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**ADDIS ABABA UNIVERSITY**  
**COLLEGE OF LAW AND GOVERNANCE STUDIES**  
**SCHOOL OF LAW**  
**CONSTITUTIONAL AND PUBLIC LAW LLM PROGRAM**

**“EMERGING” CHALLENGES RESTRAINING ADDIS  
ABABA’S SELF-GOVERNANCE WITHIN ETHIOPIAN  
ETHNO-FEDERAL DISPENSATION**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
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IN CONSTITUTIONAL AND PUBLIC LAW**

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GOVERNANCE STUDIES, SCHOOL OF LAW  
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## **Declaration**

I GenanewYaregalBelete declare that this thesis is unique and has never been presented in another university. I further declare that any information used has been properly acknowledged to the best of my knowledge.

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This thesis has been submitted for examination with my approval as University supervisor.

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Date: June 2022

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## **ACRONYMS**

*AAC - Addis Ababa City*

*AACA - Addis Ababa City Administration*

*AACG - Addis Ababa City Government*

*AACC - Addis Ababa City Council*

*FCC - federal Capitals City*

*CC - Capital City*

*CCI - Council of Constitutional Inquiry*

*AACRC - Addis Ababa City Revised Charter*

*FCCM - Federal Capital City Model*

*FDM - Federal District Model*

*CSM - City-State Model*

*CwSM- City with in aState Model*

*IGR - Intergovernmental relation*

*IGFR - Intergovernmental Fiscal Relation*

*SNGs - Sub-National Governments*

*HOPR - House of Peoples Representatives*

*HOF - House of Federation*

*TPLF - Tigray People Liberation Front*

*ORS - Oromia Regional State*

*ORSG - Oromia Regional State Government*

*NNP - Nation Nationalities and Peoples*

*MP - Ministry of Peace*

*FDRE - Federal Democratic Republic of Ethiopia*

*SPZIDP - Special Zone Integrated Development Plan*

*EPRDF - Ethiopian People Revolutionary Democratic Front*

*PP – Prosperity Party*

*RSRF – Regional States Relation Forum*

## **Abstract**

*The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationship consistent with federal principles. So, Federal system has to address the question as to what are the particular problems that the federal system intended to solve up to its essence. As federal principles also apply for Federal Capital city(FCC) as a subunit, it requires special scrutiny because of FCC's unique nature. For FCC is the political-economic center, it comes at the heart of the federal balance. To this effect, the fundamental challenges unique to most government of FCC consist of lack of efficient government for the metropolitan area, including both the city's center and its suburbs. Hence, mostly federation faces a challenging task in preventing the domination of FCC by one of the states, in determining how to govern FCC and managing conflicting interests of federal government and residents of the FCC. As Such a federation needs to address federal-capital-suburbs tension; first, how much power and autonomy should the FCC need to have? Second, how should conflict of interest among local/FCC, national interests, and suburbs is compromised?*

*The problem even excerpted in the case of Addis Ababa City (AAC), mainly because AAC's FCC mode, extent of decentralization, territorial jurisdiction, and ultimately self-governing status within Ethiopian ethno-federal dispensation remains indeterminate. Yet, AAC is the federal capital, seat of Oromia Regional state (ORS) and headquarter for African Union (AU) as well as considered to be autonomous city administration; as such it creates distinctive complex city capturing special scrutiny due to multiplicity of competing interest within the unique ethno-federal genesis of Ethiopian federation. Hence, AAC represents an epic in the political dilemma of Ethiopia; group vs. individual, self-rule vs. shared rule, residency vs. ethnic identity, capital vs. seat, territory vs. location, devolution vs. delegation vs. DE concentration, center vs. periphery special interest vs. equal interest. Thus it requires scrutinizing as to which federal notion accounts for the original rationale in Ethiopian federal scheme resulted in "emerging" challenges constraining AAC's self-governance status. The issue deepens to the heart of politics to the extent inquiring the "denominator" (who is "self" or "the people") and scope of self-governance right within Ethiopian ethno-federal dispensation in general and AAC in particular. It entails analyzing whether and how AAC should walk through the path of article 8, 39, and 47 and/or 49 of the constitution or resort to determination beyond constitutional ambit, to realize its self-governance.*

*Basic Terms: emerging challenges, federation origin, extent of decentralization, FCC models, Ethno-Federation, and self-governance/determination, fiscal federalism*

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## Chapter One Introduction

### 1.1. Background of the study

Almost all states extol a prior value on their Capital City (CC). It serves as administrative pivots, centers of economic, social, and cultural activity, and also works as national emblems that represent the shared ideals of a country.<sup>1</sup>The Latin term *caput*, which means head, is the source of the English word capital, which indicates a primacy rank.<sup>2</sup>As such, most CCs have to live with competing jurisdictions and complex political-economy<sup>3</sup> arrangements, often leading to conflicts of interest between different levels of governance.<sup>4</sup>Further, national capitals comprise institutions to deliver national as well as local government services.<sup>5</sup>Particularly in federations, the capital city is frequently thought to play a significant and complex role. As Elazar explains the central role of capital cities; *true federal systems do not have capitals, they have seats of government*.<sup>6</sup>The concept of the ‘seat’ of government as opposed to the ‘capital’ city is particularly important for ‘coming together’ federation which entails planned city.<sup>7</sup>

Though political and economic pivotal is the major attribute of FCC, political science rarely has questioned the normative basis for selecting the FCC model and governance scheme. Much focus had not been exerted on the relationship between the geneses of federation and how this can impact choice of FCC, and its governance scheme. Instead, literatures have primarily concentrated on how to account for the formation of a federation as opposed to a unitary state.<sup>8</sup>As a result, it is unclear whether the same factors that support the formation of a federation also support delineating a FCC models and its governance design.<sup>9</sup>Particularly, the case of AAC is much complex entailing special emphasis due to unique nature of Ethiopian ethno-federation and AAC’s vague self-

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<sup>1</sup>Anthony Gilliland, Choosing the Federal Capital: A Comparative Study of the United States, Canada and Australia in Klaus-Jürgen Nagel (ed.) *The problem of the capital city; New research on federal capitals and their territory*, 2013, p. 25 <https://www.researchgate.net/publication/287994877> accessed February 1 2022.

<sup>2</sup>Anthony (n 1) in Klaus-Jürgen (ed.), p.26

<sup>3</sup>As stated by Collinson and Clammer political-economy explains the intersection of political and economic processes that constantly shape the power relationships, and the processes that create, sustain and transform these relationships over time enshrined in modern states.

<sup>4</sup>Niranjan Shawoo and Shubh Soni, ‘Statehood or Autonomy: Rethinking Governance in India’s Capital,’ 2015, Occasional Paper, Observer Research Foundation, p.54 <<https://www.orfonline.org/research/st...>>

<sup>5</sup>Jean Gottmann ‘Capital Cities’ (1983) 50 *Athens Center of Ekistics* 88 <<https://www.jstor.org/stable/43620301>> accessed Jan 1 2022.

<sup>6</sup>Anthony Gilliland (n 1) in Klaus-Jürgen Nagel (ed.), p.26 *Capital implies a place at the top of the governmental pyramid whereas ‘seat’ appropriately suggests a place of assembly*

<sup>7</sup>In this case choosing a capital or seat of government is a decision that was made mostly during the federation’s founding.

<sup>8</sup>Enid Slack and Rupak Chattopadhyay (ed), *Finance and Governance of Capital Cities in Federal Systems; Thematic Issues in Federalism*, McGill-Queen’s University Press, 2009, Volume I, p.4

<sup>9</sup>Sean Mueller, ‘Federalism and the Concept of Political Territoriality Towards an Analytical Framework for Comparative Territorial Politics’ 2012, p.101 <<https://www.cairn.info/revue-l-europe-en-formation-2->> accessed on Jan 2022

governance status. As such the emerging challenges constraining AAC can rarely be grasped unless examined from the perspective of the very nature or origin of the ethno-federal dispensation.

The contentious status of AAC was inserted by Article 2 of the transitional Charter.<sup>10</sup>With the exception of AAC, the ethnic basis of the state organization was visible, as was the attempt to match a region to a specific ethnic group. This had a significant impact on the city's politics, as the city was completely encircled by the newly formed ORS which also made AAC its seat of Oromia Regional State Government (ORSG).<sup>11</sup>Yet, the Proclamation no 7/1983 elevated AAC to the rank of one of the country's fourteen newly constituted regions.<sup>12</sup>The capital, however, lost its position as a region following the ratification of the present constitution in 1995. Hence, the challenge regarding AAC stems from the imperative to strike adequate balance between residents' constitutional rights to local self-government and the national government's need to maintain sufficient authority over the city, and ORS special interest over AAC. In addition, contrary to the notion of federal district model which aims to prevent the capital from being controlled by one of the states, there has been "special interest" claim by ORS.<sup>13</sup>While the Federal Democratic Republic Of Ethiopia (FDRE) constitution regulates apparently Inter-Governmental Relation (IGR) between AAC and ORS within Ethiopian federal scheme stating "...arising from the location of AAC within the State of ORS..."yet, the Revised Constitution of ORS defined the same under Article 2(1) as"... uninterrupted territory ...."As such ORS revised constitution does not recognize AAC as separate territorial entity, while the federal constitution partly recognizes AAC as self-governing city without territorial demarcation (albeit recent effort) but *located* within ORS.

As such AAC is a chameleon city in disarray, displaying all Federal Capital City Model (FCCM);<sup>14</sup>Critical examination of Art49(1,3) (2), and (5) of the constitution resembles Federal District Model (FDM), City-State Model (CSM)<sup>15</sup>and even City with in a State Model (CwSM)<sup>16</sup>respectively entailing opposing claims over AAC.<sup>17</sup>Hence the controversy over status of AAC has been manifested vertically (federal-AAC) and

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<sup>10</sup>Transitional Period Charter of Ethiopia No.1 NegaritGazeta 50th year No.1 Addis Ababa, 22 July1991

<sup>11</sup>ORS revised constitution amendment proclamation no 94/2005 article 2(3)

<sup>12</sup>Yonatan T, fesiha (1)'The Original Sin of Ethiopian Federalism'2016,p.1-26<[https://www.researchgate.net > publication > 311732068](https://www.researchgate.net/publication/311732068)> accessed on Feb 2022

<sup>13</sup>FDRE Constitution Art.49(5)

<sup>14</sup>JetuEdosa, The De facto City-State Status of Addis Ababa City Administration,p.8, citing Harris, 1995: 242<[https://papers.ssrn.com > sol3](https://papers.ssrn.com/sol3)> accessed on Jan 2022

<sup>15</sup>BetruDibaba, 'Commentary on The Draft Proclamation of Special Interest of State of Oromia In Addis Ababa City' (2017),p.13<<https://www.abysinialaw.com/blog-posts/ite>>

<sup>16</sup>JetuEdosa, (n 14)

<sup>17</sup>FDRE constitution Art.49

horizontally (ORS-AAC) perspective. In this regard, Tsegaya noted that Ethiopian federation as response to old ethno-national quest has been fostering new conflicts;

*Conflicts for new power, resources, and opportunities;<sup>18</sup> as a result, there is now heightened awareness of the new 'self'. There are now new demands for a distinct identity, self-governance and autonomy, local economic justice, political empowerment and participation, new quest for statehood, territory (border disputes). Some conflicts emerge out of the problem of design, some out of the problem of practice.<sup>19</sup>*

In addition, the Addis Ababa City Revised Charter (AACRC) has reduced AAC to a mere administrative unit of the federal government.<sup>20</sup> Article 61(2) of the revised charter reads as “*The City Government is a component part of the Federal Government...*” As such, AAC’s capital model, level of decentralization, IGR remain vague within the Ethiopian ethno-federal dispensation, underpinning emerging challenges constraining self-governing status.<sup>21</sup> Hence it is worth analyzing (i) self-governance status of AAC from the view point of general federal principles and practices regarding FCC, and (ii) most importantly, from the perspective of the nexus between Ethiopian ethno-federal geneses and self-governance status of AAC, thereby tracing emerging challenges resulted from vague status of AAC.

## **1.2. Statement of the problem**

Every federal country faces a challenging task in determining how to govern its national capital since the interests of national government and residents of the capital city are recurrently at odds;<sup>22</sup> the government wants to control the capital in the national interest, but the citizens of the city naturally want to rule themselves.<sup>23</sup> As such the federal-capital tension leads to two common disputes;<sup>24</sup> first, how much power and autonomy should the FCC need to have? Second, how should conflicts between local and national interests be resolved? Furthermore, what kind of vertical and horizontal schemes should be implemented to ensure the city’s self-governance? AAC can be an experiment in this regard because more of in practice its legal, political and fiscal status remains vague which exhibits tripartite conflict of interest. The issue is even bags further scrutiny in view of Ethiopian ethno-federal dispensation, which is suspected of “essential-zing

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<sup>18</sup>Solomon Negussie, *Fiscal Federalism in the Ethiopian Ethnic-based Federal system*, Nijmegen, Wolf Legal Publishers, Netherlands, 2007, p.103

<sup>19</sup>Tsegaye Regassa, ‘Learning to live with Conflicts: Federalism as a tool of Conflict Management in Ethiopia,’ 2010, Vol. 4 Mizan Law Rev, p. 53 <<https://www.researchgate.net/publication/22891221>> accessed on May 2022

<sup>20</sup>AACG Revised Charter Proclamation No. 361/2003, Art.61(2)

<sup>21</sup>Nuredin Kedir, ‘Trends Eroding Taxation Power of Addis Ababa City Administration,’ 2018, p.44

<sup>22</sup>Hal Wolman and others, ‘Capital Cities and their National Governments: Washington, D.C. in Comparative Perspective’ 2017, Gwipp Working Paper Series, p.1 <<<https://www.researchgate.net/publication/23763738>> accessed on May 2022

<sup>23</sup>Enid and Rupak (ed), (n 8), p.297

<sup>24</sup>Enid and Rupak (ed) (n 8)

ethnicity”<sup>25</sup> as an organizing principle of federal scheme, thereby sinking AAC in the black-hole without distinct self-governing status.

This makes it difficult to comprehend the challenges constraining self-governance status of AAC from the perspective of generally accepted constitutional and federal principles. This is because among others the density curbing AAC’s self-governance is deep rooted in the heart of politics as to the *locus* and *vicissitude* of self-governance right.<sup>26</sup> In this regard it has been stated that; *a polity's democratic nature is determined by how the people are defined, in addition to how they rule themselves.*<sup>27</sup> Since sovereignty and self-determination status are based on ethno-linguistic criteria, it seems debatable whether AAC can constitute self and so passé through Article 8, 39(1), 46, 47, and 49 of the FDRE Constitution. In addition, AAC's self-government though traced on the bases of Article 49 (2) of the FDRE Constitution, the scope of “full masser of self-governance” is not defined, and it is not clear whether self-governance is an extension of self-determination or not. In a similar vein, the distinction between charter cities and general law cities is also at stake. Even further, the controversies are due to the constitution and proclamation 361/3003 do not go into great depth in delineating AAC’s political, territorial, fiscal, and institutional jurisdiction (legislative, executive, judicial).

Thus the main them/scope of this thesis is *what are the core “emerging” challenges constraining self-governance status of AAC rooted in Ethiopian ethno-federal origin?* Hence From one causal perspective of Ethiopian ethno-federal federal genesis trends of new challenges constraining AAC’s self-governance status has been explored. Emerging challenges are rooted in enduring one which in turn caused by Ethiopian ethno-federal genesis. As such “emerging challenges” unescapably entails/presage “enduring challenges” rooted in federal genesis.

It requires analyzing dominant normative and institutional design governing FCC if any; to scrutinize the nexus between federal origin, design, level of decentralization, and FCC’s self-governance status in general and AAC in particular. Hence, specific issue that attracts attention and prompts the research question in the topic at hand is the following concomitant issues: (i) unique genesis of Ethiopian federation, (ii) AAC's ambiguous status, (iii) the resultant tripartite (federal, AAC, and ORS) conflicting claims, (iv) emerging, challenges hindering AAC’s self-governance and assessing institutional remedies if any (v) tenability of AAC's quest for territorially delineated self-government,

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<sup>25</sup>Will Kymlicka, ‘Emerging Western Model of Multi-National federalism: Are They Relevant for Africa?’ Eastern African Studies, Addis Ababa University press, 2006, p.32 in David Turton (ed)

<sup>26</sup>In contrast to IHRI an UNC, In view of Lenin, the right to autonomy, the right to enter into federal or confederal relations with other nations, and the right to *complete secession* are all manifestations of every oppressed nation's right to self-determination. Needless to say, the notion of self-determination under article 39 of FDRE constitution traces this perspective.

<sup>27</sup>Arash Abizadeh, ‘on the demos and its kin: nationalism, democracy, and the boundary problem,’ 2012, vol. 106, no. 4, American political science review, p.867 <<https://www.jstor.org/stable>>

and (vi) ultimately whether triangular controversies concerning AAC has rooted in the origin of the federation and so, can it be solved within the same federal-constitutional fabric or not.

### **1.3. Research Question**

i) Which federal notion accounts for the original rationale in Ethiopian federal scheme having an impact on AAC's self-governance?

ii) What is the nexus between geneses of Ethiopian ethno-federation – AAC level of decentralization – vague capital model/status of the city–and ultimately AAC's self-governance status?

(iii)What is/ought to be self-governance status of AAC as distinct from Federal government and that of ORS?

(iv)How such self-governance status of AAC manifested in terms of political, constitutional, territorial, and power allocation(legislative, executive/administrative, and judicial)aspects?

(v) What is the emerging challenges constraining self-governance status of AAC?How are these challenges manifested politically (representation, participation) and institutional power allocation?

### **1.4. Objectives and significance of the study**

The fundamental objective of this work is to serve as a *pioneer perspective* for further research; to contribute knowledge to the existing discourse on the issue of AAC's self-governance status from the perspective of Ethiopian ethno-federal origin, to explore the nexus among federal geneses, federal scheme, thereby to analyze emerging challenges constraining self-governance status of AAC, to examine the political institutional and practical manifestations of these emerging challenges and recommending practical resolution; to provide relevant and research-based information for policymakers, lawmakers, politicians, and other stakeholders for further action and investigations; to this end analyzing federal notions regarding FCC and resilient FCC's practices, thereby having comparative lessons; ultimately to raise awareness and bolster the quest for realizing AAC's self-governance either within the ambit of the constitution (which I do not expect) or by way of constitutional replacement as an ultimate resolution;

### **1.5. Methodology**

The research is qualitative in approach and analytical in design. In the main, an attempt will be made to have an in-depth analysis on qualitative data to provide comprehensive exploration on the issue. Deductive reasoning will be utilized from the perspective of fundamental underpinnings of federal constitutional dispensation of Ethiopian ethno-federal genesis – its implication in federal-AAC's level of decentralization– Ultimately

exploring emerging challenges constraining self-governance status of AAC and driving potential recommendations. So, the research relies mainly on qualitative analysis of an appraisal of the theoretical underpinnings (ideological, political-economy) federal notions and relevant practices regarding FCC, FDRE constitutional fabric, parliamentary and executive documents, academic literature, and other relevant laws will be consulted. An interview with relevant parties has been conducted. Inductive reasoning has also been utilized from manifestation of emerging challenges to existed principles to expose the issue practically. Personal observations are also taken as a source of information. An attempt will also be made to share relative experience from enduring federations as necessary in order to elucidate concepts and draw conceptual inferences, however, no intention to make full comparison in approach. Here the inquiry of emerging challenges entails enduring causes rooted in the ethno-federal constitution since 1983 as well as fundamental rationale behind the same. As such the nexus is from Ethiopian Ethno-Federal-Constitutional Genesis perspective – extent of decentralization in the Ethiopian ethno-federal scheme in general and AAC in particular – resulted in challenges constraining AAC's self-governance. So the perspective is one but the manifestations of challenges constraining AAC's self-governance discussed under chapter four might be illustrative as the case required.

## **1.6. Limitation**

It was difficult for the researcher to access all of the relevant primary data especially from government offices. The research is hence compelled to concentrate basically on theoretical and legal analysis from secondary sources; make interpretations based on information from other sources, such as scholarly literature, legal provisions and data from possible official and non-official interviews.

## **1.7. Organization of the Study**

The research is divided into five chapters: the first chapter gives a basic backdrop and conceptual framework, which contains an introduction, a statement of the problem, research question, objectives of the study, as well as research methods, and scope, the second chapter delves into theoretical underpinning and/or literature review on the nexus between genesis of federal formation and self-governance status of FCC; Chapter 3, examines Genesis of Ethiopian federation and its implication on AAC's self-governance, The fourth chapter focuses on Emerging challenges constraining self-governance of AAC, emanated from original sin of Ethiopian ethno-federation. Finally, chapter five will resort to conclusions and recommendation.

## Chapter Two

### Theoretical underpinning on the nexus between genesis of federation and self-governance status of FCC

#### 2.1. Introduction

Does general federal principles accounts for FCC's model, and self-governance status? As such it is required to scrutinize at this junction; analyzing Economic, socio-cultural, political, geographic, and historical factors if any underpinning<sup>28</sup> the centripetal and centrifugal motives behind the devolution or aggregation of a federation? What are theoretical/normative nexus underpinning genesis of federation,<sup>29</sup> level of decentralization, federal scheme, allocation of power and ultimately self-governance status of FCC?

#### 2.2. Self-determination and/or Self-governance

Self-determination is “*the principle by virtue of which people freely determine their political status and freely pursue their economic, social and cultural development*”<sup>30</sup> Thus, the foundational idea of self-determination is popular sovereignty. It reflects the demand for representation and participation in decision making in governmental institutions as well as the right to create one's own institutions of government. It has both internal and external components.<sup>31</sup> Basically, the ability to rule oneself and the independence of one's decision-making from outside influence make up the concept of self-rule.<sup>32</sup> Adam Fusco noted that;

*The general idea or concept of self-determination is commonly captured in demarcations that portray a people, the subject or self of self-governance, taking control of political power and defining how they live by determining for themselves how they are ruled, thereby preventing rule by others.*<sup>33</sup>

What does both entails at a FCC level? It depends on the FCC self-governance status as a subunit/local/metropolitan administration within the context of a federal scheme and

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<sup>28</sup> Elliot Bulmer, *Federalism International IDEA Constitution-Building Primer* <<http://creativecommons.org/licenses/by-nc-sa/3.0/>> accessed December, 2022, p.12

<sup>29</sup> Genesis of federation within the context of this thesis includes *modality of formation* (devolution, aggregation, putting together), whether the devolution or aggregation is the result of consensus or coercion, whether same is motivated by centripetal or centrifugal factors, rationales impacting centripetal or centrifugal factors itself, and to same extent the resulted federal scheme, up to the essence of federal notion.

<sup>30</sup> Wondwossenwakene, ‘Self-Governing Addis Ababa, The Federal Government & Oromia: Bottom lines and Limits in Self-Governance’, 2010, p.15

<sup>31</sup> Internal self-determination implies, among other things, self-government, while external self-determination embraces the right of a people to be free of external interference.

<sup>32</sup> Michael Reber, ‘American Principles of Self-Government’, p.65, <<https://docs.lib.purdue.edu/eandc/vol19/iss2/art3/>> accessed September, 2022,

<sup>33</sup> Adam Fusco, ‘Freedom and Political Status: A Republican Theory and Critique of the Politics of Self Determination’ 2016, University of York Politics, p.11 <<https://etheses.whiterose.ac.uk> >

extent of power devolved to it/level of decentralization. The power encounter between the center and subunits may be centered in the FCC due to the FCC's historical and political-economy significance and geographical location as well.<sup>34</sup> This indicates that the nature of federalism as balancing scheme between self-rule and shared-rule has been facing challenges when it comes to FCC. As such in recent years, there has been a growing awareness of the importance of local governments and also metropolitan regions.<sup>35</sup> In this regard Riker spells out the underlying assumption:

*The essence of local autonomy has little to do with whether or not the central constitution grants particular rights to local officials but has very much to do with whether or not local officials are elected by or are in some other way responsive to local citizens.*<sup>36</sup>

Self-determination and/or Self-governance depend on who the locus and scope of the right. Hence, there is no conceptual difference between self-governance and self-determination at the fundamental level, rather implemented as the former is the manifestation or extension of the latter.

### **2.3.Origins and formation of federalism and its impact on self-governance status of subunits/FCC**

Hicks suggested that the historic origin of federations affects “their Constitutions and the functionality thereof.”<sup>37</sup> Stephan further emphasizes the need to distinguish between federal genesis whose primary goal is "coming together" and those whose goal is to “holding together.”<sup>38</sup> In this regard, Scholars provide a variety of theories for the original rationale or aim of federalism. Four lines of reasoning, based on two main theories, have been put up to explain why states chose federalism in relation to centripetal and centrifugal causes:<sup>39</sup>

(i) *The socio-economic theory*: states that federations come into being as a result of the presence of certain social, economic, historical and geographical factors, particularly of the United States, Switzerland, Canada and Australia, includes:

a) *sense of military insecurity and the consequent need for common defense; b) A desire to be independent of foreign powers, and a realization that only through union could independence be secured; c) hope of economic advantage from union; d) Some*

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<sup>34</sup>Ronald L. Watts and John Kincaid, *Introduction* in Ronald and (ed), *Emerging Issues in Fiscal Federalism; Unity in Diversity Learning from each other*, 2008, Vol 2, forum of federation, p.4-164

<sup>35</sup>Ronald and John (n 34) p.4

<sup>36</sup>Sean (n 9), p. 112 citing, William “Six Books in Search of a Subject or Does Federalism Exist and does it Matter?” *Comparative Politics* 2:1 (1969): 139

<sup>37</sup>Dele Babalola, ‘Origins of Nigerian Federalism: The Rikerian Theory and Beyond’, 2013, *Federal Governance*, 10(1), p. 43-54. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-346764> accessed October, 2022,

<sup>38</sup>Dele (n 37), p.51

<sup>39</sup>BerihunGebeye, ‘Federal Theory and Federalism in Africa,’ [2020], research get p.95, <https://www.researchgate.net/publication/34483380>, accessed in august 2022

*political association of the communities concerned prior to their federal union either in a loose confederation, or as parts of the same Empire, e) Geographical neighborhood; and f) similarity of political institutions.*<sup>40</sup>

In addition Watts noted that the motives for coming together in the new federations were much more complex than in the old ones, and therefore produced a comprehensive list of socio-economic conditions that predicated the formation of these new federations (like India, Pakistan, Malaysia, Nigeria, Rhodesia). Watts' conditions are:<sup>41</sup>

*a)The desire for political independence; b)The hope of economic advantage; c) The need for administrative efficiency; d)enhancing the conduct of external relations, both diplomatic and military; e) a community of outlook based on race, religion, language, or culture; f) geographical factors; g) the influence of history; h) Similarities and differences in colonial and indigenous political and social institutions; I) the character of political leadership; J) The existence of successful older models of federal union.*

In this line of argument there are two theories;<sup>42</sup>(i) Explanation by Federalist Papers, as noted by Elazar one of the proponents, the coming-together of USA should opt for federalism as it responds to military necessity and ensure security, provide individual liberty, prosperity, freedom, and guarantee a democratic governance.<sup>43</sup>(ii) Theory advanced by Daniel who argues that origin of federalism is not so much related to the military power of those who offer the federal bargain (core state) as Riker argued; instead it is related to the *state society dynamics* in which the subunits find themselves at a critical stage of state formation."<sup>44</sup>Because, *first* all states including federations can be formed through a combination of either/or coercion and compromise;*second*, the key issue that determines whether federalism is adopted for a state is the degree of institutionalization and the resulting *infrastructural capacity* of the subunits at the moment of federal formation.<sup>45</sup>He emphasized that;

*It is only high-infrastructural subunits that offer a route to resolving the basic 'paradox of federalism's origins.'*<sup>46</sup>*Without such subunits, the political core will seek to absorb all the subunits to establish a unitary state.*<sup>47</sup>

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<sup>40</sup>Berihun (n 39),p.99

<sup>41</sup>Daniel Ziblatt, "Rethinking the Origins of Federalism: Puzzle, Theory, and Evidence from Nineteenth-Century Europe" (2004) 57:1 World Politics 70 at 71.<<https://scholar.harvard.edu/files/worldpolitics1/>>

<sup>42</sup>Berihun (n 39), p.5 citing Alexander, John, and James, 'Federal Theory in *The Federalist*' D Karmis & W Norman, *Theories of Federalism: A Reader* (Palgrave Macmillan, 2005) at 105–133.

<sup>43</sup>Berihun (n 39),p.9

<sup>44</sup>Daniel (n 41),p.24

<sup>45</sup>Daniel (n 41),p.54 in a thorough investigation of the state formation processes in Germany and Italy, argues that despite the broadly similar historical context (formed by military coercion and compromise) and the common ideological preference for federalism, Italy and Germany had end up in unitary and federal state structure respectively

<sup>46</sup>When a federal state is established, a paradox arises; *how can a political center be powerful enough to create a union without dominating the member states and creating a unitary state?*

(i) *Political theory*: along this there are two line of arguments (i) anchored by Riker posits that; “federalism is a result of a bargain between politicians who offer the bargain and those who accept it.”<sup>48</sup>The federal bargain in turn results from the presence of two-fold hypothesis: the existence of internal expansion and external military or diplomatic threat results in federalism.<sup>49</sup>ii) Argument advanced by Malcolm and Edward which contends that States embrace federalism as a ‘tragic compromise’ to bridge the gap between political identity and territorial administration<sup>50</sup> According to them the fundamental reason for the origin of federalism is “to resolve conflicts among citizens that arise from the disjuncture between their geography based sense of political identity and the actual or potential geographic organization of their polity.”<sup>51</sup> As there is no comprehensive theory of federalism that can account for all types of federal structures,<sup>52</sup> and level of decentralization and self-governance status of FCC depends on federal origin, political context of a federation.

## **2.4. Factors impacting power allocation of subunits/FCC in federation**

### **(i) Centripetal or centrifugal factors underpinning aggregation or devolution in federal formation**

Federal systems are built in three major ways;<sup>53</sup> first by aggregation driven by centripetal motive,<sup>54</sup> here emphasis has usually been on specifying a limited set of exclusive and concurrent federal powers with the residual powers remaining with the constituent units, second, when a federation is formed by devolution, motivated by *centrifugal* force, the powers of regional entities are defined and the federal government retains residual authority<sup>55</sup> third, some federations, such as Canada, have combined these aggregation and devolution processes, and have designated exclusive federal, exclusive provincial and concurrent powers with residual jurisdiction.<sup>56</sup>

### **(ii) Territorial and non-territorial/personal aspects of federalism**

To begin with, federation along territorial communities isn't a way to put the concept of one ethnic group - one subunits into practice as in the case of Ethiopia. *Second*, the

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<sup>47</sup>Daniel (n 41),p.96

<sup>48</sup>Berihun (n 39), p.4 citing William H Riker, *Federalism: Origin, Operation, Significance* (Little, Brown, 1964) at 11.

<sup>49</sup>Berihun (n 39),p.14

<sup>50</sup>Berihun (n 39),p.6

<sup>51</sup>Berihun (n 39),p.23 citing Malcolm Feeley& Edward Rubin, *Federalism: Political Identity and Tragic Compromise* (University of Michigan Press, 2009) at 39

<sup>52</sup>MehariTaddele, Devolution of Power in Ethiopia: *The Legal and Political Aspects*,2008,p.1-48

<sup>53</sup>Ronald L. Watts (1).*Comparing federal systems*, 3<sup>rd</sup>-ed, McGill-Queen’s University Press, 2008, p.65<<https://www.queensu.ca> > [TheFederalIdaWatts2007](#)> accessed on Jan 2022

<sup>54</sup>GosayeBirhanu, ‘Vertical Distribution of Powers in Ethiopia: a comparative study with Canada and Germany,’2009, central European University,p.28

<sup>55</sup>Solomon (n 18),p.35

<sup>56</sup>Ronald (1),(n 53),p.78

concept of federation can also be viewed as acknowledgment of non-territorial collectives. Hence;

*Non-territorial or corporate/personal federalism combined the principles of personal autonomy, national and ethnic unity so that no nationality possessed a special claim to a fixed territory and autonomous status applied to the individual not to a territory*<sup>57</sup>

Non-territorial (personal) federation is sometimes combined with the territorial units of a federation, like in case of Belgium in which *Brussels* constitutes one of the territorial-based city-state/Regions.<sup>58</sup> Thus, the Territorial and personal aspects of federalism structure has an implication over self-governance status of FCC depending on the federal origin and practices.

**(iii) Underlying degrees and types of shared and self-interests in federation;**<sup>59</sup> design of federation requires balancing unity and diversity of interests. This has exhibited in division of powers between those assigned to the federal government for common purposes and those designated to regional units of government for reasons connected to regional identity expression.<sup>60</sup> Different geographical, historical, economic, security, linguistic, cultural, and demographic factors accounts for the extent and veracity of shared interests and diversity.<sup>61</sup> Hence, the greater the degree of homogeneity within a society, the more powers the federal government has been given, and the larger the degree of variety, the more powers the constituent units of government have been given.<sup>62</sup>

**(iv) Balance between the independence and interdependence;** the construction of federations has necessitated a balance between the independence and interdependence of the federal and regional administrations in addition to articulating a balance between unity and diversity.<sup>63</sup> Unlike views of classic federations it is found impossible to prevent overlaps in government tasks, and all federations have some degree of interdependence.<sup>64</sup> As a result, the greater the requirement for interdependence, the more cooperative rather than dual style of power allocation is used.<sup>65</sup>

**(v) Political and constitutional asymmetry;** these serves as the foundation for determining the overall degree of decentralization in each federation. The number of and

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<sup>57</sup>Michael Burgess, *Comparative Federalism*; Theory and practice, 3<sup>rd</sup> ed, Rutledge, 2006, p.142

<sup>58</sup>Luca Barani, 'Fiscal Federalism and Capital Cities: A Comparative Analysis of Berlin and Brussels', 2011, lno359, p.21, <https://www.cairn.info/revue-l-europe-en-formation-2011-1-page-21.htm> accessed 2022

<sup>59</sup>Daniel (n 41), p.32 see also (n 54)

<sup>60</sup>Ronald (1) (n 53) p.61

<sup>61</sup>Ronald (1), (n 53)

<sup>62</sup>Ronald (1), (n 53)

<sup>63</sup>Ronald (1), (n 53), p.85

<sup>64</sup>Ronald (1), (n 53)

<sup>65</sup>Ronald L. Watts (2), *Fiscal Federalism in Germany*, 2000, p.1-63, pp.43

relative area, population, and wealth of the component units within a federation have a significant impact on the federation's operation.<sup>66</sup>The formal allocation of jurisdiction to the component units has been balanced in most federations.<sup>67</sup>Yet, asymmetrical constitutional arrangements or practices have been developed in several federations where the urge for autonomous self-government has been significantly higher in some constituent units than in others.<sup>68</sup>

## 2.5. Federalism and extent of decentralization

It is necessary to determine as to whether decentralization acts as adhesive to hold the state together, or whether regions that are handled differently opt out completely, turning the intended glue into a solvent.<sup>69</sup>In addition it is unclear whether further decentralization in response to self-rule demand would result in political stability or increased instability.<sup>70</sup>To the extent that effective decentralization ultimately results in local autonomy in revenue and expenditure policy, the success of decentralization depends on managing the inherent tension between *subsidiarity and solidarity*, between local autonomy and national redistribution considering the context of a federation. The formerly Federation of Yugoslavia, Pakistan, and the USSR are all examples of instability followed by collapse resulted from unbalanced decentralization.<sup>71</sup>However, there is certain counterexamples where further decentralizing policies could be considered to be one reason to hold countries together that would otherwise fragment.<sup>72</sup>Belgium and Canada are examples worth mentioning.

Countries may be more decentralized in one aspect and less decentralized in the other. Rondinelli illustrates four different forms of decentralization;<sup>73</sup>De-concentration is the administrative transfer of control over certain financial, and managerial tasks to different levels under the central government's jurisdiction.<sup>74</sup>ii) Delegation is a situation in which the central government delegated decision-making and administration of public functions to local governments, which are not entirely under its authority but are ultimately accountable to it.<sup>75</sup>(iii) Devolution is a broad definition of decentralization in which the

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<sup>66</sup>Ronald L. Watts,(3), Models of Federal-Power Sharing,p.6<[https://www.researchgate.net/publication/227503791\\_](https://www.researchgate.net/publication/227503791_)>

<sup>67</sup>Elliot Bulmer, (n 28) p.12

<sup>68</sup>Ronald (3),(n 66), p.7

<sup>69</sup>Ehtisham Ahmad and Giorgio Brosio(ed), *Handbook of Fiscal Federalism*, Edward Elgar Publishing Limited, 2006, p.504.

<sup>70</sup>Ehtisham and Giorgio (ed) (n 69), p.502

<sup>71</sup>Charles R. Hankla, 'When is Fiscal Decentralization Good for Governance?',2008, the Journal of Federalism, volume 39 number, 4, Oxford University Press on behalf of CSF Associates, pp. 632-650

<sup>72</sup>Charles (n 71)

<sup>73</sup>Solomon (n 18)

<sup>74</sup>GianpieroTorrise and others, 'Defining and measuring decentralization: a critical review'2011,Munich Personal RePEc Archive, p. 1-29<[https://mpira.ub.uni-muenchen.de/MPRA\\_paper/](https://mpira.ub.uni-muenchen.de/MPRA_paper/)>

<sup>75</sup>Solomon (n 18),p.44

central government devolves decision-making authority to quasi-autonomous regional or local government units in a legally specified way.

## 2.6. Cooperative and competitive federalism

Two essential challenges occur in all federations' power allocation;<sup>76</sup>(i) the need to balance the unavoidable overlaps and interdependence between shared rule and institutions for territorial self-rule/when to compete, when to cooperate? If there is multi-level governance based on a mix of shared rule and territorial self-rule, overlaps and dependency in their jurisdictions are unavoidable. This raises more questions about how such balance in IGR can be organized to meet four basic criteria:<sup>77</sup>

*Democratic accountability, effective governance, the preservation of diversity through genuine autonomy for constituent units, and ensuring the political system's continued cohesion and stability.*

(ii) The need for reconciling the basic problem of diversity and equity; Every multi-level political system, including federations, quasi-federations, and constitutionally decentralized unions, has discovered that the heart of the problem in seeking to balance the goals of diversity and equality is the distribution of revenue and spending for social policy.<sup>78</sup> Most federal systems have attempted to reconcile these aims in various ways by providing financial capacity to territorial entities in order to promote equality while allowing them autonomy and discretion in how they employ such transfers.<sup>79</sup>

## 2.7. Constitutional status /models of FCC

Federal governments have tried a number of governance models, all of which show a desire to treat the federal capital differently than other cities in the country.<sup>80</sup> A federal district, a city-state, and city within a state are the three primary models of constitutional organization for the government of federal capitals, each with its own set of advantages and drawbacks.<sup>81</sup> Within each of these categories, there are variations in the extent to which the federal government exercises legal, administrative, or financial control over local decisions.<sup>82</sup> As there are significant parallels and contrasts among the federal capitals a city's pattern has a significant impact on its autonomy and functioning.<sup>83</sup> In this regard, the capital city's location, the territorial administrative structure of a capital city as a result of historical legacies, political choice, and the capital city's relative political and

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<sup>76</sup>Ronald L. Watts,(4) 'Origins of Cooperative and Competitive Federalism,' p.201 <[https://www.researchgate.net/publication/304729080\\_](https://www.researchgate.net/publication/304729080_)>

<sup>77</sup>Ronald (4),(n 76),p.205

<sup>78</sup>Ronald (4),(n 76)

<sup>79</sup>Ronald (4),(n 76),p.214

<sup>80</sup>Shimelis Demisse, 'Governance Arrangement and Inter Governmental Fiscal Relations of Capitals Cities with their National Governance;' The case study of Addis Ababa City Administration, (2010),P. 18

<sup>81</sup>Shimelis (n 80),p.18

<sup>82</sup>Enid and rupak (ed),(n 8), p.297

<sup>83</sup>Nuredin (n 21),p.27

economic power, as well as the balance of power between regional and national political forces matters.<sup>84</sup> Any way is there normative foundations for each arrangement?

### **2.7.1. Federal districts model (FDM)**

Many, but not all, federations have established a federal district.<sup>85</sup> It invites excessive control by central government over the residents of the city.<sup>86</sup> A federal district is located outside of any subunit's jurisdiction having different legal status.<sup>87</sup> The model has its own merits and demerits;<sup>88</sup> regarding the merit, the central government has considerable control over capital since it prevents a single member state's legislation from dominating the federal capital.<sup>89</sup> As such it has been ascribed to have a better chance of reflecting the diversity of constituent units of the federation. In addition, since it doesn't belong to a particular constituent unit of the federation, it may avoid horizontal conflict between competing powerful member states; it may neutralize the capital, making its choice acceptable for all member-states. The inclination for too much central control over local citizens is the major *disadvantages* of the federal district.<sup>90</sup> The extent of federal control and the restrictions on local autonomy, even within the federal-district model, vary contextually<sup>91</sup> at one end of the federal-district spectrum is Abuja (*planned Federal Capital Territory* (FCT)) which is tightly controlled by the federal government. Like the FCT does not have an elected mayor rather administered by a member of the Federal Cabinet appointed by the President of the Federation.<sup>92</sup> At the other end of spectrum is Canberra, which is fairly autonomous and enjoys powers similar to those of state governments with few restrictions.

### **2.7.2. Capital cities within a state (CwSM)**

It is a simple municipality inside a member-jurisdiction.<sup>93</sup> Thus the advantages of this arrangement is that it allows for flexibility in the management of the federal capital's borders with neighboring areas and that it has typically provided for the general operation of local self-government in the federal capital in the same way other cities or local administrations.<sup>94</sup> However, this approach has been challenged for potentially giving an

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<sup>84</sup>Scott Campbell, 'The Enduring Importance of National Capital Cities in the Global Era,' 2003, Urban and Regional Planning working paper series, 03-08, p 1-32, pp-26

<sup>85</sup>Ronald (1), (n 53), p.79

<sup>86</sup>Nuredin (n 21)

<sup>87</sup>Shimelis (n 80)

<sup>88</sup>Klaus-Jürgen Nagel, (1) *The problem of the capital city: New research on federal capitals and their territory*, research get, 2013, p. 14, at <https://www.researchgate.net/publication/287994877> accessed in September 2022

<sup>89</sup>Ronald (1), (n 53)

<sup>90</sup>Ronald (1), (n 53), p.80

<sup>91</sup>Ana Karruz and others, *Capital Cities and Their National Governments: Washington, D.C in comparative perspective*, 2007, Gwipp Working Paper Series Number 30, p.1-32, p.11

<sup>92</sup>Enid and Rupak (ed) (n 8), p.201

<sup>93</sup>Klaus-Jürgen (ed) (1) (n 88), p. 9

<sup>94</sup>Ronald (1), (n 53)

unfair advantage to the regional state in which the capital is located by subjecting the city's autonomy to specific state laws, policing, and funding, rendering it unrepresentative of the nation as a whole. It inhibits the federal government's ability to regulate the governance of its own capital city.<sup>95</sup> It results in distracting member-state vertical IGR, and<sup>96</sup> also fail to reflect the federation's diversity.<sup>97</sup> Ottawa is among view examples here.

### 2.7.3. City-states (CSM)

The city is considered to have two capacities;<sup>98</sup> member state of the federation, with constitutional power equal to that of the other component units of the federation and capital city status. As a result, it overcomes the national- local capital conflict of interest inherent in the district model in avoiding vertical asymmetrical treatment of residents of the capital. Residents of the capital city receive democratic rights and benefits similar to those enjoyed by inhabitants in other cities across the country.<sup>99</sup> Thus, the main departure in this model from the other two models is that the city government has more control over municipal affairs in the capital city than does the federal government,<sup>100</sup> but, at the same time, often complains that they do not receive sufficient attention and funding from the federal government.<sup>101</sup> The disadvantage of this arrangement is that the federal government has only limited influence over its own seat of government due to the autonomy that comes with full statehood.<sup>102</sup> Like federal districts the expansion of the urban population beyond its borders and into other states over time can result in inter-jurisdictional conflict.<sup>103</sup> This model can be amplified by Berlin and Brussels<sup>104</sup>

*Generally*, there is no comprehensive theory of federalism that can account for all types of federal origin, structures and FCC model, and no unique federal principles accounts for FCC. What matters is what works, getting the balance right for the particular federation. Extent of decentralization and self-governance of a subunits in general and FCC in particular is depend on federal origin, existence of constitutionalism/democracy in federal practice, centripetal and centrifugal rational behind devolution or aggregation of a federation, and factors behind centripetal and centrifugal motives itself. Does these accounts for AAC's self-governance status within Ethiopian ethno federal dispensation?

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<sup>95</sup> Ronald (1), (n 53), p.82

<sup>96</sup> Anthony (n 1) in Klaus-Jürgen (ed.), p.75

<sup>97</sup> Klaus-Jürgen (ed) (1) (n 88), p. 14

<sup>98</sup> Klaus-Jürgen (ed) (1) (n 88), p. 9

<sup>99</sup> Enid and rupak (ed), (n 8)

<sup>100</sup> Klaus-Jürgen Nagel, (2), 'Asymmetry and the capital', 2013, p.9, in Klaus-Jürgen Nagel (ed.) and others, 'The problem of the capital city; New research on federal capitals and their territory. 2013, p. 9

<sup>101</sup> Klaus-Jürgen (ed) (2) (n 100) p.7

<sup>102</sup> Ronald (1), (n 53), p.80

<sup>103</sup> Ana and others, (n 91), p.6

<sup>104</sup> Klaus-Jürgen (ed) (2) (n 100), p.7

## **Chapter three**

### **Genesis of Ethiopian federation and its nexus with AAC's self-governance status**

#### **3.1. Introduction**

Federal system has meant to address the pivotal problems which driven its formation within a political constituency and specific constitutional set up.<sup>105</sup> Solomon noted such problems are mostly related to the origin of federation.<sup>106</sup> In this regard, Elazar noted that;

*“The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationship consistent with federal principles.”<sup>107</sup>*

It is doubtful whether the Ethiopian ethno federation is in line with enduring federal genesis, notions, practices, and even doubtful as to whether it was considerate to the demands of the country during federal formation. So, how/what are the main problems

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<sup>105</sup>Edmond J. Keller, 'Political Administrative Reform and Political Transition in Nigeria, Ethiopia, and South Africa' in the International Journal of African studies, Vol-6 No-1, 2007,p.9

<sup>106</sup>Solomon (n 18),p.35

<sup>107</sup>Edmond (n 105),p.9

that the Ethiopian federal system intended to solve? Which federal principle accounts for original rationale in Ethiopian federal system? Is there a nexus between genesis of Ethiopia federal scheme in general and self-governance status of AAC in particular?

### 3.2. A glance at Ideological underpinnings of Ethiopian federal geneses

Enduring Federations were established for either military (security) or Economic, democratic and administrative reasons.<sup>108</sup>For instance German's federation has mainly driven by administrative or executive dynamics.<sup>109</sup>The Belgian political system is built in order to guarantee stability and continuity of power in a highly fragmented society.<sup>110</sup>Riker argues that political usage of federalism is driven by pragmatic considerations seeking to benefit from state building and institutional reconstruction rather than *ideological grounds*.<sup>111</sup>The federal system, according to Livingston, should be judged not by its federal structure and legal institutions, but by how social, political, and economic interests were arranged.<sup>112</sup>In addition Watts has noted that;

*Federalism, far from being a creed or ideology, may have to be understood as a 'normative term' that refers to a political system designed to attain 'both union and non-centralization at the same time.'*<sup>113</sup>

While African federalism shares the same forms, structures, and discursive practices as traditional federal theory, syncretic configurations drive its normative articulations and institutional frameworks.<sup>114</sup>These in turn alter the purpose, core components, and functioning of African federalism. Hence, federalism is evolving along with its operational procedures and evaluation standards in Africa. African federations primarily, embraced as;

*The accommodation of diversity and the maintenance of territorial integrity are the twin justifications for federal formation in Africa, while 'the political strength of ethno-national groups' during the constitutional moment is the determining factor.*<sup>115</sup>

Even worse Ethiopian federalism has been implemented more of as an ideological creed of the then dominant group. Ethiopia federation is unique in that it has expressly recognized ethnicity as organizational factors of subnational entity and political power

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<sup>108</sup>Muhammad Habib (2010): *The Ethiopian Federal System; the Formative Stage. Friedrich-Ebert-Sifting*, Addis Ababa, p.5

<sup>109</sup>Berihun (n 39), p.28

<sup>110</sup>Caroline Van Wynsberghe, *Brussels as a Multiple Capital City*, p.124, in Klaus-Jürgen Nagel (ed), *The problem of the capital city; New research on federal capitals and their territory*, 2013, p.25

<sup>111</sup>Yonatan T. fissa, (2) 'Federalism, Territorial Autonomy and The Management of Ethnic Diversity in Africa: Reading The Balance Sheet' 2012, p.9

<sup>112</sup>Yonatan (2), (n 111), p.14

<sup>113</sup>Ronald (1), (n 53), p.24

<sup>114</sup>Berihun (n 39), p.27

<sup>115</sup>Hassan, Abdullahi, *Federation in Africa: Case Studies of Ethiopia and Nigeria*, 2014, p.63 (n 349), p.64 <<https://lawethiopia.com> > [ethnic politics in ethiopia](#)>

relation.<sup>116</sup>In addition Ethiopia's ethnic federalism introduces a system for its own disintegration rather than promising to balance between self-rule and shared rule.<sup>117</sup> in this regard, Yonatan stated that;

*The decision that each major ethnic group should be dominant in one and only subnational unit has also proved to be the original sin<sup>118</sup> as it has elevated ethnic identity to a primary political identity.<sup>119</sup>*

According to Semahagn studying Ethiopia's federal system and the democratization process from a formal constitutional and federal notions perspective gives an erroneous impression of the system.<sup>120</sup>He added that;

*Ethiopian federation is fundamentally a socialist federal system established based on the Stalinist notion of the right to self-determination of nationalities, along with Marxist-Leninist state and party organizational principles<sup>121</sup>*

So, Ethiopian federation has a significant departure not only from the normative geneses of classic federations but also even from African federation, by resorting to Leninist ideology. The ethno-federal arrangement considered to be poignantly motivated as an antithesis for long lived centralization legacy of the imperial regime which marked a new political watershed in post-colonial Africa. Paradoxically the long leave centralizing trained has continued in new perspective even after federal arrangement.

### **3.3. Centrifugal or centripetal motive behind devolution or aggregation of Ethiopian federation**

The two most commonly cited reasons for the formation of the enduring federation are defense and security on the one hand, and economic and democratic considerations on the other.<sup>122</sup> According to Michael "Federations are voluntary unions based firmly upon liberal democratic notions of constitutional government."<sup>123</sup> So, in the formation of holding-together and coming-together federations democratic principles such as equality, inclusivity, consensus, and representations are critical values to be considered.<sup>124</sup> Contrarily, there are also *Putting-together federations* as noted by Stepan such as the former Soviet Union, formed by a non-democratic centralizing power using

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<sup>116</sup>AssefaFisha, (1), Theory Versus Practice in The Implementation of Ethiopian Ethnic Federalism, p 131,

<sup>117</sup>FDRE constitution Article 39 in David Turton (ed)

<sup>118</sup>Yonatan (1), (n 12), p.7

<sup>119</sup>This particular approach has also overlooked the consideration of another historically and politically relevant identity, namely *provincialism*.

<sup>120</sup>Semahagn Gashu, *The Last Post-Cold War socialist Federation ethnicity, ideology and democracy in Ethiopia*, Ashgate Publishing Limited, 2014, p.123

<sup>121</sup>Semahagn (n 120)

<sup>122</sup>Gosaye (n 54), p.30

<sup>123</sup>Ketema Wakjira, 'Institutionalization of IGR in the Ethiopian Federation: Towards Cooperative or Coercive Federalism?' 2018, Vol. 4, No. 2, Ethiopian Journal of Federal Studies (IJFS), pp. 1- 27, p.22), <<https://www.researchgate.net/publication/329943486>> p.39

<sup>124</sup>Ketema (n 123)

coercion to bring together disparate ethnic groups inside a multinational state.<sup>125</sup> In this case, the winning/dominant group determines the establishment of the federation in all aspects, like the case of Ethiopia which is best fits putting-together variant. Keller also affirms this argument;

*“Ethiopia began as what appeared to be a holding together federation in 1991, but quickly became a putting-together federation (imposed from the center without popular consensus).”*<sup>126</sup>

Some argue the federal constitution gives the impression that the federal state is a union formed through the free consent of each Nation Nationality and People (NNP) of Ethiopia and that it is therefore an example of coming together federation.<sup>127</sup> While ethnicity is organizing ideology of Ethiopian federation residency remains the AAC’s organizing base.

### **3.4. Self-determination and/or self-governance dilemma in case of AAC**

What constitutes ‘full measures of self-government’ in the context of Addis Ababa? It is all about whom that self is/ought to be (individual vs. group (interest or identity based)), the scope of substantive right, and extent of independence to self-rule.<sup>128</sup> The self in general constitutional fabric is purported to be NNP while in AAC is non-identity-based *residents*. Hence, in the 1995 FDRE Constitution, the idea of self-government, with or without the prefix 'full,' appears three times, implying varying degrees of autonomy rights.<sup>129</sup> To begin with, Article 39(3) refers to *internal aspects of self-determination*<sup>130</sup> which is to be manifested in self-government among others.<sup>131</sup> *Second* form of self-government is extension of the right of the member states to establish a state administration that best promotes *local self-government* by giving adequate powers to the lowest levels of territorial government so that people can participate directly in their administration.<sup>132</sup> *Third* level of self-government also refers to the rights of Addis Ababa municipal citizens to exercise "full measures of self-government."<sup>133</sup>

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<sup>125</sup>Will (n 25), has noted that the framers of Ethiopian federation were inspired by Leninist ‘ideological rigour’ and models of federalism.

<sup>126</sup>Edmond J. Keller and Lahra Smith, ‘Obstacles to Implementing Territorial Decentralization: the first decade of Ethiopian Federalism ‘In Sustainable Peace: Power and Democracy after Civil Wars,’ 2005, p.23

<sup>127</sup>AssefaFisha, (1) (n 116)

<sup>128</sup>Peter Jones, Group Rights and Group Oppression Politics, University of Newcastle, Journal of Political Philosophy: Volume 7, Number 4, 1999, pp. 353-377

<sup>129</sup>Jetu (n 14),p.23

<sup>130</sup>This is as compared with *external aspects self-determination*, also includes forming independent state exceptionally, which is also the case under FDRE constitution article 39(1)

<sup>131</sup>FDRE constitution Art.50(2)

<sup>132</sup>See also Articles 52(4) and Article 52(2.a)Art 88(1)

<sup>133</sup>FDRE constitution Art.49(2)

Self-government of AAC can be analyzed from two points of view; (i) ‘territorial autonomy,’ is a typical propensity of regional states.<sup>134</sup> Nothing has been written about AAC's territorial autonomy, except that it is located within ORS which is considered to be autonomous territorial unit of the federation.<sup>135</sup> Hence, to exercise self-governance AAC should primarily constitute territorially delimited distinct identity within the fabrics of FDRE constitution (article 39, 8, 47).<sup>136</sup> (ii) *Territorial self-rule/administrations* in Ethiopian federation's territorial administrations are endowed with symmetric constitutional rights and functions (legislative, executive and judicial), as well as the concept of non-interference in the affairs of the other, except AAC.<sup>137</sup> Hence, the notion of full measures of self-government within the context of AAC remains undelivered promise.

### **3.5. “The people” and *power-relation* under ‘F’D’R’E’ constitution’s ideological fabric;**

*A polity's democratic nature is determined by how the people are defined, in addition to how they rule themselves.*”<sup>138</sup> The subject as to who are “the denominator or the people”<sup>139</sup> has sparked one of the most intense arguments in political philosophy. A principle of legitimacy referring to a collective self must first establish who that collective self is – the locus of self-determination in order to have decisive content.<sup>140</sup> So, who are *self/the people* in FDRE constitutional federal fabric in general and AAC in particular? As Riker noted, “*all writers of federal constitutions have a desire to make benefit from the political reorganization that follows rather than enhancing freedom and democracy.*”<sup>141</sup> Likewise, FDRE constitution purported to be democratic –“*republic*” after having distorted the journey garbling as to who “the people,” otherwise considered to be contracting party and decision maker within democratic power-relation.

The core stipulation of *power-relations*, Article 8(1) of the Constitution states that, ‘All sovereign power resides in the purported to be NNP of Ethiopia.’ This is the major departure from the mainstream liberal-democratic (-republic) notion of power-relation. Kymlicka expresses this as ‘*ideological rig-our*’ in using ethnicity as organizing

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<sup>134</sup>FDRE constitution article Art. 46(2)

<sup>135</sup>FDRE constitution article Art. 49(5)

<sup>136</sup>Jetu (n 14), citing, The Legal Basis of Self-Rule in Ethiopian, *Journal of Ethiopian Law*, Vol. 26 No. 1 at pp. 56-58

<sup>137</sup>FDRE constitution Art.47(4)

<sup>138</sup>Arash (n 27),p.17

<sup>139</sup>Amar inquires democratic Government's central meaning left certain major topics unsolved and up for grabs. Who are “the People”, and how did a “majority” hold ultimate political decision? This deep and repeating question was dubbed as “the denominator problem,”

<sup>140</sup>It means for Amar, the majority rule within a specified convention of “the People, “Who, precisely Entitled to exercise “popular sovereignty”

<sup>141</sup>Lovise Aalen, ‘Ethnic Federalism in a Dominant Party State: The Ethiopian Experience 1991-2000,’ 2002, Development Studies and Human Rights, CMI Reports, p.46-<[https://www.cmi.no > publications > file > 769-ethni](https://www.cmi.no/publications/file/769-ethni)>

principle.<sup>142</sup> That is why NegedeGobeza also mentioned the constitution as ‘*ideological instrument*’ (ርእዮት-አለማዊየትግልመሳሪያ) rather than popular pact.<sup>143</sup> Its ultimate reflexivity to the NNP is either “*suppression or secession*,” rather than balancing.<sup>144</sup> So, the genesis of Ethiopian federation underpinned by putting together manner, it is not the outcome of even NNP’s consent as purported to be and even contrary to the very notion of federalism.<sup>145</sup> Merera elucidates in this line of argument in that;<sup>146</sup>

*The most serious flaw in the Ethiopian federal experiment is its failure to meet neither the demands of competing ethnic nationalisms nor the individual demands of citizens as citizens....It has contributed more to political polarization and fragmentation than to the building of a democratic polity (emphasis added).*

This failure rooted in politicizing *denominator/the people* along Leninist view. Representative democracy based on one man, one vote, for example, was ruled out in favor of a nested regional ethnic voting system, in which ethnic, rather than national parties were able to develop a constituency.<sup>147</sup> In the process, Ethiopian shared value, public cause, was deemphasized.<sup>148</sup> Hence, the relationship between ethnicity and democracy, individual vs. group right has remained tight and troublesome which is perpetually the case in AAC as practical experiment.<sup>149</sup> The political organizing factor in case of AAC is residency or citizenship which is contrary to the main organizing them of the constitution.<sup>150</sup> In this light, AAC does not constitute the “self” and not a contracting party neither within constitutional fabric as ethnic-group- identity nor within the essence of democratic power-relation as individual citizen.

### 3.5. Is AAC historic or planned city?

*Planned and historic city* are two trends in choice of federal capitals and in some cases combination of both.<sup>151</sup> The choice of location for each of the capital cities has been made for different reasons and by different actors as distinguished by Nigel;<sup>152</sup> military security or defensive reason (for example Ottawa), symbolism of a particular location pragmatic,

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<sup>142</sup>Will (n 25),p.5

<sup>143</sup>ገደጎበዜ (ዶ/ር) ፣ህገመንግስትግጦርጫአናዴሞክራሲበኢትዮጵያ፣ከትላንትወዲያእስከገ 2004 እ. አ. እ፣ገጽ- 114

<sup>144</sup>ገደጎበዜ (ዶ/ር) (n 143)

<sup>145</sup>Edmond and Lahra (n 126),p.21

<sup>146</sup>MereraGudina, Contradictory Interpretation of Ethiopian History, Eastern African Studies, Addis Ababa University press,2006, p.15 inDavid Turton (ed),

<sup>147</sup>Jon Abbink, ‘The Ethiopian Second Republic and the Fragile Social Contract’ 2009,in African spectrum, p.4-28, www.africa-spectrum.org>p.10

<sup>148</sup>Jon (n 160),p.13

<sup>149</sup>HenokKebede,‘Constitution as Social Contract in Contemporary Ethiopia: The Need to Re-construct Political Arrangements’,2021, vol,1, Mizan Law Review,p.41-72<<https://www.ajol.info> > [mlr](#) > [article](#) > [view](#)>

<sup>150</sup>Mathias Koenig-Archibugi, ‘Who Are the People? Defining the *Demos* in the Measurement of Democracy’2020, political studies association, p.1-23<<https://journals.sagepub.com> > [doi](#) > [abs](#)

<sup>151</sup>Caroline (n 110) in Klaus-Jürgen (ed), p.293

<sup>152</sup>Caroline (n 110) in Klaus-Jürgen (ed),p. 294

liberal, democratic, nationalist and federal reasons and justifications.<sup>153</sup> For instance, the “national reason” contains the main drive for choosing Berlin after achieving national unity between the two parts of the country in 1989.<sup>154</sup> In addition, it might seem more difficult to impose the federal-district model on a historical city than on a planned city because it would mean taking away some of the local autonomy that the city previously enjoyed.<sup>155</sup> From the above discussion, AAC can be regarded as historic rather than planned city. Yet, which justification has been considered in maintaining AAC as capital city?

*Generally*, Ethiopian ethno-federal origin has underpinned by Leninist-ethno-ideological motives rather than tracing essence of federal-democratic-republic notions, the existing context of the country in general and AAC in particular. As such historical, political economy, socio-cultural, administrative, and federal democratic factors had not been given necessary emphasis. This has distorted the whole depiction of the federal experiment and the power-relation away from mainstream federal-democratic notions. These in turn have negatively impacted on the level of decentralization, federal structure, in general and AAC’s self-governance status in particular. Hence, AAC’s level of decentralization, IGR and FC model remains ambiguous, which resulted in emerging challenges constraining self-governance status of AAC.

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<sup>153</sup> Horst Zimmermann, Berlin: an Almost Symmetrical Case, p.109, in Klaus-Jürgen Nagel (ed.) *The problem of the capital city*; New research on federal capitals and their territory, 2013, p.105

<sup>154</sup> Horst (n 153) p.108, in Klaus-Jürgen (ed), p.104

<sup>155</sup> Enid and Rupak (ed), (n 8), p.303

## **Chapter four**

### **Emerging challenges constraining self-governance of AAC rooted in genesis/original sin of Ethiopian ethno-federation**

#### **4.1. Introduction**

There are emerging issues and challenges regarding local governance and metropolitan regions in federal systems which was the issues as well in the 4th International Conference on Federalism held in New Delhi (2007).<sup>156</sup> Yet, whether these challenges emanated from the genesis of federation begs further scrutiny in light of federal principles and FCC practices. It is important to analyze the case of AAC in light of general federal principles and FCC practices but most crucially from the very nature of Ethiopian federal dispensation. In this regard Turton noted that;

*Discussion of Ethiopian ethnic federalism seems to be carried out exclusively in Ethiopian context because (i) understanding of the challenge facing Ethiopian federal system lacks comparison and (ii) Ethiopian experience has had little chance to influence general thinking about federalism as political concept and as accommodating ethnic diversity.*<sup>157</sup>

So, the root Cause and implication of AAC's vague animation of its self-governing status has been under studied from federal origins perspective. What are "emerging" challenges constraining self-governance of AAC rooted in federal origin? Are these challenges necessarily emerging?

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<sup>156</sup> Anwar and others (n 140), p .11

<sup>157</sup> David Turton (ed), *Introduction in Ethnic Federalism ; The Ethiopian Experience in Comparative Perspective*, Addis Ababa University Press, 2006, p 1

## 4.2. Emerging challenges constraining AAC's self-governance.

### 4.2.1. Ever growing interest from same "Oromo nationalists" to assimilate AAC in to ORS and the counter argument thereof;

The newly formed ORSs per constitutive Charter of the transitional government completely ringed historic city of AAC. The controversies come to head in 2015 when AAC and the surrounding ORS Special Zone Integrated Development Plan (SZIDP) had been introduced.<sup>158</sup> Perhaps, because of its complete encirclement by ORS, loss of its distinct status as a subunit and devoid of defined territorial jurisdiction,<sup>159</sup> political debates over the self-governance status of AAC have taken center stage in the politics of Ethiopia. So, the claim to assimilate AAC in to ORS basically emanates from *erroneous interpretation* of 'special interest clause' on part of same "Oromo nationalist" politicians and academicians.

### 4.2.2. Conflicting interpretation of "special interest clause (SIC)"

What is the reason behind the inclusion of SIC? There are three major competing views regarding why special interest clause and what it entails in prospect; (i) from special interest to ownership claim; Some argue that the SIC is a constitutional endorsement of the Oromo's capital ownership over AAC as the city's indigenous inhabitants.<sup>160</sup> Tsegaye, for example, argues that;

*the special in the special interest phrase hails not only from the mere fact of geographic location of AAC in Oromia but also from the implicit recognition of the essentially Oromo identity of the city.*<sup>161</sup>

Contrary to this view others argue that special interest clause has nothing to do with the city's historical ownership, rather it refers to joint administrative matters and about IGR. Yonatan argues that, first it is ORS rather than the Oromo as a community, is the focus of the SIC. Second, the subnational entities that make up the Ethiopian federation are only granted territorial, not personal, jurisdiction as stated in the Constitution.<sup>162</sup> Third, the Constitution limits itself to special interest and makes no mention of rights.<sup>163</sup> Muleya also reinforced this position mentioning the wording of the

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<sup>158</sup>Regulation to Establish the Special Zone of Oromia Surrounding Finfine No. 115/2000,

<sup>159</sup>Fekadu Nigussa, State of Oromia's Interest in Addis Ababa (Finfinnee): Undelivered constitutional promises, Journal of Oromo Studies, p. 40.

<sup>160</sup>Yonatan T. fessha (3), Intergovernmental cooperation, divided societies and capital cities: The case of the Ethiopian capital, 2020, p. 13

<sup>161</sup>Yonatan (3), (n 161)

<sup>162</sup>Yonatan (3), (n 161)

<sup>163</sup>Yonatan (3), (n 161), p. 18

constitution under article 49(5).<sup>164</sup>In essence, these have rooted in and continue to raise the contentious politics of *Indigenous*.

(ii) Indigenous politics narratives to claim ownership over AAC; Same thought that the so-called "SIC" acknowledges AAC as the Oromo homeland and the city's original inhabitants. Currently there is counter claims which reinforce AAC as *historic capital* of all Ethiopians having common and equal national interest. There was a city-civilization called Berara, established by king Dawit of medieval Ethiopia in 16<sup>th</sup> century;<sup>165</sup> there were indigenous inhabitants that lived in the area for at least 500 years prior to Gragne Ahmed aggression followed by eviction of indigenous inhabitants.<sup>166</sup> Hence the establishment of AAC is not considered as conquest of new territory rather restoration of former Berara.<sup>167</sup> (iii) Interpreting SIC as Special rights; this interpretation of the SIC appears to be the logic underlying the unofficial draft bill intended to give effect to the special interest claim.<sup>168</sup> Even if the proclamation remains at draft level, there has been ongoing unilateral effort to implement essence of the draft proclamation by incumbent Prosperity Party (PP). This is accompanied by ORS constitution which stated that AAC/‘finfine’ are capital of ORS; its consistency with the article 49 of the FDRE constitution is debatable.<sup>169</sup> (iv) Interpretation of SIC as inherent Intergovernmental scheme; A cursory examination of the minutes of the Constitutional Commission and the Constituent Assembly<sup>170</sup> reveals that Ownership does not appear to be the driving force behind the special interest clause's inclusion.

#### 4.2.3. One party-politics at triangular side of competing interest over AAC

After the coming in to power of the ‘*second version*’,<sup>171</sup> of Ethiopian People Revolutionary Democratic Front (EPRDF) (PP) in 2010, the political power balance has been reshuffled from inside-out. Currently the controversies over AAC becoming ever

<sup>164</sup>An interview with Muleyaweelaw (በፌዴራሽንምክርቤትየህገመንግስትትርጉምእናየውሳኔአፈጻጸምከትትልቡድንመሪ) held on July 10, 2022, at HOF head office 4 killio.

<sup>165</sup>ሀብታሙ መንግስቱ (ፕ/ር) ፤ በራራ - ቀዳሚት ኡዲስ አበባ (1400 - 1887 ዓ.ም) እድገት ውድመት እና ዳግም ልደት፣ ያልተነገረው የኢትዮጵያ ታሪክ፣ 2012፣ ገጽ 11-14

<sup>166</sup>ሀብታሙ (ፕ/ር) (n 165)

<sup>167</sup>Yonatan (3) (n 161), p. 28 citing Richard Pankhurst and Breternitz/Hartwig, “Barara, the Royal City of 15th and Early 16th Century (Ethiopia), Medieval and Other Early Settlements Between Wechecha Range and Mt Yerer:

<sup>168</sup>Draft proclamation to determine the special interest of the State of Oromia in Addis Ababa City, (hereafter Draft proclamation) at <https://chilot.me/2018/01/draft-proclamation-de>, assessed on November, 2022

<sup>169</sup>ORS Revised Constitution Proclamation No 46/2001 article 2(3)

<sup>170</sup>Minutes of Constitution drafting commission the Constitutional Commission, <https://www.aby.ssinalaw.com/online-resources/state-constitutions?download=1217:constitution-minutes-part-2>, pp. 135-138, 169-171, accessed on June, 2022

<sup>171</sup>Same call it in Amharic ዳግማዊ ኢህዴድ arguing that no fundamental ideological, constitutional as well as structural discrepancy has been registered so far between the former EPRDF and incumbent prosperity. The only change exhibited has been the transition of core political power from ‘Tigray nationalist’ to ‘Oromo nationalist’ and change in nomenclature of the party. See for instance column by Getachew Hyila (professor) on fithemetseat (ፍትህ መጽሐፍት), September 12, 2012

complicated mainly due to same reasons to observe; *first* the dominant political power presence of one party (PP) at all sides of competing interests over AAC (federal, AAC, and ORS). For instance the anticipation to settle boundary issue by an agreement between the AACG and ORS or pursuant to the decision of the Federal Government as per article 5 and 62(2) the revised charter remains unlikely.<sup>172</sup> *Second*, ethno-federal constitution, backed by Leninist-ethno-ideology, continues to exist regardless of apparent political crises resulted from. *Third*, the long-anticipated transition to democratic system and constitutionalism in Ethiopian has yet to be materialized. So, there is no institutionally constrained limited governance, which entails imposition of one party interest against common national interest, AAC is the living example.

#### **4.2.4. Bilateral Concocting of jurisdiction over AAC**

##### **4.2.4.1. Trendseroding legislative authority**

Instead of giving the AAC general legislative authority, the charter grants residual power to issue Regulations pursuant to powers vested in it by Proclamations enacted by the House of Peoples Representative (HPR).<sup>173</sup> yet If AAC has been regarded as self-governing entity as per Articles 49(2), enacting laws for AAC will be out of the ambit of federal power under article 51 of the Constitution. Therefore, the legitimacy of various federal legislations that had been applied over AAC becomes under question mark. In addition, the city council is empowered by the charter to constitute the executive organs of the City.<sup>174</sup> This indicates that it is up to the city council to implement the substantive law that creates the administrative agencies for the city. The charter, however, is silent regarding the entity that should enact administrative *procedural law* for these established agencies in AAC. In addition the federal government also has no clear constitutional provision to enact an administrative procedure law. Contrarily, recently federal government has come up with Administrative Procedure law to be applicable on both federal and AAC administrative agencies<sup>175</sup> without clear authority to that effect. Same argues that the federal government has the authority to enact administrative *substantive law* and so, procedural jurisdiction follows substantive jurisdiction.<sup>176</sup> Why not for AAC, then?

##### **4.2.4.2. Trendseroding Executive authority**

Unless expressly delegated by federal legislation, the Addis Ababa City Administration (AACA) lacks executive authority over federal matters. It implies that federal government has executive jurisdiction over *federal matters* including AAC. For instance there are agencies (like charities and associations) under the executive branch of the federal government though operating in AAC; the City Administration will not have

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<sup>172</sup>for instance the ongoing unilateral boundary demarcation

<sup>173</sup>Revised Charter Proclamation No.361/2003 art 14(2)(b)

<sup>174</sup>Proclamation No.361/2003 art 14(1)(a)

<sup>175</sup>Federal Administrative Procedure Proclamation No 1183/2020 art.2 (1)

<sup>176</sup>FDRE Constitution Art.55 (1)

executive authority over. Accordingly licensing, registration, and supervision of civil societies operating in AAC is the authority and function of the federal Agency.<sup>177</sup> Here the paradox is that the city administration might have no executive power over matters even having legislative power. In addition what constitutes federal matter in this case remains doubtful? Though the city government is empowered to legislate on certain issues in the charter, its executive power is determined by whether or not the same powers are vested in the executive branch of the federal government. Furthermore, Administrative procedure proclamation no 1183/2020 defines “Administrative Agency” as; “...An Executive Organ of the FDRE duly established by law and “includes the Executive Organs of City Administrations accountable to the Federal Government”<sup>178</sup>

This clearly violates the Administrative autonomy of the city in allowing the implementation of federal administrative procedure proclamation over the cities administrative agencies. It seems to trace article 49(3) of the constitution “which says that the Administration of AAC shall be responsible to the Federal Government” while ignoring article 49(2) which entails full-self-governance. Currently there has been an ongoing controversy regarding the justifiability of implementation of one of the requirements of the proclamation which is to send the draft directives of AAC to the Federal Attorney General for its opinion prior to ratification.<sup>179</sup> In addition, related to land administration, AAC’s charter gives it the authority to manage the lands and natural resources that are located within its borders in accordance with federal law.<sup>180</sup> Therefore, regardless of who the owner of the land is, it must be within the municipal borders in order for it to be managed by the city. In contrast, there is federal land bank and a development corporation established by council of ministers regulation no. 431/2018, which is responsible for managing the government’s land holdings including AAC’s land. In addition, the federal government appoints the commissioners of the city’s police commission which calls into question the need for funding commission that is not accountable to the city.<sup>181</sup>

#### **4.2.4.3. Trends restricting judicial jurisdiction**

A recent development shows in this regard, courts of ORS will have judicial jurisdiction over AAC.<sup>182</sup> The jurisdiction includes institutional<sup>183</sup> as well as substantive/material (criminal<sup>184</sup> and civil<sup>185</sup> matters). The proclamation states that:

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<sup>177</sup>Organizations of Civil Societies Proclamation No.1113/2019 Art 3 (1) (d)

<sup>178</sup>Administrative Procedure Proclamation No 1183/2020 Art.2 (1)

<sup>179</sup>Proclamation No 1183/2020 Art.12(4)(5)

<sup>180</sup>Proclamation No. 361/2003, Art.11 (2) (g)

<sup>181</sup>AAC Police Commission Establishment Council of Ministers Regulation No 96/2003 art(4)

<sup>182</sup>A Proclamation to Redefine the Structure, Powers and Functions of the Oromia Regional State Courts Proclamation No. 216/2018, Art.24(2)

<sup>183</sup>ORS Courts Proclamation No. 216/2018 Art.24(4)

<sup>184</sup>Proclamation No. 216/2018, Art.24(3)(a,b,d)

*Notwithstanding the Provision of Sub-article (1) (c) of this Article, the courts of the region shall have jurisdiction in Finfine over “matters that affect the interest of the regional government.”*<sup>186</sup>

Matters that affect the interest of the ORS government are illustrated under article 24(3). These lists are not clear and elusive enough to constitute ‘*matters that affect the interest of the regional government.*’ Is the list consistent with material jurisdiction of courts of AAC and federal courts? Is it constitutional for ORS courts to assume personal jurisdiction by waiving the jurisdiction of the federal and AAC courts over matters that impact its interests in AAC? If so, could other regional states also have same right? The proclamation denotes that matters inherently under the jurisdiction of federal and AAC courts will be taken away and constitutes jurisdiction of ORS courts if thus matters affects the interest of ORS. Ironically, assuming jurisdiction has critical implication in encompassing AAC under ORS which indicates the climax of emerging challenges crumbling self-governance of AAC. There are also instances eroding judicial review jurisdiction of the city’s court, to mansion; the new Administrative Procedure law requires city residents to apply to the Federal High Court if they need a review of the directives and decisions of the city's administrative agencies.<sup>187</sup>

#### **4.2.5. Boundaries issues of AAC not matching the metropolitan area**

Although the boundaries of the economic region grow incrementally over time and space, boundaries are difficult to change in most FCC which needs to coordinate basic services.<sup>188</sup> Yet, the difficulty to mitigate IGR is complicated in case a subunits exposed by the existence of expanding metropolitan area and vice versa, entailing spillovers and the like. The issue even worsens in CSM and FDM of FCC, and relatively.<sup>189</sup> Expanding the boundaries to address the spillovers is always a challenge. Revised Charter Proclamation no 361/2003 empowers AACA to manage land and other natural resources based on federal laws and policy standards.<sup>190</sup> It also states that boundary of AAC will be delimited by an agreement to be made between the AACG and the ORSG or pursuant to a decision of the Federal Government.<sup>191</sup> Here, at the heart of the challenge are contrasting visions of territory, property rights, and resource control, and administrative jurisdiction between the federal government and city residents on the one hand and ORS claims to represent Oromo farmers on the

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<sup>185</sup>Proclamation No. 216/2018, Art.24(3) (c)

<sup>186</sup>Proclamation No. 216/2018, Article 24(2)

<sup>187</sup>Administrative Procedure Proclamation No 1183/2020 No. 1183/2020 (n 868) art.49 (1)

<sup>188</sup>AnaKarruz and other (n 91)

<sup>189</sup>Ana and others,(n 91),p.24

<sup>190</sup>Revised Charter Proclamation No. 361/ 2003 Art.11(2)(g)

<sup>191</sup>Proclamation No. 361/ 2003 Art.5

outskirts.<sup>192</sup>Such collision of macro-political and local understandings of property ownership falls within the notion of frontier expansion,<sup>193</sup> which is the making and remaking of urban frontiers entailing the issues of territorial boundary and extent of jurisdiction thereof.<sup>194</sup>This entails two issues worth examining;

(i)*Regarding territorial boundary*; there are divergent claims which state that ORS has expanded over AAC and vice versa, not usually the case in other FCC. The controversy mainly emanated from the absence of conclusive master plan which indicates hectares of land and boundary limit of the city since modern time up to recent.<sup>195</sup>On the one hand there are an argument that AAC's territory or land per hector has been continuously diminished mainly since 1983, and especially because and since the establishment of special zone after 1997 election. AAC's land incorporates today's special zone area which was around 122,000 hectare during imperial and the Derg regime. After 2007 election defeat of EPRDP in AAC, the seat of ORS reinstated to AAC which was regarded by the then opposition political parties as political revenge. What follows is the establishment of finfine special zone which resulted in diminishing of AAC's land to 54,000 hectare, and trapping the natural expansion of AAC like any other FCC.<sup>196</sup>While others claim that AAC land and urban area, expanded<sup>197</sup> over ORS mainly due to condominium house construction; farmlands have been taken over with frequently inadequate compensation.<sup>198</sup>

(ii) *Issues regarding ownership and administration of land*: basically emanated from divergent interpretation of article 40(3) states 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. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.*

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<sup>192</sup>AsebeRegassa and TeshomeEmana, 'Urban Development and the Making of Frontiers in/from Addis Ababa/Finfinne, Ethiopia,' 2022, Journal of Asian and African Studies, p.8, citing study by World Bank, 2015 ,p.2<<https://journals.sagepub.com> > doi>

<sup>193</sup>Urban frontiers, according to Thomas Wilson (2012), are locations that are not fully incorporated into a state's zone of jurisdiction but where the state seeks to extend its power over the land and its inhabitants. The border is a political and geographical imagination in which a certain place is portrayed as being on the periphery of sovereign power.

<sup>194</sup>Meine Pieter van Dijk, and Jan Franssen, Managing Ethiopian Cities in an Era of Rapid Urbanization, 2008, Global value chain studies and Community resilience project, p.6, <https://www.researchgate.net/publication/295858144>, accessed on November, 2022

<sup>195</sup>The effort on my part to access neutral evidence from AACA, land planning commission, and land Administration office has not been fruitful due to unwillingness on their part.

<sup>196</sup>Regulation to Establish the Special Zone of Oromia Surrounding Finfine No.115/2000,

<sup>197</sup>Dandena Tufa, 'Historical Development of Addis Ababa: plans and realities',2008, Vol. 41, No. 1/2, Special Thematic Issue on Contemporary Urban Dynamics, pp. 27-59

<sup>198</sup>Yonatan (3) (n 179),p.17citing *Berhanu Keno Terfa, Nengcheng Chen, Dandan Liu, Xiang Zhang and DevNiyogi*, Urban expansion in Ethiopia from 1987 to 2017: Characteristics, spatial patterns, and driving forces, *Sustainability* 11 (2019).

On the one hand there are arguments stating the natural resources including land located in the AAC and ORS are not owned by the respective Administrations. Both administrations have the power to acquire and administer the land, and it is up to the central government to control and decide on ownership and territory issue.<sup>199</sup> This is backed by first phrases in article 40(3). The federal government has been also granted the power to determine on boundary issues as per article 5 and 62(2) of the revised charter. Accordingly, by subsequent laws and regulations, the EPRDP administration had been solidified its sole control over urban lands. Despite the fact that Article 40 (3) first phrase grants the state and peoples of Ethiopia ownership of both rural and urban lands, the state retains almost all land tenure rights, leaving citizens with only the right to use the land for subsistence and no ability to transfer or sell it. Furthermore, according to the Constitution, "*Government has the duty to hold, on behalf of the People, land and other natural resources and to deploy them for their common benefit and development.*"<sup>200</sup> Land Expropriation Proclamation No 455/2005 also gives the government absolute power to expropriate land when it is claimed necessary for '*public purposes*.'<sup>201</sup>

On the other hand article 40(3) second phrase,<sup>202</sup> Article 39(3) "NNP's...right to a full measure of self-government includes the right to establish institutions of government in '*the territory that it inhabits*'....," 46(1) the Federal Democratic Republic shall comprise of States, article 2 the territorial jurisdiction of Ethiopia shall comprise the territory of the members of the Federation, art 46(2) States shall be delimited on the basis of the *settlement patterns*...' article 8 All sovereign power resides in the NNP of Ethiopia, and article 47(2) NNP have the right to establish States entails contrary views. Joint scrutiny of these articles reveals that land ownership is sovereign right of NNP which is intermingled with their identity and right to self-governance within territorially defined entity. Hence, as per the standards (article 40(3) second phrase) it is scarcely possible for AAC to own its own territorial jurisdiction, land right ownership and full self-governance thereof symmetrical to regional states or even at the level of local administrations. The complexity rooted in individual vs. group dichotomy of land ownership right. In light of this how the legitimacy of recent boundary demarcation is assessed?

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<sup>199</sup> Meine and Jan (n 194) p.22 see also revised charter proclamation 361/2003, Art. 5, 62 (2)

<sup>200</sup> FDRE constitution Art. 89(5)

<sup>201</sup> Nebulous phrase in the proclamation that resulted in controversial interpretation and abusive implementation

<sup>202</sup> FDRE constitution Art. 40 (3)

#### 4.2.6 Assessing recent developments in boundary demarcation between AAC and ORS

There is an ongoing effort to demarcate AAC and ORS boundary.<sup>203</sup> Accordingly it is stated that, there are wereda Administrations to be incorporated in to ORS as well as AAC. The boundary demarcation might be considered as good attempt from the point of view of the imperatives for resolving the issue between AAC and ORS via cooperative IGR or eels. Yet the demarcation has been criticized<sup>204</sup> mainly due to the following concomitant reasons; (i) the demarcation tried to solve the issue by the source of the problem itself which is the FDRE constitution. (ii) The demarcation has been undertaken without delineated self-governance status of AAC; like the demarcation has been undertaken in the absence of AAC's representation as individual citizen or identity group; from the outset the city charter has been enacted without the participation of the residents, AAC can be resolved by sole decision of the federal government, AAC has no representation in the House of Federation (HOF), no say in constitutional interpretation, inter-state fiscal relation, and inter-state dispute resolution scheme.

(iii) It is *exclusive*, not transparent and *progressive*; to begin with it has been undertaken within the context of the dominant existence of PP in tripartite interest claimants over AAC. who are the participants in the process? If 'various communities' within the meaning of Proclamation to regulate and formalize System of IGR No. 1231/ 2021 article 17(4) includes AAC residents, the boundary issue should have been the responsibility of HOF and the Regional States Relation Forum (RSRF). The article reads as; relation forum "deliberate on the causes that might trigger conflicts between the 'Regional States and various communities. 'In addition same suggests that such boundary issue should have been left to national dialogue as per the intended national reconciliation scheme.<sup>205</sup> In addition, what are the considerations underpinned the demarcation? Is it administrative IGR or eels? Does the consent of the people of ORS and AAC have been properly heard in the process of boundary demarcation as per Article 46(2) of FDRE constitution? How will AAC manages its boundary expansion demand in prospect, which is natural as metropolitan area? (v) It entails *boundary without self-rule autonomy*; is the boundary between AAC and ORS for administrative purposes only or does it constitute demarcation within the meaning of the constitution? Is it the boundary like as between regional states? If so, does it mean AAC has autonomous self-governing or statehood status symmetrical with regional states, within the fabrics of the constitution? If not does the boundary demarcation have the same implication from the perspective of ORS? Is it consistent with the claims which consider AAC as capital city of ORS?

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<sup>203</sup>Wazema radio news July, 2022 (ዋዜማሬድዮዜናኮሴ 04 ቀን 2014 ዓ.ም)

<sup>204</sup>An interview with Henok Aklilu (legal Advocate), and member of executive committee in Balderas for True Democratic Party, held on July 13, 2022

<sup>205</sup>Ethiopian citizen for social justice (EZEMA) የኢትዮጵያዜጎች ለማህበራዊ-ዊፍትህ (ኢ.ዜ.ማ) party release on 16 August, 2022

#### **4.2.7. The reemerging quest for AAC's statehood as a test in federal experiment**

Can/should AAC qualified to claim "statehood" status in the Ethiopian federal fabric? During Ethiopia's Transitional Period Charter (1991-1994), the city of AAC was designated as Region Fourteen, with regional self-government.<sup>206</sup> Following FDRE Constitution, AAC lost the status of regional government and remained vague yet resembling more of a federal district. In addition AAC was enjoying relatively covered self-government status during imperial regime, despite some degree of supervision from the imperial government.<sup>207</sup> As such recently there are inclinations in revival of interest claiming the statehood/CSM full self-governance status of AAC having territorial jurisdiction symmetrical with regional state.<sup>208</sup> In this regard Assefa states that,

*Restoration of Ethiopia's historic provinces and organizing them on a federal basis can bring administrative convenience and it will be more accommodative as provincialism is one element of diversity that defines Ethiopian society. This can also minimize the asymmetry of power and tension among the ethnic groups.*<sup>209</sup>

Anyway all these divergent political controversies indicate the existence of constitutional politics that has engrossed the federation, AAC as pragmatic experiment. This bag the question can this dilemma solved within the fabric of the FDRE constitution or it entails constitutional replacement? Since, sovereignty and self-government are based on ethno-linguistic criteria, AAC cannot claim self-government based on Article 8, and 39(1) of the FDRE Constitution, which grants solely to the NNP. However, there are arguments posed by Sisay which claim that AAC can claim full-self-governance even to the extent of statehood within the fabrics article 46 of FDRE constitution.<sup>210</sup>

#### **4.2.8. Challenges related to AAC's IGR and Conflict Settlement scheme**

Federal system might be a Cause for or a structural tool for conflict resolution.<sup>211</sup> It depends on the functionality of the federation particularly in balancing political and fiscal conflict of interests.<sup>212</sup> The distribution of resource/revenues (vertically and horizontally) within a federal or decentralized government is critical for a federation's stability and

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<sup>206</sup> Proclamation to Provide for National/Regional Self-Governments No. 7/1992. Art.2(7)

<sup>207</sup> Nuredin (n 21), p.85

<sup>208</sup> This is supported mainly by Balderas for True Democracy political party, see also the party manifesto, 2013, p.2

<sup>209</sup> Assefa (1), (n 216)

<sup>210</sup> An interview with D/r Sisay Mengiste (instructor at Addis Ababa university institution of federal studies) held on 20, June 2022, at Addis Ababa University

<sup>211</sup> Michael Siegner, introduction, in Hanns Buhler and others (eds.), Federalism and Conflict Management; International Munich Federalism Days 2017, p.7

<sup>212</sup> Tony Addison and S. Mansoob Murshed, 'The Fiscal Dimensions of Conflict and Reconstruction, 2001,' World Institute for Development Economics Research, p.1-26

economic development.<sup>213</sup>Hence, whether such dilemmas leads to short or long-term conflicts within a multi-tiered government depend on factors:<sup>214</sup>(i) existence of efficiency and equitable allocation system, and if problem arsis can be handled by reallocation or redistribution scheme.(ii) The extent of underlying political problems that transcends into a conflict over fiscal resources, which is relatively worsens in Ethnic-federal systems, and necessitates primarily addressing the underlying political dilemmas.<sup>215</sup>(iii) Existence of IGR and Conflict Settlement scheme.<sup>216</sup>

The controversies regarding AAC basically underpinned by political dilemmas (entailing fiscal dispute) rooted in the genesis of ethno-federation backed by lack of principled and formal IGR. For instance the boundary controversy between regional states as well as between AAC and ORS in particular has been basically related with ethno-federal organizing principle includes; (i) ethnicity has been the major factor for subunits organization, and so federal-democratic principles, economic, IGR, administrative etc. factors has not been given due emphasis. (ii) The ideologyentailing one ethnic group should be dominate in one territorially distinct autonomous subunits (albeit AAC) has been a chronic distortion away from the federal-democratic notion which resulted in enormous political and fiscal challenges/trends encroaching Ethiopian federation, AAC as pragmatic experiment.

Of course the FDRE Constitution does provide a mechanism for addressing disputes that may arise between States.<sup>217</sup>HOF and the Council of Constitutional Inquiry (CCI) are assigned with the responsibility to settle disputes and ensure peaceful resolution of conflicts in accordance with the Constitution.<sup>218</sup>In addition, the recent development in Ethiopia is the promulgation of Proclamation No. 1231/ 2021 which devoted to regulate and formalize System of IGR. However the proclamation has same limitations particularly with regard to AAC; it excludes AAC in its scope focusing only on “*interaction exercised vertically or horizontally between the Federal and Regional states*” or *between and among the Regional States*.<sup>219</sup>This is also reinforced the contents of article 3(1) of the proclamation which states that

*This proclamation shall be applicable to the relations exercised between the Federal and Regional States as well as those between and among the Regional States themselves.*

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<sup>213</sup>Paul Bernd Spahn, Managing Fiscal Conflicts: *Edited by Ronald L. Watts and RupakChattopadhyay, Emerging Issues in Fiscal Federalism*, volume 2, VinodVasishtha for Viva Books Private Limited, 2008, p.51

<sup>214</sup>Paul (n 214)

<sup>215</sup>Paul (n 214)

<sup>216</sup>Jens Woelk, Federalism and Conflict Management: Concluding Reflections,p.50, in Hanns Buhler and others (eds.),Federalism and Conflict Management; International Munich Federalism Days 2017

<sup>217</sup>FDRE constitution Art.62(6)

<sup>218</sup>FDRE constitution Art.83 and 84

<sup>219</sup>Proclamation to regulate and formalize System IGR in FDRENo. 1231/ 2021 (n 435) Art.2(3)

Nevertheless, one of the developments in the proclamation is to make AAC a party in legislative, executive and other *relation forum*.<sup>220</sup> It includes AAC in HOF and the regional states relations forum<sup>221</sup> and the regional states joint relations forum.<sup>222</sup> The pertinent issue here is; does the proclamation considered AAC as an independent entity to bargain for its interest? The contradiction here is the exclusion of AAC from the ambit of the proclamation but its inclusion in relations forum. So, do these forums have responsibilities concerning AAC's vertical as well as horizontal IGR? Cloth scrutiny of the proclamation reveals the inclusion of AAC in relation forum is meaningless as long as these forms have no responsibilities to deal with issue of AAC's IGR.<sup>223</sup> The only exception by way of interpretation may be the clause under article 17(4) which states the HOF and the regional states relations forum; "deliberate on the causes that might trigger conflicts between the 'Regional States and *various communities*' and their disposal..." does '*various communities*' includes residents of AAC? If so, the boundary dispute between ORS and AAC might fall within the responsibility of such forum.

**Generally**, emerging challenges implies enduring one rooted in federal origin in case of AAC. This indicates the nexus between Ethiopian ethno federal origin and these emerging challenges constraining self-governance status of AAC. Hence these challenges constraining AAC's self-governance are complex in that; it is rooted in federal origin and trilateral in nature (involving AAC- federal government as well as AAC- ORS). Yet challenges existed between AAC and ORS does not have equal encumbrance with challenges existed between AAC and ORS as challenges regarding AAC and ORS are serious in that it has relatively rooted in the federal origin, represents an epic in the political dilemma of the Ethiopian federal experiment encompassing; group vs. individual, self-rule vs. shared rule, residency vs. ethnic identity, capital vs. seat, equity vs. diversity, territory vs. location, devolution vs. delegation vs. DE concentration, special interest vs. equal/common interest, historic vs. planned city, core-state vs. poor state, indigenous vs. extraneous, center vs. periphery

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<sup>220</sup>Proclamation No. 1231/ 2021 article 7(1) (c), 9(1)(c), 13(1)(b)

<sup>221</sup>Proclamation No. 1231/ 2021 article 16(1)(d)

<sup>222</sup>Proclamation No. 1231/ 2021 article 18(1)(c)

<sup>223</sup>Proclamation No. 1231/ 2021 article 8, 10, 12, 14, 17, and 18

## Chapter five

### Conclusion and recommendation

**It is all about harmony; to cure the original sin of ‘F’ ‘D’ ‘R’ ‘E’ constitutional fabric** *“humanity is inalienable and diversity is inevitable”*

Individual vs. group dichotomy had long rooted political implication in political theory and evolution; liberal vs. communitarian, socialism vs. capitalism, right vs. left wing political alignment, first vs. second and third generation right, individual vs. group self-determination right, unity vs. diversity, identity based vs. interest based group right, and federal vs. unitary state structure had rooted in this dichotomous dilemma. Federal scheme is about balancing in which political center is powerful enough to create a union without dominating the member unites, thereby creating a unitary state. As such, major aspects of decentralization are the scope of territorial jurisdiction exercised by each level of government, and the degree of autonomy from other levels of government. Yet it is controversial as to whether extensive decentralization in response to self-rule demand would result in political stability or increased instability.

So, it depends on maintaining a balance between competing demands of centrifugal vs. centripetal factor, centralization vs. decentralization, plurality vs. unity, diversity and equity, self-rule vs. shared rule, dependency vs. independency, local autonomy and national interest, solidarity vs. subsidiarity, and competitive vs. cooperative rather than one fits all approach. At the core of the Ethiopian ethno-federal experiment AAC comes in to picture in need of balancing between residency (interest based group right) vs.

ethnic-identity-based-group-right, capital vs. seat, territory vs. location, devolution vs. delegation vs. DE concentration, special interest vs. equal interest, cooperative vs. competitive power allocation, and *solidarity vs. subsidiarity*, core-state vs. poor state, indigenous vs. extraneous, center vs. periphery there by realizing its full self-governance status.

General federal notions and practices also accounts for FCC. Mainly the extent of decentralization, self-governance status of subunits/FCC, representation, and power allocation scheme in general and FCC in particular is depend on *federal geneses*, existence of democratic culture in federal practice, and FCC model to same extent. The federal origin in turn depends on the centripetal or centrifugal motives behind devolution or aggregation and whether federal formation is consensual or coercive, and ultimately centripetal or centrifugal motives by itself is driven by the level of tensions between these competing demands, the political-economy, socio-cultural, geographic, demographic, and historical factors during federal formation. However, there are no one fits all federal theory and model that can account for all types of federal structures and FCC self-governance status in particular. As such FCC having similar FCC model might end up in different self-governance status. The emerging issue in most federal capitals in general and *planned capitals* in particular are *not necessarily* linked to *federal origin*; rather it had resulted from dynamics in federal-democratic experiment. This is mainly because (i) whether the federations are formed by aggregation or devolution the determinant factors behind the centrifugal and centripetal tendency has been defense or security reasons on the one hand, and economic, administrative easement, and democratic considerations on the other, and ultimately wind up in popular pact. (iii) Regardless of federal origin the federal experiment is backed by constitutionalism and democratic political culture.

However, the case in Africa in general and Ethiopia ethno federation in particular exhibits an alteration. Thus exploring Ethiopia's federal system from a formal federal, constitutional and institutional perspective, results in somehow erroneous image of the system. This is mainly because (i) Ethiopian ethno-federal origin has underpinned by ideological motives using ethnicity as organizing principle, rather than balancing up to the essence of normative federal principles in general and the existing context of the country in particular, (ii) ironically, the ideology entailing one ethnic group should be dominate in one territorially distinct autonomous subunits (albeit AAC) has been a chronic distortion away from the federal-democratic notion which resulted in enormous political and fiscal challenges encroaching Ethiopian federation, constraining AAC's self-governance as pragmatic experiment. Practically most border disputes between levels of government/state/local/metropolitan have been reminiscent of this concern. (iii) the federal formation is not the outcome of democratic pact rather it is crafted by the then dominant political power's ideological orientation which resulted in putting-together-

federation, (iv)the federal practice are devoid of constitutionalism, backed by centralized political culture, which resulted in coercive decentralization or power allocation scheme.

This has distorted the federal experiment apart from mainstream federal-democratic notions. (i) These in turn have negatively impacted on the level of decentralization, federal structure and experiment, IGR, and self-governance status of AAC in particular. Hence, AAC's level of decentralization (DE concentration, delegation or devolution), power allocation scheme (cooperative, competitive or coercive), and FCC model (EDM, CSM, CwSM) Remains ambiguous, which resulted in "emerging" challenges constraining self-governance status of AAC. These challenges mainly manifested by trilateral conflicting claims over AAC which is (ii) negatively impacted the functionality of the federal experiment, especially by resulting in ethno-politically driven fiscal and boundary disputes among levels of government AAC as experiment.

Thus the Ethiopian ethno-federal experiment is devoid of balancing up to the essence of federalism, exhibiting AAC as best experiment. So what makes the emerging challenges gripping self-governance status of AAC distinctively rooted in federal origin is that;(i) dealing with emerging challenges necessarily entails focusing about enduring one. This indicates the fact that these emerging challenges are rooted in ideological genesis or original sin of the Ethiopian ethno-federation which is not necessarily the case in other FCC,(ii) These challenges are relatively complex as it has been aresonant of dubious status of AAC in multiplicity of aspects includes; FCCM, extent of decentralization, constituent self/denominator, territorial boundary/jurisdiction, power allocation scheme, representation, fiscal status and ultimately self-governance status,(iii) these challenges are trilateral evolving the federal government (vertical), AAC and ORS's (horizontal) conflicting interests (vi) horizontally it evolves not only boundary expansion issues of AAC metropolitan area in to suburbs like in other FCC, but also ORS boundary expansion claims in to AAC to the extent of encroaching the same. As a whole the self-government of AAC continues to be an anomaly within Ethiopia's overall federal constitutional functionality. The growing emerging challenges if not managed properly, could jeopardize the very existence of the federation. As such it requires the following long rooted/general and specific solutions to realize full measure of self-governance of AAC.

### **Recommendation**

**(i) We Ethiopians as a people need to “Liberalize”/legitimize/democratizes “power-relations”;** Is ‘F’ ‘D’ ‘R’ ‘E’ constitutional system indeed “*federal*”, “*democratic*”, and “*Republic*” within the essence of the term? if not, why we anticipate stable federal-liberal-democracy - republic, political system having ‘elephant in the room’ (FDRE’s constitution devoid of ,legitimacy, driven by *Leninist* ideological rig-our using ethnicity as organizing principle envisioning suppression or secession, locked to mitigate individual vs. group dichotomy, and plainly devoid of its own tiny promise). So, to legitimize power-relations, we need to deal with the focal point of the distortion as to who constitutes self/denominator/the people in Ethiopian federal fabric and AAC in particular, which is primarily individual-based in light of federal-democratic rout, as opposed to Marxist-Leninist route which is class based. So that the people will become contracting party, decision maker, and self-rule in a manner agreed up on.

**(ii) We Ethiopians as a people need to have new federal-constitutional pact;** Trying to solve the long rooted historical, political, constitutional, and fiscal problems constraining self-governance status of AAC by itself entails constitutional *replacement not*

*amendment*. So, it requires new social contract by the people-for the people, thereby harmonizing individual vs. group dilemma. This is mainly because (i) a solution cannot be grasped from the mother of the problems itself; (ii) Amendment of the constitution cannot enhance addressing the basic distortion of the constitution because of its rigid amendment procedure. (iv) the emerging challenges constraining autonomous existence of AAC has been rotted on the genesis and original sin of the constitution, (v) Extensive decentralization in response to self-rule demand within the fabrics of the constitution would result in increased instability and possibly state collapse like former soviet union federation, as the current Ethiopian situation reveals.

**(iii) We Ethiopians as a people need to have new federal-constitutional pact up to its essence;** what matters is balancing among these competing demands in which case federalism has been considered to have relative advantage (but not dead end) relative to unitary state; (i) it has to be *consensual in formation*, necessary to consider non-identity factors as well (interest based group right, federal-democratic notions, socio-economic, geographic, demographic, administrative easement etc.), (ii) Personal/non-territorial federal organizing principle has to be considered alongside the historical organizing principle of Ethiopia which is *provincialism*, and historic city-nature of AAC in particular (iii) Above all the federal scheme has to be context wise particularly in addressing political dilemmas underpinning the federation.

**(iv) As AAC or federal Government level, it is necessary to evaluate comparative advantages of CSM;** especially from the point of view of three-cornered emerging challenges constraining AAC's self-governance status, and current political situation of the country, statehood (city-state) status might relatively realize AAC's self-governance.

**(v) As AAC or federal Government level it needs to redraw the boundary demarcation between AAC and ORS in progressive, inclusive manner;** first, it has to be undertaken within the context of which AAC's self-governance status has been ensured in priority. Because boundary demarcation within the fabrics of the FDRE constitution requires the existence of territorial defined ethnic-self (state or local administration) in which case AAC is an exception. Second, it has to be conducted up to the essence of federalism, democracy, and self-governance, considering non-ethnic factors as well. Third, it has to be conducted considering the distinctive nature of FCC or metropolitan area and ACC in particular in which boundary expansion is natural, while maintaining the balance with interests of residents at AAC vicinity.

**(vi) As AAC or federal Government level it needs to repeal the charter proclamation and other legislations eroding self-governance status of AAC;** to realize of self-governance status of AAC institutional reform has to be materialized by HPR. Accordingly, the AAC charter and other legislations and trends constraining self-governance of AAC, need to be repealed accompanied by full representation and

participation of the residents of the city. Like AAC police has to be accountable for AAC, the new Administrative procedure proclamation has to be repealed, etc.

**(vii) As AAC or federal Government level it needs to realize representation/participation of residence of AAC;** it encloses the question; in what capacity and institutional level can it be realized? I.e. like it depends on whether representation of residents is necessary as group or individual resident right; at the level of first or second chambers (HPR or HOF)? Participation of residents needs to be understood in its wider sense. More specifically, the city administrator should be *accountable* for the residents, all resources available must be put at the disposal of the resident, the Charter must be reformulated by full participation of the residents, and the power of federal government to resolve AAC's council should be amended, Special interest clause should be interpreted for its purpose or has to be amended;

**(viii) As AAC or federal Government level it needs to institutionalize IGR and conflict resolution scheme;** especially, in absence of a clear allocation of power among levels of government in general and AAC in particular, an IGR system can help clear the doubt. In this regard, the proclamation intended to institutionalize IGR in Ethiopia has to be repealed in a manner to consider AAC as an independent entity to bargain for its interest, AAC should be included within the scope of IGR scope of the proclamation No. 1231/ 2021, in addition to its inclusion in *relations forum*. Such forum needs to have responsibilities to deal with issues concerning vertical AAC – federal as well as horizontal AAC- regional state IGR.

**(x) The AAC must take advantage of the opportunity of being a capital city;** like the Federal Government and ORS's expenses for AAC's presence must be fully reimbursable, As having access to more financial support from the federal government is the primary advantage of federal districts. The federal government should allocate funds to AAC as well; the expenditure and revenue power of the AAC needs to be balanced.

**(xi) Emerging challenges existed between ACC and ORS has to be given especial emphasis by political stakeholders;** the challenges regarding AAC and ORS are relatively serious in that has been rooted in enduring challenges which in turn emanated from the federal origin. As such specially, the emerging “core – state” nature of ORS has to be curtailed for the sake of balancing these above mansion competing interests,

**Ultimately,** the territorial jurisdiction, collective identity, FC model, level of decentralization, self-governance status, power allocation scheme (legislative, executive, judicial, fiscal) of AAC has to be delimited with necessary precision in a manner (i) which can subsume national vs. resident's local interest over AAC; (ii) realizing full measure of self-governance of AAC up to its essence.

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**C. Legislations**

- Federal Democratic Republic of Ethiopia constitution, 1995
- ORS Revised Constitution amendment proclamation no 94/2005
- Addis Ababa City Government Revised Charter Proclamation (hereafter Revised Charter)No. 361/2003
- Regulation to Establish the Special Zone of Oromia Surrounding Finfine No.115/2000,
- Draft proclamation to determine the special interest of the State of Oromia in AAC’s Organizations of Civil Societies Proclamation No.1113/2019
- Administrative Procedure Proclamation No 1183/2020
- AAC Police Commission Establishment Council of Ministers Regulation No 96/2003
- A Proclamation to Redefine the Structure, Powers and Functions of the ORS Courts Proclamation No. 216/2018
- Proclamation to regulate and formalize System of Inter-Governmental Relations in the Federal Democratic Republic of Ethiopia No. 1231/ 2021

**D. Interview**

- An interview with D/r SisayMengiste
- An interview with Muleyawelelaw)
- An interview with HenokAklilu

**E. other documents**

- Minutes of Constitution drafting commission the Constitutional Commission,

## **Appendix**

**Title of the thesis: -Emerging Challenges restraining Self-governance of AddisAbaba within Ethiopian ethno-federal dispensation**

### **Interviews Questions**

1. How can you assess the genesis of Ethiopian ethno-federal scheme relative to federal notions and enduring federal experiments?
2. What is the unique nature of Ethiopian ethno federation in general and AAC's self-governance status in particular?
3. Is there a nexus between genesis of Ethiopian ethno federation in general and AAC's self-governance status in particular?
4. How do you evaluate the self-governance status of AAC (FCC model, level of decentralization, legislative, executive, judicial and fiscal) in Ethiopian federal fabric?
5. What is the major enduring and emerging challenges constraining self-governance status of AAC emanated from the constitutions, the city charter, and other legislations
6. How do you appraise special interest clause?
7. How do you assess IGR between AAC and ORS, AAC and federal government?
8. Comparing with Regional Governments, how do you see fiscal autonomy of AAC?

9. Which FCC model can best realize full measure of self-governance status of AAC?
10. Do you think AAC can/should constitute self within Ethiopian ethno federal dispensation?
11. What measures should be taken to realize the full measure of self-governance status of AAC?
12. Do you think the measure should be tenable within the ambit of the FDRE constitution or extra constitutional, constitutional replacement or amendment is relevant?