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**SELF GOVERNING ADDIS ABABA, THE FEDERAL GOVERNMENT & OROMIA:  
BOTTOMLINES AND LIMITS IN SELF GOVERNANCE**

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All errors mine.

# **SELF GOVERNING ADDIS ABABA, THE FEDERAL GOVERNMENT & OROMIA: BOTTOMLINES & LIMITS IN SELF GOVERNMENT**

## **CHAPTER ONE**

### **I. BACKGROUND OF THE STUDY**

Historically, the purpose of municipal government was to provide local services such as the maintenance of streets, water and sanitation, parks, garbage collection and some other social services. The role of the municipality was to provide services that benefit local residents and that could be funded from locally generated revenue. These purposes have evolved through time and now the political and governance aspects of municipalities obtain significance. Additionally, cities are key players in the implementation of all governments' priorities and policies. Cities are direct providers and advocates of such national and regional priorities as transportation, public safety, social services, housing and immigration settlement services to name just a few. These and other issues make cities important subjects of study.

Self governance in the realm of cities assumes two things-the position of the self governing entity in an historical continuum and the special nature of the city in question. As to Addis Ababa, its ethnic composition, geographical position, historical dimension and economic status all contributed to the grant of self governing status to it.

Unlike most other cities in Ethiopia Addis Ababa had the advantage of time and place to transform itself into a political, economic and social center. Its relative seniority and opportunity to serve as the capital of Ethiopia is a case in point. These in turn added to its strength. The city of Addis Ababa, though a political center starting from the times of Menilik II, did not take pleasure in self governance awaiting the coming into force of the FDRE Constitution. Otherwise, it was the capital city of Ethiopia for more than a century.

Addis Ababa's self governing status builds up from the FDRE Constitution.<sup>1</sup> Whether it is the residents or the city administration that has full measure of self government is blurred by the FDRE Constitution which gives the right to the city in its Amharic version and to the residents in its , English version. In the midst of the raisons d'être of giving self governing status to a city, the very concept of self governance deserves due attention. In Ethiopian constitutional fabric as well as elsewhere self governance is an offshoot of self determination. As such, self governance embraces the "right to establish institutions of government"<sup>2</sup> in the inhabited territory and "equitable representation"<sup>3</sup> in the institutions of government. The underlying assumption of the FDRE Constitution in this regard is that those able to enjoy a self governing status are nations, nationalities and peoples.<sup>4</sup>

It is difficult to name one single ethnic group that may be associated with Addis Ababa, not to mention the original Oromo inhabitants. The self governing status of Addis Ababa does not rest on Art.39 (1) of the FDRE Constitution which solely gives the right to self determination only to "nations, nationalities and peoples." Rather justifications must be sought elsewhere. In any way, next to the constitution, the charter of Addis Ababa lays the foundation for the governance of the city and elucidates on the self governing status of the city.<sup>5</sup>

Discussing self government starting with the internal operations of a self governing entity is an icebreaker. The fiscal sources and fiscal independence of a self governing entity pretty much determine the entity's ability to continue enjoying its status quo next to the very quintessence of defining its status as a self governing body or a mere administrative extension of another self governing entity. On the face of meager sources of income, the extent of external interference on the self governing entity will be greater.<sup>6</sup> An income becomes meager either because it has rather a narrow source or because those who share from the limited source are many. However there is also

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<sup>1</sup> ETH. CONST., art.49(2).

<sup>2</sup> ETH.CONST., art.39(3).

<sup>3</sup> Ibid.

<sup>4</sup> ETH.CONST., art.39 (1).

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

<sup>6</sup> Wallace E. Oates, An Essay on Fiscal Federalism, 37 J. ECO. LIT. 3, (1999).

a contention that providing full financial and administrative autonomy to the municipal entities will always remain a difficult question before the state governments.<sup>7</sup>

Whether a self governing status radiates from a supreme constitution or a mere legislation affects the status of an entity. A constitutional guarantee is far more perpetual than a legislative guarantee. Self governance gets itself articulated in the way in which an entity is constituted and dissolved. An unlimited external mandate to constitute and dissolve a self governing unit puts the fate of the unit solely on such external force. Representation in the institutions of government helps gauge the degree of self governance and the very existence of the same.<sup>8</sup> In other words, the scope of representation and the values attached to representation define self governance. In the case of Addis Ababa, whether residents are represented at different levels at different institutions is an issue.

Self governance is also the liberty to experiment with ventures by way of laws and institutions.<sup>9</sup> Stated otherwise, wielding a capacity to make laws and policies as well as administer and adjudicate those policies and laws implies the possession of a self governing status.

Today's governments are highly interconnected, and separating responsibilities can be next to impossible given the complexity and number of functions that are shared.<sup>10</sup> Given the special nature of Addis Ababa and the general complexities of putting watertight division between levels of government, there are tendencies of legitimately limiting self governance.

If we then know that self governance may be limited, attention should therefore be turned to the principles of doing it in an objective and justifiable fashion. As a starting point, it is possible to see

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<sup>7</sup> S. Bagchi, Elected City Governments: Survival at Stake, 35 ECO. & POLIT W. 37, (2000).

<sup>8</sup> J. Markakis and A. Beyene, Representative Institutions in Ethiopia, 5 J. MOD. AFR. STUD. 2 (1967) **see also** Harold E. Glass, Ethnic Diversity, Elite Accommodation and Federalism in Switzerland, 7 PUBLIUS 4, (1977).

<sup>9</sup> I. D. Duchacek, State Constitutional Law in Comparative Perspective, 496 ANN. AMER. ACAD. POLIT. SOC. SC., (1988). **Also see** A. B. Gunlicks, Constitutional Law and the Protection of Sub national Governments in the United States and West Germany, 18 PUBLIUS 1, (1988).

<sup>10</sup> Casey Vander Ploeg, Rationale for Renewal: The Imperatives Behind a New Big City-Provincial Partnership, 2WEST. CIT. PROJ Report #34, Calgary: Canada West Foundation.(2005).

the liberty chartered cities enjoy as opposed, for example, to general law cities. A charter city is a city that is governed by a special legislative document called a charter and owned by the city concerned.<sup>11</sup>

As a result charter cities are not governed by laws made by provinces or sub national entities.<sup>12</sup> In addition to this, since charters are initiated by the cities, the residents have a say on the law.<sup>13</sup> A charter allows residents to manage the affairs of the city in a flexible manner.<sup>14</sup> Moreover, charters play a vital role in furthering experimentation in different forms of governments within the domain of the law.<sup>15</sup>

Charter cities also resemble the experience of “home rule” in which a local government has the power to conduct its own affairs-including specifically the power to determine its own organization, the functions it performs, its taxing and borrowing authority, and the numbers, types, and employment conditions of its personnel.<sup>16</sup>

On the other hand, cities established by laws other than charters are called General Law Cities. What puts general law cities at variance with charter cities is that the former are established by federal and sub national laws.<sup>17</sup> There is little or no experimentation at all. One can appreciate the fact that charters are favorable to self governance than general laws.

All in all, the constitutional architecture of a country and other legislations help judge the independence prevalent in self governing cities. But the document establishing the city has some basic things to say about the status of the same.

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<sup>11</sup> J. B. Carr, Local Government Autonomy and State Reliance on Special District Governments: A Reassessment, 59 POLIT. RES. QUART. 3 (2006).

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Alex Gboyega, Protecting Local Governments from Arbitrary State and Federal Interference: What Prospects for the 1990s?, 21 PUBLIUS 4, (1991).

<sup>15</sup> Id.

<sup>16</sup> Vander Ploeg, supra note 10.

<sup>17</sup> Duchacek, supra note 9.

## II. STATEMENT OF THE PROBLEM

**In Self Governing Addis Ababa, the Federal Government & Oromia: Bottomlines & Limits in Self Government**, the underlying exercise will be revealing the controversy between self governance and the limits on self governance. Addis Ababa can be taken as an ideal case study with this regard because a constitutionally guaranteed self governing status is in juxtaposition with the dubious “special interest” of Oromia and the interest of the federal government. As a result, the role of the federal government and the sources of the interest of Oromia all enmesh the self governance of Addis Ababa.

Though the degree of involvement of Oromia lacks precision, attempts are made to define the role of the federal government in the city. The imprecision of the interest of Oromia in Addis Ababa bestows sufficient option to the region to broaden or contrast its domain in the city. Constitutional stipulations about the city do not sufficiently delineate the extent of power of Addis Ababa and the degree of involvement of the federal government as well. In addition to the issue of involvement, the nature and types of involvement pose threat on self governance. In the mean time, the organization and administration of the city contribute to the body of discourses we have about self governance.

A system of government adopted by a city has a say on the autonomy and functioning of a city. With this regard whether there is a “strong mayor” prototype or a “city manager” type of governance is not properly addressed in the case of Addis Ababa. In a related way, it is also possible to mention the distinction between charter cities and general law cities. Although Addis Ababa is considered to be a chartered city, a microscopic observation reveals a different scenario. The impact of the establishing instrument on the self governing status of a city is magnificent. The problem in Addis Ababa should be approached from this angle.

One more crucial issue however is the bottom line in self governance. This is the minimum threshold to go down in the continuum of self governance. As to Addis Ababa, such bottom lines and limits pass haphazardly. How much to go down is not that articulated. Mistakes may pave the way for a strategic exhaustion of the pool of self governance. As things stand now, one may be

tempted to hold that principles limiting the federal government and Oromia need exacting inspection. The special interest of Oromia not clearly defined, current bulwarking activities ignite suspicion in the relationship amid Oromia and Addis Ababa.

The city pattern of Addis Ababa (i.e. whether a capital district, a city-state or a city under a regional state) is another area of predicament. It is obvious that the pattern assumed by a city determines the autonomy of the same. Addis Ababa's pattern likewise determines its status.

Faintly defined fiscal relations with the federal government and even undefined fiscal relations with Oromia gloom the self governing status of Addis Ababa. One source of strength and autonomy is fiscal power. Close examination of fiscal relations may reveal the self governing status of Addis Ababa.

Representation prefigures self governance. This is documented by the FDRE Constitution. Even though residents of Addis Ababa are represented in the House of Peoples' Representatives, there is no representation in the House of Federation and the State Council of Oromia. The impact of such representation on the self governing status of Addis Ababa needs critical appraisal.

There is no disagreement about the involvement of the federal government in Addis Ababa. The pretexts of involvement however invite disagreement. For instance, the acts of repossessing the powers and functions of the city administration as well as dissolving the city council all require careful analysis on the face of self governance. Little is also said about how the city government is going to be formed. Surprisingly, the role of the residents in the dissolution and repossession efforts is kept at the minimum.

Finally, the appropriateness or otherwise of ethno-linguistic arrangement in securing self governance in Addis Ababa is not well regulated. In a related fashion, the extent of representation in the institutions of the city government and the mode of involvement in the city bureaucracy obtained little attention in the system governing the city.

### **III. OBJECTIVE OF THE STUDY**

At the moment of little or no principle in the area of how to limit self governance, divesting some principles as are efficaciously employed elsewhere will be important. Setting straight principles of self government, showing the impact of Intergovernmental Relations (IGR) on self government and picturing the interplay of cities and self government is the general objective of the research. Specifically:

- The normative and practical protection available to local governments will be discussed,
- A pathological analysis of systems at a glimpse will take place in the study to prefigure conflict scenarios and devise a post conflict panacea,
- I will depict the intergovernmental interplay among three orders of government (i.e. at federal, sub national and municipal level),
- I will appraise how Ethiopia so far managed itself at city level in a federal setting,
- I will show what the relationship of Addis Ababa with the Federal Government and Oromia looks like thereby analyzing the effect of this relationship on self governance,
- I will consider current developments with the view of evaluating their impact on self governance.

### **IV. SIGNIFICANCE OF THE STUDY**

Most studies of self governance in the Ethiopian setting concentrate on the study of the subject from the angle of self determination. Even in that case, the discussions are not fit for cities. In this study, a look at self governance from the angle of cities will be the concern. Because cities are microcosms of countries, experimentations having bearing on a larger scale are believed to take place here. The paper will be one ingredient to the bereft area of research.

As microcosms of states, cities have some advantages that can help in proper organization of states. First, states are argued to be more fluid politically hence open to the vagaries of the voting

cycle.<sup>18</sup> With no stable majority, the distinction between the ruler and the ruled is blurred. Tyranny is less attractive if there is a significant risk of being tyrannized in return. Second, exit from a repressive city to a less repressive city or even state is possible.<sup>19</sup> Mobile individuals can join that city having their most preferred set of rights and responsibilities. Third, cities encouraged effective public participation given the numerical manageability of the residents.<sup>20</sup> States learn a great deal from this. The research will attempt to show the authenticity or otherwise of these age old assumptions.

On the other hand, the dearth of researches in the area of local government and municipal governance in Ethiopia necessitates the fact of having this study in the area of local governments and municipal governance.

Ethiopian flirtation with federalism being a recent phenomenon and city governance in a self governing parlance being a complex thing, and little has so far been done to genuinely assess the impact involved, this research will be important in making valid evaluations and clear determinations.

Additionally, studying self governance at city level in an intergovernmental manner aggrandizes the possibility of canvassing pre-federal, federal and post federal scenarios in any system. This study is believed to play this role.

In general, in addition to the legal gaps existing in the area of limiting self governance, the inconsistent and less principled approach of city-federal-region relationship inspired having this research in the area.

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<sup>18</sup> Robert P. Inman, et al, The Political Economy of Federalism, in PERSPECTIVES ON PUBLIC CHOICE: A HANDBOOK 74, 79 (Dennis C. Muller, ed., 1997).

<sup>19</sup> Id.

<sup>20</sup> Id.

## V. RESEARCH QUESTION

Though possible to position as many questions with this regard, some of the research questions may be put in this fashion divided as general and specific questions

- What is self governance at a city level? With this regard, what singular recipe does the Addis Ababa case furnish?
- How is self governance legitimately limited? How is this carried out in Addis Ababa in law and in practice?
- Are there principles of limiting self governance in Ethiopia? If any, are they objective, reasonable and sufficient? If not, is there a need to have any?
- What aspects of self governance are recognized in the case of Addis Ababa?

In addition to these general questions, related specific questions include

- Does the city have enough space for experimenting self governance?
- When is it important for the federal government to interfere in the affairs of Addis Ababa? What principles should guide such interference? Which organ of the federal government ought to interfere in the affairs of Addis Ababa? Why? When? And How?
- What is the special interest of Oromia in Addis Ababa and how does it possibly affect the self governing status of Addis Ababa? How is the current “engulfing” trend of Addis Ababa with the “Oromia special zones surrounding Addis Ababa” explained? Does it have bearing on the self governing status of Addis Ababa?
- What are the fiscal sources of Addis Ababa? How far independent are they? Are they sufficient for a self governing entity? Does Oromia have fiscal interests in Addis Ababa? Why? Why not?

- How is post crisis situation managed in Ethiopia and what is the bearing of such management on self governance?

Although these are the questions the research will address directly and indirectly, the study will basically concentrate on responding to the questions related to self governance in general, the mechanisms and principles of limiting self governance, the intergovernmental relationship of Addis Ababa and the principles guiding IGR and the issues affecting self governance in the setting of Addis Ababa.

## **VI. METHODOLOGY**

The research emphasizes the Ethiopian scenario of self governance and pays due attention to self governance as understood in Ethiopia taking Addis Ababa as its unit of analysis. Never the less, the study will be corroborated by a comparative experience. Such observations will be tuned at times to fit the Ethiopian case and sometimes only for the sake of comparison.

Qualitative approach will be the rule of the game. By qualitative, it is to mean that the research will employ the perception of the scenario (both the law and the practice) by the concerned organs. To this end, both primary and secondary sources of information will be consulted.

Specifically, as far as primary sources are concerned, interviews and observations and focus group discussions will be employed. The interviews will be directed to officials, experts and selected residents of the city. As the research will be qualitative, the importance of questioners is less visible. But if possible questioners with open ended questions may be employed. So far as the secondary sources are concerned books, journals, legal instruments and official documents will be taken as resources.

**CHAPTER TWO**  
**SELF DETERMINATION AND SELF GOVERNANCE: CONCEPTUAL DISCOURSES**  
**INTRODUCTION**

Self determination and self governance have always been symbiotic concepts the latter usually depending on the former. The political facet of self determination often blurs its legal posture where as self governance relies rather highly on its legal stature and loosely on its political one. This does not in any way undermine the susceptibility of both to a legal and political demeanor respectively. Some have gone to the extent of treating them interchangeably only to the ends of confusion. In this chapter, we will exercise our muscular rigor to explain self determination and self governance in the general parlance to ultimately explore the two concepts at a city level. A look at the types and purposes of self determination will be made. Attention will be paid to the necessary conditions for the exercise of self governance, the Ethiopian constitutional fabric and its impact on self governance as well as the domain of self governance at city level.

**1. DEFINING SELF DETERMINATION AND SELF GOVERNANCE**

**1.1. SELF DETERMINATION**

**1.1.1. DEFINITION AND TYPES**

Broadly defined, 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>21</sup>

It helps define who should have power and why, who should have voice in decision-making, and how account should be rendered. Self determination “forms an integral part of the right of people to choose their own political regime and to be free of authoritarian

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<sup>21</sup> M. POMERANCE, SELF DETERMINATION IN LAW AND PRACTICE. THE DOCTRINE IN THE UNITED NATIONS 12 (1982).

oppression”.<sup>22</sup> It is a right to live under a democratic state. So, popular sovereignty is the underpinning principle of self determination.

According to Paul Brietzke, self determination, especially in Ethiopia, is all about answering the question “who should clear a path through the political thicket, and how, and who should then be able to walk this path?”<sup>23</sup>

Self determination is a penchant that embodies two broad concepts. While one aspect of self determination echoes the right to establish own institutions of government thereby enabling self rule, the other reiterates the demand for representation in institutions of government. In a way, self determination is both an issue of semantics as well as pragmatics. Counting on these elements, scholars understand self determination to mean external as well as internal self determination. External self determination mostly involves an entity's move in the international arena thereby determining its international status.<sup>24</sup> In a way external self determination deals with the “status of a people vis- a -vis another people, state or empire.”<sup>25</sup> Moreover, external self determination embraces the right of a people to be free of external interference.<sup>26</sup> There is also a general understanding that external self determination includes secession.

Internal self determination is associated with the democratic principle of the right of a people to choose its own government and participate in the chosen government.<sup>27</sup> Among other things, internal self determination includes promoting one's culture within a territory, establishing institutions of government and representation in the institutions of government at varying orders. Hence, internal self determination implies self government among other things. Although self determination in its external form is highly contested

<sup>22</sup> Donald L. Horowitz, *The Cracked Foundations of the Right to Secede*, 14 J. D. 2, 7 (2003).

<sup>23</sup> Paul H. Brietzke, *Ethiopia's Leap in the Dark: Federalism and Self Determination in the New Constitution*, 39 J.AFR.L 1, 30 (1995).

<sup>24</sup> E.I. Daes, *Native Peoples Rights*, 27 Les C.D 126(1986).

<sup>25</sup> P. Thornberry, *The Democratic or Internal Aspect of Self Determination with Some Remarks on Federalism*, in MODERN LAW OF SELF DETERMINATION 113, (C. Tomuschat ed. 1993).  
Scholars like Hurst Hannum rightly associate internal self determination with Woodrow Wilson.

<sup>26</sup> A. CASSESE, *SELF DETERMINATION OF PEOPLES. A LEGAL REAPPRAISAL* 71-140 (1995).

<sup>27</sup> *Id* at 79.

specially when secession is an issue, internal self determination is considered as something essential, even though not desirable, specially for pluralistic societies.

## **1.2. PURPOSES OF SELF DETERMINATION**

The purposes of self determination can be put in a continuum of effect and cause. The usual way of discussing the purposes of self determination is explaining the benefits that the principle bestows on the people that embrace it. It is not unusual as well to analyze aspirations of people for autonomy or better autonomy and independence in the practical world. Most of the purposes of self determination are the defining elements of the same. Following, an attempt to discuss the purposes of self determination in the first parlance will be made.

### **1.2.1. POPULAR SOVEREIGNTY**

The proponents of self determination as an ideal means of achieving the ends of popular sovereignty include such prominent personalities as Woodrow Wilson. Self determination, they say promote democratic rule as it enables people to pick up their own governments along with the forms of governments.<sup>28</sup> The principle of sovereignty extends to encompass “the right of people to choose those with whom they wish to associate politically”.<sup>29</sup> This idea of political association is better explained by Mursweik as

[the] intrinsic idea of the right of self determination is to provide every people with the possibility to live under those political, social and cultural conditions that correspond best with its characteristic singularity, and above all to protect and develop its own identity.<sup>30</sup>

### **1.2.2. THE COLLECTIVE RIGHTS ARGUMENT**

This argument tracks the logic that there are certain types of rights that cannot be enjoyed individually. As such these rights call upon a collectivity of individuals to aspire for

<sup>28</sup> Thomas M. Franck, *The Emerging Right to Democratic Governance*, AMERICAN J.I.L. 86, 47 (1992).

<sup>29</sup> Horowitz, *supra* note 22.

<sup>30</sup> D. Mursweik, *The Issue of a Right of Secession Reconsidered*, in MODERN LAW OF SELF DETERMINATION 36, (C. Tomuschat ed, 1993).

them.<sup>31</sup> They include cultural and religious rights. The argument thus is as individuals have rights to political self expression, groups also express themselves in terms of self determination.<sup>32</sup> Self determination in a way facilitates the quest for individual and group identities thereby shaping individual and group aspirations to self rule. In other words, “the claim for self rule “...arises from a desire for freedom and fair treatment by citizens who belong to historically disparaged and disadvantaged cultural communities”.<sup>33</sup> In this way, some scholars consider self determination as a right whose effect is triggered on the event of discrimination or oppression. This kind of argument is promoted by scholars such as Allen Buchanan. Although known as the “Remedial Right”, this version of the argument counts on the right of oppressed people to seek to depart from a portion of population “unalterably hostile”.<sup>34</sup>

Another theory of secession, opposing the Remedial Right Theory, runs by the name “Primary Rights Theory”. It takes secession for granted and posits little or no requirements on the exercise of the right to secede. For instance, one version of Primary Rights Theory holds that those having “ascriptive” features (i.e. common culture, history, language and a sense of own distinctiveness, among other things) have the right to secede even without suffering any disparagement.<sup>35</sup> A more generous argument in favor of secession is offered by still another version of Primary Rights Theory (i.e. the Associative Group Theory) in which even the ascriptive features listed earlier need not be present.<sup>36</sup> Far from that, a group no matter how diverse in composition may qualify to secede. What counts is the willingness of the group's members to come together to create an independent polity.<sup>37</sup>

Although the Associative Group Theory furnishes a generous term on the possibilities of secession by putting simple majority or a referendum as a precondition before secession,

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<sup>31</sup> Andreas Eshete, Implementing Human Rights and a Democratic Constitution in Ethiopia, 21 J. OF OPIN.1, 8-13 (1993).

<sup>32</sup> Horowitz, supra note 22.

<sup>33</sup> Andreas, supra note 31 at 9.

<sup>34</sup> Allen Buchanan, Theories of Secession, 26 PHIL. PUB.AFF.1, 31-61 (1997).

<sup>35</sup> Id at 39.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

an offshoot of this theory has now tended to attach other requirements such as the availability of resources to run a new state for any group wishing to secede.<sup>38</sup>

### **1.2.3. THE DEMOCRATIC ARGUMENT**

This argument is in part affiliated to the argument from popular sovereignty. It however gives more emphasis on the benefits self determination confers via enhancing effective participation in government.<sup>39</sup> This argument from democracy to internal self determination urges in finding “appropriate levels of democratic self government to guarantee effective participation by all in the economic and political life of a country”.<sup>40</sup>

Internal self determination prefigures effective self governance and contains desires to secession. With this regard, A. Eide considers the possibilities of “pluralism in togetherness” and “pluralism by territorial sub division” in addressing the needs of minorities.<sup>41</sup> As such, internal self determination avails groups multiple layers of opportunities to address their problems. Groups will therefore have every chance of exhausting the remedies of either representation in majoritarian institutions or establishing their own institutions of government short of independence. More succinctly, because of self determination “the impetus for exit is to be blunted by providing opportunities for voice and reasons for loyalty”.<sup>42</sup>

### **1.3. ARGUMENTS AGAINST SELF DETERMINATION**

The arguments against self determination are dominantly targeted against secession, only a segment of self determination. However there are some who generally disavow self determination on an end based analysis.

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<sup>38</sup> Ibid.

<sup>39</sup> H. Hannum, *The Specter of Secession: Responding to Claims for Ethnic Self-Determination*, 77 FOR. AFF. 2, 13-18 (1998).

<sup>40</sup> Id at 3.

<sup>41</sup> A. Eide, *In Search of Constructive Alternatives to Secession*, in MODERN LAW OF SELF DETERMINATION 161-174, ( C. Tomuschat ed, 1993).

<sup>42</sup> A. HIRSCHMANN, *EXIT VOICE AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* 173, (1970).

To kick off with these arguments, the first one will be that which holds granting any form of self determination right even short of secession be alluring in the direction of secession. This is how it works. Forms of self government, whether in a federal, autonomous or devolved arrangements, promote secession specially when assisted with concentration of a group at a place.<sup>43</sup> This is so because the arrangement provides political elites with the necessary resources to launch separatist struggles. Put otherwise, the argument holds

granting regionally concentrated minorities special forms of autonomy, devolved powers, or privileges within a system of asymmetric federalism would not so much assuage demands for representation, control, or resources, as lead the country down a slippery slope to separatism.<sup>44</sup>

Second, the right of self determination is considered to be only aspirational. If we take the democratic argument that aspires to let people live under a democratic regime, we find “more than half of all regimes in the world to be still not democratic”<sup>45</sup>.

Third, secession does not guarantee that the seceding state will not commit the wrongs the rump state committed against minorities. There is no insurance that the seceding state will not be another forum of repression. Theories of secession assume that secession produces homogenous states.<sup>46</sup> Moreover, there are assumptions that secession diminishes the conflict that produced the secessionist movement.<sup>47</sup> But these may not hold good at all times and secession ends up in creating another forum of conflict and repression.

Fourth, minorities, if succeed in seceding, may seize the opportunity to express violent hostility against former “oppressors”, now minorities in the new state. In this manner,

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<sup>43</sup> I. Lustick, D. Miodownik, R. Eidelson, *Secessionism in Multicultural States: Does Sharing Power Prevent or Encourage It?*, 98 AM. POL.SC.REV.2, 209-229 (2004).

<sup>44</sup> S. Cornell, *Autonomy as a Source of Conflict: Caucasian Conflicts in Theoretical Perspective*, 54 WOR. POL., 245 (2002).

<sup>45</sup> Horowitz, *supra* note 22 at 7.

<sup>46</sup> *Id* at 8.

<sup>47</sup> *Id*.

secession will “not likely be the end of an old bitterness but the beginning of a new bitterness”.<sup>48</sup> Even those defending the right to secede concede to the fact that no one knows what exactly secession has in store. No one other than Hurst Hannum depict this scenario as

There will always be "trapped" minorities, no matter how carefully boundaries are drawn... Ethnically based states almost inevitably lead to claims of ethnic superiority on the part of the new majority and to a cultural rigidity that creates problems for new minorities. At their worst, newly created ethnic states may tolerate or encourage killings and ethnic cleansing.<sup>49</sup>

## **2. SELF GOVERNANCE**

### **2.1. DEFINITION**

An offshoot of self determination and principles of federalism as well as republicanism, self governance relates to the facet of internal self determination that enables people to choose their government and participate in it. Self governance is defined as the “right of each member of the community to choose in full freedom the authorities that will implement the genuine will of the people”.<sup>50</sup> Self governance is all about the autonomy of a people to regulate its own affairs in its own ways. Among other things, self government consists in deciding how the internal structure of government is organized, protecting the territorial integrity and autonomy in the area of organization, deciding on personnel, finance, rule making and regulating the means and duration of relations with other autonomous and semi autonomous entities.<sup>51</sup> Critical therefore is the ability of a people to decide on how to govern itself, when to govern itself and when to associate with, in addition to whom to associate with.

### **2.2. NECESSARY CONDITIONS FOR THE EXERCISE OF SELF GOVERNANCE**

Self governance calls for a plausible environment to operate and take deep root in. Conditions necessary for the operation of self governance may be political, physical,

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<sup>48</sup> Id at 9.

<sup>49</sup> Hannum, supra note 39 at 16.

<sup>50</sup> CASSESE, supra note 29 at 97-98.

<sup>51</sup> A. Gunlicks, Constitutional Law and the Protection of Sub national Governments in the United States and West Germany, 18 PUBLIUS 1, 141-158 (1988).

economic and psychological. These conditions are assumed to be catalysts of sub national and municipal autonomy. Next, a discussion of these necessary conditions will take place. For the purpose of convenience, the discussion on the preconditions will assume three parts counting on the same arrangement by R.L. Watts.

- **The 'Background Conditions'**- these conditions are the fundamental recipes of self governance and include social, economic and political considerations. Among other things, if a particular group has linguistic, religious, ethnic and cultural attributes it shares in common, then the group is disposed to demand self governance and recognition at the national level.<sup>52</sup> As such, the existence of these commonalities contributes much in the efforts of a group to govern itself. The role of language with regard to fueling regionalism is significant. As language serves to unify those that share one, it has also contributed to prevalent dissatisfaction in the event when a group is governed with a language other than its own.<sup>53</sup> In other words, language serves as a catalyst in two directions. On one hand, language serves to unify speakers of similar language under one umbrella, while on the other hand it forces groups apart by invigorating the feeling of disenfranchisement on those speaking differing languages.

Other background condition includes differences in economic development and political view (ideology). Economic development or underdevelopment, as the case may be, is a strong variable in determining the needs for self governance and autonomy. While economic development of a group may provoke envy on those groups that are lagging behind, it may also vitalize fear of exploitation and domination in the developed against the underdeveloped.<sup>54</sup>

- **Nature of the Federal Negotiation**- this precondition presumes a federal arrangement and the pre-federal negotiations that led to the emergence of a federal state. Those able to marshal effective popular support in favor of self government and who at the same time have the bargaining power in the federal

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<sup>52</sup> RONALD L. WATTS, *COMPARING FEDERAL SYSTEMS* 3 (2008).

<sup>53</sup> *Id* at 68.

<sup>54</sup> *Id* at 67.

negotiations will be predisposed to assert their self governing right than any other.<sup>55</sup>

- **Strong Motives for Autonomy**- next to the background conditions, a strong motive to be autonomous and remain autonomous is a crucial catalyst of self governance. The motives may be expressed in different ways. For instance, a group may demonstrate its motives by guarding itself against assimilation.<sup>56</sup> A group may also strive to obtain economic viability to itself.<sup>57</sup> In addition, a group may display its psychological preparedness to statehood.<sup>58</sup>

### **3. THE ETHIOPIAN CONSTITUTIONAL FABRIC AND SELF GOVERNANCE**

#### **3.1. BACKGROUND**

Before considering the constitutional fabric, it will be wise to see the country's political and legal dynamics that gave rise to the FDRE Constitution as what took place immediately before the Constitution has a telling effect on the same. The up coming discussions should be appreciated from this angle. To this end, an attempt will be made to characterize the pre-federal scenario of Ethiopia immediately before the advent of the FDRE Constitution.

Economic and social underdevelopment, political scuffle and imperial expansions (reunification?)<sup>59</sup> characterize the late 19<sup>th</sup> and early 20<sup>th</sup> Century Ethiopia.<sup>60</sup> It is this performance of the country that gets articulated in the interpretations and reinterpretations of the history of the country thereby gaining momentum via political elites that mobilize the interest alongside their own world views. Generally, three lines of

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<sup>55</sup> Ibid.

<sup>56</sup> John C. Harles, *Integration before Assimilation: Immigration, Multiculturalism and the Canadian Polity*, 30 CANADIAN J.POLIT.SC. 4, 711-736 (1997).

<sup>57</sup> WATTS, *Supra* note 52 at 68.

<sup>58</sup> Ibid.

<sup>59</sup> There is a disagreement as well on the terms to characterize the actions of Ethiopian emperors during the mentioned time. Those who oppose the action call it expansion while those supporting it call it reunification.

<sup>60</sup> BAHRU ZEWDI, *A HISTORY OF MODERN ETHIOPIA, 1855-1974* (1991).

argument<sup>61</sup> may be made out of the interpretations of late 19<sup>th</sup> and early 20<sup>th</sup> Century Ethiopian political history.

The first interpretation, which runs by the name “nation building”, of the expansion of Ethiopian emperors (notably Menilik II) to the south, concludes that the move is empire building and an attempt to reunify the country. It considers the expansion as something desirable for the unity of the country as well as necessary<sup>62</sup> for the survival of the same. With this regard some even contend that “the expansion [was] anti-colonial and inspired by a survival ethos”.<sup>63</sup>

Secondly, there emerges the “national oppression” thesis that understands the southward expansion as something that resulted in the subjugation of nations, nationalities and peoples of Ethiopia. Linked with the students’ movement of the 1960s, the thesis accuses the southward expansion of Menilik as a plan to subjugate the various nations and nationalities and turn Ethiopia to a ‘prison house of nations’. A related version of the oppression thesis is the “class oppression” thesis that takes the expansion as the cause of national class oppression. Still another version of the oppression thesis is the “colonial thesis” which accuses the southward expansion as having resulted in the colonization of previously independent and semi-independent kingdoms in the south and the south west of the country.

Finally, we have the instrumentalists with an entire shift of paradigm compared to the above mentioned theses. According to instrumentalists, ethnicity is only a means to another end. As such, ethnic revivalism is a fruit of failing state policy, which excludes certain ethnic groups.<sup>64</sup> It is even taken as a “political strategy of aspiring but blocked elite groups produced by the national educational system in a situation of economic stagnation.”<sup>65</sup> In a setting where the state controls the production and distribution of

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<sup>61</sup> MERERA GUDINA, ETHIOPIA: COMPETING ETHNIC NATIONALISM AND THE QUEST FOR DEMOCRACY, 1960-2000 (2003).

<sup>62</sup> MESSAY KEBEDE, SURVIVAL AND MODERNIZATION. ETHIOPIA’S ENIGMATIC PRESENT: A PHILOSOPHICAL DISCOURSE (1999).

<sup>63</sup> Id at 67.

<sup>64</sup> J. Abbink, Ethnicity and Constitutionalism in Contemporary Ethiopia, 41 J. AFR. L. 2, 159-174 (1997).

<sup>65</sup> Id at 169.

resources, access to resources is possible only through controlling the state machinery.<sup>66</sup> The worst happens, according to instrumentalists, when the state is monopolized by a single or two ethnic groups at the exclusion of others thereby causing the monopolization of resources and ultimately a vicious power struggle.<sup>67</sup>

### **3.2. THE FDRE CONSTITUTION AND SELF GOVERNANCE**

The winning thesis of all the above in the eyes of the FDRE Constitution was the “national oppression” thesis and its protagonist the EPRDF. Beliefs and views in the national oppression thesis have shaped and guided the process and substance of the FDRE Constitution. Underlying assumptions of national oppression and previous autonomous status of the nations, nationalities and peoples of Ethiopia all are visible in the FDRE constitution. Aspirations in the Constitution underscore self determination. The Constitution marshals quite a resource to safeguard the rights and privileges of nations, nationalities and peoples. What prefiguring events concerning self governance happened before the Constitution came in to force?

A decisive event that took place before the coming into force of the Constitution concerning self governance must be the promulgation of the “Transitional Period Charter of Ethiopia”,<sup>68</sup> hereinafter the Charter. The coming into force of the Charter marked the official recognition of the right to self determination of nations, nationalities and peoples. Without defining nations, nationalities and peoples, the Charter recognized the right of self determination and the consequent rights of establishing institutions of government, promotion of culture and representation at different levels on the basis of fairness and propriety.<sup>69</sup>

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<sup>66</sup> M. Doornbos & J. Markakis, *Society and State in Crisis: What Went Wrong in Somalia?* 21 REV. AFR. POL. ECO.5, 82-88 (1994).

<sup>67</sup> Ibid.

<sup>68</sup> No. 1 Negarit Gazeta 50th year No. 1 Addis Ababa, 22 July 1991.

<sup>69</sup> Art. 2, *The Transitional Period Charter of Ethiopia* No. 1 Negarit Gazeta 50th year No. 1 Addis Ababa, 22 July 1991.

It is only by another proclamation<sup>70</sup> that the Charter attempted to define those eligible to self governance in the meantime issuing a blank cheque to the central government to establish national and regional self governments. Nationality was taken as parameter of establishing these self governments.<sup>71</sup>

After including nationality as its defining factor, Proclamation No.7/1992 proceeded in identifying sixty four nations, nationalities and peoples and instituted fourteen regions.<sup>72</sup> In addition, this Proclamation conceived the possibilities of establishing national/regional self governments along with amalgamation with the already established regions.<sup>73</sup> On the basis of number, the other nationalities were designated minorities with the consequence of not able to establish self governing institutions.<sup>74</sup> Some contend that these minorities were effectively protected.<sup>75</sup>

Because of the Charter and Proclamation No. 7/1992, Addis Ababa formed one of the fourteen regions. Unlike the organizing elements that inspired the establishment of the thirteen regions, Addis Ababa justified its status not in the nationality argument. The drive for such a status should be sought somewhere else and an attempt will be made to do so in the upcoming chapters of this work.

Following the Charter and the accompanying proclamations, came the FDRE Constitution. The FDRE Constitution sustained the self determination project already instituted by the Charter. It affirmed its commitment to self determination via its provisions, binding and non-binding. The Preamble, non binding but more telling, holds “ We the Nations, Nationalities and Peoples of Ethiopia strongly committed , in full and

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<sup>70</sup>Proclamation No. 7/1992, a proclamation to provide for the establishment of National/ Regional Self-Governments Negarit Gazeta 51st year No. 2 Addis Ababa, 14th January 1992.

<sup>71</sup> Art. 13 of the Charter.

<sup>72</sup> Art. 3, Proclamation No. 7/1992, a proclamation to provide for the establishment of National/ Regional Self-Governments Negarit Gazeta 51st year No. 2 Addis Ababa, 14th January 1992.

<sup>73</sup> Art. 3(2)(b), Proclamation No.7/1992.

<sup>74</sup> Art.2 (6), Proclamation No. 7/1992.

<sup>75</sup> ASSEFA FISEHA, FEDERALISM AND ACCOMMODATION OF DIVERSITY IN ETHIOPIA: A COMPARATIVE STUDY (2006).

free exercise of our right to self determination....”. Moreover, the FDRE Constitution, under Art.8 (1) declares “all sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia.” Specifically, the FDRE Constitution recognizes the right of “every Nation, Nationality and People in Ethiopia” to self determination.<sup>76</sup> Both forms of self determination, internal and external, are recognized by the Constitution. Currently, there are nine regions and two federally administered cities. The Constitution envisages the possibilities of creating new regions out of the original nine<sup>77</sup> and that of a new state independent of Ethiopia.<sup>78</sup>

Self determination seems to be a right reserved to nations, nationalities and peoples. It is only groups that can fall under the framework of Art. 39(5) of the Constitution and assert the right to self determination which obviously includes the right to self government. Viewed from this perspective, the case of Addis Ababa is an exquisite one. Nationality does not form an organizing theme of Addis Ababa. The constitutional rubric may not be sufficient to justify if not for Art.49 of the FDRE Constitution. The impact and rationale of such an organization will be discussed in the future.

#### **4. SELF GOVERNANCE AND CITIES: A COMPARATIVE OVERVIEW**

Cities assume a special place in the history of human beings. Democracy and government developed in cities. They are microcosms of states. Capital cities are even unique because they are the seat of the national government and they host national institutions such as legislative buildings, national museums and arts centers, international institutions such as embassies and emissaries and other institutions for which the federal government is responsible. Capital cities take on political, administrative, and cultural/symbolic roles that are different than other cities in the country. At the same time, they are places where people live, use local services, and engage in local political activity. Federal capitals are

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<sup>76</sup> Art. 39(1), Proclamation No.1/1995, a Proclamation to Pronounce the Coming into Force of the Constitution of the Federal Democratic Republic of Ethiopia, 1<sup>st</sup> Year No. 1 Addis Ababa (1995).

<sup>77</sup> ETH. CONST. art. 47(2).

<sup>78</sup> ETH. CONST. art.39 (1).

even more special. They are deemed to promote unity by upholding commonly shared values and institutions between the center and the regions. Aristotle held

The members of a state must either have (1) all things or (2) nothing in common, or (3) some things in common and some not. That they should have nothing in common is clearly impossible, for the constitution is a community, and *must at any rate have a common place-one city will be in one place*, and the citizens are those who share in that one city.<sup>79</sup>(Emphasis mine)

Moreover, federal capitals may be centers of contention and power struggle between the center and the regions. This usually happens owing to the history of the federal capital and the geographical setting of the capital. Special governing schemes emerge out of such propellants.

#### **4.1. CITIES AND THEIR UNIQUE PLACE IN HISTORY AND DEMOCRACY**

Cities assume a special place in the history of human beings. They had been spring boards of civilization and political life. At times, cities were the starting points of statehood. They were even states by themselves. More interesting is the history of capital cities. The scenario will be delicate when the issue involves federal capital cities. Subsequently, a brief discussion of the history of cities will follow along with the role they played in the development of democracy. Next, the history of federal capitals and their delicate place will be discussed.

In history, we find planned and non planned cities in the sense that some cities are purposely established to be cities while others only accidentally. Some build cities deliberately and others only accidentally. Political, economic and social reasons shape the history of cities. Cities may be established as political centers, economic units or social

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<sup>79</sup> BENJAMIN JOWETT (trans.), THE COMPLETE ARISTOTLE 2094, (2007).

institutions. Though this may be a general observation, the conditions that shape and reshape the history of cities may be very subjective to each city in the world. For instance, G. Hamdan categorized African capital cities into four counting on the specific scenario of Africa. According to this author, African capitals may be categorized as historic (ancient), native, colonial and post colonial.<sup>80</sup> Ancient capitals are characterized by their huge sizes, relative continuity (stability) and old age.<sup>81</sup> Native capitals may be considered as transitional cities between ancient and colonial and post colonial cities.<sup>82</sup> Neither strong nor stable, native capitals contributed little to the development of cities.<sup>83</sup> Novel introductions of colonial masters and numerically superior to the other capitals, these types of capitals served as units of control and administration.<sup>84</sup> Post colonial capitals, as continuations of the colonial cities, exhibited no much difference from their predecessors. Mostly these capitals are accidental, require less to develop into one, and can be characterized as “fiat capitals.”<sup>85</sup>

So far the history of cities proper. Now we will see their contribution to democracy, part of the history of cities. The role of cities in conceiving and nurturing democracy is immense. One moment in time, cities were directly associated with democracy. Some contend that the democratic history of cities reaches back beyond Athens holding

there was democracy before the polis. Egyptian and Mesopotamian politics relied on public debate and detailed voting procedures; countless assemblies convened at the thresholds of public buildings or city gates; disputed trials were submitted to superior courts; countervailing powers reminded leaders that justice was their responsibility.<sup>86</sup>

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<sup>80</sup> G. Hamdan, *Capitals of the New Africa*, 40 *ECO. GEOG.* 3, 239- 253, (1964).

<sup>81</sup> *Id* at 241.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*

<sup>85</sup> *Id* at 244.

<sup>86</sup> Yves Schemel, *Democracy before Democracy?* 21 *INTN'L. POLIT. SC.REV.*2, 99 (2000).

Few doubt that Athens developed and consolidated democratic rule. Schemel contests the fully democratic nature of the civilizations he mentioned.<sup>87</sup> R. A. Dahl depicts the role ancient cities played in promoting democracy and democratic values

[the city was] small enough to insure extensive opportunities for direct participation by all free... citizens in the management of the community; and in the best of circumstances policies and decisions would reflect wide discussion and a pervasive consensus. Above all, the city-state would be autonomous, in the sense that no one who is not a citizen of that community would possess any legitimate right or power to interfere in the management of the affairs of the city.<sup>88</sup>

The precision in population and size of the city allowed its residents to effectively participate in the governance of the same, in addition to allowing the citizens to grasp their surroundings in a very easy fashion thereby inducing a sense of ownership and a degree of confidence in the minds of the inhabitants.<sup>89</sup> The knowledge of surroundings as well as fellow citizens paved the way for efficacious political participation. For Dahl and many more, the city is an ideal place where a pursuit for democratic life is to be conducted. Above all, such authors as Frederic Howe conceive the city to be “the Hope of Democracy”.<sup>90</sup>

When we evaluate the world order today and ask for the place cities occupy in relation to self government, what we discover is the divergence of views the 19<sup>th</sup> and 20<sup>th</sup> centuries rendered and the hangover effect of these two epochs in history. By the end of the 19<sup>th</sup> C., the notion of the nation-state replaced that of the city-state and a shift followed in the way people think about the unit of democracy. Actually, the shift in ideology started around the 17<sup>th</sup> C. when John Stuart Mill came up with the idea of representative government and forthrightly dismissed the idea of the city as the ideal unit of democracy.<sup>91</sup>

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<sup>87</sup> Ibid.

<sup>88</sup> R.A. Dahl, *The City and the Future of Democracy*, 61 AM. POLIT. SC. REV. 4, 954 (1967).

<sup>89</sup> Ibid.

<sup>90</sup> FREDERIC C. HOWE, *THE CITY: THE HOPE OF DEMOCRACY* (1905).

<sup>91</sup> Dahl, *supra* note 88.

Nationalism appeared to be the winning ideology and nation-building the driving instinct of 19<sup>th</sup> and 20<sup>th</sup> C. statesmen. What followed were constitutions entrenching nation building as a strategy. However, this is not the story of the whole world. Constitutions, especially federal ones, recognized the role local governments play and hence made local governments players in their state structures. Notable examples include the Basic Law (Grundgesetz) of Germany, Federal Constitution of the Swiss Confederation, the Constitution of India Acts and Constitution of the Republic of South Africa. These constitutions have provided significant power to their local governments and municipalities. In South Africa, the weight given to local governments is immense. There is also a policy consideration of abolishing the provinces and replacing them with local governments.<sup>92</sup>

Relationships between the federal/state government and cities have been a principled one, for better or worse. Two trends are detectable in the governance of cities in the world today. One approach takes cities as corporations and nothing else hence mostly with duties and little rights. Even in case of doubt, the presumption is towards the non-existence of a self governing right. This decision draws from the culture of absolutism cities went through. M.V. Clarke once observed, “the enemies of the town were local territorial princes, other powerful urban communities and the pope and the Emperor as lords paramount”.<sup>93</sup> Another predominant belief that downplayed the recognition of cities' self government was that city officials were wrappd with corruption, profligacy and bad governance.<sup>94</sup> Decentralizing powers and functions to cities was understood to be invigorating the corrupt administrative practices cities maintain.<sup>95</sup>

The protagonist of limited city powers in the U.S. was Judge John Forest Dillon. Also known as Dillon's Rule, the judge developed the principle that self government should not lightly be presumed in favor of cities. He argued in favor of making cities subject matters of states except when this complete subjection is prohibited by state or federal

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<sup>92</sup> WATTS, *supra* note 52.

<sup>93</sup> M. V. CLARKE, *THE MEDIEVAL CITY STATE*, 6-7 (1926).

<sup>94</sup> R. Briffault, *Our Localism: Part I- The Structure of Local Government Law*, 90 *COLUMB. L. REV.* 1 (1990).

<sup>95</sup> *Ibid.*

constitution.<sup>96</sup> Dillon identified three distinct areas of local and city government involvement. The first area of involvement relates to those areas explicitly designated as such by law to cities.<sup>97</sup> Second, cities have power over those powers necessarily implied and necessarily incidental to those powers explicitly provided.<sup>98</sup> Third cities have those powers essential for their declared objects and purposes.<sup>99</sup> Any other novel venture on the part of the city requires a clear imprimatur of the state legislature.

The underlying assumption that cities promoted corruption and profligacy seems inherently wrong. Even if city officials are corrupt, the system of denying residents from administering themselves does not solve the problem. Far from that, the denial and the consequent “nationalization” of local self government assist yet rather unaccountable and irresponsible as well as less sensitive governance. Without changing the system of local self government that gave rise to corruption, changing the officials that will govern cities with state officials does nothing rather than elevating the corruption one step up in the stratum of government. In a way the shift of power without the shift of system leverages corruption and other issues one step up.<sup>100</sup>

European cities evade this presumption and dominate local political life as contenders in the articulation and representation of local interests.<sup>101</sup> Rewinding back to Roman cities, municipalities animate the effectiveness of cities to govern local affairs. At the height of the Roman Empire, four kinds of cities prevailed depending on the level of autonomy they enjoyed. The most autonomous was the *colonia*. This structure was authorized by the Empire.<sup>102</sup> Composed of settlers that were Roman citizens, *colonia* enjoyed significant autonomy in local affairs.<sup>103</sup> Another structure was the *municipium*. It was of city

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<sup>96</sup> JOHN F. DILLON, COMMENTARIES ON THE LAW OF MUNICIPAL CORPORATIONS 4 (1890).

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> U.S. Advisory Commission on Intergovernmental Relations, Local Government Autonomy: Needs for State Constitutional Statutory and Judicial Clarification, A-127 (1993).

<sup>101</sup> W. J. Nicholls, Power and Governance: Metropolitan Governance in France, 42 URB. STUD. 783, 788 (2005).

<sup>102</sup> F. F. ABBOT & A. C. JOHNSON, MUNICIPAL ADMINISTRATION IN THE ROMAN EMPIRE, 2 (1968).

<sup>103</sup> Ibid.

conquered and incorporated by the Roman Empire.<sup>104</sup> The degree of autonomy of the *municipium* depended on the generosity or otherwise of the charter the Empire issued.<sup>105</sup> *Praefectura* on the other hand consists of a community that lacks full level of self government.<sup>106</sup> In a way, this structure was an administrative wing of the Roman Empire.<sup>107</sup> Finally, we have the *saltus*, the personal estate of the Roman Emperor.<sup>108</sup> This unit does not enjoy self government at all.

The belief that cities are more than corporate entities is reiterated in the Aalborg Charter as

Towns have existed within, outlasted empires, nation states, and regimes, and have survived as centres of social life, carriers of our economies, and guardians of culture, heritage and tradition. Along with families and neighbourhoods, towns have been the basic elements of our societies and states. Towns have been the centres of industry, craft, trade, education and government.<sup>109</sup>

Self government is the rule under this model than being the exception. Limiting self government is possible only after engaging in certain objective scrutiny and overriding interests.

Currently, the widely accepted view is that there are certain matters better regulated at local level. With that respect, localities are provided with the right to administer their own affairs. In the U.S. for example, where the effects of Dillon's Rule are long felt, there are nascent judicial trends of conferring cities with some basic powers and functions. These areas of exclusive city powers and functions include internal organization, the control, use and ownership of certain public property, salaries of municipal officers and

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<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Charter of European Cities and Towns towards Sustainability, Preamble (1994).

employees, recall of municipal elected officials, regulation of municipal streets and procedures for the sale of municipal property.<sup>110</sup>

On the other side, U.S. courts have identified sole areas of influence for states. They include annexation and detachment of a territory, prevailing wage law and public employee collective bargaining law.<sup>111</sup> Events are still unfolding and hence it is very difficult to state in advance what cities do and should not do. However, the U.S. judicial experience reveals a pattern in the kinds of powers and functions each order of government ought to possess.

#### **4.2. RATIONALES OF GRANTING THE STATUS OF SELF GOVERNANCE TO CITIES**

In the above discussions, an attempt was made to build upon the history of cities and the role of history in the shaping and reshaping of cities by their histories. Moreover, the history of cities by itself appears to be a strong drive to confer the status of self governance on cities. Following, this and other rationales will be portrayed in an effort to justify cities on the face of self governance.

- *The Federal and Small Government argument*- the first argument, an extension of the federal and small government argument, proceeds on justifying local and city self government as resulting in effective and fair governance. This works in two directions. The perspective from above shows that federalism allows multiple access points to power for citizens. Thus, citizens may be optimally represented at the center, the peripheries and at the institutions near them. On the other hand, citizens will have the opportunity to hold elected office, hold government directly accountable and maintain a degree of control on their own self and their communities, in addition to affecting policy making decisions and making dissenting opinions from the political elites.<sup>112</sup> Above all, small governments foster civic virtues, minimize majority tyranny, accommodate diversity and

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<sup>110</sup> State ex rel. Evans v. Moore (1982), 69 Ohio St.2d 88, 89-90.

<sup>111</sup> Ibid.

<sup>112</sup> J. Kincaid, Values and Value Trade offs in Federalism, 25 PUBLIUS 2, 29-44 (1995).

enhance economic efficiency.<sup>113</sup> Speaking of fostering civic virtues, political participation may be considered as source of social value as it empowers citizens with knowledge of the points of views of others and with that of respecting the points of views of others.<sup>114</sup> In general, transferring power from the center to local governments enhances responsiveness, accountability, transparency, participation and economic efficiency. In other words, devolution brings government closer to the people.<sup>115</sup> Local self government, according to Tocqueville,

is the root and origin of all free republican government, and is the antagonist of all great political combinations that threaten the rights of minorities. It is the public opinion formed in the independent expressions of towns and other small civil districts that is the real conservatism of free government.<sup>116</sup>

- *The Principle of Subsidiarity*<sup>117</sup> - the central theme of the subsidiarity principle is that powers and functions should be allocated to the lowest level possible in an effort to link decision to spend to the responsibility to raise resources.<sup>118</sup> Accordingly, responsibilities for providing services which are local in nature must be assigned to local governments and those national in nature to the center. Devolution to the lowest appropriate level possible fosters vertical competition between the center and the local and horizontal competition among local and sub national governments. Though it started as an economic argument, the principle now has acquired a multifaceted applicability and hence works to justify the political and social necessities of decentralization. The principle of subsidiarity vindicates city self governance. What matters is the kind and types of powers and functions that should be allocated to cities. How is this issue regulated in Ethiopia? In Ethiopia, the subsidiarity principle is entrenched under Art. 50(4) of the FDRE Constitution. It partly reads “adequate power shall be granted to the

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<sup>113</sup> A. Bagchi, ' Rethinking Federalism': Overview of Current Debates with Some Reflections in Indian Context, 35ECO. & POLIT. Q 34, 3025- 3036 (2000).

<sup>114</sup> Inman, supra note 18 at 74.

<sup>115</sup> Yonatan Fessha & C. Kikby, A Critical Survey of Sub national Autonomy in African States, 38 PUBLIUS 2, 248-271 (2008).

<sup>116</sup> ALEXIS DE TOCQUEVILLE, 1 DEMOCRACY IN AMERICA 8, (Henry Reeves ed., 2002).

<sup>117</sup> Though there are numerous applications of the principle of subsidiarity, the Maastricht Treaty of 1992 entrenched the principle in Europe and really tested the validity of the same.

<sup>118</sup> Bagchi, supra note 113 at 3027.

lowest units of government.” More than animating the principle of subsidiarity, this provision hints the degree of power to be devolved in addition to the kind and capability of the grantee. To date, the Ethiopian version of the principle of subsidiarity assumes three hierarchies and therefore there are the national center, the sub national units and local governments (Zones, special Woredas and Kebeles). The purpose of the devolution as depicted under Art.50 (4) of the FDRE Constitution is not the traditional rationale of the principle of subsidiarity. Rather, the Constitution postulates the ends of subsidiarity as that meant to promote direct local participation in the affairs of government. It reads

State government shall be established at State and administrative levels that they find necessary. Adequate power shall be granted to the lowest units of government *to enable the People to participate directly in the administration of such units.*<sup>119</sup> (Emphasis mine)

This is indeed a strong justification to warrant self governance at city level.

- *The Confederate argument*- this argument developed as a counter argument to the “compound republic”<sup>120</sup> argument in which the central government is conferred with a wide and intrusive power to control the peripheries guided by the principle of common citizenship. The confederate argument serves as a strong hold for the peripheries thereby enabling the same to exert a degree of control and effect on the center. Indeed, the sub national entities marshal an effective veto against central government decisions. But the confederate argument holds good as far as the peripheries enjoyed previous autonomy before entering into covenant with the center. In other words, the assumption works to politics established on the coming together kind of federalism. Otherwise, cities spend hard times with the center before convincing the center to acknowledge their self governing right on the basis of the confederate argument.
- The compound republic thesis is not that discouraging to local self governance. For instance, the compound republic favors devolution of powers and functions to

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<sup>119</sup> ETH. CONST., art.50 (4).

<sup>120</sup> Madison, one of the founding fathers of the US Constitution, is credited for his idea of a “compound republic” with an overarching, representative central government that can override, if needed, against narrow local interests.

the lowest level possible in addition to arguing for a divided ownership of state powers and functions.<sup>121</sup>

- “Localism”- another argument in favor of more decentralization and an invigorated city government may be termed as “localism”. Localism defends city autonomy to the extent of enabling cities to have full control over land use, local education, local health and local welfare.<sup>122</sup> But more than granting local autonomy in terms of land use, education and health, some argue for the disintegration of the sub national states in favor of cities. For instance, James A. Gardner held

[W]hat needs to be done is to greatly reduce the role of the states in our political life by redistributing the bulk of state powers between the national government and some level of local government, such as the municipal or county level. This could potentially maintain the significant degree of local control over political decisions that state government offers, while at the same time adjusting the level at which political power is exercised to correspond to the communities with which ordinary people actually identify.<sup>123</sup>

However, this position manifests one extreme wing in the discourses for local autonomy and needs both time and political willingness to realize part of its plan, let alone all of it. Speaking of political willingness, we have widely held views of federal and state officials and politicians that city governance is “highly constrained governance and it is [merely] administrative/ technical”.<sup>124</sup> It is not only city governance that is despised but also the job of city governance. No one with a quotable eloquence other than Lyndon Johnson articulated such a feeling, holding “things could be worse. I could be a mayor.”<sup>125</sup>

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<sup>121</sup> Bagchi, *supra* note 113 at 3028.

<sup>122</sup> Briffault, *supra* note 94.

<sup>123</sup> J. A. Gardner, *The Failed Discourse of State Constitutionalism*, 90 MICHIG. L. REV. 4, 835 (1992)

<sup>124</sup> Richard C. Schragger, *Can Strong Mayors Empower Weak Cities? On the Power of Local Executives in a Federal System*, 115 YALE L.J. 9, 2545 (2006).

<sup>125</sup> Quoted in Schragger, *id.*

## 5. SELF GOVERNANCE, CITIES AND CITY PATTERNS

Cities, specially capital ones, always face and feel the tension between a federal government that wants to take full control of its seat and develop the same and a sub national entity, in which the city is located, that wants to govern and organize one of its component parts in its own ways.<sup>126</sup> One should not undermine the desire of residents of a city to govern themselves and excise themselves from any influence from a federal government that posited itself in the city or the region in which the city is located.<sup>127</sup> These and other variables add on the need of capital cities for self governance compared to aspirations of ordinary cities to the right. In response to this tension, three patterns<sup>128</sup> of cities have emerged in the world.

Most of the cities are the results of the winning argument from federal governments. The first is the “federal district prototype”, the second the “city state model” and the third the “city under a regional state”. An analysis of these patterns, with special emphasis on the role of the patterns on self governance, will commence hereunder.

### 5.1. THE FEDERAL DISTRICT MODEL

A federal district is a city established under the exclusive jurisdiction of the federal government and anchored on the fear that the proper functioning of the federal government might be arrested by the laws of a sub national or city government. Of the three models, the federal district model serves the ends of the federal government its best. There are many reasons to hold so. First, the center has sole ownership over the city and is responsible to the planning and development of the city. Second, as a result of the precedent fact, there is only a central cultural and legal dominance.

This model of federal capital is predominant all over the world. The model is considered appropriate for capital cities established afresh and without local residents at inception.<sup>129</sup>

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<sup>126</sup> WATTS, supra note 52.

<sup>127</sup> Ibid.

<sup>128</sup> D. C. Rowat, *The Problems of Governing Federal Capitals*, 1 J. POLIT. SC. 3, 345-356 (1968).

<sup>129</sup> WATTS, supra note 52.

Because there are no residents to claim for it, self governance is ignored by the federal district prototype.

Among the federations that adhere to this model include the United States ( Washington D.C.), India ( the Union Territory of Delhi), Nigeria( Abuja Federal Capital Territory), Mexico ( the Federal District of Mexico City), Australia ( the Capital Territory of Canberra), Venezuela ( the Federal District of Caracas), Ethiopia(the Federal Capital City of Addis Ababa)<sup>130</sup> and Pakistan ( the Capital territory of Islamabad) .<sup>131</sup>

However, there are shortcomings inherent in the model. First, the federal district model invites excessive control over residents of the city in issue.<sup>132</sup> As a result of this, residents will not be able to have a locally elected government, one manifestation of lack of local self government. With this regard, we have the unimpressive history of Washington, D.C. One of the reasons why self government was not granted for Washington, D.C. was the exodus of the white majority from Washington, D.C. to the metropolitan areas of Maryland and Virginia leaving back a black majority.<sup>133</sup> The then Congress was not ready to see a black majority administering itself by an elected city council.<sup>134</sup> Far more important, residents do not have representatives at the center<sup>135</sup> and hence cannot influence central decisions that affect their day to day livelihood. Third, because of city sprawl which is a built-in problem of cities, there will be difficulties of containing spillovers.<sup>136</sup> In other words, cities have a natural tendency to grow because they usually serve as centers of commerce, social life and politics. People will move to cities and contribute to a dramatic demographic change. In a federal district model, the problem will be that the city will grow far beyond the original territory in to another regional state

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<sup>130</sup> I however doubt whether the federal district model is an appropriate outfit for Addis Ababa given the constitutional status of Oromia's interest in Addis Ababa and the degree of self government conferred on the city by the FDRE Constitution. Either the case of Addis Ababa must be regarded as an exception along with what appears in India with regard to Delhi or Addis Ababa must fall under a special regime of capital cities. I will discuss this and the counterarguments in the near future.

<sup>131</sup> WATTS, supra note 52.

<sup>132</sup> Rowat, supra note 128.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> WATTS, supra note 52.

thereby inviting conflict between the body that owns the city and the state affected by the outward growth of the city. Spillovers<sup>137</sup> push the federal government and the regional state affected by in to a series of conflicts.

## 5.2. THE CITY STATE MODEL

The city state is a city that serves as the seat of the federal government and that is also a full fledged state. As a full fledged state, it enjoys a considerable degree of autonomy. This certainly ensures local self governance by avoiding any form of subservience to the federal government or any other state. Hence, an ideal model to foster city self governance. Unlike the federal district model where the federal government has full control of the seat of government, a city state which is also the seat of the federal government can control the behavior of the federal government.

Some contend that this model is appropriate to capital cities that are very large by nature and capitals that also serve as centers of industry not related to the functions of the city as a capital city.<sup>138</sup>

Widely acclaimed instances of a city state that is also the seat of the federal government include Vienna (Austria), Berlin (Germany since 1990), Brussels (Belgium) and Moscow (Russia).<sup>139</sup>

The shortcomings of this model relate fundamentally to the proper functioning of the federal government. In the first place, such a capital city leaves little or no control for the federal government over its own official seat. In the worst of cases, the federal government is required to obtain construction permits to build its own establishments with its own capital. If not made big enough at its inception, the city state may grow beyond its boundaries and create problems on neighboring states. Cases in point include the spillover of the population of Brussels into the Flemish Region and that of Berlin in to the neighboring Brandenburg and the negotiations to amalgamate the two so far marred by pessimism. At times, such a growth may necessitate constitutional amendment with a view to legalize boundary changes.

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<sup>137</sup> Spillover relates to the unnecessary population growth in a city and the consequent overflow of the people into neighboring territories.

<sup>138</sup> Rowat, supra note 128.

<sup>139</sup> WATTS, supra note 52.

### 5.3. A CITY UNDER A REGIONAL STATE

When talking about a city under a regional state, we are talking about one among other cities in a state that is serving as a seat of government. It is easy to see that the capital city is an integral part of a sub national unit which in turn has jurisdiction over the city and can legally treat the same just like any other city in the domain of the region without taking into account the interest of the federal government. Therefore, the federal government has no control over its own seat. Otherwise, the spillover problems detectable on the federal district and the city state models no more hold good in a city under a regional state as boundaries within a region are subject to flexible adjustments by the region concerned without necessitating a constitutional amendment.<sup>140</sup> Some also contend that self government is better pursued under this model although they do not show how.<sup>141</sup>

Some of the capital cities we have in the world animate this model. They include Madrid (Spain), Kuala Lumpur (Malaysia), Ottawa (Canada), Bern (Switzerland), Pretoria (South Africa) and Abu Dhabi (UAE).

Even though capital cities are more than seats of government in that they serve as a national symbol and represent forces of unity, the federal government in such a system is denied any control it may have over its own seat and could not develop its own capital in its own way. The language, laws and culture of the state in which the city is located dominates the state of affairs of the city. At the end of the day, the federal capital becomes unrepresentative of the nation as a whole.

Second, especially in diverse federations, there are problems associated with language. A case in point is Switzerland and the capital Bern. In Switzerland, there are four national languages (i.e. German, Italian, French and Romansh).<sup>142</sup> Bern is governed by a German speaking canton (i.e. Bern), while there is a French speaking minority in the north of the

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<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> SWISS CONST., art.4.

canton and in the federal capital.<sup>143</sup> French speaking federal civil servants face the difficulties of developing and using their language.<sup>144</sup> Even street signs are in the majority's language.<sup>145</sup> Public education being a cantonal matter, the federal government cannot affect the way education is conducted in Bern thereby unable to protect its own civil servants.<sup>146</sup>

With regard to self governance, this model has nothing in store except leaving the city's fate in the hands of the state in which it is located. As the city is the subject matter of the state in which it is located, the state decides about the organization and administration of the city. Hence, such a state may opt to establish and govern its city by a state law thereby making the city its subject or give a considerable space to the city by letting the city to be governed by a charter. Inhabitants may or may not be granted any right of self government. All depend on the willingness of the state in which the city is located.

Generally, cities under a regional state lack the financial capacity necessary to pursue self government and carry out their day to day activities. Additionally, such cities suffer from cultural domination of the host state. Finally, cities under a regional state produce a very limited federal government.

#### SEARCHING FOR A NEW MODEL: ADDIS ABABA AND THE UNION TERRITORY OF DELHI

Federal districts being taken as less self governing, it was argued that there are more federal districts than any other form of capital cities. Most authorities have categorized Addis Ababa and New Delhi as federal districts.<sup>147</sup> Here, I will endeavor to show why these two cities are more than federal districts and motivate a special treatment.

The Union Territory of Delhi or National Capital Territory of Delhi, as the case may be, enjoys privileges not naturally conferred on federal districts. Among other things, the Capital Territory has its own institutions of government. To this end, the Territory has a legislative assembly constituted by direct popular election.<sup>148</sup> In addition, the Capital

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<sup>143</sup> Ibid.

<sup>144</sup> Rowat, supra note 128.

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> These authorities include D.C. Rowat and R. Watts. For their positions, see Rowat, supra note 128 and WATTS, supra note 52.

<sup>148</sup> IND. CONST., art.239AA (2) (a).

Territory has a “Council of Ministers” responsible to execute the day to day activities of the Territory in consultation with the “Lieutenant Governor”, an analogous office to a governor or a mayor. The executive wing is partly appointed by the central government and partly elected by local inhabitants.

Typology of the Indian federation is the role of the President in the constitution and dissolution of the Union Territory. As a result, the Union Territory does not enjoy absolute autonomy. However, one can appreciate the sizable autonomy the Territory commands. Some authors esteem the arrangement in India for balancing self governance with federal control.<sup>149</sup> As the Constitution welcomes federal participation in the governance of Delhi recognizing the interest of the center in its capital, the same grants self government to the inhabitants of the city.

Addis Ababa poses a slightly different matrix of governance. For one thing the city is the seat of the federal government while on the other hand it is located within a regional state to whom the right to claim for a special treatment is postulated in the FDRE Constitution. Addis Ababa, multicultural and imagery of oldness and newness, is declared the capital city of the federal government. With this comes the implicit norm of giving a free hand to the federal government. This does not seem to be the natural consequence in the case of Addis Ababa. Rather, the FDRE Constitution gives “full measure of self government to the residents of Addis Ababa”.<sup>150</sup> Apparently, Addis Ababa does not look to be under the total spell of the federal government. In reality, things are not clear as they appear to be. First, there is ambivalence as to who is the holder of the right of self government. While the English version of the Constitution confers the right on the residents of the city, the Amharic version entitles the right to the city government. Such confusion is not without problems. These problems will be dealt when we consider the case of Addis Ababa proper in the future.

Even if we agree to traverse the ambivalence hinted above, there is a second problem affiliated to the relation of Addis Ababa with Oromia, the host of Addis Ababa. To date we do not, at least exactly, know what the “special interest of Oromia” is in Addis Ababa.

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<sup>149</sup> Ibid.

<sup>150</sup> ETH. CONST. art.49 (2).

The exact influence of the interest on self governance unmeasured as the interest is not properly articulated, it is very difficult to define the autonomy of Addis Ababa as was initially made by the FDRE Constitution. Further more, the fate of the city as it grows out is not yet determined. This is important on the face of expansive ventures Oromia is undertaking by establishing special zones surrounding Addis Ababa.

## **6. SELF GOVERNANCE, CITIES AND INTER GOVERNMENTAL RELATION (IGR)**

Efforts have been made to create causal links between self governance and globalization and between self governance and intergovernmental relations. What interests us more here is the relationship between IGR and self governance. Self governance becomes a delicate matter specially when bracketed with IGR in the realm of cities. This is so because three levels of government are involved in the business without forgetting the array of relationships cities may form with other cities.

Following, we will define IGR, appraise how it is regulated at city level, consider the causal link between IGR and self governance, analyze whether the tendency is towards cooperation or competition, mutual benefit or subservience, discuss the principles that guide IGR and highlight the prevailing issues in IGR at city level.

IGR can be generally defined as “body of activities or interactions occurring between governmental units of all types and levels within the federal system”.<sup>151</sup> It is not possible to precisely enumerate the activities forming an agenda of an intergovernmental relationship. However, one can canvass the areas in which governments need to interact almost on daily basis. IGR anticipates a federal arrangement to take hold in the first place. Otherwise there is no IGR in a system where there are no tiers of government. IGR focuses on the relationship among the federal government, the states and local governments.

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<sup>151</sup> WILLIAM ANDERSON, INTERGOVERNMENTAL RELATIONS IN REVIEW, 3 (1960).

Subset of the assumption that federalism is a working condition of IGR is that there should be a clear separation of powers and functions between the levels of government. At times, possibilities of intentional constitutional overlap of powers and functions (i.e. consider the concurrent jurisdiction recognized by different federal constitutions) are immense. Sometimes, constitutions devise a regime of delegation of powers and functions, inviting intergovernmental cooperation. Even in some cases, constitutions create a legislative-executive separation of functions across layers of governments. This is an instance of executive federalism where the federal government takes a substantial law making responsibility, leaving the execution of laws and responsibilities to the regions and local governments.

In the absence of watertight division of power across levels of government, one way of clearing the doubt is through a scheme of intergovernmental relations. Depending on the nature of the federation, such a scheme may be conducted on a cooperative, competitive or conflicting basis. When the federation is a decentralized one and is a coming together one, the tendency is towards competition and when it is a centralized and holding together one, the relationship takes the form of cooperation and at times subservience. The issue of self governance comes to the scene at this point. In the course of seeking enforcements of programs at different levels one level of government may impose its terms and conditions on the other thereby jeopardizing the other's autonomy in the process. A good example is the grant system in which a local government is entrusted with a task of performing a state or federal program in return for financial grant from the federal or state government. Such arrangements necessarily require the time and resource of the local government concerned. At the cost of its original duties, the local government may be possessed with performing auxiliary programs relegated to it by the federal or state government. The implication of this is that the local government has started serving and being held accountable to the federal or state government rather than serving its residents and remain accountable to its electorate. Because IGR is a continuous activity carried out on a daily basis, any such arrangement as depicted above would continuously undermine the autonomy of the local government. It is also possible to canvass other possibilities that can devalue the autonomy of cities. This especially true in an

excessively cooperative federalism where local authorities accept everything almost in an invariable fashion and forget to account to their constituencies.<sup>152</sup> Excessive competition is not desirable as well for its divisive and disruptive effects.<sup>153</sup>

How is IGR regulated at city level? The manner of regulating IGR depends on the nature of the relationship between the bodies intending to regulate it. If the document governing the relationship between these bodies is crafted in a way to enable one level of government to dominate the other, or if the political system is inclined in that direction, then IGR is regulated in a manner that favors the dominant. When we fit this in to a city scenario, if a city is taken as an extension of the federal government or part of a state in which it is located, the relationship is that of trickling down one. In other words, the city will have the responsibility of enforcing federal or state programs and decisions. Reckoning the discussion we had on patterns of cities, it is possible to identify two trends of regulating IGR at city level.

In the city models of federal districts and cities under regional states, the federal government or the state, as the case may be, wield the maximum power to dictate the city. No one than the Charter of Addis Ababa depict a picture of dependence of a city to a federal government. In the part regulating IGR, the Charter reads “the relationship that the City Government [of Addis Ababa] maintains with the Federal Government shall take cognizance of the responsibilities of the latter”.<sup>154</sup> It goes on reading “the City Government [of Addis Ababa] is a component part of the Federal Government”.<sup>155</sup> It is my view that such a city does not stand in a reciprocal term with the body that demands only enforcement of decisions. The constitutionality of the act of completely merging the city with the federal government is debatable and we will pay due attention to it in future discussions. Further, the process of decrypting the ‘administrative unit- mini sovereign’ dilemma demands due attention. Things are worse elsewhere. One author outlines what happens in the US as:

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<sup>152</sup> WATTS, supra note 52.

<sup>153</sup> Ibid.

<sup>154</sup> Art.61 (1), Addis Ababa City Government Revised Charter Proclamation No. 361/2003.

<sup>155</sup> Art. 61(2), Proclamation No. 361/2003.

[t]he primary form of American political decentralization is regional rather than municipal - states, not cities, are the salient sites for constitutionally protected "local" governance. As a result, cities and their leaders are three levels down the political food chain and must normally ask the states for whatever powers they have or wish to exercise.<sup>156</sup>

On the other hand, city states wield substantial autonomy and their relations with the federal government or regions are based on mutual respect and reciprocity. Even under such circumstances the nature of the federation (i.e. whether it is a centralized or decentralized one) affects the intergovernmental relationship. The constitutional fabric or the modality of the political system, as the case may be, determines the degree of federalization. If the federal government takes the upper hand and the federation turns out to be a centralized one, the states and local governments will be dictated by the terms of the center. In addition, if the parties ruling at different levels are similar, the party leaders may coalesce to agree on issues otherwise controversial and may proceed in quite submissive manner. Quite the contrary holds in the reversed scenario. If there are different parties holding office at different tiers of government, the tendency is towards competition and conflict. Decentralized federations yield to a similar result.

What principles should guide IGR? Intergovernmental relations take two forms: formal and informal. Informal intergovernmental relations assume less organized and less regulated mold. Conducted via telephones, e-mails, letters and memos, informal IGR is susceptible to connivance. As it is carried out mostly between executives and behind closed doors, the legislature and the people are alienated from the process. What interests us more is formal IGR. Formal IGR requires formally established institutions that are designated to facilitate intergovernmental relations. Negotiations, delegations and other adjustments are carried out through institutions of IGR. It has the advantage of informing the legislature and the people about the activities of the executive and other organs

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<sup>156</sup> Schragger, supra note 124 at 2545-2546.

involving in IGR. Principles guiding IGR should be discussed within the context of formal IGR because the informal one does not assume an institutional trait but only a personal one. Federalism, self governance, constitutionalism and good faith must be the guiding principles of IGR.

Federalism necessitates IGR. Now it must guide it. Intergovernmental relations need to operate in a federal system inspired by the ideology of federalism. Governments should not undermine an already established division of power across levels of government under the guise of IGR. The purpose of IGR is not excising federalism out of a system but promoting flexibility and conflict resolution.

In addition to maintaining the status quo created by federalism, promoting peoples' self governance is important. IGR must not be conducted in a manner compromising self governance. Peoples' right to establish institutions of government and their right to hold accountable their government are presiding values. IGR may be predisposed to closed door agreements and individual judgments. Such temptations ought not to hold grip of the system.

Constitutionalism is another principle that must inspire IGR. Governments must be limited not only in their actions against their people but also in their day to day conducts with each other.

In addition to these grand principles, there are other specific modalities of carrying out IGR. First, building trust and commitment is important. The parties must be genuinely interested in and dedicated to building a meaningful relationship of mutual trust and respect. One can achieve these through open and effective communication between the parties; a willingness to listen and learn from each other; honesty and trust; mutual recognition and acknowledgment of each other's right to be in the territory; leaders to lead by example; and the time and patience to establish the relationship and negotiate agreements. Second, involving others and informing the same in the process is paramount. To this end, community members and organizations, other levels of government as well as the business community and the media must be informed and involved. At times, it may be important to learn to 'agree to disagree'. Agreeing to

disagree can be a necessity or a strategy that helps to avoid a potential conflict or buys time until an agreement can be reached. This is especially important where support or agreement could undermine one of the party's positions in an unrelated project or process.

The principles of IGR may be summed up as, "Recognition and Respect, Effective Communication, Leadership and Learning, Accountability, Transparency, Integrity, Opportunity, Navigation through uncharted waters, Sustainability and Sharing, Honesty, Interdependence, Performance" or RELATIONSHIP.

## 7. LIMITING SELF GOVERNANCE

In this section, an appraisal of how self government might validly be limited along with the rationales and principles of limiting self governance will be made. In a way, the outer limits of self governance shall be discussed with a view to prefigure the bottom lines and limits in self governance.

Limiting self governance is not that easy going. When it is, the limit may be permanent or temporary. Permanent limits are those within which the general scheme of the right always operates. Temporary limits are contingent on certain condition and are effective only when these conditions are fulfilled and lapse when the conditions lapse. Both types of limit are our object of discussion.

**The formal division of power-** one limit on self governance is the formal division of power instituted by a constitution. One underlying feature of federalism is the constitutional division of power between the center and the constituent units. Traditionally, we have legislative, executive and judicial power expecting to meet constitutional division of power. There are five forms of legislative powers. They are exclusive, residual, concurrent, framework and implied powers. Depending on their legislative options, federal countries may decide to give exclusive legislative power to the center by exhaustively listing the powers reserving the residual power

to the constituent units. This so much depends on the nature of the federal bargain and the type of the federation. As listing all the powers and functions in an exhaustive fashion is impossible and because there are other concerns, a constitution usually reserves a word for legislative areas to be exercised concurrently. Some federal constitutions have decided to grant the federal government the capacity to make framework legislation with a view to enshrine uniform standards across a country.

Finally, there are implied legislative powers usually discovered by the constitutional interpreter and the center usually declared to have them. It is possible to limit self governance from the outset by giving limited powers and functions to a unit.<sup>157</sup> This has manifested itself in the case of most federations as their constitutions gave significant powers and function to the center and less to the constituent units. The scenario gets worse as it reaches local governments. Although there are federal constitutions that have attempted to recognize local governments and give the same a constitutional status, others declined to do so. What happens usually with regard to local governments is putting them under states and letting the states to legislate for them. Most of the time, power divisions are envisaged between the center and the states and it is only by implication that local governments are involved in the power division. Never the less, such constitutions as the South African and Indian ones exclusively list powers and functions belonging to their local governments. In South Africa, there are powers and functions reserved to local governments in addition to those the national government, and the provinces are expected to necessarily give to local governments. In this regard, Art. 156(4) of the South African Constitution holds

The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 which necessarily relates to local government, if -

(a) that matter would most effectively be administered locally; and

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<sup>157</sup> L. Thorlaksen, Comparing Federal Institutions: Power and Representation in Six Federations, 26 W. EURO. POLIT.2, 1-22 (2003).

(b) the municipality has the capacity to administer it.

After establishing the right to local self government in this fashion, constitutions let us imply the outer limits of self government. To dwell more on our example, the South African Constitution has given powers and functions, implicitly and explicitly, to local governments. They will not go beyond that.

A related subject is the issue of “unfunded mandates”. Unfunded mandates involve initially federal responsibilities are later passed over to states and local governments by the federal government without the corresponding financial assistance to cover the costs of carrying out these activities.<sup>158</sup> Federal preemption power and unfunded mandates have by now acquired irreversible acceptance that they are being taken as valid limits on self governance.

**Individual and group rights-** in addition to the formal division of powers and functions that serve as limits on self governance, another constitutional mechanism that may limit self governance is individual and group rights ( i.e. notably the right to self government) . Most liberal theorists suspect that group rights may conflict with individual rights. Andreas explicates the inevitability of conflict between individual and group right in quite succinct manner as “conflict is inescapable, for a citizen's beliefs or actions can be at odds with the ascendant forms of self expression in the community”.<sup>159</sup> Other liberal theorists admit the possible existence of conflicts but argue that there is an “emerging consensus”<sup>160</sup> about the possibility of respecting group rights in a liberal regime. Unfortunately, what Kymlicka imagines is the possibility of liberal regimes and values effectively accommodating group rights without any threat to such values.<sup>161</sup> He does not envisage the possibility of multicultural regimes posing threat to liberal values. Envisaging a possible conflict

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<sup>158</sup> Christopher Hoene, Unfunded Mandates in the U.S. and Fend for Yourself Federalism, 6 FEDERATIONS 1, 31-32 (2007).

<sup>159</sup> Andreas, supra note 31 at 9.

<sup>160</sup> W. Kymlicka, Introduction: An Emerging Consensus?, 1 ETHIC. THER'Y. & MOR. PRACT 1, 143-157 (1998).

<sup>161</sup> Ibid.

between individual and group rights is of significance particularly in Ethiopia. Andreas depicts the Ethiopian picture as

few, if any, Ethiopian cultural communities are homogeneous; each inhabits a territory with ethnic and religious minorities. The traces of empire, forcible resettlement and internal migration to escape wars and famines are everywhere... even if there is no tension between a cultural majority and minority, friction is likely once the majority wields political power in an ethnically defined regional government.<sup>162</sup>

Once we create a possible conflict regime between individual and group rights, what follows is solving the conflict. Three outright answers can be given concerning this conflict. Some give precedence to individual rights. Others give precedence to group rights. Still some argue towards the possibility of respecting both individual and group rights without giving precedence to one of the two. Though these stances are ideologies, it is possible to derive legal inferences from them.

A decision by a country to give precedence to individual rights on the event of conflict with group rights will have the potential to limit self governance. Accordingly, a majority may be forced to accommodate individual as well as group rights (i.e. of minorities). Otherwise

[T]he political empowerment of cultural communities can threaten significant groups other than cultural communities. It is undeniable that women and children receive unequal treatment in many ethnic and religious communities. Unless the constitution recognizes, and is perceived to recognize, that individual rights prevail over the collective rights of cultural communities, the fate of most citizens would be vulnerable to the prejudices and customs of local authorities.<sup>163</sup>

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<sup>162</sup> Andreas, *supra* note 31 at 10.

<sup>163</sup> *Ibid.*

**Supremacy clauses-** in an effort to avoid conflict, federal constitutions include “federal supremacy clauses” thereby giving an overriding power to federal constitutions and legislations over state constitutions and legislations. Supremacy clauses do not operate to govern federal-state relationship, but also federal-state-local government relationships. Supremacy clauses are outer limits on self governance in that they define the sphere of influence of each tier of government by trying to tell what not to do while exercising the constitutionally recognized functions.

While state constitutions and legislations are subject to the federal constitution and federal legislation, local governments are most of the time made subjects of state and federal laws. We can picture two ways of dealing with this subject. While some federal constitutions make local governments subjects of states directly, others make them accountable to federal and state legislations at the same time. For instance, the Swiss Constitution under Art.50 (1) makes municipalities subjects of cantonal laws saying “[t]he autonomy of the Municipalities is guaranteed within the limits fixed by cantonal law”. The South African Constitution represents the other model. Under Art.151(3), the South African Constitution holds “ A municipality has the right to govern, on its own initiative, the local government affairs of its community, *subject to national and provincial legislation*, as provided for in the Constitution.”<sup>164</sup> [Emphasis mine]

The Basic Law seems to be general in its approach to craft the limit from the general right of municipalities to self government. Art. 28(2) of the Basic Law declares municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, *within the limits prescribed by the laws*”. [Emphasis]

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<sup>164</sup> The Interim Constitution of South Africa (1993) had a slightly different approach on this issue. Under Art.174(3), the Interim Constitution held “ a local government shall be autonomous and, within the limits prescribed by or under law, shall be entitled to regulate its affairs.” More importantly, the Interim Constitution prohibited possible encroachments on local self government. Under Art.174(4), the Interim Constitution declared “ parliament or a provincial legislature shall not encroach on the powers, functions and structure of a local government to such an extent as to compromise the fundamental status, purpose and character of local government.”

**Crisis situations-** it is possible to picture different types of crises along with their causes and the manner of handling them. Crisis situations may necessitate curtailing self government for a limited period of time. Possible reasons of crisis include failure of legal machinery as a result of the inaction or action of a local government, natural disaster, epidemics or war. Regulating a crisis is a delicate matter. On the top of the controversies surrounding the timing and the degree of intervention issues of proportionality and abuse of the mandate to intervene cross cut the system of federal/state intervention in the affairs of a self governing entity. Intervention laws have now been markers of the nature of the federation and the degree of decentralization prevalent in a system. Keeping aside the controversies at least for now, an ideal form of intervention will legitimately limit self governance.

## **CHAPTER THREE**

### **SELF GOVERNANCE AND ADDIS ABABA**

#### **1. INTRODUCTION**

In this chapter, I will develop the thesis that cities may require self government with a view that small governments foster efficiency and participation taking Addis Ababa as a

case study. To this end, the self governing status of Addis Ababa proper shall be appraised. In addition, the effect of Addis Ababa's interaction with Oromia and the Federal Government on self governance will be analyzed. In the first part, the genesis of Addis Ababa, the general background of the city and its peculiar features will be discussed. The rationale of granting self government to Addis Ababa is one concern of this first part. Self government in terms of degree shall be evaluated as it appears in Addis Ababa.

Second, Addis Ababa's interaction with the Federal Government and Oromia will be evaluated. With regard to the relationship between Addis Ababa and the Federal Government, the constitutional ties, the extent of involvement of the Federal Government in the city and valid limits on the involvement of the federal government and the fiscal relations of the two attract our attention. What happens between Addis Ababa and Oromia is another area of concern. Accordingly, the role of history and geography as sources of claim, fiscal relations and social and administrative issues that capture the attention of Oromia and Addis Ababa will be appreciated. 'Who regulates the relationship between Oromia and Addis Ababa and how? And what terms and principles guide such a relationship?' will be the questions we ask then try to answer in an effort to wind up a discussion of establishing a right to self government to Addis Ababa.

## **2. BACKGROUND CONDITIONS**

Addis Ababa is the capital city of the Federal Government of Ethiopia as well as Oromia. The implications of naming a city a “capital”<sup>165</sup>are manifold. For one it means the head of all the cities the country has. Otherwise, it is also declaratory of the status of such a city as a cultural, political and economic center of a country, in addition to being the seat of government. Addis Ababa's must not be different from this and we assume the makers of

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<sup>165</sup> Some claim that John Milton Used the lexicon “capital” for the first time in his 1667 Paradise Lost. They say “capital” came from the Latin *caput* and denominates head of something- in the case of a city, it means the head of all the cities. See K. R. Bowling, From "Federal Town" to "National Capital": Ulysses S. Grant and the Reconstruction of Washington, D.C., 14 WASHIN. HIST. 1, 8-25 (2002).

the Constitution wanted to make the city a seat of government and a cultural, economic and political center of the country. Moreover, Addis Ababa is the geographic center of Ethiopia.

To date, there are no plans of building new federal capitals or that of decentralizing the city. As a result, Addis Ababa continues to be the seat of the federal government, all of its executive and legislative wings, the residence of diplomatic missions and key social and economic institutions. With this regard, Addis Ababa may be contrasted with Pretoria, which is the administrative capital of the Republic of South Africa, followed by Cape Town as the seat of Parliament and Bloemfontein, the seat of the Constitutional Court of South Africa.

Situated at an altitude of 2300 meters and latitude of [9°1'48"N 38°44'24"E](#), Addis Ababa hosts more than three million residents.<sup>166</sup> The city stands for about 23% of the total urban dwellers of Ethiopia.<sup>167</sup> Speaking of urbanization, one should be careful not to take the case to the extreme and consider Addis Ababa a full-fledged urban center. About forty years ago, Solomon Deressa observed

The ultra-modern six-lane boulevards with four-phase traffic lights that can be turned into a purgatory of congestion by a couple of absent-minded cows crossing against the light, the cows are probably owned by a poor family that runs its own dairy farm right behind Africa Hall, lead into residential side streets which in turn open onto back-alleys that can with startling abruptness turn into fragmented images in a hell dreamed up by Hieronymus Bosch. Children are playing marbles. The pros are standing pert and insolent at the doors of their shabby or not-so-shabby dwellings. A carefree male customer is urinating into the gutter...<sup>168</sup>

Solomon was not exaggerating. May be he depicted part of the case scenario in Addis Ababa. I expect he would not write differently if he were to observe today as no significant departure has been made from the past with this regard.

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<sup>166</sup> Central Statistical Authority, 2007 Preliminary Census (2008).

<sup>167</sup> Ibid.

<sup>168</sup> Solomon Deressa, Letter from Addis Ababa, 2 AFR. ARTS 2, 42 (1969).

The economic activities in the city are varied in their nature. First, it is worth making a substantive division between the formal and informal economic activities the city entertains. Concentrating on the formal sector, the wide spread forms of economic activities are trade and commerce.<sup>169</sup> In addition, employment in private and public institutions is one more gainful activity. Agriculture is another area of activity.

### **3. THE GENESIS OF ADDIS ABABA**

For long, Ethiopia had flirted with mobile capitals. Its emperors roamed from place to place with a large procession of people and army. In fact nothing else gave the cities a character of a city other than the number of people they accommodated. Andrea Corsali once reported

the Ethiopian ruler of that time, marched from place to place with 'innumerable people', his army being so large that it could not remain in one spot for more than four months nor return to the same camp in less than ten years because of the resultant shortage of food.<sup>170</sup>

Putting an end to an age old custom of roaming, Menilik II founded Addis Ababa in the year 1886.<sup>171</sup> Menilik II was not the first to think about having a permanent capital at Addis Ababa. His grand father, Sahle Selassie, discovered a ruined church ten minutes ride to the west of “Fil Woha” and considered establishing his seat there but abandoned the idea after discussing it with priests.<sup>172</sup>

There are two lines of arguments concerning the establishment of Addis Ababa. One argument, propounded by Gebre Selassie, Menilik's chronicler, associates the

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<sup>169</sup> [www.addisababacity.gov.et](http://www.addisababacity.gov.et)

<sup>170</sup> In R. Pankhurst, *Menilik and the Foundation of Addis Ababa*, 2 J. AFR. HIST. 1, 103 (1961).

<sup>171</sup> BAHRU ZEWEDE, *A HISTORY OF MODERN ETHIOPIA 1855-1974* (1991).

<sup>172</sup> Pankhurst, *supra* note 170.

establishment of the city with a “prophesy” that Menilik should establish a city at Entoto.<sup>173</sup>

Others however argue that Menilik's camp at Wuchacha was not safe enough as it was continuously exposed to attacks from the Oromo.<sup>174</sup> As a result, he moved to Entoto and established sort of military town.

In the mid 1880s, Entoto was no more habitable. The temperature was very cold, fire woods were not available, climbing Entoto, a mountain 2800m in height, on a daily basis proved very cumbersome and lack of drinkable water aggrandized the uninhabitable nature of Entoto.<sup>175</sup> The driving forces behind the establishment of cities in Ethiopia had been safety and the availability of fire woods. Menilik II lacked safety at Wuchacha and fire woods, to say the least, at Entoto.<sup>176</sup> He was then forced to move southwards where he could find a place lower in altitude, warmer in temperature and fertile in composition. He built his palace near Fil Woha. The nobility followed his footsteps, along with their servants and formed their own circles near the palace.

Pankhurst puts the exact year of the establishment of Addis Ababa between late 1890 and early 1891 after reading the correspondences Menilik II had with King Umberto as dispatched from Entoto in 1888 and from Addis Ababa in 1889 then from Entoto in 1890 and from Addis Ababa in 1891. The Battle of Adwa (1896) marked the permanence of Addis Ababa as Menilik's capital as the Battle itself marked the end of the era of campaigning and the beginning of camping.

Soon Menilik II imported engineers and construction workers from abroad and embarked up on a massive construction work. The construction works in turn invited so many people as the required amount of labor could not be furnished by the city. In addition to

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<sup>173</sup> Ibid.

<sup>174</sup> Ibid. Wuchacha and its surroundings were predominantly inhabited by the Oromo and the Oromo were hostile to Menilik and his expansive ancestors.

<sup>175</sup> Bahru, *supra* note 171.

<sup>176</sup> Menilik II was not safe at Wuchacha as he was constantly exposed to attacks from the Oromo. On the other hand, life at Entoto was difficult as basics such as fire woods were constantly dwindling.

those who voluntarily came to the city in search of employment, a great mass of prisoners of war were deployed to serve as laborers. These two trends contributed to the population growth of the city. The population grew not only in terms of number but also diversity. I could not find the exact number of foreigners then living in Addis Ababa. Mérab, Menilik's Georgian physician, estimated the population of Addis Ababa by 1909 to be sixty five thousand.<sup>177</sup> While the Oromos numbered around twenty thousand, the Amharas constituted three thousand, the Guraghes two thousand and Tigreans one thousand.<sup>178</sup> Ari, Beni-Shanguls and the Gumuz amounted to fifteen thousand.<sup>179</sup> Mérab had a category of “Shoans and Gojamis” which together constitute sixteen thousand.<sup>180</sup> The Welaita numbered five thousand and the other Ethiopians three thousand.<sup>181</sup> Robert L. Cooper and Ronald J. Horvath argue that the Shoans must be Oromos and Amharas lumped together, while the “Gojamis” are Amharas from Gojam Province.<sup>182</sup>

Menilik's Addis Ababa lacked many features of a modern capital. There was no municipality. Neither was there a well developed infrastructure. By now Addis Ababa is more than hundred years old, serving Ethiopia as a capital city.

#### **4. RATIONALES OF GRANTING SELF GOVERNMENT TO ADDIS ABABA**

Based on previous discussions on self government and the peculiar position of Addis Ababa, it is possible to identify three fundamental reasons justifying the constitutional stance of granting Addis Ababa a self government. The justifications fall under democracy, efficacy and that from “territorial communities”.

Democracy- local self government may be taken as an “incubator of democracy”.<sup>183</sup>

Alexis de Tocqueville wrote of cities as

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<sup>177</sup> Pankhurst, *supra* note 170.

<sup>178</sup> *Ibid.*

<sup>179</sup> *Ibid.*

<sup>180</sup> *Ibid.*

<sup>181</sup> *Ibid.*

<sup>182</sup> R.L. Cooper & R.J. Horvath, Language, Migration and Urbanization in Ethiopia, 15 ANTHROP. LING. 5, 221-243 (1973).

<sup>183</sup> R. Briffault, The Local Boundary Problem in Metropolitan Areas, 48 STANF. L. REV. 5, 1123 (1996).

Town-meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty.<sup>184</sup>

City self government's virtues are thus explained by Tocqueville. First, local self government facilitates experimentation with democracy as it brings the institutions of government to the propinquity of the people. As a result, it lets people participate freely in the governance of their own affairs.

In a related fashion, the costs of participation are lower in small governments. Participation in small governments pays up. Those who participate in small governments have the chance of affecting the outcome of any decision involving them. This in turn promotes further participation. The same holds true to Addis Ababa. Rather than letting the residents of Addis Ababa participate in the affairs of Ethiopia as a whole, it is first important to let them see the value of participation by giving them the chance to participate in something nearer to their preferences.

Efficacy- the unit of analysis of this justification is the provision of goods and services. Self government at local level helps tailor local services to local demands. As such, it matches policy decisions with local conditions and preferences.

Assuming the existence of other localities, local self government presents residents with an "exit" option. This refers to the ability of residents to choose between mixes of service producers.<sup>185</sup> If a government, as a producer of goods and services, cannot produce in line with the preferences of the people, the people will have the choice of "voting with their feet".<sup>186</sup> In other words, given the availability of another government, a dissatisfied individual or group of individuals may move out of a

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<sup>184</sup> ALEXIS DE TOCQUEVILLE, *supra* note 116 at 78.

<sup>185</sup> A.O. HIRSCHMAN, *EXIT, VOICE AND LOYALTY* (1970).

<sup>186</sup> *Ibid.*

jurisdiction and join another. This highly draws from Socrates' implicit consent argument that partly reads as

Any of you who does not like us and the city, and who wants to go to a colony or to any other city, may go where he likes, and take his goods with him. But he who has experience of the manner in which we order justice and administer the State, and still remains, has entered into an implied contract that he will do as we command him.<sup>187</sup>

Of course we should not forget the choice people make in expressing their preferences from range of services. This is what is known as the “voice” of the people. In Ethiopia both are constitutionally feasible. Because of elections, residents can choose from list of services. This is so because elections are believed to enable parties or individuals to articulate interests and present them to the electorate which will then pick from a list of policies submitted to it. Articles 31 and 38 of the FDRE Constitution facilitate this. When we turn to the option of exit, we find the FDRE Constitution encouraging. First, the Constitution establishes a federal form of state (Art. 1, FDRE Constitution). Within that system, the Constitution recognizes Addis Ababa's self governing status (art. 49, FDRE Constitution). Art. 29 of the Constitution helps Ethiopians form opinions and disseminate them. Finally, the Constitution recognizes the right of every individual to freedom of movement (art.32, FDRE Constitution). The cumulative effect of these provisions is that the residents of Addis Ababa can govern themselves and on the event of dissatisfaction with that jurisdiction, they can leave it in favor of another about which they have information. As a result, monopolistic proclivities of governments will be limited.<sup>188</sup> Governments no more provide services in a take it or leave it basis.<sup>189</sup> Citizens will leave behind those jurisdictions that are less responsive to their tax, regulatory and service preferences.<sup>190</sup>

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<sup>187</sup> PLATO, CRITO 14 (Benjamin Jowett, tr.,-400).

<sup>188</sup> Briffault, *supra* note 183.

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*

Efficiency is further fostered by competition. If governments know that people will make rational choices concerning the consumption of goods and services, then they will endeavor to provide goods and services in line with the preferences of citizens and in comparison with neighboring jurisdictions.

“Territorial Communities”<sup>191</sup>- in addition to the above justifications, the argument from territorial communities’ best promotes the self governing status of Addis Ababa.

The essence of this argument is that some communities share certain values and traits in common. Briffault argues

Localities are not simply arbitrary collections of small groups of people that provide citizens with the opportunity to engage in collective deliberation or offer random “consumer-voters” a place to shop for local public services... localities are frequently assumed to be communities-groups of people with shared concerns and values, distinct from those of the surrounding world, and tied up with the history and circumstances of the particular places in which those groups are located and in which the people who compose them interact with each other.<sup>192</sup>

Local governments, especially cities, are not only of mechanics. They are also of liveliness. Organized life and planned engagements take place in cities. Significant level of interaction evolves in cities. Building on this aspect, Jonathan Raban remarks

The city goes soft; it awaits the imprint of an identity. For better or worse, it invites you to remake it, to consolidate it into a shape you can live in. You too decide who you are, and the city will again assume a fixed form around you. Decide what it is, and your own identity will be revealed.<sup>193</sup>

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<sup>191</sup> I owe this to R. Briffault, *supra* note 183, at 1126.

<sup>192</sup> *Ibid.*

<sup>193</sup> J. RABAN, *SOFT CITY*, 11(1974).

Residents share schools, fraternal organizations, work places and places of worship. These create a great deal of understanding and sharing of information among residents. Moreover, such day to day face to face interaction revamps “empathy and commitment to the common good.”<sup>194</sup> Residential associations conjure the image of community which in turn portrays distinctive identity, sole history and identifiable characteristics.

Nancy L. Schwartz, makes the last word on the subject of the distinctiveness of townships as “having set boundaries to a district ... define a relevant constituency not just by one aspect of its life at a moment in time but rather by the totality of its political life over the year”.<sup>195</sup>

In the U.S., this conception has gained momentum with judicial practice. In *Schad v. Borough of Mount Ephraim*, the majority asserted that a community has a right to conceive its own form of decency thereby banning nudity.<sup>196</sup>

The case of Addis Ababa must not be different from this. Residents of Addis Ababa have so many things to share in common. They have economic, political and social objectives to pursue in common. The unique history of the city and the relative possibility of interacting together and those interests they will definitely develop together all justify conferring a self governing status on the city. The Preamble of the Revised Charter of Addis Ababa affirms these assertions. While justifying the need to have the Revised Charter, it partly reads as

[I]t is necessary to create conditions which enable the city to maximize the achievements of its development objectives *by giving due account to the best wishes and diligence of its residents ...* [Emphasis mine]

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<sup>194</sup> J.J. MANSBRIDGE, BEYOND ADVERSARY DEMOCRACY 275 (1980).

<sup>195</sup> NANCY L. SCHWARTZ, THE BLUE GUITAR: POLITICAL REPRESENTATION AND COMMUNITY 129 (1994).

<sup>196</sup> 452 U.S. 61, 85-87 (1981).

In addition to the above justification, the Revised Charter hints of other particular rationales. For instance, Addis Ababa is taken as “a reflection of large and growing residents representatives of Nations, Nationalities and Peoples”. The Preamble makes commendable observation about the common concerns and objectives the residents of Addis Ababa share.

## **5. THE SELF GOVERNING STATUS OF ADDIS ABABA**

Dictated partly by the above justifications and partly by some others, the FDRE Constitution makers opted to make Addis Ababa a self governing entity. In this part I will attempt to show the genuineness or otherwise of this constitutional commitment relying on multiple variables.

As I said it before in chapter one, Addis Ababa's self governing right builds up from the FDRE Constitution. But the status builds up in a rather nebulous fashion. The Constitution gives self governing status to residents on one hand and to the city government on the other. Third, the Constitution makes the city government responsible to the federal government without first establishing a nexus between the two. Fourth, the Constitution puts Addis Ababa in what appears to be unending variance in its relations with Oromia as it only speaks about the special interest of Oromia without stipulating the principles that should guide the relationship and indicating the sources of the interest. Otherwise, the Constitution has done a great job in enshrining the self governance of Addis Ababa.

Seen from the perspective of the general constitutional pattern, granting Addis Ababa a self government is rather an exception than to be the rule. The federal system Ethiopia put in place is what many call “ethnic federalism”. States are demarcated on that basis,<sup>197</sup> as they are also established in the first place in that basis. Those entitled to self determination are nations, nationalities and peoples.<sup>198</sup> The Constitution is geared towards empowering ethnic groups. It is in the middle of this fabric that Addis Ababa emerges.

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<sup>197</sup> Id, art.46 (2).

<sup>198</sup> Id, art.39.

The Constitution detours from its original course of ascriptive state organization to associative state structuring thereby curving Addis Ababa out of diversity.

So far, we said the FDRE Constitution recognizes Addis Ababa's self government. What we now see in a glimpse is whether Addis Ababa squarely fits into the regime of theoretical self government. In recognizing Addis Ababa's self governing status, what we expect is the right of residents to articulate their interests and establish their own government and regulate their own internal affairs including determining the structure of the government they establish. It is possible to detect the interplay of two forces in cities. On one hand, cities have interests that they have the capacity to pursue.<sup>199</sup> On the other hand, cities operate within a larger political and constitutional framework that significantly shapes the powers of the city and its officials.<sup>200</sup> In sum, cities are “administrative units as well as mini-sovereigns”.<sup>201</sup> One should bear in mind these forces as he/ she speaks about self government at city level. Following, let us see how Addis Ababa is managed in terms of elections, popular participation, representation and structure of government.

**Election-** one manifestation of self government is the ability of citizens to directly elect those who will govern them. This is understood as the traditional way of collective self expression. What does Addis Ababa have in store? The residents of Addis Ababa have the right to elect and to be elected pursuant to the Constitution. So far this does not give the residents of Addis Ababa any special privilege than those living in other cities. Self government must entitle the residents of Addis Ababa with something more distinct. Such a treatment emerges out of the Charter of Addis Ababa. The Charter does not include election in the list of “Rights of Residents” of Art.7. Subsequent events attest that the right to elect is recognized per se. Art.8 of the Charter of Addis Ababa holds “elections for the Councils at all levels of the City Government held pursuant to this Charter shall be conducted in accordance with the electoral law of the country”. The Charter assumes the existence of election without officially recognizing it as the way of conducting business in the city. Sticking to its

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<sup>199</sup> Schragger, supra note 124at 2556.

<sup>200</sup> Ibid.

<sup>201</sup> Ibid.

promises, the City Charter enshrines a haphazard election regime. The residents of the city are entitled to elect members of the City Council [Revised City Charter, art.12 (1)]. No attempt is made by the Charter to declare whether the other councils in the City (sub city and kebele councils) are electable or not. Related to election, the power of the electorate to recall those officials that have lost the confidence of the electorate needs quite an attention. In Nigeria the federal constitution under section 304 entitles voters to recall their local government representatives. Such a dispensation is not directly available to Addis Ababa. The FDRE Constitution under Art.12 (3) postulates the possibility of recalling an elected representative, should the public lose confidence in the same. This is not configured at city level. As experiences elsewhere show, it were the Charter of Addis Ababa that would have regulated this matter.

**Popular participation-** another indicator of self government is participation in the affairs of government. Participation is an offshoot of representation. One objective of establishing a small government is enabling the people to effectively participate in their own affairs. There are different ways of participating in the governance of a city. In addition to directly participating in the day to day affairs of the city, residents must be consulted in advance before passing decisions that may affect their interests.

In Los Angeles for instance, there are different ways of participating in the legislative process of the city council. Residents may follow up events in the city hall via telephone, on television or in person.<sup>202</sup> Agendas for upcoming meetings are posted on the web site of the city of Los Angeles.<sup>203</sup> Legislative commissions may call up on city residents to testify in council meetings. Most importantly, residents may have the chance to be heard in different ways. Again looking to the experience of Los Angeles, residents are entitled to elect their representatives, to initiate their own laws and participate in a referendum. Thus, while residents can participate in periodic elections, referenda do not occur in a regular basis. Voter

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<sup>202</sup> R.J. SONENSHEIN, LOS ANGELES: STRUCTURE OF A CITY GOVERNMENT (2006).

<sup>203</sup> Ibid.

initiation of laws is one trait of Los Angeles. Los Angeles Charter Sections 450-455 govern this issue.

If residents wish to initiate a law, they will submit their petition to the city clerk, who in turn submits the petition to the city attorney who will give the petition a title and a summary of provisions that will then be circulated for signatures among residents. The petition must be signed by fifteen percent of the total number of voters who participated in a recent mayoral run off.

Although there is a compelling case for these three forms of participation in Addis Ababa, only election seems to be what the Charter recognizes unequivocally. So far, voters are not entitled to initiate laws. Neither referendum is recognized as one way of participation. Maybe the Charter of Addis Ababa has not made it its objective to promote local participation. In the list of objectives Art.9 (3), the Charter vaguely speaks about “creating favorable conditions of living and work as well as to *facilitate conditions in which residents determine the overall operations of the City* and become beneficiaries of its development”. [Emphasis mine]

Unlike the FDRE Parliament that invites interested persons to participate in sessions, the City Council of Addis Ababa has not so far attempted to do so. It is only after decisions are passed and proceedings held that the public may get access to documents.<sup>204</sup> Addis Ababa has not benefited much from its official web sites. In addition to its poor quality, proceedings, decisions and opinions are not posted. Even the documents that are posted are not accessible.

**Representation-** one core element of self government is representation in the government established. Earlier, it was attempted to show how election and participation serve as instruments of representation. Now, the appropriate places of representation will be canvassed. The issue of representation is more pressing in

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<sup>204</sup> Art.16, Proclamation No. 361/2003.

diverse societies. 'Who should be represented? And at what levels?' are a segment only of the concern. When we invite Addis Ababa within this framework, we see considerable departure from what happens in the world. We can divide the issues of representation that may arise in Addis Ababa into two. The first involves representation in the institutions of the City Government. One other issue involves the representation of the city at state and federal institutions. At the end of the day what matters is whether residents are effectively represented in the above institutions of governments. The representation of residents in the City Government is implicit in the FDRE Constitution that allows them to have their own government.

Unlike the experience at the federal level where representation highly draws from the ethnic composition of the country<sup>205</sup>, representation in Addis Ababa is associated with residence. Residence, regardless of the ethnic composition of the city, determines who is to be represented in the city government. Concerning representation at state and federal levels, more or less a similar course is taken. Art.49 (4) of the FDRE Constitution entitles the residents of Addis Ababa to seats in the House of Peoples' Representatives. Currently the city has about twenty representatives in the House of Peoples' Representatives. As there are ten sub cities and ninety nine kebeles,<sup>206</sup> each sub city is sending two representatives each to the federal parliament. Another controversial issue is whether Addis Ababa is represented in the House of Federation or not. If we speak in the parlance of Art.49 (4), Addis Ababa is not represented in the House of Federation. The next issue is why did the Constitution fail to authorize Addis Ababa to be represented in the House? One possible explanation is that the House of Federation is the house of nations, nationalities and peoples.<sup>207</sup> Addis Ababa

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<sup>205</sup> For a thorough exposition of the fact that the House of Peoples' Representatives is not that different from the House of Federation in terms of its composition, see Minasse Haile, *The New Ethiopian Constitution: Its Impact upon Unity, Human Rights and Development*, 20 SUFF. TRANSNAT'L L. REV. 1, 13 (1996-97).

<sup>206</sup> Apparently, the City Government seems to have avoided the Kebeles in favor of a new structure, namely the Woredas. It is however wise to remind the reader that the Charter of Addis Ababa remains intact and it so far recognizes kebeles and not Woredas. In other words, the structural adjustment awaits the amendment of the Revised Charter.

<sup>207</sup> ETH. CONST., art. 61(1).

is an agglomeration of nations, nationalities and peoples, not a home of a single ethnic group.<sup>208</sup>

The organizing principle in Addis Ababa is residency, not ethnicity. Even if we claim that Addis Ababa needs to be represented, it is possible to say that the residents are already represented in the House by virtue of the operation of the Constitution that allows different ethnic groups to send their representatives to the House assuming further that each and every resident in Addis Ababa has an ethnic motherland elsewhere. In other words, the residents of Addis Ababa have mother states and it may be assumed that those sent from these states can represent the residents. But representation must not only be symbolic but also pragmatic. The fact that Addis Ababa has its own interests and that there are potential decisions that may affect the interest of Addis Ababa if passed by the House of Federation all call for a mechanism of giving Addis Ababa an avenue of airing its interests. The problem is more pressing with Addis Ababa as it will face potential conflict of interest with rural representatives.

It is not that difficult to figure the inevitable conflict between rural and urban interests. R.C. Brooks wrote, almost a century ago, as

At bottom it is the age-long conflict between urban and rural. Active malevolence need not be assumed on one side or the other; as a matter of fact such malevolence scarcely exists.<sup>209</sup>

Given the demographic matrix of Ethiopia where more than eighty percent of the population is deemed to reside in the country side, the democratic principle favors the representation of this mass in the House of Peoples' Representatives. Consequently, what will be represented is the interest of this mass. On the other hand, there are also cities that will apparently have a different interest to pursue and which are minorities in the parliament. When these two interests convene in

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<sup>208</sup> Tsegaye Regassa, *Issues of Federalism in Ethiopia: Towards an Inventory of Legal Issues*, in *ISSUES OF FEDERALISM IN ETHIOPIA: TOWARDS AN INVENTORY* 43, (Tsegaye Regassa ed., 2009).

<sup>209</sup> R.C. Brooks, *Metropolitan Free Cities*, 30 *POLIT. SC. QUART.* 2, 223 (1915).

the national parliament, any conflict of interest is deemed resolved in favor of the majority. Addis Ababa cannot survive the most difficult competition for credit and avoidance of blame as the mass will only want to be credited for works done and avoiding blame as far as possible. To this end, the federal government may board on the venture of providing services and cutting taxes at the same time, thereby referring back the impossibility of providing services without the commensurate resource to do so to cities. A case in point is the repeal in Virginia of the car tax. While the car tax was unpopular across the state, it was a good source of revenue for cities.<sup>210</sup> The repeal resulted in a significant loss of revenue for cities though they continued to provide similar services to the public. The ability of the representatives of Addis Ababa to defend the city's interest in the national parliament and succeeding in the plans of their own begs the good will of the rural representatives.

**Structure of government-** self government is manifested by the ability of the people to determine their form and structure of government. When it comes to local governments and cities, it is not easy to imagine liberal experimentations with the form and structure of government. Urban governance is constrained governance in the sense that the federal government and the states, as the case may be, have stakes in the city.<sup>211</sup> It is only against certain previously outlined principles and limitations that cities exercise their self governing right. When we see Addis Ababa from this angle, we find that the Constitution has given the residents of the city the right to govern themselves and that a law will be promulgated to show the details thereof.

Accordingly, the Charter of Addis Ababa was promulgated to give the City a government in terms of form and structure. A charter is to a city what a constitution is to a state. It is the higher law of a city. One should be very careful in its making and promulgation. The Charter of Addis Ababa constitutes the city government. One problem however is its making procedure. Because Addis Ababa is considered as an

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<sup>210</sup> Schragger, *supra* note 124.

<sup>211</sup> Of course the constrained government argument crumbles on the face of city states. In that case the city is both a state and a city and exercises significant autonomy.

integral part of the federal government<sup>212</sup>, the House of Peoples' Representatives has taken it for granted to legislate for Addis Ababa. This departs from experiences elsewhere in which Charters are the domain of the residents of a city.<sup>213</sup> What the parliament did resembles to General Law cities where the federal government or a state legislates for a city. In a way one can say the autonomy of Addis Ababa is constrained from the outset. The residents have no say on issues surrounding the Charter. They did not participate in the making of the Charter in concrete terms. As things stand now, the Revised Charter does not have any provision allowing the residents to participate in the amendment and repeal of the same. It is only when the governance, along with its modalities, negotiated that parties will be concerned with the system to be constructed.

The Revised Charter of Addis Ababa divides power of the city government in to legislative, executive and judicial. While the City Council forms the legislative wing, the Mayor and the City Cabinet constitute the executive wing of the city and the City Judicial Organs form the judiciary.<sup>214</sup> The division goes on like this in the case of sub cities and kebeles. The sub cities are meant to have a sub city council, sub city chief executive and sub city standing committees.<sup>215</sup> Kebeles are made up of kebele councils, kebele chief executives, kebele standing committees and kebele social courts.<sup>216</sup> The City Council is an elected body and the residents are entitled to do that. Of the two models of organizing city governance (i.e. mayor-council and council-mayor models),<sup>217</sup> Addis Ababa sort of follows the Council-Mayor prototype in which

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<sup>212</sup> This thinking is amply demonstrated by the Revised Charter itself and by the Council of Constitutional Inquiry (CCI). The House of Peoples Representatives has justified its mandate of making the Charter on Articles 49(2) and 55(1) of the FDRE Constitution. The CCI, in the case of CUD v. Prime Minister Meles Zenawi, up held the idea that Addis Ababa is an integral part of the federal government authorizing the Prime Minister to declare a state of emergency in Addis Ababa.

<sup>213</sup> For this worldwide experience, see E.P. Oberholtzer, Home Rule for Our American Cities, 3 ANNALS AM. ACAD. POL. & SOC. SCI., 80-84 (1893), JON C. TEAFORD, THE UNHERALDED TRIUMPH: CITY GOVERNMENT IN AMERICA, 1870-1900, (1984) and D.J. Barron, Reclaiming Home Rule, 116 HARV. L. REV. 8, 2255-2386 (2003).

<sup>214</sup> Art.10 (1), Proclamation No. 361/2003.

<sup>215</sup> Art.10 (2), Proclamation No. 361/2003.

<sup>216</sup> Art.10 (3), Proclamation No. 361/2003.

<sup>217</sup> SONENSHEIN, supra note 202. The 'mayor-council' prototype depicts a strong mayor in which the mayor wields strong executive power. The mayor is the manager of the city government as well as its chief executive. The mayor has significant power over the appointment and dismissal of officers without the oversight of the city council. In some cases, the mayor has veto power over the decisions of

the City Council assumes the governing role and elects the mayor from among its members. Like most cities, Addis Ababa accommodates elected officials and appointed officials. This draws from the need to tradeoff between democratic responsiveness and managerial competence, between politics and administration.<sup>218</sup> While the mayor, cabinet members and the Chief Auditor pass through the political process, the city manager, though contemplated to be part of the executive is not an elected person. Following, I will briefly show the specific powers and function of the components of the city government.

- **The City Council:** in addition to the law making power it has in the areas of constituting the executive organs of the city, issuing the master plan of the City, establishing the judicial bodies of the City, levying taxes on areas reserved to the City and approving the budget of the City, the City Council has the power to elect the mayor, call and question the same, adopt policy in its areas of competence and make other important appointments and designations.<sup>219</sup>

The City Council is elected for a term of five years in accordance with the election laws of Ethiopia.<sup>220</sup> In addition, the City Council may also be dissolved upon the decision of House of Peoples' Representatives or that of the Council itself. Although the City Council is accountable to the residents of Addis Ababa and to the Federal Government, the former have no way of affecting the City Council in their decisions.

- **The Mayor:** is the chief executive of the city. The mayor is elected from among members of the City Council and is accountable to the City Council and the federal government. The mayor serves as the head of government and

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the city council. On the other hand, the 'council-mayor' prototype connotes a council strong enough to dominate most governmental activities. In this case, the city council prevails over the mayor. The mayor is accountable to it. Most of the time, the council elects the mayor.

<sup>218</sup> Schragger, supra note 124.

<sup>219</sup> Art.14, Proclamation No. 361/2003.

<sup>220</sup> Art.15, Proclamation No. 361/2003.

head of “state”. Whether there is a strong mayor or mere city manager is an issue worth exploring. In a strong mayor prototype, the mayor is the chief executive of the city and resembles to the president in a presidential system of government. In a city manager prototype, the mayor plays a figure head in the city. Most of the affairs of the city are carried out by the city manager. The city manager is not elected but is appointed/hired by the mayor in consultation with the City Cabinet.<sup>221</sup> The philosophy behind giving the city to a professional city manager is that cities are simple corporations. No one better enlivens this thinking other than John Patterson. He said

A city is a great business enterprise whose stockholders are the people ...Our municipal affairs would be placed upon a strict business basis and directed, not by partisans either Republican or Democratic, but by men who are skilled in business management and social science...<sup>222</sup>

Though hired or fired as the case may be via a contract of employment, Addis Ababa's City Manager remained to be politically affiliated to the ruling party. Except for a short period of time when the federal government organized a caretaker administration led by “experts”<sup>223</sup>, Addis Ababa's City Managers were all from the EPRDF and its affiliates.

The mayor of Addis Ababa is not that weak. And the city manager is not influential compared to the mayor. Executing laws made by the City Council, representing the city as an ambassador thereof, preparing and submitting draft proclamations, nominating cabinet members, appointing the heads of the executive bodies of the city and hiring and firing the city

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<sup>221</sup> Art.21 (2) (g), Proclamation No.361/2003.

<sup>222</sup> R. J. STILLMAN, RISE OF THE CITY MANAGER: A PUBLIC PROFESSIONAL IN LOCAL GOVERNMENT 8 (1974).

<sup>223</sup> For a general discussion on the factors that led to the appointment of experts and the contentions surrounding the issue, please see Wondwossen Wakene, Assessing the Constitutionality and Efficacy of Caretaker Governments. The Case of Addis Ababa (May 2007) (unpublished senior thesis, AAU, Faculty of Law Library).

manager form some of the powers of the mayor.<sup>224</sup> Still, the mayor lacks veto power on significant issues. As things stand now, there is no popular election for the office of the mayor. Rather there is a popular election for the City Council and the mayor is elected out of the City Council. In fact the mayor cannot be conceived out of the City Council that his/her termination of membership in the Council triggers his/her resignation as a mayor.<sup>225</sup>

It would have been better if the mayor were elected by the residents directly given the fact that the mayor is meant to serve as an ambassador of the city and that he/she is there to represent the city at events of national and public holidays. Moreover, the diffusion of power among various organs of city government reduces and blurs accountability while it might help to avoid fusion of power.<sup>226</sup> This danger is potentially there in the case of Addis Ababa. Neither the City Council nor the mayor is made accountable to the residents of Addis Ababa. Without forgetting elections as mechanisms of holding officials accountable, the Revised Charter of Addis Ababa so far makes the mayor accountable to the City Council and the Federal Government.

- **The City Cabinet-** is like the Federal Council of Ministers and is responsible to the overall execution of laws and policies. It has the power to initiate laws and policies. It can also issue regulations. The cabinet is named by the mayor and constituted by the City Council. There is no limit on the term of the Cabinet except for the time frame we have for the City Council.
- **City Courts-** two court structures available in the city. There are Addis Ababa City Courts and the Kebele Social Courts.<sup>227</sup> Other institutions with judicial

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<sup>224</sup> Art.21, Proclamation No. 361/2003.

<sup>225</sup> Art.21 (3), Proclamation No.361/2003.

<sup>226</sup> Schragger, supra note 124.

<sup>227</sup> Art.39, Proclamation No. 361/2003.

power include the Labor Relations Board, the Civil Service Tribunal, the Tax Appeal Commission and the Urban Land Clearance Matters Appeal Commission.<sup>228</sup>

The City Courts have jurisdiction over suits, in accordance with the City Master Plan, of “possessory right, issuance of permit or land use, brought in connection with the regulatory powers and functions of executive bodies of the City Government and suits brought in connection with administrative contracts concluded by executive bodies of the City Government or enterprises under its ownership”.<sup>229</sup> Addis Ababa City Courts do also see “disputes arising between executive bodies of the City Government or between other organs thereof”.<sup>230</sup>

The Courts have jurisdiction over very few criminal matters (petty offences).

**Finance-** self government implies the capacity of the self governing unit to create and arrange its preferences and allocate the necessary resource to carry out its duties. This, in other words, is the ability to marshal the resources available against recognized duties and responsibilities. If cities can make laws but do not have the autonomy to raise taxes so as to cover their expenditure needs, they will return back to the vicious circle of dependence and interference.

In view of this, Addis Ababa has been given power of levying and collecting taxes and that of imposing charges and duties on certain transactions. The city has the power to levy and collect income taxes from employment, agricultural activities, rental of houses, gains from rental of patent rights and from small scale mining operations within the city, profit, excise and turnover taxes from individual businessmen in the city, capital gains taxes on property situate in the city, royalty from small scale mining operations in the city and from forest resources in the city, municipal taxes and finally urban house tax on houses in the city.<sup>231</sup> With regard to VAT, the Federal Government is authorized to collect the same and pass over to the City. Additionally, the city has non-tax sources of revenue. They include land use

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<sup>228</sup> Art.40, Proclamation No. 361/2003.

<sup>229</sup> Art.41(1), Proclamation No. 361/2003.

<sup>230</sup> Art.41 (1) (e), Proclamation No. 361/2003.

<sup>231</sup> Art.52, Proclamation No. 361/2003.

fee, urban land rent, stamp duty, road users' vehicles charge and license fees.<sup>232</sup> The City is also authorized to engage in other lawful gainful activities such as joint investment, fund investment, rental of its properties and donations.<sup>233</sup> Finally, the city has the right to borrow money from domestic sources and to solicit the federal government to borrow money from foreign sources.<sup>234</sup> Relying on the principle of tax immunity, the city is prohibited from imposing income taxes on the employees of the Federal Government and the Regional State of Oromia.

However, the Revised Charter does not attempt to regulate fiscal issues arising out of the presence of the federal government and Oromia in Addis Ababa. Two issues are bound to arise. One, there is a need to address the revenue lost as a result of the presence of the federal government and Oromia in the city. Revenues involving rental of houses and land leases are lost in the mist as the federal government and Oromia acquire buildings and land that would have been owned by others that are duty bound to pay the necessary charges and fees to the city. Second, there are costs contingent on the presence of the federal government in the city. Security costs form one aspect of such a cost. As the seat of Oromia, the federal government, the African Union and myriad foreign legations, Addis Ababa must minutely toil to safeguard the safety of these institutions and their personnel. This in turn demands a great deal of resource. How are these expenditures made good? In two ways. First, telling the capital city into its face that hosting the federal government and other institutions is not only a matter of expenditure but also lucrative source of income. Conference tourism is a good source of income though the exact figure of such income is not yet available in Addis Ababa.

The federal government may determine to offset its presence by instituting a scheme of revenue transfer. What the Revised Charter devises is a mechanism of "financial support from the Federal Government". This does not bind the federal government to Addis Ababa. Four reasons necessitate extending financial support to the City. They

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<sup>232</sup> Ibid.

<sup>233</sup> Art.53, Proclamation No. 361/2003.

<sup>234</sup> Art.54, Proclamation No. 361/2003.

include emergency, rehabilitation and developmental concerns.<sup>235</sup> It is also declared that the city may “receive financial assistance for expenditures having a developmental value of countrywide effect”.<sup>236</sup> The FDRE Constitution, under Art.94 (2), has similar dispensation with regard to the regional states. The federal government will not be considered to have covered the costs the city incurred because of its presence for simply transferring money to the city under the above pretexts.

No one pretext above justifies reimbursing the city for presence expenses. Does the Constitution obligate the federal government towards Addis Ababa in terms of reimbursement? Or should the Constitution obligate the federal government at all? Our answer depends on the nature of the responsibility that led Addis Ababa to spend more than what it naturally has to. If the responsibilities that cost Addis Ababa are basically the responsibilities of the federal government, Addis Ababa will worry less on the success or otherwise of separating the heart from the purse of the federal government. The Constitution looks forward to such a scheme. Under Art.94 (1) of the FDRE Constitution declares “the Federal government and the States shall respectively bear all financial expenditures necessary to carry out all responsibilities and functions assigned to them by law.”

No justification serves to prohibit imposing income taxes on employees of public enterprises owned by the Federal government and Oromia, especially when the legal incidence of taxation does not hamper the operations of these two governments. This is affirmed by the FDRE Constitution as well. Under Article 100(3), the FDRE Constitution holds “neither States nor the Federal Government shall levy and collect taxes on each other's property unless it is a profit making enterprise”. We can infer from this that inter jurisdictional tax immunity holds good as far as the jurisdictions involved stick to the traditional functions of government. As profit making is not the normal function of a government, it is legitimate to tax a government's profit making ventures. Addis Ababa and its relations with the federal government must fall under

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<sup>235</sup> Art.55 (1), Proclamation No. 361/2003.

<sup>236</sup> Art.55 (2), Proclamation No. 361/2003.

this train of reasoning. The city ought not to be prohibited from taxing profit making state and federal enterprises. This in turn has multiple benefits in addition to being a good source of revenue for the city.

Another principle guiding the division of taxation power in Addis Ababa seems that of immobility. Tax bases with less or no mobility and located in the city are reserved to Addis Ababa.<sup>237</sup>

If this is the normative framework, let us now see briefly how the city so far exploited these sources of revenue. In 1995/96 fiscal year, Addis Ababa collected 348.77 million birr constituting five percent of the total revenue of Ethiopia.<sup>238</sup> Except for the fiscal year 1998/99, the revenue of Addis Ababa has been steadily increasing. Though dependable the increase is not very significant. Compared to the contribution the whole regions make to the national revenue pool, Addis Ababa makes a more commendable contribution. For instance while the contribution of the whole regions to the national revenue pool by the year 1998/99 was 9.22%, Addis Ababa contributed 7%. We can infer from this that Addis Ababa has raised revenue far substantial than most of the regional states. To take an example, in 1999/00 and 2000/01 Addis Ababa collected revenue from employee income tax greater in amount than the regional states of Oromia, Amhara and SNNPR.<sup>239</sup> Addis Ababa leads in terms of total revenue generated and collected. It collected 802.75 million birr in the year 2000/01, while Oromia collected 511.62 million birr, Amhara 203.74 million, SNNPR 163.66 million and Tigray 97.72 million birr.<sup>240</sup>

Expenditure-revenue match/mismatch can be another indicator of self government. As the capacity of a self governing entity to cover its expenditures with its domestic revenue decreases, the dependence of the entity on grants and transfers increases.

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<sup>237</sup> Proclamation No.361/2003, art. 52. For example art.52 (17) authorizes the Addis Ababa to “assess and collect capital gains tax on property situate in the City.”

<sup>238</sup> Ministry of Finance and Economic Development, The Federal Government of Ethiopia Countrywide Budgetary Revenue and Expenditure for the Fiscal Year 1999-2001.

<sup>239</sup> Ibid.

<sup>240</sup> Federal Ministry of Finance, Policy Analysis Department.

The vice versa holds good as well. No state or sub national entity has so far managed to fully balance its expenditure with its revenue. Match/mismatch is a matter of degree. The success of a self governing entity must be gauged on its efforts to cover its expenditures. Expenditure and revenue mismatch atrophies the regions in Ethiopia. The Regional State of Afar by the year 1999/00, for instance, could cover only 6.43% of its expenditure needs from its own revenues.<sup>241</sup> The center covers the rest of the expenditure. In the same fiscal year, Gambella and Somali Regions satisfied 8.33% of their expenditure from own sources.<sup>242</sup> Oromia managed to allocate all its resources and covered 42.7% of its expenditure from its domestic revenue.<sup>243</sup> Dire Dawa Administration performed better. Its domestic revenue sources addressed 55.9% of its expenditure needs.<sup>244</sup> By the year 1999/00, Addis Ababa raised 731,131,044 birr and spent 772,461,695 birr. There was a deficit of 41,330,651 birr. Compared to the performance of the regional states, Addis Ababa's achievement is remarkable. Out of the total expenditure need, Addis Ababa covered 94.6% out of its own domestic revenue. Addis Ababa was dependent only for 5.4% of its expenditure needs on the federal government.

The Charter of Addis Ababa does not engage the city in much experimentation as we might expect. This is owing to the environment in which it is made and the body that made it. In addition to kind of government it adopted, the Charter attempts to resemble the Federal Constitution in many ways. This in turn has doomed the chance of seeing how Ethiopia managed itself at city level.

In general, I like to make two observations concerning Addis Ababa's self governing status. First, there are factors promoting a self governing Addis Ababa. What the FDRE Constitution and the Revised Charter of Addis Ababa are doing requires quite applause. Unlike most cities elsewhere, Addis Ababa's self government is constitutionally guaranteed. On the other hand, there are factors that downgrade self government in Addis Ababa. One factor is the Revised charter itself. Though trivial but in any way significant,

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<sup>241</sup> Supra note 238.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

the Revised Charter puts Addis Ababa in a rather precarious condition of indeterminacy as it fails to clearly put the boundary of the city and its areas of influence.<sup>245</sup> Far from that, the Revised Charter leaves the fate of determining the boundary of Addis Ababa on the agreement to be made between the City Government and the Regional Government of Oromia.<sup>246</sup> One can witness inaccuracies and confusions as he/she travels across Addis Ababa into Oromia. For instance, as one travels to the east across Akaki/Kaliti ( an Addis Ababa sub city) into Dukem ( a small town in Oromia), he/she notices two billboards each declaring their respective jurisdiction's limits. The “Addis Ababian” billboard declares the end of the city boundary past the billboard declaring the beginning of the boundary of Oromia. Though difficult to chronologically demarcate which one billboard first came into the scene, any ordinary observer will be rendered restless awaiting the knowledge of the exact point of departure between Addis Ababa and Oromia. I will say more on this issue and other accompanying ones in the section dealing the relationship of Addis Ababa with Oromia.

The Revised Charter has further given the federal government the green light to meddle in the affairs of Addis Ababa. At times, the Revised Charter is entranced with its own provisions and unnecessarily lets Addis Ababa to fall under the spell of the federal government. After reiterating the constitutional right of self government, the Revised Charter of Addis Ababa makes the city an integral part of the federal government as “the City Government is a component part of the Federal Government. It shall be accountable to the Federal Government concerning security, diplomatic relations as well as policies, laws and standards thereof”. In addition to this explicit integration, there are roundabout absorption of the city by the federal government. One such move involves the Revised Charter's apparent executive decentralization. Under Art.11 (1), the Revised Charter declares

[T]he City Government shall have the power to make laws and exercise judicial powers specifically conferred on it by this Charter *as well as executive powers and functions over matters that have not specifically been included in the details of the*

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<sup>245</sup> Wondwossen, supra note 223 at 40.

<sup>246</sup> Art.5, Proclamation No.361/2003.

*powers and functions of the executive organs of the Federal Government.* [Emphasis mine]

Superficially, an arrangement like that appears to be a simulation of executive federalism. However, a closer look reveals quite a different image. In a sense we can say that the Revised Charter is one potent weapon of centralization. After dividing powers and functions, the Revised Charter invites the executive powers and functions of the federal government in to the scene and makes Addis Ababa one wing of the federal executive. Unlike executive federalism that leaves a great deal of space for sub national flexibility to the extent of legislating laws helpful to foster the administration of federal laws, the Revised Charter lets Addis Ababa execute federal decisions not embraced by a proclamation issued to determine the powers and functions of the executive organs of the federal government. We can infer this from Art.11 (1) of the Revised Charter that reads

[T]he City Government shall have the power to make laws and exercise judicial powers specifically conferred on it by this Charter *as well as executive powers and functions over matters that have not specifically been included in the details of the powers and functions of the executive organs of the Federal Government.* [Emphasis mine]

As such a proclamation/regulation is assumed more detailed than the Constitution, little will be left out of it concerning the subject it purports to cover like the powers and functions of the executive.<sup>247</sup> Even if we are optimistic about the availability of powers and functions, there will be little or no chance that they will leave enough space for flexibility as by then the specific ministries and agencies responsible to such a detail will be outlined thoroughly.

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<sup>247</sup> In Ethiopia the experience is detailing the powers and functions of the executive in a proclamation ‘defining the powers and duties of the executive organs.’ As a result, in addition to the constitutional list of powers, we will apparently end up with detailed powers and functions under proclamations. At the end of the day, such details will leave little or no space for flexibly applying laws as compared for example to the Länder of Germany where executive federalism presupposes ample space for flexibly applying federal laws and policies. To be more specific, Addis Ababa will not have sufficient space to make directives to implement the mandate it assumed by virtue of Art.11 of the Revised Charter.

In fact, this lets Addis Ababa to be considered as a mere extension of the federal government. At the end of the day, this arrangement makes the city one wing of the federal executive or at least instills the feeling among city officials that they are part and parcel of the federal bureaucracy and gives federal officials more discretion to meddle in the affairs of the city.

Such integration without explanations in favor of compromise between self government and federal intervention erodes the constitutional right of self government. Another reason that the executive federalism is apparent but not real emanates from the general constitutional dispensation of Ethiopia that favors dual federalism and not executive one. Art. 50(1) of the FDRE Constitution states “the Federal Government and the States shall have legislative, executive and judicial powers”.

Furthermore, the FDRE Constitution under Art. 50(8) declares “...the States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States.”

With this in mind, the principle of subsidiarity of Art.50(4) of the FDRE Constitution furthers the devolution of all the powers necessary to promote public participation to the lowest level possible implying legislative, executive and judicial powers. Addis Ababa along with its self governing status necessitates devolving to the city all the powers and functions commensurate to its status, at the end of the day promoting dual federalism. This makes the executive federalism of Addis Ababa only apparent and not real. Any pretense that executive federalism exists in Addis Ababa undermines the self governing status of Addis Ababa, as the City has no sufficient space to execute federal laws and decisions in the face of detailed powers and functions.

The Revised Charter has further exacerbated the ambiguity over the interest of Oromia in Addis Ababa. While expected to explicate the matter by shedding light on the issue, the Revised Charter simply referred the matter to a future legislation and dislodged any hope of imminent resolution. Finally, it has established a federal district form of a city thereby

taking Addis Ababa as a city with interests only of a corporation and not a kind of city the Federal Constitution contemplated to create.

## **6. ADDIS ABABA & ITS RELATIONS WITH THE FEDERAL GOVERNMENT AND OROMIA**

### **6.1. ADDIS ABABA & ITS RELATIONS WITH THE FEDERAL GOVERNMENT**

The relationship of Addis Ababa and the federal government can be traced back to the FDRE Constitution which makes Addis Ababa the capital city of the federal government. In this section, I will endeavor to show what this relationship looks like and what preserves this relationship. In addition, the extent of involvement of the federal government in the affairs of Addis Ababa and the valid limits, if any, on such involvement shall be discussed.

#### **CONSTITUTIONAL TIES AND THE EXTENT OF INVOLVEMENT OF THE FEDERAL GOVERNMENT IN THE CITY:**

##### **CONSTITUTIONAL TIES AND EXTENT OF INVOLVEMENT**

What keeps Addis Ababa attached to the federal government is the FDRE Constitution. That is why we say there is a constitutional tie between Addis Ababa and the federal government. Addis Ababa does not have history of a democratic and disciplined culture of federal-city relationship. The city pattern adopted may have a role in shaping the nature of the relationship. This has impact on the nature of the relationship between Addis Ababa and the federal government and may weigh in favor of the federal government. Keeping this in mind, it is wise discussing the self government of Addis Ababa within the context of city- federal relationship. The initial knotting factor of a capital city to a government is the fact that the former is the seat of the latter. Next to that, the relationship depends on factors relating the capital city to the government. These include security, fiscal and social issues.

As to Addis Ababa the grounds of involvement are many. According to the Revised Charter, the federal government has a stake in security, diplomatic relations, policies, laws and standards.<sup>248</sup> With this regard, the areas of involvement are wide enough that the

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<sup>248</sup> Art.61 (2), Proclamation No. 361/2003.

federal government will always have the need to intervene in the affairs of Addis Ababa. Such unlimited allowance in favor of the federal government will substantially jeopardize the self governing status of Addis Ababa. After making Addis Ababa the component part of the federal government, the Revised Charter has reduced Addis Ababa to a mere administrative unit of the federal government. Let us now see how the federal government involves in the affairs of Addis Ababa.

The first area of involvement relates to the very making of the Revised Charter of Addis Ababa by the federal government. The Revised Charter of Addis Ababa is written by the federal government and this is justified on Articles 49 and 55(1). While Art.49 deals with the self governing status of Addis Ababa and the fact that Addis Ababa is the capital of the federal government, Art.55 (1) deals with the competence of the federal parliament to legislate on matters exclusively assigned to the federal government by the Constitution. Rather than declaring Addis Ababa to be the seat of the federal government, the FDRE Constitution does not attach Addis Ababa to the law making regime of the federal government. The mere fact of being a capital city does not make a city to be the subject matter of the federal government. The status of a capital city as it stands now is open to the evils of patterns. There is no outright assimilation of a capital city to the jurisdiction of the federal government simply because the city is the capital city of the federal government. Far from that, the constitutional status of the city in question and the city pattern of the same determine the role of the federal government in a city. Addis Ababa enjoys a self governing status. The involvement of any kind of government in its affairs should not be lightly assumed. Rigorous standards must be met before a government interferes in the affairs of Addis Ababa.

However, I am not arguing in favor of the total alienation of the federal government from its capital city. The federal government must have some degree of control over its seat. It should not be left in the hands of the city government and be posited in a precarious adventure of consuming its time and resource in trying to solve problems with the city government. Issues of legitimacy take the upper hand under such circumstances that the making of a charter must be as participatory as possible. Unilateral ventures of charter

making are immoral as they are illegal. The federal government has usurped from the city the opportunity to write the Charter in the ways that best suit it. This is not accidental in many ways. The time when the Revised Charter was made coincides with the centralizing trend Ethiopia witnessed after the split in 2001 of the TPLF. After the split in the TPLF, whose effect is also felt by the coalition parties, EPRDF embarked up on a series of actions that reduced the autonomy of the regions in favor of revitalizing the powers of the central government.<sup>249</sup> Among the preemptive laws made during this period, Proclamation No.359/2003 was one. This is a proclamation furnishing the federal government with a 'system of intervention' in the states. In a really sequential fashion and with the mentality of active federal government, Proclamation No.361/2003 was issued. Though there may be independent reasons of amendment, the making of the Revised Charter falls under the general trend of centralization. This adversely affects the interests of the residents of Addis Ababa and erodes the self governing status of the same.

Other areas of involvement descend from this act of unilaterally writing the Charter. Accordingly, the Revised Charter strives much preparing the ground for federal involvement in Addis Ababa. The second area of involvement is that of accountability of the City Council. In addition to making the Council accountable to the residents of Addis Ababa, the Revised Charter, under Art.17 (1), makes the Council accountable to the Federal Government. One way of interpreting this accountability in to effect is via causing the dissolution of the City Council by the House of Peoples' Representatives.<sup>250</sup> After involving in the dissolution of the City Council, it is again the federal government that may invite parties or coalition of parties to form government.<sup>251</sup> The way how residents will hold the City Council accountable is yet to unfold. So far there is no other mechanism of accounting the City Council to residents other than election. Another manifestation of accountability is obligating the city government to make periodic reports to the center. Keeping this tradition, the Revised Charter obligates the mayor to “submit reports to the Ministry of Federal Affairs...”<sup>252</sup> Moreover, the federal government has a free hand in assigning functions to the mayor of Addis Ababa. This is implicit in the

<sup>249</sup> ASSEFA, supra note 75.

<sup>250</sup> Art.17 (2), Proclamation No. 361/2003.

<sup>251</sup> Art.17 (2) (b), Proclamation No. 361/2003.

<sup>252</sup> Art.21 (2) (k), Proclamation No. 361/2003.

Revised Charter's Art.21 (2) (r) that reads “the Mayor shall perform other functions assigned to him by the ... Federal Government.”

The Addis Ababa City Police Commission is established by “Regulations of the Council of Ministers issued pursuant to the Federal Police Commission Proclamation.”<sup>253</sup> While the City Police Commission remains generally accountable to the Federal Police Commission, the mayor of Addis Ababa will follow up the daily operations of the City Police.<sup>254</sup> Above all, the Ministry of Federal Affairs shall appoint the City Police Commissioner and the Deputy Commissioner.<sup>255</sup> In what may be called a major encounter, the federal government displayed its capacity to command the city police. After the 2005 national election, the federal government announced the repossession of the city police commission thereby disabling the city government from influencing its police force.<sup>256</sup>

One more area of involvement is that of the judiciary. The federal judiciary is entitled to send its representative to the body that “directs the operation of judicial matters by the City Courts”.<sup>257</sup> The body that directs the operation of judicial matters in Addis Ababa is the City Judicial Administration Commission. This Commission shall have delegates of Federal Courts as some of its members. After saying much on the self governing status of Addis Ababa, which must include autonomy over judicial matters, the Revised Charter compromises Addis Ababa’s autonomy by allowing the Federal Judiciary to involve in the judicial affairs of the city.

The formal legal regime that purports to regulate the relationship between the city and the federal government is the section dealing with intergovernmental relationship. This section attempts to sketch the modus operandi between the federal government and Addis Ababa. It makes Addis Ababa an integral part of the federal government and makes the

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<sup>253</sup> Art.27 (1) (a), Proclamation No. 361/2003.

<sup>254</sup> Art.27, Proclamation No. 361/2003.

<sup>255</sup> Art.27 (2), Proclamation No. 361/2003.

<sup>256</sup> Wondwossen, Supra note 223.

<sup>257</sup> Art.44 (1), Proclamation No. 361/2003. The body responsible to direct operations of judicial matters in the city is the Judicial Administration Commission of the Addis Ababa City Courts.

city accountable to the federal government in almost all respects. Parallel to defining the nature of the relationship during normal times, the section goes on depicting the management of Addis Ababa during a crisis. Starting with normal times, we find the Ministry of Federal Affairs with the power to “follow up the activities of the City Government and support the capacity building undertakings of the City”.<sup>258</sup> Annual and periodic performance reports are to be submitted to the Ministry of Federal Affairs. In a sense, the Revised Charter authorizes the operation of a shadow government- less visible, less responsive and more active in the city. The Ministry is less visible as it does not exist in the formal power structure of the city. It is less accountable to the residents of Addis Ababa because they did not make it in the first place or there exists no nexus between the Ministry and the residents. The Ministry is more active than thought as it involves in the day to day affairs of Addis Ababa.

The Federal Government will dissolve the City government when the same commits an act endangering the Constitution or when the city fails to manage emergencies and security matters.<sup>259</sup> After dissolving the City Government, the federal government will constitute a transitional government.<sup>260</sup>

As the federal government showed its great presence in terms of the making of the Revised Charter, so it did in the unmaking of the Revised Charter. Of the two organs entitled to initiate the amendment of the Revised Charter, the federal government is one.<sup>261</sup>

In fact, it is the federal government that so far managed to initiate and pursue the amendment of the charter. Proclamation No.311/2003 was repealed following the initiation of the federal government.

However, at no point in time other than the 2005 national election and the period following the election did the federal government let its presence felt in Addis Ababa. Following the 2005 national election and the defeat of EPRDF in Addis Ababa by the

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<sup>258</sup> Art.61 (5), Proclamation No. 361/2003.

<sup>259</sup> Art.61 (3), Proclamation No. 361/2003.

<sup>260</sup> Ibid.

<sup>261</sup> Art.65, Proclamation No. 361/2003.

CUD, the smooth federal-capital city relationship was reversed and the federal government, led by EPRDF, resorted to various measures in an effort to secure the complete submission of the city to the wills of the federal government. Following, I will discuss the factors that precipitated the reversal of the smooth federal-capital city relationships along with the measures that the federal government took to get out of the crisis.

**The 2005 national election and its results-** the May 2005 national election was the third national election Ethiopia conducted. Unlike previous elections, the 2005 national election was credited for its high voter turnout and the number of opposition party members that managed to win better number of seats in the national parliament.<sup>262</sup> The voter turnout was between 80-90%. EPRDF managed to win 371 seats and the opposition 175 of the seats in the national parliament.<sup>263</sup> The opposition won the election in most of the towns and EPRDF in rural areas. Coalition for Unity and Democracy (CUD) won 138 of the 139 Addis Ababa's City Council seats. The post election period was fraught with allegations of rigging and fraud of votes. Later, the verbal controversy developed into active violence. Following unilateral declarations of victory from both the ruling party and the opposition, the ruling party declared a ban on outdoor gatherings and demonstrations in and around Addis Ababa for one month. Students of AAU broke the ban followed by high school students. There were demonstrations in major Ethiopian towns. Opposition leaders were put under house arrest and there were allegations of harassment and beating by government forces.<sup>264</sup>

**The CUD and its decision not to take its seats in the national parliament and Addis Ababa-** as one major actor in the controversy and allegations so far highlighted, the CUD was caught between accepting the election results and enter parliament or reject it all together and boycott entering parliament. After numerous wrangling and calls for re-elections, stay at home strikes, mass demonstrations and preconditions to enter parliament, a faction of CUD entered parliament and another

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<sup>262</sup> J. Abbink, *Discomfiture of Democracy? The 2005 Election Crisis in Ethiopia and Its Aftermath*, 419 AFR. AFF.105, 173-199 (2006).

<sup>263</sup> Ibid.

<sup>264</sup> Ibid.

one decided not to enter. The controversy to enter or not to the national parliament was equally heated in the case of Addis Ababa. Although the CUD won 138 out of the 139 seats in Addis Ababa's City Council, only 68 candidates were registered to take the seats. Even out of the 68, eight decided to cancel their registration. At the end of the day, the CUD did not manage to take the seats of the City Council and failed to form a government in Addis Ababa. Even eleventh hour decisions to take seats would have been impossible because the CUD leaders were physically incapacitated from doing so by their being sent to jail.<sup>265</sup>

**Actions of the federal government-** financial and legal incapacitation- following the decision of opposition parties, EPRDF resorted to what appears to be a “carrot and stick” approach- it tried to convince the opposition via negotiations and agreements. Foreign diplomats mediated such forum of negotiations. On the other hand, EPRDF threatened legal actions and implemented unilateral time frames to be met by the opposition. The outgoing parliament was not passive. It passed various legislations that further fueled the controversy. John Abbink and many more agree on the point that the outgoing parliament, then overwhelmed by EPRDF, passed laws that will change the parliamentary rules of procedure in favor of EPRDF.<sup>266</sup> Instances include the change of the previous parliamentary rule of procedure that required 20% of votes to support a parliamentary initiative into 50% vote. Another inclusion is that of removing a parliamentarian on grounds of speaking “insulting and defamatory language”.<sup>267</sup>

Such types of laws, if made with the above purposes in mind, ought not to be tolerated to stand at least for reasons of law and principle. Laws should not be made to benefit or injure a particular person or group, as they have to be general in their application. What has been made by the outgoing parliament was quite the contrary. The Ethiopian legislator ought to be geared towards making general laws and not

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<sup>265</sup> Ibid.

<sup>266</sup> J.W. Harbeson, Ethiopia's Extended Transition, 4 J. DEM. 16, 144-158 (2005). See also Abbink, *supra* note 213 and L. Aalen & K. Tronvoll, The 2008 Ethiopian Local Elections: The Return of Electoral Authoritarianism, 430 AFR. AFF. 108, 111-120 (2008).

<sup>267</sup> Abbink, *supra* note 262 at 185.

those attacking a particular person or group. Second, the outgoing parliament had no mandate to legislate to the incoming one. In effect an outgoing parliament is only a caretaker one as election has triggered its dissolution.<sup>268</sup> A caretaker government was supposed to undertake the day to day activities of government and desist from making long lasting political decisions. The FDRE Constitution is audacious in this matter. It declares “beyond conducting the day to day affairs of government ... [the caretaker government] may not enact new proclamations, regulations or decrees, nor may it repeal or amend any existing law”.<sup>269</sup> The very reason why caretaker governments are prohibited from making laws is to avert the danger of encumbering the incoming government with less conducive laws. More over caretaker governments are options of exigencies and fall short of legality. Most of the time, those serving as caretakers are either defeated in elections or have been put out of office by losing popular support.

Third, good faith must prevail between the federal government and Addis Ababa so that one should not undermine the other when tempting events occur. As time matters, decisions contingent on the occurrence or the non occurrence of politically significant incidents must not kindle emotional responses from the federal government.

As the federal government looked very determined concerning Addis Ababa, various measures were taken that could determine the fate of Addis Ababa to continue as a self governing entity or a mere administrative wing of the federal government. Decisions that affect the financial interests of Addis Ababa were passed. In addition to this, the Regional State of Oromia decided, almost overnight, to move its capital city from Adama (Nazareth) to Addis Ababa.

What were these decisions? What motivated their making? Though very difficult to establish intention, it is not impossible to infer the same from conduct. Many agree on the fact that the federal government ousted Addis Ababa of its basic sources of

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<sup>268</sup> ETH. CONST., art.60.

<sup>269</sup> ETH. CONST., art.60 (5).

revenue owing to the defeat of the EPRDF in Addis Ababa. Why does defeat necessitate such actions? John Abbink sheds light on the possible motives arguing, “[the decision to reverse revenue collecting powers] hampers the economic possibilities of the new administration — if it ever materializes — and will in due course have residents shift the blame to the new city government”.<sup>270</sup> The time context of the laws makes them suspect as well.

After the May 2005 election and the consequent defeat of EPRDF in Addis Ababa the federal government passed various decisions in the form of laws and simple notices with what seems to be a bid to show who really is in control. To start with the laws, the controversial one relates to Proclamation No.471/2005.<sup>271</sup> This was a law made to define the powers and functions of the executive organs of the federal government. So far so good. But this same proclamation entrenches a range of restructuring and adjustments with regard to the powers and functions of the federal executive organs. One such adjustment relates to the powers and functions of the Ministry of Justice. Proclamation No.471/2005 gives the Ministry what it did not have in the previous Proclamations No.4/1995 and No.256/2001. While the Ministry did not have the power to register nongovernmental organizations and associations operating in Addis Ababa in the two proclamations mentioned above, Proclamation No.471/2005 gave the aforementioned mandate to the Ministry of Justice.<sup>272</sup> This undermines the financial capabilities of Addis Ababa by putting an impact on labor relations and revenue collection. In effect, Proclamation No. 471/2005 amended the Revised Charter of Addis Ababa by inhibiting the city government from levying taxes and collecting fees on and from services provided by its organs to nongovernmental organizations and associations.

Addis Ababa lost much because of this decision given the amount of revenue it generated from that sector. Needless to spend words on the impact of this on the self governing status of Addis Ababa. Even the thought that the federal government may

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<sup>270</sup> Abbink, *supra* note 262 at 185.

<sup>271</sup> This law was made on Thursday June 30 2005 by the then incumbent parliament and its legitimacy ought to be highly contested.

<sup>272</sup> Art.23 (8), Proclamation No.471/2005.

one day come and decide on the areas from which an entity can derive its revenues and those from which it cannot is quite inhibitory. The effect of such a thought will last long and greatly impacts self government.

Another incident in the aftermath of the 2005 national election was the uncharted capital city mobility on the part of the Regional State of Oromia. Immediately after CUD was declared victorious in Addis Ababa, the Regional State of Oromia, through its President, declared the re-institution of Addis Ababa as the capital city of Oromia. This fomented acrimonious disagreement between CUD and EPRDF (Oromia was then led by EPRDF) thereby forcing the former to relinquish any desire to administer Addis Ababa.

**'dissolution' of the City Government and the constitution of a caretaker government-** following the refusal of CUD to take the administration of Addis Ababa, the federal government embarked up on two courses of actions. First, the federal government put a time frame of registration. Accordingly, the House of Peoples' Representatives called up on the CUD to let those who won seats in Addis Ababa to be registered until April 17, 2006.<sup>273</sup> Only sixty eight persons were registered and even eight of them required for the cancellation of their names from the list. As of early 2005, the CUD leadership was in prison making the passing of significant decisions on the part of the CUD quite difficult. Second and related to the above events, the federal government decided to establish a “provisional administration”<sup>274</sup> Accordingly, the Prime Minister appointed a cabinet of ten men. The “provisional administration” was entrusted with the task of carrying out the day to day activities of government and ensuring the continuation of the social and economic endeavors of the city.

## **6.2. ADDIS ABABA AND ITS RELATIONS WITH OROMIA**

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<sup>273</sup> Wondwossen, supra note 223.

<sup>274</sup> Ibid. A provisional administration does not go along with the role the administration established in Addis Ababa was assigned to perform. It was more of a caretaker government as a provisional government is limited only by time while a caretaker government both by time and the kind of functions it assumes.

The FDRE Constitution knots Addis Ababa and Oromia together when it recognizes the “special interest of the State of Oromia in Addis Ababa” regarding social, economic and administrative matters. Its decision to bind the two together emanates from geography which in turn is saved by history. Had it not been for the FDRE Constitution that made Addis Ababa a self governing entity, Addis Ababa would have been one of the cities of Oromia and hence the subject matter of Oromia. Following, I will discuss the sources of the special interest of Oromia, the administrative issues surrounding Addis Ababa and Oromia, and current developments with regard to the relationship between Addis Ababa and Oromia and the manner of regulating IGR between Addis Ababa and Oromia all with the view to assess self governance in Addis Ababa.

#### **6.2.1. GEOGRAPHY AND HISTORY AS SOURCES OF CLAIM**

Proximity does not explain Addis Ababa and Oromia. Addis Ababa is totally surrounded by Oromia. In effect, Addis Ababa is part of Oromia. This geographical nexus in turn yielded an historical perspective on the relation of Addis Ababa and Oromia. The original settlers of Addis Ababa were the Oromo. As early as 1909, the total number of Oromos in Addis Ababa was more than twenty five thousand. The number of Oromos that came in and out of Addis Ababa on a daily basis was not accurately known. This together with the location of Addis Ababa in Oromia gives rise to various kinds of claims with regard to Addis Ababa. Such a geographical and historical affiliation may necessitate the regulation of social, economic and administrative issues in a concerted fashion. Based on this understanding, the FDRE Constitution recognizes the interest of Oromia in terms of social, economic and administrative lines. It declares as

[T]he special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia shall be respected.<sup>275</sup>

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<sup>275</sup> ETH. CONST., art.49 (5).

Some authors have attempted to imagine the kind of issues that may lead Oromia to show its presence in the affairs of Addis Ababa. The issues mostly revolve around spillover effects of urban expansion and the consequent externalities involved. Solomon Negussie for example raises issues of environmental pollution, employment and population displacement.<sup>276</sup> While the environmental issues revolve around possible pollution of rivers flowing from Addis Ababa in to Oromia as almost all of the rivers in Addis Ababa are polluted with household and industrial waste, the population displacement may result from the outward growth of Addis Ababa into Oromia.<sup>277</sup> These are indeed valid grounds of concern. However, the reverse may also be true as inhabitants of Oromia may consume the services of Addis Ababa in a free riding fashion. Assuming a better quality of service in areas of education and health in Addis Ababa, consumers from neighboring towns of Oromia will flock to Addis Ababa in search of better services. Addis Ababa may incur additional financial costs as a result of this. Consumers from Oromia will receive services at the cost of the residents of Addis Ababa that do the paying of taxes. In one way or another such issues call for joint agreements and decisions, and intergovernmental relationship recognizes, even if it cannot solve, the problem.

#### 6.2.2. ADMINISTRATIVE ISSUES

Addis Ababa's location in Oromia raises issues of administration as it does economic and social issues. One basic administration issue is that of seat of government. If Oromia ever claims to establish its capital in Addis Ababa, the tendency is to let the region do the same. Otherwise, choosing a capital city remains to be a delicate matter and calls for a well reasoned and debated process. Choice of a capital city has been dictated by economic, social and legal considerations. It required popular participation.<sup>278</sup>

Until 2003/2004, the seat of government of the Regional State of Oromia was Addis Ababa. Theoretically, the regional state has every right to develop its capital as the

<sup>276</sup> SOLOMON NEGUSSIE, *FISCAL FEDERALISM IN THE ETHIOPIAN ETHNIC-BASED FEDERAL SYSTEM I* (2008).

<sup>277</sup> *Ibid.*

<sup>278</sup> S.D. Moussalli, *Choosing Capitals in Antebellum Southern Frontier Constitutions*, 101 S.W. HIST. QUART. 1, 58-75 (1997).

federal government has the same right. One area of development relates to the use of languages. Though the working languages of the federal government, Addis Ababa and the Regional State of Oromia may be independently determined without affecting each other's interest, the three cannot effectively govern Addis Ababa if they were to come to Addis Ababa with their own independent language policies. A case in point is Bern where the working language is German and the street signs are all in German amid French speaking civil servants and inhabitants. If Oromia were let to administer Addis Ababa in the sense of its capital city, nothing would bar it from posting street signs and public notices in “Afan Oromo” thereby complicating matters on those who cannot understand the language. The fact that Oromia may invite such a controversy to the scene is amply demonstrated by the region's persistent rejection of the legally recognized nomenclature of Addis Ababa. That Oromia may be used as a “time bomb” by a party that leads both the federal government and Oromia against an opposition was adequately established by the courses of actions that happened following the 2005 national election. Let us briefly see how non-principled capital city mobility affects self government and rule of law.

Capital city mobility within the context of regional states may be a recent phenomenon in Ethiopia and a rare one for that matter. In the U.S., where it was a subject of major controversy, state capital city mobility called for a systematic and principled appreciation of factors that led to the mobility. Capital city mobility is directly related to the principle of equal representation. One author succinctly explains the relationship between mobility and representation as

[L]arge distances directly affected the kind, quality, and quantity of representation an area had at meetings of the assembly. First of all, the farther a resident lived from the capital, the more limited was his information about government, especially in legislative matters. Whereas citizens living in or near urban centers could rely on newspapers for information, back-country inhabitants often received no newspapers at all, or received them only after delays of two weeks to two months.<sup>279</sup>

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<sup>279</sup> Rosemarie Zagari, Representation and the Removal of State Capitals, 1776-1812, 74 J. AM. HIST. 4, 1244 (1988).

The principle of equality requires that capital cities be as central as possible so that inhabitants be able to send representatives with little difficulty and lesser cost. Otherwise those near to the capital will be easily represented than those hitherto. At the end of the day it will be difficult to treat equals equally.

A legislature in seclusion will in turn has the proclivity to degenerate into a tyranny, as the people will not know what is going on in chambers. Unconstrained capital city mobility will let us recall these issues every time a state decides to move its capital from one place to another. Oromia's capital city mobility is best explained in terms of this perspective. The Regional State had previously moved its seat from Addis Ababa to Adama amid popular protests and a degree of violence. Immediately after the results of the 2005 election, the Regional State moved back to Addis Ababa. This is a year or so only after Oromia moved its capital city to Adama. Then there was a popular discontent over this decision but the regional state gave deaf ears to the matter. Later, Oromia decided to move its capital back to Addis Ababa without giving any explanation for such an oscillation. It seems that there is no standard of capital city mobility. Such considerations as equal representation and convenience seem not to have been taken into account. What this tells us is that Oromia's right might be abused to serve political ends when the need so arises. Such a moment showed up when Addis Ababa fell in the hands of the opposition. May be the ruling party assumed that an opposition-led city government would be effectively encumbered by a regional state that claims to make its seat at a similar city. In fact, there would have been a discord if the two governments were to govern Addis Ababa, one government always deciding against the efforts of another or at least attempting to limits the efforts of another.

Another important administrative issue involves the issue of establishing a state structure that overlooks events taking place in Addis Ababa. Recently, the Regional State of Oromia has embarked up on a venture of regulating its interest in Addis Ababa. One such move is the establishment of the “Special Zone of Oromia Surrounding Finfine”.<sup>280</sup> One

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<sup>280</sup> Regulation No.115/2000, Regulation to Establish the Special Zone of Oromia Surrounding Finfine, Magalata Oromia.

of the purposes of the law, as put in the preamble of the ‘establishing Regulation’, is creating a body that leads, coordinates and follows up in one direction, of the relationship between Addis Ababa and cities and rural areas of Oromia in social, economic and political affairs.<sup>281</sup> The Special Zone takes over most of the functions of eleven towns surrounding Addis Ababa. Moreover, the Zone leads and coordinates the operations of these towns and superintends their day to day activities. The establishment of the Zone is strategic in the sense that it unifies the so far disorganized efforts of dealing with Addis Ababa.

Some of the powers and functions of the Special Zone comprise coordinating the development efforts of the towns surrounding Addis Ababa, determines the modalities of using land and administers land in cities surrounding Addis Ababa, establishes a center of market for the cities it administers, studies the modalities of working together with Addis Ababa and submits its findings to the concerned organ and works to determine the boundary between Addis Ababa and Oromia.<sup>282</sup> Unlike other Zones in the region, the Special Zone does not have legislative and judicial powers. It is an entity mainly established to shape policy directions, articulate the interest of Oromia in Addis Ababa and direct the bargaining power of the eleven towns surrounding Addis Ababa against Addis Ababa.

Though some of the tasks of the Special Zone are remotely related to the case of Addis Ababa, the others present a proximate bearing on the city. If we can see even three of the functions of the Special Zone, the tendency is towards vitalizing the Zone towards Addis Ababa.

The Zone can effectively exert influence on Addis Ababa using its capacity to establish a market center to the towns surrounding Addis Ababa. The possible center will be Addis Ababa and the city will therefore be put in another chain of controversy concerning the subject of taxation. Once Addis Ababa is chosen as a center of market for the towns surrounding it, the city will not escape the controversy surrounding the taxation of

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<sup>281</sup> Regulation No.115/2000, Preamble.

<sup>282</sup> Regulation No.115/2000, Art. 9.

commercial activities in the city. The city will incur additional costs simply because such a center is present in it. In one way or another, Addis Ababa will once more be in a tension with Oromia.

The Zone has the mandate of studying and recommending the modalities of working together with Addis Ababa. In other words, the Zone plays a significant role in shaping and directing the intergovernmental relation between Addis Ababa and Oromia. While ideally Addis Ababa is relieved from dealing with individual cities surrounding it, Oromia has reinforced the dispersed efforts of dealing with Addis Ababa in one entity. So far the activities of the Special Zone are not that visible. Until recently, border issues are discussed informally by the President of the Region and the Mayor of Addis Ababa.<sup>283</sup> The Zone has not so far prepared principles and modalities of working together with Addis Ababa. In fact, most of the time was spent on acquiring offices and resources to run the Zone itself. One of my informants acquiesce on the widespread nature of the border problem holding that “ there are no clear boundaries between the two, talks on the issue are still pending and there are still difficulties of enforcing our laws and decisions in the contested areas”.<sup>284</sup> The informant recalls events of harassment by Oromia police officers while attempting to allocate land and resources.<sup>285</sup>

However, one must not overlook the strategic importance of the Special Zone in defining the conduct of Addis Ababa with regard to Oromia. First, unlike the pre 2005 period when Oromia did not clearly displayed its interest in Addis Ababa, the establishment of the Special Zone facilitates the process of controlling the day to day conducts of Addis Ababa. With this regard, the Zone helps check the inevitable outward expansion of Addis Ababa.

One other possible purpose of the special Zone is to permanently establish the interest of Oromia in Addis Ababa. Prior to the establishment of the Zone, Oromia was in a dilemma

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<sup>283</sup> This refers to the late field visit conducted on January 1, 2010 by Mayor Kuma Demeksa and President Aba Dula Gemedu.

<sup>284</sup> Interview, Ephraim Girma, Coordinator of Construction and Land Permit Issuance Office at Kolfe Keranio Sub City, Addis Ababa.

<sup>285</sup> Ibid.

as to the exact seat of its government. When the capital of Oromia was transferred to Nazareth/Adama, the major controversy surrounding the subject was whether Oromia has relinquished its interest in Addis Ababa together with its move to abandon its seat in Addis Ababa.<sup>286</sup> Mass protests and student riots criticized the capital city mobility. The establishment of the Special Zone assures that Oromia will always be there despite capital city mobility. In effect, Oromia will always be present in Addis Ababa as long as it does not abolish its Special Zone.

Most of the responsibilities of this zone may be reminiscent of the responsibilities of ordinary zones. It has a law making<sup>287</sup> and executive powers. What makes it special is the hypothetical nature of the structure. Unless it shares administrative responsibilities with the Addis Ababa City Government or the towns surrounding Addis Ababa ( i.e. these towns take the suffix “ Surrounding Finfine the City Administration of ...”), the Special Zone will have little or no responsibility at all other than serving as a bulwark against possible outward expansion of Addis Ababa into Oromia.

Another administrative issue relates to the management of the respective borders of Addis Ababa and Oromia. Boundaries “bring about the wedding of geographic expanses to political authority”.<sup>288</sup> They determine the electorate that can participate in elections, the revenue raising capacity of an authority, the extent of service provision and the sphere of influence of an authority. So far there is no clearly set boundary between the two other than their respective unilaterally drawn boundaries. At times, the Addis Ababa City Government puts billboards that indicate the beginning of the end or the end of the beginning. The same is true on the part of Oromia. Joint reading of billboards by the two drives one into confusion as both claim different places as their area of influence. The confusion shows up in out-bursting boundary disputes between the two. Although all the boundaries of Addis Ababa are volatile and disputes were randomly visible, it was between 2006 and 2007 that considerable confrontations showed up. For instance the Burayu Town Administration and the Kolfe Keraniyo Sub City entered into a dispute

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<sup>286</sup> Tsegaye, supra note 208.

<sup>287</sup> I am assuming that the power to make a directive is a law making power. Otherwise, most of the functions of the Zone are executive in nature.

<sup>288</sup> Briffault, supra note 183 at 1128.

when the former suspended the construction of houses by 101 associations in areas called Anfo Meda and Filadoro.<sup>289</sup> The Burayu Town Administration persisted on the idea of suspension and rejected any call for negotiations.

The weaker the City Government appeared, as was the case following the establishment of a caretaker government, the stronger was the influence from the neighborhood and even individuals. At the end of the day, the volatility of the boundary issue together with the significance of boundaries to cities both funnel the concern towards the self governing status of Addis Ababa.

Without a clearly defined boundary Addis Ababa and its residents will govern themselves in a rather limited manner. For instance, residents will not be able to participate in elections pending the controversy concerning the constituency in which they are going to elect in. Second, unresolved boundary issues greatly impact local revenue raising capacity as cities and local governments highly rely on immobile tax bases such as property. If the area of influence cannot be precisely determined, cities will not be able to determine which one property to tax and which one not. But not only property tax but also sales and income taxes are all contingent on space because cities can tax only within and not outside their territories. Such indeterminacy results in significant amount of loss of revenue and increases the dependence of a city on external sources. Third, cities may be forced to redistribute what they have collected in the form of tax to undeserving inhabitants. Less clear boundaries promote free riding because services provided by a city may ultimately be consumed by those not paying the taxes.

Addis Ababa and Oromia must work together in many aspects. In the face of ambiguous regime of intergovernmental relations, the two must develop and harness principles with a view of reaching at a win-win solution. The guiding principle of the relationship between the two must be cooperation. The Revised Charter looks forward for a relationship based on “fruitful cooperation.”<sup>290</sup> With regard to boundary conflicts, Addis

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<sup>289</sup> Ethiopia; Addis Ababa, Oromia Locked in Land Dispute, ADDIS FORTUNE, April 27, 2007, at A3.

<sup>290</sup> Art.62 (1), Proclamation No.361/2003.

Ababa and Oromia have attempted to establish committees in an effort to solve the conflict. In most other cases, there is little or no formal communication between the two.

## **CHAPTER FOUR**

### **BOTTOMLINES AND LIMITS IN THE SELF GOVERNANCE OF ADDIS ABABA**

#### **1. INTRODUCTION**

So far, an attempt was made to establish the self governing status of Addis Ababa and the impact of relationships with the federal government and the Regional State of Oromia on self government. A general discussion of self government with the view to portray self government at city level took place. In this Chapter an effort will be made to show how self government may be validly limited in Addis Ababa. To this end, self government and its limits from within and without will be furnished. The purpose of this discussion will be indicating the bottomlines and limits of self government beyond and below which one may not descend. This puts in mind the involvement of the federal government in Addis Ababa and the absence so far of a principle of intervention at that level.

First, a discussion of the limits of self government will be in place. Second, we will explore if there is any genuine principle of federal involvement in the regions in general and in Addis Ababa in particular. Laws regulating IGR, if any and practices of IGR will be employed. Principles will be established that can sustain long lasting and neutral interactions between Addis Ababa and the federal government on one hand and Addis Ababa and Oromia on the other hand. In the end, I will give brief look at emerging issues having bearing on the self governing status of Addis Ababa.

#### **2. LIMITING LOCAL SELF GOVERNMENT: EXPLORING FOR PRINCIPLES**

Self government is not an absolute right. It must have a stop. This seems not the case in Ethiopia where “nations, nationalities and peoples” have an unconditional right to self determination.<sup>291</sup> Nations, Nationalities and Peoples are taken as the building blocks of the Constitution. They are considered as the authors of the Constitution. Sovereignty resides in the Nations, Nationalities and Peoples.<sup>292</sup> Very precious indeed, the right to self determination cannot be limited even in times of emergency.<sup>293</sup> As an aspect of self determination, self government benefits from this dispensation. Unbounded hence, self determination will prevail over any other right the FDRE Constitution recognizes. However, one must question the feasibility of such laxness in terms of rights especially when self determination overlaps with other fundamental rights. Keeping this aside, at least for the moment, let us examine if this absolutist approach fits into the case of Addis Ababa. Addis Ababa is a self governing entity as a result of the principle of residency and not that of ethnicity. If so, Art.39 and subsequent provisions furnish little or no justification for the protection of Addis Ababa.

That means Addis Ababa does not fall under the regime of “unconditional self determination.” However, this does not imply giving a free hand to anyone intending to interact with Addis Ababa. What valid limits are there therefore on Addis Ababa's self government?

Most of the limits discussed earlier under Chapter Two hold good here as well. Addis Ababa's self government may be limited by the general division of power of the FDRE Constitution, other rights and privileges and emergency situations mandating the suspension of the right. Speaking of the general division of power, we have the FDRE Constitution that attempts to divide power and functions between the center and the regions. Addis Ababa must respect this division of power and function only under the

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<sup>291</sup> ETH. CONST., art. 39 (1).

<sup>292</sup> ETH. CONST., art.8(1)

<sup>293</sup> ETH. CONST., art.93 (4) (c). However, it is rarely possible to leave the right to self determination alone during a state of emergency because the provision establishing the emergency regime is not immune from itself. By legislative oversight or otherwise, the emergency clause lacks a saving clause that protects it from suspension.

powers and functions provided to it by the constitution. When self government gets in conflict with individual rights and freedoms as well as other group rights and freedoms, it may be limited to that extent. While the limit under the case of the constitutional division of power may be automatic most of the time, resolving the conflict between group and individual rights on one hand and group and group rights always calls for judicial intervention.

Another ground of limit and probably the controversial one is the temporary suspension of the right to self government during a state of emergency. Different jurisdictions attempt to regulate emergency situations taking into account prevailing principles and fundamental values. Many federal constitutions mandate federal intervention with the view to sustain a democratic order or preserve the federal system. In Germany for instance, federal intervention is the last resort when the Basic Law, under Art. 91(1), declares “ in order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a Land, a Land may call upon police forces of other Länder, or upon personnel and facilities of other administrative authorities and of the Federal Border Police”. Emergency situations are first meant to be managed in the territory where they first occur. To this end, the Basic Law of Germany entitles the Land in which emergency situations ensue to call up on the security forces of other Länder or of the federal government and mobilize efforts of averting the situation. It is only when the Land itself is a culprit that the federal government overtakes efforts of averting dangers by federalizing the security personnel of the Land in issue and the other Länder.<sup>294</sup> The presence of the federal government is a limited one. When the situation subsides or when the Bundesrat decides to end the federal presence, the federal government will withdraw from a Land.

India's Constitution appears to be indifferent to the federal principle and self governance once the country submerges into a state of emergency. In fact, India's federal history is fraught with ethnic and religious upsurges. Separatist movements and ethnic revivalism all made India a centralized federal system as the movements generated an overreaction

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<sup>294</sup> BASIC LAW OF GERMANY, art.91 (2).

from the centripetal forces.<sup>295</sup> Inspired with this culture of centralism, the Indian President along with the federal parliament may change India into a unitary state overnight. For instance, the Indian president may

by order suspend the operation of any provision of article 239AA or of all or any of the provisions of any law made in pursuance of that article for such period and subject to such conditions as may be specified in such law and make such incidental and consequential provisions as may appear to him to be necessary or expedient for administering the National Capital Territory in accordance with the provisions of article 239 and article 239AA.<sup>296</sup>

Art.239 provides for self governing union territories that have law making, executive and judicial powers. It is these entities that the president may overnight repossess without any legislative oversight and invitation from the union territories. The suspension provision extends to the capital Delhi whose power may at any time be suspended. Otherwise, the Indian parliament may increase, diminish or alter the area of any state as it may alter the name of any state.<sup>297</sup> The only limit on the power of the parliament is the power of the president to introduce such a bill to the parliament.<sup>298</sup>

In Ethiopia federal intervention begs for the occurrence or non occurrence of certain predetermined conditions. In normal times, the states are free from intervention, at least constitutionally speaking. When we see Addis Ababa and the general way of conducting business in the states, one may but overlook a visible federal presence. Before considering the causes of the presence, let us first see the legal and theoretical regimes mandating the presence. The practice of federal intervention will also be discussed.

The first principle authorizing federal presence is that of federalism. As the federal government cannot operate in a vacuum, it is present everywhere with its laws. In addition to this, there are explicit laws that mandate federal presence in states and other

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<sup>295</sup> N. Subramanian, *Ethnicity and Pluralism: An Exploration with Reference to Indian Cases*, 32 CANAD. J. POLIT. SC. 4, 715-744 (1999).

<sup>296</sup> INDIAN CONST., art.239AB.

<sup>297</sup> INDIAN CONST., art. 3.

<sup>298</sup> Ibid.

self governing entities. They may include the federal constitution and other proclamations. I will briefly discuss these regimes.

The FDRE Constitution furnishes a scheme of working together in certain circumstances. However, it does not attempt to provide principles of working together in normal times. What it elaborately discusses is the conduct of the federal government during crisis situations. But there are proclamations meant to regulate the conduct of the federal government while present in the regions. One such law is Proclamation No.256/2001. While defining the powers and functions of the executive organs of the federal government, the law established the Ministry of Federal Affairs (MoFA). This Ministry, a successor of the less famous Office of Regional Affairs ('Ye Kilil Guday Zerf), was given the responsibility of assisting less developed regions. It has the responsibility of ensuring peace and security in the regions. Finally, the Ministry strives to solve misunderstandings among regions. The Ministry plays a significant role in the governance of Addis Ababa. It has an oversight function in the governance of Addis Ababa.

The federal government is present under abnormal circumstances as well. First, the House of Peoples' Representatives and the House of Federation may issue directives to the state authorities when the same fail to arrest the violation of human rights.<sup>299</sup> Second, the House of Federation may order federal intervention when a state endangers the constitutional order.<sup>300</sup> Third, the federal government may declare a state of emergency when a war, epidemic or disorder breaks out.<sup>301</sup> Recently, the federal government has come up with a 'system' of federal intervention in which it is possible to replace Ethiopia, even temporarily, with a unitary state.<sup>302</sup>

When we see the position of Addis Ababa in all this, we find that there are still no clearly defined experiences of federal intervention. If we can begin with the directive the House of Peoples' Representatives and the House of Federation issue together, it is not clear if

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<sup>299</sup> ETH. CONST., art.55 (16).

<sup>300</sup> ETH. CONST., art.62 (9).

<sup>301</sup> ETH. CONST., art.93.

<sup>302</sup> Proclamation No.359/2003, art. 14.

such a directive may apply to Addis Ababa. However, it is possible to argue that the directive holds good in Addis Ababa even for a stronger reason as it applies in the regions.

Another ground of intervention relates to the declaration of state of emergency. Addis Ababa assumes a unique feature with this regard. First, the federal government may declare a state of emergency in part or the whole of the country. A state of emergency may be declared in Addis Ababa should conditions warranting the declaration occur. In a similar fashion, the regional states have the power to declare a state of emergency should a natural disaster or an epidemic occurs.<sup>303</sup> As Addis Ababa is located in Oromia, a question arises if Oromia could declare a state wide state of emergency applicable in Addis Ababa. This question remains pending so far as we understand state of emergency territorially. As to the competence of the City Government of Addis Ababa to declare a state of emergency or not at all, the Revised Charter provides little hint. From what is there in the Revised Charter however, we can infer that the mayor may declare a state of emergency or something similar. This builds up from responsibility of the mayor to “ensure the observance of law and order in the City.”<sup>304</sup> Another issue related to state of emergency is the rights and freedoms that might be suspended during a state of emergency. In addition to the possibility of declaring a state of emergency in Addis Ababa, the self governing right of the residents of Addis Ababa might be suspended during a state of emergency as opposed to the self determination right of nations, nationalities and peoples.

Moreover, the pretexts of declaring a state of emergency and that of dissolving the city government may overlap. As the case may be, the federal government may declare a state of emergency or simply suspend the operations of the city government depending on its own appreciations of factors.

If these are the schemes of federal intervention, the second natural question would be if they are in a position to protect or at least account for self government. One may accept

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<sup>303</sup> ETH. CONST., art.93 (1) (b).

<sup>304</sup> Proclamation No.361/2003, art.21 (2) (d).

the possibility of federal intervention to arrest deteriorating circumstances. This however cannot easily be obtained. Objective standards of intervention along with the nature of the force to be employed must be defined in advance. The Ethiopian case comes under such a framework. Emergency situations are meant to be regulated in a principled and predetermined fashion. Recent developments do not maintain this culture. A case in point is Proclamation No. 359/2003. In addition to inviting vague and usually overlapping standards, this proclamation has made federal intervention almost the rule rather than being the exception. The presence of the federal government even at normal times is immense as well. While the FDRE Constitution creates almost sovereign regional states<sup>305</sup>, legislative practice has accorded the center considerable powers and functions at the cost of the regions. Now the center is firmly established to wield the dependence of the regions on it.

### **3. BOTTOMLINES IN SELF GOVERNMENT**

The plain way to put the bottomlines in self government is asking what the federal government or a region should not do with regard to its relations with another self governing entity. We have constructed the scenario helpful to raise this question while briefly discussing the abilities of the federal government. Now, we will see what the federal government or any other entity should not do while engaging with Addis Ababa. To this end, we will explore Addis Ababa from the angles of the laws warranting federal intervention.

The federal government has different pretexts for involving in Addis Ababa. In fact, the federal government is very active in Addis Ababa. The initial instance of involvement is formulated by the FDRE Constitution that makes Addis Ababa the seat of the federal government. As a result, the federal government will have the mandate to regulate the behavior of its seat. The contention will be between the self governing status of Addis Ababa and the right of the federal government to rule from a stable city and ultimately striking the balance between the two. Probably, the FDRE Constitution made the city administration responsible to the federal government and gave residents the right to self government in a bid to strike a balance between the above two values.

<sup>305</sup> Minasse, supra note 205. See also ASSEFA, supra note 75 for an argument that the FDRE Constitution created a confederal arrangement than a federal one.

Second, the federal government involved itself in the affairs of Addis Ababa by writing the law governing Addis Ababa. Within that law, the federal government instituted regimes of paternal involvement and day to day oversight in and over Addis Ababa. The Revised Charter allows the federal government to be present in the day to day governance of Addis Ababa via the Ministry of Federal Affairs. This same Charter mistakes Addis Ababa for one of the executive organs of the federal government. It goes on giving the federal government what was not initially conceived by the federal constitution. In addition to the presence of the federal government through the Ministry of Federal Affairs, it controls Addis Ababa using the law making organ of the federal government.<sup>306</sup>

The practice is not that much different. The tendency is towards ever greater involvement in the city. As I have attempted to show in previous discussions, the 2005 election may be taken as a watermark in the active/passive federal involvement in the regions and Addis Ababa. Two events led to the monopolization of power by the center at the cost of the regions. One is the 2001 split in the TPLF that culminated in the centralization of state and party power in one person and the consequent development of a personality cult.<sup>307</sup> In the words of Medhanne Tadesse and John Young the split resulted in shift of “power from Tigray to the central government in Addis Ababa, from the instruments of the party to the state, and from a group among the TPLF Central Committee to Meles Zenawi”<sup>308</sup>

The second event is the 2005 election and the consequent loosening of the power grip of EPRDF in favor of opposition parties. For instance, the number of EPRDF MPs dropped from 97% to 60-65%.<sup>309</sup> In a way one may say the results of the 2005 elections put both EPRDF and the opposition in uncharted waters. But as EPRDF did not lose everywhere, it had the chance to extend its influence using normal state structures. The moves against

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<sup>306</sup> Proclamation No.470/2005, Art.30 (2) (j). This law was one in the series of post 2005 election violence. It made the City government of Addis Ababa officially one of the agencies of the federal government. The Legal and Administration Affairs Standing Committee of the federal parliament has now the power to supervise the City Government of Addis Ababa.

<sup>307</sup> Medhanne Tadesse & John Young, TPLF: Reform or Decline, 30 REV. AFR. POLIT. ECO. 97, 389-403 (2003).

<sup>308</sup> Id at p.389.

<sup>309</sup> Terrence Lyons, Ethiopia: Implications of the May 2005 Elections for Future Democratization Programs, IEFS PAPERS, (2005).

the city administration of Addis Ababa constitute one such instance. The parliament, along with the EPRDF majority there, adopted measures that would cripple the governance of Addis Ababa if any one attempted to take the administration of the city. I am not however indicating the impossibility of governing the city even with the minimum resources it marshaled at the time. The opposition must be criticized for its failure to take the administration of Addis Ababa. In fact some of the conducts of the opposition triggered the measures of the federal government. For instance, the CUD amply demonstrated its defiance to the Revised Charter by conducting the election of the mayor and the deputy mayor in a system different from that provided by the Revised Charter. While the Revised Charter makes the mayor electable from among the City Council, the CUD elected the mayor and the deputy mayor by a party assembly. Just like previous opposition parties, the CUD indulged into a vicious circle of zero sum game.<sup>310</sup> EPRDF inferred incessant impudence to the legal system from such and other demeanors of the opposition. Following these string of events, the federal government declared a ban on demonstrations and outdoor gatherings in Addis Ababa and its surroundings. This declaration was contested in a court of law and ultimately in the Council of Constitutional Inquiry. The Council affirmed yet the legality of the ban by further legitimizing the involvement of the federal government. Particularly, the Prime Minister's decisions were considered legitimate on the ground that Addis Ababa is the subject matter of the federal government and that the Prime Minister has "the obligation to obey and enforce the constitution"<sup>311</sup> thereby legalizing the ban issued by the Prime Minister. Moreover, the federal government established a caretaker government. Given the facts at hand, the modalities of establishing the caretaker government are highly contestable.

In the previous discussions, the valid limits on self government were reviewed on one hand and the actual involvement of the federal government in the affairs of Addis Ababa on the other. Let us now see if these involvements can be taken for granted or be contested to some extent by juxtaposing self government with federal presence.

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<sup>310</sup> For the role of Ethiopian opposition parties in bringing down democratization efforts in indeed a suicidal terms, see S. F. Joireman, *Opposition Politics and Ethnicity in Ethiopia: We will All Go Down Together*, 35 J. MOD.AFR. STUDIES 3, 387-407 (1997).

<sup>311</sup> CUD vs. the Prime Minister of Federal Democratic Republic of Ethiopia (2005).

In chapter two we discussed how self government evolved through challenges posed by federal and state governments, other than such principles “the state wide concern” principle in which cities are prohibited from making decisions that have extraterritorial effect and states from making decisions affecting the internal operation of cities.<sup>312</sup>

The outer limits of city self government is the mobility factor. The moment local self government produces spillover effects and involves issues of national importance, it will lose control over such matters and the federation or the state in which the city is located starts managing the affairs. So far as a city has self government over matters of local importance, actions of intervention from a federal government or a state remain illicit.

Local self government does not have a satisfactory history in Ethiopia. The FDRE Constitution nevertheless attempted to recognize the self governing status of Addis Ababa. The country has not developed a principle of interaction. In addition to the principles discussed in chapter two, certain principles should bind the conduct of federal/state officials. They include

❖ Good Faith: good faith is one of the eternal legal principles. Its absence or presence greatly affects the intergovernmental relation between a city and the federal/state government. Different jurisdictions attempted to embrace good faith in a bid to define their intergovernmental relations in line with acknowledged values. One expression of the principle of good faith in the context of city-federal/state government involves the manner of legislating laws that may affect the conduct of the subject of the legislation. This principle has gained momentum in most of the state constitutions of the U.S. For instance, the Massachusetts Constitution prohibits the making of laws affecting a single city.<sup>313</sup> The North Dakota and Rhode Island constitutions reiterate similar protections in favor of cities. In both cases, the state legislature may not make laws that may affect the structure and function of a city or local government. In short, these sub national constitutions try to protect individual cities from the proclivity of state legislatures to jeopardize the autonomy of cities assuming that there might be time when

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<sup>312</sup> D. J. Barron, Reclaiming Home Rule, 116 HARV. L. REV. 8, 2255-2386 (2003).

<sup>313</sup> MASSACH. CONST., art.II, §8.

the state legislature may want to individually attack a city. A state should not legislate with the view of “getting even” or with the sense of punishing a particular state or city. What appears to be an act of punishment on the part of the Federal Government of Ethiopia relates to its decision to repossess the powers and functions once the city of Addis Ababa enjoyed. The starkest of such instances was the taking away of the transportation competence of the city. Following the 2005 national election, the Federal Government decided to repossess two institutions. One is the notary and the other the transportation bureau. Recently, the Federal Government decided to give back the office of the transportation of the city.<sup>314</sup> This bureau once generated significant revenue to the city. Following the election and the consequent defeat of EPRDF in the Addis Ababa, the EPRDF dominated federal government took away the bureau and put it under the auspices of the Federal Ministry of Transport and Communications. After EPRDF won back Addis Ababa, it reinstated the Bureau to Addis Ababa. Accordingly, the Bureau is competent over matters of collecting revenues from fines and service charges emerging from the register and transfer of vehicles as well as provision of license and certificates to drivers.<sup>315</sup> Some of the mechanisms of aborting such attempts are those discussed above.

❖ Ripper Clause: another principle that serves as a bottomline in self government is the ripper clause. The ripper clause prohibits the delegation by legislation of municipal functions to a special commission. In Utah, the State Supreme Court struck down a legislation that authorized a state agency to regulate a municipal sewer system.<sup>316</sup> Underlying on the need to protect the city from undue state influence, the Utah Supreme Court explicated the need to have a ripper clause in the Constitution as “intended to assure the city freedom from outside supervision and control ‘over’ any activity properly engaged in by the city or municipality whether governmental or proprietary”.<sup>317</sup>

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<sup>314</sup> Befrew Abebe, The Transport Bureau Reinstated back to the City, SENDEK, November 17, 2010, at A1.

<sup>315</sup> Ibid.

<sup>316</sup> D.O. Porter, The Ripper Clause in State Constitutional Law: Early Urban Experiment, UTAH L. REV. 69, 287-450 (1969).

<sup>317</sup> Id at 293.

❖ Eternal Clauses: some constitutions have designs to protect cities in certain matters. For instance, cities might be protected against legislations affecting their government structures, taxing power, creating offices and prescribing the powers and responsibilities of officers and authorizing illicit conducts and decisions of city officials.<sup>318</sup> Decisions revolving around the above issues cannot be made without the consent of the residents of cities.

Addis Ababa cannot draw from history of self government. This will continue to affect the way in which the city interacts with other entities as well as the way the city is viewed by those it hosts. Moreover, Addis Ababa confronts quite a robust federal government and a fully loaded regional government. These together with other variables make the environ in which self government operates rather hostile.

## **CONCLUSION AND RECOMMENDATIONS**

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<sup>318</sup> U.S. Advisory Commission on Intergovernmental Relations, Local Government Autonomy: Needs for State Constitutional Statutory and Judicial Clarification, A-127 (1993).

## CONCLUSION

Self government is not that much refined at state level let alone at the city. Matters get complicated when self governance appears in the idiom of intergovernmental relationship. At this moment, self government will be determined not only by the actors fortified in the city. Far from that, external actors decide the fate of the self governing entity. More importantly, the absence of principles guiding intergovernmental relations or the presence of unscrupulous practice impedes prospects of genuine self government.

The setting turns intricate when engaged at city level. By then the city will be required to deal with at least two orders of governments. Coupled with haphazard experience of self government at city level, previously cited problems make self government in Addis Ababa a difficult mission. Other than the FDRE Constitution that recognizes the self governing status of the residents of Addis Ababa, other attempts seem to have facilitated the subordination of Addis Ababa to the federal government. The general legal and political environ does not appear to be friendly to self government. More importantly, self government is not yet internalized by those supposed to enjoy it. Relations with the federal government largely loom in a superior-inferior mentality.

Long run plans and institutional mechanisms of solving disputes and civilized tendencies of working towards prolific outcomes remain unscathed issues so far. Addis Ababa's self government remains an exception in the general constitutional fabric of Ethiopia. This has its own curses. It may engender views that Addis Ababa's self government is not that precious and limiting it may not affect any deep-seated value.

Residents have no clearly set scheme of participating in the making, repeal and amendment of the charter of Addis Ababa. There are inclinations of taking Addis Ababa as an administrative extension of the federal government. Addis Ababa looks as if it is less prepared and heavily burdened at the same time. In fact, times of instability outnumber that of stability. Every time Addis Ababa emerges out of a crisis situation, it started afresh. This squandered Addis Ababa's chance of effectively exercising self government.

Overcoming internal and external threats to the constitutional right of self government remains a demanding task to Addis Ababa. One still wonders whether Addis Ababa is evolving into a city state or degenerating into a mere administrative extension of the federal government.

In general

- Though Addis Ababa is taken as a self governing entity and indeed it has the actual capacity compared to most of the regions in Ethiopia, it is prone to unguided federal involvement and a consistent and general trend of centralization. The federal government has displayed its potential to involve in Addis Ababa and limit the self governing status of the same. Emergencies have witnessed federal interventions without however the commensurate principles of intervention.
- Addis Ababa's self government is not meticulously juxtaposed with the special interest of Oromia with the result of furthering the already existing indeterminacy. Furthermore, the FDRE Constitution is not explicit concerning the exact entity having self governing right.
- Addis Ababa's self government is curtailed from the outset as the basic instruments of self government are appropriated by the federal government. Moreover, Addis Ababa does not have a history of self government.
- Coupled with other issues, the uncertainty of the border of Addis Ababa has effectively curtailed self government.
- The Revised Charter of Addis Ababa itself is one manifestation of limited self governance. It calls for ever greater involvement from the federal government. On the other hand, it does not allow residents effective local participation.
- As the last straw, relationships between the federal government and Addis Ababa on one hand and Addis Ababa and Oromia on the other hand are not formal and regular.

## **RECOMMENDATIONS**

1. There is a need to clearly determine the role of the Federal Government and the Regional State of Oromia in Addis Ababa in a multilateral, principled and long lasting fashion. Taking the Constitution as a guiding principle, the relationship among the three must reflect each other's constitutional position.
2. One way of diffusing the tension surrounding Addis Ababa may be decentralizing the seat of government. This is possible through making the seat of parliament at one place and that of the court in another. In addition to diffusing the tension, it may help to develop other competitive cities. In a way, the decentralization caters to one end of justice- the right to equal development.
3. More must be done in attempting to engage citizens in the governance of Addis Ababa. Citizens must be consulted and their opinions incorporated. For example policies must be presented to the residents at grassroots level and effective deliberations must be conducted. Such discussions must not be discretionary. Additionally, residents must be integrated in committees and panels thereby enabling them to effectively participate in the affairs of the city.
4. Addis Ababa is doomed not to develop outwards as the Special Zone of Oromia has effectively checked such a growth. This curtails the basic need of capital cities- to grow. Outward growth is inevitable. Oromia must turn the outward growth to its own advantage as the services provided by the City may also be consumed by inhabitants of Oromia.
5. Though Oromia may define what its special interest is in a unilateral way, the implementation of this definition may however affect the self governing status of Addis Ababa. A positive and balanced interpretation of the Constitution calls for the preservation of the special interest of Oromia on one hand and the self governing status of Addis Ababa on the other.
6. The Revised Charter emphasizes on how residents bring officials to power. However, the issue of accountability did not get much attention.

No nexus between the City Council and residents on one hand and the Mayor and residents on the other exists in terms of accountability. The Charter must be tuned in a way more reflective of the values of self-government.

7. Participation of residents needs to be understood in its wider sense. All resources available must be put at its disposal. In a related fashion, legally binding mechanisms of letting the residents of Addis Ababa participate in the making and unmaking of their Charter must be formulated.
8. A consensus towards what a capital city is along with the manner of managing it must be established.
9. A constitutional choice as to who should intervene, if the need arises, in the affairs of a self governing entity needs to be visibly made. A scheme of accountability for actions incidental to the intervention must be enshrined alongside.
10. There should be a vivid nexus between the Mayor and residents in terms of election and accountability.
11. In a bid to sustain self governance, Addis Ababa must have an outright access to reimbursement for costs of the presence Oromia and the Federal Government.
12. Due attention must be paid to emerging issues in Addis Ababa. The emerging issues have the potential to endanger the very purposes of granting self government to Addis Ababa. Life in community and civic participation may degenerate following these developments.
13. Good faith must be a governing principle on the face of inconsistent, non-principled and unilateral relationship between the Federal Government and Addis Ababa.

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#### **APPENDICES**

#### **INTERVIEW QUESTIONS FOR THE REGIONAL STATE OF OROMIA**

1. What exactly does the relationship between Oromia and Addis Ababa look like?
2. What are the interests of Oromia in Addis Ababa? Are there attempts of defining the special interest of Oromia in Addis Ababa so far?
3. Did Oromia so far attempt to raise revenue sharing in its relations with Addis Ababa?
4. Are there formal, principled and periodic meeting with the City Government of Addis Ababa?
5. So far were there areas of dispute between the two? If any, how did you manage them? What works are so far been done to clearly define the boundary between Oromia and Addis Ababa?
6. How do you manage externalities such as pollution and urban sprawl?
7. How do you see a possible outward growth of Addis Ababa?
8. Are there benefits in making Addis Ababa the capital city of Oromia?
9. Have you attempted to develop a principle of capital city mobility?

#### **INTERVIEW QUESTIONS FOR THE CITY GOVERNMENT OF ADDIS ABABA**

1. How do you communicate with the federal government?
2. Does it respect your self governing status?
3. Does the Charter allow you sufficient space to operate? Are there needs for amendment? If any, have you attempted to initiate?
4. Do you enroll residents in policy making?
5. Have you so far taken executive powers and functions from the federal government exterior to the Charter?

6. Is there a formal and periodic meeting with Oromia?
7. How would you react to any call for revenue sharing from Oromia?
8. Can you cite anything that you consider endangering the self governing status of Addis Ababa?

#### **DECLARATION**

**I, the undersigned, declare that this thesis, my original work, has not been presented for a degree in any other university, and that all sources of material used for the thesis have been duly acknowledged.**

**Name** \_\_\_\_\_

**Signature** \_\_\_\_\_

**This thesis has been submitted for examination with my approval as a university advisor**

\_\_\_\_\_

**YARED LEGESSE**