The notion ‘enable’ or ‘allow’ is of critical import here in determining the functions that should be left to local government. It brings to the fore the condition of the ‘ability’ of local government to efficiently discharge a particular task. Hence, under the regional constitutions,

¹²⁴⁰ See chapter 4; § 4.

¹²⁴¹ The Amharic term which is used in these constitutions is ‘*yemiyaschil*’ which can be interpreted as ‘which enables’ or ‘allows’.

¹²⁴² ARS Constitution (2001) Art 84(1); AfRS Constitution (2001) Art 74(2); GRS Constitution (2001) Art 98(1); SNNPR Constitution (2001) Art 91(1); BGRS Constitution (2002) Art 85(1); TRS Constitution (2001) Art 72(1).

too, there is no assumption that all powers belong to local government unless explicitly stated provided to the regional governments. Rather, local government is expected to exercise functions that will enable it to prepare a plan for the provision of *woreda* social services and to implement its plan. Thus, the regional constitutions embody a conception of subsidiarity which seems to reflect the ‘functionality’ approach to subsidiarity with regard to the devolution of competences to *woredas*.

The city proclamations also contain what can be considered as the principle of functional subsidiarity. The city proclamations of the Afar, Amhara, and SNNPR provide that cities and municipalities have the powers and functions that are ‘necessary’ for the administration of their matters. ‘Necessity’ is, therefore, the functional criterion of subsidiarity for devolving functions to cities.¹²⁴³

The above discussion has identified the principle that is expected to guide the devolution of functions to local government. The next task is identifying the specific functions that are actually devolved to local government. The following section will deal with matter..

2.4.3. Functional competences of *woredas* and cities/municipalities

2.4.3.1. The *woreda*

FDRE Constitution

¹²⁴³ For instance the Afar proclamation 33 (2006) provides that the Semera city government has all powers which are ‘*necessary*’ to administer itself. The City proclamation of the SNNPR also states that a city has the power ‘*necessary*’ to administer city matters. The same principle is stipulated in the Amhara and Binishangul-Gumuz city proclamation. See AfRS Proclamation 33 (2006) Art 5 (1); SNNPR Proclamation 103 (2006) Art12 (1); ARS proclamation 91 (2003) Art 8(1); BGRS Proclamation 69 (2007) Art 8 (1).

It was discussed in chapter two that local government should be provided with original functions which are enshrined in a national constitution. The discussion in chapter two also shows that the constitutions of several countries, including, South Africa, Uganda, and Nigeria, contain a list of local government functions or, as is the case in Nigeria, functions that the states can transfer to local government.¹²⁴⁴

The FDRE Constitution, however, does not contain a list of local government competences. The constitutional division of functions under the FDRE Constitution is restricted to the federal and the regional states.¹²⁴⁵ Hence, in Ethiopia, local government does not have original competences that can be traced to the federal Constitution.

Regional constitutions

The regional constitutions do not contain a list of local government functions. All of the regional constitutions provide that a *woreda* administration may plan and implement ‘economic development and social services’ within its territorial jurisdiction.¹²⁴⁶ However, they fall short of providing a full list of *woreda* functions. The specific economic and social matters on which local government may exercise the power to plan remain undefined in the regional constitutions.

¹²⁴⁴ See chapter 2; § 3.5.1.3.

¹²⁴⁵ See FDRE Constitution (1995) Arts 51 & 52.

¹²⁴⁶ ARS Constitution (2001) Art 84(1) AfRS Constitution (2001) Art 74(2); GRS Constitution (2001) Art 98 (1); SNNPR Constitution (2001) Art 91(1); BGRS Constitution (2002) Art 85(1); TRS Constitution (2001) Art 72(1); ORS Constitution (2001) Art 79(2) (a); SRA Constitution (2002) Art 77(2) (a).

This calls for a perusal of the policy papers, sectoral proclamations and other documents in order to gain a better idea of a *woreda*'s competences. As discussed in chapter four, the Sustainable Poverty Reduction and Development Programme (SPRDP) and the Plan for Accelerated and Sustained Development to End Poverty (PASDEP) state that a *woreda* would exercise certain functions in the areas of primary education, primary health care, rural water supply, rural roads, and agriculture extension services.¹²⁴⁷ It can be assumed therefore that *woredas* may exercise these functions. Some of the competences of the *woreda* can also be inferred from the powers and functions of *woreda* political organs as provided in the regional constitutions. For instance, a *woreda* council has the power to decide on matters relating to agriculture and natural resource conservation.¹²⁴⁸ Furthermore, a *woreda* chief administrator along with a *woreda* executive council, is charged with directing 'woreda police' and other security forces and protecting historical and cultural antiquities within the *woreda*.¹²⁴⁹ It can be gathered from this that a *woreda* may exercise certain functions in the areas of agricultural development, natural resource conservation, and security. This does not, however, mean much as the matters relating to agriculture and natural resource conservation may include a wide spectrum of activities. The exact responsibility of a *woreda* regarding agricultural development and natural

¹²⁴⁷ See chapter 4; § 5.3.4.

¹²⁴⁸ARS Constitution (2001) Art 86 (2) (b); AfRS Constitution (2001) Art 76 (2) (b); SRS Constitution (2001) Art 77 (2) (b); GRS Constitution (2001) Art 90 (2) (b); ORS Constitution (2001) Art 79 (2) (b); SNNPR Constitution (2001) Art 93 (2) (b); BGRS Constitution (2002) Art 87 (2) (b); TRS Constitution (2001) Art 74(2)(b).

¹²⁴⁹ARS Constitution (2001) Art 93(2) (g) & 92 (1) (h); AfRS Constitution (2001) Art 83 (1) (d) & (g); SRS Constitution (2001) 77 (2) (k); GRS Constitution (2001) Art 95 (1) (e) & (h); ORS Constitution (2001) Art 85 & 87; SNNPR Constitution (2001) Art 98 (1) (g) & 100(2) (f); BGRS Constitution (2002) Art 92 (1) (e) & (h); TRS Constitution (2001) Art 80 & 82.

resource conservation remains unclear particularly as these are regional competences under the federal Constitution. For example, does this include the provision of fertilisers? Is a *woreda* permitted to build agricultural colleges or irrigation schemes? In short, the manner in which the competences of *woredas* are provided for in the regional constitutions is full of ambiguity. In Amhara, SNNPR, Gambella, and Benishangul-Gumuz the problem is compounded by the presence of another level of sub-regional government (nationality zones) above the *woreda*. The nationality zones also have similar competencies in the area of social services and economic development.¹²⁵⁰

Regional laws

Regional laws are supposed to provide the details of the competences of the *woredas* as the latter are not listed in the regional constitutions. To this effect, former Ministry of Capacity Building (MoCB) prepared a draft legislative document on the basis of which regional governments were supposed to enact their own legislation defining local government competences.¹²⁵¹ The draft legislative document proposed a list of functions that should be devolved to *woredas*. The functions that are listed in the draft Bill are reasonably similar to what *woredas* are exercising in practice.¹²⁵²

The document has not, however, been adopted, in any form, in most of the regions. Tigray and Benishangul-Gumuz have each issued a proclamation; apparently based on this document, with the objective of defining the

¹²⁵⁰ See chapter 7; § 2.2.3.

¹²⁵¹ See MoCB (2007).

¹²⁵² See below table 3.

competences of *woredas*.¹²⁵³ However, these proclamations themselves lack clarity: They add little to what is in the constitutions of the two regions. The Oromia regional state has issued a regulation which seeks to define in detail *woreda* and *kebele* functional competences.¹²⁵⁴ However, first an executive regulation is ranked below the regional constitution and the proclamation in the hierarchy of regional laws.¹²⁵⁵ It is a piece of legislation that the Regional President may alter at any given time. Secondly, this regulation does not define the functions of the *woreda*. It merely reiterates the regional constitution which, as stated above, is far from clear as far as functions of *woredas* are concerned. In short the functional competences of *woredas* is not clearly defined either through regional constitutions or through ordinary regional laws.

Woreda competences in practice

Various studies show that, though unclear what a *woreda's* exclusive functional competences are, in practice, a *woreda* exercises various functions in the areas of health, water and sanitation, education, agriculture, and roads. The following table summarises the functions that are exercised by a *woreda* and a *kebele* in practice.

Table 3 Functions that *woredas* perform in practice

<i>Woreda</i>	<i>Kebele</i>
<ul style="list-style-type: none"> • Providing primary and secondary education (grades 1-10), • Adult education, • Printing and distributing primary school textbooks • Administering primary school 	<ul style="list-style-type: none"> • Administering primary schools

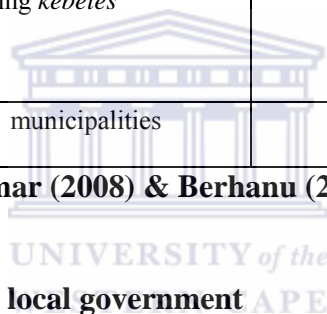
¹²⁵³ See TRS Proclamation 99 (2006) & BGRS Proclamation 69 (2007).

¹²⁵⁴ See ORS Regulation 30 (2003).

¹²⁵⁵ See ORS Regulation 30 (2003). For a discussion on the status of 'regulations' see also Chapter 4; § 3.2.2 & 3.3.2.

<ul style="list-style-type: none"> • Implementing of health extension services • Constructing and administering of health stations and health posts • Administering clinics • Controlling and preventing HIV/AIDS and malaria • Undertaking immunisation programmes 	<ul style="list-style-type: none"> • Administering primary health posts • Preventing HIV/AIDS
<ul style="list-style-type: none"> • Constructing wells • Supplying drinking water to municipalities 	<ul style="list-style-type: none"> • Administering community water schemes
<ul style="list-style-type: none"> • Planning and implementing agricultural and pastoral development • Implementing agriculture extension packages • Constructing and administering small scale indigenous irrigation • 	<ul style="list-style-type: none"> • Implementing agriculture extension packages • Co-ordinating farmers co-operatives
<ul style="list-style-type: none"> • Administering rural land use and other natural resources 	<ul style="list-style-type: none"> • Administering land use
<ul style="list-style-type: none"> • Constructing rural roads connecting <i>kebeles</i> 	
<ul style="list-style-type: none"> • Implementing state functions in municipalities within a <i>woreda</i> 	

Source: Garcia & Rajkumar (2008) & Berhanu (2009)



2.4.3.2. Functions of urban local government

The functional competences of urban local government, including the federal cities, are categorised into state functions and municipal functions.¹²⁵⁶

State functions

State functions are those functions that are exercised by a federal city in its status as a regional state and by a city in its status as a *woreda*. State functions are considered as ‘areas of intervention’ for poverty reduction in the SPRDP and

¹²⁵⁶ The city proclamations do not classify cities’ functions into state and municipal functions. The proclamations contain a list of what they expressly refer to as municipal functions. The non-municipal functions are referred to as ‘state functions’ in non-legislative policy documents. ARS Proclamation 91 (2003) Art 8(2) (y & z) & (i-iii) also see Art 38(2); AfRS Proclamation 33 (2006) Art 16(7-10); SNNPR Proclamation 103 (2006) Art 13(6); ORS Proclamation 65 (2003) Art 2(8). See Garcia & Rajkumar (2008) 14; Berhanu (2009) 18; Yilmaz & Venugopal (2008) 21.

PASDEP and are also related to the MDGs. The functions include education, health care, drinking water, and agriculture.¹²⁵⁷

The federal cities and regional cities have the authority to exercise state functions. A municipality exercises only municipal functions. The state functions are carried out by *woredas* within whose jurisdiction the municipality is found. The state functions of the cities are not clearly defined in the city proclamations. As provided under the SNNPR, Benishangul-Gumuz, and Amhara city proclamations, the state functions of a city may include primary and secondary education, technical and vocational schools,¹²⁵⁸ and primary health care.¹²⁵⁹ Cities may also deal with local economic matters, such as, micro - and small scale enterprises, registration and supervision of commercial activities, issuing trade licenses, and expanding urban transport infrastructures.¹²⁶⁰

Addis Ababa and Dire Dawa are not within the jurisdiction of a regional state. These cities, therefore, can be assumed to have certain competences on the matters that are reserved as state functions under Article 52 of the Constitution. This does not, however, mean that the two cities can trace their competences directly from the Constitution. They rather drive their authority from the charters that established them. Ironically, the charters themselves do not contain clear lists of the functional competences of the two cities. Like the regional constitutions, the charters of the two federal cities contain a general provision which authorises

¹²⁵⁷ See chapter 4; § 5.3.4; Garcia & Rajkumar (2008) 14.

¹²⁵⁸ ARS Proclamation 91 (2003) Art 8(2) (r); SNNPR Proclamation 103 (2006) Art 13(1); BGRS Proclamation 86 (2010) 8.

¹²⁵⁹ ARS Proclamation 91 (2003) Art 8(2)(s);

¹²⁶⁰ SNNPR Proclamation 103 (2006) Art 13(4); ARS Proclamation 91 (2003) 8(2) (o & p).

the cities to formulate policies and design plans on their own social and economic matters.¹²⁶¹ It is, therefore, necessary to examine other laws in order to obtain a clearer insight into the competences of the federal cities.

The Addis Ababa City Proclamation, which establishes the various executive organs of the City, sheds some light on the state functions of the city.¹²⁶² Based on the functions each executive organ may exercise, it can be inferred that the Addis Ababa City may exercise the following state functions.

- Education: primary, secondary, vocational, special and technical schools, teachers training colleges;
- Trade and industry: trade licences, business organisations, medium industries, market centres;
- Urban agriculture: providing fertilisers, selected seeds, agricultural technology, veterinary services, animal breeding, reproductive centres, laboratories, genetic resources, quarantine services for animals and plants, veterinary drugs, forest;
- Environment: standard setting, controlling pollution, controlling of industrial residue, by-products, licencing and supervising underground water drilling, quarries
- Health services:
- Tourism: registering and protecting tourist sites, set standards for hotels; licencing tourist and travel agents;
- Investment: licencing investment, providing financial and loan services, constructing infrastructure.

Municipal functions

¹²⁶¹ FDRE Proclamation 361 (2003) 11(2) (a & b); FDRE Proclamation 416 (2004) Art 9(2).

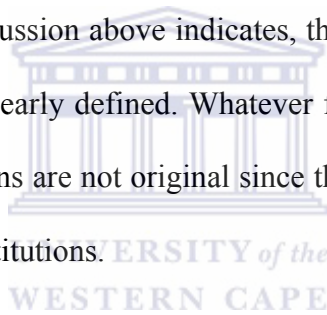
¹²⁶² See Addis Ababa City Proclamation 15 (2009); Addis Ababa City Proclamation 2 (2003) Addis Ababa City Proclamation 20 (2004).

The federal and regional cities and municipalities exercise municipal functions. The municipal functions include the following: cultural centres; recreational centres; youth centres; museums; housing; sewerage; street; street lighting; land administration; solid wastes; fire fighting, nurseries, care centres (for the aged, disabled, orphaned and abandoned children); pollution control; abattoirs; parks; markets; sanitation; liquor licences; and ambulance services.¹²⁶³

2.4.4. Assessment

2.4.4.1. Devolution or delegation?

It was stated in chapter two that the functional competences of local government should be original in a sense that they should be traced to a national constitution.¹²⁶⁴ As the discussion above indicates, the functional competences of local government are not clearly defined. Whatever functions *woredas* and cities may exercise, those functions are not original since they do not emanate from the federal or the regional constitutions.



Some of the regional states, for instance Oromia and Amhara, have attempted to use a legal instrument such as an executive regulation, the lowest in the hierarchy of laws, to define local government functions.¹²⁶⁵ Benishangul-Gumuz and Tigray have issued proclamations to the same effect. Thus, a regional government may at any time decide to assume some or all of what would have been *woreda* and city functions by amending the relevant proclamations and regulations. From the above, it appears that Ethiopia's decentralisation to be more of delegation than

¹²⁶³ARS Proclamation 91 (2003) Art 8 (2) (y & z) & (i-iii) also see Art 38 (2); AfRS Proclamation 33 (2006) Art 16 (7-10); SNNPR Proclamation 103 (2006) Art 13 (6); ORS Proclamation 65 (2003) Art 2 (8).

¹²⁶⁴ See chapter 2; § 3.5.1 3.

¹²⁶⁵ About the hierarchies of regional laws see chapter 4; § 3.3.

devolution. As stated in chapter two, what characterises delegation is that the centre, as the principal holder of authority, is entitled to withdraw at any time the responsibilities it has transferred to local units. This is so despite the fact that the delegatee local unit enjoys a wide range of discretion regarding how it exercises the delegated powers and functions during the validity of the delegation.¹²⁶⁶ Similarly, in Ethiopia, the functions of *woredas* are not listed in the federal and regional constitutions. They are rather listed, if at all, in ordinary statutes. The regional state, therefore, by amending its statutes may take back the functions that it has transferred to local government at any time.

2.4.4.2. Unclear functions

The municipal functions of cities and municipalities have been reasonably clearly defined in the regional city proclamations. The state functions of cities are, however, unclear. The lack of clarity in the functional competences of local government is perhaps the most serious problem facing the entire decentralisation programme in Ethiopia. The regional constitutions have created a multi-tiered system of rural local government in which each tier is authorised to decide on its own ‘social and economic matters’. Yet they state nothing about the specific social and economic development matters with regard to which each tier of local government is authorised to take decisions. It is impossible to distinguish the exact responsibility of a *woreda* with respect to education, health, agricultural development by referring to the regional constitutions. In the regions, such as, SNNPR and Amhara, the problem is compounded by the presence of autonomous

¹²⁶⁶ See chapter 2; § 2.2.2.

nationality zones, above *woredas* and cities, which are responsible for planning and implementing their own social services and economic development.¹²⁶⁷

It is submitted that clearly defining local government functions should have been the first task in the decentralisation process. Establishing local government and transferring funds to it without transferring clear functions is ‘putting the cart before the horse’. Moreover, problems that are associated with a lack of clarity in the functional competences of different levels of government,¹²⁶⁸ such as wasteful redundancy and lack accountability, are likely to arise in Ethiopia. Furthermore, as a study by Garcia and Rajkumar shows, the political autonomy of *woredas* and cities is compromised due to the fact that their functional competences are not clearly defined. The study shows that regional states and nationality zones have assumed certain functions that are in practice viewed as *woreda* functional competences.¹²⁶⁹ It is, therefore, crucial to promptly define the functional competences of *woredas* and cities.

2.4.4.3. Inaccessibility of legislative instruments

Related to the above is that regional constitutions and other laws which, however scanty, deal with local government functions are inaccessible for the majority of the people. In fact, they are inaccessible even to *woreda* officials themselves.¹²⁷⁰ Very few copies of the regional constitutions and laws are published. Those copies are distributed to the regional government offices. For instance, the Gambella region reported in 2009 that it had published and distributed 5000

¹²⁶⁷ See below at § 2.5.3.

¹²⁶⁸ See chapter 2 § 3.5.1.3.

¹²⁶⁹ Garcia & Rajkumar (2008) 61.

¹²⁷⁰ Yemane (2010) 111.

copies of the regional constitution to regional government offices.¹²⁷¹ In a region with more than 200, 000 people, this was reported as a laudable achievement.

Moreover, in most cases, the regional laws, which deal with local government, do not reach *woreda* officials, let alone the ordinary citizens. Hence, as some studies indicate, the basic functions of *woredas* are unknown to many *woreda* officials, let alone to the ordinary citizens.¹²⁷² Yemane, explaining the problems relating to the inaccessibility of legal instruments in Tigray Regional State writes:

‘Once such laws are issued by the regional council that is the end of the process. They do not reach the *woreda* administration. If at all they reach the *woreda* administration, one cannot find them in government offices/shelves but in the hands/drawers of different individuals. When these individuals leave offices for whatever reasons, they take these important documents with them...This is the big challenge that *woredas* are facing today.’¹²⁷³

It is, therefore, submitted that the regional governments should make the necessary effort ensure that duly passed regional laws, specifically those that have impact on local development, are published in time. They should also ensure that these laws are easily accessible to members of the communities.

2.4.4.4. Relevant for development?

As stated in chapter four, the policy objective of the decentralisation programme is to reduce poverty in the country.¹²⁷⁴ It was also envisioned in the policy paper

¹²⁷¹ Ministry of Information (MoI) (2010).

¹²⁷² Yemane (2010) 111.

¹²⁷³ Yemane (2010) 111.

¹²⁷⁴ See chapter 4; § 5.3.4.

dealing with urban local government that cities and municipalities will be engaged in tackling urban specific problems such as unemployment and lack of housing.¹²⁷⁵ This is in addition to the role that cities are supposed to play in providing education, health care and other social services. It was also envisioned to make cities ‘attractive, healthy and sustainable living environments’.¹²⁷⁶ It is far from clear whether *woredas* and cities are legally empowered to exercise these functions. It is not, therefore, possible to judge the relevance of the functions of *woredas* for poverty reduction and development as the functions are not known.

In practice, *woredas* are engaged in providing services relating to primary health care, primary education, agricultural extension services, water, and sanitation, regardless of their formal competences being unclear. It is self-evident that these activities are not only relevant but also are critical for poverty reduction as envisaged in the policy papers. It is also important to note that remarkable progress has been registered in the areas of primary education, primary health care, and agricultural extension services in Ethiopia since the launch of the second phase decentralisation. The 2010 UNDP report on human development ranks the progress made by Ethiopia in these areas first in Sub-Saharan Africa and 11th in the world.¹²⁷⁷ Another report indicates that the prevalence of poverty, which was close to 50 percent at the beginning of the decentralisation process, has been reduced to 29.9 percent in 2009/2010.¹²⁷⁸ In particular, the gross

¹²⁷⁵ See chapter 4; § 5.3.4.

¹²⁷⁶ See chapter 4; § 5.3.4.

¹²⁷⁷ UNDP (2010) 28.

¹²⁷⁸ MoFED (2010) 5.

students' enrolment for primary school, which was only 45.8 % in 1998/99,¹²⁷⁹ has reached 95 percent in 2010. Reports indicate that the number of people suffering from lack of food has been reduced to 28 percent in 2009/2010. The UNDP report also indicates that local actions have contributed greatly to the progress that has been achieved in the past years.¹²⁸⁰ This progress is recorded despite the lack of clarity in functional competences of *woredas* and cities. It can be assumed that had *woredas'* competences been clearly defined, a better performance could have been registered in reducing the poverty prevailing in the country.

The functions of cities and municipalities are clearer than those of *woredas*, in particular their municipal functions. Their functions are also relevant for, and are directed at, tackling urban specific problems. For instance, the functions of cities and municipalities relating to micro and small enterprises are pertinent for creating jobs and reducing unemployment as envisaged in the policy papers.¹²⁸¹ Their municipal functions, such as, pollution control, sewerage, parks are relevant for creating attractive and healthy living environments in the cities. The competence of cities with regard to housing is critical for the people's welfare and the improvement of their living standard. Several cities, therefore, have been engaged in building low-cost housing or condominiums. The Addis Ababa City Government, for instance, reports that it has built and distributed more than

¹²⁷⁹ See chapter 4; § 5.3.4.

¹²⁸⁰ UNDP (2010) 28.

¹²⁸¹ See chapter 4; § 5.3.4.

32,000 housing units since 2001.¹²⁸² To this extent it can be argued that cities functions are indeed suitable and relevant for local development.

2.5. Local government powers

2.5.1. Introduction

A local government power refers to what local government may do with respect to its functional competences.¹²⁸³ Specifically, it refers to political powers, such as, the power to formulate policies, adopt short term and long term plans, enact laws, and enforce laws. The following section will deal with this issue.

2.5.2. Development policy making

A policy is a broad and a 'novel principle of action' which guides decisions with the aim of achieving a certain outcome.¹²⁸⁴ A policy does not deal with the particular activities to be undertaken. The 'detailed proposal for doing' something or achieving a certain outcome is rather described in a plan.¹²⁸⁵ The authority to formulate policies on local matters is a key political power. The significance of local government as discovery machine depends on the power of local government to formulate new policies.¹²⁸⁶

The power to adopt policies is all the more important in Ethiopia as policies, in particular those relating to social service and economic development matters that are adopted by various levels of government have a certain legal force. Their legal force emanates from the procedure through which they are adopted. The

¹²⁸² Addis Ababa City Administration Housing Agency. www.addisababacity.gov.et/ (accessed on 3 March 2011).

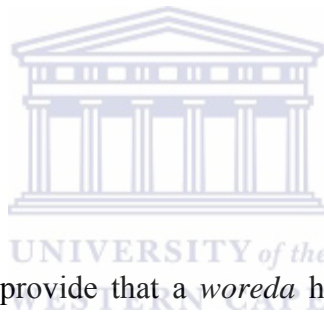
¹²⁸³ See chapter 2; § 3.5.1.4.

¹²⁸⁴ Oxford Dictionary (2002) 902.

¹²⁸⁵ Oxford Dictionary (2002) 892.

¹²⁸⁶ See chapter 2; § 3.5.1.4

federal Constitution provides that general policies relating to social and economic matters, which are prepared by the executive council, have to be approved by Parliament.¹²⁸⁷ The executive council is also enjoined to ensure the implementation of the policies once approved by Parliament.¹²⁸⁸ These procedures were followed to approve the SPRDP, PASDEP, and the Growth and Transformation Plan (GTP) are adopted.¹²⁸⁹ Likewise, regional policies on social services and economic development are formulated by a regional executive council and submitted to a regional council for approval.¹²⁹⁰ Therefore, in Ethiopia the power to adopt policies is an important political power. Now the question is whether *woredas* and cities have the power to formulate their own policies.



2.5.2.1. *Woredas*

The regional constitutions provide that a *woreda* has the ‘necessary’ power to ‘plan’ and implement its own social services and economic development.¹²⁹¹ To this effect, a *woreda* executive council is authorised to draft ‘plans’ on *woreda* social and economic matters, while the relevant *woreda* council is authorised to approve the plans.¹²⁹² The regional constitutions are silent as to whether *woredas*

¹²⁸⁷ FDRE Constitution (1995) 77 (6) & 55(10).

¹²⁸⁸ FDRE Constitution (1995) 77 (6).

¹²⁸⁹ See MoFED (2010); MoFED (2006); MoFED (2002). What is still confusing is that even the general federal policy papers such as SPRDP, PASDEP, and GTP are titled as ‘plans’.

¹²⁹⁰ FDRE Constitution (1995) 52 (2) (c); ARS Constitution (2001) Art 49 (3) (10) AfRS Constitution (2001) Art 47 (3) (k); GRS Constitution (2001) Art 52 (3) (11); SNNPR Constitution (2001) Art 51 (3) (h); BGRS Constitution (2002) Art 49 (3) (10); TRS Constitution (2001) Art 49 (3) (k); ORS Constitution (2001) Art 49 (3) (i); SRA Constitution (2002) Art 49 (3) (h).

¹²⁹¹ See above at § 2.4.3.1.

¹²⁹² See below at § 2.5.3.1.

may formulate and adopt ‘policies’ on these matters. It is necessary to note here that the policy making power of the federal and regional governments is mentioned in the federal and regional constitutions apart from and in addition to their power to approve and implement ‘plans’ on regional social and economic matters.¹²⁹³ For instance, Article 51(2) provides the following:

‘[The federal government] shall formulate and implement the country’s *policies, strategies and plans* in respect of overall economic, social and development matters.’

Article 52(2) (c) also provides:

‘[States have the power to] formulate and execute economic, social and development *policies, strategies and plans* of the State.’

Therefore, both in the federal as well as the regional constitutions, ‘policies’ are distinguished from ‘plans’. The regional constitutions are, however, silent regarding a *woreda*’s power to adopt its own development policies. Moreover, several government documents and manuals refer to *woredas* as policy implementers rather than policy makers.¹²⁹⁴ Does this mean that *woredas* may not formulate policies on *woreda* matters?

One argument may be that the explicit reference to a *woreda*’s power to approve its own development plans, and not to a *woreda*’s power to formulate policies, implies that it cannot do the latter. The counter argument may be that there is no

¹²⁹³ FDRE Constitution (1995) Art 51(2) & 52(2) (c). See also AFRS Constitution (2001) Art 45 (2) (2); ARS Constitution (2001) Art 47(2)(1); BGRS Constitution (2002) Art 47 (2) (1); GRS Constitution (2001) Art 50 (2) (1); ORS Constitution (2001) Art 47 (2) (a); SNNPR Constitution (2001) Art 47(2) (a); SRA Constitution (2002) 47(2) (a); TRS Constitution (2001) Art 47 (2) (a).

¹²⁹⁴ MoCB (2007) & MoFED (2002).

legal or constitutional provision that explicitly disqualifies *woredas* from adopting policies on *woreda* matters. The silence of the regional constitutions on the matter should not, therefore, be construed as prohibition. Moreover, there is no discernible reason why *woredas* may not be allowed to adopt their own policies while, as will be discussed in the next section, a city, whose status is equivalent to a *woreda*, has such a power. What becomes clear from the above however is the fact that it is not at all certain whether *woredas* have policy making power.

2.5.2.2. Urban local government

It is explicitly stated in the city proclamations and charters that cities and the federal cities may formulate policies on local matters. FDRE Proclamation 416 (2004) and FDRE Proclamation 361 (2003) provide that the Addis Ababa and Dire Dawa city governments, respectively, may formulate and implement policies concerning the development of the cities.¹²⁹⁵ It may be argued that the policy making power of these two cities emanates from their status as federal cities which is similar to the status of the regional states, despite their accountability to the federal government.

The regional city proclamations also provide that cities may formulate policies on local matters.¹²⁹⁶ SNNPR Proclamation 103 (2006) does not state whether a city may formulate its own policy. Yet, Article 12 (1) provides that a city may exercise all powers ‘necessary’ to administer local matters. It is evident that the

¹²⁹⁵ FDRE Proclamation 416 (2004) Art 9 (1) & FDRE Proclamation 361 (2003) Art 11 (2) (a).

¹²⁹⁶ See ARS Proclamation 91 (2003) Art 8 (1); BGRS Proclamation 69 (2007) Art 8 (1); ORS Proclamation 65 (2003) Art 9 (1) & 9 (2) (a); AfRS Proclamation 33 (2006) Art 5 (2) (a); SNNPR Proclamation 103 (2006).

power to formulate policies on local developmental matters is a power which is ‘necessary’ for local development. Hence, it can be argued that cities in the SNNPR also have the power to formulate and implement their own developmental policies.

2.5.3. The power to plan

2.5.3.1. Woreda planning

The regional constitutions explicitly state that a *woreda* may prepare plans with respect to its own social and economic matters.¹²⁹⁷ The *woreda* executive council is responsible for preparing draft *woreda* plans, and the *woreda* council has the ultimate power to approve the plans.¹²⁹⁸ The regional constitutions do not, however, define ‘planning’ and the sorts of activities it entails. In practice, *woreda* planning is guided by manuals which are prepared by the MoCB and Ministry of Finance and Economic Development (MoFED), which define *woreda* planning and describe the process for adopting *woreda* plans. Some of the regional states, such as, the Tigray and Benishangul-Gumuz regional states, also have regulated *woreda* planning and the procedures for adopting a *woreda* plan.¹²⁹⁹ According to the proclamations and manuals, planning involves

¹²⁹⁷ ARS Constitution (2001) Art 84 (1) AfRS Constitution (2001) Art 74 (2); GRS Constitution (2001) Art 98 (1); SNNPR Constitution (2001) Art 91(1); BGRS Constitution (2002) Art 85(1).TRS Constitution (2001) Art 72 (1); ORS Constitution (2001) Art 79 (2) (a); SRA Constitution (2002) 77 (2) (a); TRS Constitution (2001) Art 72 (1).

¹²⁹⁸ AfRS Constitution (2001) Art 76 (2) (a); ARS Constitution (2001) Art 86 (2) (a); BGRS Constitution (2002) Art 87 (1) (a); GRS Constitution (2001) Art 90 (2) (a); ORS Constitution (2001) Art 79 (2) (a); SNNPR Constitution (2001) Art 93 (2) (a); SRA Constitution 77 (2) (a); TRS Constitution (2001) Art 72 (1).

¹²⁹⁹ TRS Proclamation 99 (2006) & BGRS Proclamation 86 (2010).

identifying resources and developmental priorities, and utilising resources to achieve these priorities.¹³⁰⁰

Types of woreda plans

There are three types of *woreda* development plans: short term development plans (for 1 year), medium term or strategic development plans (for 3-5 years) and long term development plans (for 10-20 years).¹³⁰¹ The *woreda* is authorised to adopt a short term and medium term strategic plan.¹³⁰² In practice, however, *woredas* limit themselves to preparing a short term development plan since they do not have the necessary capacity for preparing medium term and long term plans. In the short term plans, therefore, *woredas* strive to respond for the preferences of local communities using the resources under their disposal.¹³⁰³

Planning processes and public participation

The process of *woreda* planning is described in various manuals of MoFED and MoCB. A *woreda* development planning begins with public consultation at village level.¹³⁰⁴ The main purpose of the consultation is to identify community problems and prioritise them.¹³⁰⁵ The consultations are facilitated by employees of the *kebele*. Civil society organizations (CSOs) are also invited to participate.¹³⁰⁶ The community needs that are identified at village level are consolidated at *kebele* level and become a ‘single *kebele* priority list’. The aggregated priorities at *kebele* level are also discussed at a *kebele* general

¹³⁰⁰ MoCB (1997 Ethiopian Calendar) 51.

¹³⁰¹ MoFED (2010).

¹³⁰² TRS Proclamation 99 (2006) Art 30 (1) & BGRS Proclamation 86 (2010) Art 72 (6).

¹³⁰³ MoFED (2010).

¹³⁰⁴ MoFED (2010) 7.

¹³⁰⁵ MoFED (2010) 7.

¹³⁰⁶ MoFED (2010) 7.

community meeting of the *kebele*'s residents.¹³⁰⁷ The *kebele* priority lists are then sent to a *woreda* where the priority lists of the various *kebeles* are consolidated by the *woreda* development planning committee. The aggregate *woreda* priorities are then re-organised on a sectoral basis and passed on to the sectoral office concerned.¹³⁰⁸

Based on the priority list, each sectoral office decides on the 'intervention areas' and produces a plan. The plan of each sector is then aggregated and 'linked to a budget'.¹³⁰⁹ The plans which are prepared at sectoral level are discussed and negotiated among the various offices with the facilitation of the *woreda* Planning and Budgeting Desk. The end result of this negotiation becomes a single *woreda* plan which identifies *woreda* priorities and links them to budgets. The *woreda* plan is finally submitted to a *woreda* council for approval.¹³¹⁰

It is, however, alleged that the planning process in practice distorts the local communities' priorities: The priorities are distorted specially during the process of aggregation, disaggregation, and negotiation.¹³¹¹ In addition, public participation is used only as a means to 'extract information' rather than to involve the public in decision making.¹³¹² It is also unclear whether the information that is gathered through public participation is the 'articulated

¹³⁰⁷ MoFED (2010) 7.

¹³⁰⁸ MoFED (2010) 16. About sectoral offices see below at § 4.2.2.

¹³⁰⁹ MoFED (2010) 16.

¹³¹⁰ MoFED (2010) 16.

¹³¹¹ Hadingham (2003) 21.

¹³¹² Hadingham (2003) 21-22.

interests of local elites' or the actual needs of local communities.¹³¹³ Moreover, the interests of heads of sectoral offices play a critical role in determining the areas of intervention.

'[T]he mechanism for prioritising between sectors and between interventions is not clear even among *woreda* staff. It is likely that in the absence of clear guidelines, prioritisation is done on an *ad hoc* basis with choices of intervention being heavily influenced by the interests of the office head.'¹³¹⁴

Another concern is that in practice the *woreda* council plays a limited role in *woreda* planning.¹³¹⁵ The executive and administrative organs of the *woreda* play a dominant role in this respect. According to Yilmaz and Venugopal the *woreda* council hardly ever rejects plans prepared by sectoral offices.¹³¹⁶ The lack of knowledge and capacity to adequately understand 'planning, budgeting and service delivery processes' prevents *woreda* councillors from playing a more active role in the planning process. Thus, a *woreda* council plays a role which is 'little more than a rubber stamp' of the planning process.¹³¹⁷

2.5.3.2. Development planning in urban local government

Urban planning is generally understood to have two components: The first is planning state and municipal service delivery.¹³¹⁸ The second is town planning

¹³¹³ Hadingham (2003) 22.

¹³¹⁴ Hadingham (2003) 20

¹³¹⁵ Yilmaz & Venugopal (2008) 11.

¹³¹⁶ Yilmaz & Venugopal (2008) 11.

¹³¹⁷ Yilmaz & Venugopal (2008) 11.

¹³¹⁸ What is referred to here as 'town planning' is referred in the regional and federal proclamation as 'development planning'. For the sake of clarity the term 'town planning' is used here.

which pertains to planning the physical and structural development of an urban centre.¹³¹⁹

Planning state and municipal services delivery

Cities, including the two federal cities, have both the power and the duty to prepare short term, medium term, and long term state and municipal services delivery plans.¹³²⁰ Municipalities also have the power to prepare and implement plans for municipal services delivery. The *woreda* within which a municipality is found is in charge of the preparation and implementation of the plans regarding state matters, such as, education and health care.¹³²¹ However, there is not a single regional law that deals with the details of the planning of state and municipal delivery in cities. The manuals which deal with *woreda* planning provide some guidelines for the planning and implementation of state and municipal services delivery in urban areas. In practice, it seems that cities plan the delivery of social services by using procedures that are similar to the one described above in relation to *woreda* development planning.

Town planning

The federal cities and the regional cities also have the power to prepare and approve their own town plans.¹³²² However, neither the regional city

¹³¹⁹ FDRE Proclamation 416 (2004) Art 9 (1) & 12 (1) (c); FDRE Proclamation 361 (2003) Art 11(2) (b) & 14 (1) (c); ARS Proclamation 91 (2003) Arts 8 (2) (a) & 8 (2) (c) & 60; ORT Proclamation 65 (2006) Art 8 (2) (b) & 9 (1) (d) & 49; BGRS Proclamation 69 (2007) Arts 8 (2) (a) & 53; AfRS Proclamation 33 (2006); SNNPR Proclamation 103 (2006) Art 17 (2) (9) & (10) & 49.

¹³²⁰ FDRE Proclamation 416 (2004) Art 9 (1); FDRE Proclamation 361 (2003) Art 11(2) (b); ARS Proclamation 91 (2003) Art 8 (2) (a) & (c); ORT Proclamation 65 (2006) Art 8 (2) (b); AfRS Proclamation 33 (2006); SNNPR Proclamation 17 (2) (9) (10).

¹³²¹ See above Table 3.

¹³²² FDRE Proclamation 416 (2004) Art 12 (1) (c); FDRE Proclamation 361 (2003) Art 14(1) (c); AfRS Proclamation 33 (2006) Art5 (2) (e); ARS Proclamation 99 (2003) Art 8(2) (c) see also Art

proclamations nor the charters of Addis Ababa and Dire Dawa define what town planning constitutes. This is rather dealt with in a federal law: FDRE Proclamation 574 (2008). This Proclamation is enacted by the federal government on the basis of its constitutional power to enact laws regulating the utilisation and conservation of land.¹³²³ The Proclamation provides three levels of town planning: national, regional, and urban.¹³²⁴ Cities are authorised to have their ‘urban physical and structural plan’ prepared either by private or public institutions.¹³²⁵

The Proclamation mentions to two types of town plans: A ‘city wide structural plan’ which covers the entire urban area and a ‘local structural plan’ which focuses on a particular section of a city.¹³²⁶ The first, which is prepared by a city for a ten year period, determines the direction and extent of the physical growth of a city or a municipality.¹³²⁷ A city wide structural plan is also used to determine the principal land use classes, housing development, lay-out of major social and physical infrastructures, environmental matters, and industrial zones.¹³²⁸ A local structural plan is prepared based on and with a view to implementing a city wide structural plan.¹³²⁹ It also focuses on the strategic areas

60; ORS Proclamation 65 (2003) Art 14 (2) (k) see also Art 49; BGRS Proclamation 69 (2007) Arts 53; AfRS Proclamation 33 (2006); SNNPR Proclamation 103 (2006) Arts 17 (9) & see also Art 49.

¹³²³ FDRE Constitution (1995) Art 51 (5). Also see the FDRE Proclamation 574 (2008) Preamble.

¹³²⁴ FDRE Proclamation 574 (2008) Art 7.

¹³²⁵ FDRE Proclamation 574 (2008) Art 7.

¹³²⁶ FDRE Proclamation 574 (2008) Art 8.

¹³²⁷ FDRE Proclamation 574 (2008) Art 10.

¹³²⁸ FDRE Proclamation 574 (2008) Art 9 (2).

¹³²⁹ FDRE Proclamation 574 (2008) Art 11 (1).

of an urban centre.¹³³⁰ A local structural plan is used to determine different zones. It is also used to determine building heights, plan local streets and transport systems, determine types of housing and neighbourhood organisations. Moreover it is used to identify green areas, water bodies, and the like.¹³³¹ A city has the authority to revise/modify urban plans, authorise development¹³³² (or demolition), to redevelop an urban area, to undertake urban renewal, to expropriate or re-allocate land.¹³³³

2.5.4. Local government legislative powers

The power to pass laws on local matters is critical for local autonomy.¹³³⁴ As De Visser notes, ‘the ability’ of local government to ‘translate locally generated policies into law’ is a vital element of local autonomy.¹³³⁵ The next section discusses the legislative powers of *woredas* and cities have legislative power.

2.5.4.1. Woredas

The regional constitutions provide that a *woreda* may issue directives on security related matters.¹³³⁶ The constitutions also provide that a *woreda* may adopt its own internal procedures.¹³³⁷ The regional constitutions provide nothing more than

¹³³⁰ FDRE Proclamation 574 (2008) Art 11 (1).

¹³³¹ FDRE Proclamation 574 (2008) Art 11 (3).

¹³³² ‘Development’ is defined as ‘the carrying out of building, engineering works, mining or other operations on or below ground, or the making of any substantial change in the life of any structures or neighbourhoods’. FDRE Proclamation 574 (2008) Art 24.

¹³³³ FDRE Proclamation 574 (2008) Art 24-54.

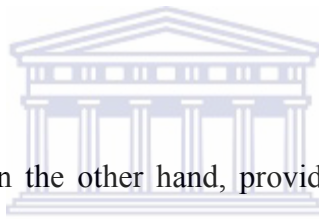
¹³³⁴ See chapter 2; § 3.5.1 4.

¹³³⁵ De Visser (2005) 272.

¹³³⁶ AfRS Constitution (2001) Art 76 (2) (h); ARS Constitution (2001) Art 86(2) (h); BGRS Constitution (2002) Art 87 (2) (h); GRS Constitution (2001) Art 90 (2) (h); ORS Constitution (2001) 79 (2) (f); SNNPR Constitution (2001); Art 93 (2) (h); SRS Constitution (2002) 77 (2) (k).

¹³³⁷ AfRS Constitution (2001) Art 76 (2) (e); ARS Constitution (2001) Art 86(2) (e); BGRS Constitution (2002) Art 87(2) (e); GRS Constitution (2001) Art 90 (2) (e); ORS Constitution

this so far as the legislative power of *woredas* is concerned. The regional constitutions are silent on whether *woredas* may legislate on economic and social matters within their competences. Zerihun, referring to Article 79 (2) (f) of the Oromia Constitution, asserts that a *woreda* (in the Oromia region) has legislative power.¹³³⁸ He seems to suggest that the legislative power of the *woreda* is explicitly stated in the Oromia Constitution. However, Article 79(2) (f) thereof refers to the power of the *woreda* to approve its own internal rules and procedures. Whilst this may be considered as a legislative act, it is restricted to the internal operations of a *woreda* council. It does not mean that a *woreda* may enact laws on developmental issues, such as, primary health care, and primary education.



The Tigray Constitution, on the other hand, provides that a *woreda* may issue directives on matters relating to social and economic matters that are within its competence.¹³³⁹ This provision was specifically inserted into the Tigray Constitution in 2006. Prior to that, the legislative power of a *woreda* council in Tigray was limited to adopting internal procedures and issuing directives on security matters.¹³⁴⁰

This brings us back to the initial question: are *woredas*, other than those in the Tigray region, permitted to legislate on the provision of social and economic services? Proclamation 86 (2010) of the Benishangul-Gumuz regional state

(2001) 79 (2) (f); SNNPR Constitution (2001) Art 93 (2) (e); SRS Constitution (2002) 77 (2) (e); TRS Constitution (2001) Art 74 (2) (e).

¹³³⁸ Zerihun (2010) 132.

¹³³⁹ Proclamation 98 (2006) Art 4 (i).

¹³⁴⁰ TRS Constitution (2001) Art 74 (2) (i).

provides that a *woreda* may issue directives on matters within its competence. It is, therefore, clear that in Benishangul-Gumuz the *woreda* has legislative power. It is unclear, however, whether this power is based on the regional constitution or whether it is a mere statutory power. As stated previously, the principle of subsidiarity which is implied in the regional constitutions allows a *woreda* to exercise any power which ‘enables’ it to prepare and implement social and economic development plans.¹³⁴¹ Based on this principle, it may be argued that a *woreda* may indeed enact local laws for doing so will certainly ‘enable’ it to prepare and implement plans on a *woreda*’s social and economic matters.

2.5.4.2. Urban local government

Regional cities

It is plainly stated in the city proclamations that cities and municipalities may issue directives on matters that are within their competence.¹³⁴² Both cities and municipalities have a wide range of legislative powers with respect to municipal matters. Cities also have the power to legislate with respect to their state functions and in their capacity as a *woreda*. In addition, SNNPR Proclamation 103 (2006) provides that a city may legislate on matters that are not covered by regional and federal laws.¹³⁴³ This Proclamation also enjoins the Regional President to ensure that the legislation of city councils are published in the Debub Negarit Gazette¹³⁴⁴ when, after being adopted by a city council, it is signed and sent to him by the

¹³⁴¹ See above at § 2.4.3.

¹³⁴² AfRS Proclamation 33 (2006) Art 10 (2); ARS Proclamation 91 (2003) Art 8 (1); ORS Proclamation 65 (2003) Art 14 (2) (a); SNNPR Proclamation 103 (2006) Art 17 (2) (1).

¹³⁴³ SNNPR Proclamation 103 (2006) Art 16 (1) (2) (2).

¹³⁴⁴ This is a gazette in which the regional government’s laws are published.

speaker of the city council.¹³⁴⁵ As was discussed in chapter four, the FDRE Constitution divides legislative powers between the federal and regional governments. Given this fact, it is doubtful whether a regional government may authorise a city council to legislate on matters that are not covered by federal laws. It is clear that a regional council may delegate to a city within its jurisdiction some of its own legislative powers. However, it may not do so with respect to federal matters which are not covered by federal laws. In any case, it seems that a piece of legislation which is issued by a city to regulate a matter which is not covered by regional legislation will lapse as soon as the regional government legislates on the matter.

Federal cities

The city councils of the federal cities have the power to enact proclamations on a wide range of state and municipal matters.¹³⁴⁶ Proclamation 416 (2004) provides that the Dire Dawa city may issue proclamations on matters relating to the city's development.¹³⁴⁷ Similarly, Proclamation 361(2003) and Proclamation 416 (2004) provide that the Addis Ababa and Dire Dawa cities may enact proclamations to constitute the executive organs of the cities, to approve the budgets, to issue the master plans of the cities, to establish the cities' judicial organs, and to levy taxes and services fees.¹³⁴⁸ Moreover the two cities may enact regulations to implement federal laws when they are so authorised.¹³⁴⁹ As mentioned in chapter four, the proclamation is the highest statutory law that the

¹³⁴⁵ SNNPR Proclamation 103 (2006) Art 16 (1) (2) (2).

¹³⁴⁶ FDRE Proclamation 361 (2003) Art 14 (1); FDRE Proclamation 416 (2004) Art 12 (1).

¹³⁴⁷ FDRE Proclamation 416 (2004) Art 9 (1).

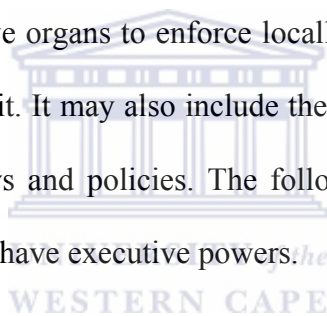
¹³⁴⁸ FDRE Proclamation 361 (2003) Art 14 (1); FDRE Proclamation 416 (2004) Art 12 (1).

¹³⁴⁹ FDRE Proclamation 361 (2003) Art 14 (2) (b); FDRE Proclamation 416 (2004) Art 12 (2) (b).

highest federal or regional legislative organ may enact.¹³⁵⁰ In principle, a proclamation enacted by either of the two cities may not be superseded by a contrary federal law so long the city enacted the proclamation on matters that are within its competences.¹³⁵¹ The power of the two federal cities to issue proclamations seems to emanate from fact that they have a status similar to the regional states.

2.5.5. Local government executive power

Executive power is important political power. Local executive power implies the establishment of executive organs which are run by locally elected or appointed officials who are also accountable to local representative councils. It also implies the power of these executive organs to enforce locally adopted laws and policies within the relevant local unit. It may also include the power to enforce regionally and nationally adopted laws and policies. The following sections will examine whether *woredas* and cities have executive powers.^{the}



2.5.5.1. Woreda

Woredas have executive powers under the regional constitutions. As indicated in chapter four, the executive power of a *woreda* is vested in its executive council and a *woreda* chief administrator who chairs the *woreda* executive council.¹³⁵²

The *woreda* chief administrator is elected by and from among members of the *woreda* council.¹³⁵³

¹³⁵⁰ See chapter 4; § 3.2.1. & 3.3.1.

¹³⁵¹ Fasil (1997) 82. See also the discussion in chapter 4; § 3.3.

¹³⁵² See chapter 4; § 6.5.2.

¹³⁵³ See chapter 4; § 6.5.2.

The *woreda* executive council, along with the *woreda* chief administrator, is charged with preparing a *woreda* development plan. The executive council is also tasked with ensuring the implementation of the development plan after it is approved by the *woreda* council. The *woreda* executive council is also responsible for executing regional and federal laws, regulations, and policies at *woreda* level.¹³⁵⁴

The regional constitutions provide that the *woreda* executive council is accountable to the *woreda* chief administrator and the *woreda* council.¹³⁵⁵ A *woreda* chief administrator in turn is accountable to the *woreda* council and the regional chief administrator.¹³⁵⁶

2.5.5.2. Urban local government

As indicated in chapter four, the city has a mayor and a mayoral committee as its executive organs.¹³⁵⁷ The mayor, who is generally elected from and among the

¹³⁵⁴ See chapter 4; § 6.5.2.

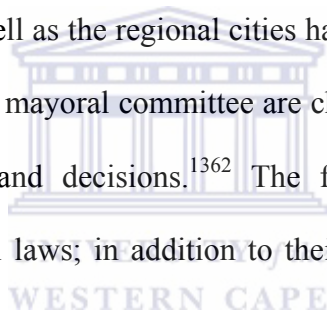
¹³⁵⁵ AfRS Constitution (2001) Art 82 (1); ARS Constitution (2001) Art 90 (1); BGRS Constitution (2002) Art 91 (1); GRS Constitution (2001) Art 94 (1); ORS Constitution (2001) Art 87 (1); SNNPR Constitution (2001) Art 97 (1); SRS Constitution 82 (2); TRS Constitution (2001) Art 79 (1).

¹³⁵⁶ AfRS Constitution (2001) Art 85(1); ARS Constitution (2001) Art 93 (1); BGRS Constitution (2002) Art 94 (2); GRS Constitution (2001) Art 97 (1); ORS Constitution (2001) Art 84 (1); SNNPR Constitution (2001) Art 100 (2); SRS Constitution 85 (1); TRS Constitution (2001) Art 82 (1).

¹³⁵⁷ FDRE Proclamation 416 (2004) Art 10 (2) (b) & (c); FDRE Proclamation 361 (2003) Art 10 (1) (b) & (c); AfRS Proclamation 33 (2006) Art 10 (2); ARS Proclamation 91 (2003) Art 9 (1) & (3); BGRS Proclamation 9 (2 & 3); ORS Proclamation 65 (2003) Art 12 (2) & (3); SNNPR Proclamation 103 (2006) Art 15 (2) (1) & (3).

members of the city council, chairs the mayoral committee.¹³⁵⁸ In Oromia, the mayor is appointed by the Regional President, not elected by a city council.¹³⁵⁹ It is unclear whether the Regional President is required to appoint the mayor from among members of a city council. The mayoral committee is accountable to the mayor while the mayor is in turn accountable to the city council and the regional chief administrator or, in case of federal cities, to the federal government.¹³⁶⁰ In Oromia, a mayor is accountable to the regional president, not to a city council. In this region, a mayor is required only to present his plans and reports to the relevant city council.¹³⁶¹

Both the federal cities as well as the regional cities have executive powers on city matters. The mayor and the mayoral committee are charged with the execution of a city council's policies and decisions.¹³⁶² The federal cities have residual executive power on federal laws; in addition to their original executive powers



¹³⁵⁸ FDRE Proclamation 416 (2004) Art 19, & 20 (1) & (2); FDRE Proclamation 361 (2003) Art 21 (1) & (2); AfRS Proclamation 33 (2006) Art 10 (2); ARS Proclamation 91 (2003) Art 18 (1); SNNPR Proclamation 103 (2006) Art 21 (1) (1); BGRS Proclamation 19.

¹³⁵⁹ ORS Proclamation 116 (2006) Art 7.

¹³⁶⁰ FDRE Proclamation 361 (2003) Art 21 (1); FDRE Proclamation 416 (2004) Art 20 (1); AfRS Proclamation 33 (2006) Art 10 (2); ARS Proclamation 91 (2003) Art 18 (2) & 21(5); BGRS Proclamation 18 (2) & 21 (5); SNNPR Proclamation 103 (2006) Art 21 (2) & 24 (9).

¹³⁶¹ Previously, like in the other regions, in Oromia, the mayor was elected by the relevant city council. He or she was also accountable to the city council as well as to the Regional President (see ORS Proclamation 65 (2003) Art 18 (1). The above change was introduced in 2006 through the amendment of the city proclamation of the region. It seems that the success of opposition parties in the 2005 elections in many cities of Oromia prompted the regional government to seek to control the executive organs of the cities in the region. ORS Proclamation 116 (2006) Art 7.

¹³⁶² FDRE Proclamation 416 (2004) Art 20 (1 & 2) & (22); FDRE Proclamation 361 (2003) Art 21 (1 & 2) & 23; AfRS Proclamation 33 (2006) Art 10 (2); ARS Proclamation 91 (2003) Art 19 & 22; BGRS Proclamation 19 & 22; ORS Proclamation 65 (2003) 18 & (21); SNNPR Proclamation 103 (2006) Art 22 & 24.

over matters within their competences.¹³⁶³ Thus, they may assume the responsibility of executing a federal law, within their jurisdictions, where the execution of the law does not clearly fall in the mandate of anyone of the federal ministries.¹³⁶⁴

2.5.6. Assessment

As discussed in chapter two full political powers are crucial for local autonomy. Political powers include the power to formulate policies on local matters, to plan the implementation of those policies, and to translate the policies into laws. However, it submitted that the policy making and legislative powers *woredas* are vague. Moreover, the development planning process distorts a local community's preferences. In addition, *woredas* and cities have compromised executive power.

2.5.6.1. Unclear policy making powers

The preceding discussion shows, the regional constitutions are ambiguous as to whether *woredas* may adopt their own policies on local matters. The silence of the regional constitutions on the policy making power of a *woreda* is a grave diminution of the political autonomy of the latter. The political power of a *woreda* will not be full without the power to formulate policies on local matters. Furthermore, *woredas* become able to create novel ideas and new methods of tackling communal developmental problems only when they may adopt original policies on matters within their competence. The absence of explicitly stated policy making power will reduce *woredas* into regional and national policy implementing agents, as opposed to autonomous levels of government. Moreover,

¹³⁶³ FDRE Proclamation 361 (2003) Art 14 (1); FDRE Proclamation 416 (2004) Art 12(1).

¹³⁶⁴ FDRE Proclamation 361 (2003) Art 11 (1); FDRE Proclamation 416 (2004) Art 9.

without the power to adopt policies, the significance of *woredas* as ‘laboratories’ of new ideas will be diminished.

One may argue that even if *woredas* had the constitutional power to formulate their own policies, it would make no significant practical difference. As was discussed earlier, the functional areas on which *woredas* may adopt policies are themselves unclear. Moreover, as will be discussed below, *woredas* do not have the necessary competent personnel to formulate policies.¹³⁶⁵ In addition, it was indicated in chapter four that, in practice, the federal government takes it upon itself to formulate all policies; even policies concerning local matters.¹³⁶⁶ The regional governments are rarely involved in policy formulation despite their constitutional power to do so; and let alone *woredas*.

It is submitted that *woredas*’ lack of capacity should not be used as an excuse to formally deprive them of the power to formulate *woreda*-specific policies. Regional governments should rather take measures to build the capacity of *woredas* so that they may formulate their own policies.

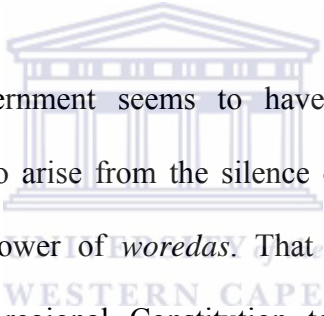
2.5.6.2. Vague legislative power

As was discussed above the regional constitutions are silent on whether a *woreda* may legislate on its social and economic matters. It may be argued that a *woreda* legislative power may be inferred from the omnibus provision which allows a *woreda* to exercise all powers to plan its economic development and social service provision and implement the same. However, a legislative power is such

¹³⁶⁵ See below at § 2.7.4.

¹³⁶⁶ Chapter 6; § 2.2.1.1.

an important political power that it should not be merely inferred from general constitutional principles, but explicitly stated. Furthermore, the absence of an explicit allusion to a *woreda's* legislative power on matters relating to development is problematic. It may be understood that a *woreda* council's legislative power is limited to regulating its own internal procedure of operation. Regional states, such as, Benishangul-Gumuz, have provided in regional proclamations that *woredas* may issue directives on matters within their competences. However, it is submitted that given the importance of legislative power as a political power, it should not be mere statutory power. It should rather be clearly stated in the regional constitutions.

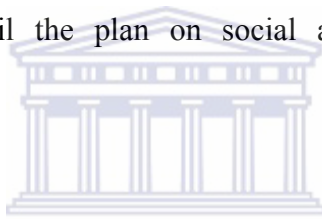


The Tigray regional government seems to have appreciated the potential confusion that was likely to arise from the silence of the region's Constitution regarding the legislative power of *woredas*. That must be why the regional government amended the regional Constitution to specifically indicate that *woreda* council may enact directives on *woreda* matters; even if the matters are not clearly defined. It is submitted that the other regional states should follow suit.

2.5.6.3. Compromised executive powers

Executive power is a critical manifestation of political autonomy. As indicated above, *woredas* and cities have executive organs that exercise certain executive powers. Nevertheless, it is argued that the autonomy of *woredas* and cities is vulnerable to regional and even zonal interference.

One of the manifestations of local government executive autonomy is the accountability of its executive branch to local government representative councils. Under the regional constitutions a *woreda* chief administrator is accountable not only to a *woreda* council but also to the regional president/chief administrator.¹³⁶⁷ The *woreda* chief administrator is also accountable to the zonal chief administrator if the *woreda* is found within a nationality zone. Similarly, the mayor of a city is accountable to the city council, to the regional chief administrator and, where applicable, to the nationality zone's chief administrator. In Oromia, the mayor is not even accountable to the city council but to the regional government. The mayor is required under that region's law only to submit to the city council the plan on social and municipal services for approval.¹³⁶⁸



The dual, in some cases triple, accountability of *woreda* chief administrators and mayors allows senior governments to interfere in the execution of the decisions and laws of a *woreda* council or a city council. It even allows regional and zonal governments to replace local decisions with their own. It also undermines the role of the local councils as the overseers of the performance of the local executive bodies. The situation is further compounded by the fact that all government structures in the country are controlled by either EPRDF or its affiliates. In most cases the regional chief administrators are the 'party bosses' of *woreda* chief administrators and mayors of cities. Thus, *woreda* chief administrators and mayors will naturally tend to give a more serious attention to

¹³⁶⁷ See chapter 4; § 6.5.2.

¹³⁶⁸ See chapter 4; § 6.5.2.

their accountability to their party bosses rather than to that of the local councils.¹³⁶⁹

Moreover, as was stated above, in Oromia, a city council is no longer authorised to elect a mayor. This power has been shifted to the regional president. Moreover, the mayor is rendered accountable to the Regional President. The decision to transfer the power to appoint a mayor of a city from a city council to the Regional President is a grave diminution to the autonomy of the cities in the region.¹³⁷⁰ It turns them into an administrative arm of the region.

3. FINANCIAL AUTONOMY

3.1.Introduction

The importance of local financial autonomy for decentralised development cannot be exaggerated. As Steytler notes, financial autonomy ‘defines whether local government [is] an order of government’.¹³⁷¹ The financial autonomy of local government can be guaranteed, primarily, by enabling it to raise its own revenue.¹³⁷² Where local government cannot raise sufficient internal revenue, and that is oftentimes the case, central transfers are used to finance local government’s activities.¹³⁷³ This section will deal with the issue of financial autonomy of local government in Ethiopia.

¹³⁶⁹ See Yilamz & Venugopal (2008).

¹³⁷⁰ ORS Proclamation 116 (2006).

¹³⁷¹ Steytler (2009) 419.

¹³⁷² See chapter 2; § 3.5.3.1.

¹³⁷³ See chapter 2; § 3.5.3.3.

3.2. Local finances under FDRE Constitution

The FDRE Constitution does not contain a list of local government taxes, nor does it mention how local government activities are financed. Yet, it prescribes that adequate powers must be transferred to local government. This constitutional prescription may be considered to impliedly require the transfer of adequate revenue to local government. The Constitution could not have required the devolution of ‘adequate’ powers to local government without sufficient revenue: The effective exercise of political powers cannot be possible without commensurate revenue. It may be, therefore, assumed that the FDRE Constitution implicitly requires the regional states to transfer adequate financial powers to local government.¹³⁷⁴

3.3. Local finances under regional constitutions and laws

The regional constitutions, city proclamations, and other laws speak about various sources of local government revenue. The sources of *woredas* are different from cities and municipalities. The sources of revenue of local government also vary from one region to another. In general, local government revenue in Ethiopia may be classified into taxes and fees, regional grants, and other sources.

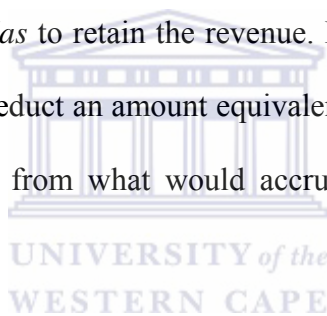
3.3.1. Taxes and fees

3.3.1.1. Woreda taxes and fees

The regional constitutions are silent regarding *woreda's* taxes except that they authorise *woredas* to collect (not to decide on the rate of) certain taxes. As was discussed in chapter three, land use fees and agricultural income tax including royalties on the use of forests are designated as regional taxes under the federal

¹³⁷⁴ See Solomon (2006).

Constitution.¹³⁷⁵ The regions have retained for themselves the power to determine the rate of these taxes under the regional constitutions. However, they have transferred to *woredas* the responsibility to assess and collect these taxes and fees.¹³⁷⁶ To that effect, the regional states have enacted rural land use fee and agricultural income tax proclamations in which they have determined the rates of these taxes.¹³⁷⁷ The involvement of the *woredas* in connection with land use fees and agricultural income tax is limited to assessing and collecting the taxes and fees.¹³⁷⁸ *Woredas* collect these taxes on the regional states' behalf. As rule, *woredas* are required to transfer a certain percentage of the revenue that they collect from these taxes to the regional government.¹³⁷⁹ However, in practice, the regional states allow *woredas* to retain the revenue. Instead, as will be discussed below, the regional states deduct an amount equivalent to the revenue the *woreda* collected from these taxes from what would accrue to it in form of regional grants.¹³⁸⁰



¹³⁷⁵ See chapter 4; § 3.5.

¹³⁷⁶ As was discussed in chapter 3 rural and urban lands were nationalised by the *Derg* in 1970s. Since then, land remains under the ownership of the state. Under the FDRE Constitution it is clearly stated that the 'right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia'. Thus, one pays a land use fee as a possessor of a piece of land not as an owner. See chapter 3; § 6.2. See also FDRE Constitution (1995) Art 40 (3).

¹³⁷⁷ ARS Proclamation 30 (1998) Art 15; ARS Proclamation 30 (1998) Art 19; SNNPR Proclamations 122 (2008) Art 15 (4); See ORS Proclamation 8 (1992) and ORS Proclamation 64 (2002) Art 18; TRS Proclamation 136 (2008).

¹³⁷⁸ ARS Constitution (2001) Art 86 (2) (f); AfRS Constitution (2001) Art 77 (2) (f); SRS Constitution (2001) Art 77 (2) (h); GRS Constitution (2001) Art 90 (2) (f); ORS Constitution (2001) Art 79 (2) (g); SNNPR Constitution (2001) Art 93 (2) (f); BGRS Constitution (2002) Art 87 (2) (f); TRS Constitution (2001) Art 74 (2) (f).

¹³⁷⁹ Garcia & Rajkumar (2008) 66.

¹³⁸⁰ Garcia & Rajkumar (2008) 66.

In addition, the regional constitutions provide that a *woreda* may identify and utilise a source of revenue that is not being utilised by a regional government.¹³⁸¹ However, it is unclear what this means. It may mean that a *woreda* may impose and collect a state tax where the regional state has not begun to utilise the particular tax. If this is what the regional constitutions mean, it is of no use as there is no state tax that the regional states have not begun utilising.¹³⁸² The above provision may also be interpreted to mean that a *woreda* may create a new tax which does not fall under the authority of the federal or the regional governments and collect revenue therefrom. However, this would be an incorrect interpretation because a *woreda* may not assume the authority to impose and collect undesignated taxes as there is a constitutional procedure in accordance with which an undesignated tax is designated as either a federal, state, or concurrent tax.¹³⁸³ Therefore, the regional constitutional provision which allows *woredas* to impose and collect taxes that are not utilised by regional governments seems to be meaningless.

Certain regional proclamations authorise the *woreda* to collect income taxes from its employees and employees of enterprises that it owns and administers. Under these proclamations, a *woreda* is also authorised to collect income tax from

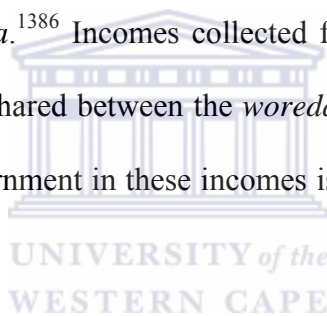
¹³⁸¹ ORS Constitution (2001) Art 79 (2) (h); GRS Constitution (2001) Art 90 (2) (g); SNNPR Constitution (2001) Art 93 (2) (g); BGRS Constitution (2002) Art 87 (2) (g); ARS Constitution (2001) Art 86 (2) (g); AfRS Constitution (2001) Art 77 (2) (g); SRS Constitution (2002) Art 77(2) (i); TRS Constitution (2001) Art 74 (2) (g).

¹³⁸² Solomon (2008) 145.

¹³⁸³ See chapter 4; § 3.5.1.

employees of enterprises which are licensed by the *woreda* and to collect certain taxes from small traders, and traditional minors.¹³⁸⁴

The *woreda* is also authorised to collect user fees from libraries, clinics, and community halls. It is also entitled to collect license fees, from irrigation schemes, water-wells, and fees for registration of birth, death, marriage, and divorce.¹³⁸⁵ Some regional states have also introduced a scheme of tax-sharing between themselves and *woredas* within their jurisdiction. For instance, in Tigray and Benishangul-Gumuz, a *woreda* is entitled to take a certain percentage of the income collected from land leased for and income tax collected from commercial agriculture within a *woreda*.¹³⁸⁶ Incomes collected from tourists visiting certain sites in a *woreda* are also shared between the *woreda* and the regional state. The share of each level of government in these incomes is determined by the regional state.¹³⁸⁷



3.3.1.2. Urban local government taxes and fees

The most important taxes and fees that cities and municipalities may collect are urban land lease fees, land use fees, municipal user charges, and payment for municipal services.¹³⁸⁸ The municipal user charges and payment for municipal

¹³⁸⁴ See BGRS Proclamation 86 (2010) Art 88; TGR Proclamation 99 (2006) Art 39.

¹³⁸⁵ See BGRS Proclamation 86 (2010) Art 89; TGR Proclamation 99 (2006) Art 39. See also Yilmaz (2008).

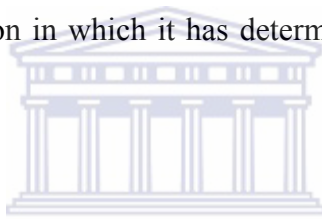
¹³⁸⁶ See BGRS Proclamation 86 (2010) Art 91; TGR Proclamation 99 (2006) Art 43. See also Yilmaz (2008).

¹³⁸⁷ See BGRS Proclamation 86 (2010) Art 91; TGR Proclamation 99 (2006) Art 43. See also Yilmaz (2008).

¹³⁸⁸ AfRS Proclamation 33 (2006) Art 20 (1); ARS Proclamation 91 (2003) Art 49 (1); BGRS Proclamation 69 (2007) Art 42; ORS Proclamation 65 (2003) Art 37; SNNPR Proclamation 103 (2006) Art 43 (1).

services include: ‘market fee, sanitary service, slaughter houses, fire brigade services, mortuary and burial services, registration of birth and marriage, building plan approval, property registration and surveying, and use of municipal equipment, transport or employees’.¹³⁸⁹ The city also has the authority to collect rentals from government-owned houses.

In theory, cities and municipalities have full authority to assess and impose the fees mentioned above and to retain and use the revenue collected therefrom. However, in practice cities and municipalities do not seem to exercise full authority over these taxes. For instance, the Tigray government has issued an extremely detailed regulation in which it has determined the rates for municipal service fees.¹³⁹⁰



Revenue collected from municipal service charges is reserved to finance the municipal functions of an urban local government; not state functions.¹³⁹¹ However, cities are often required to re-direct revenue which is generated from municipal service to finance their state functions which are generally underfunded.¹³⁹²

3.3.1.3. Addis Ababa and Dire Dawa

The charters of Addis Ababa and Dire Dawa contain long lists of taxes that the two cities may impose and collect. In terms of revenue, the two cities, especially Addis Ababa, are in a by far better position compared to other cities.

¹³⁸⁹ Yilmaz & Venugopal (2008) 21.

¹³⁹⁰ See TRS Regulation 6 (1998).

¹³⁹¹ Werner and Nguyen-Thanh (2007) 17.

¹³⁹² Werner and Nguyen-Thanh (2007) 17.

Table 4. Revenue collected by Addis Ababa and Dire Dawa city governments in Birr (in millions (in Birr))

Year	Addis Ababa	Dire Dawa
2005/06	2770.876	34.288
2006/07	2349.42	58.60
2007/08	2976.00	72.68
2008/09	4202.54	102.24
2009/10	4690.78	140.21

Source: Ministry of Finance and Economic Development (2011)

Addis Ababa covers close to 97 percent of its expenditure from its internal revenue and it receives no block grant from the federal government.¹³⁹³

Moreover, as the above Table shows, the internal revenue of the two cities has increased significantly over the past years. For instance, Addis Ababa's internal revenue has risen by 70 percent between the year 2005 and 2010.

The internal revenue sources of the two cities include the following.¹³⁹⁴

- Income tax from government employees working in the cities.¹³⁹⁵
- Tax on income earned from urban agricultural activities.
- Profit, excise and turnover taxes on individual traders (as opposed to companies) operating in the city and public enterprises which are owned by the city government.

¹³⁹³ Garcia & Rajkumar (2008).

¹³⁹⁴ See FDRE Proclamation 361 (2003) Art 52 & FDRE Proclamation 416 (2004) Art 43.

¹³⁹⁵ Addis Ababa is territorially found with the Oromia regional state. The Oromia regional government uses the City as its seat. Many regional government offices of the Oromia region including the office of the regional president are found in the City. The City ,may not collect income tax from those who work in the offices of Oromia.

- VAT which is collected by the federal government from individual traders in the cities, and from enterprises that are owned by the city government.
- Urban land lease and use fees
- Property rates.
- Capital gains tax on properties in the city.
- Tax on income earned from rented houses and buildings.
- Stamp duties on contracts, agreements, as well as title deed executions.
- User charges from vehicles in the city.
- Royalties on the use of forest resources in the city.
- Services charges on municipal services.
- Tax on income earned from patent rights.

3.4. Inter-governmental fiscal transfers to rural local government

Local government receives revenue directly from the regional states or nationality zones or indirectly from the federal government. The revenue that comes to local government in the form of inter-governmental revenue transfers may take the form of either unconditional block grants or specific purpose grants (SPG).

3.4.1. Block grants

3.4.1.1. Woreda

Block grants are the most vital source of revenue for *woredas*.¹³⁹⁶ They cover the lion's share of a *woreda's* budget. As mentioned above a *woreda* receives block grants directly from a regional government where the *woreda* is outside the jurisdiction of a nationality zone. Where the *woreda* is found within a nationality zone the block grants are channeled to the *woreda* via that nationality zones.

¹³⁹⁶ Garcia & Rajkumar (2008) 18.

The policy to transfer unconditional block grants to *woredas* was adopted in 2001 when the DLDP was launched.¹³⁹⁷ The four highland regions first introduced a scheme of block grants and the other regions followed suit.¹³⁹⁸ The constitutional foundation of *woreda* block grants is unclear. Given the federal system, the federal government does not seem to have the authority or the duty to directly finance local government. It is, therefore, up to the regional states to finance local government through inter-governmental transfers. The regional constitutions, however, are silent on whether local government is entitled to regional revenue transfers. The regional constitutions vaguely hint that the regional governments may allocate a certain amount to *woredas*.¹³⁹⁹ Certain regional proclamations also provide that the regional states may extend financial assistance to *woredas*.¹⁴⁰⁰ However, it is not clear what form this ‘financial assistance’ takes and whether the regional states are legally obligated to provide such assistance. Put differently, it does not seem that *woredas* are constitutionally entitled to regional block grants.

Block grants are, in principle, unconditional grants. Therefore, *woredas* are free to use these grants for any purpose they deem necessary.¹⁴⁰¹ In particular, block grants are intended to cover the *woreda*’s recurrent and capital expenditure for

¹³⁹⁷ See chapter 4; § 5.3.4.

¹³⁹⁸ Garcia & Rajkumar (2008) 22-23.

¹³⁹⁹ ORS Constitution (2001) Art 79 (2) (h); GRS Constitution (2001) Art 90 (2) (g); SNNPR Constitution (2001) Art 93 (2) (g); BGRS Constitution (2002) Art 87 (2) (g); ARS Constitution (2001) Art 86 (2) (g); AfRS Constitution (2001) Art 77 (2) (g); SRS Constitution (2002) Art 77 (2) (i); TRS Constitution (2001) Art 74 (2) (g).

¹⁴⁰⁰ See for instance BGRS Proclamation 86 (2010) Art 93 (1); TGR Proclamation 99 (2006) Art 56 (1).

¹⁴⁰¹ MoFED (2002) 138.

education, health care, agricultural extension services, rural roads, and the like.¹⁴⁰²

As was mentioned above block grants cover a significant portion of *woredas*'s annual budget. As the table below shows, in Tigray more than 60 percent of *woreda* budget is covered by regional block grants. In Oromia the regions block grants cover up to 81 percent of *woredas*' budget.

Table 5. Percentages of *woreda* budget covered by block grants

Year	Amhara	SNNPR	Oromia	Tigray
2006/07	86%	-		-
2008/09	78.4%	77.7%	76.1%	61.8%
2009/10	78.2%	73.3%	81%	57.6%

Source: Ministry of Finance and Economic Development (2010)

Similarly in SNNPR up to 77 percent of same is covered by block grants while in Amhara up to 86 percent of *woreda* budget is covered by regional block grants.

Table 6. Block grant transferred to *woredas* (in millions (in Birr))

Year	Amhara	SNNPR	Oromia	Tigray
2005/06	-	852.106	1819.24	493.74

¹⁴⁰² Yilmaze & Venugopal (2010) 22.

2006/07	2497.171	-	2,688.20	-
2008/09	2936.29	2121.33	3,133.63	769.44
2009/10	2714.2	2529.4	3619.3	839.48

Source: Ministry of Finance and Economic Development (2010)

Moreover, as can be gathered from the table above, the revenue that *woredas* receive in form of block grants has increased significantly over years. In SNNPR the block grants to *woredas* shows a 196 percent increase in the years between 2005 and 2010. In Tigray the regional block grants increased by more than 70 percent during the same years. Likewise, in Oromia the block grant that *woredas* receive has risen by more than 98 percent.

Vertical division of block grants

As stated above there is no clear constitutional instruction for the regional states to transfer revenue to *woredas*. Therefore it is unclear what percentage of its budget a regional state is expected to transfer as block grants to *woredas* within its jurisdiction. In practice a regional state sets aside not less than 50 percent of its annual revenue as block grants to *woredas*.¹⁴⁰³ Up to 66 percent of the total budget of Amhara regional state is set aside as *woreda* block grant. In Tigray and Oromia, the share of *woreda* block grants in the regional budget is up to 60.5 and 52 percents, respectively.¹⁴⁰⁴ The SNNPR regional government reserves up to 80

¹⁴⁰³ Garcia and Rajkumar (2008) 24.

¹⁴⁰⁴ Garcia and Rajkumar (2008) 24.

percent of its annual budget (which is the highest compared to the other regions) as *woreda* block grants.¹⁴⁰⁵

As a study by Garcia and Rajkumar shows, *woredas* may even take the lion's share of some sectors' budgets. For instance, in the four highland regions *woredas* administer from 80 to 65 percent of the regional recurrent spending for education and health, respectively.¹⁴⁰⁶

Horizontal division of block grants

The amount that each *woreda* is entitled to receive in the form of a block grant (horizontal division) is determined on the basis of a preset formula. Each region is entitled to use any formula it deems fit to allocate block grants to the *woredas*.¹⁴⁰⁷

In practice, the regional states use the 'three parameters formula', the 'unit cost formula' or the 'fiscal equalisation formula' to allocate block grant to each *woreda* within their jurisdiction.¹⁴⁰⁸

The 'three parameter formula' uses population size, level of development and own revenue of a *woreda* to calculate the share of the *woreda* in the block grant.¹⁴⁰⁹ This formula was criticised as unfair and unresponsive to service delivery needs of *woredas*. The 'unit cost formula', on the other hand, takes the cost of providing a given service for a given individual in a *woreda* and multiplies it by the number of individuals who receive the service in the *woreda*. This formula is criticised for incorrectly assuming that the cost of providing a given

¹⁴⁰⁵ Garcia and Rajkumar (2008) 24.

¹⁴⁰⁶ Garcia and Rajkumar (2008) 35.

¹⁴⁰⁷ MoFED (2006) 61.

¹⁴⁰⁸ For detailed discussion on the formulas see Garcia & Rajkumar (2008) 91-95.

¹⁴⁰⁹ For a detailed discussion on see Garcia and Rajkumar (2008).

service is equal in all *woredas* in a particular region. To correct this, the ‘fiscal equalisation formula’ was introduced in a number of regional states. The fiscal equalisation formula, while principally similar to the unit cost formula, attempts to take into account the actual unit cost of providing a particular service in a particular *woreda*. It should be borne in mind that these are mere formulae for determining the amount a *woreda* is entitled to receive. Regardless of the formula used, the revenue is a block grant and a *woreda* is at liberty to spend the revenue as it sees fit.

Once the amount due to a *woreda* is determined by using one of these three formulae, an amount equivalent to what a *woreda* has collected in the form of land use and agricultural income taxes is deducted.¹⁴¹⁰ The remaining amount is transferred directly to the *woreda*. The block grants are directly transferred to a nationality zone when a *woreda* is found within a nationality zone. The nationality zone then transfers the revenue to the *woredas* within its jurisdiction after making the necessary adjustment.¹⁴¹¹

3.4.1.2.Grants for cities

Transferring regional grants to cities is a relatively new development.¹⁴¹² The regional states began transferring grants to cities after the restructuring of some of the municipalities as cities with the status of a *woreda*. The city proclamations of Amhara and Benishangul-Gumuz provide that cities will receive block grants

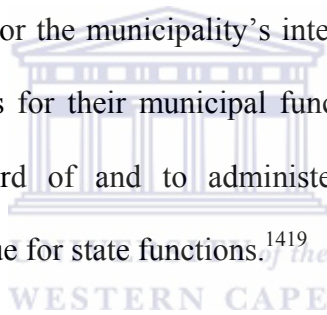
¹⁴¹⁰ Garcia & Rajkumar (2008).

¹⁴¹¹ Garcia & Rajkumar (2008) 91-95.

¹⁴¹² Werner and Nguyen-Thanh (2007) 16.

from the regional government.¹⁴¹³ The Oromia and SNNPR proclamation provide that cities will receive subsidies, not necessarily block grants, from the regional government.¹⁴¹⁴ The practice, however, is that cities are not treated in the same manner as the rural *woredas* despite having the same status. In most cases, the grants for a city are not formula-based, nor do they take the form of a block grant.¹⁴¹⁵ Rather, the grants are determined on an ‘*ad hoc*’ basis with a view to financing the recurrent costs of the state functions of the cities.¹⁴¹⁶ The exception is SNNPR, where cities receive formula based block grants.¹⁴¹⁷

Moreover, the municipal functions of cities and municipalities are expected to be fully covered by the city’s or the municipality’s internal revenue.¹⁴¹⁸ Therefore, cities do not receive grants for their municipal functions. They are required to keep the accounting record of and to administer their municipal revenue separately from their revenue for state functions.¹⁴¹⁹



3.4.2. Specific-purpose grants (SPGs)

Special-purpose grants (SPG) are further sources of revenue for *woredas*.¹⁴²⁰ The federal government or donors finance specific projects of *woredas* through SPGs. Programmes that are designed by the federal government, including food security

¹⁴¹³ ARS Proclamation 91 (2003) Art 49 (1) (b); BGRS Proclamation 69 (2007) Art 42 (b); ORS Proclamation 65 (2003) Art 37 (4); SNNPR Proclamation 103 (2006) Art 43 (1) (2).

¹⁴¹⁴ ARS Proclamation 91 (2003) Art 49 (1) (b); BGRS Proclamation 69 (2007) Art 42 (b); ORS Proclamation 65 (2003) Art 37 (4); SNNPR Proclamation 103 (2006) Art 43 (1) (2).

¹⁴¹⁵ Garcia and Rajkumar (2008) 24.

¹⁴¹⁶ Garcia and Rajkumar (2008) 24.

¹⁴¹⁷ Garcia and Rajkumar (2008) 24.

¹⁴¹⁸ Werner and Nguyen-Thanh (2007) 16; Tegene & Kassahun (2007) 32.

¹⁴¹⁹ Werner and Nguyen-Thanh (2007) 16.

¹⁴²⁰ Garcia and Rajkumar (2008) 38.

programme, productive safety net programme, public service capacity building programme (PSCAB), road fund, and HIV/AIDS programme, are budgeted for and funded by the federal government.¹⁴²¹ These programmes are executed by the regional governments together with local government. For the purpose of executing these programmes, the federal government transfers SPGs to the regional governments. The regional governments in turn transfer the SPGs to local government. More than half of what *woredas* receive in the form of SPGs is allocated for food security related programmes including agricultural extension and resettlement programmes.¹⁴²²

The federal government also finances specific projects which are undertaken in Addis Ababa and Dire Dawa and which have national relevance.¹⁴²³ The federal government may also financially assist the two federal cities in order to enable them to discharge their responsibilities.¹⁴²⁴

3.4.3. Other sources of revenue

3.4.3.1. Sales of assets

In some regions *woredas* are allowed to collect revenue from the sale of assets. The assets that may be sold may include movable and immovable properties (other than land) under the ownership of a *woreda*, building materials such as sand, stones, and woods.¹⁴²⁵

3.4.3.2. Revenue from business activities

¹⁴²¹ Garcia and Rajkumar (2008) 38.

¹⁴²² Garcia and Rajkumar (2008); 38.

¹⁴²³ FDRE Proclamation 416 (2004) 46 (1) & FDRE Proclamation 321 (2003) Art 55 (1).

¹⁴²⁴ FDRE Proclamation 361 (2003) Art 55 (1) & FDRE Proclamation 416 (2004) Art 46 (1).

¹⁴²⁵ BGRS Proclamation 86 (2010) 90; TRS Proclamation 99 (2006) Art 41.

Cities are authorised to receive income from certain business activities, including public enterprises under their ownership. They are also legally authorised to engage in other income generating activities by entering into contracts and, for instance, by engaging in investment activities.¹⁴²⁶

3.4.3.3. Borrowing

The regional constitutions are completely silent on whether a *woreda* may borrow. The regional proclamations of the Tigray and Benishangul-Gumuz regions provide that a *woredas* may borrow if so authorised by the regional governments.¹⁴²⁷ The city proclamations also allow cities to borrow from various sources. According to SNNPR Proclamation No 103 (2006), an urban administration may borrow.¹⁴²⁸ In the Oromia also, cities are allowed to borrow from the federal and regional governments', a city fund or other financial institution to finance their capital expenditure.¹⁴²⁹ In the Amhara region, a city may borrow from internal sources with the permission of the regional government.¹⁴³⁰ Proclamation 69 (2007) of the Benishangul-Gumuz region also provides that a city may borrow.¹⁴³¹ The two federal cities are also authorised to take short term and long term loans from domestic sources with the authorisation of the federal government.¹⁴³² They may do so provided that their primary function of services delivery will not be endangered.¹⁴³³ The two cities may

¹⁴²⁶ FDRE Proclamation 361 (2003) Art 53 & FDRE Proclamation 416 (2004) Art 45.

¹⁴²⁷ BGRS Proclamation 86 (2010) Art 94 & TGRS Proclamation 99 (2006) Art 42.

¹⁴²⁸ SNNPR Proclamation 103 (2006) Art 43 (1) (3).

¹⁴²⁹ ORS Proclamation 65 (2003) Art 37 (6 & 7).

¹⁴³⁰ ARS Proclamation 91 (2003) Art 8 (2) (m).

¹⁴³¹ BGRS Proclamation 69 (2003) Art 42 (2).

¹⁴³² FDRE Proclamation 361 (2003) Art 54 (1) & FDRE Proclamation 416 (2004) Art 45 (1)

¹⁴³³ FDRE Proclamation 361 (2003) Art 54 & FDRE Proclamation 416 (2004) Art 45.

borrow directly or by selling bonds.¹⁴³⁴ Furthermore, the Addis Ababa city government may request the federal government to borrow money from international sources on its behalf.¹⁴³⁵

Despite the above, there is still some confusion regarding the power of local government to borrow. As was discussed in chapter four, the FDRE Constitution provides that the regional states may borrow money from ‘domestic sources’ under the conditions stipulated by the federal government.¹⁴³⁶ It is, therefore, unclear whether the regional states may authorise local government to borrow, considering the fact that their own power to borrow is curtailed. Even if the regional states could authorise local government to borrow it is also unclear whether the authorisation of the regional governments would suffice. There is a legal uncertainty in this respect. As some studies indicate, the legal uncertainty pertaining to borrowing by urban local government has discouraged financial institutions from extending loans to it.¹⁴³⁷

An additional point is that, in Ethiopia all financial institutions require security in the form of a ‘disposable asset’ or a guarantee for any lending they make.¹⁴³⁸ Nonetheless, neither the federal government nor the regional governments are legally required to provide guarantees for the loans that an urban local government may take. Thus, it is for the lender to assess the creditworthiness of the cities. Most financial institutions however do not view cities as creditworthy.

¹⁴³⁴ FDRE Proclamation 361 (2003) Art 54 (1) & FDRE Proclamation 416 (2004) Art 45 (1)

¹⁴³⁵ FDRE Proclamation 361 (2003) Art 54 (3).

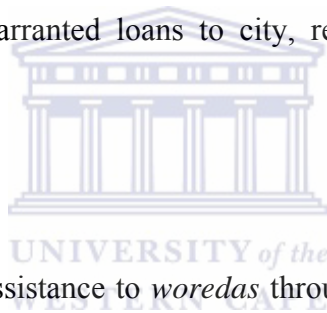
¹⁴³⁶ FDRE Constitution (1995) Art 51 (7).

¹⁴³⁷ Werner and Nguyen-Thanh (2007) 29.

¹⁴³⁸ Werner and Nguyen-Thanh (2007) 30.

Therefore they do not extend loans to cities unless either the federal or regional governments guarantee the loans.¹⁴³⁹ As a consequence, cities and municipalities are unable to finance certain capital expenditure by borrowing from financial institutions.

It is submitted that there should be a clear legal framework regulating when, from whom, and how much cities may borrow. It is, however, a prudent decision from the part of the regional and federal government not to guarantee local government's loan. As was discussed in chapter two, the expectation that regional or federal government would guarantee such loans will encourage financial institutions to extend unwarranted loans to city, resulting in what Shah calls 'financial perversity'.¹⁴⁴⁰



3.4.3.4. Donors funds

Donors provide financial assistance to *woredas* through direct budget support or by financing specific projects. After the dispute relating to the 2005 national elections, many donors ceased to assist the federal government with direct budget support. However, with a view to ensuring the continuation of basic service delivery, more than 12 donors¹⁴⁴¹, along with the World Bank designed a Protection of Basic Services (PBS) project.¹⁴⁴² The aim of the project was to provide direct budgetary assistance to regional and local government (as opposed

¹⁴³⁹ Werner & Nguyen-Thanh (2007) 30.

¹⁴⁴⁰ See chapter 2; § 3.5.3.2.

¹⁴⁴¹ These include African Development Bank (AfDB), Austria, Canada International Development Agency, (CIDA), DFID, European Commission (EC), Irish Aid, Italy, Netherlands, Kreditanstalt fuer Wiederaufbau (KfW(German Development Bank)) Spain, and the World Bank. World Bank (2006) 3.

¹⁴⁴² Spielman *et al* (2008) 7.

to the federal government) to ensure ‘basic services’ delivery, and that the country meets the MDGs.¹⁴⁴³ In addition, donors finance various projects in different regions.¹⁴⁴⁴ For instance, some 18 cities in the Amhara, Oromia, SNNPR, and Tigray regional states have donor’s funded Municipal Infrastructure Investment Plans which cover infrastructure such as, water, roads, drainage, sanitation, and solid waste management.

3.4.3.5. Public Contribution

It is widely reported that *woredas* and *kebeles* often take contributions in kind, in cash, or in labour from local residents for building schools, roads, markets, health posts, and the like.¹⁴⁴⁵ *Kebele* and sub-*kebele* level institutions play an important role in mobilising the local community for development related activities. However, the collection of public contributions does not seem to be well regulated. Moreover the public contributions are not well ‘quantified’ or documented.¹⁴⁴⁶ It is not possible to adequately assess the community contribution for local developmental purposes. In addition, some reports show that local communities are often pressurised to contribute.¹⁴⁴⁷

3.5. Budgeting and expenditure authority

3.5.1. Introduction

As was discussed in chapter two, financial autonomy includes expenditure autonomy. Expenditure autonomy finds practical expression in the budgeting

¹⁴⁴³ World Bank (2006) 3.

¹⁴⁴⁴ Garcia and Rajkumar (2008).

¹⁴⁴⁵ World Bank (2004) 10; Yilmaz & Venugopal (2010) 17.

¹⁴⁴⁶ Yilmaz & Venugopal (2010) 18.

¹⁴⁴⁷ Yilmaz & Venugopal (2010) 18.

power of local government. The following sections will examine whether *woredas* and cities have budgeting and expenditure power.

3.5.2. Budgeting power of *woredas* and cities

Until 2001 *woredas* did not have the authority to approve their own budgets. Their budgets were rather decided by the regional governments.¹⁴⁴⁸ With the launch of the second phase decentralisation, *woredas* and cities were authorised to prepare and implement their own social and economic development plans consistent with the national and regional development policies and plans. Concomitant with this power, *woredas* and cities were empowered to decide on their expenditure preferences which find expression in their budget. To this effect, all regional government constitutions and city proclamations as well as the charters of Addis Ababa and Dire Dawa, provide that *woredas* and cities have the power to prepare and adopt their budgets.¹⁴⁴⁹

3.5.3. Budget preparation

There is no clear legal procedure for the preparation and adoption of a budget at *woreda* and city level.¹⁴⁵⁰ According to manuals prepared by MoFED, the budget preparation forms part of the planning process.¹⁴⁵¹ Hence it begins with identifying expenditure priorities.¹⁴⁵² This is conducted based on the budget needs

¹⁴⁴⁸ Solomon (2008) 145.

¹⁴⁴⁹ ARS Constitution (2001) Art 86 (2) (g); AfRS Constitution (2001) Art 76 (2) (g); SRS Constitution (2001) Art 77 (2) (i); GRS Constitution (2001) Art 90 (2) (a); ORS Constitution (2001) Art 79(2) (h); SNNPR Constitution (2001) Art 93(2) (a); BGRS Constitution (2002) Art 87(2) (a); TRS Constitution (2001) Art 74 (2) (g); SNNPR Proclamation 103 (2006) Art 17 (2) (10); ARS Proclamation 91 (2003) Art 8(2) (y); AfRS Proclamation 33 (2006) Art 10 (6); BGRS Proclamation 69 (2007) Art 41 (1); ORS Proclamation 65 (2003) Art 8 (2) (b).

¹⁴⁵⁰ Yilmaz & Venugopal (2010) 22.

¹⁴⁵¹ For the discussion on planning see above at § 2.5.3.1.

¹⁴⁵² MoFED (2010) 6.

of each sectoral and sub-sectoral office. Each sectoral and sub-sectoral office of a *woreda* or a city prepares a budget request in which it describes its plans, the activities it is going to undertake and the amount of revenue that it needs for undertaking the planned activities.¹⁴⁵³ This budget request is submitted to a *woreda* developmental committee. This committee consolidates and makes the necessary adjustments and submits it to the *woreda* council for approval.¹⁴⁵⁴ The *woreda* council or city council has the final say on the budgets of the *woreda* and the city respectively.¹⁴⁵⁵

3.5.4. The legal status of an approved budget

The other related issue to budgeting and expenditure is the legal status that an approved *woreda* or city budget assumes. The issue is whether a *woreda* or a city budget is approved as a policy, a by-law, or a directive. The regional constitutions are silent on this matter. Practice at federal and regional level shows that a budget is approved as a proclamation which is the highest statutory law next to the federal and regional constitutions.¹⁴⁵⁶ A federal or regional budget is also published in a gazette on which a federal or a regional law is published. Accordingly, a federal budget is published as a proclamation in the Federal Negari Gazette.¹⁴⁵⁷ If the same procedure is followed at local level, it can be assumed that is the case, a *woreda* or a city budget may be approved as a proclamation, regulation, directive, or by-law depending on the designation that the legislation of the council of a particular local unit takes. Hence, the Addis

¹⁴⁵³ MoFED (2010) 6.

¹⁴⁵⁴ MoFED (2010) 6.

¹⁴⁵⁵ MoFED (2010) 6.

¹⁴⁵⁶ See chapter 4; § 3.2.1.1 & 3.3.1.

¹⁴⁵⁷ See for instance FDRE Proclamation 578 (2008).

Ababa and Dire Dawa city governments adopt their budget as a proclamation since the two cities have the power to enact proclamations.¹⁴⁵⁸ The regional cities may approve their budget as directive.¹⁴⁵⁹

3.6.Assessment

The financial powers of local government are assessed as follows.

3.6.1. No adequate *woreda* taxes and fees

In chapter two, it was emphasised that internal revenue is critical for a local government which aims to achieve development. The transfer of revenue from central government should be used only to minimise fiscal imbalances and for the purpose of redistribution. This helps shield the political autonomy of local government and ensure downward accountability of local authorities.¹⁴⁶⁰

However, in Ethiopia *woredas* have no clear taxing power. Land use fees, agricultural income taxes, and income taxes from employees of *woredas* are generally considered as the main sources of own revenue for *woredas*. There are a number of concerns regarding these taxes and fees. First, these taxes cannot be considered as internal sources of revenue for a *woreda* as the *woreda* does not have full authority on these taxes. As discussed in chapter two, full authority over a tax includes controlling the tax rates and collecting and spending the revenues for purposes that a local government unit deems necessary.¹⁴⁶¹ As the foregoing discussion reveals, the *woreda* does not determine the tax rate. Moreover, the

¹⁴⁵⁸ See above at § 2.5.4.2.

¹⁴⁵⁹ See above at § 2.5.4.2.

¹⁴⁶⁰ See chapter 2; 3.5.3.1.

¹⁴⁶¹ See chapter 2; 3.5.3.1

revenue a *woreda* collects from land use fees and agricultural income tax is ‘offset’ against its share in the regional block grants.¹⁴⁶² Land use fees and agricultural income taxes cannot thus be considered as internal sources of revenue for *woredas*.

According to Solomon, the lack of skilled manpower at the *woreda* level is what is keeping the regional states from assigning taxes to *woredas*.¹⁴⁶³ The other and the more important concern is the wide inequality that exists among *woredas*.¹⁴⁶⁴ Some are affluent while others are poor. The regional states are concerned that assigning taxes to *woredas* will perpetuate this inequality. This concern is a legitimate one. The regional states have the responsibility to ensure equitable development among the *woredas*. While maintaining equity is necessary, the regional states cannot, however, expect a complete equality among all *woredas* and cities. A certain level inequality should be tolerated. Moreover, the regional states should use other means to maintain equity. The block grant can be used to maintain a level equity among local government units. Moreover, equalisation grants may serve the same purpose. It is not prudent to deny all *woredas* taxing power in the name of equity.

As was indicated above *woredas* are authorised to collect fees from users of *woreda* libraries, clinics, community halls, irrigation schemes, water-wells, and fees for registration of birth, death, marriage, and divorce. The *woreda* is a rural local government unit. Not most cities, let alone rural *woredas*, keep a record of

¹⁴⁶² Garcia and Rajkumar (2008) 92.

¹⁴⁶³ Solomon (2008) 145.

¹⁴⁶⁴ Solomon (2008) 145.

births, deaths, marriages and divorces. Moreover, in general, rural communities do not have births, deaths, marriages, and divorces recorded. It will be also hard to find even a single library in most *woredas*. It is, therefore, questionable whether a *woreda* can collect a significant amount of revenue from these sources.

In addition, records show that the revenue that *woredas* collect from agricultural income taxes, land use fee, and the like is negligible. In Amhara, Oromia, and SNNPR, the three biggest highland regions, *woredas* collect less than 30 percent of their total revenue from internal sources (land use fees and agricultural income taxes included).¹⁴⁶⁵ Moreover, *woredas* do not have the incentive to vigorously collect revenue from these taxes. This is because the regional states deduct from the regional grants an amount equivalent to what a *woreda* has collected from these taxes.¹⁴⁶⁶

3.6.2. Inadequate block grants

There are two important points regarding *woreda* block grants. First, *woreda* block grants make up a significant proportion of each region's annual budget. As indicated earlier, the four highland regions set aside not less than 60 percent of their annual budgets as *woreda* block grants. The SNNPR reserves up to 80 percent of its annual budget for *woreda* block grants.¹⁴⁶⁷ Secondly, the block grants which are transferred to the *woredas* have increased considerably over the years. Thirdly, the regions have tested and are testing several grant formulae with a view to ensuring a more equitable distribution of revenue among the *woredas*. This effort to discover a more efficient and equitable formula is commendable.

¹⁴⁶⁵ See table 5 above.

¹⁴⁶⁶ Garcia and Rajkumar (2008) 67.

¹⁴⁶⁷ See table 5 above.

Despite the above, the fact remains that *woredas* do not have a constitutionally entrenched claim to block grants. The policy decision to transfer regional block grants to *woredas* was made by the federal government in the SPRDP and PASDEP. Thus it was a mere policy preference of the EPRDF. This preference may change depending on the party in power.

In addition, due to the fact that the entitlement of a *woreda* to block grants is not constitutionally entrenched, a regional government might refuse to transfer block grants to a *woreda* that is under the control of a party other than the one that controls the regional government. This was, for instance, precisely the case in the Sheko-Mejenger *woreda* of SNNPR. In the 2000 local elections an ethnic-based opposition party called Shako-Mejenger Democratic Unity Party (SMDUP) managed to win the majority seats in this particular *woreda*. However, the Southern Ethiopia Democratic Movement (SEPDM), the ruling party at the regional level, punished residents of this *woreda* for electing the ‘wrong party’.¹⁴⁶⁸ It did so by depriving this *woreda* of regional grants so that the *woreda* would face ‘extreme budget allocation problems’ while under the control of SMDUP.¹⁴⁶⁹

Furthermore, there is enormous imbalance between the expenditure needs and the revenue of *woredas* in spite of the increase in the amount which is transferred to them in the form of block grants. The block grants are too small to allow *woredas* to engage in developmental activity. More than 90 percent of the revenue that

¹⁴⁶⁸ Yilmaz & Venugopal (2008) 8.

¹⁴⁶⁹ Yilmaz & Venugopal (2008) 8.

comes to *woredas* in the form of block grants is used for paying the salaries of *woreda* employees.¹⁴⁷⁰ According to some studies, the *woreda* ‘wage bill’ is growing at an alarming rate and *woredas* are facing difficulties in meeting these commitments.¹⁴⁷¹ Too little is left for capital investment, such as, building schools, health stations, etc.

3.6.3. Public contribution: voluntary?

The insufficiency of own revenue and block grants to finance capital projects has forced local communities to shoulder the responsibility of contributing to such projects. A study by Yilamaz and Venugopal shows that there are many cases in which communities are left to meet, from their own resources, the costs of building schools, roads and water tanks.¹⁴⁷² Public contributions are not necessarily detrimental: they may be seen as active participation by the communities in their own affairs.¹⁴⁷³ Yet, such a heavy reliance on public contributions is also unhealthy and may be viewed as a failure by the government to deliver basic services.¹⁴⁷⁴ Moreover, the contributions are not always offered voluntarily; often communities are forced to make these contributions. For instance, in some Tigray *woredas* communities are required to provide 20 days free labour. In Afar a *woreda* directive requires the communities to contribute to the maintenance of some forests.¹⁴⁷⁵

¹⁴⁷⁰ Garcia & Rajkumar (2008) 36.

¹⁴⁷¹ Garcia & Rajkumar (2008) 36.

¹⁴⁷² Yilamaz & Venugopal (2010) 17-18.

¹⁴⁷³ Yilamaz & Venugopal (2010) 17-18.

¹⁴⁷⁴ Yilamaz & Venugopal (2010) 17-18.

¹⁴⁷⁵ Yilamaz & Venugopal (2010) 18.

3.6.4. Neglected municipal services

Cities and municipalities have the responsibility to provide municipal services. It is evident that the municipal services relating to pollution control, parks, sanitation and hygiene are decisive for the urban dwellers. There are also certain municipal functions, such as housing, which are clearly related to enhancing human welfare and poverty reduction. Yet, cities and municipalities are left to fend for themselves to cover the costs of these municipal services. The block grants do not cover any of the municipal services they provide. In short, municipal services are totally neglected by the regional governments. This is a manifestation of the ruling party's emphasis on rural development.

The fact that cities and municipalities are left to shoulder the full financial burden of providing municipal services raises the issue of equity. It is evident that some cities and municipalities are more affluent than others. The cities and municipalities that are well-off will provide better municipal service than the poor ones. This creates an inequitable distribution of municipal services. Thus, it is submitted that the regions should consider some mechanism of financing the municipal services of poor municipalities and cities.

4. ADMINISTRATIVE AUTONOMY

4.1.Introduction

The importance of administrative autonomy for local development was discussed in chapter two. Administrative autonomy allows local government to implement local policies and decisions on its own. Thus, administrative autonomy makes local government 'flexible' and 'responsive' to local preferences.¹⁴⁷⁶ Local

¹⁴⁷⁶ See chapter 2; § 3.5.2.

administrative autonomy also has a bearing on the political autonomy for local government as a lack of administrative autonomy allows undue central interference to take place.¹⁴⁷⁷ Administrative autonomy, as defined in chapter two, includes local government's discretion to determine its internal administrative structures as well as to hire and fire personnel.

4.2. Determining the internal administrative structure of local government

4.2.1. Woreda

The administrative autonomy of local government is implied in the federal and regional constitutions. As discussed elsewhere, the federal Constitution provides that local government should be afforded 'adequate' power. This provision, based on the principle of subsidiarity, may be interpreted to envisage providing *woredas* and cities with 'adequate' administrative power which also includes the power to determine their own administrative structure. The power of a *woreda* to determine its administrative structure can also be inferred from the omnibus provisions in the regional constitutions that provide *woredas* with the 'necessary' power, or a power which 'enables' them to prepare, determine and implement plans for social services and economic development.¹⁴⁷⁸ Evidently the power to determine the administrative structure of a *woreda* is a necessary power that would enable a *woreda* to prepare and implement its own social services and economic development plans.

¹⁴⁷⁷ See chapter 2; § 3.5.2.

¹⁴⁷⁸ See above at § 2.4.2.2.

The regional constitutions provide that a *woreda* may determine its internal affairs.¹⁴⁷⁹ It is clearly an internal matter of a *woreda* to determine its own administrative structure. Furthermore, a *woreda* council is charged with the power to approve the ‘administrative plan’ of the *woreda* when submitted to it by the *woreda* chief administrator.¹⁴⁸⁰ An ‘administrative’ plan may include a plan on the administrative structure of the *woreda*. From the above it can be concluded that the *woreda* has the constitutional power to determine its administrative structure. In addition Proclamation 86 (2010) of Benishangul-Gumuz regional state and Proclamation 99 (2006) of the Tigray regional state provide that *woreda* may decide on its administrative structure.¹⁴⁸¹

4.2.2. Administrative organs of a *woreda*

Each *woreda* has various sectoral offices which serve as its administrative structure. The sectoral offices of a *woreda* are almost always the counterparts of the sectoral offices of a regional government. There appears to be an unwritten rule which requires a *woreda* to align its administrative structure to that of the regional government.¹⁴⁸²

¹⁴⁷⁹ AfRS Constitution (2002) Art 75 (2); ARS Constitution (2001) Art 84 (2); BGRS Constitution (2002) 85 (2); SNNPR Constitution (2001) Art 91 (2); GRS Constitution (2002) Art 88 (2); TRS Constitution (2001) 72 (2).

¹⁴⁸⁰ AfRS Constitution (2002) Art 76 (2) (a); ARS Constitution (2001) Art 86 (2) (a); ORS Constitution (2001) Art 79 (2) (a); BGRS Constitution (2002) 87 (2) (a); SRS Constitution (2001) Art 85 (1); SNNPR Constitution (2001) Art 93 (2) (a); GRS Constitution (2002) Art 90 (2) (a); TRS Constitution (2001) Art 74 (2) (a).

¹⁴⁸¹ BGRS Proclamation 86 (2010) Art 108 (1); TGR Proclamation 99 (2006) Art 52.

¹⁴⁸² In general, sectoral offices that exist at the *woreda* level may include some or all of the following. Agriculture & rural development bureau; Pastoralist affairs (in SNNPR, Oromia, Somali and Afar regions); Finance and economic development bureau ; Capacity building bureau (which includes Health office, public health desk, health service training desk, HIV/AIDS office); Education office; Public organisation and public participation labour and social affairs

4.2.3. Urban local government

Like *woredas*, the power of cities to determine their internal administrative structure can be inferred from the general constitutional principle discussed above.¹⁴⁸³ Moreover, the regional city proclamations provide cities and municipalities with the necessary power ('full power' as provided under the Oromia city proclamation) to administer local matters.¹⁴⁸⁴ This can be interpreted to include the power to decide on the internal administrative structure of a city or a municipality. Furthermore, the power of cities and municipalities to determine their administrative structure is clearly stipulated in the city charters and regional city proclamations. The Dire Dawa Charter provides that the city government has the power to establish municipal and non-municipal bodies.¹⁴⁸⁵ The Addis Ababa Charter also provides that the city government may determine the organisational structure of its sectoral offices.¹⁴⁸⁶ Furthermore, the Charter provides that, on the recommendation of the city manager and with the approval of the city council, the mayor may establish municipal organs.¹⁴⁸⁷

The regional city proclamations also authorise cities and municipalities to determine their administrative structure and to establish departments and support

office bureau (which includes women's affairs office and youth and sport); water resources development office; Justice administration office; Rural roads, mining and energy desk; Trade, industry and transport; Public organisation, labour and social affairs office; Youth and sports desk; Culture information and tourism desk. MoCB (2007) (a); 39ff; MoCB 2007 (b).

¹⁴⁸³ See above § 4.2.2.

¹⁴⁸⁴ BGRS Proclamation 69 (2007) Art 8 (1); ARS Proclamation 91 (2003) Art 8 (1); SNNPR Proclamation 103 (2006) Art 12 (1); ORS Proclamation 65 (2003) Art 8(1).

¹⁴⁸⁵ FDRE Proclamation 416 (2004) Art 9 (2) (a).

¹⁴⁸⁶ FDRE Proclamation 361 (2003) Art 23 (1) (e).

¹⁴⁸⁷ FDRE Proclamation 361 (2003) Art 23(1) (e); Art 24 (2) (a).

services and other administrative offices.¹⁴⁸⁸ However, the organisational structure of a city is explicitly required to be in line with the administrative structure of a regional government. For instance, Regulation 53(2005) of the Oromia region, which was issued to give effect to the regional city proclamation, requires the organisational structure of a city to be aligned to the organisational structure of the regional government.¹⁴⁸⁹ The same is provided in SNNPR Proclamation 103(2006).¹⁴⁹⁰ This seems also to require the administrative structure of a city to be aligned to the administrative structure of the regional government.

Administrative organs of urban local government

Cities have two types of administrative organs; namely sectoral offices and municipal service organs.

Sectoral offices

As has been discussed elsewhere, urban local governments including the two federal cities (with the exception of the municipalities) discharge both state functions and municipal functions. Thus, the cities, and the federal cities have sectoral offices which directly deal with the administrative aspects of their state functions. The number and types of sectoral offices of a city vary depending on the kind and number of state functions that it discharges. Addis Ababa and Dire Dawa exercise extensive state functions in their capacity as regional states. Thus,

¹⁴⁸⁸ ORS Proclamation 65 (2003) Art 14 (2) (e); SNNPR Proclamation 103 (2006) Art 17(2) (2) (5).

¹⁴⁸⁹ ORS Regulation 53 (2005) Art 7 (1).

¹⁴⁹⁰ SNNPR Proclamation 103 (2006) Art17 (2) (2) (5).

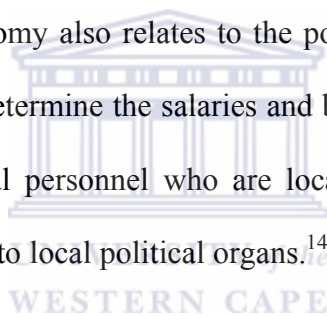
the two federal cities have numerous sectoral offices which deal with the administrative aspects of their state functions.¹⁴⁹¹

Municipal service organs

The administrative aspects of the municipal services of a city and a municipality are undertaken by a manager of municipal services (MMS) and other municipal service organs which are established under his office.¹⁴⁹² In general, a MMS is directly accountable to the mayor of an urban local government.¹⁴⁹³ Each of the various municipal service organs is charged with a particular municipal function.¹⁴⁹⁴

4.2.4. Civil service and employment

Local administrative autonomy also relates to the power of local government to recruit, hire and fire, and determine the salaries and benefits of, its personnel. As stated in chapter two, local personnel who are locally recruited and hired are expected to be accountable to local political organs.¹⁴⁹⁵ Local personnel who have



¹⁴⁹¹ For instance, Addis Ababa city has the following sectoral offices Tourism commission; Urban agriculture office; Co-operative organisation and promotion offices; Investment authority; Micro - and small scale business enterprises development agency; Environmental protection authority; Policy studies and plan commission; Social and non-governmental organisation affairs office; Labour affairs office; Youth and sports commission; Women affairs office; Public prosecution office; Addis Ababa city penitentiary administration; Mass media agency. Addis Ababa City Proclamation 14 (2004) Art 2.

¹⁴⁹² FDRE Proclamation 361 (2003) Art 24 (1); FDRE Proclamation 416 (2004) Art 23(1); SNNPR Proclamation 103 (2006) Art 25 (3); AfRS Proclamation 33 (2006) Art 16.

¹⁴⁹³ FDRE Proclamation 361 (2003); Art 24(1); FDRE Proclamation 416 (2004) Art 23(1); SNNPR Proclamation 103 (2006) Art 25(3).

¹⁴⁹⁴ For instance, in Addis Ababa the municipal service organs include: Infrastructure and construction authority; Transport authority; Land development authority; Housing agency; Cleaning and beautification and park development; Civil status document services; Fire and emergency services; Code enforcement services

Addis Ababa City Proclamation 2 (2003) Art 37(1) (a-i).

¹⁴⁹⁵ See chapter 2; § 3.5.2.

vertical accountability to the central government have the potential to endanger the political autonomy of local government and therefore stifle the success of decentralised development.

4.2.4.1. Woreda

The power of a *woreda* to recruit, hire, deploy, and fire its personnel is not plainly stated in the regional constitutions. Nevertheless, this power can be considered as a ‘necessary’ power to prepare and implement a *woreda*’s socio-economic development plans. It can also be considered to have been implied in the power of a *woreda* to determine its administrative structures, as establishing the administrative organs, without the power to staff them, is meaningless. In any case, regional states, such as the Tigray regional state, have issued proclamations which deal with the power of a *woreda* in relation to civil service and employment matters. Proclamation 99 (2006) of the Tigray regional state provides that a *woreda* has the power to recruit, promote, deploy, inspect, internally transfer and adjudicate the grievances of *woreda* employees.¹⁴⁹⁶

Various government documents and studies recognise that a *woreda* has the power to hire and fire its administrative staff, support staff and ‘frontline’ professionals, including, teachers, doctors, nurses, health officers, agricultural experts, within the framework of regional civil service law.¹⁴⁹⁷

4.2.4.2. Urban local government

Urban local government has certain explicitly stated powers pertaining to its administrative personnel. These powers include the power to hire, deploy, and

¹⁴⁹⁶ TRS Proclamation 99 (2006); BGRS Proclamation 86 (2010) Art 109 also provides to the effect.

¹⁴⁹⁷ See for instance MoCB (2007) 3.

determine the salaries and other benefits of, administer, promote, and/or terminate the employment of, its personnel in accordance with regional civil service laws.¹⁴⁹⁸ The mayors of Addis Ababa and Dire Dawa have the authority to hire city managers to head the administration of municipal services.¹⁴⁹⁹ The city manager in turn has the authority to hire sub-city managers (in Addis Ababa) and *kebele* managers and other employees in accordance with the city's civil service law.¹⁵⁰⁰

4.2.5. Assessment

The foregoing discussion shows that *woredas* and cities have the power to decide on the structure of their administrative organisations. Accordingly, they have established several administrative organs in the form of sectoral offices and organs of municipal services. It can be gathered from the discussion in the preceding sections that the administrative offices are organised in a manner that takes into account the need to have a differentiated approach to rural *woredas* and cities. The organs are also structured to deal with the administrative aspects of the specific functions of a *woreda* or a city. The particular circumstances of *woredas* in different regions also seem to have been taken into account in the structuring of the *woreda* administrative organs. For instance, there are sectoral offices that deal with pastoral matters in the lowland regions which have pastoral communities, while no such office exists in the highland regions which have no pastoral

¹⁴⁹⁸ AfRS Proclamation 33 (2006); Art 24; Addis Ababa City proclamation 2 (2003) Art 6(4); SNNPR Proclamation 103 (2006); Art 47(1); ORS Proclamation 65 (2003) Art 43(1).

¹⁴⁹⁹ FDRE Proclamation 361 (2003); Art 21 (2) (g); FDRE Proclamation 416 (2004) Art 20 (2) (g).

¹⁵⁰⁰ FDRE Proclamation 361 (2003) Art 24 (2) (c); FDRE Proclamation 416 (2004) Art 23 (2) (c); SNNPR Proclamation 103 (2006) 25 (5) (6).

communities.¹⁵⁰¹ The establishment of municipal organs in urban areas also shows the effort taken to provide urban specific services through suitable administrative structures. *Woredas* and cities also have a constitutional and statutory power to hire and fire their own personnel which is a central element of, and critical for, administrative autonomy.

Despite the above, *woredas* do not enjoy their administrative autonomy. There are various reasons for this. First, as a report by MoCB indicates, the administrative organs of *woredas* suffer from an acute lack of skilled manpower.¹⁵⁰² Many approved *woreda* positions are either vacant or occupied by employees who do not fulfill the minimum educational and work experience requirements. A study conducted by the MoCB in the lowland regions indicates that up to 33 percent of *woreda* approved positions remain vacant.¹⁵⁰³ According to this study, the educational background of the existing *woreda* personnel is extremely low. Less than two percent of the *woreda* personnel have a first degree, while only 20 percent have a diploma. The great majority of the *woreda* employees have not even completed their high school education.¹⁵⁰⁴ More than 18 percent of the *woreda* positions are occupied by employees who do not even meet the minimum requirements relating to work experience and education.¹⁵⁰⁵ Moreover, the field of specialisation of 65 up to 75 percent of *woreda* employees does not match their job descriptions.¹⁵⁰⁶ In particular, the rural *woreda*

¹⁵⁰¹ See above § 4.2.1.

¹⁵⁰² MoCB (2007) 50.

¹⁵⁰³ MoCB (2007) 55

¹⁵⁰⁴ MoCB (2007) 50

¹⁵⁰⁵ MoCB (2007) 51

¹⁵⁰⁶ MoCB (2007) 41

employees in the lowland regions are drawn ‘from a narrow educational pool’ even though the new developmental role that *woredas* are expected to play requires ‘higher education and wider fields of specialisation’.¹⁵⁰⁷

Various factors contribute to the prevailing shortage of trained man power at the *woreda* level. The work environment at *woreda* level generally viewed as unattractive: Most *woredas* are found in remote rural areas where there are little or no facilities and services.¹⁵⁰⁸ Moreover not only *tworeda* personnel are paid poor salaries, they also receive no fringe benefits.¹⁵⁰⁹

Secondly, regional states and (in SNNPR) the nationality zones often interfere in the administration of *woredas*. There have been instances where the decisions of *woredas* in relation to civil service and employment were ‘overruled’ by zones and regions.¹⁵¹⁰ For instance, in SNNPR a *woreda*’s decision to cut back on the number administrative workers was overruled by a nationality zone.¹⁵¹¹ There also have been several instances where *woredas*, despite their refusal, were forced to employ workers that were transferred from zones.¹⁵¹²

Thirdly, ‘frontline’ professionals, such as, nurses, teachers, health workers, and development agents are trained by regional institutions. For instance teachers of primary schools are trained in teachers training colleges which are run by regional

¹⁵⁰⁷ MoCB (2007) 41

¹⁵⁰⁸ Garcia & Rajkumar (2008) 72.

¹⁵⁰⁹ Garcia & Rajkumar (2008) 72.

¹⁵¹⁰ Yilmaz & Venugopal (2008) 15.

¹⁵¹¹ Yilmaz & Venugopal (2008) 16.

¹⁵¹² Yilmaz & Venugopal (2008) 16.

states. Nurses, development agents, health workers are all trained in institutions that are run by regional states.¹⁵¹³ They are deployed by the relevant regional bureau to *woredas* after they have completed their training. The deployment is in principle carried out based on *woredas*' requests. However, *woredas* rarely receive what they request. For instance, a *woreda* may request a certain number of, for example, mathematic teachers. But it may wind up receiving several English teachers.¹⁵¹⁴

5. CONCLUSION

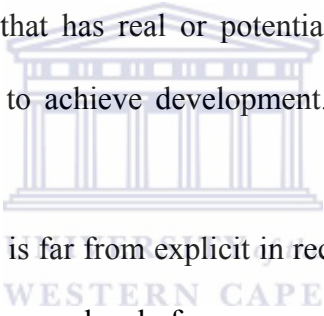
The discussion in this chapter reveals the strengths and weaknesses of the institutional design of Ethiopia's decentralisation programme as it relates to development. To start with the positive aspect of the decentralisation programme there is a policy framework which aims to use *woredas* and cities as tools of development. Significant and commendable measures have been taken to this effect. Regional states have revised their constitutions with the intention of creating autonomous *woredas*. They have also enacted proclamations with the object of restructuring their urban local government. In every part of the country either a *woreda* or a city is established whose main purpose is achieving development. An attempt has been made to respond to the varied developmental preferences of urban and rural communities by creating different kinds of local

¹⁵¹³ Garcia & Rajkumar (2008) 16.

¹⁵¹⁴ It should, however, also be noted here that in the past years a number of public and private universities and colleges have been opened in Ethiopia. These academic institutions are producing thousands of graduates every year and supplying, even saturating, the labour market with trained professionals. As finding jobs in the urban areas is becoming more and more difficult, many university graduates have no other option but to take up employments in rural *woredas*. Therefore, shortage of trained man power may not be a problem for a long time, unless, the financial constraints under which *woredas* operate constrains them from effecting the necessary employment. Garcia & Rajkumar (2008) 68-72.

government structure. Therefore, *woredas* are established in rural areas while cities and municipalities are established in urban centres. Elected local councils are established and elections are held more or less regularly. It is constitutionally recognised that *woreda* and cities have the power to plan and implement their own social services and economic development. *Woredas* and cities are afforded the power to design their own administrative structure and effect employment. A block grant system has been introduced with a view to ensuring the financial autonomy of *woredas* and cities.

However, the constitutional and legal framework, governing *woredas* and cities, has numerous deficiencies that has real or potential negative impacts on local government's effectiveness to achieve development. The following stand out in particular:

- 
- The federal Constitution is far from explicit in recognising Article 50(4) local government as an autonomous level of government. The Constitution does not clearly provide that local government will be a democratically constituted order of government. It merely makes a transitory reference to local government. This creates uncertainty about the very existence of local government. The recognition of *woredas* in regional constitutions does not seem to guarantee the continued existence of local government. As past experience shows, if it is in the interest of the ruling party, the regional constitutions may be easily amended, even through procedures other than those that are provided for their amendment.
 - Cities are not accorded appropriate recognition in the regional constitutions. This is because the ruling party's development policies are centred on the

rural areas. This is an example of how the existence of local government is dependent on party policy rather than constitutional principle which may be linked to the lack of explicit recognition of local government in the federal Constitution.

- There is no clear principle that guides the creation of new *woredas*, or the amalgamation, or division of existing ones. Not even the basic principles that are supposed to guide the alteration of *woredas*'s boundaries are provided for in the regional constitutions. This opens the door for arbitrary alteration of *woreda* boundaries which has potentially harmful impacts on local democracy and development.
- The functional competences of *woredas* and the state functions of cities are not clearly defined. This is one of the most critical deficiencies in the institutional design of Ethiopia's local governance system.
- *Woredas* do not have full political power since the regional constitutions, save for that of the Tigray, do not explicitly provide *woredas* with policy making and legislative powers.
- *Woreda* chief administrators and mayors are not exclusively, even primarily accountable to local representative councils. They are equally, if not more, accountable to zonal and/ or regional chief administrators. This dual and sometimes triple accountability of mayors and *woreda* chief administrators compromises the political autonomy of local government.
- Local government has no adequate sources of revenue. *Woredas* do not have full taxing power. They collect certain taxes, but on behalf of the regional government. Their entitlement to regional block grants is not constitutionally guaranteed. Moreover, the block grants, despite the fact that

they are increasing from year to year, are not adequate enough to cover the expenditure needs of *woredas*.

This chapter has dealt with *woredas*, cities and municipalities political, financial and administrative autonomy. As was discussed in chapter two, local autonomy needs to be complemented with central supervision and inter-governmental co-operation in order to optimise the potential of a decentralisation programme to achieve development. The following chapter will examine whether and how central supervision and inter-governmental co-operation are undertaken in Ethiopia.



Chapter 6

Decentralisation and development in Ethiopia: Central supervision and inter-governmental co-operation

1. INTRODUCTION

The preceding chapter dealt with matters pertaining to local government's political, fiscal, and administrative autonomy. As was discussed in chapter two, experience in the implementation of decentralisation programmes shows that local government autonomy is important, but not sufficient to ensure decentralised development.¹⁵¹⁵ Central supervision of local government's activities is equally critical for attaining the optimum developmental benefit of a decentralisation programme. Central supervision is particularly important to ensure equitable development among localities, to prevent corruption and capture by local elites of powers and resources.¹⁵¹⁶ Moreover, co-operation between local government and central government is also crucial as there always be overlaps and gray areas in functional division between local and central government. This chapter, therefore, deals with the issue of central supervision and inter-governmental co-operation in Ethiopia.

Thus, § 2 will deal with the central supervision of local government activities in Ethiopia. It describes the role of the federal and regional governments in supervising the activities of local government. § 3 will deal with inter-governmental co-operation between local, regional, and federal governments.

¹⁵¹⁵ See chapter 2; § 3.5.4.

¹⁵¹⁶ See chapter 2; § 3.5.4.

2. CENTRAL SUPERVISION OF LOCAL GOVERNMENT IN ETHIOPIA

2.1. Introduction

Central supervision, which is essentially hierarchical, is used to enforce national or regional objectives.¹⁵¹⁷ Supervision is critical for ensuring equitable development which is a central element of development. As was indicated in chapter two, supervision has four elements: regulation/standard setting, oversight, support, and intervention.¹⁵¹⁸ The following sections will discuss the role that the federal and regional governments play in regulating the activities of local government as well as the instruments that they use to do so. The sections will also discuss the role of the federal and regional government in monitoring and supporting local government. The substantive criteria for and methods of intervention by federal and regional government will also be discussed.

2.2. Regulation

As stated before, local government in Ethiopia operates within a dual federal system. In this dual federal system, local government is primarily the competence of the regional states.¹⁵¹⁹ Hence the regional states can be presumed to have the primary responsibility to regulate its activities. As will be explained below, this does not mean that local government is exempt from the regulatory power of the federal government. Both the federal and regional governments regulate the works of local government.

¹⁵¹⁷ See chapter 2; § 3.5.4.1.

¹⁵¹⁸ See chapter 2 § 3.5.4.1.

¹⁵¹⁹ See chapter 4; § 4.

2.2.1. Federal government

The federal government may set standards for local government in two ways: by using its power to formulate general policies on national, social, and economic matters and by enacting proclamations.

2.2.1.1. Federal government policy papers

The federal government has an extensive policy making power under the federal Constitution which allows it to influence local government activities. It has the power to ‘formulate and implement the country’s policies, strategies, and plans in respect of the overall economic, social and development matters’.¹⁵²⁰ Furthermore, it has the power to ‘establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies’.¹⁵²¹ In addition, the federal government has the power to ‘formulate and execute the country’s financial, monetary and foreign investment policies and strategies’.¹⁵²² The federal government uses these constitutional powers to set national political visions and standards which have the effect of regulating local government’s actions.

As the discussion in the preceding chapter shows, local government is directly engaged in providing economic and social services, including, primary education, healthcare, agricultural extension services, and the like.¹⁵²³ The federal government has the constitutional power to set national policy standards

¹⁵²⁰ FDRE Constitution (1995) Art 51 (2).

¹⁵²¹ FDRE Constitution (1995) Art 51 3).

¹⁵²² FDRE Constitution (1995) Art 51 (4).

¹⁵²³ See chapter 5; § 2.4.6.

regarding the provision of these social services. Hence, the federal policies, strategies and plans on social services and development also set general policy framework for local government.

There are several federal policy papers that regulate local government. As was discussed in chapter four, the decentralisation programme itself was articulated in various federal policy papers. The three policy papers on poverty reduction and development outlined the role that local government was expected to play within the overall poverty reduction and development programme.¹⁵²⁴ In particular these policy papers articulated the role that local government was expected to play in providing social services, such as, primary education, primary health care, rural water supply, rural roads, and agricultural extension services.¹⁵²⁵ There are also several other federal policy papers which were prepared on a sectoral basis: The policy papers on urban development, education, agriculture, to mention a few.¹⁵²⁶ These papers provide further details pertaining to the role of local government role in each sector.

It should be noted that the policy papers of the federal government do not purport, nor are they expected, to specifically and comprehensively deal with decentralisation or local government. In other words there is no federal policy paper on local government since local government is the competence of the regional government. The federal government is constitutionally prohibited from

¹⁵²⁴ See chapter 4 § 5.3.4.

¹⁵²⁵ See chapter 4; § 5.3.4.

¹⁵²⁶ See chapter 4; § 5.3.4.

directly regulating it.¹⁵²⁷ Decentralisation and local government, therefore, feature in federal policy papers within the context of and, as a strategy for, poverty reduction.

Nonetheless, each of the sectoral policies deals with every aspect of local government activities in that particular sector. The policy papers provide the minimum number of schools, health stations that are to be established not only in a *woreda* but also in a *kebele*.¹⁵²⁸ Thus, local government activities are in practice regulated more by federal policy frameworks than by regional ones. This is despite the dual federal arrangement.

2.1.1.2. Federal framework legislation

The federal government has important legislative powers which allow it to set general legislative frameworks. This allows it to regulate local government activities. For instance, it has the constitutional power to enact laws which are necessary for establishing and sustaining ‘one economic community’.¹⁵²⁹ It also has the power to enact laws which regulate ‘the utilisation and conservation of land and other natural resources’.¹⁵³⁰ The federal government makes use of these and other legislative powers to regulate local government actions. What is visible here is that some of the federal proclamations are specifically intended and drafted to directly address local government, despite the dual federal system.¹⁵³¹

¹⁵²⁷ Heymans & Mussa (2004) 6

¹⁵²⁸ See MoCB (2007) 104.

¹⁵²⁹ FDRE Constitution (1995) Art 55 (6).

¹⁵³⁰ FDRE Constitution (1995) Art 51 (5).

¹⁵³¹ FDRE Proclamation 272 (2002) & FDRE Proclamation 513 (2007).

There are several proclamations as well as executive regulations, issued by the federal government that lay down standards for local government. It is not within the scope of this study to analyse all federal laws which directly or otherwise regulate local government. Therefore, only some of the federal proclamations that regulate local government are briefly discussed below to illustrate how the federal government regulates local government through framework legislation.

Proclamation 272 (2002)

Proclamation 272 (2002) is issued by the federal government based on its power to enact laws to regulate the use of urban land.¹⁵³² The Proclamation regulates how cities and municipalities may allocate urban land on lease for various ‘developmental activities’. It broadly defines ‘developmental activities’ and sets the maximum lease period for a specific ‘developmental activity’.¹⁵³³ The Proclamation authorises a city/municipality to set the maximum lease period for developmental activities that are not defined in the Proclamation.¹⁵³⁴ The Proclamation also deals with the manner of determining the land lease rate, expropriation, eviction of illegal land holders, and the like.¹⁵³⁵ It should be noted that this Proclamation directly addresses not only federal cities but also regional cities.

Proclamation 513 (2007)

Proclamation 513 (2007) regulates solid waste management. The Proclamation regulates how cities and municipalities should manage solid waste in an

¹⁵³² FDRE Proclamation 272 (2002) Preamble 6th paragraph.

¹⁵³³ The developmental activities include housing, urban agriculture, education, industry, commerce, and any other activity which may be defined by the regional government, a city or a municipality. FDRE Proclamation 272 (2002) Art 6.

¹⁵³⁴ FDRE Proclamation 272 (2002) Art 6 (2).

¹⁵³⁵ FDRE Proclamation 272 (2002) Art 7-25.

economically useful manner.¹⁵³⁶ It thus regulates what cities and municipalities should do so as to create an enabling environment to attract investment in waste management. It enjoins cities and municipalities to prepare and implement waste management plans.¹⁵³⁷ The Proclamation goes as far as prescribing to cities and municipalities to put marked waste bins in the streets, ensure frequent collection of waste, and create public awareness.¹⁵³⁸

Proclamation 574 (2008) and Proclamation 455 (2005)

As was discussed in the previous chapter, Proclamation 574 (2008) regulates urban planning.¹⁵³⁹ Proclamation 455 (2005) regulates matters relating to rural and urban land expropriation. The Proclamation authorises *woreda* or city/municipal administrations to expropriate land for a 'public purpose' where it is believed that a plot of land may be used for a more appropriate development project.¹⁵⁴⁰ It further provides how a *woreda*, acity, and a municipal administration can effect the expropriation. In particular, it provides a general framework with regard to the provision of an expropriation order and determination of compensation.¹⁵⁴¹

¹⁵³⁶ FDRE Proclamation 513 (2007) Art 4.

¹⁵³⁷ FDRE Proclamation 513 (2007) Art 5 (1).

¹⁵³⁸ FDRE Proclamation 513 (2007) Art (4). It is constitutionally suspect whether the federal government has the power to legislate on solid waste management. It is indicated in the Proclamation that its enactment was based on Article 55 (1) of the Constitution which authorises Parliament to legislate on those matters that are designated as federal functions in the Constitution. However 'solid waste' management is designated neither as a federal nor as a state competence. Thus, it is a residual power, which, by default, is within the competence of the regional states.

¹⁵³⁹ For more discussion see chapter 5; § 2.5.3.2.

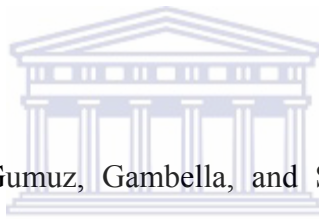
¹⁵⁴⁰ FDRE Proclamation No 455 (2005) Art 3.

¹⁵⁴¹ FDRE Proclamation No 455 (2005) Arts 4-15.

2.2.2. Regulation by regional and nationality zones governments

2.2.2.1. Regional policy papers

Regional states have the power to formulate regional policies and strategies on social and economic development matters.¹⁵⁴² The regional states also have the authority to set minimum targets that need to be fulfilled in every sector by local government units.¹⁵⁴³ They may do so through their policies and plans. The regional policies are expected to be consistent with the national poverty reduction and economic development policies and strategies. Hence, the planning and implementation of social services and economic development by a *woreda*, city, or municipality are expected to be undertaken within the national as well as the regional policy frameworks.



In Amhara, Benishangul-Gumuz, Gambella, and SNNPR some *woredas* and cities are found within a nationality zone. Nationality zones are established as autonomous local units for regional minority ethnic communities.¹⁵⁴⁴ As is stated in the regional constitutions, the government of a nationality zone is the highest political organ of the ethnic community for whom the nationality zone is established. It may, therefore, exercise all political power within the nationality zone.¹⁵⁴⁵ It is also clearly provided that a nationality zone may prepare and implement its own strategic development plan.¹⁵⁴⁶ A *woreda* within a nationality zone is, therefore, expected to take into consideration the strategic plan of the

¹⁵⁴² See chapter 4; § 3.3.

¹⁵⁴³ See chapter 4; § 3.3.

¹⁵⁴⁴ See chapter 4; § 6.2. See also chapter 7 § 2.2.1 for more discussion on this.

¹⁵⁴⁵ See chapter 7; § 2.2.3.

¹⁵⁴⁶ See for instance ARS Constitution (2001) Art 74 (3) (d); GRS Constitution (2002) Art 78(3) (d).

nationality zone while preparing its own strategic and annual plans. It is unclear whether a nationality zone may formulate its own policies on social services and economic development, as this is not explicitly stated in any of the regional constitutions. If nationality zones may in fact formulate zone-specific policies, it will mean that the *woredas* within the nationality zone's territorial jurisdiction will be further regulated by these policy frameworks. In effect, it will mean that *woredas* within a nationality zone will be regulated by three levels of government, namely federal, regional, and zonal governments. However, practice shows that the federal government plays a dominant role in policy making, and *woredas* are seldom affected by a regional policy framework let alone by that of a nationality zone.¹⁵⁴⁷

2.2.2.2. Regional framework legislation

As has been indicated earlier, local government is a regional government competence. Hence, the regional governments have a constitutional power to regulate the activities of local government through regional laws. The regional states have issued a number of proclamations that have the effect of regulating local government. Most of these proclamation feature in the discussion in chapter five. The regional constitutions which created *woredas* are enacted by the regional governments. The regional proclamations which have created cities and municipalities and which have defined their powers can also be considered as regional legislative regulatory frameworks.

Nationality zones may also regulate *woredas* by enacting laws. As will be discussed in the next chapter, a government of a nationality zone has the power to

¹⁵⁴⁷ Assefa (2006).

choose the official language of the nationality zone.¹⁵⁴⁸ It also has the power to enact laws on matters that are not covered by regional laws.¹⁵⁴⁹ It can be assumed that the laws of the nationality zones will also serve as regulatory frameworks for *woredas* and cities.

2.2.3. Assessment

The foregoing discussion has described the role of the federal, regional, and, in some cases, zonal governments in regulating the activities of local government. As the discussion shows, the federal and regional governments have the authority to set standards for local government through their policies and framework legislative instruments.

The federal government plays a dominant role in terms of regulating local government through policy making. The regional governments play a minor role in this respect. This is despite the fact that, given the dual federal system, the latter are supposed to play a more dominant role in regulating local government's activities. The rather marginal role of the regional states in regulating local governments may be due to two reasons. Firstly, the policy making power of the federal government, in the areas of social services and economic matters, including health and education, is widely cast in the Article 51 (2) of the federal Constitution. The Constitution does not put a limit on the policy making power of the federal government on these matters. Assefa and Mohammed, referring to the clause in Article 51 (2) of the federal Constitution, write:-

‘This is perhaps more than necessary and proper clause because it grants the federal government wide powers over economic, social, health, and education matters. It places

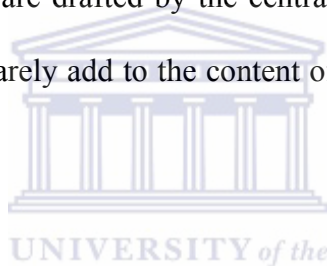
¹⁵⁴⁸ See for instance ARS Constitution (2001) 74 (3) (a).

¹⁵⁴⁹ See chapter 7; § 2.2.3.1.

primary responsibility on the federal government to determine major policy directions and standards. However, if one follows the terms closely, the powers of the federal government even in these vital areas do not seem [to have a limit].¹⁵⁵⁰

This vaguely and widely phrased clause on the policy making power of the federal government seems to have allowed the latter to cover all areas through its policies. This in turn seems to have limited the opportunities that the regional states have to regulate local government through their policies.

The second reason may relate to the fact that all levels of government are controlled by a single party, the EPRDF. As stated in the preceding chapter,¹⁵⁵¹ the policies of the country are drafted by the central structure of the party. The regional states, therefore, barely add to the content of the federal policies in their policy papers.



A related matter is that the federal government uses its power to legislate on certain matters including urban and rural land to bypass the regional states to regulate the activities of local government. As the above discussion indicates, some of the federal proclamations directly address cities, municipalities, and *woredas*.

The other visible matter is that, within a region, the degree of a *woreda's* authority with respect to a particular function seems to vary depending on whether the *woreda* is within or outside the borders of a nationality zone. The area of authority of *woredas* within a nationality zone, with respect to a particular

¹⁵⁵⁰ Assefa & Mohammed 2010 144..

¹⁵⁵¹ See chapter 4; § 3.2.1. and chapter 5; § 2.3.1.2.

woreda function, is likely to be more limited than the *woredas* outside a nationality zone. This is because the activities of *woredas* outside a nationality zone are regulated only by the federal and regional policy and legislative frameworks. *Woredas* within the borders of a nationality zone may also be regulated by the laws of the nationality zones' government. The policies and laws of a nationality zone, which are likely to be more detailed and specific than regional and federal policies and laws, will have the effect of narrowing the field of authority of the *woredas* within a nationality zone's boundaries compared to the *woredas* outside the jurisdiction of a nationality zone. This is a consequence of the compromise to balance the need to accommodate regional ethnic minorities and the need to ensure the autonomy of the *woreda* and cities.

2.3. Monitoring

The second element of central supervision is oversight or monitoring the activities of local government. Monitoring is a mechanism by which senior levels of government gather information as to whether local government is acting within its constitutional and legal authority. It is also the mechanism to ensure whether local development projects meet regional and national standards.

2.3.1. Federal monitoring

2.3.1.1. Monitoring *woredas* and regional cities

The federal government or its organs are not expected to directly monitor the activities of local government as local government is a regional matter. There is no a federal law that authorises any federal organ to exercise direct oversight over either *woredas* or cities. This begs the question of how the federal government can ensure that the standards it sets are respected by *woredas* and cities.

It seems that the mechanism for the federal government to ensure that federal standards are met by local government is indirect: through the regional states. Each federal ministry may exercise indirect monitoring through their regional counterparts to ensure federal standards are met. For instance, Proclamation 574 (2008) provides that the Ministry of Urban Development and Construction (MoUDC) has the power to watch over and follow up the conformity of urban structural plans to the national standard.¹⁵⁵² In addition, the Proclamation authorises the regional government to ‘follow up, evaluate and ensure the proper implementation of urban plans’.¹⁵⁵³ This cannot mean that MoUDC may directly monitor the activities of regional cities. Such an interpretation will render the above provision of the proclamation unconstitutional. Hence the provision must be read to mean that the relevant regional bureau of urban development will monitor cities and municipalities. MoUDC monitors urban local government indirectly through the regional bureaus. Other ministries may also engage in similar indirect monitoring of *woreda* and city activities.

2.3.1.2. Monitoring the federal cities

The two federal cities, Addis Ababa and Dire Dawa, are accountable directly to the federal government.¹⁵⁵⁴ Hence, their activities are monitored directly by the federal government and its organs. There are two federal organs with a particular responsibility of monitoring the two federal cities: these are MoUDC and the Ministry of Federal Affairs (MoFA). The former is in charge of overseeing the activities of the two federal cities with respect to their municipal functions.¹⁵⁵⁵

¹⁵⁵² FDRE Proclamation 574 (2008) Art 55 (2).

¹⁵⁵³ FDRE Proclamation 574 (2008) Art 56 (2).

¹⁵⁵⁴ FDRE Proclamation 416 (2004) Art 51 (1); FDRE Proclamation 361 (2003) Art 61(1&2).

¹⁵⁵⁵ FDRE Proclamation 471 (2005) Art 18 (1) (m).

The latter is charged with monitoring the overall activities of the federal cities.¹⁵⁵⁶

Furthermore, each line ministry presumably oversees the activities of these two cities that are related to the particular sector for which the ministry is responsible.

2.3.2. Monitoring by regional and zonal governments

2.3.2.1. Monitoring *woredas*

As was stated in chapter four, in Oromia, Somali, Tigray, Afar, and most parts of Amhara regional states, *woredas* and cities are the second level of sub-national government, with no intermediary between them and the regional governments.¹⁵⁵⁷ In fact, the constitutions and proclamation of Oromia and Afar provide for the establishment of zone administrations, between the regional states and *woredas*. Zone administrations (as opposed to nationality zones) are 'deconcentrated arms' of the regional government, not autonomous sub-regional governments.¹⁵⁵⁸ In every part of the SNNPR, Gamabella, and some parts of Amhara regional states, nationality zones are established as self-governments of minority ethnic communities between the *woredas* and the regional government.¹⁵⁵⁹ The level of government that has a direct monitoring responsibility over a *woreda* or a city, therefore, seems to vary depending on whether a *woreda* is found within or outside a nationality zone. As provided in the regional constitutions, a *woreda* which is found within a nationality zone is responsible to the government of the nationality zone as well as the regional government.¹⁵⁶⁰ Therefore, both the nationality zone and the regional state may

¹⁵⁵⁶ FDRE Proclamation 361 (2003) Art 61 (5).

¹⁵⁵⁷ See chapter 4; § 6.1.

¹⁵⁵⁸ See chapter 4; § 6.1.

¹⁵⁵⁹ See chapter 4; § 6.2.

¹⁵⁶⁰ ARS Constitution (2001) Art 86 (1); SNNPR Constitution (2001) 91(2) & 100 (2) (g); GRS Constitution (2001) 90 (1); BGRS Constitution (2002) Art 87 (1).

monitor its activities. A *woreda* which is outside a nationality zone is answerable only to the regional government. Therefore, only the regional government may directly monitor the *woreda's* activities. Furthermore, as is the case in Oromia and Afar, a regional state may monitor *woredas* through zonal administration, where the latter is established.¹⁵⁶¹

A related issue is whether there is a particular regional or zonal organ that has a principal or exclusive responsibility of monitoring *woredas*. In some regions, such as Tigray and Beinishangul-Gumuz, the primary responsibility to monitor *woredas* is entrusted to a regional 'administrative and security affairs bureau'.¹⁵⁶² This bureau is required to monitor *woredas* directly or through its zonal counterparts. It is unclear whether the other regions also allocate to a particular bureau the principal responsibility of monitoring *woredas*. Even if this is the case, it does not mean that such a bureau has an exclusive mandate of monitoring *woredas*. Rather, various regional and/or nationality zone sectoral offices are authorised to exercise oversight over the various activities of the *woredas*. For instance, the regional finance and economic development bureau has the 'primary responsibility' to monitor *woredas* with respect to their financial management.¹⁵⁶³ Other sectoral offices, including, education bureaus, health bureaus, and the like, monitor the activities of *woreda* that relate to their respective sector.¹⁵⁶⁴

¹⁵⁶¹ ORS Constitution (2001) Art 71 (3).

¹⁵⁶² BGRS Proclamation 86 (2010) 102; TRS proclamation 99 (2006) Art 55.

¹⁵⁶³ Heymans & Mussa (2004) 9.

¹⁵⁶⁴ Heymans & Mussa (2004) 9.

2.3.2.2. Monitoring urban local government

As stated in the preceding chapter, cities have state functions and municipal functions.¹⁵⁶⁵ It is not clearly regulated in the city proclamations which organ of a regional state monitors the activities of cities with regard to their state functions. However, it seems that, as is the case with respect to a *woreda*, no regional or zonal sectoral office has exclusive power to monitor cities with respect to their state functions. It seems that each regional sectoral office may monitor cities with respect to the cities' state function which is pertinent to it. Thus, for instance, a regional education bureau may monitor cities with respect to their activity in the area of education. As far as their municipal functions are concerned, the regional bureau of urban development has the primary responsibility to monitor cities and municipalities.¹⁵⁶⁶

2.3.2.3. Methods of monitoring

The principal method of regional monitoring is self-reporting. For instance, the federal cities are required to submit annual reports to the Ministry of Federal Affairs.¹⁵⁶⁷ Likewise, a *woreda* chief administrator is required to submit periodical reports to the regional states, or nationality zones, or, as is the case in Oromia, to the zonal administration.¹⁵⁶⁸ The mayor of a city has a similar

¹⁵⁶⁵ See chapter 5; § 2.4.3.2.

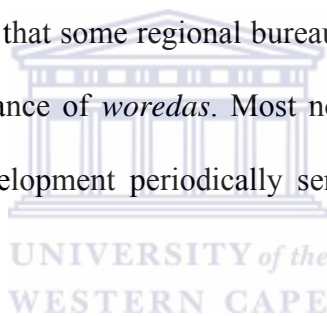
¹⁵⁶⁶ ARS Proclamation 91 (2003) Art 62; ORS Proclamation 65 (2003) Art 53; AfRS Proclamation 33 (2005) Art 19; BGRS Proclamation 69 (2007) Art 55; SNNPR Proclamation 103 (2006) Art 53.

¹⁵⁶⁷ FDRE Proclamation 361 (2003) Art 61(6); FDRE Proclamation 416 (2004) Art 51(3).

¹⁵⁶⁸ ARS Constitution (2001) Art 93(2) (h); BGRS Constitution (2002) Art 94(2) (h); GRS Constitution (2002) Art 97 (2) (h); SNNPR Constitution (2001) Art 100 (2) (g); ORS Constitution (2001) Art 87 (2) (f); TRS Constitution (2001) Art 82 (2) (g).

responsibility.¹⁵⁶⁹ The reports of the *woreda* chief administrator or the mayor of a city deal the overall activities of the *woreda* and city respectively. In addition, each *woreda* or city sectoral office submits periodical reports on its activities to its zonal or regional counterpart.¹⁵⁷⁰ The report regarding the municipal functions of a city or a municipality, so it seems, goes to the regional bureau of urban development¹⁵⁷¹ or in case of federal cities to the MoFA and MoUDC.¹⁵⁷²

The other method of monitoring is on-site inspection. In some regions, regional officials are required to undertake periodical on-site inspections. For instance in Benishangul-Gumuz, regional officials are enjoined to visit *woredas* once a year.¹⁵⁷³ It is also reported that some regional bureaus conduct periodical on-site inspections of the performance of *woredas*. Most notably, a regional bureau of finance and economic development periodically sends auditing and inspection units to *woredas*.¹⁵⁷⁴



¹⁵⁶⁹ FDRE Proclamation 361 (2003) Art 21 (2) (k); FDRE Proclamation 416 (2004) Art 20 (2) (k); BGRS Proclamation 69 (2007) Art 19 (2) (g); ORS Proclamation 116 (2006) Art 7; ARS Proclamation 91 (2003) Art 19 (2) (g); SNNPR Proclamation 103 (2006).

¹⁵⁷⁰ Heymans & Mussa (2004).

¹⁵⁷¹ In Oromia it is called Bureau of Industry and Urban Development.

¹⁵⁷² The MoF and MoUC are authorised to follow up the activities of the federal cities in particular those that are related to the municipal functions of the cities. Likewise, regional bureaus of works and urban development are authorised to follow up the activities of cities in relation to their municipal functions. It can be inferred from this that the reports of cities regarding their municipal functions should be submitted to these federal and regional organs. FDRE Proclamation 361 (2003) Art 61; FDRE Proclamation 416 (2004) Art 51; BGRS Proclamation 69 (2007) Art 55; ORS Proclamation 65 (2003) Art 53 & 54; ARS Proclamation 91 (2003) Arts 62 & 63; SNNPR Proclamation 103 (2006) Art 53.

¹⁵⁷³ BGRS Proclamation 86 (2010) Art 104 (1) (c).

¹⁵⁷⁴ Yilmaz & Venugopal (2008) 23.

2.4. Support

2.4.1. Introduction

As maintained in chapter two, one component of supervision is that senior levels of government should support local government in undertaking its developmental activities. Support may take the form of a general assistance. It may also be used to resolve specific problems that are identified through monitoring. The following section will examine whether and how the federal and regional governments provide support to local government.

2.4.2. Federal support

The federal Constitution is silent on the issue of whether and how the federal government may support local government. The question is whether the federal government is required to support local government. One argument in this respect may be that, local government is a regional competence. Hence, the federal government has no obligation to provide support to local government, save for the two federal cities which are within its jurisdiction. The counter-argument is that the constitutional responsibility of the federal government to directly or indirectly support local government is implied in its duty to formulate and ensure the implementation of policies on social services and economic matter. It is submitted that the second is the more plausible argument. As stated before, important social services, such as, health care and education, whose policies are formulated by the federal government, are implemented by local government. It may be, therefore, argued that in order to ensure the implementation of the policies of the federal government on social services, the federal government may, if not should, directly or indirectly, support local government.

In addition, certain federal laws require federal ministries to support local government. For instance, Proclamation 691 (2010) requires MoUDC to ‘provide all-round and co-ordinated support to urban centres to make them development centres capable of influencing their surroundings’.¹⁵⁷⁵ The Proclamation further provides that the Ministry has the duty to ‘provide capacity building support to urban centres for improving their service delivery; and where necessary, organise training and research centres in the field of urban development’.¹⁵⁷⁶

Practice confirms the above. The federal government provides technical support to *woredas* either directly or through regional sectoral offices. The MoFED and, previously the MoCB, are principally involved in providing support to *woredas*. As the discussion in chapter four shows, MoCB had the mandate, among other things, to implement the DLDP.¹⁵⁷⁷ Accordingly, the MoCB, with its counterpart at regional level, took various measures to implement the DLDP and to build the capacity of *woredas* including preparing manuals, general guidelines and the like.¹⁵⁷⁸

¹⁵⁷⁵ FDRE Proclamation 691 (2010) Art 25 (1) (b).

¹⁵⁷⁶ FDRE Proclamation 691 (2010) Art 25 (1) (c).

¹⁵⁷⁷ See chapter 4; § 5.3.4.

¹⁵⁷⁸ See for instance Federal Democratic Republic of Ethiopia: Ministry of Finance and Economic Development: *planning guideline for woredas and kebeles in Ethiopia* June 2010; Federal Democratic Republic of Ethiopia: Ministry of Finance and Economic Development *Local government development planning guide* April 2010; Federal Democratic Republic of Ethiopia: Ministry of Capacity Building: Public Sector Capacity Building Program: District level decentralization sub – program *Woreda planning and budgeting manual* July 2007.

2.4.3. Support by regional government

2.4.3.1. Supporting *woredas*

The regional constitutions are silent on the responsibility of regional governments to support *woredas*. Some regional proclamations, however, impose an obligation on regional governments to support *woredas*. In Benishangul-Gumuz, for instance, the regional Administrative and Security Affairs Bureau has the responsibility to support *woredas* to build their capacity.¹⁵⁷⁹ To this effect, the Bureau is required to provide comments on *woreda* sectoral reports.¹⁵⁸⁰ It is also required to support *woredas* to prepare and implement annual and strategic plans that are consistent with regional and federal annual and strategic plans.¹⁵⁸¹ Moreover, other regional sectoral bureaus are required to provide technical assistance to *woredas*. In Benishangul-Gumuz regional state, for instance, experts in each regional sectoral office are required to go to *woredas* twice a year to provide technical assistance.¹⁵⁸²

2.4.3.2. Urban local government

In all regions, the primary responsibility of supporting cities is given to the regional bureau of works and urban development.¹⁵⁸³ The bureau is required to provide technical support to cities and generally to build the capacity of cities. It is also expected to co-ordinate the technical support that other sectoral bureaus provide to cities.¹⁵⁸⁴

¹⁵⁷⁹ BGRS Proclamation 86 (2010) Art 104 (1).

¹⁵⁸⁰ BGRS Proclamation 86 (2010) Art 104 (1) (a).

¹⁵⁸¹ BGRS Proclamation 86 (2010) Art 104 (1) (b).

¹⁵⁸² BGRS Proclamation 86 (2010) Art 104 (1) (c).

¹⁵⁸³ SNNPR Proclamation 103 (2006) Art 104; ARS Proclamation 91 (2003) Art 62; ORS Proclamation 65 (2003) Art 54 (2); BGRS Proclamation 69 (2007) Art 55.

¹⁵⁸⁴ SNNPR Proclamation 103 (2006) Art 104.

The federal cities receive support from the federal government. The MoF has the main responsibility of supporting the federal cities.¹⁵⁸⁵ MoUDC also has the duty to provide technical support to the federal cities.¹⁵⁸⁶

2.5. Intervention

The fourth element for central supervision is intervention.¹⁵⁸⁷ It was indicated in chapter two that it was critical to clearly define in a constitution the grounds for, and the methods of, intervention. Therefore, the following sections will examine the grounds and the methods for federal and/or regional intervention in local government.

2.5.1. Federal intervention

2.5.1.1. Intervention in *woreda* and regional cities

There is no explicitly stated constitutional ground for direct federal government intervention in local government. What is clearly known is that the federal government has the power to intervene in a regional state when the ‘constitutional order is endangered’ in the region¹⁵⁸⁸ or the regional state fails to maintain security, or to prevent human rights violations.¹⁵⁸⁹ It may be argued that a federal intervention in a regional state may not necessarily have state-wide implications. The problem that triggers a federal intervention in a regional state may be

¹⁵⁸⁵ FDRE Proclamation 361 (2003) Art 61 (5); FDRE Proclamation 416 (2004) Art 51 (2).

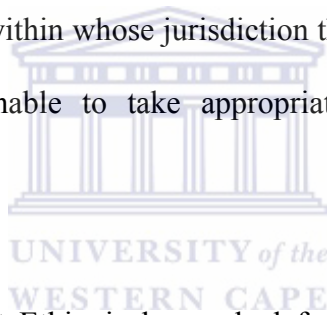
¹⁵⁸⁶ FDRE Proclamation 691 (2010) Art 25 (1) (c).

¹⁵⁸⁷ See chapter 2; § 3.5.4.1.

¹⁵⁸⁸ FDRE Constitution (1995) Art 62 (9). FDRE Proclamation 359 (2003) a proclamation which is issued to regulate federal intervention, provides that the constitutional order is said to be endangered when there is an armed uprising, attempt to resolve a conflict between ethnic groups of different regions in ‘non-peaceful means’, and when the peace and security of the federal government is disturbed.

¹⁵⁸⁹ FDRE Constitution (1995) Art 55 (16).

geographically limited to a specific *woreda* or city. In such circumstances, the federal intervention may *in effect* amount to a federal intervention into a local government unit. It will be, however, implausible to consider such an intervention as federal intervention in local government unit. Moreover, even if it was to be so argued, the grounds for a federal intervention, in particular the first two, are limited to security-related matters. They are not related to a breakdown in service delivery which is the principal responsibility of an Article 50(4) local government unit. Thus, the question still remains: what will happen if a *woreda* fails to provide basic services despite the fact that the constitutional order is not endangered and that there is stability and security in the *woreda*? What will happen if a regional state, within whose jurisdiction the malfunctioning *woreda* is found, is unwilling or unable to take appropriate measures to rectify the problems?



One argument may be that Ethiopia has a dual federal system in which local government is an exclusive regional matter. Therefore, the federal government may not intervene in local government even if there is a breakdown in service delivery in a particular *woreda* and the regional state within whose jurisdiction the *woreda* is found fails to intervene.

The counter-argument may be that the federal government has a constitutional responsibility not only to formulate, but also to ensure the implementation of, policies with respect to social services, such as, public health, education, and the like. Evidently, it is the primary responsibility of a regional state to intervene and rectify a breakdown in service delivery in a particular *woreda*. However, this

cannot preclude the possibility of a federal intervention when a regional state completely fails to correct the problem.

In addition, FDRE Proclamation 359 (2003) (issued to regulate federal intervention in regional states) defines a human rights violation, for the purpose of federal intervention, as a ‘violation of the provision of the human rights stipulated in the Constitution and laws promulgated pursuant to the Constitution’.¹⁵⁹⁰ The Bill of Rights of the federal Constitution provides that ‘[e]very Ethiopian national has the right to equal access to publicly funded social services’.¹⁵⁹¹ The Constitution adds that ‘[t]he State has the obligation to allocate ever increasing resources to provide to the public health, education, and other social services’.¹⁵⁹² A failure to ensure the delivery of basic services, such as, health care and education, may, therefore, constitute a human rights violation as per Article 55(16) of the FDRE Constitution. Accordingly, the federal government may (if not must) intervene if a *woreda* or city fails to provide basic services and if a regional state does not intervene in time to correct the situation.

It may still be argued that such a federal intervention cannot be considered as an intervention in local government but as an intervention in a regional government. This is because what triggers the federal intervention is not the failure of a *woreda* or a city to discharge its constitutional duty. It is rather the failure of the regional state to correct the problem which emanates from the failure of a local government unit to discharge its constitutional duty.

¹⁵⁹⁰ FDRE Proclamation 359 (2003) Art 7.

¹⁵⁹¹ FDRE Proclamation (1995) Art 41 (3).

¹⁵⁹² FDRE Proclamation (1995) Art 41 (3).

It is submitted here that it is of little consequence whether such an intervention is called federal intervention in local government or federal intervention in a regional government. What matters most here is that the federal government is not precluded from intervening to correct a break down in service delivery by a local government unit.

2.5.1.2. Federal intervention in federal cities

As indicated above, the federal government has the power to exercise direct oversight over the two federal cities, Addis Ababa and Dire Dawa. There are three grounds for federal intervention in the federal cities. It may intervene in either of these cities if the city government endangers ‘the constitutional order’, if there is a breakdown of security in the city,¹⁵⁹³ and if a coalition of political parties breaks up which forms the executive of the city.¹⁵⁹⁴

When the first two are the grounds for federal intervention, Parliament may decide to immediately dissolve the councils of the two cities and establish a transitional government for the cities.¹⁵⁹⁵ Parliament may also determine the duration that the city will be under a transitional government. The Prime Minister (PM) will be in charge of ensuring the implementation of the decision of Parliament in this respect.¹⁵⁹⁶ In the case of a break-up of a coalition of parties forming the executive of one of the federal cities, the MoFA is required to approach the political parties and invite them to form a new coalition or revitalise

¹⁵⁹³ FDRE Proclamation 361 (2003) Art 61(3); FDRE Proclamation 416 (2004).

¹⁵⁹⁴ FDRE Proclamation 361 (2003) Art 17 (2) (b); FDRE Proclamation 416 (2004) Art 15(4) (b).

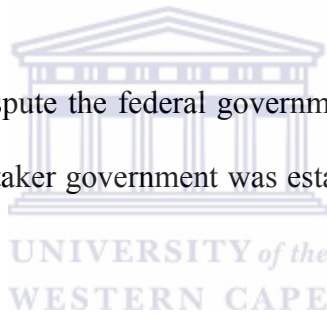
¹⁵⁹⁵ FDRE Proclamation 361 (2003) Art 61(4); FDRE Proclamation 416 (2004) Art 15(3) (a).

¹⁵⁹⁶ FDRE Proclamation 361 (2003) Art 61(4); FDRE Proclamation 416 (2004) Art 15(3) (b).

the previous one.¹⁵⁹⁷ Parliament may, however, decide to dissolve the city councils and hold new elections within six months if the parties fail to agree to create a coalition.¹⁵⁹⁸

Regardless of the ground of intervention the body which will be in charge may not make new laws or amend the existing law of the cities.¹⁵⁹⁹ The only legislative power it may exercise is to adopt a budget. The body may also issue regulations, as part of its executive power, where a proclamation issued by the city council so authorises the executive organ so to do. Otherwise, the power of the body is limited to exercising executive powers only.

After the 2005 electoral dispute the federal government had intervened in Addis Ababa. A provisional care taker government was established which governed the city until 2008.¹⁶⁰⁰



2.5.2. Regional intervention

2.5.2.1. Intervention in a *woreda*

Grounds for intervention

The regional constitutions, other than that of the Tigray, provide no substantive ground for regional intervention in a *woreda*. The Tigray regional Constitution provides three broadly defined grounds for a regional intervention in a

¹⁵⁹⁷ FDRE Proclamation 361 (2003) Art 17(2) (b); FDRE Proclamation 416 (2004) Art 15(4) (b).

¹⁵⁹⁸ FDRE Proclamation 361 (2003) Art 17(2) (c); FDRE Proclamation 416 (2004) Art 15(4) (c).

¹⁵⁹⁹ FDRE Proclamation 361 (2003) Art 17 (2) (e); FDRE Proclamation 416 (2004) Art 15(4) (e).

¹⁶⁰⁰ See Assefa (2009) 89.

woreda.¹⁶⁰¹ It provides that the regional government may intervene (1) when a *woreda* endangers the constitutional order, (2) when it fails to maintain peace and security, or (3) when it fails to effectively exercise its legal and constitutional functions and powers.¹⁶⁰²

Proclamation 99 (2010) of Tigray and Proclamation 86 (2010) of Benishangul-Gumuz provide three additional grounds of intervention over and above the above two. These are misappropriation of funds or properties, a failure of a *woreda* executive council to convene a meeting for more than 6 months, and infringement of obligating provisions of regional laws.¹⁶⁰³

The aforementioned regional constitution and proclamations do not define what ‘endangering the constitutional order’ or a failure to maintain peace constitutes. It may be, therefore, appropriate to use the elements that are used in Proclamation 359 (2003) to define ‘endangering the constitutional order’ for the purpose of federal intervention.¹⁶⁰⁴ A constitutional order, thus, may be considered to have been endangered when there is an armed uprising in a *woreda* or when ethnic

¹⁶⁰¹The intervention clause was inserted in the Tigray Regional Constitution by means of a constitutional amendment that was introduced in 2006. The amendment was promulgated in the TRS Proclamation 98 (2006).

¹⁶⁰² TRS Constitution (2001) 73 (4).

¹⁶⁰³ TRS Proclamation 99 (2006) Art 58 (1); BGRS Proclamation 86 (2010) Art 103(1).

¹⁶⁰⁴ FDRE Proclamation 359 (2003) defines endangering the constitutional order as ‘an activity or act carried out by the participation or consent of a Regional Government in violation of the Constitution or the constitutional order and in particular (1) armed uprising (2) resolving conflicts between another Region or Nation, Nationality or People of another Region by resorting to non-peaceful means(3) disturbance of peace and security of the Federal Government or (4) violation of directives given pursuant to Article 11of this Proclamation; shall be deemed to have been an activity or act that has endangered the constitutional order.

groups within a *woreda* clash and no peaceful means are used to resolve the problem. A *woreda* can also be said to have failed to maintain peace when it is unsuccessful in ensuring public safety through the normal operation of the law.¹⁶⁰⁵ These substantive grounds for intervention are security related.

The third substantive criterion under the Tigray Constitution and the additional three grounds for intervention in the aforementioned proclamations may be linked to a breakdown in basic service delivery. In Tigray, for instance, a *woreda* can be considered to have failed to exercise its legal or constitutional functions warranting intervention if it fails, for instance, to approve its annual plan and budget to deliver basic services. It goes without saying that a *woreda*'s development will be negatively affected if a *woreda* executive council fails to meet for six months. This should entail intervention in a *woreda* by a regional government. However, a failure to exercise a 'constitutional function', and infringement of regional laws by a *woreda* as grounds for intervention, are too ambiguous and widely formulated. The lack of specificity in this respect is likely to endanger a *woreda*'s autonomy.

Methods of intervention

Only two methods of intervention are considered in the Tigray Constitution and in the regional proclamations that regulate regional intervention. These are suspension and dissolution of a malfunctioning *woreda* council.¹⁶⁰⁶ The two methods of intervention are employed regardless of the ground for intervention. Hence, in Tigray and Benishangul-Gumuz, for instance, the regional council, which has the last say on the matter, may suspend a *woreda* council pending an

¹⁶⁰⁵ See FDRE Proclamation 359 (2003).

¹⁶⁰⁶ TRS Constitution (2001) Art 74 (4) (b).

investigation into the problem which caused the regional state to intervene.¹⁶⁰⁷ If the investigation so warrants, the regional council may dissolve the *woreda* council. During the suspension of a *woreda* council or after the council is dissolved, the regional council may order the regional executive council or chief administrator to establish a transitional *woreda* administration and appoint provisional heads of executive bureaus of the *woreda*.¹⁶⁰⁸ The transitional *woreda* administration will administer the *woreda* for a maximum of one year or, as is the case in Tigray, one and a half years.¹⁶⁰⁹ During that period of transition a *woreda* administration will assume only the executive powers of the *woreda* executive council as provided under Articles 80 and 82 of the Tigray Constitution. The only legislative power the provisional administration may exercise is approving the *woreda*'s annual plan and budget.¹⁶¹⁰ Thus, it may not carry out other legislative functions of the *woreda*. This is in keeping with local democracy and political autonomy to preclude the provisional local administration from assuming the legislative functions of a *woreda* or a city. As De Visser states, local legislative power is the most important expression of local autonomy which should not be easily tampered with.¹⁶¹¹

2.5.2.2. Regional intervention in urban local government

The regional city proclamations regulate intervention by the regional governments into cities.

¹⁶⁰⁷ BGRS Proclamation 86 (2010) Art 103; TRS Constitution (2001) Art 74 (4) (b).

¹⁶⁰⁸ BGRS Proclamation 86 (2010) Art 103; TRS Constitution (2001) Art 74 (4) (b).

¹⁶⁰⁹ TRS Constitution (2001) Art 74 (6).

¹⁶¹⁰ TRS Constitution (2001) Art 74 (5) (a).

¹⁶¹¹ De Visser (2005) 277.

Grounds for intervention

The grounds for regional intervention in cities are (1) causing harm to the public interest, (2) failing to maintain peace and security, and (3) endangering ‘the constitutional order’.¹⁶¹² When any one of these substantive criteria is met, the regional government is authorised to intervene. Each of the above substantive criteria is ambiguous and requires clarification. However, no definition is provided in the regional city proclamations as to what constitutes ‘causing harm to the public interest’, or what ‘the public interest’ is for that matter. ‘Endangering the constitutional order’ is also not clearly defined.

Methods of intervention

In some of the regions, for instance in Oromia, the regional government is allowed to automatically dissolve a city council when any one of the grounds for intervention is present.¹⁶¹³ In the Amhara, Afar, Benishangul-Gumuz, and SNNPR regional states, the regional governments are authorised to suspend a city council in similar cases.¹⁶¹⁴ The suspension is undertaken temporarily and is meant to buy time to investigate the matter. In the meantime, the regional government will establish a provisional city government which will take care of the city’s affairs pending investigation. A new election will be conducted within six months if after investigation the regional council decides that the city council be dissolved.¹⁶¹⁵

¹⁶¹² ARS Proclamation 91 (2003) Art 13 (2); AfRS Proclamation 33 (2006) Art 17 (2); BGRS Proclamation 69 (2007) Art 13 (2); ORS Proclamation 65 (2003) Art 304 (1) `SNNPR Proclamation 103 (2006) Art 19 (2).

¹⁶¹³ ORS Proclamation 65/2003; Art 30 (2).

¹⁶¹⁴ ARS Proclamation 91 (2003) Art 13 (2); BGRS Proclamation 69 (2007) Art 13 (2); SNNPR Proclamation 103 (2006) Art 19 (2).

¹⁶¹⁵ ARS Proclamation 91 (2003) Art 13(4); SNNPR Proclamation 103 (2006) Art 19(4).

2.5.3. Procedural safeguards against undue intervention

The above discussion shows whether, when, and how the federal and regional governments may intervene in *woredas* and cities. The question that follows is whether a *woreda* or a city may defend itself from illegal regional or federal intervention. As was discussed above, the regional constitutions, except that of the Tigray, are silent on the issue of intervention, including on the issue of whether a *woreda* may challenge a regional intervention. The Tigray Constitution, even though has an intervention clause, is silent on whether and how a *woreda* may challenge an illegal regional intervention. Moreover each of the city proclamations of the SNNPR, Amhara, Benishangul-Gumuz, and Oromia as well as the charters of the federal cities has an intervention clause. Yet, none of these proclamations provide whether or how a city may challenge an undue regional intervention. Only Proclamation 99 (2006) of Tigray and Proclamation 86 (2010) of Benishangul-Gumuz provide that a *woreda* may provide a written explanation as to why the regional intervention should not take place.¹⁶¹⁶ Even in this case, the final decision on whether the intervention should take place however remains with the regional council.

The next related issue is whether a *woreda* or a city may approach a regional or a federal court challenging the legality of a regional or (in case of the federal cities) a federal intervention. There appears to be no constitutional or legal provision that hinders a *woreda* or a city from doing so. However, disputes relating to regional or federal intervention are likely to involve the interpretation of either the federal or a regional constitution. As was mentioned in chapter four, it is an

¹⁶¹⁶ TRS Proclamation 99 (2006) Art 58 (1) (d); BGRS Proclamation 86 (2010) Art 103 (1) (2).

unsettled matter whether a regional court may interpret a regional constitution in resolving disputes. It is also contestable whether a federal court may interpret the federal Constitution in similar cases.¹⁶¹⁷ It is clear though that disputes involving the interpretation of regional constitution may be resolved by a Constitutional Interpretation Commission (CIC) or, in case of SNNPR, by the Council of Nationalities (CoN).¹⁶¹⁸ The HoF has a final say on disputes involving the interpretation of the federal Constitution.¹⁶¹⁹ Therefore, it may be argued that a *woreda* or regional city, other than those that are in SNNPR, may challenge the constitutionality of regional intervention by taking the matter to a regional CIC. A *woreda* or city in SNNPR may approach the CoN challenging the constitutionality of a regional intervention. The federal cities may approach the HoF challenging the constitutionality of a federal intervention.

2.6. Assessment

The above section has dealt with the question as to whether, when, and how federal and regional governments may intervene in local government. There are some critical issues relating to intervention. First, none of the regional constitutions, except that of the Tigray, provides substantive criteria or mechanisms of intervention in ailing *woredas* and city administrations. Thus, it is not clear whether and how a regional government may intervene when a *woreda* fails to live up to its developmental mandate. In regional states such as Amhara and SNNPR where there are autonomous nationality zones above *woredas*, it is also unclear who has the constitutional mandate to intervene in a malfunctioning *woredas* that is located in a nationality zone.

¹⁶¹⁷ See chapter 4 § 3.2.3 & 3.3.3.

¹⁶¹⁸ See chapter 7; § 2.3.2.2.

¹⁶¹⁹ See chapter 4 ; § 3.2.1.2.

The failure of the regional constitutions to adequately regulate regional intervention is dangerous as regional governments may interpret the silence of the regional constitutions on the matter to mean that they have neither the authority nor the duty to intervene in underperforming *woredas*. This is however unlikely. What is likely and equally dangerous is that the regional states may interpret the silence of the regional constitutions to mean that there is no limit to their power of intervention. The regions may, therefore, resort to intervention in response to minor problems in otherwise a well-functioning *woreda* thereby excessively eroding its autonomy. The regional states may also resort to intervention to achieve selfish political ends. For instance, the regional governments may use intervention to undermine the authority of a *woreda* that is under the control of an opposition party. As was discussed above, some of the regional states, such as Benishangul-Gumuz, have attempted to define the grounds for and methods of intervention in their proclamations. However this has two flaws. First regional intervention has critical consequence on *woreda* autonomy. Therefore, it should not be regulated through ordinary legislation. It should be clearly provided in regional constitutions.

Secondly, as the above discussion shows, the grounds for intervention are defined in the regional proclamation vaguely and broadly. As was discussed above, the grounds for intervention include endangering the constitutional order, failing to maintain peace and security, and causing harm to the public interest. Neither the Tigray Constitution nor the regional proclamations define what constitutes endangering the constitutional order. ‘Public interest’ is also not defined, nor

what constitutes ‘causing harm’ to it. In a scenario where a *woreda* or a city is controlled by a party other than the ruling party of a regional state, every little deviation of a *woreda* council, which is controlled by such a party, from the decision of a regional government may be interpreted as ‘endangering the constitutional order’ warranting intervention. Moreover, the substantive criteria are not only ill-defined, but also almost exclusively focused on security issues. A failure by a city to fulfill its state and municipal functions in a peaceful situation is not considered as a ground for intervention.

Thirdly, the only mechanism for intervention that is provided in the Tigray Constitution and other regional proclamations is the dissolution of a *woreda* or city council and the establishment of a provisional administration. It is questionable whether it is appropriate to dissolve a *woreda* or city council for every allegation of failure to exercise its constitutional function. If ‘failure to exercise a constitutional function’ is generously interpreted, a *woreda* council may be dissolved just because one of its sectors, for instance education, is malfunctioning. It may be argued that dissolving a *woreda* council is appropriate for a *woreda* political autonomy as it takes the matter back to the local community. However, the time and resources that will be wasted every time a *woreda* council is dissolved and new elections are held should also be considered. It is submitted that other methods of intervention should be used before resorting to the dissolution of a *woreda* council. One such method of intervention is the assumption of a *woreda*’s function by the regional government. Thus, for instance, the regional government may be allowed to take over the responsibility of providing primary education if a *woreda* education bureau fails to effect its

responsibility without the need to dissolve the *woreda* council. For instance, in South Africa the assumption of some of local government's executive powers by a senior level of government, without a need to dissolve municipal councils, has been used as a method of intervention. This method ensured an uninterrupted service delivery in ailing municipalities.¹⁶²⁰ This approach should be considered in Ethiopia, too.

3. INTER-GOVERNMENTAL CO-OPERATION IN ETHIOPIA

3.1. Introduction

As stated in chapter two, co-operation between local government and senior levels government is as important as central supervision.¹⁶²¹ Co-operation aspires to harmonise activities, prevent disputes, and fill legislative gaps.¹⁶²² As stated previously, co-operation is expected to be based on equality among the various levels of government.¹⁶²³ This requires a normative principle of co-operation which recognises the 'institutional integrity' of local government. Moreover, co-operation should be conducted both horizontally (among local government units) and vertically (between local government and senior levels of government).

In Ethiopia's context, it is submitted, it is critical to create institutional systems for both horizontal and vertical co-operation. There are many areas which require co-operation between two or more *woredas* and between *woredas* and cities. In many cases schools and clinics which are situated in one *woreda* serve residents

¹⁶²⁰ Steytler & De Visser (2007).

¹⁶²¹ See chapter 2; § 3.5.4.2.

¹⁶²² See chapter 2; § 3.5.4.2.

¹⁶²³ See chapter 2; § 3.5.4.2.

of other *woredas*.¹⁶²⁴ Financing and administering these facilities requires co-operation between or among *woredas*. Moreover, cities and municipalities serve as political seats and economic and political centres of several *woredas*. This also requires clearly institutionalised city-*woreda* co-operation.

In addition, as was discussed above, the federal and regional governments adopt policies on social and economic matters that are meant to be implemented by *woredas* and cities. Moreover, there are two, in some cases three, levels of sub-national governments. As was discussed previously, the functional competences of each of the sub-regional governments are left undefined. It is, therefore, critical to create institutional arrangements for both horizontal and vertical co-operation.

The following sections will examine the institutional framework for co-operation among the various levels of government in Ethiopia.

3.2. Normative principles of co-operation in Ethiopia

3.2.1. Under the FDRE Constitution

The federal Constitution articulates a normative framework which recognises the regional states and the federal government as two autonomous orders of government. This normative framework enjoins the two orders of government to respect each other's institutional integrity.¹⁶²⁵ The Constitution is, however, completely silent on the institutional status of local government. Article 50(4) of the federal Constitution is too ambiguous and does not explicitly recognise local

¹⁶²⁴ Solomon (2008).

¹⁶²⁵ The FDRE Constitution Article 50 (8) provides that 'Federal and State powers are defined by this Constitution. The States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States'.

government as an equal partner of the regional and federal governments. It does not also explicitly articulate the normative principle that should guide the relationship between the Article 50(4) local government and the regional states.

3.2.2. Under the regional constitutions

All the regional constitutions explicitly state that the *woreda* remains a body hierarchically subordinate to the regional government despite having the power to decide on its internal affairs.¹⁶²⁶ The regional constitutions of SNNPR and Gambella provide that the *woreda* is subordinate not only to the regional government but also to the nationality zone within which it is found.¹⁶²⁷ The Constitution of the Benishangul-Gumuz region specifically states that a *woreda* is subordinate to the executive branch of the regional government.¹⁶²⁸

Cities and municipalities are not the creation of the regional constitutions even though their establishment has been implicitly required by the federal and regional constitutions.¹⁶²⁹ They are the creatures of regional statutes. Therefore, their institutional status as an order of government is not explicitly recognised and their basic structure is not defined in the regional constitutions. Furthermore, the regional statutes which created cities plainly affirm the institutional subordination of the cities to the regional governments. Proclamation 65 (2003) of the Oromia region, for example, provides that the relationship between the regional government and the cities in the region will be ‘guided by [a] spirit of co-

¹⁶²⁶ ARS Constitution (2001) Art 84 (2); AfRS Constitution (2002) 74 (2); BGRS Constitution (2002) Art 85 (2); TRS Constitution (2001) Art 72 (2); AfRS Constitution (2002) 110 (2).

¹⁶²⁷ GRS Constitution (2002) Art 88 (2); SNNPR Constitution (2001) Art 91(2)

¹⁶²⁸ BGRS Constitution (2002) Art 85 (2).

¹⁶²⁹ See chapter 5; § 2.2.1.2.

operation, partnership, support'.¹⁶³⁰ The Proclamation further states that this relationship (which is guided by a spirit of co-operation, partnership, support) is founded on the recognition of the accountability of cities to the regional government.¹⁶³¹ Likewise, the provision of the Amhara Proclamation which provides for the principle which governs the relationship between cities and the regional government, also asserts that cities are answerable to the regional government.¹⁶³²

In brief, neither the FDRE Constitution nor the regional constitutions nor the city proclamations contain a normative principle that recognises the institutional status of a *woreda* or a city as an equal partner with the regional governments. On the contrary, the regional constitutions as well as the regional proclamations ascetically draw attention to the hierarchical subordination of local government.

3.3. Horizontal co-operation

As stated earlier, horizontal co-operation among local government units is crucial for addressing developmental issues that impact on more than one local unit.¹⁶³³

In the Ethiopian context, this requires an institutionalised *woreda-to-woreda*, *city-to-city*, and *woreda-to-city*, co-operation. The following section discusses how horizontal co-operation takes place.

3.3.1. Co-operation between *woredas*

The regional constitutions are silent on the issue of whether there can or should be a *woreda-to-woreda* co-operation and the institutional instruments for such co-

¹⁶³⁰ ORS Proclamation 65 (2003) Art 24(1).

¹⁶³¹ ORS Proclamation 65 (2003) Art 24(1).

¹⁶³² ARS Proclamation 91 (2003).

¹⁶³³ See chapter 2; § 3.5.4.2.

operation. Yet, there is no a legal impediment for such co-operation to take place. Moreover, some of the regional states have provided in their proclamations that *woredas* within a regional state may co-operate with each other. For instance, Proclamation 86 (2010) of the Benishangul-Gumuz provide that *woredas* with these regions may co-operate with each other.¹⁶³⁴ The proclamation provides, the *woredas* within the regional state may establish an association to this effect. It also provides that neighbouring *woredas* in the region may create a joint committee to deal with common issues.¹⁶³⁵

3.3.2. Co-operation among cities

The principles for co-operation among the cities within a region as well as among cities of different regions are provided for in city proclamations. For instance, the Amhara Proclamation 91 (2003) provides that one of the municipalities in a *woreda*, where there are a number of municipalities, becomes ‘a leading municipality’.¹⁶³⁶ The leading municipality will be responsible for co-ordinating the activities of, providing technical and engineering assistance to, and building the capacity of, the other municipalities in the *woreda*. It also has the responsibility to co-ordinate their human resource management and financial administration.¹⁶³⁷

The Amhara regional city Proclamation also provides for the establishment of ‘amalgamated cities’ and ‘metropolitan cities’ which are expected to serve as

¹⁶³⁴ BGRS Proclamation 86 (2006) Art 106.

¹⁶³⁵ BGRS Proclamation 86 (2006) Art 106.

¹⁶³⁶ ARS Proclamation 91 (2003) Art 37(1).

¹⁶³⁷ ARS Proclamation 91 (2003) Art 37(2) (a-g).

institutions of co-operation among cities.¹⁶³⁸ An ‘amalgamated city’ is a gathering of small towns within a given radius that do not have their own city or municipal administrations.¹⁶³⁹ According to the regional Proclamation, these small towns which are in close proximity to each other may come together to create a city.¹⁶⁴⁰ However, the details of how the system of amalgamated cities operates are not clearly stated in the Proclamation. There is no also evidence demonstrating that amalgamated cities exist in fact; and not only in law.

A ‘metropolitan city’ is a city which is, supposedly, created through the coming together of several cities which have their own city or municipal administration.¹⁶⁴¹ It can be assumed that the cities which constitute a metropolitan city need to be situated in close geographical proximity to each other. Therefore, through co-operation, cities and municipalities in the Amhara region can create a larger urban government structure. Nevertheless, there is no evidence about whether there are in fact metropolitan cities in the region.

A further institutional arrangement for co-operation among the cities within a region is the establishment of zonal¹⁶⁴² and regional associations of cities and municipalities. This is provided for in the city proclamations of some of the regional states including Amhara, Oromia, Benishangul-Gumuz, and SNNPR.¹⁶⁴³

¹⁶³⁸ ARS Proclamation 91 (2003) Art 2(4).

¹⁶³⁹ ARS Proclamation 91 (2003) Art 2(4).

¹⁶⁴⁰ ARS Proclamation 91(2003) Art 2(4).

¹⁶⁴¹ ARS Proclamation 91 (2003) Art 2(4).

¹⁶⁴² ARS Proclamation 91 (2003) Art 64 (2).

¹⁶⁴³ As stated previously very few urban settlements exist in the low land regions. Moreover, only the capitals of these regions have the status of a city or a municipality. Thus nothing is provided

The regional association of cities and municipalities is expected to promote co-operation among them.¹⁶⁴⁴ A cities' association is expected to assist the cities in a region to build their capacity. It is not clear whether there is an existing city association in any of these regions. It is unlikely that any city associations have been established in the lowland regions as at present the capital of each of these regions is the only existing viable city in those regions.

The above formal arrangements are designed to facilitate co-operation among cities and municipalities of a specific regional state. This begs the question whether there may be co-operation among cities of different regions. It is provided in the regional city proclamations that each city may establish co-operation with cities in a different region.¹⁶⁴⁵ Thus, the cities of the different regions may come together to form a national cities' association. However there is no a national legal framework that regulates co-operation among cities unless FDRE Proclamation 621 (2009), which regulates the establishment and operation of non-government organisations, may be considered as a national law governing the establishment of a national cities' association. Therefore a city association may be established at national level as non-governmental organisation, not as public organs. Nonetheless, there is no institutional system that allows such an

about the possibility of establishing cities' association in these regions. ARS Proclamation 91 (2003) Art 64 (1); SNNPR Proclamation 103 (2006) Art 51(1); ORS Proclamation 65 (2003) Art 51(1).

¹⁶⁴⁴ARS Proclamation 91 (2003) Art 66 (1); SNNPR Proclamation 103 (2006) Art 52 (1); ORS Proclamation 65 (2003) Art 52 (1).

¹⁶⁴⁵ARS Proclamation 91 (2003) Art 66 (1); SNNPR Proclamation 103 (2006) Art 52 (1); ORS Proclamation 65 (2003) Art 52 (1)

association to play a significant role at the federal government level other than, perhaps, acting as a lobbying group.

3.3.3. 'Rural-urban linkages'

As discussed in chapter four, the need for the 'rural-urban linkage' was stressed in the federal policy papers.¹⁶⁴⁶ In particular it was envisioned by the federal government that urban areas would complement rural development by serving as market, service, and industrial centres.¹⁶⁴⁷ This policy rationale is translated into law in the city proclamations and charters. The regional city proclamations state that, one of the objectives for the creation of cities and municipalities is to 'help, guide, and accelerate' rural development.¹⁶⁴⁸ Three mechanisms for the integration of rural and urban local government are provided for in the city proclamations. The first one is the creation of municipalities within a larger rural *woreda* structure.¹⁶⁴⁹ The municipalities are allowed to carry out municipal functions. Simultaneously, they serve as political, administrative, and economic centres of the *woreda* within which they are found.

The second mechanism for integration is the representation of surrounding rural *kebeles* in a city council. For instance, the Proclamation 16 (2006) of Oromia provides that at least 20 percent of the seats in a city should be reserved for the surrounding rural *kebeles*.¹⁶⁵⁰ Proclamation 103 (2006) of SNNPR also envisages elections for a city council in the rural *kebeles* surrounding a city. Despite the fact

¹⁶⁴⁶ See chapter 4; §.5.3.4.

¹⁶⁴⁷ See chapter 4; §.5.3.4.

¹⁶⁴⁸ ARS Proclamation 91 (2003) Preamble; SNNPR Proclamation 103 (2006) Preamble; ORS Proclamation 65 (2003) Art 7(8).

¹⁶⁴⁹ See chapter 4; § 6.1.2.1.

¹⁶⁵⁰ ORS Proclamation 116 (2006) Art 2 (5).

that this arrangement may have other, less benign, objectives,¹⁶⁵¹ it still serves the purpose of integrating cities and rural areas. The boundary of the city of Dire Dawa is also demarcated in such a manner that certain rural *kebeles* are included within the city so that that may be represented in its City Council.¹⁶⁵² It could be argued that the representation of rural *kebeles* in city councils is not a mechanism for co-operation between two distinct units of local government as those who are elected in the rural *kebeles* become full members of the city council. However, it cannot be gainsaid that the representatives who are elected from rural *kebele* may create a link between rural *kebeles* and cities thereby serving as means of co-operation.

The creation of a joint committee is the third mechanism of integration or co-operation between rural and urban local government. The Oromia, SNNPR, Amhara, Afar, and Benishangul-Gumuz city proclamations provide that a joint committee may be established between a rural *woreda* and a city.¹⁶⁵³ The joint committee is expected to identify social and economic matters affecting both the rural and urban populations, seek solutions for common problems, and make

¹⁶⁵¹ As will be argued in chapter 7, the real motive behind this arrangement is to ensure that members of an indigenous ethnic group of the area hold the majority seats in the city council and to exclude non-indigenous communities.

¹⁶⁵² FDRE Proclamation 416 (2004) Art 4.

¹⁶⁵³ ARS Proclamation 91 (2003) 46; BGRS Proclamation 69 (2007) Art 39; AfRS Constitution 33 (2005) Art 21; SNNPR Proclamation 103 (2006) 36 (1); ORS Proclamation 65 (2003) Art 28.

recommendations to the political organs of the local government.¹⁶⁵⁴ The committee is also mandated to resolve border disputes.¹⁶⁵⁵

3.4. Vertical co-operation: Forums for inter-governmental relations

As argued above there are many areas which require co-operation between *woredas* or cities and nationality zones, regional states and the federal government. However, the regional constitutions provide no clear direction as to how the various levels of sub-national governments may come together to solve the problems that arise from the unclear division of functional competences. There is no deliberately designed institutional forum for interaction between *woredas* or cities and regional states and/or nationality zones. A careful perusal of the regional constitutions and city and sectoral proclamations however points to some mediums which are or may be used as forums for inter-governmental relations. These are: nationality zone councils, associations of cities and municipalities, and sectoral offices. Practice also suggests the existence of certain informal forums of IGR.

3.4.1. Nationality zone council as forum for IGR

As discussed in chapter four, in Amhara, Benishangul-Gumuz, and Gambella a portion of the seats in a nationality zone council are occupied by representatives of *woreda* councils. Members of a regional council who are elected from the constituencies within the nationality zone occupy the rest of the seats.¹⁶⁵⁶ Thus, in these three regions, *woreda* and the regional government representatives meet in the nationality zone councils. In some sense, therefore, a nationality council can

¹⁶⁵⁴ ARS Proclamation 91 (2003) Art 46; ORS Proclamation 65 (2003) Art 28; SNNPR Proclamation 103 (2006) Art 36 (1).

¹⁶⁵⁵ ARS Proclamation 91 (2003) Art 46; ORS Proclamation 65 (2003) Art 28; SNNPR Proclamation 103 (2006) Art 36 (1).

¹⁶⁵⁶ See chapter 4; § 6.5.1.

be considered as a forum of IGR for the three orders of government, *viz.*, regional, zonal and *woreda*. However, it should be noted that nationality zone councils are not designed to serve as forums for IGR. It is also unclear whether members of a nationality zone council who are selected from constituencies within the zone act in their individual capacity or in their capacity as the representatives of the *woreda* from whose council they are selected. It is also unclear in what capacity those who are also members of the regional council act in the nationality zone. Yet, it can be assumed that in this council the interests of the *woredas* as well as those of the regional state are or can be raised and debated.

3.4.2. Local government associations

As stated above, certain regional proclamations provide that regional associations of *woredas* and cities and municipalities may be established. The Proclamation 65 (2003) of Oromia provides that such an association will represent cities collectively and express their views on matters of common interest'.¹⁶⁵⁷ However, the Proclamation does not indicate the forum wherein the association may express these views. Proclamation 103 (2006) of SNNPR also provides that a city association may represent 'cities collectively, express their views on matters of their common interest [and] lobby [the regional] government for revision of laws'.¹⁶⁵⁸ The association of cities in the Amhara regional state, as provided for Proclamation 91 (2003), is intended to exercise function similar to those of in the other regions.¹⁶⁵⁹

¹⁶⁵⁷ ORS Proclamation 65 (2003) Art 52 (2).

¹⁶⁵⁸ SNNPR Proclamation 103 (2006) Art 52.

¹⁶⁵⁹ ARS Proclamation 91 (2003) Art 66.

There is no evidence showing whether a regional association of *woredas* or cities and municipalities has been established in any of the regional states. It should be noted that even if such an association is in fact established, it is not expected to be a ‘negotiating partner’ that represents the interests of cities at regional level. A regional government is not, for instance, required to consult such an association before passing a certain decision affecting the cities within the jurisdiction of the relevant regional state. Therefore, it seems that such an association of *woredas* or cities is meant to be merely an informal lobbying group.

There is no federal law that specifically provides for the establishment of a national association of *woredas*, cities, and municipalities which promotes the interest of cities at federal level. There is no also evidence as to whether such an organisation exists in the country.

3.4.3. Communication through sectoral offices

There is no institution of co-operation that brings together regional executive organs and their counterparts at *woreda* and city levels. However, frequent communication takes place between *woredas*, cities, and senior level governments (nationality zone and regional governments) through sectoral offices.¹⁶⁶⁰ Regional or zonal bureaus of education and health, for instance, interact with their *woreda* counterparts. There are also regional bureaus with crosscutting functions. For instance, regional and *woreda* or city bureaus of capacity building and urban development communicate with a number of other sectoral offices. The most important communication on a sectoral basis, however, is the one between regional or nationality zone bureaus of finance and economic

¹⁶⁶⁰ Garcia & Rajkumar (2008); Heymans & Mussa (2004).

development and their *woreda* equivalents.¹⁶⁶¹ Regional bureaus of finance and economic development are in constant communication with *woreda* bureaus with respect to financial and developmental matters. Block grants and other financial assistance are transferred to *woreda* through these regional bureaus of finance and economic development and received and administered by its *woreda* counterparts.¹⁶⁶²

As stated previously, a *woreda* in a nationality zone is not expected to have direct communication with regional sectoral offices. Rather, the nationality zone's sectoral offices deal directly with their regional counterpart. For instance, in SNNPR, the regional government does not transfer block grants directly to the *woredas* but to the zonal bureau of finance and economic development.¹⁶⁶³ In some regions, such as the Oromia region, there are zonal administrations which are 'deconcentrated arms' of the regional governments. The zonal administrations 'serve as immediate points of referral for local governments' dealings with regional or federal government on service delivery matters related to health, education, roads, and other sectors.¹⁶⁶⁴

It should be underscored that co-operation through sectoral offices is not statutorily institutionalised. Hence it is up to each regional and *woreda* sectoral office to decide when, where, and how often to meet and to determine the agenda to be discussed. Little is known about the extent to which these sectoral

¹⁶⁶¹ Heymans & Mussa (2004) 9

¹⁶⁶² Heymans & Mussa (2004) 9-10.

¹⁶⁶³ Garcia & Rajkumar (2008) 24.

¹⁶⁶⁴ Heymans & Mussa (2004) 9.

interactions serve as mediums for communicating local government interests to the senior levels of government.

3.5. Assessment

3.5.1. Co-operation between unequal

As stated before, co-operation between local government and a senior level of government presupposes equality between the two levels of government. This, in turn, presupposes the recognition of the institutional integrity of the two levels of government. The regional constitutions and city proclamations, however, have not elevated the status of local government to that of being an equal partner of the regional states. Nor do they protect the institutional integrity of local government. Rather, the regional constitutions and city proclamations underscore the subordinate status of *woredas* and cities to the regional governments. In so doing, the regional constitutions and city proclamations maintain the old hierarchical local administrative structure. Consequently, any interaction that takes place between a nationality zone or a regional state and a *woreda* or a city is in principle founded on the inferior status of the latter.

According to the World Bank it is a ‘universal lesson’ of the past several decades that any endeavour to promote development through decentralisation needs to replace the ‘hierarchical system of governance characteristic of centrali[s]ed systems’.¹⁶⁶⁵ It is submitted that this lesson is also applicable to Ethiopia. Therefore, if *woredas* and city are to play a significant developmental role, the hierarchical relations between them and regional government should be reconsidered. This may require replacing the provisions in the regional

¹⁶⁶⁵ World Bank (1998) 112.

constitutions which cause local government to be a subordinate structure with provisions that recognise and protect the institutional integrity of *woredas* and cities.

3.5.2. Horizontal co-operation

As was discussed earlier, the federal policy papers recognised the importance of the ‘rural-urban linkage’ for development.¹⁶⁶⁶ Moreover, these interactions are more or less clearly institutionalised in the city proclamations. The provisions for the creation of municipalities in *woredas*, the representation of rural *kebeles* in cities, and the establishment of joint committees between rural *woredas* and cities are commendable and innovative institutional arrangements in this regard. However, it is unclear to what extent these institutions of horizontal co-operation, which are envisioned in the regional constitutions and proclamations, are established and have become operational.

3.5.3. Vertical co-operation

As was discussed above, the manner in which nationality zone councils are composed makes them forums for co-operation for three levels of government. Yet nationality zone councils have not been deliberately designed to serve as forums for co-operation. It is also not clear whether in fact nationality zones serve as forums of co-operation. Even if they do, they do not exist in all regions. Nor are they found in every part of the regional state where they are established.

Local government interacts with regional government through the latter’s sectoral offices. The interactions between the regional sectoral offices and their counterparts at *woreda* and city level are not institutionalised or regulated.

¹⁶⁶⁶ See chapter 4; § 5.3.4.

Moreover, *woreda* and city associations are not formally represented either at regional levels or nationality zone level. There is also no an institutional mechanism that allows the voices of *woredas* and cities to be heard at federal level even though the policies and laws of the federal government have an important impact on local government.¹⁶⁶⁷

Ethiopia is not the only federal country that does not have an institutional arrangement for the representation of local government at national level. Inter-governmental co-operation in federal systems is generally limited to the central government and the states. Local government may then participate in a system of inter-governmental co-operation between itself and the state governments. It, however, seldom makes direct contact with the national government.¹⁶⁶⁸ In many federal states there are no formal inter-governmental forums for local-federal interaction. Only informal interactions take place where ‘organized local governments act as lobby groups rather than negotiation partners’.¹⁶⁶⁹ In fact, the states do not welcome direct contact between local government and national government.¹⁶⁷⁰ Lacking constitutionally entrenched representation at federal level, for instance, the German local government lobbies its interests through local government associations, such as, the German Association of Cities and the

¹⁶⁶⁷ See above at § 2.2.1.

¹⁶⁶⁸ Steytler (2005) 7.

¹⁶⁶⁹ Steytler (2009) 428.

¹⁶⁷⁰ Lazar and Seal wrote that in Canada the states of Quebec and Ontario opposed any direct relation between the municipalities and the national government. They preferred any deal between the municipalities and the national government to be made through their mediation. Lazar & Seal (2005) 41.

German Association of Towns and Municipalities.¹⁶⁷¹ In Canada, the relations between local government and national government are mostly limited to deciding whether local government qualifies for federal spending programmes.¹⁶⁷² The local - provincial and local - federal relationships are top-down, in which local government is a mere 'policy taker' not a 'full partner'.¹⁶⁷³ In Australia, too, the Constitution does not provide for direct interaction between local government and the national government.¹⁶⁷⁴

This does not, however, mean that local government associations may not be allowed to represent local government in the national government and serve more important purposes. In Austria, for instance, local government has a constitutional consultative position which it exercises through the Austrian Association of Cities and Towns and the Austrian Association of Municipalities.¹⁶⁷⁵ The South African Constitution provides that organised local government should be consulted by national and provincial governments and be represented in the National Council of Provinces (NCOP), the second chamber of the South African Parliament.¹⁶⁷⁶ Accordingly, the South African Local Government Association (SALGA) represents local government in the National Council of Provinces (NCOP), the upper chamber of the South African Parliament. Moreover it plays a central role in facilitating co-operation among municipalities.¹⁶⁷⁷

¹⁶⁷¹ Burgi (2009) 155.

¹⁶⁷² Young (2009) 120.

¹⁶⁷³ Young (2009) 120.

¹⁶⁷⁴ Sansom (2009) 22; Steytler (2009) 427.

¹⁶⁷⁵ Kiefer & Schausberger (2009) 47.

¹⁶⁷⁶ The Constitution of the Republic of South Africa (1996) S 163 (b).

¹⁶⁷⁷ Steytler & De Visser (2007) 16-11.

Clearly, no mechanism exists in Ethiopia which allows the voice of local government to be heard at national level. The EPRDF party structure, therefore, seems to play the most significant role as the medium of communication between local government and senior levels of government.¹⁶⁷⁸ This is perhaps the most important reason that jurisdictional disputes among the various tiers of government almost never occur.¹⁶⁷⁹

3. CONCLUSION

The discussion in this chapter shows that both the federal and regional governments are authorised, explicitly or implicitly, to co-ordinate the activities of *woredas* and cities. The regional governments are expected to play a leading role in terms of regulating the activities of local government, the latter being within the former's competence. The regional states also play the leading role in monitoring *woredas* and cities. In practice, however, the federal government plays a dominant role in regulating local government activities.

There is a general normative principle for co-operation between regional governments and local government. However, co-operation between the orders of government takes place with the subordinate status of local government in mind. Even if there is a principle in various regional laws requiring linkages between *woredas* and cities, the institutional mechanisms that are provided are limited to linking cities and neighbouring *woredas*. No institutional arrangement is provided for region-wide and nation-wide co-operation between cities and *woredas*.

¹⁶⁷⁸ This is true for federal-regional relations. See Assefa (2007a) 383 ff.

¹⁶⁷⁹ Assefa (2007a) 383 ff.

The previous two chapters have dealt with the issue of decentralised development in Ethiopia. The second main issue that this thesis seeks to discuss is whether and how local government serves as institutional mechanism for accommodating ethnic minorities-more specifically intra-regional ethnic minorities. The following chapter will deal with this matter.



Chapter 7

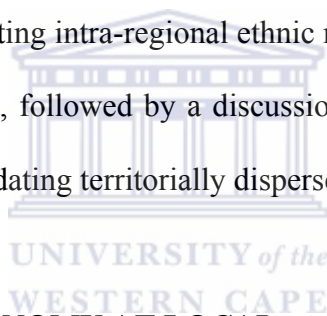
Decentralisation and accommodation of intra-regional ethnic minorities in Ethiopia

1. INTRODUCTION

One of the two principal objectives of this study is to inquire whether Ethiopia's local government system demonstrates the institutional features that are necessary for accommodating ethnic minorities in each of Ethiopia's regional states. This chapter deals with this particular issue. In chapter two, it has been shown, on the basis of international literature, that ethnic minorities may exercise self-rule at local level. The institutional features of territorial autonomy also were identified. These include: a constitutional norm permitting ethnic minorities to exercise self-rule, ethnically organised local territorial units, political and administrative

structures, and relevant competences and powers. It was also shown that ethnic minorities may be represented in central government institutions that have the power to make decision directly affecting their autonomy at local level. This chapter examines how these institutional principles are given effect in Ethiopia's constitutional system.

To this end, § 2 will briefly discuss the normative principle under the FDRE Constitution allowing intra-regional minority ethnic communities to enjoy territorial autonomy at local level and to be represented in federal and regional governments. Next, § 3 will discuss territorial autonomy and self-rule as a mechanism for accommodating intra-regional ethnic minorities. § 4 will deal with the principle of shared rule, followed by a discussion in § 5 on the institutional arrangements for accommodating territorially dispersed ethnic communities.



2. TERRITORIAL AUTONOMY AT LOCAL

2.1. Normative principle for self-rule under FDRE Constitution

Even before the promulgation of the FDRE Constitution in 1995, the Transitional Period Charter (TPC) contained a principle of 'self-rule'.¹⁶⁸⁰ This principle empowered each ethnic community in the country, intra-regional minority ethnic communities included, to exercise territorial autonomy in the territory it inhabited. In this respect the Charter explicitly recognised the right to self-determination of each ethnic community as one of the political principles that would govern the country.¹⁶⁸¹ It also recognised the right of each ethnic

¹⁶⁸⁰ See chapter 3; § 7.2.1.1.

¹⁶⁸¹ See chapter 3; § 7.2.1.1. See also the Transitional Period Charter (TPC) 1991; Preamble.

community to administer its own affairs within the territory it inhabited.¹⁶⁸² The TPC also provided for the creation of ethnically structured regional and local territorial entities. With a view to implementing this principle, the Transitional Government of Ethiopia (TGE) enacted Proclamation 7 (1992) which identified 63 territorially concentrated ethnic communities.¹⁶⁸³ Out of the 63 ethnic communities, 47 were declared able to establish their own self-government starting from the *woreda*.¹⁶⁸⁴

The TPC was not limited to providing the principle of self-rule. It also contained the principle of ‘shared rule’ which entitled each ethnic community of the country to be represented in regional and national government organs.¹⁶⁸⁵

The principle of the right to self-determination of each ethnic community of Ethiopia became constitutionally entrenched when the 1995 Constitution was promulgated. Under the FDRE Constitution, a group of people is considered to be an ethnic community when, among other things, the group is found in contiguous territorial areas.¹⁶⁸⁶ An ethnic community, which by definition occupies clearly defined territory, is constitutionally entitled to exercise self-rule in the territory it occupies either through the establishment of a regional state or ethnically organised local government unit.¹⁶⁸⁷

¹⁶⁸² TPC (1991) Art 2 (b).

¹⁶⁸³ Proclamation 7 (1992) Art 3 (1).

¹⁶⁸⁴ See chapter 3; § 7.2.1.1.

¹⁶⁸⁵ TPC (1991) Art 2 (b).

¹⁶⁸⁶ FDRE Constitution (1995) Art 39 (5).

¹⁶⁸⁷ FDRE Constitution (1995) Art 39 (3).

The FDRE Constitution, like the TPC, also contains the principle of ‘shared rule’. The specific provision of the FDRE Constitution that recognises the right to self-government of ethnic communities also entitles them to an ‘equitable representation in regional and federal government’.¹⁶⁸⁸ This provision of Constitution is interpreted to require the representation of all ethnic communities in all branches of regional and federal governments including the representative assemblies, the executive branches, and the civil service.¹⁶⁸⁹

The following sections will examine how the elements of self-rule and shared rule are given effect to at local level in the regional constitutions and in political practice.

2.2. Self-rule at local level

As stated in chapter two, self-rule promotes political autonomy.¹⁶⁹⁰ It, therefore, first and foremost entails the establishment of local territorial units whose boundaries are delimited along the geographical settlement structure of a minority ethnic community which seeks to exercise territorial autonomy.¹⁶⁹¹ Secondly, it calls for the establishment of government institutions in the territorial area so demarcated. The government institutions must include political organs, such as, a representative council, executive organs, and administrative organs. Thirdly, self-rule involves transferring clearly defined competences to the local unit. The competences must also be relevant for promoting and protecting the identity of the particular minority ethnic community. Fourthly, self-rule entails transferring

¹⁶⁸⁸ FDRE Constitution (1995) Art 39 (3).

¹⁶⁸⁹ Yonatan (2010) 232.

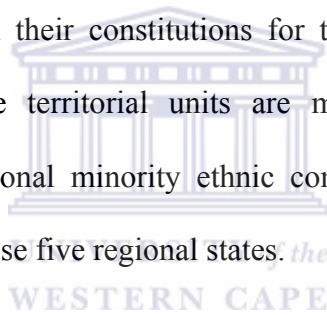
¹⁶⁹⁰ See chapter 2; 4.4.2.1.

¹⁶⁹¹ See chapter 2; 4.4.2.1.

internal financial sources to the ethnic-based local territorial units. The following sections will examine whether these elements of self-rule are found in the regional constitutions.

2.2.1. Ethnically organised local territorial units

As was indicated earlier, Proclamation 7 (1992) identifies 63 territorially concentrated intra-regional ethnic minority communities in six regional states, namely Amhara, Afar, Benishangul-Gumuz, Gambella, SNNPR, and Tigray.¹⁶⁹² The Proclamation also provides that 47 of the 63 ethnic communities can establish self-government starting from *woreda* level.¹⁶⁹³ Accordingly, the aforementioned regional states, with the exception of the Tigray Regional State,¹⁶⁹⁴ have provided in their constitutions for the creation of ethnic-based local territorial units. The territorial units are meant to provide territorial autonomy to the intra-regional minority ethnic communities which are found within the boundaries of these five regional states.^{the}



The ethnic-based local territorial units are established either at zonal level as nationality zones (special zones) or at *woreda* level as *liyu woredas* (special districts).¹⁶⁹⁵ As described in chapter four, a nationality zone covers two or more *woredas* while a *liyu woreda* is equivalent to a regular *woreda* in terms of

¹⁶⁹² See chapter 3; § 7.2.1.1. This is excluding the Amhara, Oromo, Tigrawi, Somali, Hareri, and Afar, which have their own regional states.

¹⁶⁹³ Proclamation 7 (1992) Art 3(1) & (2).

¹⁶⁹⁴ The Irob and Kunama ethnic communities, the two intra-regional minority ethnic communities in the Tigray region, are among the ethnic communities that are declared incompetent to establish self-government. See Proclamation 7 (1992) Art 3 (2) (a).

¹⁶⁹⁵ See chapter 4 § 6.2.

territorial and population sizes.¹⁶⁹⁶ There are 29 ethnic-based local territorial units in Ethiopia. Most of these territorial units (14 nationality zones and four *liyu woredas*) are found in the SNNPR. Afar has one *liyu woreda*, Amhara has three nationality zones and one *liyu woreda*, Gambella has three nationality zones and one *liyu woreda* and Benishangul has two *liyu woredas*.

The Afar, Amhara, and Gambella regional Constitutions specifically indicate the ethnic community for which a nationality zone or a *liyu woreda* is established.¹⁶⁹⁷ The regional constitutions of SNNPR and Benishangul-Gumuz simply provide for the establishment of a nationality zone and/or a *liyu woreda* without specifying the ethnic community/communities for whom these territorial units are to be established.¹⁶⁹⁸



The Afar regional Constitution explicitly provides for the establishment of a *liyu woreda* for the Argoba ethnic community.¹⁶⁹⁹ The Amhara regional Constitution also explicitly provides that a nationality zone will be established for each of the Himra, Awi, and Oromo ethnic communities.¹⁷⁰⁰ Accordingly, two nationality zones called Waag-Himra and Awi have been created for the Himra and Awi ethnic communities, respectively. The Oromo nationality zone is established for the Oromo ethnic communities in the Amhara regional state, since the Oromos in

¹⁶⁹⁶ See chapter 4 § 6.2.

¹⁶⁹⁷ ARS Constitution (2001) Art 73 (1); AfRS Constitution (2001); GRS Constitution (2001) Art 77 (1).

¹⁶⁹⁸ SNNPR Constitution (2001) Art 80 (1); BGRS Constitution (2001) Art 74(1).

¹⁶⁹⁹ The Argoba ethnic community was not mentioned in Proclamation 7/1992 even as an ethnic community, let alone as capable of establishing self-government. AfRC (2002) Art 43 (2).

¹⁷⁰⁰ ARS Constitution (2001) Art 73 (1).

the particular area are among original inhabitants of the region.¹⁷⁰¹ Moreover, a part of the Argoba ethnic community, which is original inhabitant of the Amhara region as well as to Afar, is given its own *liyu woreda* in the regional state. However, neither the Argoba ethnic community nor the Argoba *liyu woreda* is mentioned in the regional Constitution. The *liyu woreda* is, therefore, created in a regional proclamation.¹⁷⁰²

The Gambella regional Constitution specifically provides that the Anywaa (or Anuak), Nuer and Mejenger ethnic communities will have their own nationality zones.¹⁷⁰³ Accordingly, three nationality zones and one *liyu woreda* are established in Gambella; Anywaa zone, Nuer Zone, Majenger Zone and Itang *liyu woreda*.¹⁷⁰⁴ The Anywaa zone is, as the name itself indicates, established for the Anywaa ethnic community, the Nuer Nationality Zone belongs to the Nuer ethnic community and the Majang Zone for the Majenger ethnic community. In this region, Article 39 local government units are created on a wall-to-wall basis. Hence, every part of the regional state falls under either one of the two nationality zones or the Godere *liyu woreda*. No territorial regime is established in the Gambella region for the Opo and Komo ethnic communities. The regional Constitution, however, enjoins the existing nationality zones to allow these intra-

¹⁷⁰¹ As mentioned before, Oromia is reserved as a mother state of the Oromo ethnic group; the largest ethnic group of the country. Yet there are Oromo enclaves in the Amhara region. Thus, the Oromo nationality zone was established by bringing together five *woredas* whose inhabitants were predominantly Oromos. Mohammed (2010) 147.

¹⁷⁰² See ARS Proclamation 130 (2006).

¹⁷⁰³ GRS Constitution (2002) Art 77 (1).

¹⁷⁰⁴ FDRE Population Census Commission (2008) 81 .

zonal ethnic minorities to administer themselves at *kebele* level.¹⁷⁰⁵ The Constitution also requires the nationality zones to ensure the representation of these ethnic communities in the zones' councils.¹⁷⁰⁶

As indicated above, the SNNPR and the Benishangul-Gumuz regional Constitutions provide for the establishment of nationality zones and *liyu woredas* as the second orders of government within the regions.¹⁷⁰⁷ Neither of these Constitutions, however, mentions the specific ethnic community for whom a nationality zone or a *liyu woreda* is to be established.

The Constitution of the SNNPR provides a general principle that each *liyu woreda* or nationality zone will be delimited on the basis of the settlement pattern, language, identity, and consent of the people concerned.¹⁷⁰⁸ The regional Constitution also authorises the Council of Nationalities (CoN) - the second chamber of the regional government – to decide on matters relating to the establishment of nationality zones and *liyu woredas*.¹⁷⁰⁹ It should be noted none of the Amhara, Gambella, Afar, and Benishangul-Gumuz regional states have more than five territorially concentrated intra-regional minority ethnic communities. It was, therefore, fairly easy for these regional states to territorially accommodate the minority communities within their boundaries. Establishing ethnic-based territorial units was not, however, an easy task in SNNPR where

¹⁷⁰⁵ GRS Constitution (2002) Art 47(1).

¹⁷⁰⁶ GRS Constitution (2002) 47(3).

¹⁷⁰⁷ BGRS Constitution (2002) 74 (1); SNNPR Constitution (2001) Art 81(1).

¹⁷⁰⁸ SNNPR Constitution (2001) Art 45 (2).

¹⁷⁰⁹ SNNPR Constitution (2001) Art 59 (2). For more discussion on the CoN see below at § 2.3.2.1.

more than 45 ethnic communities are found. It was also not practical to list in the regional Constitution all the nationality zones and *liyu woredas* in the region, or the ethnic communities for which such territorial units were to be established. That seems to be the reason why the regional Constitution of SNNPR provides only the procedure by which an ethnic community can petition for a nationally zone or a *liyu woreda*, and the organ that has the power to decide on such petitions.

As indicated above, there are 14 nationality zones and four *liyu woredas* in SNNPR.¹⁷¹⁰ The nationality zones are: Hadiya, Gurage, Keffa, Sheka, Sidama, Silte, Wolayita, Dawro, Gedeo, Bench-Maji, South Omo, Gamo-Gofa, and Kemabat-Tembaro.¹⁷¹¹ There is a dominant ethnic community in each of the first

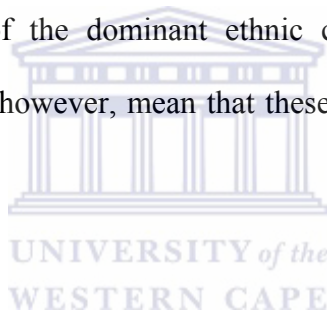
¹⁷¹⁰ Official website of the Southern Nations Nationalities and Peoples Regional Government website <http://www.snnprs.gov.et> (last visited on 27 February 2012)

As was discussed in chapter 3, five regions were created during the transitional period in the area which is now known as the SNNPR. The regions were Gurage-Hadiya, Kemabata, Wolayita, Omo, and Sidamo. Each of these regions held between 5 to 10 distinct ethnic communities most of which were, according to Proclamation 7 (1992) capable of establishing their own self-government starting from *woreda*. In the 1990s the five regions arguably agreed to merge together and form what is now called the SNNPR. The agreement was based on Proclamation 7 (1992) Art 3 (2) (b) which allowed the regional states to come together to form a larger region by agreement. The former five regions were, therefore, reduced to the status of nationality zones after the amalgamation. Some of the former regions became multiethnic nationality zones. The nationality zones and *liyu woredas* which were established within the former regions were restructured separately.

¹⁷¹¹ The official website of the Southern Nations Nationalities and Peoples <http://www.snnprs.gov.et> (last accessed on 27 February 2012). The number of nationality zones and *liyu woredas* in the SNNPR has changed over the past years. In some cases new nationality zones were created and in other instances existing nationality zones were amalgamated. Their boundaries were redrawn. In few cases separate nationality zones which were amalgamated were again divided into their former constituents. For instance, initially Wolayita, Gamo-Gofa, and Dawro were lumped together in one multi-ethnic nationality zone known as North Omo

seven nationality zones, even though none of the nationality zones are ethnically homogenous.¹⁷¹² The Kembata-Tembaro and Gamo-Goafa nationality zones have two large yet non-dominant ethnic communities; the Kembata and Tembaro and the Gamo and Gofa respectively. Moreover, there are other ethnic minorities and ethnic migrants amidst these ethnic communities. The Bench-Maji and South Omo nationality zones are multi-ethnic nationality zones. For instance in the South Omo nationality zone more than 16 distinct ethnic communities live.¹⁷¹³

The *liyu woredas* in SNNPR are the Alaba, Basketo, Konta, and Yem.¹⁷¹⁴ Each of these *liyu woredas* has a dominant ethnic community. Moreover, each *liyu woreda* bears the name of the dominant ethnic community for whom it is established. This does not, however, mean that these *liyu woredas* are ethnically



Nationality Zone. Later, the North Omo nationality zone was divided into three nationality zones (Daro, Gamo-Gofa and Wolayita) and two *liyu woredas* (Basketo and Konta). The Keffa and Sheka nationality zones were merged together to form the Keffa-Sheka Nationality Zone before the latter was once again divided into its constituting units. The Bench-Maji zone is also a result of the union of two pre-existing nationality zones: the Bench and the Maji. The Silte Nationality Zone is the other nationality zone which was established as a result of the division of the Gurage Nationality Zone. Previously, the *woredas* in the present day Silte Nationality Zone formed part of the Gurage Nationality Zone. It was only in a referendum held in April 2000 that Silte was recognised as an ethnic community which is distinct from the Gurage. After the referendum the *woredas* which are predominantly Silte were brought together to form a new nationality zone. See Vaughn (2003).

¹⁷¹² Central Statistics Agency of Ethiopia: SNNPR (2007) 154 ff.

¹⁷¹³ Van der Beken (2007) 136.

¹⁷¹⁴ Initially there were eight *liyu woredas* which included Amaro, Burji, Derashe, and Konso *liyu woredas*. These four *liyu woredas* were however merged together in 2011 into one zone called Segen zone. Official website of the Southern Nations Nationalities and Peoples Regional State <http://www.snnprs.gov.et> (last visited on 27 February 2012).

homogenous. For instance, there are three very small ethnic communities in the Derashe *liyu woreda*, not to mention the ethnic migrants in the *liyu woreda*.¹⁷¹⁵

It is important to note that in SNNPR, Article 39 local government is established on a wall-to-wall basis. Hence, every part of SNNPR falls into one of the 22 nationality zones and *liyu woredas*. Consequently all of the Article 50 (4) local government units (*woredas* and cities) are found within the territorial jurisdiction of an Article 39 local government unit in this regional state. This makes the region, as Assefa and Mohammed observe, something akin to an ethnic federation within a larger ethnic federation.¹⁷¹⁶

The Benishangul-Gumuz regional Constitution provides for the creation of ethnic territorial units.¹⁷¹⁷ However, the regional Constitution does not indicate which of the five ethnic communities of the region would have its own nationality zone or *liyu woreda*. The regional government has issued a Proclamation (Proclamation 73 (2008)) which specifically provides that each of the five ethnic communities of the region can establish a 'Nationality Council'.¹⁷¹⁸ The ethnic communities are the Berta, Gumuz, Shinasha, Mao, and Kono.¹⁷¹⁹ It is unclear from the Proclamation whether these ethnic communities may have their own nationality zone or *liyu woreda*.

¹⁷¹⁵ Van der Beken (2007) 136.

¹⁷¹⁶ Assefa & Mohammed (2010) 155.

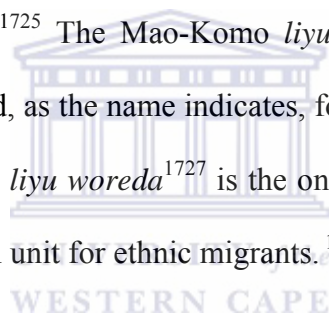
¹⁷¹⁷ BGRS Constitution (2002) 74 (1).

¹⁷¹⁸ BGRS Proclamation 73 (2008) Art 3 (2).

¹⁷¹⁹ BGRS Proclamation 73 (2008) Art 3 (2).

In any case, nationality zones are yet to be established in the Benishangul-Gumuz. Instead three administrative zones are established in the region: Assossa, Kemashi, and Metekel.¹⁷²⁰ The Assossa administrative zone is viewed as the domain of the Berta ethnic community.¹⁷²¹ The Kemashi and Metekel administrative zones are regarded the ‘domains’ of the Gumuz ethnic community.¹⁷²² An administrative zone – in contrast to a nationality zone - is not an autonomous level of government; but a deconcentrated unit of the regional government.¹⁷²³

Two *liyu woredas*, Pawe,¹⁷²⁴ and Mao-Komo, have been established in the Binshangul-Gumuz region.¹⁷²⁵ The Mao-Komo *liyu woreda* is a bi-ethnic *liyu woreda* which is established, as the name indicates, for the Mao and Komo ethnic communities.¹⁷²⁶ The Pawe *liyu woreda*¹⁷²⁷ is the only local unit that established as an autonomous territorial unit for ethnic migrants.¹⁷²⁸



¹⁷²⁰ Berhanu (2007) 160.

¹⁷²¹ Berhanu (2007) 160.

¹⁷²² Berhanu (2007) 160

¹⁷²³ See chapter 4; § 6.1.

¹⁷²⁴ Proclamation 86 (2010) of Benishangul-Gumuz region refers to Pawe as regular *woreda*, not as *liyu woreda*.

¹⁷²⁵ Berhanu (2007) 160.

¹⁷²⁶ Berhanu (2007) 160.

¹⁷²⁷ Pawe, which is found within the Metekel administrative zone, was established as a settlement area by the *Derg* during the implementation of its Beles-Vally villagisation programme. In 1980s tens of thousands of people were moved from the former Gojjam and Wollo provinces as well as Kembata and Wolayita areas of the present SNNPR to be settled in Pawe area. These settlers have formed a distinct community in the past 30 or so years. However, after the formation of the Benishangul-Gumuz region in the 1990s, these communities were excluded from the regional and local politics despite their sheer numbers and the fact that they occupy largely contiguous territorial areas. They were excluded for the mere reason that they were non-indigenous to the region. Angered by their political exclusion, the settlers were engaged in incessant conflict with

2.2.1.1. Assessment

Self-rule at local level, first and foremost, necessitates the demarcation of a local territorial unit wherein an intra-regional ethnic minority community becomes the dominant group. As the preceding discussion clearly indicates, the FDRE Constitution provides a general normative principle which permits intra-regional ethnic communities to exercise self-rule at local level. The discussion also demonstrates that five multi-ethnic regional states have created ethnically defined local territorial units to provide territorial autonomy for the ethnic minorities within their boundaries. The other four regions do not have created Article 39 local government unit. The reasons seems to be that, as per Proclamation 7 (1992), only these five regional states and the Tigray regional state have territorially structured intra-regional ethnic minority communities.¹⁷²⁹ Indeed the Irob and Kunama ethnic communities, which are found in the Tigray regional states, are territorially structured. However, they are among the ethnic communities that are declared in Proclamation 7 (1992) to be too small to exercise territorial autonomy even at *woreda* level.¹⁷³⁰ Proclamation 7 (1992) does not indicate the existence of any territorially organised intra-regional

the Gumuz which are found in the surrounding areas. In 1993, the EPRDF pressurised the regional government to establish Pawe as a *liyu woreda* for the settlers. Pawe's status as *liyu woreda* not only has relieved it of its accountability to the Metekel administrative zone but also allowed the settlers to be represented in the regional legislative and executive organs. Pawe is the only known autonomous sub-regional territorial unit which is established for a non-indigenous ethnic community. The establishment of a *liyu woreda* in Pawe apparently became possible due to the relatively identifiable geographical settlement pattern of the settlers in the region. Wolde Selassie (1997) 63; Asnake (2009) 169.

¹⁷²⁸ It is alleged that the Amhara settlers in the Wollega Administrative Zone of the Oromia Regional States had petitioned for their own Nationality Zone which apparently has not materialised. See Tesfaye (2011) 51.

¹⁷²⁹ See chapter 3 § 7.2.1.1.

¹⁷³⁰ See chapter 3 § 7.2.1.1.

minority ethnic community in the Oromia and Somali regional states.¹⁷³¹ Hareri is so small a city state that it does not even have a *woreda* which is recognised in the region's Constitution. Therefore, it is not surprising that these four regions did not create ethnically organised local territorial unit. The establishment of territorial regimes in Addis Ababa and Dire Dawa is simply out of the question. These are cosmopolitan cities and melting pots for all ethnic communities of the country. Now, what remains is to evaluate the merits and demerits of this arrangement. The advantages and disadvantages of establishment the ethnic-based local territorial units are assessed as below.

The benefit of local territorial autonomy

The establishment of ethnic-based local territorial units has two principal benefits. First, it empowers intra-regional minority ethnic communities. Secondly, it prevents potentially deadly ethnic conflicts.

Empowering intra-regional ethnic minorities

A plethora of ethnic communities in Ethiopia had endured political, economic, and cultural domination and marginalisation for more than a century. The pre-1991 centralisation process, in particular, had aggravated the marginalisation of the various ethnic communities.¹⁷³² Evidently, almost all ethnic communities of the country were under harsh economic and cultural domination; especially those in the southern Ethiopian regions. However, it will be safe to say that the discrimination against most of the ethnic communities that have now become

¹⁷³¹ However, it is to be noted that millions of territorially dispersed non-indigenous ethnic communities live in these two regions. This calls for non-territorial accommodation. It will be examined below whether any non-territorial mechanisms have been used to accommodate the ethnic minorities in these two regions. Whether and how the territorially dispersed endogenous and exogenous ethnic minorities are accommodated will be dealt with below.

¹⁷³² See chapter 3.

intra-regional ethnic minorities was particularly harsh. Due to their small size, their very existence was barely noticed, save for the purpose of tax collection, military service, and/or labour. The ethnic federal system has provided the larger ethnic groups with a territorial and political space wherein they can enjoy some level of political and cultural autonomy. Had it not been for the constitutional principle that entitles them, among other things, to exercise self-rule at local level the intra-regional minority ethnic communities would have remained under similar domination, though from a different group,.

The establishment of the local territorial units, therefore, has allowed these ethnic communities to decide on their own affairs without the fear of being ‘outvoted’¹⁷³³ by the regionally dominant ethnic communities. The establishment of the ethnic-based local territorial units has enabled the intra-regional minority communities to become local majorities.¹⁷³⁴ This, in turn, has provided such ethnic community with a territorial space wherein it can protect and promote its unique identity. It has also prevented regionally dominant ethnic communities from imposing their values on the intra-regional minority ethnic communities.¹⁷³⁵

The territorial arrangement also has the effect of restoring the dignity and pride of the intra-regional ethnic minority groups which were hitherto marginalised. These ethnic communities have now begun to feel empowered. They have regained ‘importance and integrity’.¹⁷³⁶ Watson, explaining how the establishment of the

¹⁷³³ Yonatan (2010) 203.

¹⁷³⁴ Yonatan (2010) 203.

¹⁷³⁵ Yonatan (2010) 203.

¹⁷³⁶ Watson (2000) 199.

Konso *liyu woredas* has made the Konso ethnic community feel empowered, writes:

‘The implication of the designing as a special *woreda* were immediately evident: the main junction town of Bekawale, which had grown up earlier this century, first as a garrison town and administrative outpost of the northern empire and more recently as the Derg headquarter, was renamed Karate, after the Konso name for the area in which it is situated. The administrative offices, which earlier had largely been staffed by officials from other regions of Ethiopia, were locked up and deserted. These had been situated in one part of Bekawale known by the Amharic term for the old garrison, Aroge Ketema. New offices were opened in another part of the town and staffed by as many educated Konso as could be found. Through this renaming and relocation, the new local administration reclaimed Konso linguistically and spatially, at the same time distancing itself from [historical domination].’¹⁷³⁷

Preventing or resolving conflicts

As several studies indicate, the creation of ethnic-based local territorial units has helped quell potentially devastating inter-ethnic conflicts and ease inter-ethnic tensions.¹⁷³⁸ This is particularly true for SNNPR which is the most ethnically diverse region. It is appropriate to discuss two important instances where the creation of sub-regional territories has helped bring some calm in SNNPR. The first is inter-ethnic conflicts in the former North Omo nationality zone. The second is the Silte-Gurage ethnic tension.

The North Omo case

¹⁷³⁷ Watson (2000) 200.

¹⁷³⁸ Assefa (2007a); Vaughn (2003).

As was discussed in chapter three, SNNPR is a result of the amalgamation of four pre-existing regions which were created during the transitional period.¹⁷³⁹ One of the four regions was a multi-ethnic region, called the Wolayita region. Within the territorial area of the former Wolayita region were found several ethnic communities including Wolayita, Gamo, Gofa, Dawro Basketo and Konta. The Wolayita region became a multi-ethnic nationality zone after the establishment of SNNPR and was renamed the North Omo nationality zone.¹⁷⁴⁰ Members of the Wolayita elite found it to be below their expectation, yet tolerable, that they were put together in one regional state with other ethnic communities whom they considered to be 'backward population'.¹⁷⁴¹ Their despondency, however, began to re-surface after the Wolayita region was relegated to the status of a nationality zone when SNNPR was established.¹⁷⁴² Soon they began to demand their own separate nationality zone. Their demand was rebuffed by the regional

¹⁷³⁹ See chapter 3 § 7.2.1.1.

¹⁷⁴⁰ According to Vaughn, the Wolayita region or later Semeien Omo nationality zone was established along the boundaries of the Gamo-Gofa province; a province which was created by the *Derg*. Vaughn says the *Derg* created the Gamo-Gofa province (*kifle-hager*) by taking some territorial areas from the former Sidamo, Kafa, Gamo-Gofa *tekaly-ghizats*. The creation of the province was effected with a declared purpose of bringing together one linguistic community in one administrative unit. This was based on a study conducted in 1980s by the Institute for the Study of Ethiopian Nationalities which suggested that the languages that are spoken by the Dorze, Gamu-Gofa, Kulo-Konta [Daro], Malo, Oyda, Welamo [Welaiyta] ethnic communities were different dialects of one language called 'wolamo-cluster'. The study showed that the languages which are spoken in the area share up to 90% of terms. Vaughn (2003) 251.

¹⁷⁴¹ Vaughn explains that the Wolayita pride emanates from the fact that they were better educated than the rest of ethnic communities in the area. The fact that Ka' o Tonna, the former King of the Wolayita resisted Emperor Menilik's conquest until he was at last defeated given them a sense of pride. Also a number of Wolyitas were in the *Derg* government. These factors have made the Wolyitas to view themselves as better than the rest of the ethnic communities in the North Omo nationality. However this attitude of the Wolayita was regarded by others including the EPRDF as 'chauvinistic'. Vaughn (2003) 253.

¹⁷⁴² Vaughn (2003) 253.

government. The refusal created tension and sporadic conflicts between the Wolayitas and the other ethnic groups in the Zone. The tension reached a boiling point when politicians at the regional level decided to coalesce the Wolayita, Daro, Gamo and Goffa languages to create what Smith calls an ‘Esperanto-style language’, *wogagoda*, which was meant to be used as a language of instruction in primary schools.¹⁷⁴³ The Wolayitas were infuriated by this arrangement and a conflict broke out in the North Omo Zone which caused the deaths of dozens of people. The regional government then decided to partition the North Omo Nationality Zone into three nationality zones (Daro, Gamo-Gofa and Wolayita) and two *liyu woredas* (Basketo and Konta).¹⁷⁴⁴ The conflict was resolved only after the Wolayitas acquired their own nationality zone.

The Silte case

The Silte ethnic communities were not considered to be a distinct ethnic community until April 2000. They were rather considered to be Muslim members of the Gurage ethnic community.¹⁷⁴⁵ After the ethnic federal system was introduced, some urban elite, organised in two political parties,¹⁷⁴⁶ began to agitate for the recognition of the Silte as a distinct ethnic community.¹⁷⁴⁷ In 1997, the SNNPR government organised what is now known as the Butajira Conference in Butajira Town to determine the identity of the Siltes. The Conference, however, decided that the Siltes were not a distinct ethnic community, but a part

¹⁷⁴³ Smith (2008) 208. The language was named by taking the Amharic letter initials of the four languages mixed together. See also Getachew & Derib (2006) 57.

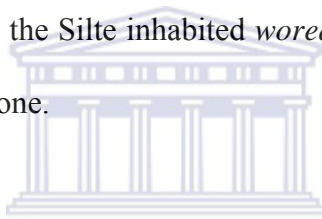
¹⁷⁴⁴ Cohen (2006) 174.

¹⁷⁴⁵ Many writers agree that the Gurages and Siltes speak two distinct languages which are mutually unintelligible. See Bahru (2008).

¹⁷⁴⁶ Silte Gogot Democratic Party and Silte People’s Democratic Unity Party.

¹⁷⁴⁷ For detailed discussion on the process of the recognition of Silte as an ethnic community and the establishment of Silte nationality zone see Vaughn (2003) 261 ff.

of the Gurage ethnic group. This decision created tension in the area.¹⁷⁴⁸ In the meantime, the two Silte parties continued to agitate for the recognition of the Siltes as a distinct ethnic group. The parties alleged that the Gurage nationality zone was discriminating against the Silte *woredas* in terms of investing in social and economic development projects.¹⁷⁴⁹ They, therefore, demanded territorial autonomy for the Silte ethnic community. Eventually, the House of Federation (HoF), which under the FDRE Constitution has the power to decide on issue of ethnic identity, determined that a referendum be held in the Silte *woredas* to determine the identity of the Siltes.¹⁷⁵⁰ In the referendum that was held in April 2000, the Siltes overwhelmingly voted in favour of their recognition as a distinct ethnic group. Subsequently, the Silte inhabited *woredas* were brought together to form the Silte Nationality Zone.



Studies indicate that SNNPR has enjoyed relative peace since the establishment of the Wolayita and Silte nationality zones.¹⁷⁵¹

The disadvantages of local territorial autonomy

While the establishment of ethnic-based local territorial units has the above mentioned advantages, it also has numerous disadvantages. There are six points which should be stressed in this regard. First, as was discussed in chapter two, many scholars agree that creating ethnically defined territorial units is not the ‘ideal’ method to tackle the challenges of ethnic diversity.¹⁷⁵² It may rather constitute a ‘counter ideal’ as it locks into territorial places ‘the historical

¹⁷⁴⁸ Vaughn (2003) 261.

¹⁷⁴⁹ Vaughn (2003) 261.

¹⁷⁵⁰ Vaughn (2003) 265.

¹⁷⁵¹ See Assefa & Mohammed (2010) 156; Vaughn (2003) 261ff.

¹⁷⁵² Steiner (1991) 1554.

differences' among ethnic groups.¹⁷⁵³ It also perpetuates ethnic divides by institutionally 'freezing' them.¹⁷⁵⁴ By so doing, it enfeebles any sense of commonality.¹⁷⁵⁵ Instead, it accentuates differences and separateness.¹⁷⁵⁶ Therefore, the territorial option of accommodating minorities should be a last resort. However in Ethiopia the territorial option seems to be viewed as the ideal method of accommodating ethnic minorities.

Secondly, as was indicated in chapter four, Ethiopia's ethnic federal system fails to resolve majority-minority tensions as it does not and, in fact, cannot create ethnically homogenous regional states.¹⁷⁵⁷ This criticism can also be directed against the scheme which attempts to accommodate intra-regional ethnic minority communities through the establishment of local territorial units. The creation of 28 local territorial units has not removed majority-minority tensions. Not all intra-regional ethnic minority communities are able to exercise territorial autonomy at local level. Several ethnic communities still remain minorities within an intra-regional minority ethnic community. There are still other minorities in the mono-ethnic nationality zones which are vulnerable to discrimination from locally empowered ethnic communities. There are also others which are lumped together in bi-ethnic or multi-ethnic nationality zones, such as, Gamo-Gofa, Bench-Maji, and South Omo. Hence, majority-minority tensions also re-emerge at local level.

¹⁷⁵³ Steiner (1991) 1552.

¹⁷⁵⁴ Erk & Anderson (2010) 2.

¹⁷⁵⁵ Steiner (1991) 1554.

¹⁷⁵⁶ Steiner (1991) 1552.

¹⁷⁵⁷ See chapter 4 § 2.2.

Thirdly, the creation, division, and amalgamation of nationality zones and *liyu woredas*, especially in SNNPR, are not undertaken on the basis of constitutional principle, but on the basis of the political preferences of the ruling party. In the early 1990s, the ruling party encouraged all ethnic communities to establish their own self-government. Later, the party decided that establishing ethnic-based local units was bad for efficiency.¹⁷⁵⁸ Now the right to self-rule has become secondary to efficiency. Therefore, some legal demands for a nationality zone or *liyu woreda* are denied in the name of efficiency. As Aalen writes:

[The Southern Ethiopian Peoples' Democratic Movement (SEPDM)] made a principled decision to separate "identity issue" from "administrative issues", stating that the request for new zone or special *woreda* administrations should from now on be considered from a purely administrative perspective, which was clearly separated from the right of nationalities to self-determination. It was decided that groups which before could argue that recognition of a separate ethnic identity should automatically give them the right to a separate administration would not be heard anymore.¹⁷⁵⁹

Moreover, the creation of nationality zones and *liyu woredas* is carried out arbitrarily and seldom follows the procedures laid down in the regional constitutions.¹⁷⁶⁰ For instance, as Vaughn states, the authorities of the Keffa and Sheka zones were summoned to Awassa, the capital of SNNPR, and simply told that the two zones would be amalgamated.¹⁷⁶¹ No public consultation or referendum took place.¹⁷⁶² Besides, nationality zones and *liyu woredas* are often

¹⁷⁵⁸ Aalen (2008) 128.

¹⁷⁵⁹ Aalen (2008) 128.

¹⁷⁶⁰ See above at 7.4.1.

¹⁷⁶¹ Vaughn (2003) 260.

¹⁷⁶² Vaughn (2003) 260.

created only following violent conflicts; rarely has a peaceful petition for a nationality zone or *liyu woreda* resulted in the establishment of one. The Keffa-Sheka nationality zone, for instance, was divided after a deadly conflict broke out in the area. As explained earlier, the division of the former North Omo zone into three nationality zones and a number of *liyu woredas* was also precipitated by the conflict between the Wolayitas and the other ethnic communities in the Zone.¹⁷⁶³

Fourthly, in many cases, projects to create ethnic local territorial units are hardly ever initiated by the people: The establishment of nationality zones and *liyu woredas* is rather driven by urban elites.¹⁷⁶⁴ The urban elites lobby for the creation of an ethnic-based local unit motivated by their own desire to take a piece of the increased national and regional budgets that the creation of such territorial units brings or is assumed to bring.¹⁷⁶⁵ Often, the urban elites put the majority of the population, whose interests they claim to champion, in economic and politically disadvantageous positions while pursuing their own economic interest. A typical example is the creation of the Wolayita nationality zone. The establishment of the Wolayita nationality zone was clearly in the interest of the urban elite who took control of the budget of the zone.¹⁷⁶⁶ However, by no means could it be in the interest of the bulk of the rural population. Land scarcity is ‘the defining socio-economic constraint’ of Wolyitas. The area is also known for food insecurity and famine. As Vaughn maintains:-

¹⁷⁶³ See above at 7.4.1.

¹⁷⁶⁴ See Vaughn (2003).

¹⁷⁶⁵ See Vaughn (2003).

¹⁷⁶⁶ Vaughn (2003) 259.

‘One would not normally expect a population concerned to maximise its opportunities for outward migration to support the drawing of administrative boundaries likely to have the effect of confining it more closely within its own ‘homeland’.¹⁷⁶⁷

Fifthly, in several instances the creation of nationality zones and *liyu woredas* has been the cause of ethnic conflicts, even though in some cases it has helped resolve such conflicts. It politicised competition for resources among ethnic communities. The conflict between the Anywaa and the Nuer ethnic communities of Gambella is an example. As a study by Medhane indicates, the very creation of the Anywaa and Nuer nationality zones has aggravated the historical rivalry between the two communities.¹⁷⁶⁸

The Anywaa have a sedentary agrarian socio-economic tradition and established settlements and villages.¹⁷⁶⁹ The Nuers, on the other hand, are predominantly pastoralists who move seasonally from one place to the other in search of pasture for their cattle within certain ‘natural’ (as opposed to administrative), boundaries. In fact, they are not restrained by the international borders between Ethiopia and Sudan, let alone by sub-regional boundaries. Therefore, the establishment of nationality zones is at odds with the economic tradition of the Nuers as it puts limitations on the territorial range within which they can move in search of pasture.

‘Pastoralists in Ethiopia have their respective ‘natural homeland’ within which they used to move freely. Confinement of intra-regional mobility increases distress among local population intensifying intra-ethnic competition for resource and/or territories. It

¹⁷⁶⁷ Vaughn (2003) 259.

¹⁷⁶⁸ See Medhane (2007).

¹⁷⁶⁹ Kelkelachew & Falge (2006).

further increases inter-ethnic conflicts as it denies pastoralists to use their mobility in order to avoid conflictuous confrontations.¹⁷⁷⁰

On the other hand, the establishment of nationality zones has given the Anywaa a constitutional claim over a certain part of the Gambella region which they never had previously. There were traditionally known Anywaa settlement areas even before the establishment of the nationality zones.¹⁷⁷¹ Often conflict arose when the Nuers moved to this area in search of grazing, and whenever their cattle destroyed the farms of the Anywaa. However, the conflicts were seen as conflicts between individuals, and were settled through traditional dispute settlement mechanisms.¹⁷⁷² The disputes were hardly politicised. The creation of an ethnic local regime has failed to solve the problems which used to occur as a result of the difference in the manner of creating a livelihood of the two ethnic communities. On the contrary, it has given it a political dimension, and made it even more rigid, intense and broad. As Medhane writes:

‘Unlike the past, when conflicts were mainly over control or use of grazing areas and riverbanks, control over territory is now important to the extent that it helps to legitimise power at zonal and regional levels, where the new resources are found. Thus the controversy over territory and citizenship and the conflict between the Anuak and Nuer elites over who controls the administrative centres may not be because the agricultural value of the land in the weredas gives direct economic benefits, but because political control of these weredas leads to direct access to the resources of the state. The focus is not on the traditional ecological zones, but on new choke points of financial resources, that is, the wereda and regional power structures, which largely depend on numbers and on how many weredas are controlled by each group. Violent

¹⁷⁷⁰ Kelkelachew & Falge (2006) 98.

¹⁷⁷¹ Medhane (2007) 12ff.

¹⁷⁷² Kelkelachew & Falge (2006).

conflicts have broken out between the two ethnic communities in which education and jobs have usually been the points at issue. Which language is taught in which district has come to signal political ownership of the district under contestation and the region in general.¹⁷⁷³

As a consequence, Gambella has been plagued by inter-ethnic conflict between the Nuer and Anywaa ethnic groups making the region the most volatile one in the country.¹⁷⁷⁴ The conflict between the two ethnic communities was so serious that the federal government was forced to intervene in the regional state on more than one occasion. It is clear that the conflict between the two ethnic groups has other historical, political, and even international, dimensions. Moreover, the competition between the two ethnic groups is not limited to guarding their respective sub-regional territory. Being the largest ethnic communities in the region, both the Anywaa and the Nuer vie to control the regional government. However, it cannot be gainsaid that the establishment of the ethnic-based local territorial units has ‘politicised’, ‘intensified’ and given a new dimension to the historical rivalry that existed between the two ethnic groups.

Sixthly, the creation of territorial entities for sub-regional ethnic minorities has a negative impact on the developmental mission of Article 50(4) local government units which are found within each ethnic-based local unit. In SNNPR all *woredas* and cities are found within one of the 14 autonomous nationality zones. The same goes for Gambella where each *woreda* is within one of the two nationality zones. There are also several *woredas* in the three nationality zones of the Amhara

¹⁷⁷³ Medhane (2007) 12-13.

¹⁷⁷⁴ Equally bloody conflicts have also arisen between the ethnic migrants on the one hand and the endogenous ethnic group and on the other which also led to federal intervention in the region.

regional state. The constitutions of the Amhara, SNNPR and Gambella regional states do not provide any significant protection to the institutional integrity of the regular *woredas* in the nationality zones. As a result, nationality zones exercise tight control over the *woredas*. In a sense, it can be said that *woredas* are the competences of nationality zones wherever the latter are established. As discussed in the previous chapter, allocated regional block grants reach *woredas* after passing through nationality zones.¹⁷⁷⁵ This creates an additional and unnecessary hurdle which has unacceptable consequences for the developmental activities of *woredas*. Moreover, *liyu woredas* have the power and the duty to discharge development related functions in accordance with their status as *woredas*.¹⁷⁷⁶ As was discussed in chapter two, when creating a local unit which is meant to serve as an agent of development, important factors, including, territorial and population sizes, ethnic diversity, resources, the level of development, and rural-urban differences should be taken into account.¹⁷⁷⁷ *Liyu woredas*, however, are created primarily, if not purely, based on the ethnic criterion. Economic and administrative capacity and other social factors are seldom considered in the process of creating *liyu woredas*. Hence, the capacity of *liyu woredas* to effectively deliver basic services to their residents is debatable. The above problems are compounded by the lack of clarity in the functional areas of the various levels of sub-regional government.¹⁷⁷⁸

2.2.2.2. Secession

Introduction

¹⁷⁷⁵ See chapter 5; § 2.6.3.1.

¹⁷⁷⁶ See chapter 5; § 2.6.3.1.

¹⁷⁷⁷ See chapter 2; § 3.5.1.1.

¹⁷⁷⁸ See chapter 5; § 2.4.4.2.

Under the Ethiopian constitutional dispensation, the right to territorial autonomy of an intra-regional ethnic group extends to secession. Secession has two aspects as far as intra-regional ethnic minority communities are concerned: secession from a regional state and secession from the Ethiopian federation. An intra-regional minority ethnic community has the right to secede from a regional state wherein it is found to form a separate regional state.¹⁷⁷⁹ It also has the right to secede from the Ethiopian federation to form an independent state.¹⁷⁸⁰ As will be argued below, only an intra-regional minority ethnic community which enjoys territorial autonomy at local level may exercise both aspects of the right to secession. Put differently, only nationality zones and *liyu woredas* may secede to be a separate regional state or independent state.

Secession from a regional state

The procedure for secession from a regional state is provided under Article 47(3) of the FDRE Constitution. A demand for a regional state must be approved by the legislative council of the intra-regional minority ethnic community concerned. It has to be passed by a two-thirds majority.¹⁷⁸¹ It should be noted that it is not the approval of the regional council of the region wherein the intra-regional ethnic community is found which is required here. Rather the approval of the council of the particular ethnic community is required. Clearly, the council of an Article 50(4) local government unit (i.e. a *woreda* or a city council) is not considered to be a council of an ethnic community. Therefore, it may not exercise the power to approve a demand for secession. As will be discussed below, the council of a *liyu woreda* or nationality zone is considered to be the highest political organ of the

¹⁷⁷⁹ FDRE Constitution (1995) Art 47 (2).

¹⁷⁸⁰ FDRE Constitution (1995) Art 39 (1).

¹⁷⁸¹ FDRE Constitution (1995) Art 47 (3) (a).

ethnic community for whom it is established.¹⁷⁸² It is, therefore, this organ that the Constitution envisages to approve a demand of an ethnic community for secession from a regional state. This implies that an ethnic community should have a nationality zone or a *liyu woreda* in order to demand its own regional state. It is unclear whether the council of a multi-ethnic nationality zone can validly approve a demand for a regional state by one of the ethnic communities constituting the nationality zone. It seems that the particular intra-zonal minority ethnic community must first secede from the nationality zone wherein it is found, in a similar procedure, and establish its own *liyu woreda* or nationality zone before it can demand its own regional state.

The regional council of the region within which the intra-regional ethnic group is found is expected to organise a referendum within a year after the demand for a regional state is approved by the council of the ethnic community i.e. a nationality zone or a *liyu woreda* council of the ethnic community.¹⁷⁸³ According to the FDRE Constitution, the referendum is organised ‘in the nation, nationality or people’ which desires to secede.¹⁷⁸⁴ This clearly indicates that the referendum is held in the nationality zone or *liyu woreda* which seeks to become a regional state. The demand for a regional state needs to be supported by a majority of the population of the particular intra-regional ethnic group.¹⁷⁸⁵ Article 47 (3) (b) of the Constitution suggests that only members of the relevant ethnic community concerned can vote in the referendum. This excludes ethnic migrants who reside

¹⁷⁸² See below at § 2.2.1.2.

¹⁷⁸³ FDRE Constitution (1995) Art 47 (3) (b).

¹⁷⁸⁴ FDRE Constitution (1995) Art 47(3) (b).

¹⁷⁸⁵ FDRE Constitution (1995) Art 47 (3) (c)

in the particular nationality zone or *liyu woreda* which seeks to become a regional state. If the demand to secede from a regional state is approved by a referendum, the regional council will have to transfer the power to the council of the ethnic community concerned. The nationality zone or *liyu woreda* then becomes a regional state and a member of the Ethiopian federation.¹⁷⁸⁶

Secession from the federation

A further aspect of secession refers to the right of every ethnic community of the country, including an intra-regional minority ethnic group, to secede from the federation to form an independent state. This right is enshrined in Article 39 (1) of the FDRE Constitution. Article 39 (4) of the FDRE Constitution provides the procedural requirements for secession from the federation. The move towards forming an independent state begins with the approval of a demand for secession by the council of the relevant ethnic community.¹⁷⁸⁷ Fasil argues that only a regional council has the power to approve a demand for secession from the federation.¹⁷⁸⁸ Thus, an intra-regional ethnic minority group must have its own regional state in order to demand secession from the federation. Yonatan Fessha, on the other hand, maintains that the right to secession belongs not to a regional state but to the ethnic communities of the country.¹⁷⁸⁹ Therefore, he adds, an ethnic community is not required to have its own regional state in order to secede from the federation and form an independent state.¹⁷⁹⁰ It is submitted that Yonatan's interpretation of the constitutional provision is the correct one. The Constitution provides that a demand for secession from the federation should be

¹⁷⁸⁶ FDRE Constitution (1995) Art 47 (3) (e).

¹⁷⁸⁷ FDRE Constitution (1995) Art 39 (4) (a).

¹⁷⁸⁸ Fasil (1997) 159.

¹⁷⁸⁹ Yonatan (2010) 208.

¹⁷⁹⁰ Yonatan (2010) 208.

approved by the council of the ethnic community, which is not necessarily a regional council. This implies that the legislative council of the ethnic community which is established at nationality zone or *liyu woreda* level may validly approve the ethnic community's demand for secession. Therefore, an intra-regional ethnic minority community may secede to form its own independent state without the need to establish a regional state. However, the ethnic community may not secede from the federation unless it enjoys territorial autonomy at least at local level by establishing a nationality zone or *liyu woreda*.

Once the nationality zone or *liyu woreda* council approves, by a two-thirds majority, the demand of the ethnic community for secession from the federation, the federal government will organise a referendum in the particular nationality zone or *liyu woreda*.¹⁷⁹¹ If, in the referendum, the demand for an independent state is supported by the majority of the members of the ethnic community in question, the federal government will transfer powers to the council of the newly independent state.¹⁷⁹²

A further question is whether an intra-regional ethnic minority group must show a good cause to validly demand secession. FDRE Proclamation 251 (2001) provides that an ethnic community may petition for secession when it believes its identity is denied, its right to self-administration infringed, its history and culture are not promoted, or its rights under the FDRE Constitution are not respected. It appears from the Proclamation that the right to secession is not entirely unconditional. On the other hand, the FDRE Constitution, under Article 39 (1),

¹⁷⁹¹ FDRE Constitution (1995) Art 39 (4) (b).

¹⁷⁹² FDRE Constitution (1995) Art 39 (d).

makes it clear that the right to secession is ‘unconditional’. Clearly, the Constitution supersedes Proclamation 251(2001). Hence, an intra-regional ethnic group may exercise both secessions without any condition.¹⁷⁹³

Assessment

It was discussed in chapter two that territorial autonomy, as a rule, does not include the right to secede.¹⁷⁹⁴ However, in Ethiopia, as the above discussion shows, the territorial approach to accommodate intra-regional ethnic minorities goes as far as allowing the ethnic communities to secede from the regional state wherein they are found. Furthermore, an intra-regional minority ethnic community is even permitted to secede from the federation to establish a separate state. What needs to be stressed is that only a council of a unit of local government which belongs to Article 39 local government category may approve a demand for secession. An ethnic community may not exercise the right to secession unless it has a nationality zone or a *liyu woreda*. Local territorial autonomy is, therefore, a precondition for secession.

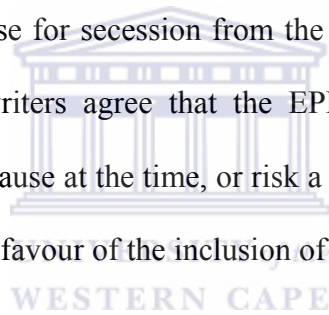
However, the significance of the secession clause for intra-regional ethnic communities, in particular the clause for secession from the federation, is debatable. The right to secede from a regional state may be appealing to some of the major intra-regional minority ethnic communities, such as, the Sidama, the Wolayita, the Gumuz, and the Berta, who have for a long time entertained an aspiration for their own regional state. However, it seems to have little more than symbolic value to most of the small ethnic communities that dot SNNPR and the other regional states. Small ethnic communities, which are found in multi-ethnic

¹⁷⁹³ See also Yonatan (2010) 208.

¹⁷⁹⁴ See chapter 2; § 4.4.2.

nationality zones, such as, Bench-Maji- and South Omo, and others such as, Opo and Komo, are not expected to aspire to have their own *liyu woreda* or nationality zone; let alone a regional state.

With respect to secession from the federation, it is clear that the clause was incorporated first into the TPC and later into the federal Constitution principally to appease the nationality movements which claimed to represent the Oromo and Somali ethnic groups.¹⁷⁹⁵ In fact, the Oromo Liberation Front (OLF) and the parties that claimed to be representatives of the Somali and Afar ethnic communities had made it clear from the outset that they would not even take part in the TGE unless the clause for secession from the federation was incorporated in the TPC.¹⁷⁹⁶ Several writers agree that the EPRDF had no choice but to incorporate the secession clause at the time, or risk a reversion back to a civil war even if the party was not in favour of the inclusion of the clause.¹⁷⁹⁷



Intra-regional ethnic minorities, on the other hand, ardently opposed the incorporation of the clause on secession from the federation. Especially, those pro-Ethiopian ethnic minority communities from the south fervently argued at the drafting stage against the incorporation into the Constitution of the secession clause.¹⁷⁹⁸ Apparently they could not prevent the incorporation of the clause in the Constitution. The concern of the intra-regional ethnic communities is obvious. Most of them do not aspire to secede and create their own state; nor are they

¹⁷⁹⁵ Alem (2005) 323.

¹⁷⁹⁶ Alem (2005) 323.

¹⁷⁹⁷ Alem (2005) 323; Yonatan (2010) 208-209; Assefa (2007a).

¹⁷⁹⁸ Alem (2005) 326.

capable of doing so. They rather seek to ensure that their rights are respected within the Ethiopian state. The intra-regional ethnic minority communities view all of the regionally dominant ethnic communities, including, the Oromo, Amhara and Tigrawi, as potential oppressors.¹⁷⁹⁹ It is unclear whether the intra-regional minority ethnic community will be part of the newly created state if a regionally dominant ethnic community secedes from the federation.¹⁸⁰⁰ If that is the case, and it is difficult to imagine otherwise, the intra-regional ethnic minorities will have no choice but to put their fate in the hands of the dominant group of the new state.

Thus far, only political parties, such as, OLF and Ogaden National Liberation Front (ONLF) have expressed their aspiration for secession from the federation. None of the intra-regional ethnic minority groups seem to aspire to secede from the federation. Most of the ethnic communities in SNNPR have rather shown a strong desire to stay within the federation.¹⁸⁰¹ With regard to secession from a regional state, the Sidama and the Wolayita have demonstrated an interest to establish their separate regional state. In fact the Sidama Nationality Zone Council had gone as far as approving a demand for a separate regional state.¹⁸⁰² The request had also received support from the CoN.¹⁸⁰³ However, the EPRDF keen to allow the creation of new regional states. Therefore, it intervened and stopped the implementation of this decision.¹⁸⁰⁴ As was also explained earlier, it

¹⁷⁹⁹ Alem (2005) 326.

¹⁸⁰⁰ Yonatan (2010) 209.

¹⁸⁰¹ Alem (2005).

¹⁸⁰² Aalen (2008) 164.

¹⁸⁰³ For a discussion on the CoN see below at § 2.3.2.1.

¹⁸⁰⁴ Aalen (2008) 164.

was because the EPRDF wished to reduce the number of regional states that the four former regional states were lumped together to create SNNPR.¹⁸⁰⁵ The Berta elite, disillusioned by their failure to dominate the Benishangul-Gumuz regional government, had also agitated for secession from a region and the establishment of a separate state.¹⁸⁰⁶ The EPRDF was nevertheless unsympathetic to their plea and dismissed their petition ‘as an unpopular wish of the Berta political elite, not a genuine demand of the people’.¹⁸⁰⁷

2.2.2. Governance institutions and their powers

2.2.1.1. Introduction

The second feature of the self-rule element is the establishment of government institutions in the autonomous areas. Government institutions include political organs, such as, representative councils and executive as well as administrative organs.¹⁸⁰⁸ As was discussed previously, having institution of government is vital for a minority ethnic community to exercise self-rule.¹⁸⁰⁹

As was mentioned earlier, the FDRE Constitution explicitly recognises the right of every ethnic community to exercise ‘a full measure of self-government’.¹⁸¹⁰ To that effect, the Constitution authorises the establishment of government institutions in the territorial area that each ethnic community inhabits.¹⁸¹¹ Without doubt, ‘a full measure of self-government’ includes the power to exercise both

¹⁸⁰⁵ Vaughn (2003) 248ff.

¹⁸⁰⁶ Asnake (2009) 164

¹⁸⁰⁷ Asnake (2009) 164.

¹⁸⁰⁸ See chapter 2; § 4.4.2.2.

¹⁸⁰⁹ See chapter 2; § 4.4.2.2.

¹⁸¹⁰ FDRE Constitution (1995) Art 39 (3).

¹⁸¹¹ FDRE Constitution (1995) Art 39 (3).

political and administrative powers. Furthermore, ‘government institutions’ include both political and administrative organs. As was argued earlier, the FDRE Constitution envisions that neither the exercise of self-governance nor the establishment of government institutions is to be limited at regional level.¹⁸¹² The Constitution envisages that self-governance may be exercised at local level. It also requires the establishment of government institutions at local level. There is thus a clear constitutional normative principle that empowers intra-regional ethnic minority groups to exercise self-rule by establishing government institutions in the territorial areas they inhabit. The following section will examine how this principle is given effect through regional constitutions.

2.2.1.2. Political organs

In each *liyu woreda* and nationality zone a representative council and various executive organs are established.

Representative councils

The members of the representative council of a *liyu woreda*, like any *woreda*, are directly elected by the people for a five year term.¹⁸¹³ As was discussed in chapter five, a plurality electoral system is used in all elections, including the elections of *liyu woreda* councils.¹⁸¹⁴ As is the case with any *woreda* elections, a *kebele* is used as an electoral district in *liyu woreda* elections.¹⁸¹⁵ Therefore, two or more representatives are elected to a *liyu woreda* council from each *kebele* in the *liyu woreda*.

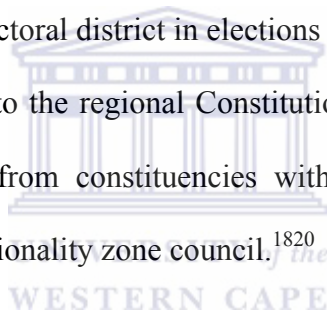
¹⁸¹² See chapter 4; § 4.2.

¹⁸¹³ See chapter 4; § 4.2.

¹⁸¹⁴ See chapter 5; § 2.3.1.2.

¹⁸¹⁵ See chapter 5; § 2.3.1.2.

In Gambella and Amhara, the nationality zone council is not directly elected. Some of the members of a nationality zone council are rather selected in a ‘special procedure’ by and from among members of the *woreda* councils that are found within a nationality zone.¹⁸¹⁶ Members of a regional council who are elected from the *woredas* within the nationality zone automatically become members of the nationality zone council.¹⁸¹⁷ The Benishangul-Gumuz regional Constitution also provides a similar procedure for the election of members of the nationality zone councils (even though no nationality zone council is yet established in this region).¹⁸¹⁸ In SNNPR, members of a nationality zone council are directly elected by the people.¹⁸¹⁹ It is not clear though whether the *woreda* or the *kebele* is used as the electoral district in elections for nationality zone councils in this region. According to the regional Constitution, members of the regional council, who are elected from constituencies within a nationality zone, also become members of the nationality zone council.¹⁸²⁰



As was discussed in chapter four, there are 79 political parties in the country, most of which are ethnic-based political parties. These parties operate either alone or in coalition with each other.¹⁸²¹ Some of the ethnic-based parties are members or affiliates of the EPRDF while the rest are opposition parties. As indicated before, all regional and local councils in the country are controlled by ethnic-

¹⁸¹⁶ ARC (2001) Art 74 (1); BGRC (2002) Art 75 (1); GRC (2002) Art 78 (1).

¹⁸¹⁷ ARC (2001) Art 74 (1); BGRC (2002) Art 75(1); GRC (2002) Art 78 (1).

¹⁸¹⁸ BGRS Constitution (2002) Art 75 (1).

¹⁸¹⁹ The SNNPR Constitution (2001) Art 81 (1)

¹⁸²⁰ The SNNPR Constitution (2001) Art 81 (1)

¹⁸²¹ See chapter 4; § 3.2.1.1.

based political parties which are either members or affiliates of the EPRDF.¹⁸²² None of the opposition parties are represented in any *woreda* council because, among other things, all opposition parties either boycotted or withdrew from all local elections that have been held thus far.¹⁸²³ The consequence is that opposition parties are also not represented in any nationality zone council, as members of a nationality zone council are elected from among the members of the *woreda* councils within the nationality zone.

Powers of representative councils

A council of a nationality zone or a *liyu woreda* has the power to legislate on local matters.¹⁸²⁴ The legislation of the council may not, however, be repugnant to a regional, national or regional law. Moreover, a nationality zone or *liyu woreda* council is authorised to approve the budget and the social and economic development plan of the nationality zone or the *liyu woreda*.¹⁸²⁵ The council also has the power to approve the appointment various executive office holders including, as is shown below, the appointment of the nationality zone/*liyu woreda* chief administrator.

Executive organs

Each *liyu woreda* and nationality zone has an executive organ, called, the executive council.¹⁸²⁶ The executive council is composed of a chief administrator, a deputy chief administrator, and heads of the various executive organs of the

¹⁸²² See chapter 5; § 2.3.1.3.

¹⁸²³ See chapter 5; § 2.3.1.2.

¹⁸²⁴ ARC (2001) Art 74 (3) (c); BGRC (2002) Art 75 (3); GRC (2002) Arts 81 (3); SNNPR Constitution (2001) Art 81 (3).

¹⁸²⁵ See ARS Constitution (2001) Art 74 (3); BGRS Constitution (2002) Art 75 (3); GRS Constitution (2002) Arts 78 (3); SNNPR Constitution (2001) Art 81 (3).

¹⁸²⁶ See ARS Constitution (2001) Art 77 BGRS Constitution (2002) Art 79; GRS Constitution (2002) Arts 78; SNNPR Constitution (2001) Art 84.

nationality zone or *liyu woreda*.¹⁸²⁷ Nationality zones and *liyu woredas* have a parliamentary executive. Hence, the representative council of a *liyu woreda* or a nationality zone elects a chief administrator from among its members after the party that controls the majority seats nominates the person.¹⁸²⁸ The representative council also approves the appointment of the heads of the various executive organs. The terms of the office of the executive council and chief administrator runs concurrently with that of the representative council.¹⁸²⁹

Powers of executive organs

A chief administrator of a nationality zone or a *liyu woreda* is responsible, with the other heads of executive organs, for implementing the legislation and decisions of the nationality zone or *liyu woreda* council as well as that of the federal and regional governments.¹⁸³⁰ He or she is also responsible for the preparation of the budget and social and economic development plans of the nationality zone/*liyu woreda*. Furthermore, he or she is in charge of ensuring the implementation of the budget and the plans once they are approved by the representative council of the nationality zone or the *liyu woreda*.¹⁸³¹

Assessment

As was discussed above, nationality zones and *liyu woredas* have representative councils and executive organs, the political organs which are critical for self-rule.

¹⁸²⁷ ARS Constitution (2001) Art 77 (3); BGRS Constitution (2002) Art 78 (3); GRS Constitution (2002) Arts 81(3); SNNPR Constitution (2001) Art 84 (2).

¹⁸²⁸ ARS Constitution (2001) Art 79 (1); BGRS Constitution (2002) Art 80 (1); GRS Constitution (2002) Arts 83 (1); SNNPR Constitution (2001) Art 86(1).

¹⁸²⁹ ARS Constitution (2001) Art 79 (2); BGRS Constitution (2002) Art 80 (2); GRS Constitution (2002) Arts 83 (2); SNNPR Constitution (2001) Art 86 (2).

¹⁸³⁰ ARS Constitution (2001) Art 78; BGRS Constitution (2002) Art 79; GRS Constitution (2002) Arts 82; SNNPR Constitution (2001) Art 85.

¹⁸³¹ ARS Constitution (2001) Art 78; BGRS Constitution (2002) Art 79; GRS Constitution (2002) Arts 82; SNNPR Constitution (2001) Art 85.

Therefore, the second feature of self-rule is clearly institutionalised. The critical question is whether and to what extent members of an ethnic community may in fact control and run the political organs of its nationality zone or *liyu woreda*.

As the discussion above indicates, the plurality electoral system is used in all elections in Ethiopia, including local elections. It is submitted that in spite of the plurality electoral system, in most cases members of the ethnic communities, for whom a *liyu woreda* is established, are likely to have control over the *liyu woreda* councils. As was discussed earlier, most of the *liyu woredas* have one dominant ethnic community. Only a few *liyu woredas* are bi-ethnic or multi-ethnic. Besides, members of the dominant ethnic community of a *liyu woreda* are to be found in the majority in most of the *kebeles* which serve as constituencies in *liyu woreda* elections. As was discussed earlier, each *woreda* or *liyu woreda* was carved out by bringing together several *kebeles* the majority of whose residents belong to a particular ethnic community.¹⁸³² A *liyu woreda* is, therefore, a collection of *kebeles* where members of an ethnic community are in the majority.¹⁸³³ Even now inter-zonal or inter-regional boundary disputes are resolved by taking into consideration the ethnic composition of the residents of each *kebele* in the border areas.¹⁸³⁴ *Kebeles* in disputed border areas are transferred to one or other *woreda*, *liyu woreda*, zone, or region based on their

¹⁸³² See chapter 3; § 7.2.1.1.

¹⁸³³ For instance the Argoba nationality zone of the Amhara regional states is composed of 7 *kebeles* where members of the ethnic community are found in majority. The *kebeles* are Fetekoma, Arranechero, Chomye, Emeyeserte, Killkillo, Yaseneager and Gobera. ARS Proclamation 130 (2006) Art 6.

¹⁸³⁴ FDRE Proclamation 251 (2001) Article 29 (3) provides that referendums to resolve border disputes take place at *kebele* level.

ethnic composition.¹⁸³⁵ Therefore, it can safely be assumed that the representatives that are elected to a *liyu woreda* council from most of the *kebeles* in the *liyu woreda* are likely to belong to the ethnic community for which the *liyu woreda* has been established.

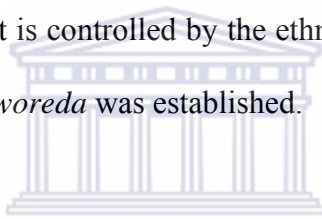
The same can be said with respect to nationality zones. A nationality zone is an amalgam of two or more *woredas* where members of a particular ethnic community are found to be in the majority.¹⁸³⁶ As indicated above, in Amhara and Gambella regional state, the *woredas* within a nationality zone send specially selected individuals to nationality zone councils to occupy a portion of the nationality zone council seats. Members of the regional council, who are elected from the *woredas* within the nationality zone, automatically become members of the nationality zone council and occupy the remaining seats. Clearly the *woredas* within the nationality zone are likely to send to the nationality zone council individuals belonging to the ethnic community for whom the nationality zone was established. Furthermore, members of the regional council who are elected from the *woredas* within the nationality zone are likely to belong to the ethnic community for whom the nationality zone was established.¹⁸³⁷

¹⁸³⁵ For instance in resolving the boundary disputes between Oromia and Somali regional states as well as between SNNPR and Oromia regional states certain *kebeles* were transferred from Oromia to the SNNPR or Somali regional states or *vice versa* through a referenda which was conducted at a *kebele* level. NEBE (1997 Ethiopian Calendar)

¹⁸³⁶ See above at § 2.2.1.

¹⁸³⁷ Yonatan makes similar argument about the representation of ethnic communities in the HoPRs. See Yonatan (2009) 336.

In SNNPR, a certain number of the members of a nationality zone council are directly elected by the people. It is not clear whether the *woreda* or the *kebele* is used as the electoral district in elections for nationality zone councils in this region. In any case, it makes no difference. Still, in line with the above reasoning, it can be assumed that the dominant ethnic community in the mono-ethnic nationality zones controls the majority of the seats in the nationality zone councils. Even members of the various ethnic communities in the multi-ethnic nationality zones are likely to be more or less proportionately represented in the nationality zone councils as each of them controls one or more *woredas*. In short, the direct and indirect electoral process is likely to result in a *liyu woreda* or nationality zone council that is controlled by the ethnic community for whom the nationality zone or the *liyu woreda* was established.



However, the electoral process is far from perfect. Certain deficiencies can still be detected in the electoral processes which are likely to undermine the right to a ‘full measure’ of self-rule of the ethnic communities. As was indicated above, members of a nationality zone council are not directly elected by the people in Gambella and Amhara regional states. The ‘special procedure’, whatever it might entail, deprives members of the ethnic community of the opportunity to directly elect their own representatives. This belies the notion of self-rule. As has been maintained in chapter two, representative democracy is essential for territorial autonomy. It is also inherent to the notion of the right to self-determination.¹⁸³⁸

¹⁸³⁸ See chapter 2; § 4.4.2.1.

Nationality zone and *liyu woreda* councils are intended to be institutions of self-determination of a particular ethnic community. As provided in the regional constitutions, the councils are the highest political organs of the ethnic community for which they are established.¹⁸³⁹ The self-determination of the ethnic community is expected to be expressed in the ability of members of the ethnic community to directly elect their political leaders. This is what the FDRE Constitution envisages. That is why the FDRE Constitution provides that a sovereign power resides in each ethnic community and finds expression, among other things, in the ability of members of the ethnic community to elect their representatives.¹⁸⁴⁰ It seems also based on this assumption that the FDRE entrusts these councils with the power to decide on so critical a matter as secession. The indirect arrangement, on the other hand, counters the very notion of autonomy, self-determination, and self-government of the ethnic community for which a nationality zone is established. Moreover, the arrangement opens a door for the federal and regional politicians to undermine the autonomous entity by ensuring the selection of 'loyalists'.

Furthermore, the electoral practice, but not necessarily the electoral system,¹⁸⁴¹ fails to allow the representation in the nationality zone and *liyu woreda* councils

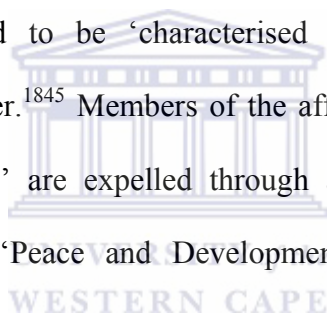
¹⁸³⁹ ARS Constitution (2001) Art 74; BGRS Constitution (2002) Art 75; GRS Constitution (2002) Arts 81; SNNPR Constitution (2001) Art 81.

¹⁸⁴⁰ FDRE Constitution (1995) Art 8(3).

¹⁸⁴¹ Opposition parties blame, among other things, the plurality electoral system for their exclusion from all representative councils in the country. They even argue that the plurality electoral system was deliberately introduced by the EPRDF to manipulate electoral outcomes so as to deny them representation in any representative council (Mennasemay (2003)). The distortive effect of the electoral system can be seen in the results of regional and national elections. However, the effect of the electoral system on the electoral outcomes of local elections

of diverse political views which exist within an ethnic community. As was indicated previously, all nationality zones and *liyu woredas* are controlled by ethnic-based political parties which are either members or affiliates of the EPRDF. There is no a single party with a different political view that is represented in a nationality zone or a *liyu woreda* council.¹⁸⁴²

The non-representation of diverse political views is exacerbated by the fact that many of the political parties that control nationality zones and *liyu woredas* have disputable legitimacy.¹⁸⁴³ It is often alleged that the EPRDF is involved in the creation of the affiliate parties.¹⁸⁴⁴ The relationship between the EPRDF and affiliate parties is alleged to be ‘characterised by [the latter’s] complete subordination’ to the former.¹⁸⁴⁵ Members of the affiliate parties who reject the EPRDF’s ‘ideological line’ are expelled through a process of *gim-gema*. In particular, the so called ‘Peace and Development Conferences’ which are



is unclear. This is simply because the opposition parties have never participated in local elections. They either boycotted or withdrew from local elections. Thus, there is no factual evidence that directly links the electoral system with the lack of representation of the opposition parties in nationality zone and *liyu woreda* councils.

¹⁸⁴²As will be discussed below, there are evidences which indicate that electoral system has exclusionary effect in national and regional election.

¹⁸⁴³ Young (1998) 197.

¹⁸⁴⁴ The genesis of the establishment of the affiliate parties (also referred to as Peoples Democratic Parties (PDOs)) is that after the fall of the *Derg* and during the transitional period the EPRDF fighters ‘marched’ to the present day SNNPR. In the area, they mobilised the various ethnic groups into small ethnic-based political parties. The teachers in the area were particular targets of recruitment. Each of these parties now bear the name of the ethnic group they claim to represent followed by ‘people democratic organisation’ (PDO). Now these parties are commonly called as PDOs. Vaughan (2006) 186.

¹⁸⁴⁵ Asnake (2009) 247.

convened and chaired by EPRDF cadres, are used to dispose of those who refuse to obey.¹⁸⁴⁶

In addition, the ethnic-based political parties which are members of the EPRDF and which control self-governing local territories are not politically autonomous. It has become the policy of the EPRDF to merge ethnic-based parties (both EPRDF's members and affiliate parties) under one umbrella regional party.¹⁸⁴⁷ The regional umbrella party is expected to operate on the basis of the principle of democratic centralism.¹⁸⁴⁸ For instance, the SEPDM is a coalition of 20 small ethnic-based political parties and is a member of the EPRDF.¹⁸⁴⁹ Based on the principle of democratic centralism the constituent units of the SEPDM do not have political autonomy from the SEPDM. Similarly, the SEPDM does not have a political existence separate from the EPRDF. Thus, the policies are formulated at the centre and the local echelons of the party are enjoined to implement these policies and decisions. Thus, the governments of the 18 *liyu woredas* and nationality zones in SNNPR, which are ruled by more than 20 ethnic-based political parties, cannot independently exercise political power. A similar kind of centralisation of the political party structure has taken place in the Gambella and

¹⁸⁴⁶ Asnake describing the *gimgema* process in Benishangul-Gumuz states: 'After the end of the conference, the six political parties underwent a gruelling *gimgema* session under the stewardship of EPRDF cadres. In these evaluation sessions, the members of the parties had to undergo a humiliating process of self-criticism. Those who sufficiently criticised themselves and accepted their 'weakness' and were thought to have submitted themselves to the objectives of the EPRDF were allowed to become members of the new ethnic parties. On the other hand, many regional officials accused of having links with 'anti-peace' forces, tendencies of 'narrow-nationalism' and 'dictatorship' were excluded'. Asnake (2009) 247. See also Samatar (2004) 1146.

¹⁸⁴⁷ See Wondwosen (2009).

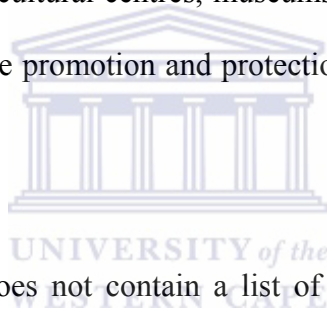
¹⁸⁴⁸ See The Statute of EPRDF (undated).

¹⁸⁴⁹ See chapter 4; § 3.2.1.1.

Benishangul-Gumuz regions at the behest of the EPRDF.¹⁸⁵⁰ This, in effect means that, the territorial autonomy which came about as a result of the decentralisation process, is undercut by the centralisation of the regional party structures. The establishment of nationality zones and *liyu woredas* has, therefore, become enfeebled in terms of allowing the ethnic minorities to fully enjoy self-rule.

2.2.3. Competences of *liyu woredas* and nationality zones

The third critical feature of self-rule is the devolution of clearly defined competences which are relevant for the protection of the identity and culture of an ethnic community. As indicated in chapter two, language, education, radio, television, public libraries, cultural centres, museums and the like are considered appropriate functions for the promotion and protection of an ethnic community's culture and identity.¹⁸⁵¹

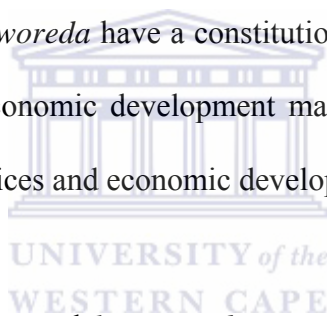


The federal Constitution does not contain a list of competences that are to be exercised by ethnic-based sub-regional units. Article 39(2) of the Constitution, however, provides that an ethnic community 'has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history'. This implies that nationality zones and *liyu woredas* may exercise those powers and function that are necessary for expressing, developing, and promoting the language and culture of the ethnic community for which they are established. However, the specific competences that they may exercise are not clearly identified.

¹⁸⁵⁰ Asnake (2009); Medhane (2007).

¹⁸⁵¹ See chapter 2 § 4.4.2.1.

The regional constitutions do not also clearly indicate whether a nationality zone or a *liyu woreda* may exercise these functions. Like the federal Constitution, the regional constitutions impose a duty on the governments of nationality zones and *liyu woredas* to promote and protect the language, culture, and history of the intra-regional minority ethnic communities for whom they were established. It is unclear what these local units may do to perform this duty. What is clearly provided, though, is that nationality zones and *liyu woredas* may choose their own working language as well as the language of instruction for primary education within their territorial jurisdiction.¹⁸⁵² It is not at all clear whether they may exercise any of the functions that are mentioned above. Furthermore, a nationality zone and a *liyu woreda* have a constitutional power to decide on their own social services and economic development matters.¹⁸⁵³ It is, however, left undefined what ‘social services and economic development matters’ include.



In practice, nationality zones and *liyu woredas* exercise certain functions in the area of education. For instance, they are responsible for translating teaching materials into local languages.¹⁸⁵⁴ They are also responsible for distributing teaching material to primary schools. Nationality zones, along with the regional state, are engaged in establishing and administering secondary schools, technical and vocational schools, special schools, teacher training institutes, and medium-

¹⁸⁵² ARS Constitution (2001) Art 74 (3); BGRS Constitution (2002) 75 (3); GRS Constitution (2002) Art 78(3); SNNPR Constitution (2001) 81 (3).

¹⁸⁵³ See ARS Constitution (2001) Art 74 (3); BGRC (2002) Art 75 (3); GRC (2002) Arts 78 (3); SNNPR Constitution (2001) Art 81(3).

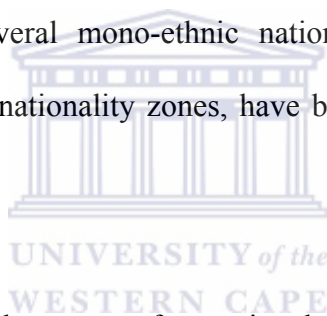
¹⁸⁵⁴ Garcia & Rajkumar (2008) 16

level colleges.¹⁸⁵⁵ The practice is not, however, based on a clear legislative division of functions among the various levels of government.

2.2.3.1. Competences relating to language

Choosing a working language

The federal Constitution authorises each regional state to choose its working language.¹⁸⁵⁶ The regional constitutions in turn allow each nationality zone and *liyu woreda* to adopt its own working language.¹⁸⁵⁷ Accordingly, several mono-ethnic nationality zones have adopted the language of the dominant ethnic community of the zone as their working language. For instance, *afaa-oromo* has become the working language of the Oromo Nationality Zone in Amhara regional state.¹⁸⁵⁸ In SNNPR, several mono-ethnic nationality zones, including the Sidama, Silte, and Hadiya nationality zones, have begun to use local languages for official purposes.¹⁸⁵⁹



In principle, the working language of a regional state becomes the working language of all *woredas* and cities in the region. This is the case, for instance, in Oromia, Tigray, and Somali. However, a *woreda* or a city, which is within the territorial jurisdiction of a nationality zone, is expected to use the working language of the latter. This is because only Article 39 local government units may decide to adopt their own working language. Article 50(4) local government units do not have this competence. Hence, intra-regional ethnic minority communities

¹⁸⁵⁵ Garcia & Rajkumar (2008) 17.

¹⁸⁵⁶ FDRE Constitution (1995) Art 5 (3).

¹⁸⁵⁷ See ARS Constitution (2001) Art 74 (3) (a); GRS Constitution (2002) Arts 78 (3) (a); SNNPR Constitution (2001) Art 81(3) (a).

¹⁸⁵⁸ Mohammed (2010) 147.

¹⁸⁵⁹ Cohen (2000); Smith (2008).

that are found within the nationality zones and that have decided to use a local language for official purposes may access public services in their own language from all local public offices, including, *kebeles*, *woredas*, and cities.¹⁸⁶⁰ Therefore, they may use their own language to submit applications to public offices. They may also receive documents, such as identification cards, which are prepared in their own languages.

Multi-ethnic nationality zones, such as, the Bench-Maji and South Omo zones rather resort to using Amharic as their working language. This is not, however, as a result of a constitutional restriction preventing them from adopting two or more local languages as their working languages. The decision to use Amharic rather seems to have been prompted by the ethnic and linguistic diversity of these nationality zones. A decision to do otherwise might have driven the nationality zones into administrative difficulties. Moreover, it might have led to a dispute among the ethnic communities as each ethnic community would have attempted to have its language used as the working language.

Choosing language of instruction for primary education

The FDRE Constitution recognises the right of each ethnic community ‘to speak, write and develop its language’.¹⁸⁶¹ Accordingly, the regional constitutions have recognised the right of the intra-regional ethnic communities to receive education in their own working language.¹⁸⁶² Moreover, it is the policy of the federal

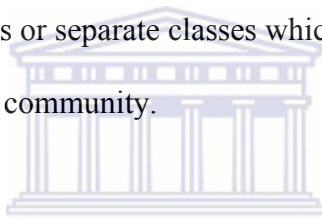
¹⁸⁶⁰ That is, for instance the case in the Oromo nationality zone in Amhara regional state. See Mohammed (2010).

¹⁸⁶¹ FDRE Constitution (1995) Art 39 (2).

¹⁸⁶² The Gambella Constitution, for instance, expressly provides that each of the ethnic communities of the region has the right to learn in their own language. Likewise, the Benishangul-Gumuz regional Constitution recognises the right of the ethnic communities of the region to

government to ensure that primary education is offered to each ethnic community either in its own language or in the language that the ethnic community chooses.¹⁸⁶³ Amharic is only a subject in primary schools of various nationality zones as it is ‘a language of countrywide communication’.¹⁸⁶⁴

The councils of nationality zones and *liyu woredas* are authorised to decide whether or not a local language should be used for the purpose of primary education.¹⁸⁶⁵ Moreover, practice shows nationality zones are engaged in translating primary school textbooks into a local language.¹⁸⁶⁶ Nationality zones (along with the *woredas* within their territorial jurisdictions) and *liyu woredas* are expected to establish schools or separate classes which provide primary education in the language of an ethnic community.



Practice is also largely in line with the above. Several mono-ethnic nationality zones and *liyu woredas* have adopted local languages for primary education. For instance, the Oromo and Awi nationality zones of the Amhara regional states have begun to use *Afaan-oromo* and *Awgini*, respectively.¹⁸⁶⁷ Most of the mono-ethnic nationality zones and *liyu woredas* in SNNPR have adopted local

receive education either in their own language or in the language of their choice. GRS Constitution (2002) Art 6 (3); BGRS Constitution (2002) 6 (3).

¹⁸⁶³ FDRE Ministry of Education (1994) 23.

¹⁸⁶⁴ FDRE Ministry of Education (1994) 23.

¹⁸⁶⁵ ARS Constitution (2001) Art 74; GRS Constitution (2002) Arts 78; SNNPR Constitution (2001) Art 81.

¹⁸⁶⁶ Garcia & Rajkumar (2008) 15.

¹⁸⁶⁷ Cohen (2006) 166; Mohammed (2010); Yonatan (2011).

languages as medium of instruction. Some ethnic communities in multi-ethnic nationality zones have also begun to use local languages for education.¹⁸⁶⁸

2.2.3.2. Assessment

Evidently, there is a lack of clarity as regards the functional areas that are within the exclusive competences of nationality zones and *liyu woredas*. The federal Constitution implies that ethnically organised territorial and administrative units may exercise functions that are relevant for preserving and promoting the culture and language of the ethnic community for which they are established. The regional constitutions also impose on nationality zones and *liyu woredas* the duty to promote the language, culture, and history of the ethnic communities. Furthermore, the nationality zones and *liyu woredas* are authorised to formulate the social services and economic development plans of a nationality zone.

The federal Constitution does not, however, specify the functions that an ethnic-based territorial and administrative unit may exercise for achieving the stated purposes. The regional constitutions also fail to clearly define the specific competences that nationality zones and *liyu woredas* may use to the above effect. Furthermore, the specific areas of social and economic matters that are within the competences of a nationality zone are undefined. In particular, the distinction between the social and economic matters that are within the competences of a nationality zone and the *woredas* or/and cities that are found within it are left unspecified. Interestingly, the draft legislative framework that was prepared by the Ministry of Capacity Building to clarify the competences of *woredas*, deliberately avoids defining the competences of the *woredas* that are found within

¹⁸⁶⁸ Cohen (2000) 124.

the territorial jurisdiction of nationality zones.¹⁸⁶⁹ As was discussed in chapter five, the lack of specificity in the competences of the various tiers of sub-regional governments is one of the major deficiencies of the decentralisation project in Ethiopia.¹⁸⁷⁰

It is clear that nationality zones or *liyu woredas* have the competence to use a local language for work and/or primary education. The decentralisation of language choice to nationality zones and *liyu woredas* is viewed as an important measure for protecting the identity of the intra-regional ethnic minority communities. Several writers claim that the use of local languages in schools and administrative offices has resulted in a ‘cultural renaissance’ for many ethnic communities that were marginalised in the past.¹⁸⁷¹ This arrangement has reinstated the pride and dignity of these ethnic communities by preventing the need to ‘face the indignity of having to speak [Amharic] and appear before members of Amhara elites at the local level’.¹⁸⁷² As Cohen maintains, ‘local pride and self-identity are clearly increasing in response to the reform’ that allowed nationality zones and *liyu woredas* to use local languages for work and education.¹⁸⁷³ Boothe and Walker also state that:-

‘[D]ecentralisation, use of the mother tongue, and curricular revision have all helped to bolster community support for primary education ... Across the board, parent, student and teacher attitudes about using the nationality languages were positive. Children

¹⁸⁶⁹ See chapter 5; § 2.4.4.2.

¹⁸⁷⁰ See chapter 5; § 2.4.4.2.

¹⁸⁷¹ Young (1998) 199; Cohen (2000) 122; Boothe & Walker (1997).

¹⁸⁷² Young (1998) 199.

¹⁸⁷³ Cohen (2000) 122.

were excited that for the first time they could legally use their mother tongue in schools. Parents were pleased that they could talk to school officials in the mother tongue rather than through an interpreter. Teachers were encouraged by the students' willingness to engage in class discussions now that they could express themselves in the language in which they were most confident.¹⁸⁷⁴

The use of local languages for official purposes also brings significant economic benefits for members of ethnic minority communities as it provides them with enhanced employment opportunities. Previously, many were discouraged, if not excluded, from seeking employment in the administrative organs of the country, among other things, due to their lack of proficiency in the Amharic language.¹⁸⁷⁵ Now, the establishment of nationality zones and *liyu woredas*, coupled with the decentralisation of language choices, has enhanced the opportunity for most hitherto 'unemployable' members of the ethnic minorities to find employment in the administrative structures of the local units. Presently, most of the administrative organs of the nationality zones and *liyu woredas* are occupied by members of the ethnic minorities for whom the autonomous areas were established.

The implementation of a decentralised language choice is not, however, without problems. The decisions to adopt a local language for work and education are often top-down in which members of the community hardly participated.¹⁸⁷⁶ In some cases this top-down approach has caused serious conflicts. The *wogagoda*

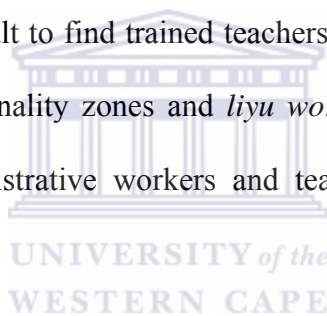
¹⁸⁷⁴ Boothe & Walker (1997).

¹⁸⁷⁵ See chapter 3; § 5.1.5.

¹⁸⁷⁶ Getachew & Derib (2006) 56-57.

case is an example.¹⁸⁷⁷ The decision to adopt a local language for work seldom takes into account the ethnic heterogeneity of the nationality zones and *liyu woredas*. In particular, the urban areas are always multi-ethnic even in nationality zones and *liyu woreda* where there is a dominant ethnic community. The decentralisation of language choices does not formally cater for the ethnic communities which do not belong to the dominant ethnic group.¹⁸⁷⁸ This renders the decentralisation of language choices problematic.

The implementation of the use of local languages for education has also become an immensely complex task for the nationality zones and *liyu woredas*. For instance, it has been difficult to find trained teachers who speak local languages. Therefore, almost all nationality zones and *liyu woredas* suffer from a chronic shortage of trained administrative workers and teachers who speak the local language.¹⁸⁷⁹



2.2.4. Revenue

As was stated in chapter two, financial autonomy is a critical element of self-rule. Financial autonomy impacts on the effectiveness of local self-government in promoting and developing the culture and languages of the ethnic group for which it is established.¹⁸⁸⁰ Building schools, publishing books in the language of the ethnic minority, hiring teachers, and establishing other cultural centres clearly require revenue. Transferring adequate revenue to ethnically organised local units

¹⁸⁷⁷ See above chapter 7; § 2.2.1.1.

¹⁸⁷⁸ In SNNPR there is a policy to use Amharic in primary schools in the zonal capitals. See the discussion below at § 3.3.2.2.

¹⁸⁷⁹ See MoCB (2007) 50-51.

¹⁸⁸⁰ See chapter 2; § 4.4.2.1.

is also important for preventing conflicts and maintaining peace as ethnic-based conflicts are often caused or exacerbated by unjust resource distributions.¹⁸⁸¹

The FDRE Constitution is silent on how ethnic-based sub-regional units are to be financed even though it envisages their establishment. As indicated elsewhere, the federal Constitution allocates taxing powers only between the federal and regional governments.¹⁸⁸² The regional constitutions provide no taxing power for nationality zones and *liyu woredas*. This is despite the power of nationality zones and *liyu woredas* to approve their own budgets.¹⁸⁸³ It seems, therefore, that a nationality zone may only decide on how to spend revenue allocated to it by a regional state; it may not raise its own revenue.

In practice, nationality zones receive a significant amount of funds from the regional governments in the form of block grants.¹⁸⁸⁴ As has been discussed in the previous chapter, the block grant that is earmarked for *woredas* within a nationality zone is transferred directly to the nationality zone.¹⁸⁸⁵ The nationality zone then deducts a certain amount for itself and adjusts the remaining amount to transfer it to the *woredas* within its jurisdiction.

¹⁸⁸¹ See chapter 2; § 4.4.2.1.

¹⁸⁸² See chapter 2; § 4.4.2.1.

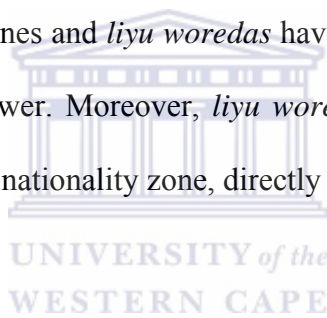
¹⁸⁸³ ARS Constitution (2001) Art 74 (3); BGRS Constitution (2002) 75 (3); GRS Constitution (2002) Art 78 (3); SNNPR Constitution (2001) 81 (3).

¹⁸⁸⁴ Garcia & Rajkumar (2008).

¹⁸⁸⁵ See chapter 5; § 2.6.3.1.

A *liyu woreda*, like any other *woreda*, may collect agriculture income taxes and land use fees.¹⁸⁸⁶ However, as was discussed in the previous chapter, a *liyu woreda*, like a regular *woreda*, collects these taxes on behalf of the regional states.¹⁸⁸⁷ It is not allowed to retain the proceeds from these taxes for itself. That is why an amount equivalent to what it has collected from these taxes is deducted from the block grants it receives from the regional government. Moreover, it is not clear whether the status of a *liyu woreda* entitles it to extra revenue over and above what other ordinary *woredas* with similar developmental needs receive from a regional government.

In short, both nationality zones and *liyu woredas* have no constitutionally defined internal revenue raising power. Moreover, *liyu woredas*, like any other *woreda* outside the jurisdiction of a nationality zone, directly access block grants from the regional government.



2.2.4.1. Assessment

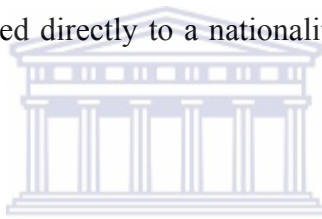
As can be gathered from the above discussion, territorial autonomy at sub-regional level is not accompanied with full financial autonomy. Nationality zones are completely dependent on regional grants to finance their activities. *Liyu woredas* raise some revenue in the form of agricultural income taxes and land use fees. However, as has been discussed in the previous chapter, an amount that is equivalent to what a *liyu woreda* raises from these taxes is deducted from its share of the regional block grant.¹⁸⁸⁸

¹⁸⁸⁶ See Chapter 5: § 2.6.2.1.

¹⁸⁸⁷ See chapter 5; § 2.6.2.1.

¹⁸⁸⁸ See chapter 5; § 2.6.2.1.

Even if nationality zones and *liyu woredas* do not have constitutionally defined sources of revenue, some studies indicate that they have had access to increased funding from the regional and, even, from the national government, which is meant to cover their capital and recurrent expenditures.¹⁸⁸⁹ In fact, it was the desire to access this revenue that motivated the elites of certain ethnic communities to demand the creation of nationality zones or *liyu woredas*. As has been discussed in chapter four,¹⁸⁹⁰ one of the unofficial rationales for the second phase decentralisation was to discourage the demand for nationality zones and a *liyu woredas*. This is why nationality zones are required to transfer to the *woredas* within their jurisdiction the bulk of the regional block grant that they receive.¹⁸⁹¹ The block grant is transferred directly to a nationality zone merely to signify its special status.



The total dependence of the nationality zone on regional block grants is likely to weaken their relevance as institutions of self-rule for a particular ethnic community for whom it was established. The financial dependency does away with the accountability of local officials to the local people. The fact that members of nationality zone councils are not even directly elected by the people - despite the fact that members of a nationality zone council are expected to exercise the highest political powers in their respective nationality zones - makes the problem even more aggravated.

¹⁸⁸⁹ Vaughn (2003).

¹⁸⁹⁰ See chapter 4; § 5.3.7.2.

¹⁸⁹¹ See chapter 5; § 2.6.3.1.

2.2.5. Concluding remarks

The foregoing discussion depicts the institutional design of 'self-rule' at local level which is meant to accommodate intra-regional ethnic communities. As the discussion reveals, ethnic-based sub-regional territorial units are established. The establishment of ethnic-based local territorial units is clearly the fundamental element of territorial autonomy. Political and administrative institutions are established in the territorial units which are also critical for self-rule. Even though their competences are generally unclear, the political organs have the authority to decide on certain culture and language related matters.

As the discussion in chapter two shows, territorial autonomy clearly allows ethnic minorities to exercise self-rule at local level. However, unlike federalism which provides both for self-rule and shared-rule, territorial autonomy does not in general necessitate the representation of the local units in the central government. The FDRE Constitution, however, contains the principle of 'shared-rule' which entitles intra-regional minority ethnic communities to be represented in the central government. The following section will examine how the 'shared-rule' element is institutionalised.

2.3. Shared-rule

2.3.1. Introduction

As was stated in chapter two,¹⁸⁹² local autonomy is critical, but not sufficient. Self-rule must be complemented with shared-rule. Shared rule entails the representation of ethnic-based local units or intra-regional ethnic minority groups in sub-national and national government political, administrative, and judicial

¹⁸⁹² See chapter 2§ 4.4.2.2.

organs.¹⁸⁹³ As maintained previously, the representation of intra-regional minority ethnic communities in regional and national governments signifies regional integration. It also puts intra-regional minority communities in a position where they can influence decisions directly affecting their interests.

According to the FDRE Constitution, intra-regional minority ethnic communities not only are allowed to exercise self-rule, they are also entitled to ‘equitable representation in state and Federal governments’.¹⁸⁹⁴ This is clearly a normative principle for shared-rule.¹⁸⁹⁵ Several studies indicate that this principle allows the equitable representation of every ethnic community in every regional and national government organs including the legislative and executive organs, the army, the police, and the civil service.¹⁸⁹⁶ Obviously, not all federal and state organs make decisions that directly affect ethnic-based local units. Moreover, even if members of a given intra-regional ethnic community are elected or appointed to a particular regional or federal government, it does not mean that he or she will act as a representative of the ethnic-based local unit. Therefore, it is unnecessary to discuss whether and how each ethnic community is represented in every regional and federal government organ.

There are, however, certain regional and federal organs in which the ethnic-based local units are either directly or indirectly represented and whose decisions directly impact on the ethnic-based local units. At regional level, nationality

¹⁸⁹³ See chapter 2§ 4.4.2.2.

¹⁸⁹⁴ FDRE Constitution (1995) Art 39 (3).

¹⁸⁹⁵ See above § 2.1.

¹⁸⁹⁶ See above § 2.1.

zones and *liyu woredas* are represented in the CoN (in SNNPR) and certain judicial organs. At federal level, the HoF has the power to make decisions directly affecting the ethnic-based local units. The following section, therefore, will discuss how these organs are composed and how their decisions impact on the ethnic-based local units.

2.3.2. Shared-rule at regional level

2.3.2.1. The Council of Nationalities of SNNPR

As mentioned before,¹⁸⁹⁷ SNNPR is a collection of 21 ethnic-based autonomous sub-regional territorial units. Every part of the territory of SNNPR falls within a nationality zone or a *liyu woreda*, making the region appear to be an ethnic-based federation within a larger ethnic federation. Moreover, SNNPR has another distinctive feature of a federal system: a bi-cameral legislative house. Unlike any other regional states in Ethiopia, SNNPR has an upper house which is known as the Council of Nationalities (the CoN).¹⁸⁹⁸

Each of the members of the CoN is viewed as a representative of a particular ethnic community, not as representative of a particular nationality zone or *liyu woreda*.¹⁸⁹⁹ Yet, members of the CoN are elected by the councils of the nationality zone and *liyu woredas* from among their members.¹⁹⁰⁰ The

¹⁸⁹⁷ See above § 2.2.1.

¹⁸⁹⁸ SNNPR Constitution (2001) Art 58.

¹⁸⁹⁹ Each ethnic community is represented by at least one representative. If an ethnic community has more than a million people it may have additional representative in this CoN. SNNPR Constitution (2001) Art 58 (1).

¹⁹⁰⁰ SNNPR Constitution (2001) Art 58 (3).

representatives of the ethnic communities which are not represented in a nationality zone council, if there are any, are elected by *woreda* councils.¹⁹⁰¹

The CoN has three critical powers that directly impact on nationality zones and *liyu woredas*. First, it has the power to decide on a petition of a particular ethnic community for a separate nationality zone or *liyu woreda*.¹⁹⁰² Evidently, the power of the CoN to decide on this matter directly affects the existing nationality zones and *liyu woredas*. As stated before, the entire territorial area of SNNPR falls within one of the 21 nationality zones and *liyu woredas*. The establishment of a new nationality zone or *liyu woreda* in this region cannot take place without causing a reduction in the territorial and population sizes of one of the existing nationality zones, if not its total disintegration as was the case in the North Omo nationality zone. The power of the nationality zones and *liyu woredas* to elect the members of the CoN, therefore, allows them to be involved in and to influence such decisions.

Secondly, the CoN is responsible for settling disputes between the various levels of government of the regional state.¹⁹⁰³ It has a final say when the dispute between two levels of government entails the interpretation of the regional Constitution.¹⁹⁰⁴ The power of the CoN to settle disputes between two levels of

¹⁹⁰¹ SNNPR Constitution (2001) Art 58 (3).

¹⁹⁰² SNNPR Constitution (2001) Art 59 (3).

¹⁹⁰³ SNNPR Constitution (2001) Art 59 (5)

¹⁹⁰⁴ SNNPR Constitution (2001) Art 59 (1). There is a constitutionally established organ in SNNPR, the Council of Constitutional Inquiry (CCI) which is composed of judges and lawyers. The CoN itself is in charge of establishing the CCI. The CCI presents to the CoN its opinion with

government and to interpret the regional Constitution has the potential to affect the existing nationality zones and *liyu woredas*.

Thirdly, the CoN is involved in the amendment of the regional Constitution.¹⁹⁰⁵ The provisions of the regional Constitution, other than the Bill of Rights, are amended when a Bill of Amendment is approved by a joint session of the Regional Council and the CoN and when the Bill is approved by a two-thirds majority vote of the joint session.¹⁹⁰⁶

2.3.2.2. Judicial organs

Under the FDRE Constitution judicial power is entrusted to the federal and state courts.¹⁹⁰⁷ The regional constitutions also structure the state courts as regional first instance courts (often referred to as *woreda* courts), regional high courts (also known as zonal court) and regional supreme courts.¹⁹⁰⁸ *Woreda* and zonal courts fall under one hierarchical structure at the top of which is a regional supreme court.¹⁹⁰⁹ They do not form parts of a *woreda*, a *liyu woreda* or nationality zone government structure. The regional government is responsible for establishing the various tiers of regional courts, for appointing the judges thereof, and for financing them.¹⁹¹⁰

respect to a particular issue related to the interpretation of the regional Constitution. The CoN delivers a final decision on the matter. SNNPR Constitution (2001) Art 59 (2), 78 & 79.

¹⁹⁰⁵ SNNPR Constitution (2001) Art 125 (3).

¹⁹⁰⁶ SNNPR Constitution (2001) Art 125 (1) (b).

¹⁹⁰⁷ See chapter 4; § 3.2.3. & 3.3.3.

¹⁹⁰⁸ ARS Constitution (2001) Art 67; BGRS Constitution (2002) Art 68; GRS Constitution (2001) Art 71; SNNPR Constitution (2001) 75.

¹⁹⁰⁹ There are various specialised tribunals at state level which deal with particular issue such as taxes, labour, urban land expropriation

¹⁹¹⁰ ARS Constitution (2001) Art 67; BGRS Constitution (2002) Art 68; GRS Constitution (2001) Art 71; SNNPR Constitution (2001) 75.

However, there is an element of shared-rule in the procedure in terms of which the judges of the above mentioned branches of a regional court are appointed. The regional government is enjoined to consult with the relevant nationality zone or *liyu woreda* government about the appointment of a particular judge to administer justice in a regional first instance or high court which is established within its territory.¹⁹¹¹ The final decision with respect to the appointment of judges belongs to a regional council. It is important to note, however, that no such consultation takes place to appoint a judge in a *woreda* which is found outside the territorial jurisdiction of a nationality zone.

In Gambella and Amhara regional states, nationality zones and *liyu woredas* are also represented in a *quasi-judicial* organ known as the ‘Constitutional Interpretation Commission (CIC)’. A CIC is an organ which has the power to interpret a regional constitution. The establishment of this organ is provided for in all regional constitutions except that of SNNPR.¹⁹¹² A CIC is composed of the representatives of each *woreda*.¹⁹¹³ In Amhara and Gambella regional states, the nationality zones, in addition to the *woredas*, are also represented in the CIC.¹⁹¹⁴

A CIC decides on matters involving the interpretation of a regional

¹⁹¹¹ ARS Constitution (2001) 74 (3) (g); BGRS Constitution (2002) Art 75 (3) (g); GRS Constitution (2001) Art 78 (3) (g); SNNPR Constitution (2001) 76 (3).

¹⁹¹² As mentioned above, in the SNNPR, the power to interpret the regional constitution belongs to the Council of Nationalities. The ARS Constitution (2001) Art 70 (1); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) Art 71(1); the GRS Constitution (2001) Art 74 (1); the ORS Constitution (2001) Art 67 (1). As was stated above in the SNNPR the power to interpret the regional Constitution is entrusted in the Council of Nationalities.

¹⁹¹³ The ARS Constitution (2001) Art 70 (1); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) 71(2); the ORS Constitution (2001) Art 67 (1).

¹⁹¹⁴ The GRS Constitution (2001) 74 (1).

constitution¹⁹¹⁵ based on the opinion of a regional ‘Constitutional Inquiry Commission’.¹⁹¹⁶

2.3.2.3. Assessments

The CoN is intended to play the role that a second chamber in a federal system plays.¹⁹¹⁷ The drafters of the regional constitutions were in fact inspired by the composition and powers of the HoF when they created the CoN.

‘There was need for an institution which can resolve conflicts democratically and amicably, thereby contributing to the consolidation of the democratic unity among the diverse peoples of the south. So from the exercises of the federal House of the Federation we came to learn the need to establish a similar institution in our region. The House of Nationalities or the Council of Nationalities is the result of that realization.’¹⁹¹⁸

As several writers argue, the rationale for the establishment of a second chamber in a federal system is to create a check on the ‘tyranny’ of the majority.¹⁹¹⁹ Therefore, the principle that underlies the manner in which such a house is organised is directed at mitigating the influence of the majority. To that effect the second chambers of many federal states, including, the USA, Canada, and

¹⁹¹⁵ The ARS Constitution (2001) Art 70 (1); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) 72 (2); the GRS Constitution (2001) 75 (2); the ORS Constitution (2001) Art 68 (2).

¹⁹¹⁶ The Constitutional Inquiry Commission is composed of a president and a vice-president of a regional supreme court, six lawyers who are appointed by a regional council after being nominated by a regional chief administrator, and three members of a regional council who are selected by the speaker. The ARS Constitution (2001) Art 70 (2); the AfRS Constitution (2001) Art 76; the SRS Constitution (2001) 71 (2); the GRS Constitution (2001) 74 (3); the ORS Constitution (2001) Art 67 (2).

¹⁹¹⁷ Van der Beken (2007) 114.

¹⁹¹⁸ Haile Mariam Dessalegn, a former chief administrator of the SNNPR, quoted in Van der Beken (2007) 114.

¹⁹¹⁹ Erk & Swenden (2010) 192; Assefa (2007a) 140.

Switzerland, are composed of the representatives of the sub-national units.¹⁹²⁰ Moreover, the sub-national units are represented, though not always, on the basis of equality, despite differences in territorial and population sizes.¹⁹²¹ Hence, each unit of a federation, regardless of its population and territorial sizes, sends an equal number of representatives to the second chamber.¹⁹²²

Considering the fact that the CoN is meant to play the role of a second chamber, this organ should have been composed of representatives of the nationality zones and *liyu woredas*.¹⁹²³ Moreover, each nationality zone and *liyu woreda* in the region should have been represented by an equal number of representatives. However, as was stated above, in terms of the regional Constitution, members of the CoN are not viewed as representatives of the nationality zones and *liyu woredas* even though the councils of the nationality zone and the *liyu woredas* elect them. They are rather viewed as representatives of the ethnic communities which are found within each nationality zone and *liyu woreda*. Moreover, under the regional Constitution, members of the CoN are not required to act as agents of the nationality zone from whose council they are elected. Rather, they are expected to act as agents of the ethnic community that they are meant to represent. Furthermore, the CoN is composed on the basis of a majoritarian principle. Therefore, the number of representative that may represent an ethnic community in the CoN is determined by the size of the population of the ethnic community. It is logical, therefore, to expect ethnic communities with larger

¹⁹²⁰ See Watts (2010); Norton (2007) 7.

¹⁹²¹ Watts (2010) 2.

¹⁹²² Watts (2010) 2.

¹⁹²³ Van der Beken (2007) 136.

populations to have more representation than those with smaller populations allowing the former to have stronger influence in the CoN.

However, first, despite the fact that the nationality zones and *liyu woredas* are not represented in the CoN, members of the CoN are elected by the nationality zones and *liyu woredas* from among the members of their councils. It can be assumed that nationality zones and *liyu woredas* would ensure that their interests are promoted in the CoN by sending members who are likely to do so. Secondly, the fact that the CoN is organised based on a majoritarian principle will not have much impact on its composition and on its decisions. This is because even the largest ethnic communities of SNNPR, such as, the Sidamas and Gurages have populations of little more than two million each.¹⁹²⁴ Therefore, even the largest ethnic communities can send only one or a few more representatives.¹⁹²⁵ The Sidama ethnic community, for instance, sends three representatives which is the largest number of representatives that an ethnic community sends.¹⁹²⁶ The Gurage, Gedeo, Hadiya, Wolayita, and Gamo send 2 representatives each.¹⁹²⁷ The rest of the ethnic communities, including the smallest ones, send one representative each.

The ethnic diversity of the population of a nationality zone or a *liyu woreda*, therefore, determines the number of representatives that it may send to the

¹⁹²⁴ See FDRE Population Census Commission (2007).

¹⁹²⁵ Van der Beken (2007) 136.

¹⁹²⁶ Van der Beken (2007) 136.

¹⁹²⁷ Van der Beken (2007)136.

CoN.¹⁹²⁸ Mono-ethnic nationality zones, such as, Sidama, Hadiya, and Gedeo, send fewer representatives than the multi-ethnic nationality zones, such as, Bench-Maji and South Omo. For instance, the South Omo nationality zone sends 16 representatives, one for each of the 16 ethnic communities that are found in the nationality zone.¹⁹²⁹ Even the Derashe *liyu woreda* sends two more representatives to the CoN than the Sidama nationality zone.¹⁹³⁰ This provides the multi-ethnic nationality zones more weight in the CoN than the mono-ethnic nationality zones even if the latter have a larger population size.

The involvement of nationality zones and *liyu woredas* in the appointment of the judges who preside in the courts that are established within their territorial jurisdiction is an expression of shared-rule. It is particularly important to ensure that the courts deliver judgements in the working language of the nationality zones and *liyu woredas*.¹⁹³¹ Moreover, as was stated above, nationality zones and *liyu woredas* are represented in the *quasi-judicial* organ which has the ultimate power to decide on disputes involving the application and interpretation of regional constitutions. The involvement of nationality zones and *liyu woredas* in the appointment of the judges of a state court is likely to help them ensure the appointment of a judge who can deliver judgements in their working language. Also, their representation in the CIC is of important symbolic value. Moreover, it might help protect their interests.

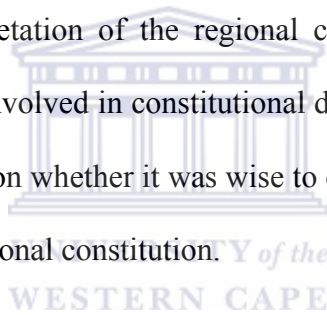
¹⁹²⁸ Van der Beken (2007) 136

¹⁹²⁹ Van der Beken (2007) 136

¹⁹³⁰ Van der Beken (2007) 136

¹⁹³¹ In SNNPR, Sidama, Wolayita, Gamo, Gofa, Dawro, Hadiya, Kamabata, Kafa, Silte languages are used by the state courts for the purpose of administering justice in the relevant nationality zone and *liyu woreda*. Getachew & Derib (2006) 55.

However, it should be noted here that the regional constitutions are meant to give effect to the normative principles that are enshrined in the FDRE Constitution. Therefore, any dispute based on a regional constitution may not find a final solution at regional level. It may still be taken to the House of Federation (HoF) for final resolution. However, as clearly provided in Proclamation 251(2001), parties to a dispute are required to exhaust regional remedies before taking their cases to the HoF.¹⁹³² The CIC and the CoN (in SNNPR) can be viewed as an important regional remedy for resolving disputes. It may, therefore, be assumed that the nationality zones and *liyu woredas* will gain some advantages from their involvement in the interpretation of the regional constitutions to protect their autonomy where they are involved in constitutional dispute. This is so despite the fact that it is open to question whether it was wise to entrust a political organ with the power to interpret a regional constitution.



It is necessary to note that the above assessment is based on what is formally stated in the regional constitutions. The practice is that disputes between different levels of government are hardly coached in such a way that they require the interpretation of a regional constitution. There is no reported case where a regional CIC was ever approached to interpret a regional constitution in any of the regional states. Disputes between various levels of government are rather dealt with within the party system. This renders the constitutionally established dispute settlement structures obsolete and the representation of *liyu woredas* and nationality zones in these formal structures meaningless.

¹⁹³² FDRE Proclamation 251 (2001)

2.3.3. Shared-rule at federal level

2.3.3.1. Introduction

As was stated in chapter two, the representation of intra-regional minority ethnic communities in regional government is important, but not sufficient. The shared-rule element of the federal model requires the representation of ethnic minority communities in national government. A perusal of the FDRE Constitution reveals that intra-regional ethnic minority communities have the right to be represented in important federal government organs. These organs include the House of Peoples Representatives (HoPR), the House of Federation (HoF), and various executive and administrative organs. Decisions of all these federal organs may have a direct or indirect impact on the autonomy of the ethnic-based local units. However, the discussion in the following section will focus only on the HoF, the second chamber the federal government.

2.3.3.2. The House of Federation (HoF)

Composition of the HoF

As has been discussed before,¹⁹³³ the HoF, which is the upper house of the federal government, is composed of the representatives of the ethnic communities of the country.¹⁹³⁴ Therefore, every ethnic group, regardless of its population size, sends at least one representative to the HoF.¹⁹³⁵ An ethnic community with more than a million people sends one extra representative for each additional 1 million people belonging to that ethnic community.¹⁹³⁶

¹⁹³³ See chapter 4; § 3.2.1.

¹⁹³⁴ FDRE Constitution (1995) 61(1).

¹⁹³⁵ FDRE Constitution (1995) 61(2)

¹⁹³⁶ FDRE Constitution (1995) 61 (2)

It is debatable whether the Constitution warrants separate representation in the HoF of an ethnic community whose members are found in more than one regional state as original inhabitants. Alem seems to argue that the Constitution warrants separate representation of members of an ethnic community who live in different regional states.¹⁹³⁷ On the basis of this assumption he views as anomalous the non-representation of the Amharas and other ethnic migrants who are found in Oromia and other regional states.¹⁹³⁸

Table 7. Ethnic communities as represented in the HoF

Region	Ethnic groups
Amhara	Amhara (13), Awi (2) Agew-Himra (1), Oromo (1)
Oromia	Oromo (19),
Tigray	Tigre (4) , Kunama (1) Irob/Saho (1)
SNNPR	Dawro (1), Bumi (1), Dime (1), Tembaro (1), Shekicho, (1), Kafficho (1) Gacho (1); Nao (1), Tsemay (1) Alaba (1), Qebena (1), Gamo (1), Derashe (1) Bench (1), Yem (1), Konta (1) Konso (1) Me'enite (1) Mareko (1) Oida (1), Ari (1), Gedeo (1), Gofa (1), Silte (1), Desenech (1), Surma (1) Wolaita (2), Hadyia (2), Sidama (2), Surma (1), Zeyise (1), Gidecho (1), Arbore (1), Geleb (1), Kore (1), Gideo (1), Guraghe (1), Hamer (1), Gewada (1), Basketo (1), Butji (1) Alaba (1) , Bena (1), Kambata (1), Shinasha (1)
Afar	Afar (2)
Gambella	Anywaa (1) Nuer (1), Opa (1), Mejenger (1)
Benishangul-Gumuz	Berta (1), Gumuz (1), Shinasha (1), Mao (1), Koma (1)
Hareri	Hareri (1)
Somali	Somali (4)

Source: House of Federation (2011)

Yonatan, on the other, hand argues that each member of the HoF is assumed to represent a particular ethnic community. This is so regardless of where the

¹⁹³⁷ Alem (2005) 330.

¹⁹³⁸ Alem (2005) 330.

members of the particular ethnic community live. Therefore, he maintains, there is no reason why the Oromos who are also found in the Amhara regional state should be separately represented in the HoF, let alone the Amharas in the Oromia regional state who are anyway ethnic migrants in that region.¹⁹³⁹ Separate representation may be acceptable, according to Yonatan, only if there is a persuasive reason to consider an ethnic community ‘that [is] demarcated outside [its] homeland’ as a ‘distinct’ ethnic community in its own right.¹⁹⁴⁰

In any case, the practice is that an ethnic community which is considered original inhabitant of more than one regional state is represented in HoF separately.¹⁹⁴¹ For instance, the Oromia region, as the homeland of the Oromos, sends the largest ‘contingent’ to the HoF. Moreover, the Oromo nationality zone of the Amhara regional state also sends one representative to the HoF.¹⁹⁴² On the other hand, the Amharas in Benishangul-Gumuz, even though they have their own *liyu woreda*, are not separately represented in the HoF. This is apparently so because the Oromos are considered to be an original inhabitant of the Amhara regional state, whereas the Amharas in Pawe *liyu woreda* are still regarded as ethnic migrants in the region despite the territorial autonomy that they enjoy.

The Constitution provides that members of the HoF may be elected by the regional councils. It also provides that they may be directly elected by the people

¹⁹³⁹ Yonatan (2010) 220.

¹⁹⁴⁰ Yonatan (2010) 220.

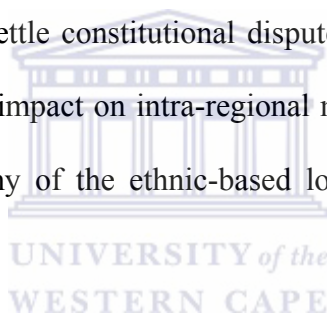
¹⁹⁴¹ Yonatan (2010) 220.

¹⁹⁴² Yonatan (2010) 220.

if a regional government decides to do so.¹⁹⁴³ Therefore, it is the prerogative of each regional state to determine the manner in which those who would represent the various ethnic groups of the region in the HoF are selected. Proclamation 251 (2001) provides that if an ethnic community has its own nationality zone or *liyu woreda*, the council of the relevant nationality zone or *liyu woreda* will fully participate in the selection of those who will represent the relevant ethnic community in the HoF.¹⁹⁴⁴

Powers of the HoF impacting on nationality zones and liyu woredas

As indicated before, the HoF does not have legislative power. It has, however, the power to decide on matters related to self-determination.¹⁹⁴⁵ It also has the authority and the duty to settle constitutional disputes.¹⁹⁴⁶ The decisions of the HoF on these matters may impact on intra-regional minority ethnic communities as well as on the autonomy of the ethnic-based local territorial units that are established for them.



First, as was stated before, matters relating to the right to self-determination of a particular ethnic community are settled with the involvement of the HoF.¹⁹⁴⁷ This may involve the determination of fundamental issues, including whether a group of people can be considered to be as an ethnic community.¹⁹⁴⁸ This was, for instance, precisely the issue in the Silte Case.¹⁹⁴⁹

¹⁹⁴³ FDRE Constitution (1995) Art 61 (3).

¹⁹⁴⁴ FDRE Proclamation 251 (2001) Art 47 (6).

¹⁹⁴⁵ FDRE Constitution (1995) Art 62 (3).

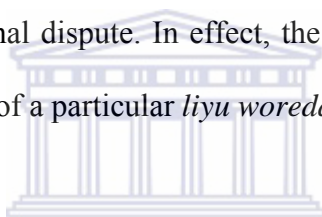
¹⁹⁴⁶ FDRE Constitution (1995) Art 62 (2).

¹⁹⁴⁷ FDRE Constitution (1995) Art 62 (3).

¹⁹⁴⁸ FDRE Proclamation 251 (2001) Art 19 (1).

¹⁹⁴⁹ See above § 2.2.1.1.

Secondly, the issue of self-determination may involve a demand by a particular ethnic community for territorial autonomy through the establishment of a *liyu woreda* or a nationality zone. It should be noted that such a demand is in principle a regional matter which must be decided by a regional government. However, the normative constitutional principle that entitles intra-regional ethnic minority groups to their own *liyu woreda* or nationality zone emanates from the FDRE Constitution.¹⁹⁵⁰ As stated before, the HoF has a final say on all constitutional disputes. Hence, a demand by a particular intra-regional ethnic group for a *liyu woreda* or nationality zone, if denied by a regional government, may find its way to the HoF as a constitutional dispute. In effect, the HoF may be called upon to decide on the very creation of a particular *liyu woreda* or nationality zone.



Thirdly, the HoF may also be involved in the determination of matters relating to secession from a region. This is particularly relevant to intra-regional ethnic communities that have their own *liyu woredas* or nationality zones. In principle a demand by an intra-regional ethnic group for a regional state is decided by a representative council of the ethnic community which desires to establish its own regional state. This means that a *liyu woreda* or a nationality zone council decides whether or not to secede from the regional state wherein it is found.¹⁹⁵¹ The regional government has the responsibility to facilitate the implementation of the decision of the nationality zone or *liyu woreda* council. It does so by organising a referendum and by transferring power to the new regional government when the demand for a regional state is supported in the referendum by the majority of the

¹⁹⁵⁰ See FDRE Constitution (1995) Art 39 (3).

¹⁹⁵¹ See the discussion above at 2.2.2.2.

ethnic community. In short, secession from a region is a regional matter that can be settled in accordance with the procedure laid down under Article 47(3) of the FDRE Constitution. Moreover, as indicated in Proclamation 251 (2001), an ethnic community must exhaust its remedies at regional level as far as secession from a region is concerned.¹⁹⁵² A nationality zone or a *liyu woreda* council may, however, approach the HoF for a final decision, if a regional government refuses to positively respond to the demand of the ethnic community for a regional state after the latter has exhausted its regional remedies.¹⁹⁵³

Fourthly, as was discussed above, under the FDRE Constitution the right to self-determination of the ethnic communities of the country is extended to include the right to secede from the federation to form an independent state. The referendum for secession is organised by the HoF.¹⁹⁵⁴ The HoF is also the federal government organ which actually transfers powers to the newly established states.¹⁹⁵⁵

Fifthly, the federal government has the power to intervene in regional states when it believes that the constitutional order is endangered, when human rights are violated, or the regional government fails to maintain peace and security using the regular peacekeeping mechanisms.¹⁹⁵⁶ Any intervention by the federal government in a regional government must receive the approval of the HoF. The HoF also decides when a federal intervention should come to an end.¹⁹⁵⁷ It is

¹⁹⁵² Proclamation 251 (2001) Art 20.

¹⁹⁵³ FDRE Proclamation 251 (2001) 19(3) (2-4).

¹⁹⁵⁴ FDRE Proclamation 251 (2001) 19 (2) (a).

¹⁹⁵⁵ FDRE Proclamation 251 (2001) 19 (2) (b).

¹⁹⁵⁶ FDRE Constitution (1995) Art 55 (16) & 62 (9).

¹⁹⁵⁷ FDRE Constitution (1995) Art 55 (16) & 62 (9).

important to note the problem that causes federal intervention may be limited in its scope within a particular nationality zone or *liyu woreda*. Hence, a federal intervention in a regional state may equally, if not more so, impact on the autonomy of a nationality zone or a *liyu woreda*.

2.3.4. Assessment

The foregoing discussion clearly shows that all intra-regional minority ethnic communities are represented in the HoF. Their representation in this House is crucial as the HoF has the power to decide on matters that directly impact on the local territorial autonomy of the ethnic communities. Their representation, therefore, allows them to have their voices heard at the federal level. The involvement of the council of nationality zones and *liyu woredas* in the selection of the representative of the relevant ethnic community is an expression of shared-rule. Moreover, as stated above, members of the HoF are not formally required to act as representatives of a region even if they are primarily selected and sent by a regional council. They are not, for instance, enjoined to vote in a block.¹⁹⁵⁸ The absence of a legal requirement that enjoins members of the HoF to promote regional interests provides the representatives the opportunity to promote in the HoF the particular interests of their ethnic community. In effect, even if not necessarily, they may promote the interest of the nationality zone or *liyu woreda* of the particular ethnic community to which they belong.

The above advantage is, however, mitigated by the fact that the composition of HoF is based on a majoritarian principle.¹⁹⁵⁹ As was discussed before,¹⁹⁶⁰ there

¹⁹⁵⁸ Yonatan (2010) 218.

¹⁹⁵⁹ Yonatan (2010) 222; See also Assefa (2007a).

¹⁹⁶⁰ See § Table 4.1.

are substantial differences in population size between the various ethnic communities of the country. Ethnic communities, such as, the Oromos and Amharas, which have large populations, can easily ‘outvote’ intra-regional ethnic communities.¹⁹⁶¹ Moreover, in practice, members of the HoF act more as representatives of the regional states rather than of the ethnic communities that they are supposed to represent.¹⁹⁶²

2.4. Concluding Remarks

The above discussion shows that intra-regional ethnic communities are represented in regional and federal government organs. These federal and regional government organs into which intra-regional ethnic communities are represented have the power to decide on matters that have a direct and an indirect impact on the territorial autonomy of the intra-regional ethnic communities. The representation of the ethnic communities in these organs is, therefore, likely to allow them to influence decisions which have an impact on their interests.

3. ACCOMMODATING TERRITORIALY DISPERSED ETHNIC COMMUNITIES

3.1. Introduction

It may be gathered from an earlier discussion that territorial autonomy becomes a workable mechanism for accommodating ethnic minorities only where the ethnic communities are found territorially concentrated.¹⁹⁶³ Territorial autonomy is not an appropriate option when members of an ethnic community are dispersed all over a region or a country. It is also not an ideal choice where an ethnic community, though territorially concentrated, is too small to effectively exercise

¹⁹⁶¹ Yonatan (2010) 222.

¹⁹⁶² Assefa (2007a); Yonatan (2010) 218.

¹⁹⁶³ See chapter 2; § 4.4.2.

territory-based self-governance. Non-territorial options should be explored in such cases. It was stated in chapter two that the equitable representation of ethnic minorities in the political and administrative apparatuses of local government, and providing recognition to the culture and language of members of a territorially dispersed ethnic community were necessary. The following sections will examine whether a non-territorial institutional arrangements have been used in Ethiopia to accommodate these communities. The sections will also examine how local government - both Article 39 and Article 50(4) local government units - plays a role in this respect. The discussion will begin by arguing that there is a need to seriously consider non-territorial options to accommodate certain intra-regional minority ethnic communities.

3.2. A case for non-territorial options in Ethiopia

As previously discussed, there are a number of small indigenous ethnic communities in some of the regional states that are too small, both in terms of population size and in terms of the territorial area that they occupy, to effectively exercise territorial autonomy even at local level. Proclamation 7 (1992) identifies more than 17 such ethnic communities. Most of these intra-regional ethnic minority groups are found in SNNPR. As was shown above, these small ethnic groups are lumped together in multi-ethnic nationality zones, such as, Bench-Maji, South Omo, Kembata-Tembaro, and Gamo-Gofa. Besides, there are those that are found in other nationality zones amidst a locally dominant ethnic community. Such small ethnic communities are also found in the Tigray region (the Kunamas and Irobs) and in Benishangul-Gumuz (Komo, Mao and

Shinasha).¹⁹⁶⁴ The Opo and Komo ethnic communities of the Gambella regional state are also among those that are too small to exercise territorial autonomy

Moreover, millions of ethnic migrants are found in every regional state, nationality zones, and *liyu woreda*. More than three million non-Oromo people reside in the Oromia region, including close to two million Amharas.¹⁹⁶⁵

Similarly, in the Somali region, in particular in Jijiga town, a significant number of non-Somali residents are found.¹⁹⁶⁶ Furthermore, in SNNPR half a million

Amharas are found, mostly in the urban areas of SNNPR; a population greater by far than, for example, the entire population of the Gambella region.¹⁹⁶⁷ There are

also quarter of a million Oromos in this region.¹⁹⁶⁸ Tens of thousands of Amharas, Oromos, and other ethnic communities live in Gambella region.¹⁹⁶⁹

Besides, more than quarter of a million Amharas and Oromos live in the Benishangul-Gumuz region besides small proportion of other communities.¹⁹⁷⁰

Clearly, territorial autonomy is not a viable option to accommodate the ethnic migrants, save in exceptional cases, like Pawe *liyu woreda*, where they are found territorially concentrated.¹⁹⁷¹ Therefore, the need to accommodate these ethnic communities and ethnic migrants requires a serious consideration of non-

¹⁹⁶⁴ In Benishangul a bi-ethnic *liyu woreda* is established for Mao and Komo ethnic groups. However, the Shinasha ethnic group has no territorial autonomy. .

¹⁹⁶⁵ FDRE Population Census Commission (2007) 92-94.

¹⁹⁶⁶ FDRE Population Census Commission (2007) 94-96.

¹⁹⁶⁷ FDRE Population Census Commission (2007) 98.

¹⁹⁶⁸ FDRE Population Census Commission (2007) 99.

¹⁹⁶⁹ FDRE Population Census Commission (2007) 100-102.

¹⁹⁷⁰ FDRE Population Census Commission (2007) 100-102.

¹⁹⁷¹ See above at § 2.2.1.

territorial solutions. The following sections examine how the regional states have attempted to accommodate these communities.

3.3. Political representation

3.3.1. Autochthonous ethnic communities

3.3.1.1. Representation in *woredas*

The FDRE Constitution guarantees the right of every ethnic community to be represented in the national and state governments.¹⁹⁷² To that effect it reserves 20 seats in the House of Peoples' Representatives (HoPRS) for 20 ethnic communities that cannot be represented through the normal electoral process. Undoubtedly, the express reference to the right of an ethnic community to be represented in state and federal governments does not exclude a claim for similar representation in local government. Rather, it is clearly provided in Proclamation 7 (1992) that an ethnic community has a right to be represented in a *woreda* council if it does not have a *woreda* of its own.¹⁹⁷³

Small ethnic communities not only are represented in *woreda* councils but many of them also have their own *woredas*. As a rule a *woreda* is required to have a population of approximately 100 000. However, often this requirement is ignored. *Woredas* are created for several ethnic communities even if they do not fulfil the minimum population requirement. Therefore, even in multi-ethnic nationality zones, such as, Bench-Maji and South Omo, small ethnic communities, such as, Suri, Me'en and Dizi have their own *woredas*.¹⁹⁷⁴ This is even the case in the regions that have not created any ethnic-based local government units. In Tigary,

¹⁹⁷² FDRE Constitution (1995) Art 39 (3).

¹⁹⁷³ Proclamation 7 (1992) Art 5 (3).

¹⁹⁷⁴ Abbink (2000) 533.

for instance, the Irob ethnic community has a *woreda* of its own which in fact bears the name of the ethnic community.

This kind of arrangement allows the ethnic communities to decide on some of their own social and economic matters. It should be noted that a *woreda* is an Article 50 (4) local government unit. Therefore, these ethnic communities do not enjoy the same degree of constitutional protection and autonomy as the ethnic communities that have their own *liyu woredas* or nationality zones.

There are several territorially concentrated small ethnic communities that do not have their own *woredas*. These ethnic communities are often found to be in the majority in one or more *kebeles* within a particular *woreda*. This is the case, for instance, in Gambella where ethnic communities of a few thousands, such as Opo and Komo, are found concentrated in certain *kebele/s*. That is why the Gambella regional Constitution provides that the Opos and Komos can exercise self-rule at *kebele* level.¹⁹⁷⁵ As was discussed above, a *kebele* is used in *woreda* elections as a multimember constituency.¹⁹⁷⁶ Each *kebele* sends a certain number of representatives to the *woreda* councils. Therefore, the electoral process which uses a *kebele* as a constituency for *woreda* elections is likely to result in the representation in a *woreda* council of most of the ethnic communities. Furthermore, special procedure, such as reserving a certain number of seats in a *woreda* council, may be used to ensure the representation of the ethnic communities where the electoral process does not guarantee their representation.

¹⁹⁷⁵ See above at 2.2.1.

¹⁹⁷⁶ See chapter 5; § 2.3.4.2.

3.3.1.2. Representation in city councils

The political representation through the normal electoral process of ethnic communities of a given region in city councils including those communities that constitute the majority in a particular region, nationality zone, or *liyu woreda*, cannot be guaranteed. The cities are often multiethnic. Oftentimes autochthonous ethnic communities of a given region are even found to be in the minority in many urban areas.¹⁹⁷⁷

Some of the regional states, such as Oromia and SNNPR, have introduced a special procedure designed to ensure the representation of the autochthonous ethnic communities in city councils. However, as can be gathered from the discussion below, the procedure goes beyond ensuring the representation of the ethnic communities. Rather it seems to be directed at excluding ethnic migrants from being represented in local political organs.

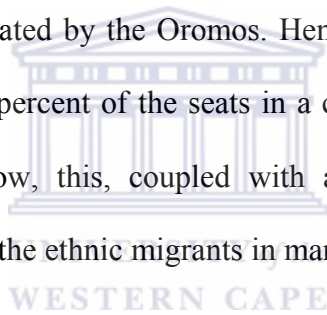
Reserving city council seats

Proclamation 65 (2003) of the Oromia regional state provided that up to 30 percent of the seats in a city council may be reserved for the Oromos in the cities where they are found to be in the minority.¹⁹⁷⁸ In addition, the Proclamation provided that five percent of the seats in a city council will be reserved for the

¹⁹⁷⁷ The Oromos, for instance, constitute only 46 percent of the total population of the Nazret (Adama) City which is found in Oromia regional state. The Amhara population exceeds that of the Oromos in Debre-Zeit (Bishoftu) which is also in Oromia regional state. In Somali regions, in particular in Jijiga town, there are a significant number of Amharas and Oromos. The same can be said in relation to most of the cities in SNNPR, Gambella, and Benishangul-Gumuz. FDRE Population Census Commission (2007).

¹⁹⁷⁸ ORS Proclamation 65 (2003) Art 13 (3).

rural *kebeles* which are found in the vicinity of a city.¹⁹⁷⁹ The above provisions were amended in 2006 by Proclamation 116 (2006). Proclamation 116 (2006) increased the seats in a city council that are reserved for the Oromos from 30 percent to 50 percent.¹⁹⁸⁰ The Proclamation further stated that this arrangement may also be implemented at the *kebele* level within a city.¹⁹⁸¹ This means that 50 percent of a *kebele* council is reserved for Oromos if they are found to be in the minority in a particular *kebele* of a city. Moreover, the Proclamation increased from five percent to 20 percent the seats in a city council that are reserved for the rural *kebeles* which are found in the surrounding area of a city.¹⁹⁸² It is evident that almost always the rural *kebeles* in the Oromia region that are found in the vicinity of cities are dominated by the Oromos. Hence, the above scheme alone reserves approximately 70 percent of the seats in a city council for the Oromos. As will be discussed below, this, coupled with a language requirement,¹⁹⁸³ completely disenfranchises the ethnic migrants in many urban areas.



Similarly, Benishangul-Gumuz City Proclamation 69 (2007) provides that 55 percent of a city council in the region is reserved for the ethnic communities.¹⁹⁸⁴ The Proclamation authorises the regional council to increase the percentage of a city council's seats that can be reserved for the ethnic communities.¹⁹⁸⁵

¹⁹⁷⁹ ORS Proclamation 65 (2003) Art 13 (4).

¹⁹⁸⁰ ORS Proclamation 116 (2006) Art 2 (4).

¹⁹⁸¹ ORS Proclamation 116 (2006) Art 2 (4).

¹⁹⁸² ORS Proclamation 116 (2006) Art 2 (5).

¹⁹⁸³ See below at § 3.2.2.1.

¹⁹⁸⁴ BGRS Proclamation 69 (2007) Art 10 (5).

¹⁹⁸⁵ BGRS Proclamation 69 (2007) Art 10 (6).

Likewise, Proclamation 103 (2006) of SNNPR provides that up to 30 percent of the seats in a city council may be reserved for members of the ethnic communities of a particular nationality zone or *liyu woreda* within whose jurisdiction the city is situated.¹⁹⁸⁶ This happens in particular when members of the ethnic community of a nationality zone or *liyu woreda* are in a minority in the city.¹⁹⁸⁷ The Proclamation further provides that in order to fill the seats that are reserved for the groups, elections may be conducted in the rural *kebeles* which are adjacent to the city.¹⁹⁸⁸ The above quota scheme would be used unless the particular ethnic community is in the majority in a particular city, or the regional executive council decides otherwise.

A mayor from an indigenous community

The reservation of political positions for ethnic communities in cities also extends to the executive branch of a city. SNNPR Proclamation 103 (2006) provides that the mayor of a city will be elected from among the members of the city council who belong to the ethnic community within whose nationality zone or *liyu woreda* the city is found.¹⁹⁸⁹ This is especially so when members of the ethnic group/s are in a minority in the particular city. According to this provision, the mayor cities, such as, Wolkité and Butajira, cities that are found in Gurage nationality zone, must be from Gurage ethnic community. Likewise, Hosanna, a city which is found in Hadiya nationality zone, may have only a Hadiya mayor. The same applies to the other mono-ethnic nationality zones.

¹⁹⁸⁶ SNNPR Proclamation 103 (2006) 16(3) (1).

¹⁹⁸⁷ SNNPR Proclamation 103 (2006) 16 (3) (1).

¹⁹⁸⁸ SNNPR Proclamation 103 (2006) 16 (3) (1).

¹⁹⁸⁹ SNNPR Proclamation 103 (2006) 21(1) (2).

However, it is unclear what happens when a city is found in a multi-ethnic nationality zone, such as South Omo or Bench-Maji. There appear to be two options. The first option is that the office of the mayor would rotate among the ethnic communities constituting that particular nationality zone. This might be the case especially where the city is a capital of a multiethnic nationality zone. The other option is that the mayor may be elected from among the ethnic community within whose *woreda* the city is found.

Proclamation 116 (2006) of the Oromia region provides that the mayor and deputy-mayor of city will be appointed by the Regional President, as opposed to by a city council. Previously, the cities in Oromia had a parliamentary form of executive. A city council, therefore, had the authority to elect the mayor from among the members of the city council.¹⁹⁹⁰ The above change was introduced in Proclamation 116 (2006). As the preamble of Proclamation 116 (2006) indicates, the above change was introduced to eliminate all legislative hurdles that limited 'the role of the Oromo people' in the cities. In another words, this arrangement is meant to ensure that all political organs of the cities, including the offices of the mayor and the deputy-mayor, are occupied by Oromos, to exclusion of others.

3.3.2. Ethnic migrants

As was indicated before, there millions of ethnic migrants in many urban areas of almost every region.¹⁹⁹¹ In particular, millions of internal immigrants, mostly belonging to the Amhara ethnic community, are found in Oromia, SNNPR, Gambella, Benishangul-Gumuz, Somali, and Afar. There are also certain ethnic

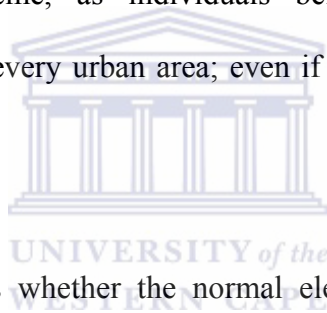
¹⁹⁹⁰ ORS Proclamation 65 (2003) Art 18 (1).

¹⁹⁹¹ See chapter 4 § 2.1.

communities of southern origin who have a history of migration within the country which include ethnic Wolayita and Guraghe who are found in various urban areas outside their respective regions, nationality zones, or *liyu woredas*.¹⁹⁹²

3.3.2.1. Political representation of ethnic migrants

The regional constitutions and proclamations are almost completely silent on the issue of the political representation of ethnic migrants. None of the regional constitutions or city proclamations provide for any special schemes aimed at ensuring the representation of ethnic migrants. It also does not seem possible to provide for such a scheme, as individuals belonging to various ethnic communities are found in every urban area; even if most of the ethnic migrants are of Amhara origin.



The question, therefore, is whether the normal electoral process provides an opportunity to everyone in all cities to be elected to the city councils. The answer is simply no. On the contrary, there are various legislative and non-legislative barriers which have the effect of disenfranchising those who belong to ethnic migrants in a number of regional states. As was seen above, the reservation of the largest portion of a city council's seats for members of ethnic communities greatly reduces the opportunity that the ethnic migrants have for representation in city councils. The language requirement is the other legislative barrier hampering the political representation of ethnic migrants.

¹⁹⁹² Smith (2008).

Language requirement, local elections, & ethnic migrants

Proclamation 532 (2007), which regulates all elections in the country, provides that anyone who wishes to stand for election must be conversant with the working language of ‘*the regional state or the area of his intended candidature*’.¹⁹⁹³ As an earlier discussion shows, each regional state, nationality zone, or *liyu woreda* may adopt its own working language. The working language of a regional government may not be the same as the working language of a nationality zone or a *liyu woreda*. In general, *woredas* and cities are expected to use the working language of the regional government within whose jurisdiction they are found. For instance, all *woredas* and cities in Oromia and Tigray use *afaan-oromo* and Tigrigna, respectively. However, *woredas* and cities that are found in nationality zone or *liyu woreda* are expected to use the working language of the latter for official purposes. In the context of local elections, therefore, it is not sufficient for a candidate to be conversant with the working language of the regional government. The electoral proclamation requires the person to be able to speak the working language of the *woreda* or city wherein he or she intends to run for election.

The constitutionality of the language requirement

The constitutionality of the language requirement was disputed in 2000 in connection with regional elections.¹⁹⁹⁴ The issue arose in relation to regional elections when individuals belonging to ethnic migrants were prevented from running in regional elections by officials of the Benishangul-Gumuz Region. The regional officials argued that the individuals should not be allowed to run for election in the region as they did not speak any of the local languages of the

¹⁹⁹³ Proclamation 532 (2007) Art 45 (1) (b). Emphasis added.

¹⁹⁹⁴ This is as narrated by Assefa (2007 a).

region. This argument was based on a provision of the election law which, before it was amended, provided that a person must be ‘versed in the *vernacular*’ of a regional state in order to stand for election. Yet, Amharic, which is not ‘vernacular’ of the region, was the working language of the region in which the individuals, who sought to run for elections, were well versed. The matter was taken to the National Electoral Board of Ethiopia (NEBE). The NEBE interpreted the term ‘vernacular’ to mean a language which is indigenous to a particular region. Then it decided that the individuals who sought to run for election could not do so since none of them was able to speak any of the local languages of the Benishangul-Gumuz region.

The individuals challenged the constitutionality of the provision of the law along with the decision of the NEBE by invoking Article 38 of the Constitution which provides:

‘Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, *language*, religion, political or other opinion or other status, has the following rights: ... (c) To vote and to be elected at periodic elections to any office at any level of government; elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors’¹⁹⁹⁵

The matter was referred to the HoF as it involved constitutional interpretation. The HoF, in turn, referred it to the Constitutional Inquiry Commission (CCI) seeking the Commission’s opinion. The majority of the CCI were of the opinion that the provision as well as the interpretation of the NEBE had infringed the Constitution. On the other hand, the minority of the CCI held that the language

¹⁹⁹⁵ FDRE Constitution (1995) Art 38 (1) (c). Emphasis added.

requirement was neither discriminatory nor unconstitutional if it was seen in light of the ‘letter and spirit’ of the Constitution as well as the country’s ethnic-based federalism.

The HoF declared that the decision of the NEBE was unconstitutional to the extent that it required knowledge of a local language in order to run for elections. The HoF, however, decided that a person should be able to speak the *working language* of a regional state to participate in regional elections.

The impact of the language requirement on ethnic migrants

As a consequence of the language requirement, ethnic migrants that are found in a number of urban areas, are effectively disenfranchised. They are in particular disenfranchised in local elections. For instance, a large number of non-Oromo people are found concentrated in many cities of the Oromia regional state. As was seen above, the non-Oromo population even exceeds that of the Oromo in large towns, such as, Nazret (Adama) and Debre Zeit (Bishoftu). However, a non-Oromo may not run for the city council of Nazret or Debre-Zeit unless that candidate happens to be able to speak *afaan-oromo* which is the working language of the region and, therefore, of the cities. It should also be noted that candidates from the ethnic migrants may compete only for 30 percent of the city council seats in Oromia even if they speak *afaan-oromo*; 70 percent of the seats are in any event reserved for Oromos.

As was also discussed before,¹⁹⁹⁶ the Afar, SNNPR, Benishangul-Gumuz, and Gambella regional governments use Amharic as a working language. However,

¹⁹⁹⁶ See above at § 2.2.3.1.

some of the mono-ethnic nationality zones and *liyu woredas* in SNNPR have begun to use local languages for official purposes. Hence, ethnic migrants who are found in the urban areas of these *liyu woredas* and nationality zones may not run for election unless they know the local language. The nationality zones and *liyu woredas* in Benishngul-Gumuz and Gambella have not begun using the local language for official purposes. In principle, a candidate, his/her ethnic background regardless, may thus run for elections. However, as many studies show, ethnic migrants are excluded from taking part in local elections.¹⁹⁹⁷

3.3.2.2. Language and cultural rights of ethnic migrants

As was discussed above,¹⁹⁹⁸ only an ethnic community which enjoys territorial autonomy at regional or local level may use its language as a working language. Therefore, needless to say, ethnic migrants may not demand to access public services in their own language. Ethnic migrants must use the working language of local government to access public services.

[I]ndividuals moving into [other] regions must assimilate. That means Amharic-speaking citizens moving to an Oromifa-speaking region have to leave behind any prior claim to language protection...this has created a problem in some areas where an important number of minorities are scattered in the midst of the regionally dominant linguistic groups, especially in major urban areas of some of the member states.¹⁹⁹⁹

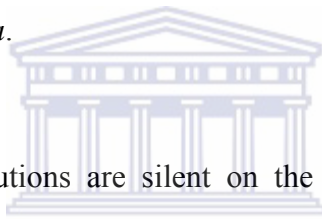
On the other hand, every ethnic community is entitled to receive education in its own language even if it does not enjoy territorial autonomy. It is not however clear whether the ethnic migrants may as of right demand to receive education in their own languages. The Gambella Constitution, after recognising the right of the

¹⁹⁹⁷ See Asnake (2009); Berhanu (2005).

¹⁹⁹⁸ See above § 2.3.3.1.

¹⁹⁹⁹ Yonatan (2010) 197.

ethnic communities of the region to learn in their own language, provides that the 'people in the region have the right to learn in Amharic'.²⁰⁰⁰ The term 'the people in the region' seems to refer to ethnic migrants. Thus, in this region Amharic is designated as the medium of education in which all ethnic migrants may legally demand to be educated. Hence, local government in this region is constitutionally enjoined to provide primary education in Amharic for the ethnic migrants by establishing either separate schools or separate classes. It should be noted that Amharic is designated as the only language of education for all ethnic migrants in the region. Hence, for instance, the Oromos in the region may not demand to learn in *afaan-oromo* nor may the Tigrawiyans demand a school or a class which offers education in *Tigregna*.



The other regional constitutions are silent on the question of whether ethnic migrants may demand to receive education in their own languages. Thus, it is unclear whether ethnic migrants may demand a *woreda* or a city to establish a school for their children which provides education in their mother tongue.

It may be argued though that the FDRE Constitution provides that '[t]he State has the obligation to allocate ever increasing resources to provide to the public health, education and other social services'.²⁰⁰¹ It further adds that '[e]very Ethiopian national has the right to equal access to publicly funded social services'.²⁰⁰² It should be noted that it is not a particular ethnic community which can demand

²⁰⁰⁰ GRS Constitution (2002) Art 6 (4). This sub-article is found only in the Amharic version of the regional Constitution, not in the English version.

²⁰⁰¹ FDRE Constitution (1995) 41 (4).

²⁰⁰² FDRE Constitution (1995) 41 (3).

access to government funded service; but ‘every Ethiopian’. Based on these constitutional principles, it may be argued that local government, being a part of the state, has the obligation to establish and finance schools for members of the ethnic migrants. Moreover, it can be argued that schools that are run by local government are state funded schools. Hence, ethnic migrants may demand equal access to these state funded schools. Equal access should be read to imply the right to be educated in one’s own language; since otherwise ethnic migrants may not be considered to have equal access to a state funded social service.

Conversely, it may be argued that ethnic migrants may not demand to receive education in their own languages considering the fact that neither the communities nor their languages have received recognition in a regional constitution. The FDRE Constitution puts no constitutional obligation on the regional states either explicitly or impliedly to accommodate ethnic migrants in terms of providing education in their respective languages. It may further be argued that equal access to state funded education does not imply the right to be educated in one’s own language. It simply implies a right to be enrolled in the existing schools regardless of the language they use to teach.

What the above shows is that both the federal and regional constitutions are vague on whether ethnic migrants are entitled to receive education in their own language. The federal policy on education is also silent on the matter.

In spite of the constitutional ambiguity, ethnic migrants, who prefer to receive education in Amharic, are accommodated in almost all regions. Oromia has

adopted a policy to establish either separate schools or separate classes which provide primary education in Amharic. Accordingly, several cities with large ethnic migrants, including, Nazareth, Debre-Zeit, Assella, Nekemt, Zeway, and Jimma, have established either a separate school or separate classes which provide education in Amharic.²⁰⁰³ In SNNPR, the policy has been to use Amharic in the capitals of the nationality zones. In the capitals of mono-ethnic nationality zones Amharic is used for education together with the language of the dominant ethnic communities of the nationality zone.²⁰⁰⁴ In the multi-ethnic Bench-Maji and South Omo nationality zones, Amharic is used for primary education. Even some mono-ethnic nationality zones and *liyu woredas* in SNNPR, such as, the Guraghe nationality zone and the Alaba *liyu woreda*, use Amharic in primary school.²⁰⁰⁵

3.3.3. Assessment

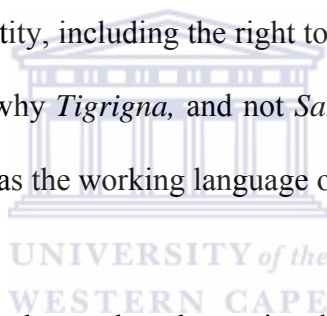
The discussion above reveals that even the smallest ethnic community in almost every regional state is represented in local councils either through the regular electoral process or through a special procedure. Many of the small ethnic communities in fact have their own *woreda*. Such an arrangement allows them to decide on certain social and economic matters. However, it should be noted that the constitutional protection and the extent of autonomy that a regular *woreda*

²⁰⁰³ Cohen (2006) 166; See also (Yonatan) 2010 228.

²⁰⁰⁴ For instance Amharic is used along with *sidamigna* in primary schools of Awassa city which is the capital of Sidama nationality zone as well as of the SNNPR. Amharic is also used alongside with *gamogna* in Arba-Minch, the capital of Gamo-Gofa Nationality Zone, in Soddo, the capital of Wolayita nationality zone Amharic and *wolayitegna* are used in primary schools. In Hossana, the capital of Hadiya nationality zone Amharic is used in along with *hadiyisa* while in Dilla, the capital of Gedeo Nationality Zone, *gedeofaa* is used for the same purpose. Cohen (2000) 199. See also (Yonatan) 2010 228.

²⁰⁰⁵ Cohen (2000) 199.

enjoys is not on par with that of a *liyu woreda* or a nationality zone. As was discussed in the previous chapter,²⁰⁰⁶ individual *woredas* do not have constitutional protection and, therefore, the creation, division or amalgamation of *woredas* can be undertaken without any legal restraints. The Tigray regional government, for instance, may decide to eliminate the Irob *woreda* at any time by amalgamating that *woreda* with other *woredas*. Moreover, as was discussed earlier, *liyu woredas* and nationality zones have the power to decide on cultural matters, including, the power to choose a language for official purposes and for primary education. Regular *woredas*, such as Irob *woreda*, however, do not have the competence to exercise functions that are particularly important for protecting an ethnic community's identity, including the right to choose a working language. This is one of the reasons why *Tigrigna*, and not *Saho* (the language of the Irob ethnic community), is used as the working language of the Irob *woreda*.



The above discussion also shows that the regional governments have devised various institutional arrangements to ensure that the political organs of cities remain within the control of ethnic communities, even if at the cost of marginalising ethnic migrants. It is bemusing to observe that the institutional designs are aimed at simply preventing any potential representation of ethnic migrants in city governments. No acceptable justification can be given, for instance, for putting 70 percent of city and *kebele* council seats out of the reach of ethnic migrants and thereby disenfranchising the majority of the cities' residents

²⁰⁰⁶ See chapter 5; § 2.2.3.

as is the case in Oromia. This rather appears to be a measure of retribution for past injustices.²⁰⁰⁷

The FDRE Constitution recognises the historical ‘interactions’ among several of the ethnic communities of the country ‘on various levels and forms of life’.²⁰⁰⁸

The Constitution recognises that these interactions have led to the creation of a ‘common interest’ and ‘common outlook’ among the various ethnic communities of the country.²⁰⁰⁹ These are more visible in cities than anywhere else where

populations with different ethnic, religious, and cultural backgrounds live together. It is also in the cities where non-ethnic or mixed ethnic populations are found in large number. The formal and informal restriction on the political representation in city councils of ethnic migrants belies this constitutionally recognised ‘common outlook’ and shared history.²⁰¹⁰

Furthermore, the insistence on ensuring that cities remain under the political control of the autochthonous ethnic communities contradicts a major national and international trend *viz.* urbanisation. As many studies show, urbanisation is a global trend the importance of which is not even diminished by glocalisation.²⁰¹¹

As a World Bank report indicates, urbanisation is rather reinforced by glocalisation. National and international firms seek to access the ‘sizable pool of labour, [sic] materials, services, and customers’ urban areas have to offer.²⁰¹²

²⁰⁰⁷ See chapter 3.

²⁰⁰⁸ FDRE Constituion (1995) Preamble.

²⁰⁰⁹ FDRE Constituion (1995) Preamble.

²⁰¹⁰ See Assefa (2007a) 254-255.

²⁰¹¹ World Bank (2000) 125.

²⁰¹² World Bank (2000) 125.

This, in turn, leads to a mobility of a large labour force and capital to urban areas leading to ethnic diversity in cities.²⁰¹³

Presently, only 16 percent of the Ethiopian population lives in urban areas.²⁰¹⁴ However Ethiopia is being urbanised at the rate of four percent, a rate which is higher than the average urbanisation rate of the African continent which stands at 3.2 percent.²⁰¹⁵ Cities in every part of the country are already ethnically diverse. As the country becomes more and more urbanised, cities and municipalities are likely to become even more diverse. This trend has been visible particularly in recent years with the opening of higher learning institutions in different parts of the country. More than 23 universities have been opened in remote cities, such as, Neqemté, Jijiga, and Soddo.²⁰¹⁶ This is in addition to the cities, such as Jimma and Mekellé, which have had universities for a long time. Students from different parts of the country and with different ethnic backgrounds are sent to these cities to take up their studies. Moreover, the federal government is sending university lecturers and support staff with different ethnic backgrounds to these areas. Many of the lecturers and support staff even move with their families to these areas. All these factors reinforce the ethnic diversity of cities. Obviously, university students are not permanent residents of these cities and university workers constitute a small fraction of a city's residents. However, the trend is clear: cities are likely to become more diverse rather than less. Therefore, to insist that a minority segment of the urban population should exercise absolute control over

²⁰¹³ World Bank (2000) 125.

²⁰¹⁴ See MoWUD (2007) 2.

²⁰¹⁵ See MoWUD (2007) 2.

²⁰¹⁶ See Rayner & Ashcrofte (2011).

cities to the exclusion of all others is a bizarre attempt to curtail a global and national trend. Moreover, it is undemocratic and discriminatory to restrict the representation of ethnic migrants in the manner described above. It is contrary to key civil and political rights of the ethnic migrants including the right to equality and non-discrimination.²⁰¹⁷

The above should not, however, be construed to mean that the special interests of the autochthonous ethnic communities in the cities should not be protected. To do so would be unfair. To begin with, cities are the economic centres of the regions, nationality zones, and *woredas*. They are also the seats of regional, zonal, or *woreda* governments. Most of the existing infrastructures and social service centres, including schools and hospitals are found mainly in the cities. It is only rational to allow ethnic communities to exercise a certain measure of control over cities and their resources if they are to feel empowered. It would also be unfair to restrict the control of the autochthonous ethnic communities to poorly resourced rural areas. However, this can be achieved without totally excluding other communities. For instance, where ethnic communities are found in the minority in urban areas, institutional arrangement such as, power sharing, ‘double-majority’ or ‘minority-veto’ can be used to ensure that their interests are protected. Macedonia is a good example in this respect. In Macedonia, when a particular identity group is found to be in the minority in a particular municipality, a decision specifically affecting the interests of the minority has to be approved in the municipal council by a majority vote. In addition, it has to be

²⁰¹⁷ FDRE Constitution (1995) Arts 25 & 38.

supported by a majority of the particular identity group in the municipal council.²⁰¹⁸

4. CONCLUSION

This chapter has examined the Ethiopian local governance system and its relevance for accommodating intra-regional minority ethnic communities. The discussion shows that territorial and non-territorial institutional arrangements are employed to accommodate intra-regional ethnic communities at local level. With a view to accommodate intra-regional ethnic communities ethnically defined local government units are established. An institutional arrangement that has elements of self-rule and shared-rule is put in place. As a manifestation of self-rule of the intra-regional ethnic communities, ethnically defined local territorial units have been created. Government institutions are established in the local territorial units. As part of the shared-rule element intra-regional ethnic communities are represented in regional and federal government organs. The ethnic communities which are too small to exercise territorial autonomy are also allowed to be represented both in Article 39 and Article 50(4) local government units as well as regional and federal organs. Yet the decentralised system has numerous shortcomings. The following stand out in particular:

- The regional constitutions do not provide clearly defined competences nationality zones and *liyu woredas* which are relevant for the protection and promotion of the culture and identity of the relevant intra-regional ethnic communities. As indicated above nationality zones and *liyu woredas* have competences in the area of education and language. These are important culture related functions. Yet

²⁰¹⁸ Lyon (2011) 31.

other culture related functions are not clearly listed in the regional constitutions including

- Territorial autonomy is not accompanied with financial autonomy. Nationality zones do not have any plainly stated revenue raising power. *Liyu woredas* collect certain taxes as agents of the regional state. This negatively impacts on the political autonomy these local units.
- The electoral process does not allow the diverse political views that exist within an ethnic community to be fairly represented in local councils. All the seats in nationality zone and *liyu woreda* councils are controlled by EPRDF or parties that are affiliated to it. Ethnic based opposition are completely unrepresented. Moreover, the principle of democratic-centralism based on which EPRDF and its affiliates operate undermines the autonomy the ethnic based local unit.
- There are no institutional arrangements that ensure the political representation of ethnic migrants. On the contrary, their right for political representation in local councils are curtailed through various legislative measures. Their cultural rights are not given appropriate institutional recognition. They can access public service using only the working language of a regional state or a particular *liyu woreda* or nationality zone. They may not also demand a local government unit to provide them primary education in their own languages.

This chapter and the preceding three chapters have examined the institutional design of Ethiopia's local government system and its implication for development

and accommodation of intra-regional ethnic minorities. The following chapter will provide a conclusion of the thesis



Chapter 8

Conclusion

1. INTRODUCTION

The decentralisation programme that is being implemented in Ethiopia was intended to serve two principal objectives *viz.* to serve as an institutional mechanism for bringing about development by reducing the prevalence of poverty in the country and to respond to intra-regional ethnic diversity by accommodating intra-regional ethnic minority communities. This thesis, therefore, examined whether Ethiopia's local government system has the institutional features that are deemed likely to enhance the prospect of a decentralisation programme for achieving development and accommodating ethnic minorities. With a view to answering this question chapter two identified the institutional features that scholars, experts of decentralisation, and global development institutions, such as the World Bank, have been likely to unleash the potential of a decentralisation programme to achieve development. The chapter also explored several territorial and non-territorial institutional options which may be implemented at the local level in order to accommodate ethnic minorities. The potential of Ethiopia's decentralisation programme and local government system to achieve its intended purposes was examined in chapters four, five, six and seven against the backdrop of these institutional features.

The study of Ethiopia's local government system revealed that, with an eye to respond to the twin challenges of poverty and intra-regional ethnic diversity, the country has established two categories of local government which are based on two different constitutional principles. In order to tackle the challenges of poverty, Ethiopia has established what is referred to in this thesis as Article 50 (4)

local government. This category of local government is intended to have a certain degree of autonomy while under the overall supervisory power of the regional and, to some extent, the federal governments. In order to respond to the challenges of intra-regional ethnic diversity, the country has also established Article 39 local government units based on the federal principles of self-rule and shared-rule. This thesis separately examined the two categories of local government against the backdrop of the institutional features that are identified in chapter two. The following sections will summarise the findings of the thesis.

2. LOCAL GOVERNMENT AND DEVELOPMENT

A study of international scholarly works on decentralisation and development in chapter two showed that political, financial, and administrative autonomy are defining elements of devolution. These are also critical institutional features of decentralised development.

2.1. Political autonomy

As was discussed in chapter two, political autonomy has four elements. The first element of political autonomy is the certainty of the existence of local government, which, in turn, has three aspects: The existence of local government as an autonomous sphere or order or level of government, the establishment of local government in every part of a country on wall-to-wall basis, and the protection of the institutional security of individual units of local government. Political autonomy also involves the establishment of governance structures, including legislative and executive organs, and local democracy. Moreover, it entails the devolution of original, clearly defined, and development-related functions. It also implies transferring full political power to local government on those functions. International literature shows that each of these elements of

political autonomy impacts on the potential of local government to bring about development which is equitable and sustainable.

2.1.1. Political autonomy and Article 50 (4) local government

2.1.1.1. Certainty of existence

Constitutional recognition

The most preferable institutional option for ensuring the continuous existence of local government, as suggested by decentralisation and development scholars, is the recognition of local government as an order of government in a national constitution. The thesis, therefore, examined whether local government is recognised as a level of government in the FDRE Constitution. The finding was that the FDRE Constitution is generally vague with regard to the constitutional status of Article 50 (4) local government. The Constitution does not explicitly recognise this category of local government as an autonomous level of government. It rather makes a transient reference to it in Article 50 (4). This is despite the fact that a careful perusal of the entire text, and the drafting history, of the Constitution reveals that the Constitution certainly envisions this category of local government to exist as an autonomous order of government. The regional constitutions provide a certain measure of recognition to *woredas*, which belong to the Article 50 (4) category of local government. However, the regional constitutions are generally silent on the status of cities and municipalities.

The vagueness of the FDRE Constitution with regard to the constitutional status of local government is problematic. It has rendered the very existence of local government insecure and dependent on the political will of the party in power at federal and regional level. This is evident from the fact that the decentralisation

programme that resulted in the creation of *woredas* and cities was instigated by a political rationale rather than by the purpose to meet the prescriptions of the FDRE Constitution.

While the regional constitutions provide a certain measure of recognition to local government, practice shows that they do not provide adequate protection to local government since they are easily amended. Moreover, the regional constitutions make distinction between rural *woredas* and urban local government in providing recognition. The recognition of *woredas* in regional constitutions to the exclusion of cities and municipalities is a reflection of the EPRDF's preference for a rural-centred development policy. This in itself demonstrates the fact that the lack of explicit recognition of local government in the FDRE Constitution has rendered the existence of local government dependent on the policy of the party in power.

It is, therefore, suggested that Article 50 (4) local government should be explicitly recognised as a democratically constituted autonomous level of government.

Wall-to-wall local government

The constitutional objective that Article 50 (4) local government is meant to serve is achieving participatory development. This rationale entails that this category of local government is established in every part of the country, on a wall-to-wall basis.

In Ethiopia local government units are established on a -to-wall basis. Moreover, the structures of the local government units that are established in different parts

of the country reflect the developmental preferences of the communities in different parts of the country. In rural areas, *woredas* are established while in urban areas municipalities and cities are established. Within the urban category the different status and capacity of each local unit is taken into consideration for providing the status of a city or a municipality. Hence, Addis Ababa and Dire Dawa are established as autonomous federal cities with the status of a regional state. A distinction is also made in the manner in which cities and municipalities are structured. Cities are established as autonomous units of local government while municipalities are established as administrative units.

The establishment of *woredas*, cities, and municipalities in all parts of the country is important for two reasons. First this is in line with what the FDRE Constitution envisions. Second, the establishment of *woredas* and cities in all parts of the country is important for it allows everyone, in every part of the country, to participate and share in the benefits of local development.

Constitutional protection for individual local units

The existence of each *woreda* and city is not adequately protected since there are no clearly defined and constitutionally entrenched substantive and procedural criteria for the creation, division, and/or amalgamation of *woredas* and cities. There is a trend to define the criteria for altering *woredas*' and cities' boundaries through regional proclamations. However, this is not likely to provide adequate protection for individual local units. Firstly the regional proclamations are effortlessly amended by the regional states. Second, the criteria for alteration of *woreda* boundaries are vaguely and widely defined by some of the regional proclamations. Thirdly, the role of community participation in the process of

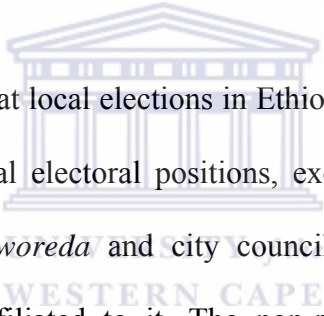
altering *woreda* boundaries is not articulated. As a result individual *woredas* and cities are vulnerable for haphazard division and amalgamation. This in turn endangers the political autonomy of each individual *woreda* and city. This also jeopardises local democracy since a *woreda* or a city which chose to be governed by a party other than the one that governs the regional and/or federal government may be eliminated through division or amalgamation. This is not mere speculation but real danger in the Ethiopian context where the entire political space is controlled by one party (EPRDF) which has acrimonious relations with opposition parties.

It is, therefore, recommended that the regional constitutions should provide clearly defined substantive and procedural criteria for creating, dividing, and amalgamating *woredas* and cities. The criteria may include population size, geographical location, resource distribution, administrative convenience, and the like. The procedural criteria should include a requirement for public engagement.

2.1.1.2. Local democracy

The discussion in chapter two showed that the establishment of political structures and local democracy are critical institutional features of local political autonomy and, therefore, of decentralised development. Decentralised development requires local democracy that is competitive (creating a chance for alternation in leadership) and representative (allowing the representation of all major political opinions). These are likely to optimise the potential of each local unit to be responsive to local developmental preferences by ensuring public accountability. Local elections should involve political parties and allow room for the participation of non-partisan candidates.

In Ethiopia *woredas* and cities have political structures which include legislative and executive organs. Members of the legislative organs are elected directly by voters. Local elections, in which political parties and independent candidates participate, are held more or less regularly. The electoral system in use in Ethiopia is block-voting: A system that uses a multi-member constituency and provides voters as many votes as the number of candidates that are elected from a particular constituency. To this extent the institutional features that are important for local democracy and, therefore, for decentralised development, are visible in Ethiopia's local governance system.



However, practice shows that local elections in Ethiopia are far from competitive and representative. All local electoral positions, except a few seats which are occupied by independent *woreda* and city councilors, are controlled by the EPRDF and by parties affiliated to it. The non-representativeness and non-competitiveness of local elections is compounded by the fact that EPRDF has a centralised structure and decision making procedure. The fact that opposition parties have hardly participated in local elections makes it difficult to assess whether the non-competitiveness and non-representativeness of local elections is due to the electoral system in use. It is clear, however, that, the non-competitiveness and non-representativeness of local elections diminish the political autonomy of *woredas* and cities. This jeopardises the institutional responsiveness of local government to local developmental preferences.

2.1.1.3. Local government's functions

Devolution by definition entails the transfer of certain functions to local government units. International literature shows that a decentralisation programme that aims to create developmental local government should devolve to local government functions that are original (entrenched in a national Constitution), clearly defined, and relevant for development.

Article 50 (4) of the FDRE Constitution enjoins the regional states to provide local government with adequate functions. The principle of functional subsidiarity is implied in this Article which requires the devolution of certain functions to local government if public participation is vital for its implementation. Yet, the Constitution is silent on the specific functions that the regional states are required to devolve to local government. The Constitution contains a list of functions that are within the competence of the federal government and leaves residual functions to the regional states. Therefore, Article 50 (4) local government units do not have original functions that can be directly traced to the federal Constitution. Their functions are rather derivative of regional states' functions.

Moreover, the functions of Article 50 (4) local government units, especially those of the *woreda* as well as the state functions of the cities are not clearly defined. The regional constitutions do not contain a clear list of functions that are within the competence of *woredas*. Some regional states have attempted to define the competences of *woredas* in regional proclamations or executive regulations. Regional proclamations and executive regulations are however ordinary statutes

that can be easily repealed or amended by a regional council or by a regional executive council respectively. The regulations are particularly easier to repeal or amend as they are prepared and adopted by the executive organ of a regional state. Therefore, a regional government may take back the functions that it has devolved to *woredas* and cities by amending the proclamations and regulations. Moreover, those proclamations, which have already been enacted with the purpose of defining the functional competences of *woredas*, lack in clarity.

Practice shows that *woredas* and cities exercise functions relating to health care, education, water, and agriculture. However as some studies show, the lack of clarity in their functional competences has a negative impact on the effectiveness of *woredas* and cities in planning and implementing development projects. It is submitted that the functions that *woredas* and cities in practice exercise are relevant for development. It is, therefore, recommended that these functional competences should be clearly listed in regional constitutions as the functions of *woredas* and cities.

2.1.1.4. Local government powers

As the discussion in chapter two shows, political power is an intrinsic element of political autonomy and an important feature of decentralised development. Political power may include the power to approve local developmental policies and plans, to translate policies and plans into legislation, and to implement the legislation.

Under the regional constitutions *woredas* do not have full political power. It is not clearly stated whether *woredas* have any policy making power. Most of the

regional constitutions do not explicitly state whether *woredas* have legislative powers. It is arguable whether *woredas* have the power to legislate other than to determine their internal procedures. Even if it may be argued that a *woredas* have legislative power, the lack of clarity in its functional competences renders those legislative powers meaningless.

The executive organs of *woredas* and cities are executive councils and mayoral committee respectively. The executive councils and mayoral committees are headed by a chief administrator and a mayor respectively. These executive organs are authorised to exercise executive power. The *woreda* chief administrator and a mayor of a city are accountable to the *woreda* and the city council respectively. In addition, they are accountable to a chief administrator of the nationality zone and/or the regional state depending on whether the relevant *woreda* or city is found within a nationality zone. This multiple accountability compromises the executive power, and therefore, the political autonomy of local government.

It is therefore recommended that the policy making, legislative, and executive powers of *woredas* and cities should be clearly stated in the regional constitutions. The accountability of a *woreda* chief administrator and a mayor should be exclusively to a *woreda* council and city council respectively. Therefore, the provisions in the regional constitutions and proclamations that require *woreda* chief administrators and mayors to be accountable to a regional chief administrator should be repealed. Instead it should be clearly stated that *woreda* chief administrators and mayors are exclusively accountable to the relevant local councils.

2.2. Financial autonomy

Devolution implies financial autonomy which may involve revenue-raising and expenditure powers. A study of international literature in chapter two revealed that the extent to which a local unit enjoys financial autonomy impacts its success to achieve development. Financial autonomy is so critical that it also impacts on the political and administrative autonomy of a local government unit.

The evaluation of the financial autonomy of *woredas* and cities showed that these local units do not have full financial autonomy. This is mainly due to the fact that even though *woredas* and cities have expenditure autonomy, they lack adequate internal sources of revenue. *Woredas* are authorised to collect land use fees, agricultural income tax, and income taxes from their employees. Cities and municipalities are also allowed to collect urban land lease fees, urban land use fees, and municipal service fees. However *woredas* do not have full authority over these taxes and fees since they do not determine their rates. They collect these on behalf of the regional states. That is why the revenue they collect from these taxes is offset with the revenue they receive in form of regional block-grants. Moreover, the revenue that they collect from these taxes and fees is woefully inadequate to cover even the major portion of their expenditure needs. Hence *woredas* are principally dependent on inter-governmental grants.

Since 2001, the regional governments have been transferring financial grants to *woredas* and cities. The grants are formula-based unconditional block grants. However, the entitlement of *woredas* to regional block grants is not entrenched in

the regional constitutions. Moreover, the grants are inadequate to cover the *woredas*' fiscal gap.

Some of the proclamations provide that cities may receive block grants. However practice shows that the grants received by cities are not formula-based. They are rather *ad-hoc* inter-governmental transfers. Moreover, cities may not use the block-grants for anything other than discharging their state functions. In other words, cities do not receive regional grants for their municipal functions.

It is unclear whether *woredas* and cities may borrow. Some regional proclamations authorise cities and *woredas* to borrow from internal sources. However, under the federal constitution the regional states themselves need to secure the permission of the federal government to borrow. Given this it is unclear whether the regional states have the power to authorise *woredas* and cities to borrow. Due to the legal uncertainty about the borrowing power of *woredas* and cities, very few financial institutions are willing to extend loans to *woredas* and cities.

In general, therefore, *woredas* and cities lack financial autonomy. It is, therefore, recommended that certain clearly defined taxing powers should be devolved to *woredas* and city administrations. *Woredas* and cities should be allowed to exercise full authority with respect the taxes so devolved to them including the power to determine the rate of, and to assess and collect these taxes. Moreover, the regional constitutions should clearly and explicitly enjoin the regional states to transfer to *woredas* and cities formula based unconditional grants. The block

grants should be based on the expenditure needs of local government. To this effect, all regional states should use a grant formula that best responds to the expenditure needs of *woredas*. In addition, there is no justifiable reason for making a distinction between the cities' state and municipal functions in providing block grants since the purpose of a block grant is to fill the fiscal gap of a local unit. Therefore, cities should be provided with block-grants both for their state and municipal functions.

2.3. Administrative autonomy

A study of international literature on decentralisation in chapter two shows that devolution entails the transfer of administrative power to local government units. It also showed that local administrative autonomy is one of the institutional features that are likely to impact on the success of a decentralisation scheme for achieving development. Administrative autonomy has two elements; the power to determine the organisational structure of administrative organs of local government and the power to hire and fire personnel.

The evaluation of *woredas* and cities based on the above two elements showed that *woredas* and cities have constitutional and statutory power to determine the structure of their administrative organs. They also have power to hire and fire their own administrative staff. Yet, practice shows that regional states interfere in administration of *woredas* and cities. Moreover, *woredas* and cities suffer from an acute lack of skilled man power. This has a harmful impact on the potential of *woredas* and cities to achieve their developmental potential.

2.4. Central supervision and inter-governmental co-operation

2.4.1. Central supervision

International literature shows that when local government is meant to achieve development, local autonomy will not be sufficient. Local autonomy must be balanced with inter-governmental co-ordination. To this effect, scholars argue that a central government should regulate the activities of local government. It should also exercise oversight over the activities of local government units. In addition it should support and, if need be, intervene in local government.

A perusal of the federal and regional constitutions shows that the federal government and regional governments both have the power to supervise the *woredas* and cities. The power of the federal government to supervise local government emanates from its constitutional power to formulate and implement general policies on social services and economic matters. The power of the federal government, among other things, to enact laws on the use of land and utilisation of natural resources also allows it to regulate the activities of local government. The regional states also have the power to regulate local government's activities since matters relating to local government are within their competence. The federal and regional governments are further required, at least implicitly, to provide support to local government. In addition, each regional state has the authority to directly monitor the activities of *woredas* and cities within its jurisdiction. It has also the power to exercise oversight over the activities of local government by receiving periodical reports from *woredas* and cities and by conducting on-site inspections.

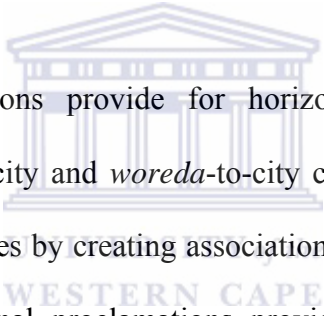
The regional constitutions, except the Tigray and Oromia Constitution, do not provide for a regional intervention in *woredas*. The Tigray Constitution and the proclamations of some other regions provide for regional intervention the *woredas* and cities. However, the substantive criteria for regional intervention in *woredas* are widely cast, paving the way for undue and unrestrained regional interventions. Moreover, the only method of intervention considered is suspending or disbanding the council of a malfunctioning *woreda* or city. Other less invasive means of intervention are not provided for.

It is therefore recommended that the regional constitutions should provide for regional interventions in *woredas* and cities which fail to discharge their constitutional functions. The substantive and procedural criteria for regional intervention should be clearly and strictly defined in the regional constitutions. Moreover, methods of interventions which are proportional to the seriousness of the problems facing a *woreda* or a city should be provided in the regional constitutions.

2.4.2. Inter-governmental co-operation

It was argued in chapter two that decentralised development requires an institutional arrangement for co-operation between local government and senior levels of government. Co-operation should be based on the principle of equality between two or more levels of government. This entails the recognition of the institutional integrity of local government. It also entails an institutional scheme for vertical co-operation (co-operation between local government and senior levels of government) and horizontal co-operation (among local government units).

The evaluation of Ethiopia's local governance system showed that the necessary institutions of inter-governmental co-operation either do not exist or are not adequately institutionalised. The federal Constitution does not contain a normative principle which guards the institutional integrity of local government from undue encroachment by federal and regional governments. In fact, the regional constitutions and proclamation state that *woredas* and cities are subordinate to regional government. Therefore the normative principle of equality which is a central element of inter-governmental co-operation is absent in the regional constitutions.



Some regional proclamations provide for horizontal co-operation, namely *woreda-to-woreda*, *city-to-city* and *woreda-to-city* co-operation. *Woredas* may co-operate among themselves by creating associations. Cities are also allowed to do the same. These regional proclamations provide for an institutional link between rural *woredas* and cities through the representation of rural *kebeles* in city councils. *Woredas* and cities are also authorised to create joint committees for the purpose of co-operation. However the institutional schemes for co-operation among local government are limited within a regional government. It also appears that there is no institutional scheme of co-operations among *woredas* and cities at national level.

There is no also a clear institutional arrangement for co-operation between local government and regional and federal government. In practice, interactions between *woredas* or cities and regional governments take place through sectoral

offices of the local government units and the regional governments. However, these interactions are *ad hoc*. Moreover, they are more co-ordinative in nature than co-operative. This is because the interactions are undertaken with the supposition that the *woreda* or the city is hierarchically subordinate to the regional government.

It is therefore, recommended that the federal Constitution should explicitly recognise local government as an order of government. The regional constitutions should provide a normative principle for co-operation between regional government and local government. Co-operation between regional and local governments should be clearly institutionalised. There should be an institutional mechanism through which the voices of local government can be heard at regional and federal levels.



3. DECENTRALISATION AND ACCOMMODATION OF ETHNIC MINORITIES

In chapter two four principles of accommodating ethnic minorities were identified which may be implemented at different levels depending on the demands of a particular minority ethnic community. Individual members of an ethnic minority community may demand equal treatment. A minority ethnic community may demand cultural autonomy. An ethnic minority ethnic community may demand territorial autonomy. Its demand may also extend to a power sharing scheme, which is known as consociationalism. It may demand secession. It was stated that local government may be used to accommodate ethnic minorities at the second and third level.

3.1. Territorial autonomy

Territorial autonomy is principally about self-rule and aims to provide ethnic minorities a certain measure political autonomy at regional or local level. However, self-rule may be complemented with shared-rule which allows the ethnically structured local units to be represented at state and national government level.

3.1.1. Self-rule

The central defining features of self-rule are ethnically structured local territorial units, governance institutions including legislative and executive organs, and the devolution of functions to the local units that are relevant for the protection of ethnic identity, and revenue.

3.1.1.1. Ethnically structured local territorial units

In order to accommodate intra-regional ethnic minority communities, a distinct category of local government, which is referred to in this thesis as Article 39 local government, is established in Ethiopia. Article 39 local government units, which include nationality zones and liyu *woredas*, are structured based on ethnic criteria. Article 39 local government units are established in Afar, Amhara, Benishangul-Gumuz, Gambella, and SNNPR.

Territorial autonomy in Ethiopia includes the right to secession. Secession has two aspects as far as intra-regional ethnic minorities or the ethnic-based local territorial units are concerned: The right to secede from a regional state to form a separate regional state or the right to secede to form an independent state. The move towards secession starts with a demand for secession by members of an ethnic community. The demand must be approved by the council of the relevant

ethnic community which is either a nationality zone council or a *liyu woreda* council. (Therefore, the right to secession may only be exercised by an ethnic community which has its own *liyu woreda* or nationality zone). A referendum is then organised in the relevant *liyu woreda* or nationality zone by the regional government (in the case of secession from a regional state) or House of Federations (in the case of secession from the federation).

It can be gathered from the above that the institutional features that are critical for accommodating ethnic minorities by creating autonomous territorial regimes at local level are clearly visible in Ethiopia's federal and regional constitutions. In fact, the federal and regional constitutions place a high premium on the territorial arrangement. That is why the constitutions extend the territorial scheme to include secession. The problems associated with the territorial scheme, therefore, do not appear to emanate from the lack of an adequate constitutional framework. The problems are in fact associated with the overemphasis that the territorial scheme is given in constitutional terms, to the exclusion of other non-territorial arrangements. The constitutional principles have created expectations on the part of ethnic minorities. However, the ruling party has become reluctant to give adequate effect to the constitutional principles. For instance demands by intra-regional minority ethnic community to secede and form own regional state are discouraged and even refused by the ruling party. This shows that lawful demands for local territorial autonomy are often rebuffed for political or other reasons.

3.1.1.2. Governance structure

In each *liyu woreda* and nationality zone a representative council, an executive council, and several executive organs are established. Members of a *liyu woreda* council are directly elected by the voters. In SNNPR, members of the nationality zone council are also elected by the voters. In Amhara, and Gambella, a portion of the seats in a nationality zone council are occupied by members who are elected in a special procedure from the councils of the *woredas* in the nationality zone. The remaining seats are occupied by members of a regional council who are elected from *woredas* within the nationality zone.

The electoral system that is used in *liyu woredas* and nationality zones (in SNNPR) is a block voting system. The *kebele* is used as a multi-member constituency in *liyu woreda* elections. Because the *liyu woreda* is a collection of *kebeles* the majority of whose residents belong to a certain ethnic community, it is likely that the minority ethnic community for whom the *liyu woreda* is established will control the council of the particular *liyu woreda*. The same can be said about the nationality zone elections in SNNPR. In Gambella and Amhara the members of a nationality zone council are elected in special procedure from *woredas* within the relevant nationality zone. It can be assumed that the *woreda* councils will elect individuals belonging to the ethnic community for whom the nationality zone is established.

It does not appear, however, that the various political views within an ethnic community are reflected in the councils despite the fact that the councils of the nationality zones and *liyu woredas* can be assumed to be controlled by the

relevant ethnic communities. All nationality zones and *liyu woreda* councils are controlled by ethnic-based parties which are members of or affiliates to EPRDF. The opposition parties are not represented in any of these councils. Moreover, the ethnic political parties which are members of the EPRDF are subordinate to the central structure of the party. The domination of all nationality zone and *liyu woreda* councils by a single party and its affiliates, coupled with the centralised decision making system of the party seems to have undercut the benefit that the establishment of the ethnic based local units is expected to offer to the relevant ethnic community.

3.1.1.3. Functions

Nationality zones and *liyu woredas* have the power and duty to promote and protect the culture, language, and identity of the relevant ethnic community. The functions that they may exercise to discharge these responsibilities are generally unclear. However, it is clear that they may choose their working language. They may also choose the language or languages that may be used for the purpose of instruction in primary schools. These two functions are critical for the purpose of promoting and protecting the identity of the relevant ethnic communities.

3.1.1.4. Revenue

The political autonomy of nationality zones and *liyu woredas* is not complimented with financial autonomy. It is unclear whether nationality zones have any taxing powers. A *liyu woreda*, like any other *woreda*, has the power to collect agricultural income taxes and land use fees on behalf of the regional states. However, the revenue that *liyu woredas* collect from these taxes and fees is not sufficient to allow them to discharge their functions. Nationality zones and *liyu woredas* are, therefore, financially dependent on regional grants.

The financial dependence of nationality zones and *liyu woredas* is likely to undermine their political autonomy. Moreover, they will be constrained from effectively discharging their responsibility of protecting and promoting the ethnic identity of the relevant ethnic communities. For instance, without adequate finance, they will not be able to build schools or publish books in the language of the relevant ethnic communities. It is therefore suggested that certain taxing power should be devolved to *liyu woredas* and nationality zones.

3.1.2. Shared-rule

One of the defining features of shared-rule is the representation of ethnic-based local territorial units at state and national level of government. In Ethiopia, the constitutional principle that allows ethnic minorities to exercise self-rule also entitles them to be represented in regional and national organs. This principle allows ethnic minorities to be represented in every regional and federal organ. However, only the regional and federal organs in which nationality zones and *liyu woredas* are directly or indirectly represented or those that make decisions directly impacting them were considered in this thesis.

At regional level, nationality zones and *liyu woredas* are represented in various organs. In SNNPR, nationality zones and *liyu woredas* have the power to elect members of the Council of Nationalities (CoN), which has the power to interpret the regional constitution and to decide on matters relating to nationality zones and *liyu woredas*. In Amahara, Gambella, and Benishangul-Gumuz, nationality zones and *liyu woredas* are represented in the Constitutional Interpretation

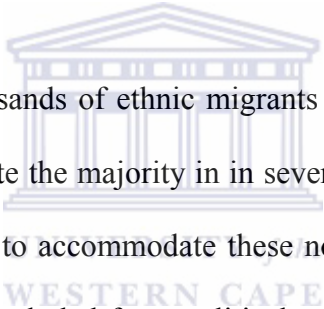
Commission (CIC) which also has the power to interpret the constitutions of the relevant regional states

At the federal level, the House of Federation (HoF) has the power to make decisions directly impacting the autonomy of nationality zones and *liyu woredas*. The HoF has the power to decide whether a group of people constitutes an ethnic community. It may also decide on the demand of an ethnic community for territorial autonomy if such a case is brought to it as a constitutional dispute. The HoF may be involved when a nationality zone or a *liyu woreda* approves a demand for secession, whether it is secession from a regional state or secession from the Ethiopian federation. Despite the fact that the decisions of the HoF may have far reaching consequences on nationality zones and *liyu woredas*, the latter are not directly represented in it. This is despite the fact that the relevant ethnic communities for whom the nationality zones and *liyu woredas* are established are represented.

3.2. Non-territorial

It was indicated in chapter two that territorial autonomy and the establishment of ethnically structured local units are useful only when the relevant ethnic minority community is territorially concentrated. When members of an ethnic community are territorially dispersed or, even if territorially concentrated, when they are too small in size to adequately exercise territorial autonomy, non-territorial options should be considered. The non-territorial options that were considered were power-sharing, cultural autonomy, or special representation in local councils.

In Ethiopia there are several ethnic minorities which, even though they are territorially concentrated, do not have their own nationality zones or *liyu woredas*. Some of the regional states have in fact established regular *woredas* and, as is the case in Gambella, ethnically organised *kebeles* to accommodate these communities. However, this arrangement is not considered as territorial autonomy as these units are not established based on ethnic criteria. Moreover, these local government units, unlike nationality zones and *liyu woredas*, do not have the powers that are relevant for the protection of ethnic identity such as the power to choose their own language/s of work and education and the power to secede.



There are also several thousands of ethnic migrants in every region. The ethnic migrants may even constitute the majority in in several cities. However, there is no institutional mechanism to accommodate these non-indigenous communities. On the contrary, they are excluded from political representation through formal and informal mechanisms. In regions such as Benishangul-Gumuz, SNNPR and Oromia, ethnic migrants are excluded from political representation through a quota system which reserves a disproportionate portion of the seats in city councils for the original inhabitants of the local units. Moreover, a candidate in local elections is required to be able to speak the working language of the relevant region, nationality zone, or *liyu woreda* which also has the effect of excluding ethnic migrants. Lastly, in these regions the office of the mayor is exclusively reserved for the original inhabitants of the regional state, *liyu woreda*, or nationality zone.

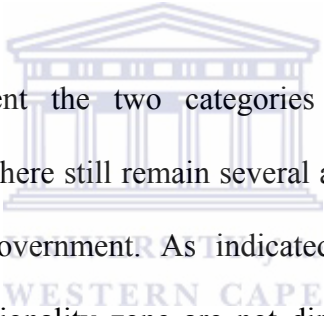
The above shows that non-territorial schemes are not given much attention. Ethnic migrants who are found dispersed in several urban areas are, therefore, left without any constitutional protection. They are marginalised in terms of political representation in local councils and in terms of cultural rights. This shows that there is a need to consider non-territorial institutional schemes that will accommodate ethnic migrants.

4. Harmonising Article 39 and Article 50 (4) local governments

In Ethiopia two separate categories of local government are created which are meant to serve two different purposes. For the purpose of achieving development, *woredas* and cities (Article 50 (4) local government) are established throughout the country and for the purpose of accommodating ethnic minorities, nationality zones and *liyu woredas* (Article 39 local government) are established on top of one or more *woredas*. Now the question is how are the two categories of local government harmonised?

It appears that attempts have been made to create a certain measure of institutional congruence between the two categories of local government. The first method of harmonising the two categories of local government is integrating them in one local unit. This is the case with regard to a *liyu woreda*. As an Article 39 local government, a *liyu woreda* is organised on the basis of ethnic criteria as opposed to merely on the basis of geographic or economic criteria. Moreover, a *liyu woreda* exercises cultural function such choosing its own language. As an Article 50 (4) local government, a *liyu woreda* serves as a regular *woreda* and, therefore, provides basic services.

The other method that is used to create institutional harmony between the two categories of local government is by further decentralising nationality zones into several *woredas* and cities and by creating institutional links between the two categories of local government. In Amhara and Gambella institutional link is created between a nationality zone and *woredas* inside it through the representation of the *woredas* in the nationality zone council. *Woredas* within the nationality zone send to the council of the nationality zones representatives who occupy a portion of the seats in the nationality zone council. This arrangement is likely to create some level of synchronisation between nationality zones and the *woredas* within them.

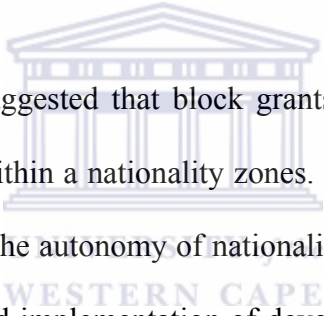


While to the above extent the two categories of local government are institutionally harmonised, there still remain several areas of discord between the two categories of local government. As indicated above, in Gambella and Amhara, members of a nationality zone are not directly elected by the voters. They are elected in a special procedure by and from among members of councils of *woredas* that are found within the jurisdiction of the relevant nationality zone. This arrangement, even though likely to create a certain measure of institutional link and harmony between a nationality zone and the *woredas* within it, suffers from democratic deficiency since it does not allow the relevant ethnic community to directly elect members of the nationality zone council, an organ which is viewed as the highest political organ of the relevant ethnic community. On the other hand, in SNNPR, members of a nationality zone council are directly elected by voters. It is unclear how a nationality zone and *woredas* within it are institutionally linked with the nationality zones in this region.

There is also a certain dissonance between the two categories of local government in terms allocation of functional competences. Functions with regard to culture, including the power to choose the language of work and school, are exclusive competences of Article 39 local government units. Regular *woredas* and cities do not have the power to choose their working languages or the languages to be used for primary education. However, the competences of Article 39 local government are not limited to cultural matters. The regional constitutions allow a nationality zone to adopt and implement plans on social services and economic development. At the same time the regional constitutions authorise *woredas* to do the same. However, the particular areas of social services and economic matters that are within the competences of nationality zones and those within the competences of the *woredas* within them are left undefined. This is likely to hamper the political autonomy and, therefore, the developmental mission of *woredas* and cities within the nationality zones.

It is, therefore, necessary to clearly demarcate the functional competences of the two categories of local government. In this regard, it is suggested that nationality zones should be limited to exercising culture related matters. Developmental functions should be left to *woredas* and cities as they are likely to be more efficient than nationality zones in planning and implementing developmental projects. The *liyu woreda* should continue exercising both developmental and cultural functions.

The other areas of dissonance relate to fiscal relation between nationality zones and *liyu woredas* within their jurisdiction. As the discussion in chapter 5 shows, regional block grants reach to *woredas* within a nationality zone through the nationality zone. This arrangement is likely to make unduly prolonged the process of transferring block grants to the *woredas*. Moreover, the block grants reach to the *woredas* after the nationality zones have carved off a portion of the block grants for themselves and after they have made certain re-adjustment. The revenue that the *woredas* within the nationality zone receive after such a process of deduction and re-adjustment is likely to be less responsive to their expenditure needs.



It may not, however, be suggested that block grants should directly go from a regional state to *woredas* within a nationality zones. This may allow the regional governments to undermine the autonomy of nationality zones. On the other hand, the efficient formulation and implementation of development projects by *woredas* require that they receive adequate and timely block grants. In order to balance the two interests, the regional governments may still continue to provide block grants to nationality zones. However, they may use their regulatory power to set minimum standard as to what percentage of the block grants, when, and how nationality zones should transfer to *woredas* and cities and follow up its implementation.

Bibliography

Books and chapters in books

Aalen L & Pausewang S 'Blighting the seeds of democracy: The 2001 local elections in Addis Ababa and the central regions' in Pausewang S, Tronvoll K & Aalen L (eds) *Ethiopia since the Derg: A decade of democratic pretension and performance* London: Zed Books (2002) 179

Abbera J *An Introduction to the legal history of Ethiopia* Hamburg: Lit Verlag (2000)

Abbera J 'Ethiopia: The major institutional arrangements of federations and decentralization' in Basta L R & Ibrahim J (eds) *Federalism and decentralisation in Africa: The multicultural challenge* Fribourg: PIFF (2000) 167

Abbink J 'Paradoxes of power and culture in an old periphery: Surma, 1974-98' in James J, Kurimoto E, Triulzi A, & Donham L D (eds) *Remapping Ethiopia: socialism & after* Addis Ababa: Addis Ababa University press (2002) 155

Abbink J 'The organization and observation of elections in federal Ethiopia: Retrospect and prospect' in Abbink J & Hesselting G (eds) *Election observation and democratization in Africa* Basingstoke: Macmillan (2000) 150

Adam W M *Green development environment and sustainability in a developing world* London: Routledge Taylor & Francis Group (2009)

Agrawal A & Gibson C 'Enchantment and disenchantment: the role of community in natural resources conservation' in Johns S and Carswell G (eds) *Environment, development, and rural livelihood* London: Earthscan (2004) 151

Ahmad J 'Decentralizing borrowing' in Litvack J & Seddon J *Decentralization: briefing notes* Washington D.C.: World Bank Institute (1999) 32

Andargachew T *The Ethiopian revolution 1974-1987: A transformation from an aristocratic to a totalitarian autocracy* Cambridge: Cambridge University Press (1994)

Andreas E 'Ethnic federalism: New frontiers' *First national conference on federalism, conflict, and peace building* Addis Ababa: Ministry of Federal Affairs (2003) 142

Anton T J *American federalism and public policy: How the set works*. New York: Random House (1989)

Arat Z *Democracy and human rights in developing countries* Boulder: Lynne Rienner (1995)

Arblaster A *Democracy* Milton Keynes: Open University Press (1987)

Assefa F & Mohammed H 'Ethiopia' in Moreno L & Colino C (eds) *A Global Dialogue on Federalism: Diversity and unity in federal countries* McGill-Queens University Press (2010) 139

Assefa F 'Addis Ababa, Ethiopia' in Slack E & Chattopadhyay R (eds) *Thematic issues in federalism: Finance and governance of capital cities in federal systems* Montreal: McGill-Queens University Press (2009) 79

Assefa F *Federalism and the accommodation of diversity in Ethiopia: A comparative* Nijmegen: Wolf Legal Publishers (2007a)

Assefa F 'Theory versus practice in the implementation of Ethiopia's ethnic federalism' in Turton D (ed) *Ethnic federalism: The Ethiopian experience in comparative perspective* Addis Ababa: Addis Ababa University Press (2006) 131

Bakvis H & Chandler W M 'Federalism and comparative analysis' in Bakvis H & Chandler W M (eds) *Federalism and the role of the state* Toronto: University of Toronto Press (1987)

Bahru Z *Society, state and history: Selected essays* Addis Ababa: Addis Ababa University Press (2008)

Bahru Z 'Systems of local governance among the Gurage; The *yajoka qicha* and the *gordana Ser*' in Bahru Z & Pausewang S (eds) *Ethiopia: The challenge of democracy from below* Uppsala: Nordiska Afrikainstitutes & Addis Ababa Forum for Social Studies 17

Bahru Z *A history of modern Ethiopia 1855-1991* Addis Ababa: Addis Ababa University Press (2002)

Balsvik R *Haile Sellassie's students: The intellectual and social background to revolution, 1952-1974* Addis Ababa: Addis Ababa University Press (2005)

Beetham D *Democracy and human rights* Cambridge: Polity Press (1999)

Beetham D 'Theorising democracy and local governance' in King D & Stoker G (eds) *Rethinking local democracy* Basingstoke: Macmillan (1996)

Bekele W *Ya kafa hizboch ena mengistat achir tarik* (1996 Ethiopian Calendar) (A short history of the people of Kaffa and government, 2004)

Benedikter T *The world's modern autonomy systems: Concepts and experiences of regional territorial autonomy* Bozen: Eurac (2009)

Bieber F 'Partial implementation, partial success: The case of Macedonia' in O'Flynn I & Russell D (eds) *Power sharing: New challenges for divided societies* London: Pluto Press (2005) 107

Brugman J 'Agenda 21 and the role of local government' in Dodds D (ed) *Earth Summit 2002: A new deal* London: Earthscan 31

Burgi M 'Federal Republic of Germany' in Steytler N A *Global Dialogue on Federalism: Local government and metropolitan regions in federal systems* Montreal: McGill-Queen's University Press (2009) 136

Carmen R *Autonomous development: Humanizing the landscape: An excursion into radical thinking and practice* London: Zed Books (1996)

Casals N T *Group rights as human rights: A liberal approach to multiculturalism* Dordrecht: Springer (2006)

Chris H & Mohammed M *Intergovernmental fiscal reforms in Ethiopia: Trends and issues* World Bank (2004)

Clapham C *Transformation and continuity in revolutionary Ethiopia* Cambridge: Cambridge University Press (1988)

Coakley J 'Introduction: The Challenge' in Coakley J *The territorial management of ethnic conflict* London: Frank Cass 1

Cohen G 'The development of regional and local languages in Ethiopia's federal system' in Turton D (ed) *Ethnic federalism: The Ethiopian experience in comparative perspective* Addis Ababa: Addis Ababa University Press (2006) 165

Cohen J & Koehn P *Ethiopian provincial and municipal government: Imperial patterns and post-revolutionary changes* East Lansing: African Studies Center Michigan State University (1980)

Coetzee J K 'Modernisation: An idea and model of progress' in Coetzee J K (ed) *Development is for people* Johannesburg: Southern Book (1989) 17

Crawford G & Hartmann H 'Introduction: Decentralisation as a pathway out of poverty and conflict?' in Crawford G & Hartmann H (eds) *Decentralisation in Africa: A pathway out of poverty and conflict?* Amsterdam University Press (2008)7

Daniel G 'Nation in perpetual transition: The politics of changes in administrative divisions and subdivisions in Ethiopia' in Marcus HG (ed) *Papers of the 12th International Conference of Ethiopian Studies* The Red Sea Press Inc (1994) 83

Daskalovski Z 'Minority political participation and education in the Municipality of Chair' in Dimitrijevic N (ed) *Managing multi-ethnic local communities in the countries of the former Yugoslavia* Budapest: Open Society Institute (2000) 125

Dereje F 'The experience of Gambella regional state' in Turton D (ed) *Ethnic federalism: The Ethiopian experience in comparative perspective* Addis Ababa: Addis Ababa University Press (2006) 208

Deschouwer K 'Kingdom of Belgium' in Kincaid J & Tarr A (eds) *Constitutional origins, structures, and change in federal countries: A Global Dialogue on Federalism* London: McGill-Queen's University Press (2005) 48

De Visser J *Developmental local government: A case study of South Africa* Antwerpen: Intersentia (2005)

Dowding K 'Public choice and local governance' in King D & Stoker G (eds) *Rethinking local democracy* Basingstoke: Macmillan (1996)

Dube S C *Modernization and development: The search for alternative paradigms* London: Zed Books (1988)

Erk J *Explaining federalism state, society and congruence in Austria, Belgium, Canada, Germany, and Switzerland* New York: Routledge (2008)

Erk J & Anderson M L 'The paradox of federalism: Does self-rule accommodate or exacerbate ethnic divisions?' in Erk J & Anderson M L *The paradox of federalism: Does self-rule accommodate or exacerbate ethnic divisions?* London: Routledge (2010) 1

Eyob A *Generalochu: dem yafasese ena yeltesakaw ye-ginbot 8 qen 1981 wetaderawi ye-mefenkelemengest mukera* Addis Ababa: (2002 Ethiopian calendar) (The generals: The blood-spattered and the failed *coup d'état* of 16 May 1989 Addis Ababa (2009)

Fasil N *Constitution for a nation of nations: The Ethiopian prospect* Lawrenceville, N.J.: Red Sea Press (1997)

Ford J 'Rationale for decentralization' in Litvack J & Seddon J *Decentralization: Briefing notes* Washington D.C.: World Bank Institute (1999) 11

Frankovits A 'Pre-conference reading: Towards a mechanism for realization of the right to self-determination' in Kly A N & Kly D (eds) *In pursuit of the right to self-determination* Collected papers & proceedings of the First International Conference on the Right to Self-Determination & the United Nations Atlanta: Clarity Press (2001)

Garcia M & Rajkumar A S *Achieving better service delivery through decentralization in Ethiopia* Washington D C.: World Bank (2008)

Gebu T *Ethiopia: power and protest: Peasant revolts in the twentieth century* Cambridge: Cambridge University Press (1991)

Ghai Y 'Territorial options' in Darby J & Mac Ginty R (eds) *Contemporary peacemaking conflict, violence and peace processes* New York: Palgrave Macmillan (2003) 184

Ghai Y 'Ethnicity and autonomy: A framework for analysis' in Ghai Y (ed) *Autonomy and ethnicity: Negotiating competing claims in multi-ethnic states* Cambridge: Cambridge University Press (2000) 1

Gibbins R 'Federal societies, institution, and politics' in Bakvis H & Chandler W (eds) *Federalism and the role of the states* Toronto: University of Toronto Press (1987) 16

Gilkes P 'Foreword' in Cohen JM & Koehn PH *Ethiopian provincial and municipal government* East Lansing: African Studies Center Michigan State University (1979) xv

Goodwin-Gill G S *Free and fair elections* Geneva: Inter-Parliamentary Union (2006)

Fleiner T & Fleiner B R L 'Federalism, federal states, and decentralization' in Fleiner T & Fleiner B R L (eds) *Federalism and multiethnic states: The case of Switzerland* Genève: Institute du Federalisme Fribourg Suisse (2009) 1

Fossas E & Veasco F 'Local government in Spain' in Steytler N A *Global Dialogue on Federalism: Local government and metropolitan regions in federal systems* Montreal: McGill-Queen's University Press (2009) 298

Hadden T 'Integration and autonomy: Minority rights and political accommodation' in O'Flynn I & Russell D (eds) *Power sharing: New challenges for divided societies* London: Pluto Press (2005) 30

Henders S J *Territoriality, asymmetry, and autonomy: Catalonia, Corsica, Hong Kong, and Tibet* New York: Palgrave Macmillan (2010)

Hess R *Ethiopia: The modernization of autocracy* Ithaca NY: Cornell University Press (1970)

Hoffman B 'Macroeconomic impact of decentralisation' in Litvack J & Seddon J *Decentralization: Briefing notes* Washington D.C.: World Bank Institute (1999) 89

Horowitz D 'A premier to decision makers' in Diamond L & Plattner M F (eds) *Electoral systems and democracy* Baltimore: The Johns Hopkins University Press (2006) 3

Horowitz D 'The Northern Ireland Agreement: Clear, consociational, and risky' in McGarry J (ed) *Northern Ireland and the divided world: The Northern Ireland conflict and the Good Friday Agreement in comparative perspective* Oxford: Oxford University Press (2001) 89

Kamusella T *The politics of language and nationalism in modern central Europe* New York: Palgrave Macmillan (2009)

Kaplan S D *Fixing fragile states: A new paradigm for development* Connecticut: Prager (2008)

Kassahun B 'Party politics and political culture in Ethiopia' in Salih M.A (ed) *African political parties: Evolution, institutionalisation and governance* London: Pluto Press (2003) 115

Keller E 'Remaking the Ethiopian State' in Zartman W (ed) *The disintegration and restoration of legitimate authority* London: Lynne Rienner Publishers (1995) 125

Kiffer A & Schausberger F 'Republic of Australia' in Steytler N A *Global Dialogue on Federalism: Local government and metropolitan regions in federal systems* Montreal: McGill-Queen's University Press (2009) 37

Kinfe A *Ethiopia from bullets to the ballot box: The bumpy road to democracy and the political economy of transformation* Lawrenceville: The Red Sea Press (1994)

Kissi E 'Genocide in Cambodia and Ethiopia' in Gellately R & Kiernan B *The spectre of genocide: Mass murder in historical perspective* Cambridge: Cambridge University Press (2003) 307

Kymlicka W *Multicultural odysseys: Navigating the new international politics of diversity* Oxford: Oxford University Press (2007)

Kymlicka W 'Emerging western models of multination federalism: Are they relevant for Africa' in Turton D (ed) *Ethnic federalism: The Ethiopian experience in comparative perspective* Addis Ababa: Addis Ababa University Press (2006) 32

Kymlicka W *Multicultural citizenship: A liberal theory of minority rights* New York: Oxford University Press (1995)

Lazar H & Seal A 'Local government: Still a junior government? The place of municipalities within the Canadian Federation' in Steytler N (ed) *The place and role of local government in federal systems* Johannesburg: Konard-Adenaur-Stiftung Occasional papers (2005)

Lidetu A *Yarem erisha* (1998 Ethiopian Calendar) Addis Ababa (A farm of weeds (2005))

Lijphart 'The case for power sharing' in Diamond L & Plattner M F (eds) *Electoral systems and democracy* Baltimore: The Johns Hopkins University Press (2006) 42

Litvack J, Ahmad J & Bird R *Rethinking decentralization in developing countries* Washington D C: World Bank (1998)

Loughlin J 'Introduction: The transformation of the democratic state in Western Europe' In Loughlin J & Aja E *Subnational democracy in the European Union: Challenges and opportunities* Oxford: Oxford University Press (2001) 1

Luckham R, Goetz A M & Kaldor 'Democratic institutions and democratic politics' in Bastian S & Lucham R (eds) *Can democracy be designed? The politics of institutional choice in conflict-torn societies* London: Zed Book 14

Manor J *The political economy of democratic decentralization* Washington D.C.: World Bank (1999)

Mackerras C 'Introduction' in Mackerras C (ed) *Ethnicity in Asia* London: Routledge Curzon (2003) 1

Markakis J 'Conflict in prefederal Ethiopia' *First national conference on federalism, conflict and peace building* Addis Ababa: Ministry of Federal Affairs (2003) 11

Markakis J *Ethiopia: Anatomy of a traditional polity* Addis Ababa: Shama Books (1975)

McGarry J, O'Leary B, & Simeon R 'Integration or accommodation? The enduring debate in conflict regulation' in Choudhry S (ed) *Constitutional design for divided societies: Integration or accommodation?* Oxford: Oxford University Press (2008) 41

Mohammed D A 'The use of mother-tongue in education: The case of Afaan-Oromo in Oromo Nationality Zone of Amhara National Regional State' in Alem H (ed) *Ethiopian federalism principle, process and practice 5th International Conference on Federalism Secretariat: Addis Ababa* (2010) 104

Mohammed H *The Oromo of Ethiopia: A history 1570-1860* Cambridge: Cambridge University Press (1994)

Naty A 'Memory and humiliation of men: The revolution in Ari' in James J, Kurimoto E, Triulzi A, & Donham L D (eds) *Remapping Ethiopia: Socialism & after* International Conference of Ethiopian Studies (13th : 1997 : Kyoto, Japan) Addis Ababa : Addis Ababa University press (2002) 59

Olowu D & Wunsch J *Local governance in Africa: The challenges of democratic decentralization* London: LYNNE RIENNER,(2004)

Pateman C *Participation and democratic theory* Cambridge: Cambridge University Press (1985)

Patten A 'The rights of internal linguistic minorities' in Eisenberg A & Spinner-Halev J *Minorities within minorities: Equality, rights and diversity* Cambridge: Cambridge University Press (2004) 135

Pausewang S, Tronvoll K, & Aalen L 'A process of democratisation or control? The historical and political context' in Pausewang S, Tronvoll K, & Aalen L (eds) *Ethiopia since the Derg: A decade of democratic pretension and performance* London: Zed Books (2002) 26

Pausewang S, Tronvoll K & Aalen L 'Democratisation in Ethiopia: Some notes on theory and methodology' in Pausewang S, Tronvoll K, & Aalen L (eds) *Ethiopia since the Derg: A decade of democratic pretension and performance* London: Zed Books (2002) 26

Perry G & Moyser 'More participation more democracy?' in Beetham D (ed) *Defining and measuring democracy* London: Sage (1994) 44

Pieterse J *Development theory: Deconstructions/reconstructions* London: SAGE Publications (2001)

Rapley J *Understanding development: Theory and practice in the third world* Boulder, Colo.: Lynne Rienner Publishers (2002)

Reynolds A, Reilly B, & Ellis A *Electoral design: The new international IDEA Handbook* Stockholm: International Institute for Democracy and Electoral Assistance (2005)

Reynolds A *Electoral systems and democratisation in Southern Africa* New York: Oxford University Press (1999)

Riech R 'Minorities within minorities: A problem for liberal multiculturalists' in Eisenberg A & Spinner-Halev J (ed) *Minorities within minorities: Equality, rights and diversity* Cambridge: Cambridge University Press 209

Rondinelli 'What is decentralization' Litvack J & Seddon J *Decentralization: Briefing notes* Washington D.C.: World Bank Institute (1999) 2

Sansom G 'Commonwealth of Australia' in Steytler N A *Global Dialogue on Federalism: Local government and metropolitan regions in federal systems*: Montreal: McGill-Queen's University Press (2009)7

Sartori G *Comparative constitutional engineering: an inquiry into structures, incentives, and outcomes* New York: New York University Press (1994)

Saunders C 'Constitutional recognition of local government in Australia' in Steytler N (ed) *The place and role of local government in federal systems* Johannesburg: Konard-Adenaur-Stiftung Occasional papers (2005) 47

Sèhouèto L M 'Civil Society and the forms of political participation in Africa' in Hofmeister W & Scholz I (eds.) *Traditional and contemporary forms of local*

participation and self-government in Africa Johannesburg: Konrad-Adenauer-Stiftung (1997) 209

Sen A K *Development as freedom* Oxford: Oxford University Press (2001)

Seers D 'The meaning of development with a postscript' in Lehmann D (ed) *Development theory: Four critical studies* London: Frank Cass (1979) 9

Shah A 'The new vision of local governance and the evolving roles of local governments' in Shah A (ed) *Local governance in developing countries: Public sector governance and accountability series* Washington D.C.: The World Bank (2010) 1

Shah N *The reform of intergovernmental fiscal relations in developing and emerging market economies* Washington DC: The World Bank (1994)

Sisk T D *Democracy at the local level: The international IDEA handbook on participation, representation, conflict management, and governance* Stockholm: International Institute for Democracy and Electoral Assistance (2001)

Solomon N *Fiscal federalism in the Ethiopian ethnic based federal system* Nijmegen: Wolf Legal Publisher (2006)

Steytler N C & De Visser J *Local government law of South Africa* Durban: LexisNexis (2007)

Steytler N 'Introduction' in Steytler N (ed) *The place and role of local government in federal systems* Johannesburg: Konard-Adenaur-Stiftung occasional papers (2005) 1

Steytler 'Comparative conclusion' in Steytler N *Local government and metropolitan regions in federal systems: A global dialogue on federalism vi* Montreal: McGill-Queen's University Press (2009) 393

Suksi M *Sub-State governance through territorial autonomy: A comparative study in constitutional law of powers, procedures and institutions* London: Springer-Verlag (2011)

Tadesse T S *Ye-anabist medir: Ye-etyopiya serawit tarik zegeba 1927-1983* (1999 Ethiopian Calendar) Addis Ababa (Land of lions: A treatise of the history of Ethiopia's army 1933-1991(2006))

Tegene G E 'Introduction' in Taye A & Tegene G E *Decentralization in Ethiopia* Addis Ababa: Forum Social Studies (2007) 1

Tegene G E & Kassahun B 'A literature review of decentralization in Ethiopia' in Taye A & Tegene G E *Decentralization in Ethiopia* Addis Ababa: Forum Social Studies (2007) 9

Tekele-Hawariat T *Ye-Hiywoté tarik (The story of my life)* Addis Ababa: Addis Ababa University Press (1999 Ethiopian Calendar)

Teller N 'Local self-government and the ethnic minorities in Hungary' *National minorities in South-East Europe legal and social status at local level* Zagreb: Friedrich Ebert Stiftung (2002) 71

Tesfaye T *The migration, environment and conflict nexus in Ethiopia: A case study of Amhara migrant-settlers in East Wollega Zone* Addis Ababa: Organisation for Social Science Research in Eastern and Southern Africa (OSSREA)

Teshale T *The making of modern Ethiopia 1896-1974* Lawrenceville: The Red Sea Press Inc (1995)

Todorovski I 'Legal and social status of the minorities at local level in the Republic of Macedonia' *National minorities in South-East Europe legal and social status at local level* Zagreb: Friedrich Ebert Stiftung (2002) 32

Töpperwien N *Nation-state and normative diversity* Basel: Institute of Federalism Fribourg Switzerland (2001)

Treisman D *The architecture of government: Rethinking political decentralization* Cambridge: Cambridge University Press (2007)

Trench A 'Intergovernmental relations: In Search of a theory' in Greer S L (ed) *Territory, democracy and justice: Regionalism and federalism in western democracies* New York: Palgrave Macmillan (2006) 224

United Nations Development Programme (UNDP) *Human development report 2010: The real wealth of nations: Pathways to human development* Palgrave Macmillan (2010)

United Nation Development Program *Human development report* New York: Oxford University Press (1990)

Vaughn S 'Responses for ethnic federalism in Ethiopia's Southern region' in Turton D (ed) *Ethnic federalism: The Ethiopian experience in comparative perspective* Addis Ababa: Addis Ababa University Press (2006) 181

Vestal T M *Ethiopia: A post-cold war African state* Westport: Praeger Publishers (1999)

Vorster J H 'Dependency' in Coetzee J (ed) *Development is for people* Johannesburg: Southern Book (1989) 53

Yemane H M 'Power and function of local government in Ethiopia: A case study of Tigray Regional State' in Alem H (ed) *Ethiopian federalism principle, process and practice* Addis Ababa (2010) 97

Yonatan F *Ethnic diversity and federalism: Constitution making in South Africa and Ethiopia* Farnham: Ashgate (2010a)

Young J 'Post-civil war transition in Ethiopia' in Ali TM & Mathews R O (eds) *Durable peace: Challenges for peace building in Africa* Toronto: University of Toronto Press (2004) 19

Young R 'Canada' in Steytler N A *Global Dialogue on Federalism: A Local government and metropolitan regions in Federal Systems* Montreal: McGill-Queen's University Press (2009) 106

Walker D *The rebirth of federalism: Slouching towards Washington* New Jersey: Chatham House Publishers Inc (1995)

Watson E 'Capturing a local elite: The Konso hanymoon' in James J, Kurimoto E, Triulzi A, & Donham L D (eds) **Remapping Ethiopia: socialism & after** International Conference of Ethiopian Studies (13th : 1997 : Kyoto, Japan) Addis Ababa : Addis Ababa University press (2002) 198

Watts R *Comparing federal systems* Montreal: Institute of Intergovernmental Relation (2008)

Watts R 'Origins of Cooperative and Competitive Federalism' in Greer S L (ed) *Territory, democracy and justice Regionalism and federalism in western democracies* New York: Palgrave Macmillan (2006) 201

Webster A 'Modernisation theory' in Ayres R *Development studies: An introduction through selected readings* Dartford: Greenwich University Press (1995) 104

Wheatley S *Democracy, minorities and international law* Cambridge: Cambridge University Press (2005)

Welhengama G *Minorities' claims: From autonomy to secession: International law and state practices* Interdisciplinary Research Series in Ethnic, Gender and Class Relation Aldeshot: Ashgate (2000)

Wolff S 'Electoral-systems design and power-sharing regimes' in O'Flynn I & Russell D (eds) *Power sharing: New challenges for divided societies* London: Pluto Press (2005) 59

World Bank *World development report 2011: Conflict, security, and development* Oxford: Oxford University Press (2011)

World Bank *World development report 2011: Making services work for poor people* Oxford: Oxford University Press (2011)

World Bank *World development report 2000/2001: Attacking poverty* Oxford: Oxford University Press (2001)

World Bank *World Development Report 1999/2000: Entering the 21st Century*
Oxford: Oxford University Press (1999)

World Bank *World Development Report 1997: The State in a changing world*
Oxford: Oxford University Press (1997)

Zerihun Y 'The status, powers and functions of local government in Oromia' in
Alem H (ed) *Ethiopian federalism principle, process and practice*: Addis Ababa
(2010) 127

Journal articles

Aalen L & Tronvoll K 'The end of democracy? Curtailing political and civil
rights in Ethiopia' (2009) 36 (120) *Review of African Political Economy* 193

Aalen L & Tronvoll K 'Briefing: The 2008 Ethiopian local elections: The return
of electoral authoritarianism' (2008) 108 (430) *African Affairs* 111

Abbink J 'Authority and leadership in Surma society' (1997) 52 (3) *Africa: The
Journal of the International African Institute* 317

Abbink J 'Discomfiture of democracy? The 2005 election crisis in Ethiopia and
its aftermath' (2006) 105 *African Affairs* 173

Abbink J 'Ethnicity and constitutionalism in contemporary Ethiopia' (1997) 41
(2) *Journal of African Law* 159

Adamolekun L 'Decentralization policies: Problems and perspectives' (1991) 13
(1) *Asian Journal of Public Administration* 67

Addis A 'Deliberative democracy in severely fractured societies' (2009) 16
Indiana Journal of Global Legal Studies 59

Addis A 'Cultural integrity and political unity: the politics of language in
multilingual states' (2001) 33 *Arizona State Law Journal* 725

Agrawal A & Ribot J 'Accountability in decentralization: A framework with
South Asian and West African cases' (1999) 33 (4) *The Journal of Developing
Areas* 473

Akai N & Sakata M 'Fiscal decentralization contributes to economic growth:
evidence from state-level cross-section data for the United States' (2002) 52
Journal of Urban Economics 93

Alemante G S 'Ethnic federalism: Its promise and pitfalls for Africa' (2003) 28
Yale Journal of International Law 51

Alem H 'Multi-ethnic federalism in Ethiopia: A study of the secession clause in
the Constitution' (2005) 35 (2) *Publius: The Journal of Federalism* 313

- Anand Y P 'Philosophy of economic development' (2009) 5 *RITES Journal*
- Andeweg R B 'Consociational democracy' (2000) 3 *Annual Review of Political Science* 509
- Assefa F 'Constitutional adjudication in Ethiopia: Exploring the experience of the House of Federation (HOF)' (2007b) 1(1) *Mizan Law Review* 1
- Barankey I & Lockwood B 'Decentralization and the productive efficiency of government: Evidence from Swiss cantons' (2007) 91 *Journal of Public Economics* 1197
- Bardhan P 'Decentralization of governance and development' (2002) 16 (4) *The Journal of Economic Perspectives* 185
- Bardhan P 'Decentralized development' (1996) 31 (2) *Indian Economic Review* 139
- Bender L M 'Ethiopian language policy 1974-1981' (1985) 27(3) *Anthropological Linguistics* 273
- Blaney D L 'Reconceptualizing autonomy: The difference dependency theory makes' (1996) 3 (3) *Review of International Political Economy* 459
- Bogaards M 'Democracy and power-sharing in multinational states: Thematic introduction' 2006 8 (2) *International Journal on Multicultural Societies* 119
- Boothe K & Walker R 'Mother tongue education in Ethiopia: From policy to implementation' (1997) 21 (1) *Language problems and Language planning* 1
- Booyesen S 'With the ballot and the brick: The politics of attaining service delivery' (2007) 7(1) *Progress in Development Studies* 21
- Botchway N F 'Good governance: The old, the new, the principle, and the elements' (2001) 13 *Florida Journal of International Law* 159
- Braathen E & Hellevik S B 'Decentralisation, peacemaking and conflict management: From regionalism to municipalism' (2008) 12 *Journal of Peace, Conflict and Development* 1
- Bardhan P 'Decentralised development' (1996) 31 (2) *Indian Economic Review* 139
- Brietzke P H 'Ethiopia's "Leap in the dark": Federalism and self-determination in the new Constitution' (1995) 39 (1) *Journal of African Law* 19
- Briffault R 'Our localism: Part II-Localism and legal theory' (1990) *Columbia Law Review* 346

Canel E 'Municipal decentralization and participatory democracy: Building a new mode of urban politics in Montevideo city?' (2001) 71 *European Review of Latin American and Caribbean Studies* 25

Chhatre A 'Political articulation and accountability in decentralisation: Theory and evidence from India' (2008) 6 (1) *Conservation and Society* 12

Coakley J 'The Resolution of Ethnic conflict: Towards a typology' (1992) 13 (4) *International Political Science Review* 343

Coakley J 'Approaches to the resolution of ethnic conflict: The strategy of non-territorial autonomy' (1994) 15 (3) *International Political Science Review* 297

Cohen G 'Language and ethnic boundaries: Perceptions of identity expressed through attitudes towards the use of language education in Southern Ethiopia' (2000) 7 (3) *Northeast African Studies* 189

Conlan T 'From cooperative to opportunistic federalism: Reflections on the half-century anniversary of the commission on intergovernmental relations' (2006) 66 (5) *Public Administration Review* 663

Cornell S 'Autonomy as a source of conflict: Caucasian conflicts in theoretical perspective' (2002) 54 (2) *World Politics* 245

Crawford J 'Decentralization and the limits to poverty reduction: Findings from Ghana' (2008) 36 (2) *Oxford Development Studies* 235

Crook R 'Decentralisation and poverty reduction in Africa: The politics of local-central relations' (2003) 23 *Public Administration and Development* 78

Crook 'Democracy, participation and responsiveness: A case study of relations between the Ivorian communes and their citizens' (1996) 74 *Public Administration* 695

Crook R 'Four years of the Ghana district assemblies in operation: Decentralization, democratization and administrative performance' (1994) 14 *Public Administration and Development* 339

Deets S & Stroschein S 'Dilemmas of autonomy and liberal pluralism: Examples involving Hungarians in Central Europe' (2005) 11(2) *Nations and Nationalism* 285

De Schutter H 'Nations, boundaries and justice: On Will Kymlicka's theory of multinationalism' (2005) 11 *Ethical Perspectives: Journal of the European Ethic Network*

De Visser J 'Institutional subsidiarity in the South African Constitution' (2010) 21(1) *Stellenbosch Law Review* 90

- De Vries M 'The rise and fall of decentralisation: A comparative analysis of arguments and practices in European countries' (2000) 38 *European Journal of Political Research* 193
- Du Plessis L "'Subsidiarity': What's in the name for constitutional interpretation and adjudication?" (2006) 2 *Stellenbosch Law Review* 207
- Føllesdal A 'Survey article: Subsidiarity' (1998) 6 (2) *The Journal of Political Philosophy* 190
- Gebru T 'Peasant resistance in Ethiopia: The case of Weyane' (1984) 25 (1) *Journal of African History* 77
- Getachew A & Derib A 'Language policy in Ethiopia: history and current trends' (2006) 2 (1) *Ethiopian Journal of Education and Science* 37
- Gilbert G 'Autonomy and minority groups: A right in international law?' (2001) 35 *Cornell International Law Journal* 307
- Gillette C P 'The exercise of trumps by decentralized governments' (1997) 83 *Virginia Law Review* 1347
- Gil-White 'How thick is blood? The plot thickens. If ethnic actors are primordialists, what remains of the circumstantialist/primordialist controversy?' (1999) 22 (5) *Ethnic and Racial Studies* 789
- Gore C 'The rise and fall of the Washington consensus as a paradigm for developing countries' (2000) 28 (5) *World Development* 789
- Gurr T R 'Peoples against states: Ethnopolitical conflict and the changing world system: 1994 Presidential Address' (1994) 38 (3) *International Studies Quarterly* 347
- Ehrlich C E 'Ethnicity and constitutional reform: The case of Ethiopia' (1999) *Journal of International and Comparative Law* 51
- Hamer J 'Decentralization as a solution to the problem of cultured diversity: An example from Ethiopia' (2007) 77 (2) *Africa: Journal of the International African Institute* 207
- Harvey F P 'Primordialism, evolutionary theory and ethnic violence in the Balkans: Opportunities and constraints for theory and policy' (2000) 33 (1) *Canadian Journal of Political Science* 37
- Hempel L 'What's it worth to you? The questionable value of instrumentalist approaches to ethnic identification' (2004) 45 *International Journal of Comparative Sociology* 253

Henrard K 'The interrelationship between individual human rights, minority rights and the right to self-determination and its importance for the adequate protection of linguistic minorities' (2001) 1 (1) *The Global Review of Ethnopolitics* 41

Herther-Spiro N B 'Can ethnic federalism prevent "recourse to rebellion?" – A comparative analysis of Ethiopian and Iraqi constitutional structures' (2007) 21 *Emory International Law Review* 321

Hiskey T J & Seligson M A 'Pitfalls of power to the people: Decentralization local government performance, and system support in Bolivia' (2003) 37 (4) *Comparative International Development* 64

Hussein J 'A Critical review of the political and stereotypical portrayals of the Oromo in the Ethiopian historiography' (2006) 15 (3) *Nordic Journal of African Studies* 256

Iimi A 'Decentralization and economic growth revisited: An empirical note' (2005) 57 *Journal of Urban Economics* 449

Jin J & Zou H 'How does fiscal decentralization affect aggregate, national, and subnational government size?' (2002) 52 *Journal of Urban Economics* 270

Johns S & Carswell G 'Introduction- section IIC: Property and institutions and community based management' in Johns S & Carswell G (eds) *Environment development and rural livelihood* London: Earthscan

Johnson G R 'The architecture of ethnic identity' (1997) 16 (2) *Politics and the Life Sciences* 257

Joireman SF 'Opposition politics and ethnicity in Ethiopia: We will all go down together' (1997) 35 (3) *The Journal of Modern African Studies* 387

Kälin W 'What makes decentralised government work? Lessons from Switzerland' (1998) 27 *Nepal Law Society: Essays on Constitutional Law* 1

Keefer P & Khemani S 'Why do the poor receive poor services?' (2004) *Economic and Political Weekly* 935

Keller E 'The revolutionary transformation of Ethiopia's twentieth-century bureaucratic Empire' (1981) 19 (2) *The Journal of Modern African Studies* 307

Kidane M 'Ethiopia's ethnic-based federalism: 10 years after' (2001) 1 (2) *African Issues, Ethnicity and Recent Democratic Experiments in Africa*

Kidane M 'New approaches to state building in Africa: The case of Ethiopia's ethnic-based federalism' (1997) 40 (3) *African Studies Review* 111

Kincaid J 'From cooperative to coercive federalism' (1990) 509 *Annals of the American Academy of Political and Social Science* 139

Kissam P C 'Aexis de Tocqueville and American constitutional law: On democracy, the majority will, individual rights, federalism, religion, civic associations, and originalist constitutional theory' (2007) *Maine Law Review*

Kukathas C 'Liberalism and multiculturalism: The politics of indifference' (1998) 26 (5) *Political Theory* 686

Kymlicka W 'Federalism and secession: At home and abroad' (2000) 13 *Canadian Journal of Law and Jurisprudence* 207

Lapidoth R 'Autonomy: Potential and limitations' (1994) 1 *International Journal on Group Rights* 269

Lefort R 'Powers - *mengist* - and peasants in rural Ethiopia: The May 2005 elections' (2007) 45 (2) *Journal of Modern African Studies* 253

Levey G B 'Equality, autonomy, and cultural rights' (1997) 25(2) *Political Theory* 215

Le Vine V T 'Conceptualising "ethnicity" and "ethnic conflict": a controversy revisited' (1997) 32 (2) *Studies in Comparative International Development* 45

Lindberg S I 'The surprising significance of African elections' (2006) 17(1) *Journal of Democracy* 139

Loper K 'The right to self-determination: Recent developments in international law and their relevance for the Tibetan people' (2003) 33 *Hong Kong Law Journal* 167

Lyon A 'Municipal decentralisation in the Republic of Macedonia: Preserving a multi-ethnic state?' (2011) 8 (3) *Federal Governance* 28

Lyons T 'Closing the transition: The May 1995 elections in Ethiopia' (1996) 34(1) *The Journal of Modern African Studies* 121

Magnet J E 'Collective Rights, cultural autonomy and the Canadian State' (1986) 32 *McGill Law Journal* 170

Maiz R 'Politics and the nation: Nationalist mobilisation of ethnic differences' (2003) 9(2) *Nations and Nationalism* 195

Markakis J 'The military state and Ethiopia's path to socialism' (1981) 21 *Review of African Political Economy* 7

Markakis J 'Garrison Socialism: The case of Ethiopia' (1979) 79 *MERIP Report* 3

Marko J “‘United in diversity’?: Problems of state - and nation-building in post-conflict situations: The case of Bosnia-Herzegovina’ (2006) 30 *Vermont Law Review* 503

Martinez-Vazquez J & Rider M ‘Fiscal decentralisation and economic growth: A comparative study of China and India’ (2006) 1 *Indian Journal of Economic and Business (Special Issue on China and India)* 1

Martinez-Vazquez J & Macnab R M ‘Fiscal decentralization, macrostability and growth’ (2006) 179 (4) *Hacienda Pública Española / Revista de Economía Pública* 25

Matunhu J ‘A critique of modernization and dependency theories in Africa: Critical assessment’ 2011 3 (5) *African Journal of History and Culture* 65

McCann J ‘The political economy of rural rebellion in Ethiopia: Northern resistance to imperial expansion, 1928-1935’ (1985) 18 (4) *International Journal of African Historical Studies* 601

McGarry J & O’Leary B ‘Iraq’s Constitution of 2005: Liberal consociation as political prescription’ (2007) 5 (4) *International Journal of Constitutional Law* 670

McGarry J & O’Leary B ‘The political regulation of national and ethnic conflict’ (1994) 47(1) *Parliamentary Affairs: A Journal of Comparative politics*

McGinnis J O ‘Reviving Tocqueville’s America: The Rehnquist Court’s jurisprudence of social discovery’ (2002) 90 *California Law Review* 485

Medhane T & Young J ‘TPLF: Reform or decline’ (2003) 30 (97) *Review of African Political Economy* 389

Monteux C A ‘Decentralisation: The new delusion of ethnic conflict regulation?’ 2006 8(2) *International Journal on Multicultural Societies* 162

Moore M ‘Diversity or cacophony? New sources of norms in international law symposium: Sub-state nationalism and international law’ (2004) 25 *Michigan Journal of International Law* 1319

Mozaffar S & Scarritt J R ‘Why territorial autonomy is not a viable option for managing ethnic conflict in African plural societies’ (1999) 5 (3-4) *Nationalism and Ethnic Politics* 230

Nagel ‘Constructing ethnicity: Creating and recreating ethnic identity and culture’ (1994) 41 (1) *Social Problems* 152

Nowak M ‘The right of self-determination and protection of minorities in Central and Eastern Europe in light of the case-law of the Human Rights Committee’ (1993) 1 (1) *International Journal on Minority and Group Rights* 7

Olowu D & Smoke P 'Determinants of success in African local governments: an overview' (1992) 12 *Public Administration and Development* 1

Orentlicher D F 'Separation anxiety: International responses to ethno-separatist claims' (1998) 23 *Yale Journal of International Law* 1

Osaghae E 'Ethnic minorities and federalism in Nigeria' (1991) 90 (359) *African Affairs* 237

Osaghae E 'Federalism and the management of diversity in Africa' (2004) 5 (1& 2) *Identity, Culture and Politics* 162

Pieterse J N 'After post-development' (2000) 21 (2) *Third World Quarterly* 175

Pieterse J N 'My paradigm or yours? Alternative development, post-development, reflexive development' (1998) 29 *Development and Change* 343

Porras M 'The city and international law: In pursuit of sustainable development' (2009) 36 *Fordham Urban Law Journal* 537

Porto A & Porto N 'Fiscal decentralization and voters' choices as control' (2000) 3 (1) *Journal of Applied Economics* 135

Prud'homme R 'Fiscal decentralisation in Africa: A framework for considering reform' (2003) 23 *Public Administration and Development* 17

Prud'homme R 'The dangers of decentralization' (1995) 12 (1) *The World Bank Research Observer* 201

Ramaga P V 'Relativity of the minority concept' (1992) 14 (1) *Human Rights Quarterly* 104

Réaume R 'Justice between cultures: Autonomy and the protection of cultural affiliation' (1995) 29 *University of British Columbia Law Review* 117

Ribot J C 'Representation and accountability in decentralized Shelia forestry: Legal instruments of political-administrative control' (2000) *Georgetown International Environmental Law Review* 447

Robinson M 'Does decentralisation improve equity and efficiency in public service delivery provision?' 2007 38 (1) *Institute of Development Studies (IDS) Bulletin* 7

Rondinelli D & Nellis J 'Assessing decentralization policies in developing countries: A case for cautious optimism' 4(1) (1986) *Development Policy Review* 3

Ryan S 'Explaining ethnic conflict: the neglected international dimension' (1988) 14 *Review of International Studies* 161

- Samatar A I 'Ethiopian federalism: Autonomy versus control in the Somali Region' (2004) 25 (6) 1131
- Slater D 'The geopolitical imagination and the enframing of development theory' (1993) 18(4) *Transactions of the Institute of British Geographers* 419
- Smith L 'The Politics of contemporary language policy in Ethiopia' (2008) 24 *Journal of Developing Societies* 207
- Smith T 'The underdevelopment of development literature: The case of dependency theory' (1979) 31(2) *World Politics* 247
- Smoke P 'Decentralisation in Africa: Goals, dimensions, myth and challenges' (2003) 23 *Public Administration and Development* 7
- Steiner J H 'Ideals and counter-ideals in the struggle over autonomy regimes for minorities' (1991) 66 *Notre Dame Law Review* 1539
- Stepan A 'Federalism and democracy: Beyond the U.S. model' (1999) 10 (4) *Journal of Democracy* 19
- Steytler N 'Strangulation of local government' (2008) 3 *Journal of South Africa* 518
- Steytler N & Fessha Y 'Defining local government powers and functions' (2007) 124(2) *The South African Law Journal* 320
- Tapscott C 'Does one size-fit-all? The case for the asymmetrical devolution of local power in South Africa' (2004) 39 (1) *Journal of Public Administration* 200
- Tarr A G 'Subnational constitutions and minority rights: A perspective on Canadian provincial constitutionalism' (2008) 2 *Revue québécoise de droit constitutionnel* 174
- Teshome G W 'Conflict of ethnic identity and the language of education policy in contemporary Ethiopia' (1999) 6 (3) *Northeast African Studies* 75
- Teune H 'Local government and democratic political development' (1995) 504 *Annals of the American Academy of Political and Social Science* 11
- Toggenburg G N 'Minorities (. . .) the European Union: Is the missing link an "of" or a "within"?' (2003) 25 (3) *European Integration* 273
- Van der Beken C 'Ethiopia: Constitutional protection of ethnic minorities at the regional level' (2007) 20(1) *Afrika Focus* 105
- Veron R & Williams G 'Decentralized corruption or corrupt decentralization? Community monitoring of poverty-alleviation schemes in eastern India' (2006) 34 (11) *World Development* 1922

- Walle E 'Ethiopia: Democracy and the politics of ethnicity' (1993) 40(2) *Africa Today: The Horn of Africa: Reconstructing Political Order* 29
- Watts R 'Foreword: States, provinces, lander, and cantons: International variety among subnational constitutions' (2000) 31 *Rutgers Law Journal* 941
- Weller M 'Settling self-determination conflicts: Recent developments' (2009) 20 *European Journal of International Law* 111
- Westerland K 'Nepal's community forestry program: another example of the tragedy of the commons or a realistic means of balancing indigenous needs with forestry conservation?' (2007) 18 *Colorado Journal of International Environmental Law and Policy* 189
- Wolff S 'Managing ethnic conflict: The merits and perils of territorial accommodation' (2011) *Political Studies Review* 26sr
- Wolff S 'Approaches to conflict resolution in divided societies: The many uses of territorial governance' (2010) 5 *Ethnopolitics paper* 1
- Wolff S 'Complex Power-sharing and the Centrality of Territorial Self-governance' (2009) 8 (1) *Contemporary Conflict Settlements, Ethnopolitics* 27
- Wondwosen T 'Ethiopian opposition political parties and rebel fronts: past and present' (2009) 9 (1) *International Journal of Social Sciences* 60
- Wondwosen T 'Ethnicity and political parties in Africa: the case of ethnic-based parties¹ in Ethiopia' (2008) 1 (5) *The Journal of International Social Research* 780
- Wright D S 'Federalism and intergovernmental relations Traumas, tensions, and trends' (2003) 76 (3) *Spectrum: The Journal of State Government* 10
- Xie D, Zou H & Davoodi H 'Fiscal decentralization and economic growth in the United States' (1999) 45 *Journal of Urban Economics* 228
- Yi L 'Ehtnicisation through schooling: The mainstream discursive repertoires of ethnic minorities' (2007) 192 *The China Quarterly* 933
- Yonatan F 'Ethnic identity and institutional design: Choosing electoral system for divided societies' *CILSA* (2009) 49(4) 2009 323
- Yonatan F 'Whose power is it anyway? The courts and constitutional interpretation in Ethiopia' (2008) 22 (1) *Journal of Ethiopian Law* 128
- Young J 'Along Ethiopia's Western Frontier: Gambella and Benishangul in Transition' (1999) 37 (2) *The Journal of Modern African Studies*

Young J 'Regionalism and democracy in Ethiopia' (1998) 19 (2) *Third World Quarterly* 191

Young J 'Ethnicity and power in Ethiopia' (1996) 23 (70) *Review of African Political Economy* 531

Zemelak A 'Local government in Ethiopia: Still an apparatus of control?' (2011) 15 *Law Democracy and Development* 1

Zemelak A & Yonatan F 'The Constitutional Status of Local Government in Federal Systems: The Case of Ethiopia' (2012) 50 (4) *Africa Today* 89

Other documents

Aalen L *Institutionalising the politics of ethnicity: Actors, power and mobilisation in southern Ethiopia under ethnic federalism* Dissertation submitted for the degree of PhD in political science University Oslo (2008)

Aalen L *Ethnic federalism in a dominant party state: The Ethiopian experience 1991-2000* Chr. Michelsen Institute Development Studies and Human Rights (2002)

Afar pastoralist development association *Update on relief and development activities* (2007)

Alemayehu GM 2010; *Ethiopia: Speaking truth to the powerless* (2010) http://nazret.com/blog/index.php?blog=15&title=ethiopia_speaking_truth_to_the_powerless&more=1&c=1&tb=1&pb=1 (last accessed 10 March 2011)

Asnake K *Federalism and ethnic conflict in Ethiopia: A comparative study of the Somali and Benishangul-Gumuz regions* Leiden: University of Leiden PhD dissertation (2009) Bahl R *Implementation rules for fiscal decentralisation* International Studies Program School of Policy Studies Georgia State University (1999)

Berhanu G B *Restructuring state and society: Ethnic federalism in Ethiopia* SPIRIT & Department of Culture and Global Studies Aalborg University (2007)

Berhanu L *Note on fiscal federalism, service delivery and capacity building: The case of Ethiopia* Conference on the role of sub-national jurisdictions in effort to achieve the MDGs 7-9 May (2009)

Bevan P & Pankhurst A *Power structures and agency in rural Ethiopia: Development lessons from four community case studies* Paper prepared for the Empowerment Team in the World Bank Poverty Reduction Group (2007)

Bird K *The political representation of women and ethnic minorities in established democracies: A framework for comparative research* Working Paper presented for the Academy of Migration Studies in Denmark (AMID), Aalborg University 11 November, (2003)

Bird M R & Ebel R D *Fiscal federalism and national unity* (2005) available at <http://www.urban.org/publications/1000803.html> (last accessed on 6 May 2012)

Canadian International Development Agency (CIDA) *Ethiopia institutional Governance Review: Grassroots empowerment review of progress and prospects* (draft) (2005)
<http://www.constitutionnet.org/files/Ethiopia%20Institutional%20Governance%20Review.pdf> (last accessed on 6 May 2012)

Cohen J & Stephen B P *Administrative decentralization: A new framework for improved governance, accountability, and performance*

Crook R & Sverrisson A *To what extent can decentralised forms of government enhance the development of pro-poor policies and improve poverty-alleviation outcomes?* (1999)

Crook R *Decentralisation and good governance* Forum Federation (undated)

Dercon S *Growth and poverty in Ethiopia in the 1990s: An economic perspective* Centre for the Study of African Economies, Oxford University (2000)

Ebel R & Yilmaz S 'Concept of fiscal decentralization and worldwide overview' in Commission on Fiscal Imbalances *Texts submitted for the international symposium on fiscal imbalance* Report Supporting Document 3 (2002) 145 available at http://www.groupe.finances.gouv.qc.ca/desequilibrefiscal/en/pdf/recueil_en.pdf (last accessed 2 June 2012)

Fjeldsrad H *Intergovernmental fiscal relations in developing countries* A review of issues Chr. Michelsen, Institute Development Studies and Human Rights (2001)

Hadingham T *Decentralisation and development planning: Some practical considerations* (2003)

Hellande J *Study of the impact of the work of Save the Children Norway in Ethiopia: building civil society* Norwegian Agency for Development Cooperation Oslo (2004)

Heymans C & Mussa M *Intergovernmental fiscal reforms in Ethiopia: Trends and issues* (2004)

Human Rights Watch *Ethiopia: Repression sets stage for non-competitive elections* (2010) available at <http://www.hrw.org/en/news/2008/04/09/ethiopia-repression-sets-stage-non-competitive-elections> (accessed 25 July 2010)

International Crisis Group *Ethiopia: Ethnic federalism and its discontents* Africa Report N°153 – 4 September (2009)

Kauzya M *Decentralization: Prospects for peace, democracy and development* Division for Public Administration and Development Management United Nations Department of Economic and Social Affairs DPADM Discussion paper (2005)

Kelkelachew A & Falge C *Field exploration on conflict prevention and transformation experiences, SNNPR, Afar, and Somali regions* (2006)

Koryakov K & Sisk T D *Democracy at local level: A guide for the south caucuses*
http://www.idea.int/publications/dll_caucasus/upload/English_representive%20democracy.pdf

McKinlay Douglas Limited *Local government structure and efficiency: A report prepared for Local Government New Zealand* (2006)

Mclure C E Martinez-Vazquez J *The assignment of revenues and expenditures in intergovernmental fiscal relations* (undated)
<http://www1.worldbank.org/publicsector/decentralization/March2004Course/AssignmentRevenues.pdf> (last accessed on 10 April 2012)

Medhane T *Gambella: The impact of local conflict on regional security* Institute for Security Studies (2007)

Melakou T *Structural and conjectural constraints on the emergence of civil society/democracy in Ethiopia 1991-2005* D LITT Et PHIL in the subject Sociology University of South Africa (UNISA)

Mennasemay M *Ethiopia: The opposition, democracy and the electoral system* (2003) <http://allafrica.com/stories/200308080683.html> (last accessed 24 March 2012)

Merera G *Ethiopia: A transition without democratisation* (2002) available at <http://www.oromopeoplescongress.org/docs/ethiopia-transition-without-democracy-Merera.pdf> (last accessed 25 September 2010)

Olowu D *Decentralization policies and practices under Structural Adjustment and Democratization in Africa* United Nations Research Institute for Social Development: Democracy, Governance and Human Rights Programme Paper Number 4 (2001)

Packel D *Electoral institutions and local government accountability: A literature review* Social Development Papers: Local Governance and Accountability series Paper No. 111 (2008)

Platteau J and Gaspart F *The "Elite capture" Problem in participatory development* Centre for Research on the Economics of Development University of Namur: Namur (2003)

Powell A 'Ethiopia opposition group to boycott local elections' *Associated Press* (April 10, 2008)

Prud'homme R & Shah A *Centralization v. decentralization: the devil is in the details (draft)* (2002) <http://www.forumfed.org/libdocs/FedMerco02/116-FEME0206-int-PrudhommeShah.pdf> (last accessed on 28 April 2012)

Rayner P & Ashcrofte K 'Ethiopian higher education: Expansion, dilemmas and quality' (2011) 24 (5) *World Education News and Reviews* <http://www.wes.org/ewenr/11june/feature.htm> (Accessed on 23 May 2012)

Schiller T *Direct democracy in modern democratic evolution* International Symposium on Initiatives, Referendums, and Direct Democracy (undated) available at http://www.tfd.org.tw/english/docs/Report_03_DM_P_03_14.pdf (last accessed on 2 June 2012)

Scott Z *Decentralisation, local development and social cohesion: An analytical review* Governance and Social Development Resource Centre (GSDRC) Research Paper (2009)

Shah A *Sponsoring a race to the top: The Case for results-based intergovernmental finance for merit goods* The World Bank World Bank Institute Governance Division: Policy Research Working Paper 5172 (2010)

Shah A *Fiscal decentralization in developing and transition economies progress, problems, and the promise* World Bank Policy Research Working Paper 3282 (2004)

Sharma C K *When does decentralization deliver? The dilemma of design* Munich Personal RePEc Archive (MPRA) (2005)

Smith L B *Public policy and public participation engaging citizens and community in the development of public policy* Population and Public Health Branch Atlantic Regional Office Health Canada (2003) available at http://www.phac-aspc.gc.ca/canada/regions/atlantic/pdf/pub_policy_partic_e.pdf (last accessed on 17 May 2012)

Smoke P *Fiscal decentralization in developing countries a review of current concepts and practice* United Nations Research Institute for Social Development (UNRISD) Democracy, Development and Humanrights Programme Paper (2001)

Spielman D J, Cohen M J & Tewodaj M *Mobilizing rural institutions for sustainable livelihoods and equitable development a case study of local governance and smallholder cooperatives in Ethiopia* International Food Policy Research Institute (2008)

Staff Report to the New York City Charter Revision Commission *Nonpartisan elections: Preliminary options and recommendations* (2003) available at http://www.nyc.gov/html/charter/downloads/pdf/nonpartisan_elections.pdf (last accessed on 18 May 2012)

Steytler N *An international perspective on the constitutional recognition of local government*

http://www.forumfed.org/pubs/International_Perspectives_on_the_Recognition_of_Local_Government.pdf (last accessed on 17 April 2012)

Tranchant J *Decentralization and ethnic Conflict: The role of empowerment* CERDI-CNRS, *Universit'e d'Auvergne* Munich Personal RePEc Archive (MPRA) (2007)

Tsegaye R *State Constitutions in Federal Ethiopia: A Preliminary Observation*. <http://camlaw.rutgers.edu/statecon/subpapers/regassa.pdf> (2004) (last accessed on 23 April 2012)

United Nations Development Programme (UNDP) *Decentralisation: A sampling of definitions* Working paper prepared in connection with the Joint UNDP-Government of Germany evaluation of the UNDP role in decentralization and local governance (1999)

Van der beken C *The Ethiopian federal state structure and the accommodation of ethnic diversity: A view from the Southern Nations, Nationalities and Peoples Region* Ghent University – Faculty of Law Non-Western Law Working Paper (2003)

Vaughan S *Ethiopia: A situation analysis and trend assessment* United Nations High Commissioner for Refugees, Protection Information Section (DIP) (2004)

Vaughan S *Ethnicity and power in Ethiopia* PhD The University of Edinburgh (2003)

Werner J & Nguyen-Thanh D *Municipal infrastructure delivery in Ethiopia: A bottomless pit or an option to reach the Millennium Development Goals?* https://editorialexpress.com/cgi-in/conference/download.cgi?db_name=IIPF63&paper_id=317 (last accessed 28 April 2012)

Weingast B R *Second generation fiscal federalism: Implications for decentralized democratic governance and economic development available at http://policydialogue.org/files/events/Weingast_Second_Generation_Fiscal_Federalism.pdf* (last accessed 2 June 2012)

Wolde-Selassie A *The dynamics of socio-economic differentiation and change in the Beles-Valley (Pawe) resettlement area, North-Western Ethiopia* A thesis submitted to the School of Graduate Studies Addis Ababa University in partial fulfilment of the requirements for the Degree of Masters of Art in Social Anthropology (1997)

World Bank *Protection of Basic Services: Project Information Document* Report No AB.:2146 (2006) www.dagethiopia.org/index.php?option=com_docman (last visited 1 December 2011)

World Bank Country Office in Ethiopia *Ethiopia woreda study* Country Department 6 African Region (2001)

Yilmaz S & Venugopal V *Local government accountability and discretion in Ethiopia* Georgia State University Andrew Young School of Policy Studies International Studies Program Working Paper 08-38 (2008)

Yonatan F *Institutional recognition and accommodation of ethnic diversity: Federalism in South Africa and Ethiopia* Thesis (PhD.)--University of the Western Cape (2008)

Yonatan F *Federalism and intra-substate minorities: Constitutional principles for accommodating intra-substate minorities* IACL World Congress Mexico (2010 b)

Government policy papers, manuals, and reports

Central Statistics Agency of Ethiopia Statistical Tables for the 2007 Population and Housing Census of Ethiopia: SNNPR (2007) <http://www.csa.gov.et/> (last accessed on 20 May 2012)

Federal Democratic Republic of Ethiopia: Ministry of Agriculture and Rural Development *Ethiopia's agricultural sector policy and investment framework (pif) 2010-2020* (draft final report) (2010)

Federal Democratic Republic of Ethiopia: Ministry of Education *Education and training policy* (1994)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Finance and Economic Development (MoFED) *Growth and transformation plan 2010/11-2014/14(GTP)* (2010)

Federal Democratic Republic of Ethiopia (FDRE) Ministry of Finance and Economic Development (MoFED) *Ethiopia: 2010 MDGs report: Trends and prospects for meeting MDGs by 2015* (2010)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Finance and Economic Development (MoFED) *Local government development planning guide* (2010)

Federal Democratic Republic of Ethiopia (FDRE) Population Census Commission (PCC) *Summary and Statistical Report of the 2007 Population and Housing Census Results* (2008)

Federal Democratic Republic of Ethiopia: National Electoral Board of Ethiopia (NEBE) *A report of National Electoral Board of Ethiopia (NEBE) the submitted to the FDRE House of Peoples Representatives* (2000 Ethiopian Calendar)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Capacity Building (MoCB) *Draft Woreda (Local Government) for Development by the Regional Government Public Sector Capacity Building Programme: District Level Decentralisation Programme* (2007)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Capacity Building: District Level Decentralisation Sub-Programme (MoCB) *Human resource planning survey in selected rural woreda Tigray, Amhara, Oromia, and SNNP regional governments* (2007)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Works and Urban Development: *Plan for accelerated and sustained development to end poverty (2005/06-2009/10): Plan for Urban Development and Urban Good Governance* (2007)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Finance and Economic Development (MoFED) *Ethiopia Plan for Accelerated and Sustained Development to End Poverty (PASDEP)* (2005)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Finance and Economic Development (MoFED) *Ethiopia: Sustainable Development and Poverty Reduction Program (SDPRP)* (2002)

Federal Democratic Republic of Ethiopia (FDRE): Ministry of Finance and Economic Development (MoFED) *Interim Poverty Reduction Strategy Paper 2000/01- 2002/03* (2000)

National Electoral Board of Ethiopia (NEBE) (NEBE) *Official results of the 23rd may 2010 general election* <http://www.electionethiopia.org/en/> (last accessed on 27 May 2012)

Ye-Aqim Ginbata minister-Ye-geter woreda akim ginbata program Ye-hizib tesatfo maregagecha manual (1997 Ethiopian Calendar) Ministry of Capacity Building: Rural woreda capacity building programme (2005)

Ye-Etyopiya Biherawi Mircha Bord Be Oromiya ena be Somali kililoch wosen lay bemigegnu kebelewoch wust yeminoru hizboch bemeretut kilil enditedaderu yetekahedewin hizbe-wusane afetsatsem ena yedemits asetat wuttet ye-wusane hasab betemelekete ke-ethyopiya biherawi mircha bord le-federation mikir bet yekerebe report (1997 Ethiopian Calendar) (National Electoral Board of Ethiopia *A report submitted to the FDRE House of Federation on execution and results of the referendum conducted to allow peoples residing in kebeles on border areas of the Oromia and Somali regions to determine the regional state within which they choose to be administered* (2005))

Constitutions and statutes

Addis Negari Gazeta of the City Government of Addis Ababa: Addis Ababa City Government executive and municipal Services Organs establishment Proclamation 2/2003 re-amendment Proclamation No. 20 (2004)

Addis Negari Gazeta of the City Government of Addis Ababa: Addis Ababa City Government executive and municipal Services Organs establishment (amendment) Proclamation No. 14 (2004)

Addis Negari Gazeta of the City Government of Addis Ababa: Addis Ababa City Government executive and municipal Services Organs establishment Proclamation No. 2 (2003)

Addis Negari Gazeta of the City Government of Addis Ababa: Addis Ababa City Government Sub-cities and *qebeles* establishment proclamation No 1 (2003) amendment Proclamation No. 13(2004)

Debut Negarit Gazeta of Southern Nations Nationalities and peoples Regional State (SNNPR): A revised proclamation to provide for rural land use fee and agricultural activities income tax in the Southern Nations Nationalities and Peoples Regional State Proclamation No. 122 (2008)

Debut Negarit Gazeta of Southern Nations Nationalities and peoples Regional State (SNNPR): The Revised Constitution of the Southern Nations, Nationalities and Peoples National Regional State: Proclamation No. 35 (2001)

Debut Negarit Gazeta of Southern Nations Nationalities and peoples Regional State (SNNPR): The revised cities proclamation: Proclamation No. 103 (2006)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Definition of powers and duties of the executive organs of the federal democratic republic of Ethiopia Proclamation No. 691 (2010)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Charities and Societies Proclamation No. 621(2009)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia 2008 Fiscal Year Supplementary Budget Proclamation No. 579 (2008)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: A proclamation to provide for urban plans No. 574 (2008)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Solid Waste Management Proclamation No. 513 (2007)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Definition of Powers and Duties of the Federal Democratic Republic of Ethiopia Proclamation No. 471(2005)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Expropriation of landholdings for public purposes and payment of compensation proclamation No. 455 (2005)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Dire Dawa Government Charter Proclamation No. 416 (2004)

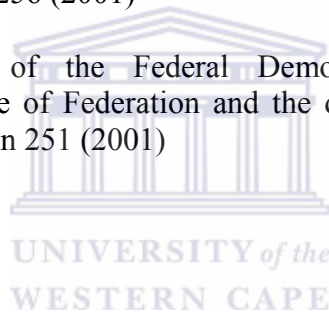
Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Addis Ababa City Government Revised Charter Proclamation No. 361(2003)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: System for the Intervention of the Federal Government in the Regions Proclamation No 359(2003)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Re-Enactment of Urban Lands Lease Holding Proclamation No 272 (2002)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Reorganization of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 256 (2001)

Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Consolidation of the House of Federation and the definition of its powers and responsibilities Proclamation 251 (2001)



Lisane Hig Gazeta of the Benishangul Gumuz Regional State: The Revised Constitution of the Benishangul Gumuz Regional State Proclamation No 31 (2002)

Lisane Hig Gazeta of the Benishangul Gumuz Regional State: A proclamation to strengthen a decentralised *woreda* level administration in Benishangul-Gumuz regional state Proclamation No. 87 (2010)

Lisane Hig Gazeta of the Benishangul Gumuz Regional State: Proclamation to determine the organisation powers, and functions of and internal working procedures of nationalities councils and their offices No. 73 (2008)

Lisane Hig Gazeta of the Benishangul-Gumuz Regional State: A proclamation to provide for the establishment and organisation of urban centres of the Benishangul-Gumuz Regional State and definition of their powers and duties Proclamation No. 69 (2007)

Magalata Oromia: A proclamation to amend Proclamation No 65 (2003) the urban local government of Oromia National Regional State Proclamation No. 116 (2006)

Magalata Oromia: Regulation issued to implement Oromia urban administration proclamation No 65 (2003) Proclamation No. 53(2005)

Magalata Oromia A proclamation to provide the procedure for peaceful demonstration and public political meeting Proclamation No. 85 (2004)

Magalata Oromia: The urban local government Proclamation No. 65(2003)

Magalata Oromia: A regulation issued to determine the functions and powers of *woredas* and *kebeles* in Oromia Regional State Proclamation No. 30 (2003)

Magalata Oromia: A proclamation to amend Oromia rural land use rent and agricultural activities income tax proclamation No. 8 (1992) Proclamation No 64 (2002)

Magalata Oromia The Revised Constitution of the Oromia National Regional State: Proclamation No. 46 (2001)

Magalata Oromia: A proclamation to provide for the rural land use rent and agricultural activities income tax in Oromia No. 8 (1992)

Negarit Gazette of the Afar Regional State: A proclamation to establish and define powers and functions of Semera City Administration: Proclamation. No 33 (2006)

Negarit Gazeta of the Afar National Regional State: Proclamation to establish and define powers and functions of Afar National Regional State Zonal Administration Proclamation No. 29 (2005)

Negarit Gazette of the Tigray Regional State: A proclamation to strengthen self-administration and to determine the functions and powers of *woreda* administration Proclamation No. 99 (2006)

Negarit Gazette of the Tigray Regional State: A proclamation issued to provide for rural land administration and use Proclamation No. 136 (2008)

Negarit Gazette of the Tigray Regional State: A proclamation issued to strengthen self-governance and define the powers and functions of *woreda* administration: Proclamation No. 99 (2005)

Negarit Gazette of the Tigray Regional State: A regulation on municipal trade licences and services fees, taxes, and dues No. 6 (1995)

Negarit Gazeta of the Gembella Peoples' National Regional State: The Revised Constitution of the Gambella National Regional State: Proclamation No. 27 (2002)

Negarit Gazette of the Tigray Regional State: A Proclamation issued to approve the Revised Constitution of Tigray Regional State: Proclamation No 45. (2001)

Negarit Gazette of the Federal Democratic Republic of Ethiopia: The amended electoral law of Ethiopia: Proclamation No. 532 (2003)

Negarit Gazeta of the Ethiopian Transitional Government: A Proclamation to provide for the establishment of national regional self-governments No. 7 (1992)

Negarit Gazeta Peaceful and Democratic Transitional Conference of Ethiopia: Transitional Period Charter of Ethiopia: Proclamation No. 1 (1991)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: A Proclamation to establish autonomous and administrative regions of the People's Democratic Republic of Ethiopia Proclamation No. 14 (1987)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: A proclamation to provide for the consolidation of peasant associations Proclamation No. 223 (1982)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: Urban dwellers associations and Urban administration proclamation Proclamation No. 206 (1981)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: Urban dwellers associations and consolidations and Municipalities Proclamation No. 104 (1976)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: A proclamation to provide for the public ownership of rural lands Proclamation No. 31 (1975)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: A proclamation to provide for government ownership of urban lands and extra houses Proclamation No. 47 (1975)

Negarit Gazeta of the People's Democratic Republic of Ethiopia: A proclamation to provide for the organisation and consolidation of peasant associations Proclamation No. 71 (1975)

Negarit Gazeta of the Ethiopian Empire: A proclamation to provide for the control of municipalities and townships Proclamation No. 74 (1945)

Negarit Gazeta of the Ethiopian Empire: Administration of justice proclamation: Proclamation No. 2 (1942)

Negarit Gazeta of the Ethiopian Empire: Decree 1 (1942)

The Constitution of the Republic of South Africa South (1996)

Hungarian Act LXXVII of (1993) on the Rights of National and Ethnic Minorities

The Revised Constitution of the Afar National Regional State (2001)

The Revised Constitution of the Somali National Regional State (2001)

Zikre Hig of the Amhara National Regional State in the Federal Democratic Republic of Ethiopia: The Revised Constitution of the Amhara National Regional State Proclamation NO. 59 (2002)

Zikre Hig of the Amhara National Regional State in the Federal Democratic Republic of Ethiopia: Amhara national Regional State Argoba Nationality Woreda Establishment Proclamation No. 130 (2006)

International instruments

Aberdeen: Commonwealth principles on good practice for local democracy and good governance (2005) available at <http://www.clgf.org.uk/userfiles/1/file/AberdeenAgendaleaflet&pp.pdf> (last accessed on 17 May 2012)

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities General Assembly resolution 47/135 of 18 December (1992)

Document of the Copenhagen Meeting of the Conference for Security and Co-operation in Europe (CSCE) (1990) Recommendation 1201 (1993) <http://assembly.coe.int/Documents/AdoptedText/ta93/EREC1201.HTM> (last accessed on 28 May 2012)

Document of the Copenhagen Meeting of the Conference for Security and Co-operation in Europe (CSCE) (1990) available at <http://www.osce.org/odihr/elections/14304> (last accessed on 28 May 2012)

International Labour Organisation (ILO) Framework Convention for the Protection of National Minorities Convention 169 (1989)

International Union of Local Authorities (IULA) World Wide Declaration of Local Self-government Toronto Declaration (1993) available at http://www.bunken.nga.gr.jp/siryousitu/eturansitu/charter/iula_decl_txt.html (last accessed on 17 May 2012)

The Congress of Local and Regional Authorities Resolution on 'Federalism, regionalism, local autonomy and minorities' Resolution 52 (1997) available at <https://wcd.coe.int/ViewDoc.jsp?id=848841&Site=COE> (last accessed on 28 May 2012)

The European Charter of Local Self-Government Strasbourg, 15.X (1985) available at <http://conventions.coe.int/Treaty/en/Treaties/html/122.htm> (last accessed on 28 May 2012)

The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note (1999) available at <http://www.osce.org/hcnm/32240> (last accessed on 28 May 2012)

United Nations General Assembly Millennium Declaration Resolution 55/2 (2000)

United Nations General Assembly Declaration on the Right to Development Resolution 41/128 of 4 December (1986) available at <http://www.un.org/documents/ga/res/41/a41r128.htm> (last accessed on 28 May 2012)

United Nations General Assembly Eritrea: Report of the United Nations Commission for Eritrea; Report of the Interim Committee of the General Assembly on the report of the United Nations Commission for Eritrea Resolution 390 (V) (1950) available at <http://www.un.org/documents/ga/res/5/ares5.htm> (last accessed on 28 May 2012)

United Nations Economic and Social Council (UNESCO) Universal Declaration on Cultural Diversity (2001) available at <http://unesdoc.unesco.org/images/0012/001271/127160m.pdf> (last accessed on 28 May 2012)

Universal Declaration on Democracy Declaration adopted without a vote by the Inter-Parliamentary Council at its 161st session (Cairo, 16 September (1997)) available at <http://www.ipu.org/cnl-e/161-dem.htm> (last accessed on 28 May 2012)

Web sites

Central Intelligence Agency (CIA) *The World Fact Book* <https://www.cia.gov/library/publications/the-world-factbook/geos/et.html> (last accessed on 19 May 2012)

Dire Dawa City Administration official website <http://www.dire-dawa.gov.et/site/index.php> (last accessed on 28 February 2012)

Official website of the National Electoral Board of Ethiopia <http://www.electionethiopia.org/en/> (last accessed on 28 February 2012)

Official website of the Southern Nations Nationalities and Peoples Government website <http://www.snnprs.gov.et> (last visited on 27 February 2012)

South Ethiopian Peoples' Democratic Movement (SEPDM) <http://www.eprdf.org.et/EPRDFE/faces/ssi/member.jsp?type=SEPDM> (last accessed on 28 February 2012)